



# TEXAS STATE BOARD OF PHARMACY

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

February 14, 2012

## MINUTES<sup>1</sup>

### Tuesday, February 14, 2012

President Jeanne D. Waggener, R.Ph., called the meeting to order at 9:03 a.m. Other Board Members present were Vice President Alice Mendoza, R.Ph.; Treasurer Dennis F. Wiesner, R.Ph.; W. Benjamin Fry, R.Ph.; Buford T. Abeldt, Sr., 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; Julie Hildebrand, Litigation Counsel; Caroline Hotchkiss, Staff Attorney; Linda Townsend, Staff Attorney; and Becky Damon, Executive Assistant.

### **A. Announcements**

- President Waggener made general announcements.

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<sup>1</sup>See agenda and corresponding attachments for supporting materials.

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

**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 October 31 – November 1, 2011; the minutes of the Temporary Suspension Hearing held December 1, 2011, concerning IsoRx Texas, Ltd., and Joy P. Coleman-Looney, R.Ph.; and the minutes of the Temporary Suspension Hearing held January 26, 2012, concerning Joy A. Abolo, R.Ph, and Jovic Pharmacy, Inc., 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 Internship Programs and Military Spouses (§§283.2, 283.3, 283.4, 283.7, 283.8, 283.9, 283.10, 283.11, 283.12) and New Rule Concerning Military Spouses (§297.10) (Tab 02)

Ms. Benz explained that the Board voted to propose the amendments to §§283.2, 283.3, 283.4, 283.7, 283.8, 283.9, 283.10, 283.11, and new rules §§283.12 and 297.10 during its November 1, 2011, meeting. The proposed amendments and new rules were published in the December 9, 2011, issue of the *Texas Register*, and no comments were received.

Ms. Benz directed the Board's attention to amendments to §§283.2, 283.3, 283.4, 283.7, 283.8, 283.9, 283.10, 283.11, and new rules §§283.12 and 297.10 and explained that the amendments and new rules implement the provisions of S.B. 1733 passed by the 2011 Texas Legislature; add a definition and requirements for resident intern; and update the section.

Following discussion and review of the Preambles and Orders Adopting Rules, the motion was made by Mr. Fry to approve for adoption, by Board Order, amendments to §§283.2, 283.3, 283.4, 283.7, 283.8, 283.9, 283.10, 283.11, and new rules §§ 283.12 and 297.10. The motion was seconded by Mr. Wetherbee and passed unanimously.

- Rules Concerning Electronic Schedule II Prescriptions (§291.34) (Tab 03)

Ms. Benz explained that the Board voted to propose the amendments to §291.34 during its November 1, 2011, meeting. The proposed

amendments were published in the December 9, 2011, issue of the *Texas Register*, and no comments were received.

Ms. Benz directed the Board's attention to amendments to §291.34 and explained that the amendments implement the provisions of S.B. 594 passed by the 2011 Texas Legislature and update recordkeeping requirements with regard to documenting patient counseling.

Following discussion and review of the Preamble and Order Adopting Rules, the motion was made by Mr. Wetherbee to approve for adoption, by Board Order, amendments to §291.34. The motion was seconded by Mr. Abeldt and passed unanimously.

#### Proposal of Rules

- Rules Concerning Mental or Physical Examinations (§281.6) (Tab 04)

Ms. Benz directed the Board's attention to suggested amendments to §281.6 and explained the amendments clarify the requirements for applicants, licensees, or registrants to submit to a mental or physical examination upon a finding of probable cause.

Following discussion, the motion was made by Mr. Fry to approve for proposal amendments to §281.6, as presented. The motion was seconded by Ms. Tipton and passed unanimously.

- Rules Concerning Informal Disposition of a Contested Case (§281.22) (Tab 05)

Ms. Benz directed the Board's attention to suggested amendments to §281.22 and explained the amendments clarify the procedures for default orders with the State Office of Administrative Hearings.

Following discussion, the motion was made by Ms. Stine to approve for proposal amendments to §281.22, as presented. The motion was seconded by Mr. Fry and passed unanimously.

- Rules Concerning Failure to Attend Hearing and Default (§281.32) (Tab 06)

Ms. Benz directed the Board's attention to suggested amendments to §281.32, and explained the amendments clarify the procedures for contested case hearings at the State Office of Administrative Hearings when a party who does not have the burden of proof fails to appear at the hearing.

Following discussion, the motion was made by Mr. Wetherbee to approve for proposal amendments to §281.32, as presented. The motion was seconded by Mr. Abeldt and passed unanimously.

- Rules Concerning Sanctions for Misdemeanor Offenses Involving Intoxication (§281.64) (Tab 07)

Ms. Benz directed the Board's attention to suggested amendments to §281.64, and explained the amendments clarify the sanctions for offenses involving ingestion of alcohol.

Following discussion, the motion was made by Ms. Mendoza to approve for proposal amendments to §281.64, as presented. The motion was seconded by Mr. Fry and passed unanimously.

- New Rule Concerning Sanctions for Out-of State Disciplinary Action (§281.67) (Tab 08)

Ms. Benz directed the Board's attention to two versions of suggested amendments to §281.67 and explained the amendments clarify the sanctions for disciplinary actions taken by a regulatory board of another state.

Ms. Waggener recognized Dennis McAllister, R.Ph., Director, Regulatory Affairs, for Medco Health Services Inc. Mr. McAllister presented written recommendations to the Board concerning the wording of the suggested amendments.

Following discussion, the motion was made by Ms. Tipton to approve for proposal New Rule §281.67, as presented by Board staff in version #2. The motion was seconded by Mr. Abeldt and passed unanimously.

- Rules Concerning Notification Requirements (§291.3) (Tab 09)

Ms. Benz directed the Board's attention to suggested amendments to §291.3 and explained the amendments add Class F pharmacies to the change of ownership requirements and eliminate the requirement for the pharmacist-in-charge to delete or enter the name of the pharmacist changing employment on the pharmacy license.

Following discussion, the motion was made by Ms. Mendoza to approve for proposal amendments to §291.3, as presented. The motion was seconded by Ms. Kedron and passed unanimously.

- Rules Concerning Delivery of Prescriptions to Patients (§291.9) (Tab 10)

Ms. Benz directed the Board's attention to suggested amendments to §291.9 and explained the amendments clarify the locations that prescriptions may be delivered to patients.

Following discussion, the motion was made by Ms. Kedron to approve for proposal amendments to §291.9, as presented. The motion was seconded by Mr. Wetherbee and passed unanimously.

- Rules Concerning Inventory Requirements (§291.17) (Tab 11)

Ms. Benz directed the Board's attention suggested amendments to §291.17 and explained the amendments eliminate references to Schedule I controlled substances and add tramadol (Ultram) to the inventory requirements.

Following discussion, the motion was made by Mr. Wetherbee to table discussion until later in the meeting. The motion was seconded by Mr. Fry and passed unanimously.

Board Member L. Suzan Kedron left the meeting at 10:00 a.m.

- Rules Concerning Duties of Pharmacists and Pharmacy Technician/Trainees (§291.32) (Tab 12)

Ms. Benz directed the Board's attention to suggested amendments to §291.32 and explained the amendments update and clarify the duties of pharmacists and pharmacy technicians/trainees.

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

- Rules Concerning Patient Counseling Requirements and Storage of Flammable Products (§291.33) (Tab 13)

Ms. Benz directed the Board's attention to suggested amendments to §291.33 and explained the amendments add requirements for storing flammable products in the pharmacy and update the patient counseling requirements with regard to documenting the identification of the counseling pharmacist.

Following discussion, the motion was made by Mr. Wetherbee to approve for proposal amendments to §291.33, as presented. The motion was seconded by Mr. Fry and passed unanimously.

- Rules Concerning Records and Professional Responsibility (§291.34) (Tab 14)

Ms. Benz directed the Board's attention to suggested amendments to §291.34 and explained the amendments clarify record keeping requirements and professional responsibility for pharmacists.

Following discussion, the motion was made by Mr. Wetherbee to approve for proposal amendments to §291.34, as presented. The motion was seconded by Ms. Mendoza and passed unanimously.

President Waggener recessed the meeting at 10:19 a.m.

President Waggener reconvened the meeting at 10:32 a.m.

**E. Discussion of and Possible Action Concerning the Following Reports and Discussions**

- Presentation Regarding Tamper Resistant Oral Dosage Forms (Tablets) for Control Substances (Tab 31)

Mr. Wiesner introduced Marta Sokolowska, Ph.D., with the Center of Excellence for Abuse Liability. Ms. Sokolowska presented a Power Point presentation on a study concerning technological approaches to reduce prescription opioid abuse.

Board Member L. Suzan Kedron rejoined the meeting at 10:55 a.m.

**C. Discussion of and Possible Action Regarding Rules (con't)**

- Rules Concerning Owners of Nuclear Pharmacies (Class B) (§291.53) (Tab 15)

Ms. Benz directed the Board's attention to suggested amendments to §291.53 and explained the amendments add responsibilities for owners of nuclear (Class B) pharmacies to be consistent with requirements for other classes of pharmacy.

Following discussion, the motion was made by Mr. Fry to approve for proposal amendments to §291.53, as presented. The motion was seconded by Mr. Wetherbee and passed unanimously.

- Rules Concerning Ratio of Pharmacists to Pharmacy Technicians/Trainees in a Centralized Prescription Drug or Medication Order Processing Pharmacy (§291.153) (Tab 16)

Ms. Benz directed the Board's attention to suggested amendments to §291.153 and explained the amendments clarify the ratio requirements for pharmacists to pharmacy technicians/trainees in Class G pharmacies.

Following discussion, the motion was made by Ms. Tipton to approve for proposal amendments to §291.153, as presented. The motion was seconded by Mr. Abeldt and passed unanimously.

#### Rule Reviews

- For Adoption

Ms. Benz directed the Board's attention to the TSBP Rule Review Plan for FY2010-2013 (Tab 17)

- Chapter 291 Concerning Pharmacies (Community Pharmacy) (Class A) (§§291.31-291.35) (Tab 18)
- Chapter 283 Concerning Licensing Requirements for Pharmacists (§§283.1-283.11) (Tab 19)

Following discussion, in accordance with Government Code §2001.039, the motion was made by Ms. Mendoza to approve for adoption, as presented, the review of Chapter 291 (§§291.31-291.35), and Chapter 283 (§§283.1-283.11). The motion was seconded by Mr. Fry and passed unanimously.

#### **D. Discussion of and Possible Action Concerning Reports of Committees/Task Forces**

- Concerning Long Term Care Pharmacy Task Force (Tab 20)

Ms. Benz reported the Task Force has developed proposed rules and is scheduled to meet in March to review rules for presentation at the May Board Meeting.

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

- Financial Update

- Review of FY2012 Operating Budget (Tab 21)

Ms. Stella reviewed the expenditures for the first quarter of FY2012 (September 1, 2011 - through November 30, 2011) for the Board.

- Review of Board Member Travel Budget (Tab 22)

Ms. Stella reviewed the Board Member FY2012 Travel Budget.

- Discussion Concerning *TSBP FY2013-2017 Strategic Plan* (Tab 25)

Ms. Dodson explained that a draft of the *TSBP FY2013-2017 Strategic Plan* would be presented to the Board at its May Board Meeting.

- Report on Shared Regulatory Data Base Project (Tab 26)

Steve Rapp, Information Resources Manager, reported on the continuing issues with the new Shared Regulatory Data Base system and the progress made in resolving these issues.

- Discussion Concerning TSBP Compliance Inspections and Conducting Inspections for a Federal Agency (Tab 27)

Ms. Dodson presented a newly designed one sheet quick reference chart with compliance reminders on one side and suggestions to reduce dispensing errors on the other. Ms. Dodson explained that TSBP will have the chart printed and it will be handed out by TSBP compliance inspectors at the time of inspections and at conferences.

Ms. Dodson requested that the Board allow the Executive Director to decide whether or not TSBP continues to perform inspections for federal agencies. Ms. Dodson explained it is essential that TSBP maintain good relationships with federal agencies.

Ms. Waggener stated it is also important for the Board to control who is inspecting pharmacies in Texas and recommended that the Board allow the Executive Director to have authority to make decisions concerning conducting inspections for federal agencies. No objections were voiced.

- Discussion Regarding Awarding Continuing Education Credit for Programs that are Approved by other State Boards of Pharmacy (Tab 29)

Ms. Dodson explained that TSBP had received information from John Foust, Pharm.D., D.Ph., Executive Director of the Oklahoma State Board of Pharmacy, concerning Oklahoma's new policy for board approved continuing education. Ms. Dodson explained that Southwestern Oklahoma State University College of Pharmacy and the Kansas University School of Pharmacy were both dropping their ACPE continuing education certification due to the high costs of the ACPE process. Ms. Dodson explained that because these universities no longer provide continuing education programs the Oklahoma Board of Pharmacy now accepts continuing education hours approved by participating



MALTAGON boards of Pharmacy, the Missouri Board of Pharmacy and the Kansas Board of Pharmacy.

Ms. Dodson recommended that Texas also accept continuing education credit approved by all other state boards.

Following discussion the Board requested that staff bring suggested rule changes concerning CE credit approved by other state boards to its May Board Meeting.

- Discussion Regarding the Beyond Use Date for a Dispensed Prescription (Tab 30)

Ms. Dodson explained that TSBP received a letter from Prime Therapeutics requesting the Board review rule §291.33 concerning Operational Standards with regard to the beyond-use-date placed on prescription labels.

Ms. Waggener recognized Jagruti Patel-Herron, R.Ph., Pharmacist in Charge, Prime Therapeutics, and Hang Kim. Ms. Patel-Herron explained that when Prime Therapeutics dispenses a product with less than 12 months dating an extensive work around is involved to ensure the correct expiration date is placed on the prescription label. Ms. Patel-Herron explained that Prime Therapeutics would like to use a beyond-use-date of six months from the date the drug is dispensed or the manufacturer's expiration date, whichever is earlier.

Following discussion the Board took no action on this issue.

President Waggener recessed the meeting at 11:55 a.m.

President Waggener reconvened the meeting at 12:49 p.m.

Board Member L. Suzan Kedron left the meeting at 12:50 p.m.

**C. Discussion of and Possible Action Regarding Rules (con't)**

- Rules Concerning Inventory Requirements (§291.17) (Tab 11) (cont.)

A motion was made by Mr. Wetherbee to take from the table discussion of suggested rule changes to §291.17. The motion was seconded by Ms. Stine and passed unanimously.

Ms. Benz explained that the Board reviewed suggested rule changes to §291.17 earlier in the meeting, and as directed by the Board, the rule was revised to include a start date of January 1, 2013.

Following discussion, the motion was made by Ms. Mendoza to approve for proposal amendments to §291.17, with the changes recommended by the Board. The motion was seconded by Mr. Fry and passed unanimously.

- Update on Legislation Passed During the 82<sup>nd</sup> Texas Legislative Regular Session that has an Impact on TSBP and/or the Practice of Pharmacy (Tab 32)

Ms. Dodson directed the Board's attention to an action chart concerning legislation that was passed during the 82<sup>nd</sup> Session of the Texas Legislature that had an impact on TSBP and/or the practice of pharmacy. The chart contains the bill number, action required of TSBP, the effective date of the bill, TSBP's internal deadline, and the current status of TSBP's implementation of the bill.

Dr. Holder presented information concerning the enrollment of Texas pharmacies, that sell pseudophedrine, into the National Precursor Log Exchange system as required by H.B. 1137. This system monitors the sale of over the counter cold and allergy medicines containing pseudoephedrine.

Ms. Dodson noted that although the action chart indicates we will be adopting rules to implement H.B. 1137, no rule changes are necessary.

- Professional Recovery Network
  - Dr. Holder discussed the charts which reflect the performance measures regarding the number of individuals participating in the peer assistance program for the past three fiscal years (FY2009-2011) as well as the number of pharmacists participating in the program during the first quarter of FY2012. (Tab 23)
  - 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 November 30, 2011, and reviewed current PRN activities for the Board. (Tab 24)
- Discussion of Possible Statutory Changes for Consideration During the 83<sup>rd</sup> Session of the Texas Legislature (Tab 33)

Ms. Dodson directed the Board's attention to two lists. The first was a list of items previously approved by the Board for recommendation for action during the 82<sup>nd</sup> Session of the Texas Legislature on which no action was taken. The second was a list of staff suggested changes to laws for the 83<sup>rd</sup> Session of the Texas legislative. The Board took no action on this item and further discussion will occur at a future meeting.

- Discussion Regarding the Pilot Project by the New Mexico Board of Pharmacy Concerning Continuous Professional Development (Tab 28)  
Ms. Dodson explained that TSBP received a letter from the Texas Society of Health-System Pharmacists requesting discussion of the New Mexico Board of Pharmacy's pilot project concerning Continuous Professional Development (CPD).

Ms. Waggener recognized Paul Davis, R.Ph., Executive Director of the Texas Society of Health-System Pharmacists, and Kristina Wittstrom with the University of New Mexico College of Pharmacy. Mr. Davis also introduced Joe Anderson, R.Ph., a member of the New Mexico Board of Pharmacy who joined the meeting by remote video access.

Mr. Davis and Ms. Wittstrom presented information concerning a 2-year pilot project by the New Mexico Board of Pharmacy to investigate the feasibility of Continuous Professional Development (CPD). Ms. Wittstrom explained that this was a voluntary program and a pharmacist could choose to either participate in the CPD program or continue with traditional CE hours.

Following discussion the Board took no action on this item.

#### **F. Disciplinary Orders**

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

- Consideration of Proposals for Decision (Tab 34)
  - No Proposals for Decision were presented.
- Report on Agreed Board Orders Entered by Executive Director (Tab 35)
  - The Board reviewed 57 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 November 8, 2011, through February 10, 2012.
  - The Board reviewed 16 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 November 22, 2011, through February 1, 2012.

- Discussion of and Action on Proposed Agreed Board Orders and Proposed Default Board Orders (Tab 36)
  - The Board reviewed the alleged violations, as well as the recommended sanctions for each of the following 27 proposed Agreed Board Orders concerning pharmacy technicians and pharmacy technician trainees who appeared for an informal conference and 13 proposed Default Board Orders concerning pharmacy technicians and pharmacy technician trainees who did not appear for informal conferences.

**Agreed Board Orders**

1. Gloria Jean Matta	ABO #R-11-004-T
2. Joseph Patrick Shaw	ABO #T-11-289
3. Claudia Gomez	ABO #T-11-338-N
4. Catherine Olmedo	ABO #T-11-364-N
5. Yolanda Christine Tayes VandenBrook	ABO #T-11-400-N
6. Mary Delourdes Valdez	ABO #T-11-367-N
7. Loretta Lynn Waddell	ABO #T-11-007-N
8. Alma Delia Whitaker	ABO #T-11-333-N
9. Tina Michelle Amburn	ABO #T-11-080-N
10. Kimberly Leigh Greely	ABO #T-11-388-N
11. Jennifer Nicole Hoskins	ABO #T-11-420
12. Larry Johnson	ABO #T-11-365
13. Anthony Maurice Lenzy	ABO #T-11-435-N
14. Sid McDonald	ABO #T-11-327
15. Michael Andrew Moore	ABO #T-11-479
16. Naomi Reyes	ABO #T-11-207
17. Gina Renee Witherspoon	ABO #T-12-011
18. Jennifer Danielle Bindseil-Nolte	ABO #T-11-332
19. Emmanuel Dandre Black	ABO #T-12-004-N
20. Melissa Ann Campos	ABO #T-11-505-N
21. Homar Eluid Hernandez	ABO #T-11-218
22. Brittany Leanne Jackson	ABO #T-11-280-N
23. Yolanda Katina Johnson	ABO #T-11-534-N
24. Tiffany Lesha Kamara	ABO #T-11-356-N
25. Augusto Cesar Montalvan	ABO #T-12-036
26. Teel Lynette Taylor	ABO #T-10-534-N
27. Andrew Joseph Wood	ABO #T-11-097-N

**Default Board Orders**

28. Keron Joseph Brown	ABO #T-11-426-N
29. Laura Castillo	ABO #T-11-428-N
30. Concha Hernandez	ABO #T-11-378
31. Nasir Nazeer Husain	ABO #T-11-167
32. Jerry Lowell Mattox	ABO #T-11-001
33. Fabio Triana	ABO #T-11-425
34. Amanda Kathleen Turner	ABO #T-11-395

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|-----|-------------------------|-----------------|
| 35. | Candelaria Turrubiates  | ABO #T-11-429-N |
| 36. | Roberto Flores          | ABO #T-11-482-N |
| 37. | Edwardo Castro Servin   | ABO #T-10-711   |
| 38. | Ryan Annell Wheeler     | ABO #T-10-710-N |
| 39. | Estrella Bonita Almanza | ABO #T-11-444-N |
| 40. | Jennifer Marie Torres   | ABO #T-11-247   |

The motion was made by Mr. Wetherbee to approve the 27 proposed Agreed Board Orders concerning pharmacy technicians and pharmacy technician trainees who appeared for an informal conference and 13 proposed Default Board Orders concerning pharmacy technicians and pharmacy technician trainees who did not appear for informal conferences.

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

1. 6-0-1 Mr. Wetherbee abstained
2. 6-0-1 Mr. Wetherbee abstained
3. 6-0-1 Mr. Abeldt abstained
4. 6-0-1 Mr. Abeldt abstained
5. 6-0-1 Mr. Abeldt abstained
6. 6-0-1 Mr. Abeldt abstained
7. 6-0-1 Mr. Abeldt abstained
8. 6-0-1 Mr. Abeldt abstained
9. 7-0-0
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23. 7-0-0
24. 7-0-0
25. 7-0-0
26. 7-0-0
27. 7-0-0
28. 6-0-1 Mr. Abeldt abstained
29. 6-0-1 Mr. Abeldt abstained
30. 6-0-1 Mr. Abeldt abstained
31. 6-0-1 Mr. Abeldt abstained
32. 6-0-1 Mr. Abeldt abstained

33. 6-0-1 Mr. Abeldt abstained
34. 6-0-1 Mr. Abeldt abstained
35. 6-0-1 Mr. Abeldt abstained
36. 7-0-0
37. 7-0-0
38. 7-0-0
39. 7-0-0
40. 7-0-0

- The Board reviewed the alleged violations, as well as the recommended sanctions for each of the following 20 proposed Agreed Board Orders (Alternative Resolutions); and 51 proposed Agreed Board Orders concerning pharmacists, pharmacies, students, pharmacist-interns, and pharmacy technicians who appeared for an informal conference.

**Agreed Board Orders** (Alternate Resolutions)

- |                                |                 |
|--------------------------------|-----------------|
| 1. Advanced Care Scripts, Inc. | ABO #L-11-017   |
| 2. John Edward Broussard       | ABO #L-11-031   |
| 3. CVS/pharmacy #2988          | ABO #H-11-025-B |
| 4. CVS/pharmacy #6374          | ABO #H-11-013-B |
| 5. Lilalyn Ortigoza Punsalan   | ABO #H-11-013-A |
| 6. CVS/pharmacy #7229          | ABO #H-11-019   |
| 7. CVS/pharmacy #7460          | ABO #H-11-063-B |
| 8. Richard William Lewis       | ABO #H-11-063-A |
| 9. Scott Robert Miller         | ABO #L-11-025   |
| 10. Omnicare of Amarillo       | ABO #H-11-008   |
| 11. Edward L. Schuetzle        | ABO #H-11-058   |
| 12. San Juan Pharmacy          | ABO #H-11-051-B |
| 13. John Aguedo Rodriguez      | ABO #H-11-051-A |
| 14. Barry Lamon Sarchet        | ABO #H-11-047-A |
| 15. Wal-Mart Pharmacy #10-536  | ABO #H-11-050   |
| 16. Walgreen Co. #4078         | ABO #H-10-060-B |
| 17. Walgreen Co. #6619         | ABO #H-11-068-B |
| 18. Hien Si Tran               | ABO #H-11-068-A |
| 19. Walgreen Co. #11520        | ABO #H-11-029-B |
| 20. Annette Renee Cooper       | ABO #H-11-029-A |

**Agreed Board Order** (Following an Informal Conference)

- |                                    |                 |
|------------------------------------|-----------------|
| 21. Anson Plaza Pharmacy           | ABO #K-10-026-B |
| 22. Kelly Ashworth Stovall         | ABO #K-10-026-A |
| 23. Tasha Renee Moreno Soliz       | ABO #T-10-229-N |
| 24. Apothecary Shop                | ABO #A-10-049-B |
| 25. Thomas Charles Schnorr         | ABO #A-10-049-A |
| 26. Austin Compounding Pharmacy    | ABO #L-11-033   |
| 27. Ascend Specialty Rx            | ABO #L-11-006   |
| 28. Gabriel Onyekwelu Balonwu      | ABO #E-11-016   |
| 29. Kharmnesia Denean Crook-Nelson | ABO #K-09-019-A |
| 30. CVS/pharmacy #1745             | ABO #H-11-023   |

31. Emmanuel Uche Obia	ABO #H-11-055
32. CVS/pharmacy #5910	ABO #B-10-031
33. CVS/pharmacy #6741	ABO #H-10-048
34. CVS/pharmacy #6805	ABO #B-10-038-B
35. Osaru Chiamaka Okoro	ABO #B-10-038-A
36. CVS/pharmacy #6854	ABO #B-10-019
37. CVS/pharmacy #6983	ABO #B-10-058
38. CVS/pharmacy #7600	ABO #H-11-005
39. Charles L. Gravley	ABO #H-11-056
40. CVS/pharmacy #8335	ABO #H-11-045-B
41. Sandhya Sunil Shenoy	ABO #H-11-045-A
42. CVS/pharmacy #8923	ABO #B-11-022
43. Expressway Pharmacy 2, LLC	ABO #C-11-006
44. Falcon Medical Pharmacy	ABO #C-11-007
45. Theodore Yariyep Lot	ABO #J-11-018
46. Mahmoud Kazemi Far	ABO #L-12-002
47. Flower Mound Pharmacy	ABO #H-11-022-B
48. Donna Gregg Anderson	ABO #H-11-044
49. Linda Ann Haimowitz	ABO #H-11-022-A
50. Jesus Anselmo Gonzales	ABO #A-07-067-A
51. Guardian Angel Pharmacy	ABO #F-11-033
52. H & M Pharmacy	ABO #K-10-056-B
53. Johnny R. Moss	ABO #K-10-056-A
54. Charles Michael Larsen	ABO #G-10-027
55. Luv's Pharmacy	ABO #L-12-001
56. Anita Louise Matthews	ABO #E-11-018
57. Rakesh Patel	ABO #R-11-017
58. Carol Currie Peck	ABO #G-09-029
59. Randall's Pharmacy #1896	ABO #H-10-028
60. Thomas Edward Lanford	ABO #H-11-057
61. Mary Robin Riddick	ABO #H-11-059
62. Carolyn Duvalle Rapp	ABO #H-11-049
63. Sam's Healthcare Pharmacy	ABO #B-10-013
64. Waymon Lyndel Shumate	ABO #G-11-015
65. Texas Star Pharmacy	ABO #M-12-004
66. The Medicine Shoppe #708	ABO #H-10-046
67. Walgreen Co. #5708	ABO #C-09-012-B
68. Grant Watson Armstrong	ABO #C-09-012-A
69. Walgreen Co. #6336	ABO #H-09-023-B
70. Linda Marie Chin	ABO #H-09-023-A
71. Gifty Veronica Turkson	ABO #H-11-082

The motion was made by Ms. Mendoza to approve the 20 proposed Agreed Board Orders (Alternative Resolutions); and 51 proposed Agreed Board Orders concerning pharmacist, pharmacies, students, pharmacist-interns who appeared for an informal conference.

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

1. 7-0-0
2. 7-0-0
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21. 6-0-1 Ms. Mendoza abstained
22. 6-0-1 Ms. Mendoza abstained
23. 6-0-1 Ms. Mendoza abstained
24. 6-0-1 Ms. Tipton abstained
25. 6-0-1 Ms. Tipton abstained
26. 6-0-1 Ms. Tipton abstained
27. 7-0-0
28. 6-0-1 Mr. Abeldt abstained
29. 6-0-1 Mr. Wiesner abstained
30. 7-0-0
31. 7-0-0
32. 6-0-1 Ms. Tipton abstained
33. 6-0-1 Mr. Wiesner abstained
34. 6-0-1 Mr. Wiesner abstained
35. 6-0-1 Mr. Wiesner abstained
36. 6-0-1 Ms. Tipton abstained
37. 6-0-1 Mr. Wiesner abstained
38. 7-0-0
39. 7-0-0
40. 6-0-1 Mr. Wiesner abstained
41. 6-0-1 Mr. Wiesner abstained
42. 6-0-1 Ms. Tipton abstained
43. 6-0-1 Mr. Abeldt abstained
44. 6-0-1 Mr. Abeldt abstained
45. 6-0-1 Mr. Abeldt abstained
46. 6-0-1 Ms. Tipton abstained



47. 6-0-1 Mr. Abeldt abstained
48. 6-0-1 Mr. Abeldt abstained
49. 6-0-1 Mr. Abeldt abstained
50. 6-0-1 Mr. Wiesner abstained
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58. 6-0-1 Mr. Wetherbee abstained
59. 6-0-1 Mr. Wiesner abstained
60. 6-0-1 Mr. Wiesner abstained
61. 6-0-1 Mr. Wiesner abstained
62. 7-0-0
63. 6-0-1 Mr. Abeldt abstained
64. 6-0-1 Ms. Tipton abstained
65. 6-0-1 Ms. Tipton abstained
66. 6-0-1 Mr. Abeldt abstained
67. 6-0-1 Mr. Wiesner abstained
68. 6-0-1 Mr. Wiesner abstained
69. 6-0-1 Mr. Wiesner abstained
70. 6-0-1 Mr. Wiesner abstained
71. 6-0-1 Mr. Wiesner abstained

- The Board reviewed the alleged violations, as well as the recommended sanctions for the following three proposed Agreed Board Orders concerning two pharmacists and a pharmacy following a Temporary Suspension Hearing.

**Agreed Board Order** (Following Temporary Suspension Hearing)

- |                          |                 |
|--------------------------|-----------------|
| 1. Joy P. Coleman-Looney | ABO #C-12-001-A |
| 2. Jovic Pharmacy, Inc.  | ABO #A-11-036-B |
| 3. Joy A. Abolo          | ABO #A-11-036-A |

The motion was made by Mr. Wetherbee to approve the three proposed Agreed Board Orders concerning two pharmacists and a pharmacy following a Temporary Suspension Hearing.

The motion was seconded by Ms. Stine and passed as follows:

1. 5-0-2 Mr. Abeldt and Mr. Wiesner abstained
2. 4-0-3 Mr. Abeldt, Mr. Wiesner, and Mr. Wetherbee abstained
3. 4-0-3 Mr. Abeldt, Mr. Wiesner, and Mr. Wetherbee abstained.

The Board reviewed the alleged violations and the Temporary Suspension Orders entered following a Temporary Suspension Hearing concerning two pharmacists and a pharmacy.

- |                          |                 |
|--------------------------|-----------------|
| 1. Jovic Pharmacy, Inc.  | ABO #A-12-010-B |
| 2. Joy A. Abolo          | ABO #A-12-010-A |
| 3. Joy P. Coleman-Looney | ABO #C-12-001-B |

- Confidential Agreed Board Orders (Tab 37)

The Board reviewed the alleged violations, as well as the recommended sanctions for each of the following one proposed Confidential Agreed Board Orders (Alternative Resolutions); nine proposed Confidential Agreed Board Orders following an Informal Conference; and one proposed Confidential Default Board Order following an Informal Conference.

**Agreed Board Orders** (Alternate Resolution)

1. ABO #N-11-027

**Agreed Board Orders** (Following an Informal Conference)

2. ABO #S-11-009
3. ABO #M-12-002
4. ABO #G-09-038
5. ABO #M-11-022
6. ABO #G-11-008
7. ABO #G-11-007
8. ABO #G-10-022
9. ABO #N-10-027

**Default Board Order**

10. ABO #G-11-012

The motion was made by Mr. Fry to approve the one proposed Confidential Agreed Board Order (Alternative Resolutions); nine proposed Confidential Agreed Board Orders following an Informal Conference; and one proposed Confidential Default Board Order following an Informal Conference.

The motion was seconded by Ms. Tipton passed as follows:

1. 7-0-0
2. 6-0-1 Ms. Tipton abstained
3. 6-0-1 Ms. Tipton abstained
4. 6-0-1 Mr. Abeldt abstained
5. 6-0-1 Ms. Tipton abstained
6. 6-0-1 Ms. Tipton abstained
7. 7-0-0

- 8. 7-0-0
- 9. 7-0-0
- 10. 6-0-1 Ms. Tipton abstained

**G. 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 individual.

- o Kelly Stovall, R.Ph. (Tab 38)

Ms. Fisher reviewed the petition from Kelly Stoval, R.Ph. The motion was made by Mr. Wetherbee that the Board deny the petition of Kelly Stovall, R.Ph., to serve as a preceptor. The motion was seconded by Ms. Tipton and passed 5-0-2, with Mr. Fry and Mr. Abeldt abstaining.

- Report on Complaints Closed and Dismissed During the Previous Quarter (Tab 39)

The Board received a report on complaints dismissed and closed during the first quarter of FY2012 (September 1, 2011 – November 30, 2011). 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 40)

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

Ms. Fisher reviewed the report for the Board.

**H. Miscellaneous**

- Items to be Placed on Agenda for May Board Meeting (Tab 41)

Board Members and/or Ms. Dodson requested that the following items be placed on the agenda for the May 2012 Board Meeting.

- Discussion of inspections of pharmacies conducted by the Texas Department of Safety and the U.S. Drug Enforcement Administration.
- Discussion concerning complaints received from consumers on automatic refills.
- Discussion of and Possible Action on Recent Conferences and Events
- Discussion of and Possible Action on Upcoming Conferences and Events
- Consideration of Personnel Matters
  - Election of Officers (Tab 42)

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

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

President Waggener called for nominations for the office of Vice President. Ms. Mendoza nominated Mr. Wiesner. The motion was seconded by Ms. Tipton and passed unanimously.

President Waggener called for nominations for the office of Treasurer. Mr. Fry nominated Mr. Abeldt. The motion was seconded by Mr. Wiesner and passed unanimously.

President Waggener adjourned the meeting at 3:05 p.m.

APPROVED:

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Jeanne D. Waggener, R.Ph.  
President

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Gay Dodson, R.Ph.  
Executive Director/Secretary

May 8, 2012



# TEXAS STATE BOARD OF PHARMACY

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TEXAS STATE BOARD OF PHARMACY  
Executive Committee Meeting  
333 Guadalupe Street, Tower II, Suite 400A  
Austin, Texas

April 10, 2012

## MINUTES

President Jeanne Waggener, R.Ph. called the meeting to order at 1:30 p.m. Vice President Dennis F. Wiesner, R.Ph. and Treasurer Buford Albeldt, R.Ph. were also present.

Staff present were Gay Dodson, R.Ph., Executive Director/Secretary; Cathy Stella, Director of Licensing and Administrative Services; Carol Fisher, R.Ph., M.P.A., Director of Enforcement; Kerstin Arnold, General Counsel; Allison Benz, R.Ph., M.S., Director of Professional Services; Stephen Rapp, Director of Information Technology; and Jane Bennett, Chief Accountant.

Ms. Dodson explained that the purpose of the meeting was twofold:

- 1) review the revenue projections and corresponding fee changes for FY2012-2013; and
- 2) review a draft of the agency's proposed FY2014-15 Legislative Appropriations Request and provide input. She explained that the budget reviewed by the Executive Committee, including any suggestions, will be presented to the Board for consideration at its May 8-9, 2012, meeting.

Ms. Stella reviewed the following items for the Board:

- 1) Revised revenue projections for FY2012-2013 and corresponding fee changes beginning FY2013; and
- 2) Exceptional items for FY2014-15 that increases the following items:
  - restoration of merit pay;
  - maintaining services for an increasing licensee population to include nine new staff positions;

TSBP Executive Committee Meeting  
Minutes/April 10, 2012  
Page 2

- restoration of testing of compounded products;
- payroll health insurance contribution;
- increase to the ongoing cost of the regulatory data base;
- technology and vehicle replacement; and
- scanning of records.

Ms Stella provided the Executive Committee with a projection of the amount fees would have to increase to fund the exceptional item request.

Following discussion, the committee recommended asking for two additional staff positions (i.e. litigation manager and field investigator) to address the pill mill situation.

President Waggener adjourned the meeting at 3:00 p.m.

APPROVED:

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Jeanne D. Waggener, R.Ph.  
President

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Gay Dodson, R.Ph.  
Executive Director/Secretary

May 8, 2012



## TEXAS STATE BOARD OF PHARMACY

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February 27, 2012

**Minutes of the Temporary Suspension Hearing**  
**of Samuel Ambrosio Gurrola (Pharmacist License #20097),**  
**Eduardo Acosta Jr. (Pharmacy Technician Trainee Registration #194084),**  
**Guadalupe Carrillo (Pharmacy Technician Trainee Registration #201111), and**  
**Palafox Pharmacy (Pharmacy License #26185)**

Chair Dennis F. Wiesner, R.Ph., called the meeting to order at 9:00 a.m., in conference room number 400A, Tower II, 333 Guadalupe Street, Austin, Texas 78701. Board Members, Joyce A. Tipton, R.Ph. and Phyllis A. Stine were also present.

Staff present: Kerstin E. Arnold, General Counsel; Julie C. Hildebrand, Litigation Counsel; Robert Ebrom, Chief Investigator; and Sarah Guevara, Field Investigator.

Respondents: Samuel Ambrosio Gurrola (Pharmacist License #20097) and Palafox Pharmacy (Pharmacy License #26185), represented by Keith Gorman. Eduardo Acosta Jr. (Pharmacy Technician Trainee Registration #194084) and Guadalupe Carrillo (Pharmacy Technician Trainee Registration #201111) were not present or represented by counsel.

**A. Opening:**

The Chair called the case of the Application for the Temporary Suspension in the Matter of Samuel Ambrosio Gurrola (Pharmacist License #20097), Eduardo Acosta Jr. (Pharmacy Technician Trainee Registration #194084), Guadalupe Carrillo (Pharmacy Technician Trainee Registration #201111), and Palafox Pharmacy (Pharmacy License #26185). He 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: Julie Hildebrand, attorney for the Board Staff.

Respondent: Keith Gorman, attorney for Samuel Gurrola and Palafox Pharmacy.

**B. Presentation by Board's Attorney**

1. Verbal synopsis of allegations.
2. Introduction of documents into evidence. All admitted.
3. Testimony of Board witnesses: Sarah Guevara and Robert Ebrom.
4. Closing Statement.

**C. Presentation by Respondent's Attorney**

1. Opening statement.
2. Presentation of information and documents. All admitted.
3. Testimony of witnesses: Samuel Gurrola.
4. Closing Statement.

**D. Motions**

1. A motion was made by Ms. Tipton 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 deliberate regarding the disciplinary proceedings. Ms. Stine seconded the motion. The motion passed unanimously.

(The Board members went into Executive Session at 12:00 p.m.)

Chair Wiesner reconvened the meeting at 12:10 p.m., and announced that no action was taken during Executive Session.

2. A motion was made by Ms. Tipton that the Application for the Temporary Suspension of Samuel Ambrosio Gurrola (Pharmacist License #20097), Eduardo Acosta Jr. (Pharmacy Technician Trainee Registration #194084), Guadalupe Carrillo (Pharmacy Technician Trainee Registration #201111), and Palafox Pharmacy (Pharmacy License #26185) be denied, in that the evidence and information was insufficient to indicate that the operation of pharmacy and the practice of the pharmacist and pharmacy technician trainees are a continuing threat to the public welfare. Ms. Stine seconded the motion. The motion passed 2 to 1 with Mr. Wiesner dissenting that the Temporary Suspension Application be denied.

The Chair announced that Application for Temporary Suspension was denied.

3. A motion was made by Chair Wiesner to adjourn. Ms. Tipton seconded the motion. The motion passed unanimously.

Chair Wiesner adjourned the hearing at 12:15 p.m.

**APPROVED:**

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Dennis F. Wiesner, R.Ph.  
Chair

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Gay Dodson, R.Ph.  
Executive Director/Secretary