



TEXAS STATE BOARD OF PHARMACY

TEXAS STATE BOARD OF PHARMACY
Health Professions Council Board Room
333 Guadalupe Street, Tower II, Suite 225
Austin, Texas

November 6, 2012

MINUTES¹

Tuesday, November 6, 2012

President Jeanne D. Waggener, R.Ph., called the meeting to order at 9:00 a.m. Other Board Members present were Vice President Dennis F. Wiesner, R.Ph.; Treasurer Buford T. Abeldt, Sr., R.Ph.; W. Benjamin Fry, R.Ph.; Alice Mendoza, R.Ph.; L. Suzan Kedron; Joyce A. Tipton, R.Ph.; Charles Wetherbee; and Phyllis A. Stine.

Staff present were Gay Dodson, R.Ph., Executive Director/Secretary; Carol Fisher, R.Ph., M.P.A., Director of Enforcement; Allison Benz, R.Ph., M.S., Director of Professional Services; Kerstin Arnold, General Counsel; Cathy Stella, Director of Licensing and Administrative Services; Paul Holder, R.Ph., Pharm.D., Assistant Director of Enforcement; Caroline Hotchkiss, Staff Attorney; Kerry Sullivan, Litigation Counsel; Tyler Vance, Staff Attorney; Stacy Martyak, Staff Attorney; Steve Rapp, Director of Information Technology; and Becky Damon, Executive Assistant.

Also present was Pharmacist Intern Adele Bailes.

A. Announcements

- President Waggener made general announcements.
- Announcements were made concerning Board Members and staff.
- Ms. Benz made an announcement concerning continuing education credit for attending the Board Meeting.

¹See agenda and corresponding attachments for supporting materials.

B. Discussion and Approval of Minutes of Previous Meetings (Tab 1)

Following discussion, the motion was made by Mr. Fry to approve the minutes of the TSBP Board Business Meeting held August 7, 2012, as presented. The motion was seconded by Mr. Abeldt and passed unanimously.

C. Discussion of and Possible Action Regarding Rules

Final Adoption of Rules

- Rules Concerning Inventory Requirements (§291.17) (Tab 02)

Ms. Benz explained that the Board voted to propose the amendments to §291.17 during its August 7, 2012, meeting. The proposed amendments were published in the September 21, 2012, issue of the *Texas Register*, and no comments were received.

Ms. Benz directed the Board's attention to amendments to §291.17 and explained that the amendments update and clarify the inventory requirements for all classes of pharmacy to be consistent and require all controlled substances to be inventoried on a change of pharmacist-in-charge inventory.

Following discussion and review of the Preambles and Orders Adopting Rules, the motion was made by Mr. Abeldt to approve for adoption, by Board Order, amendments to §291.17. The motion was seconded by Ms. Kedron and passed unanimously.

- Rules Concerning Automated Devices and Systems (§291.74) (Tab 03)

Ms. Benz explained that the Board voted to propose the amendments to §291.74 during its August 7, 2012, meeting. The proposed amendments were published in the September 21, 2012, issue of the *Texas Register*, and no comments were received.

Ms. Benz directed the Board's attention to amendments to §291.74 and explained the amendments allow Class C (Institutional) pharmacies to restock automated medication supply systems if the drugs are labeled and verified with a machine readable product identifier, such as a barcode, and the drugs are in tamper evident product packaging, packaged by an FDA registered repackager or manufacture and shipped to the pharmacy for the automated medication supply system.

Following discussion and review of the Preambles and Orders Adopting Rules, the motion was made by Ms. Mendoza to approve for adoption, by Board Order, amendments to §291.74. The motion was seconded by Mr. Wetherbee and passed unanimously.

- Rules Concerning Labeling Prescriptions for Partner Therapy in Class D Pharmacies (§291.93) (Tab 04)

Ms. Benz explained that the Board voted to propose the amendments to §291.93 during its August 7, 2012, meeting. The proposed amendments were published in the September 21, 2012, issue of the *Texas Register*, and no comments were received.

Ms. Benz directed the Board's attention to amendments to §291.93 and explained that the amendments clarify the labeling requirements in Class D pharmacies for medications provided to the patient's partner or family member if the drug prescribed is for a sexually transmitted disease or for an illness determined by the Centers for Disease Control and Prevention, the World Health Organization or the Governor's office to be pandemic.

Following discussion and review of the Preambles and Orders Adopting Rules, the motion was made by Ms. Stine to approve for adoption, by Board Order, amendments to §291.93. The motion was seconded by Ms. Tipton and passed unanimously.

- Rules Concerning Submission of Controlled Substance Prescription Information to the Texas Department of Public Safety by Class E Pharmacies (§291.104) (Tab 05)

Ms. Benz explained that the Board voted to propose the amendments to §291.104 during its August 7, 2012, meeting. The proposed amendments were published in the September 21, 2012, issue of the *Texas Register*, and no comments were received.

Ms. Benz directed the Board's attention to amendments to §291.104 and explained that the amendments update the requirements for pharmacists in Class E pharmacies to notify the Texas Department of Public Safety when dispensing Schedule II – V controlled substance prescriptions.

Following discussion and review of the Preambles and Orders Adopting Rules, the motion was made by Ms. Kedron to approve for adoption, by Board Order, amendments to §291.104. The motion was seconded by Mr. Abeldt and passed unanimously.

Proposal of Rules

- Rules Concerning Definitions (§291.31) (Tab 06)

Ms. Benz directed the Board's attention to suggested amendments to §291.31 and explained that the amendments add definitions for automated checking device, beyond use date, dispensing error, and patient med-pak, which were defined elsewhere in the rules but not in the definitions section (§291.31); clarify the definition of electronic prescription

drug order to be consistent with DEA requirements; and update definitions to be consistent with other rules.

Following discussion, the motion was made by Mr. Fry to approve for proposal amendments to §291.31, as presented. The motion was seconded by Ms. Mendoza and passed unanimously.

- Rules Concerning Personnel (§291.32) (Tab 07)

Ms. Benz directed the Board's attention to suggested amendments to §291.32 and explained that the amendments add the requirement to verify that controlled substances listed on invoices are received to the pharmacist's duties, and correct grammar.

Following discussion, the motion was made by Ms. Mendoza to approve for proposal amendments to §291.32, as presented. The motion was seconded by Ms. Tipton and passed unanimously.

- Rules Concerning Continuing Education Requirements (§295.8) (Tab 08)

Ms. Benz directed the Board's attention to suggested amendments to §295.8 and explained that the amendments update the definitions to include CPE Monitor and to be consistent with ACPE definitions; remove references to requirements regarding pharmacists licensed for 50 years that are not needed; allow pharmacists to receive credit for CME courses; and require pharmacists to obtain at least one hour of CE in Texas pharmacy law.

The Board received comments from Paul Davis, R.Ph., Executive Director of the Texas Society of Health-System Pharmacies; Barry Woltag, R.Ph.; Joe DaSilva, Executive Director of the Texas Pharmacy Association; Dennis McAllister, R.Ph., Director, Express Scripts; and Juan McKenzie, R.Ph.

Following discussion, the motion was made by Mr. Wetherbee to approve for proposal amendments to §295.8, with changes recommended by Board staff. The motion was seconded by Ms. Mendoza and passed unanimously.

Rule Review

- For Proposal

Ms. Benz directed the Board's attention to the TSBP Rule Review Plan for FY2010-2013. (Tab 09)

- Chapter 297 Concerning Pharmacy Technicians (§§297.1-297.9) (Tab 10)
- Chapter 291 Concerning Pharmacies (Services Provided by Pharmacies) (§§291.120-291.121, 291.123, 291.125, 291.127, 291.129, 291.131, 291.133) (Tab 11)

Following discussion, in accordance with Government Code §2001.039, the motion was made by Mr. Wetherbee to approve for proposal, as presented, the review of Chapter 297 (§§297.1-297.9), and Chapter 291 (§§291.120-291.121, 291.123, 291.125, 291.127, 291.129, 291.131, 291.133). The motion was seconded by Ms. Stine and passed unanimously.

President Waggener recessed the meeting at 10:21 a.m.

President Waggener reconvened the meeting at 10:42 p.m.

D. Discussion of and Possible Action Concerning the Following Reports and Discussions

- Financial Update

- Review of FY2012 Operating Budget (Tab 12)

Ms. Stella reviewed the expenditures for all four quarters of FY2012 (September 1, 2011 - through August 31, 2012) for the Board. She noted that the agency had been granted permission to bring forward to FY2013, \$66,198.09 from the Controlled Substance Forfeiture Program, and \$106,275.00 from the FY2012 appropriations.

Following discussion the motion was made by Mr. Abelt to approve the FY2012 expenditures as presented. The motion was seconded by Mr. Fry and passed unanimously.

- Review of Board Member Travel Budget (Tab 13)

Ms. Stella reviewed the Board Member FY2012 Travel Budget.

- Update on Legislative Appropriations Request for FY2014-2015 (Tab 14)

Ms. Stella reported that the Legislative Appropriations Request was presented to the staff of the Legislative Budget Board and the Governor's Budget Office, on August 29, 2012.

- Professional Recovery Network
 - Dr. Holder discussed performance measures regarding the number of individuals participating in the peer assistance program for the past three fiscal years (FY2010-2012) as well as the quarterly report on the number of pharmacists participating in the program during FY2012. (Tab 15)
 - President Waggener recognized Courtney Bolin, Director of the Professional Recovery Network (PRN). Ms. Bolin directed the Board's attention to the PRN budget report for September 1, 2011, through August 31, 2012, and reviewed current PRN activities for the Board. (Tab 16)
 - Ms. Bolin directed the Board's attention to an audit of PRN's outcome and output performance measures for FY2012 (September 1, 2011 – August 31, 2012) and noted that there were no exceptions noted in the audit. (Tab 17)

Following review of the audit by the Board, the motion was made by Mr. Abeldt to approve the PRN audit for the program year ending August 31, 2012, as presented. The motion was seconded by Ms. Tipton and passed unanimously.

- Discussion Concerning Problems With Sterile Compounding at an Out-of-State Compounding Pharmacy (Tab 36)

Ms. Dodson presented information concerning problems with compounded sterile products distributed by the New England Compounding Center (NECC), in Massachusetts.

In addition, Ms. Arnold explained that the Texas license of NECC was revoked by agreement.

Ms. Dodson explained that TSBP staff was reviewing the agency's current procedures relating to testing of compounded products and the inspection of sterile compounding pharmacies. Discussion on this agenda item was suspended in order to discuss agenda item E.1.

E. Disciplinary Orders

- Consideration of Proposal for Decision
 - In the Matter of Anne Akinyi Odima, Pharmacist License #40536 (Tab 25)

Ms. Arnold advised the Board that a hearing was held before State Office of Administrative Hearings (SOAH) Administrative Judge Anne K. Perez on May 30, 2012, in the matter of pharmacist Anne Akinyi Odima, in which TSBP staff sought to suspend the pharmacist license of Anne Akinyi Odima until she complies with the terms of an agreed order she entered into with the Board.

Ms. Arnold introduced Judge Susan Marshall, who was representing SOAH on behalf of Judge Perez. Judge Marshall reviewed the *Proposal for Decision* for the Board. Judge Marshall advised the Board that Judge Perez concurred with the staff's proposed sanction that Ms. Odima's license be suspended.

Mr. Sullivan reviewed the background in the case for the Board. He directed the Board's attention to proposed Board Order #N-11-028 and reviewed the options available for the Board.

Ms. Waggener recognized Ms. Odima who stated that due to financial difficulties she could not pay the ten thousand dollar (\$10,000) administrative fine imposed by the previous agreed order she had entered into with the Board.

Following discussion, the motion was made by Mr. Fry to accept the *Findings of Fact and Conclusions of Law* in the *Proposal for Decision*, and approve Board Order #N-11-028, as presented, in the matter of Anne Akinyi Odima, to suspend Ms. Odima's pharmacist license until such time as Ms. Odima pays the administrative penalty of ten thousand dollars (\$10,000) that was originally imposed against Ms. Odima under Agreed Board Order #K-10-050-A. The motion was seconded by Mr. Wetherbee and passed unanimously.

President Waggener recessed the meeting at 11:48 a.m.

President Waggener reconvened the meeting at 12:41 p.m.

D. Discussion of and Possible Action Concerning the Following Reports and Discussions (cont'd)

- Discussion Concerning Problems With Sterile Compounding at an Out-of-State Compounding Pharmacy (Tab 36) (cont'd)

The Board received comments from Travis Leah, R.Ph., with Unique Pharmaceuticals, Ltd., and Lucinda Van Anglen, R.Ph., with Healix, Inc.

Following discussion the Board recommended establishing a task force to review current rules relating to the compounding of sterile preparations.

Ms. Kedron left the meeting at 1:05 p.m.

- Discussion Concerning Biosimilar Drug Products (Tab 37)

Mr. Wiesner stated that legislation would be filed during the next legislative session concerning biosimilar medications.

Ms. Dodson presented information concerning biosimilar medications and stated that at this time there were no biosimilar products approved by the Food and Drug Administration.

- Discussion Concerning Community Pharmacy Accreditation (Tab 18)

Mr. Fry reported that there were two new Community Accreditation Programs for pharmacies and stated the benefits received from acquiring this accreditation were not clear.

Ms. Dodson stated her understanding was accreditation could at some time in the future be required by insurance or other third party payers to participate in third party payment plans. She explained that the Community Pharmacy Accreditation program was a collaborative effort by the American Pharmacists Association (APhA) and the National Association of Boards of Pharmacy (NABP). She stated that all pharmacy associations were invited to participate in developing the standards. She also indicated that participation in the program is voluntary on the part of pharmacies.

Mr. Wiesner stated he thought the intent was good and that most of the minimum standards were already covered by rules.

- Discussion Concerning Health Information Exchanges and/or Private Entities Maintaining Patient Records (Tab 19)

Mr. Wiesner stated there are several companies in the state that would be providing health information exchange. Mr. Wiesner questioned whether or not there would be a need for rules concerning the exchange of patient information.

Following discussion there was no action taken by the Board.

- Report on Appeals of Disciplinary Actions (Tab 20)

Ms. Arnold gave the Board an update on Board actions that are currently being appealed.

- Report on Dissemination of Information to Board Members Prior to Informal Conferences (Tab 21)

Ms. Arnold explained that staff is working on providing to the Board members information concerning cases being presented at Informal Conference and orders being entered at board meetings for their review prior to the meetings.

- Discussion Concerning Board Member E-Mail Addresses (Tab 23)

Ms. Arnold stated that Board members should avoid mingling their Board business e-mails with personal e-mails. Ms. Arnold stressed the importance of Board members using their Board e-mail addresses to receive Board information and that they should not discuss Board business via e-mail.

Ms. Arnold suggested to Board members that if they received an e-mail message concerning Board business on their personal e-mail they transfer the message to their Board e-mail address before replying or send a copy of the message to Ms. Dodson.

- Report on Shared Regulatory Data Base Project (Tab 22)

Mr. Rapp reported on the continuing issues with the new Shared Regulatory Data Base system and the progress made in resolving these issues.

- Discussion of Possible Statutory Changes for Consideration During the 83rd Session of the Texas Legislature (Tab 24)

Ms. Dodson reported the draft of the request for Self-Directed, Semi-Independent status was almost complete.

President Waggener recessed the meeting at 2:19 p.m.

President Waggener reconvened the meeting at 2:38 p.m.

F. Consideration of and Possible Action Concerning Enforcement Reports

- Petition to Serve as a Preceptor

Under Board Rule §283.6, a pharmacist who has been the subject of an order of the Board may not serve as a preceptor if the pharmacist has been the subject of a Board order during a three-year period immediately preceding application for approval as a preceptor. However, a pharmacist

who is or has been the subject of an order may petition the Board to act as a preceptor. The Board reviewed a petition from the following individuals to determine whether the petitions met the requirements of §283.6 (c).

- o Susan Nguyen-Thiem, R.Ph. (Tab 29)

Ms. Fisher reviewed the petition from Susan Nguyen-Thiem, R.Ph. Ms. Fisher explained to the Board that Ms. Nguyen-Thiem's Agreed Board Order was scheduled to be presented later in the Board meeting.

Ms. Waggner recognized Nan Beard, attorney for Ms. Nguyen-Thiem. Ms. Beard requested that the Board grant Ms. Nguyen-Thiem's preceptor petition.

The motion was made by Ms. Stine that the Board consider Ms. Nguyen-Thiem's proposed Agreed Board Order prior to discussion of her preceptor petition. The motion was seconded by Ms. Mendoza and passed unanimously.

Ms. Arnold reviewed the alleged violations, as well as the recommended sanctions concerning Agreed Board Order #J-10-021-A.

The motion was made by Mr. Fry to approve the Order as presented. The motion was seconded by Ms. Stine and passed 6-0-1. Mr. Wiesner abstained.

The motion was made by Ms. Tipton that the Board deny the petition of Susan Nguyen-Thiem, R.Ph., to serve as a preceptor. The motion was seconded by Mr. Abeldt and passed 7-0-0.

- o Joseph Adam Isbell, R.Ph. (Tab 30)

Ms. Fisher reviewed the petition from Joseph Adam Isbell, R.Ph. The motion was made by Ms. Tipton that the Board grant the petition of Joseph Adam Isbell, R.Ph., to serve as a preceptor. The motion was seconded by Mr. Fry and passed 7-0-0.

Mr. Wiesner left the meeting at 2:58 p.m.

- o Nancy Robin Duffle Golden, R.Ph. (Tab 31)

Ms. Fisher reviewed the petition from Nancy Robin Duffle Golden, R.Ph. The motion was made by Mr. Wetherbee that the Board grant the petition of Nancy Robin Duffle Golden, R.Ph., to serve as

a preceptor. The motion was seconded by Ms. Mendoza and passed 4-1-1. Mr. Abeldt opposed and Ms. Stine abstained.

- o Jaime Ponce Anaya, R.Ph. (Tab 32)

Ms. Fisher reviewed the petition from Jaime Ponce Anaya, R.Ph. The motion was made by Ms. Stine that the Board deny the petition of Jaime Ponce Anaya, R.Ph., to serve as a preceptor. The motion was seconded by Mr. Fry and passed 6-0-0.

- Report on Complaints Closed and Dismissed During the Previous Quarter (Tab 33)

The Board received a report on complaints dismissed and closed during FY2012 (September 1, 2011 – August 31, 2012). The report also included quarterly averages for FY2011 as compared to FY2012, as well as percentage change from FY2011 to FY2012.

Ms. Fisher reviewed the report for the Board.

- Report on Status of Active/Pending Complaints (Tab 34)

The Board received a Report on *Status of Active/Pending Complaints*.

Ms. Fisher reviewed the report for the Board.

E. **Disciplinary Orders** (cont'd)

Ms. Arnold directed the Board's attention to reports concerning disciplinary orders for pharmacists, pharmacies, pharmacy technicians, and pharmacy technician trainees.

- Report on Agreed Board Orders Entered by Executive Director (Tab 26)
 - o The Board reviewed 49 Agreed Board Orders concerning pharmacy technicians and pharmacy technician trainees that had been entered by the Executive Director on behalf of the Board, in accordance with the Board's directives, during the period August 13, 2012, through November 1, 2012.
 - o The Board reviewed 66 Agreed Board Orders concerning pharmacists and pharmacies that had been entered by the Executive Director on behalf of the Board in accordance with the Board's directive, during the period August 13, 2012, through November 5, 2012.

- Discussion of and Action on Proposed Agreed Board Orders and Proposed Default Board Orders (Tab 27)
 - The Board reviewed the alleged violations, as well as the recommended sanctions for each of the following: 25 proposed Agreed Board Orders concerning pharmacy technicians and pharmacy technician trainees who appeared for an Informal Conference; and 21 proposed Default Board Orders concerning pharmacy technicians and pharmacy technician trainees who did not appear for an Informal Conference.

Agreed Board Orders

1.	Eduardo Acosta, Jr.	ABO #T-12-131-N
2.	Michelle Denise Kyles	ABO #T-11-443
3.	Raven Acy	ABO #T-12-309-N
4.	Michelle Marie Alexander	ABO #T-12-137
5.	Claudia Flores Casarez	ABO #T-11-577-N
6.	Daniel Ortiz	ABO #T-12-043
7.	Jose A. Rodriguez	ABO #T-11-584
8.	Dulce Danielle Soliz	ABO #T-11-467-N
9.	Gregorio Espinoza	ABO #T-11-622-N
10.	Judy M. Fuller	ABO #T-12-289
11.	Michelle Harvey	ABO #T-12-343-N
12.	Kayla Hodges	ABO #T-12-258-N
13.	Valerie Suzanne Jones	ABO #T-11-478
14.	Jarryd Ross Kemp	ABO #T-12-187
15.	Steve Koltz	ABO #T-12-348-N
16.	Amanda Sue Miller	ABO #T-12-291-N
17.	Blessy Oommen	ABO #T-12-231
18.	Karina Ortiz	ABO #T-10-170
19.	Raquel Quinones	ABO #T-12-325
20.	Maresa Janelle Schuff	ABO #T-12-188
21.	Lisa Dannels	ABO #T-12-374-N
22.	Malcolm Ashanti Frisby	ABO #T-11-483-N
23.	Debra Graves	ABO #T-12-394-N
24.	Nicole Marie Kitchel	ABO #T-12-095
25.	Huy Quang Nguyen	ABO #T-12-094

Default Board Orders

26.	Christopher David Davila	ABO #T-12-259
27.	Dewayne Lamont Dixon, Jr.	ABO #T-12-062-N
28.	Dale Wayne Heide	ABO #T-12-298
29.	Lawrence Lamont Lewis	ABO #T-11-626
30.	Trevor Keith Montgomery	ABO #T-12-249-N
31.	Leondre Morris	ABO #T-12-190
32.	Kwesi Nyarko	ABO #T-11-131
33.	Brian Chase Parsons	ABO #T-11-302-N

34.	Austin Blake Robbins	ABO #T-12-189-N
35.	Sharon Lynn Valverde	ABO #T-12-119-N
36.	Kimberly Lynn Waffle	ABO #T-11-614
37.	Chad Christopher Mohr	ABO #T-12-295
38.	Cynthia Gail Parker	ABO #T-10-403
39.	Sabrina Ann Proctor	ABO #T-11-593
40.	Jonathan Rosario	ABO #T-12-270-N
41.	David Solis	ABO #T-12-269-N
42.	Erica Marie Benavidez	ABO #T-12-237
43.	Aaron Galloway Bergeron	ABO #T-12-393
44.	Quentessia Blakey	ABO #T-10-592
45.	Adam Joseph Cabello	ABO #T-12-157
46.	Candace Rena Ellison	ABO #T-12-238

The motion was made by Mr. Wetherbee to approve the 25 proposed Agreed Board Orders concerning pharmacy technicians and pharmacy technician trainees who appeared for an Informal Conference and 21 proposed Default Board Orders concerning pharmacy technicians and pharmacy technician trainees who did not appear for an Informal Conference.

The motion was seconded by Ms. Mendoza and passed as follows.

1. 6-0-0
2. 6-0-0
3. 5-0-1 Ms. Stine abstained
4. 5-0-1 Ms. Stine abstained
5. 5-0-1 Ms. Stine abstained
6. 5-0-1 Ms. Stine abstained
7. 5-0-1 Ms. Stine abstained
8. 5-0-1 Ms. Stine abstained
9. 5-0-1 Mr. Abeldt abstained
10. 5-0-1 Mr. Abeldt abstained
11. 5-0-1 Mr. Abeldt abstained
12. 5-0-1 Mr. Abeldt abstained
13. 5-0-1 Mr. Abeldt abstained
14. 5-0-1 Mr. Abeldt abstained
15. 5-0-1 Mr. Abeldt abstained
16. 5-0-1 Mr. Abeldt abstained
17. 5-0-1 Mr. Abeldt abstained
18. 5-0-1 Mr. Abeldt abstained
19. 5-0-1 Mr. Abeldt abstained
20. 5-0-1 Mr. Abeldt abstained
21. 6-0-0
22. 6-0-0
23. 6-0-0

24. 6-0-0
25. 6-0-0
26. 5-0-1 Ms. Stine abstained
27. 5-0-1 Ms. Stine abstained
28. 5-0-1 Ms. Stine abstained
29. 5-0-1 Ms. Stine abstained
30. 5-0-1 Ms. Stine abstained
31. 5-0-1 Ms. Stine abstained
32. 5-0-1 Ms. Stine abstained
33. 5-0-1 Ms. Stine abstained
34. 5-0-1 Ms. Stine abstained
35. 5-0-1 Ms. Stine abstained
36. 5-0-1 Ms. Stine abstained
37. 5-0-1 Mr. Abeldt abstained
38. 5-0-1 Mr. Abeldt abstained
39. 5-0-1 Mr. Abeldt abstained
40. 5-0-1 Mr. Abeldt abstained
41. 5-0-1 Mr. Abeldt abstained
42. 6-0-0
43. 6-0-0
44. 6-0-0
45. 6-0-0
46. 6-0-0

- The Board reviewed the alleged violations, as well as the recommended sanctions for each of the following: 18 proposed Agreed Board Orders (Alternative Resolutions); and 32 proposed Agreed Board Orders concerning pharmacists, pharmacies, students, pharmacist-interns, and pharmacy technicians who appeared for an Informal Conference.

Agreed Board Orders (Alternative Resolutions)

- | | |
|---------------------------------|-----------------|
| 1. CVS/pharmacy #227 | ABO #H-12-052 |
| 2. CVS/pharmacy #7708 | ABO #H-11-017 |
| 3. CVS/pharmacy #8394 | ABO #H-12-018 |
| 4. CVS/pharmacy #8445 | ABO #H-12-023-B |
| 5. Christie Anh Do | ABO #H-12-002-A |
| 6. Lulu Mathew Metharatta | ABO #H-12-023-A |
| 7. Sarah Elizabeth Provence | ABO #H-12-037-A |
| 8. Providence Health Center | ABO #H-11-081-B |
| 9. Terry Joseph Ratliff | ABO #H-11-081-A |
| 10. Roger's Pharmacy #1/Laurent | ABO #H-12-024 |
| 11. Sam's Pharmacy #10-6453 | ABO #H-11-093-B |
| 12. Thao Le Phuong Huynh | ABO #H-11-093-A |
| 13. Target Store T-2335 | ABO #H-12-019-B |
| 14. Tom Thumb Pharmacy #2595 | ABO #H-11-092-B |
| 15. Wal-Mart Pharmacy #10-3384 | ABO #H-12-025-B |
| 16. Tonya L. Olson | ABO #H-12-025-A |

17. Walgreen Co. #6855 ABO #H-12-012-B
18. Hemanta Jha ABO #H-12-012-A

Agreed Board Order (Following an Informal Conference)

19. Amerita Inc. ABO #K-12-019-B
20. Theresa Irene Romo ABO #K-12-019-A
21. Daniel Lopez ABO #T-12-232
22. Axtell Rite-Value Pharmacy Inc. ABO #B-11-030
23. Bayo's Pharmacy ABO #C-12-003-B
24. Iheanyi Onmon Aguocha ABO #C-12-003-A
25. City Drug Co. ABO #B-11-033
26. CVS Caremark ABO #L-11-041
27. CVS/pharmacy #7436 ABO #B-12-004
28. CVS/pharmacy #7464 ABO #J-10-021-B
29. Fallbrook Pharmacy ABO #K-11-033
30. Asiya Hosain Askari ABO #K-11-034
31. Farmacia #1 ABO #J-12-005
32. IsoRx Texas, Ltd. ABO #C-12-001-C
33. James William Karczewski ABO #F-12-011
34. Russ Eldon Lovejoy ABO #K-12-005-A
35. Jerry Dale McCuan ABO #K-12-008
36. Muniz Rio Grande Pharmacy, LLC ABO #H-12-007-B
37. Jose Roberto Muniz ABO #H-12-007-A
38. Kara Dee Nelson ABO #L-12-015
39. Pharmacy Express, LLC ABO #F-12-009
40. Ruiz Pharmacy ABO #L-12-025
41. The Medicine Shoppe ABO #B-12-002
42. Phillip Trieu ABO #E-12-010
43. Phillip Trieu ABO #T-12-272
44. United Market Street Pharmacy ABO #J-11-023-B
45. William Kent Hertel ABO #J-11-023-A
46. Bosah Obinna Menyuah ABO #T-12-093
47. Walgreen Co. #3735 ABO #H-11-073-B
48. Walgreen Co. #4027 ABO #H-11-006
49. Walgreen #4078 ABO #H-11-036
50. Ruth Martine Yonkeu ABO #K-11-032

The motion was made by Mr. Fry to approve the 18 proposed Agreed Board Orders (Alternative Resolutions) and 32 proposed Agreed Board Orders concerning pharmacist, pharmacies, students, pharmacist-interns, and pharmacy technicians who appeared for an Informal Conference.

The motion was seconded by Mr. Abeldt and passed as follows.

1. 6-0-0
2. 6-0-0
3. 6-0-0
4. 6-0-0
5. 6-0-0

6. 6-0-0
7. 6-0-0
8. 6-0-0
9. 6-0-0
10. 6-0-0
11. 6-0-0
12. 6-0-0
13. 6-0-0
14. 6-0-0
15. 6-0-0
16. 6-0-0
17. 6-0-0
18. 6-0-0
19. 5-0-1 Mr. Fry abstained
20. 5-0-1 Mr. Fry abstained
21. 5-0-1 Mr. Fry abstained
22. 5-0-1 Mr. Fry abstained
23. 5-0-1 Mr. Wetherbee abstained
24. 5-0-1 Mr. Wetherbee abstained
25. 6-0-0
26. 6-0-0
27. 6-0-0
28. 6-0-0
29. 5-0-1 Mr. Fry abstained
30. 5-0-1 Mr. Fry abstained
31. 6-0-0
32. 6-0-0
33. 6-0-0
34. 6-0-0
35. 6-0-0
36. 6-0-0
37. 6-0-0
38. 6-0-0
39. 6-0-0
40. 6-0-0
41. 6-0-0
42. 6-0-0
43. 6-0-0
44. 6-0-0
45. 6-0-0
46. 6-0-0
47. 5-0-1 Ms. Tipton abstained
48. 5-0-1 Ms. Tipton abstained

49. 5-0-1 Mr. Fry abstained
50. 5-0-1 Ms. Tipton abstained

- Confidential Agreed Board Orders (Tab 28)

The Board reviewed the alleged violations, as well as the recommended sanctions for each of the following: one proposed Confidential Agreed Board Order (Alternative Resolution); one proposed Confidential Agreed Board Order following a Mediated Settlement Conference; and 15 proposed Confidential Agreed Board Orders following an Informal Conference.

Agreed Board Orders (Alternative Resolution)

1. ABO #N-12-028

Agreed Board Order (Following Mediated Settlement Conference)

2. ABO #G-11-017

Agreed Board Orders (Following an Informal Conference)

3. ABO #N-12-005
4. ABO #G-11-031
5. ABO #M-12-021
6. ABO #N-12-015
7. ABO #N-12-027
8. ABO #G-12-013
9. ABO #M-12-022
10. ABO #N-12-018
11. ABO #G-11-027
12. ABO #N-12-032
13. ABO #N-12-024
14. ABO #N-13-002
15. ABO #G-11-030
16. ABO #M-12-016
17. ABO #N-12-020

The motion was made by Mr. Fry to approve the one proposed Confidential Agreed Board Order (Alternative Resolution); one proposed Confidential Agreed Board Order following a Mediated Settlement Conference; and 15 proposed Confidential Agreed Board Orders following an Informal Conference.

The motion was seconded by Mr. Abeldt passed as follows:

1. 6-0-0
2. 5-0-1 Mr. Wetherbee abstained
3. 6-0-0
4. 6-0-0
5. 6-0-0
6. 6-0-0

7. 6-0-0
8. 5-0-1 Mr. Fry abstained
9. 6-0-0
10. 5-0-1 Mr. Fry abstained
11. 5-0-1 Mr. Fry abstained
12. 6-0-0
13. 5-0-1 Mr. Fry abstained
14. 6-0-0
15. 6-0-0
16. 6-0-0
17. 5-0-1 Mr. Fry abstained

G. Miscellaneous

- Discussion of and Possible Action on Recent Conferences and Events

The Board discussed Board Member attendance at recent conferences and events.

- Discussion of and Possible Action on Upcoming Conferences and Events

The Board discussed Board Member and Executive Director attendance at upcoming conferences and events.

President Waggener adjourned the meeting at 3:44 p.m.

APPROVED:

Jeanne D. Waggener, R.Ph.
President

Gay Dodson, R.Ph.
Executive Director/Secretary

February 5, 2013



TEXAS STATE BOARD OF PHARMACY

November 26, 2012

**Minutes of the Temporary Suspension Hearing
of Richard Demond Broussard, R.Ph.**

Jeanne Waggener, R.Ph., Chair of the Disciplinary Panel, called the meeting to order at 10:00 a.m., in conference room number 400A, Tower II, 333 Guadalupe Street, Austin, Texas 78701. Board Members, Dennis Weisner, R.Ph. and Charles F. Wetherbee, J.D., were also present.

Staff present: Kerstin E. Arnold, General Counsel; and Kerry D. Sullivan, Litigation Counsel.

Respondent: Richard Demond Broussard, R.Ph. (present).

Also present: Courtney Bolin, L.M.S.W., Program Director, Texas Pharmacy Association's Professional Recovery Network (PRN), and Anthony Broussard, Respondent's brother.

Court Reporter: Autumn Smith.

A. Opening:

The Chair called the case of the Petition for the Temporary Suspension in the Matter of the pharmacist license #39584 issued to Richard Demond Broussard. She inquired into whether or not a panel member wished to be recused. All panel members responded negatively.

The Chair requested the parties to go on record stating their names and who they are representing.

Board Staff: Kerry D. Sullivan, attorney for the Board Staff.

Respondent: Richard Demond Broussard, R.Ph.

B. Presentation by Board's Attorney, Kerry D. Sullivan:

1. Verbal synopsis of allegations.
2. Introduction of documents into evidence. All admitted.
3. Testimony of witnesses: Officer Raymond Yokel, Plano Police Dept. (by telephone); Courtney Bolin, L.M.S.W., Program Director, PRN; and Dr. John M. Lehman, Ph.D., licensed psychologist (by telephone).
4. Closing Statement.

C. Presentation by Respondent:

1. Opening statement.
2. Introduction of documents into evidence. All admitted.
3. Testimony of witnesses: Respondent and Anthony Broussard, Respondent's brother.
4. Closing Statement.

D. Motions:

1. A motion was made by Mr. Weisner to go into Executive Session pursuant to the Open Meetings Act, Section 551.071 of the Government Code, and Section 552.011 of the Texas Pharmacy Act, to consult with counsel regarding pending disciplinary action against the Respondent. Mr. Wetherbee seconded the motion. The motion passed unanimously.

(The Board members went into Executive Session at 12:55 p.m.)

Chair Waggener reconvened the meeting at 1:10 p.m., and announced that no action was taken during Executive Session.

2. A motion was made by Mr. Wetherbee that the Petition for the Temporary Suspension of the pharmacist license #39584 issued to Richard Demond Broussard, R.Ph. be granted, in that the evidence and information indicates that the Respondent's practice of pharmacy is a continuing threat to the public welfare, to adopt the staff proposed Temporary Suspension Order and suspend Respondent's pharmacist license accordingly, that this matter proceed to hearing as soon as possible in accordance with the Administrative Procedure Act and the Board's rules, and recommend that the order of suspension remain in effect until superseded by a subsequent order of the Board. Mr. Weisner seconded the motion. The motion passed unanimously with the Temporary Suspension Order to be adopted effective immediately.

The Chair announced that the pharmacist license #39584 issued to Richard Demond Broussard is suspended.

The hearing was adjourned at 1:16 p.m.

APPROVED:

Jeanne Waggener, R.Ph.
Chair

Gay Dodson, R.Ph.
Executive Director/Secretary



TEXAS STATE BOARD OF PHARMACY

December 12, 2012

**Minutes of the Temporary Suspension Hearing
of Medicine Shoppe (Pharmacy License #17595),
Esther H. Cohen (Pharmacist License #22159), and
Rachel A. Cohen (Pharmacy Technician Registration #162809)**

Chair Jeanne Waggener, R.Ph., called the meeting to order at 9:42 a.m., in conference room number 400A, Tower II, 333 Guadalupe Street, Austin, Texas 78701. Board Members, Phyllis A. Stine and Charles Wetherbee were also present.

Staff present: Kerstin E. Arnold, General Counsel; Kerry Sullivan, Litigation Counsel; Robert Ebrom, Chief Investigator; John Plasek, Field Investigator; Larry Brothers, Field Investigator; and Ronald Head, Field Investigator.

Respondents: Medicine Shoppe (Pharmacy License #17595), Esther H. Cohen (Pharmacist License #22159), and Rachel A. Cohen (Pharmacy Technician Registration #162809), represented by Anthony A. "Tony" Cobos.

Court Reporter: Kim Pence.

A. Opening:

The Chair called the case of the Application for the Temporary Suspension in the Matter of Medicine Shoppe (Pharmacy License #17595), Esther H. Cohen (Pharmacist License #22159), and Rachel A. Cohen (Pharmacy Technician Registration #162809). She inquired into whether or not a panel member wished to be recused. All panel members responded negatively.

The Chair requested the parties to go on record stating their names and who they are representing.

Board staff: Kerry Sullivan, attorney for the Board staff

Respondent: Anthony A. "Tony" Cobos, attorney for Medicine Shoppe, Esther H. Cohen, and Rachel A. Cohen.

B. Presentation by Board's Attorney

1. Verbal synopsis of allegations.
2. Introduction of documents into evidence. All admitted.

3. Testimony of Board witnesses: John Plasek, Robert Ebrom, and Larry Brothers.
4. Closing Statement.

C. Presentation by Respondent's Attorney

1. Opening statement.
2. Introduction of documents into evidence. All admitted.
3. Testimony of witnesses: Esther H. Cohen and Rachel A. Cohen.
4. Closing Statement.

D. Motions

1. A motion was made by Mr. Wetherbee to go into Executive Session pursuant to the Open Meetings Act, Section 551.071 of the Government Code, and Section 552.011 of the Texas Pharmacy Act, to consult with counsel regarding pending disciplinary action against the Respondents. Ms. Stine seconded the motion. The motion passed unanimously.

(The Board members went into Executive Session at 12:06 p.m.)

Chair Waggener reconvened the meeting at 12:19 p.m. and announced that no action was taken during Executive Session.

2. A motion was made by Mr. Wetherbee that the Petition for the Temporary Suspension of Rachel A. Cohen (Pharmacy Technician Registration #162809) be denied, in that there is insufficient evidence or information to indicate that her practice as a pharmacy technician poses a continuing threat to the public welfare. Ms. Stine seconded the motion. The motion passed unanimously.
3. A motion was made by Mr. Wetherbee that the Petition for the Temporary Suspension of Medicine Shoppe (Pharmacy License #17595) and Esther H. Cohen (Pharmacist License #22159) be granted, in that the evidence and information indicates that the Respondents' practice of pharmacy poses a continuing threat to the public welfare. Mr. Wetherbee further moved that the staff proposed Temporary Suspension Orders be adopted, that Respondents' pharmacy license and pharmacist license be suspended accordingly, and that this matter proceed to hearing as soon as possible in accordance with the Administrative Procedure Act and the Board's rules. He also moved that the orders of suspension remain in effect until superseded by a subsequent order of the Board. Ms. Stine seconded the motion. The motion passed unanimously with the Temporary Suspension Orders being effective immediately.

The Chair announced that the Petition for Temporary Suspension of Rachel A. Cohen was denied, and that the Petition for Temporary Suspension of Medicine Shoppe and Esther H. Cohen was granted.

Chair Waggener adjourned the hearing at 12:21 p.m.

APPROVED:

Jeanne Waggener, R.Ph.
Chair

Gay Dodson, R.Ph.
Executive Director/Secretary