



# TEXAS STATE BOARD OF PHARMACY

---

---

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

**February 5, 2013**

**PUBLIC HEARING**

**MINUTES<sup>1</sup>**

President Jeanne D. Waggener, R.Ph., called the meeting to order at 9:07 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; Cathy Stella, Director of Licensing and Administrative Services; Carol Fisher, R.Ph., M.P.A., Director of Enforcement; Allison Benz, R.Ph., M.S., Director of Professional Services; Kerstin Arnold, General Counsel; Steve Rapp, Director of Information Technology; Paul Holder, R.Ph., Pharm.D., Assistant Director of Enforcement; Caroline Hotchkiss, Staff Attorney; Kerry Sullivan, Litigation Counsel; Tyler Vance, Staff Attorney; and Becky Damon, Executive Assistant.

Also present was Pharmacist Intern Anh Mai.

---

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

President Waggener read an opening statement regarding a public hearing to receive comments on the following rule:

- Amendments to §295.8 Concerning Continuing Education Requirements

There were no written or verbal comments concerning proposed amendments to §295.8.

President Waggener adjourned the Public Hearing at 9:10 a.m.

APPROVED:

---

Jeanne Waggener, R.Ph.  
President

---

Gay Dodson, R.Ph.  
Executive Director/Secretary

May 7, 2013



# TEXAS STATE BOARD OF PHARMACY

---

---

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

February 5, 2013

## MINUTES<sup>1</sup>

### Tuesday, February 5, 2013

President Jeanne D. Waggener, R.Ph., called the meeting to order at 9:10 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; Cathy Stella, Director of Licensing and Administrative Services; Carol Fisher, R.Ph., M.P.A., Director of Enforcement; Allison Benz, R.Ph., M.S., Director of Professional Services; Kerstin Arnold, General Counsel; Steve Rapp, Director of Information Technology; 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; and Becky Damon, Executive Assistant.

Also present was Pharmacist Intern Anh Mai.

#### **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.

---

<sup>1</sup>See 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 November 6, 2012; the minutes of the Temporary Suspension Hearing held November 26, 2012, concerning Richard Demond Broussard, R.Ph.; and the minutes of the Temporary Suspension Hearing held December 12, 2012, concerning Medicine Shoppe, Esther H. Cohen, R.Ph., and Rachel A. Cohen, Pharmacy Technician, as presented. The motion was seconded by Mr. Abeltd and passed unanimously.

**C. Discussion of and Possible Action Regarding Rules**

Final Adoption of Rules

- Rules Concerning Definitions (§291.31) (Tab 02)

Ms. Benz explained that the Board voted to propose the amendments to §291.31 during its November 6, 2012, meeting. The proposed amendments were published in the December 14, 2012, issue of the *Texas Register*, and no comments were received.

Ms. Benz directed the Board's attention to 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; 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 and review of the Preambles and Orders Adopting Rules, the motion was made by Ms. Tipton to approve for adoption, by Board Order, amendments to §291.31. The motion was seconded by Ms. Mendoza and passed unanimously.

- Rules Concerning Personnel (§291.32) (Tab 03)

Ms. Benz explained that the Board voted to propose the amendments to §291.32 during its November 6, 2012, meeting. The proposed amendments were published in the December 14, 2012, issue of the *Texas Register*, and no comments were received.

Ms. Benz directed the Board's attention to amendments to §291.32 and explained the amendments add verifying controlled substances listed on invoices are received by initial and date of receipt to the pharmacist's duties; and correct grammar.

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 §291.32. The motion was seconded by Ms. Kedron and passed unanimously.

- Rules Concerning Continuing Education Requirements (§295.8) (Tab 04)

Ms. Benz explained that the Board voted to propose the amendments to §295.8 during its November 6, 2012, meeting. The proposed amendments were published in the December 14, 2012, issue of the *Texas Register*, and no comments were received.

Ms. Benz directed the Board's attention to 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.

Following discussion, the Board delayed action on the proposed amendments to §295.8 until later in the meeting.

#### Proposal of Rules

- Rules Concerning Definitions of Discipline Authorized (§281.61) (Tab 05)

Ms. Benz directed the Board's attention to suggested amendments to §281.61 and explained that the amendments add registrants to the definitions.

Following discussion, the motion was made by Ms. Stine to approve for proposal amendments to §281.61, as presented. The motion was seconded by Ms. Mendoza and passed unanimously.

- Rules Concerning Operational Standards (§291.33) (Tab 06)

Ms. Benz directed the Board's attention to suggested amendments to §291.33 and explained that the amendments clarify and update the section to be consistent with other sections; require documentation of a consultation with a prescriber regarding a prescription; change the days supply for alternate labeling from 34 day supply or 100 dosage units whichever is less to a 90 day supply; and require automated checking devices to be fully automated.

Ms. Benz directed the Board's attention to a letter received from Roberta Halverson, R.Ph., CGP, with American Pharmaceutical Services.

Following discussion, the motion was made by Mr. Fry to approve for proposed amendments to §291.33, with changes recommended by the Board. The motion was seconded by Mr. Wetherbee and passed unanimously.

- Rules Concerning Records (§291.34) (Tab 07)

Ms. Benz directed the Board's attention to suggested amendments to §291.34 and explained that the amendments clarify and update the section to be consistent with other sections of this title and DPS and DEA laws/rules; require documentation of a consultation with a prescriber regarding a prescription; add rules regarding auto-refill programs; and update the rules regarding prescription transfers including no longer allowing interns to transfer prescriptions, specifying that the transfer must be confirmed by each pharmacist, and holding both the transferring and receiving pharmacist responsible for a dispensing error involving a transferred prescription.

Following discussion, the motion was made by Mr. Wetherbee to approve for proposal amendments to §291.34, with changes recommended by the Board. The motion was seconded by Mr. Wiesner and passed unanimously.

President Waggener recessed the meeting at 10:40 a.m.

President Waggener reconvened the meeting at 10:56 a.m.

- Rules Concerning Continuing Education Requirements for Pharmacy Technicians (§297.8) (Tab 08)

Ms. Benz directed the Board's attention to suggested amendments to §297.8 and explained that the amendments require the law portion of the continuing education requirements for pharmacy technicians to be regarding Texas pharmacy law.

Following discussion, the motion was made by Mr. Wetherbee to approve for proposal amendments to §297.8, with changes recommended by the Board staff. The motion was seconded by Ms. Kedron and passed unanimously.

#### Rule Review

- For Adoption

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. Fry to approve for adoption, 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 Mr. Abeldt and passed unanimously.

- Rules Concerning Continuing Education Requirements (§295.8) (Tab 04) (cont'd)

Ms. Benz explained that the Board reviewed the proposed amendments to §295.8 earlier in the meeting, and as directed by the Board, the rule was revised to change the effective date for the requirement for pharmacists to obtain one hour of CE in Texas pharmacy laws from January 1, 2014, to January 1, 2015.

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 §295.8, as revised. The motion was seconded by Ms. Mendoza and passed unanimously

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

- Task Force on Pharmacy Compounding (Tab 12)

Ms. Benz reported the Task Force held its first meeting on January 15, 2013.

Ms. Dodson stated that the Task Force was recommending a law change regarding out-of-state pharmacies shipping compounded preparations into Texas.

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

- Financial Update
  - Review of FY2013 Operating Budget (Tab 13)

Ms. Stella reviewed the expenditures for the first quarter of FY2013 (September 1, 2012, through November 31, 2012) for the Board.

- Review of Board Member Travel Budget (Tab 14)

Ms. Stella reviewed the Board Member FY2013 Travel Budget.

- Update on Legislative Appropriations Request for FY2014-2015 (Tab 15)

Ms. Stella reported on proposed amendments to the Legislative Appropriations Request for FY2014-2015.

Following discussion, the motion was made by Mr. Fry to approve the proposed amendments to the Legislative Appropriations Request for FY2014-2015, as presented. The motion was seconded by Ms. Tipton and passed unanimously.

- Discussion Concerning the Publication of the TSBP Newsletter (Tab 18)

Ms. Dodson explained the TSBP staff was recommending that future TSBP Newsletters contain educational information with disciplinary actions published separately.

President Waggener recessed the meeting at 11:44 a.m.

President Waggener reconvened the meeting at 12:35 p.m.

- Review of Public Information Initiatives (Tab 19)

Ms. Benz reported that the TSBP staff had developed several new educational videos and presented the video concerning Pharmacist-in-Charge responsibilities.

- Discussion of the Pharmacist to Technician Ratio (Tab 29)

President Waggener recognized Dennis McAlister, R.Ph., representative of Express Scripts. Mr. McAlister presented information concerning the pharmacist to technician ratio.

President Waggener recognized Al Carter with Walgreens. Mr. Carter stated that Walgreens has over 600 pharmacies in the state of Texas, but has never felt the need to operate above the current ratio.

Following discussion the Board directed staff to schedule further discussion of the pharmacist to technician ratio at the May Board meeting.

- 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 FY2013. (Tab 16)

- 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 the first quarter of FY2013, September 1, 2012, through November 31, 2012, and reviewed current PRN activities for the Board. (Tab 17)
- Update on Legislation Filed During the 83<sup>rd</sup> Texas Legislative Session that has an Impact on TSBP and/or the Practice of Pharmacy (Tab 20)

Ms. Dodson presented a report on the status of bills that have been filed in the House of Representative and in the Senate that could have an impact on TSBP and/or the practice of pharmacy.

President Waggener recessed the meeting at 1:53 p.m.

President Waggener reconvened the meeting at 2:21 p.m.

#### **E. Disciplinary Orders**

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

- Consideration of Proposals for Decision (Tab 21)
  - No Proposals for Decision were presented.
- Report on Agreed Board Orders Entered by Executive Director (Tab 22)
  - The Board reviewed 45 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 15, 2012, through January 30, 2013.
  - The Board reviewed 19 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 directives, during the period November 9, 2012, through January 31, 2013.
- Discussion of and Action on Proposed Agreed Board Orders and Proposed Default Board Orders (Tab 23)
  - The Board reviewed the alleged violations, as well as the recommended sanctions for each of the following: 23 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. David Wayne Gardner        | ABO #T-12-170   |
| 2. Jose Arteaga               | ABO #T-12-395   |
| 3. Darius Travelle Cole       | ABO #T-12-370-N |
| 4. Mary Ann Copeland          | ABO #T-12-420-N |
| 5. Elviajoy Martinez          | ABO #T-12-357-N |
| 6. Joyce Ann Smith            | ABO #T-12-505-N |
| 7. Brittany C. White          | ABO #T-12-241   |
| 8. Erica Rae Moore            | ABO #T-12-358   |
| 9. Delfeayo Del Parris        | ABO #T-12-112   |
| 10. Anand A. Patel            | ABO #T-11-630-N |
| 11. Melissa Aguilar           | ABO #T-12-404   |
| 12. Roy Leon Aldridge         | ABO #T-13-040   |
| 13. Quentessia Marshay Blakey | ABO #T-13-038   |
| 14. Gabriel Elizondo          | ABO #T-13-011   |
| 15. Laurie Whitten Leach      | ABO #T-13-028   |
| 16. Katasha Macias            | ABO #T-12-467   |
| 17. Megan Jane McGuffee       | ABO #T-12-450   |
| 18. Daniel Moreno             | ABO #T-12-334   |
| 19. Yvette Angela Palomo      | ABO #T-12-534-N |
| 20. Christy Nicole Romine     | ABO #T-12-510   |
| 21. Ernesto Sanchez           | ABO #T-13-036   |
| 22. Alicia Simon              | ABO #T-12-401-N |
| 23. Krissy Abril White        | ABO #T-12-117-N |

**Default Board Orders**

- |                              |                 |
|------------------------------|-----------------|
| 24. Ethan Trace Geiger       | ABO #T-11-371   |
| 25. Albert Matthew Guerra    | ABO #T-12-271-N |
| 26. Annette Mary Maas        | ABO #T-12-048   |
| 27. Juan Ovalle              | ABO #T-11-494   |
| 28. Cecilia Larae Summers    | ABO #T-13-002   |
| 29. Bryce Yarbrough          | ABO #T-12-283   |
| 30. Mario Alberto Zamora     | ABO #T-12-364   |
| 31. Thalia Nicole Berry      | ABO #T-12-136   |
| 32. Esmeralda Calzada        | ABO #T-12-486-N |
| 33. Lesley Diane Eastus      | ABO #T-13-007-N |
| 34. Tracy A. Gilmore         | ABO #T-12-509   |
| 35. Jason Alexander Norwood  | ABO #T-12-478   |
| 36. Tina R. Saucedo          | ABO #T-12-206   |
| 37. John Ryan Flores         | ABO #T-12-433-N |
| 38. James Brown              | ABO #T-12-497   |
| 39. Ashley Elizabeth Cornell | ABO #T-12-481   |
| 40. Maria Hernandez          | ABO #T-11-628-N |
| 41. Jennifer Michelle Moore  | ABO #T-12-498-N |
| 42. Dorothy Ann Robinson     | ABO #T-12-326-N |
| 43. Marshall Eugene Wilkes   | ABO #T-12-377   |
| 44. Tiffany Nicole White     | ABO #T-12-487-N |

The motion was made by Mr. Wiesner approve the 23 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 Mr. Fry and passed as follows.

1. 7-0-1 Mr. Abeltd abstained
2. 7-0-1 Ms. Mendoza abstained
3. 7-0-1 Ms. Mendoza abstained
4. 7-0-1 Ms. Mendoza abstained
5. 7-0-1 Ms. Mendoza abstained
6. 7-0-1 Ms. Mendoza abstained
7. 7-0-1 Ms. Mendoza abstained
8. 7-0-1 Ms. Stine abstained
9. 7-0-1 Ms. Stine abstained
10. 7-0-1 Ms. Stine abstained
11. 7-0-1 Ms. Stine abstained
12. 7-0-1 Ms. Stine abstained
13. 7-0-1 Ms. Stine abstained
14. 7-0-1 Ms. Stine abstained
15. 7-0-1 Ms. Stine abstained
16. 7-0-1 Ms. Stine abstained
17. 7-0-1 Ms. Stine abstained
18. 7-0-1 Ms. Stine abstained
19. 7-0-1 Ms. Stine abstained
20. 7-0-1 Ms. Stine abstained
21. 7-0-1 Ms. Stine abstained
22. 7-0-1 Ms. Stine abstained
23. 7-0-1 Ms. Stine abstained
24. 7-0-1 Ms. Mendoza abstained
25. 7-0-1 Ms. Mendoza abstained
26. 7-0-1 Ms. Mendoza abstained
27. 7-0-1 Ms. Mendoza abstained
28. 7-0-1 Ms. Mendoza abstained
29. 7-0-1 Ms. Mendoza abstained
30. 7-0-1 Ms. Mendoza abstained
31. 7-0-1 Ms. Stine abstained
32. 7-0-1 Ms. Stine abstained
33. 7-0-1 Ms. Stine abstained
34. 7-0-1 Ms. Stine abstained
35. 7-0-1 Ms. Stine abstained
36. 7-0-1 Ms. Stine abstained
37. 7-0-1 Ms. Tipton abstained
38. 7-0-1 Ms. Stine abstained
39. 7-0-1 Ms. Stine abstained
40. 7-0-1 Ms. Stine abstained
41. 7-0-1 Ms. Stine abstained

42. 7-0-1 Ms. Stine abstained
  43. 7-0-1 Ms. Stine abstained
  44. 7-0-1 Ms. Stine abstained
- The Board reviewed the alleged violations, as well as the recommended sanctions for each of the following: 21 proposed Agreed Board Orders (Alternative Resolutions); 36 proposed Agreed Board Orders concerning pharmacists, pharmacies, students, pharmacist-interns, and pharmacy technicians who appeared for an Informal Conference; one proposed Default Board Order concerning a pharmacist who did not appear for an Informal Conference; and three proposed Agreed Board Orders concerning a pharmacy, a pharmacist, and a pharmacy technician following a Temporary Suspension Hearing.

**Agreed Board Orders** (Alternative Resolutions)

1. ANEWrx	ABO #L-12-020
2. Brookshire Pharmacy #35	ABO #H-12-022
3. CVS/pharmacy #6319	ABO #H-12-064-B
4. Paul Don Borsellino	ABO #H-12-064-A
5. CVS/pharmacy #7341	ABO #J-12-010-B
6. Mai Thanh Tran	ABO #J-12-010-A
7. CVS/pharmacy #7489	ABO #H-11-075-B
8. Sunil Rashiklal Patel	ABO #H-11-075-A
9. CVS/pharmacy #7832	ABO #H-12-034
10. H.E.B. Pharmacy #202	ABO #H-12-035-B
11. Kathleen Tankersley	ABO #H-12-035-A
12. Kroger Pharmacy #695	ABO #H-11-066
13. Edmund L. Lee	ABO #H-10-023
14. Robert May	ABO #L-13-007
15. Peoples Pharmacy #3	ABO #J-10-018
16. Sam's Pharmacy Inc.	ABO #K-11-025
17. Uchegbulem Aloysius Eze	ABO #K-11-026
18. Wal-Mart Pharmacy #10-1232	ABO #H-12-050-B
19. Brenda K. Beckermann	ABO #H-12-050-A
20. Walgreen Co. #4550	ABO #H-11-034-B
21. Mary Adedayo Walker	ABO #H-11-034-A

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

22. Deborah L. Altsman	ABO #H-12-053-A
23. CVS/pharmacy #5844	ABO #J-11-015-B
24. Kalpesh Bachubhai Patel	ABO #J-11-015-A
25. CVS/pharmacy #7403	ABO #B-12-029
26. CVS/pharmacy #7650	ABO #H-11-084-B
27. Timothy Ray Long	ABO #H-11-084-A
28. CVS/pharmacy #7675	ABO #H-12-031-B
29. Eric Darnell Emerson	ABO #H-12-031-A
30. Tammy Roxanne Dessieux	ABO #J-12-015
31. Phillip E. Durham, Jr.	ABO #B-10-039-A
32. William Michael Floyd	ABO #S-12-012

- |     |                                      |                 |
|-----|--------------------------------------|-----------------|
| 33. | H.E.B. Pharmacy #558                 | ABO #H-12-002-B |
| 34. | Kenneth Vernon Weller                | ABO #J-12-014   |
| 35. | Hallmark Pharmacy                    | ABO #A-11-069-B |
| 36. | Richard Lynn Irby                    | ABO #A-11-069-A |
| 37. | Chikezie Ikenna Iwundu               | ABO #H-12-016-A |
| 38. | Phuc Nguyen                          | ABO #J-12-011-A |
| 39. | James Pharmacy                       | ABO #A-09-020   |
| 40. | Anji Reddy Kurray                    | ABO #L-11-044   |
| 41. | Anthony Frank Mumfrey                | ABO #J-10-015   |
| 42. | On Time Pharmacy                     | ABO #K-11-045   |
| 43. | Adora Tracy Obiechina                | ABO #K-11-044   |
| 44. | Perrone Pharmacy                     | ABO #B-11-039   |
| 45. | Pet-Pharm                            | ABO #L-12-021   |
| 46. | Professional Plaza<br>Pharmacy, Inc. | ABO #C-11-008-B |
| 47. | Michael Olaoluwapo Adetula           | ABO #C-11-008-A |
| 48. | Sherrianda La'Chelle Pitts           | ABO #T-11-401   |
| 49. | Stephanie Martir Santaromana         | ABO #B-12-034   |
| 50. | Shallowater Pharmacy                 | ABO #H-12-029-B |
| 51. | Lauren Marie Cline                   | ABO #H-12-029-A |
| 52. | Thanh-Nguyet Kim Tu                  | ABO #H-12-006-A |
| 53. | Wal-Mart Pharmacy #10-2975           | ABO #B-10-034   |
| 54. | Wal-Mart Pharmacy #10-3510           | ABO #H-12-028-B |
| 55. | Mirian Lilian Hoover                 | ABO #T-12-399   |
| 56. | Wal-Mart Pharmacy #10-4299           | ABO #H-12-040   |
| 57. | Kenneth Yanniello                    | ABO #H-12-019-A |

**Default Board Orders**

- |     |                            |               |
|-----|----------------------------|---------------|
| 58. | Edward Hamilton Allen, Jr. | ABO #J-12-012 |
|-----|----------------------------|---------------|

**Agreed Board Orders** (Following a Temporary Suspension Hearing)

- |     |                  |                 |
|-----|------------------|-----------------|
| 59. | Medicine Shoppe  | ABO #C-13-002-B |
| 60. | Esther H. Cohen  | ABO #C-13-002-A |
| 61. | Rachel Ann Cohen | ABO #T-13-039   |

The motion was made by Mr. Wetherbee to approve the 21 proposed Agreed Board Orders (Alternative Resolutions); 36 proposed Agreed Board Orders concerning pharmacists, pharmacies, students, pharmacist-interns, and pharmacy technicians who appeared for an Informal Conference; one proposed Default Board Order concerning a pharmacist who did not appear for an Informal Conference; and three proposed Agreed Board Orders concerning a pharmacy, a pharmacist, and a pharmacy technician following a Temporary Suspension Hearing.

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

1. 8-0-0
2. 8-0-0

3. 8-0-0
4. 8-0-0
5. 8-0-0
6. 8-0-0
7. 8-0-0
8. 8-0-0
9. 8-0-0
10. 7-0-1 Mr. Wiesner abstained
11. 7-0-1 Mr. Wiesner abstained
12. 8-0-0
13. 8-0-0
14. 8-0-0
15. 8-0-0
16. 8-0-0
17. 8-0-0
18. 8-0-0
19. 8-0-0
20. 8-0-0
21. 8-0-0
22. 7-0-1 Mr. Wiesner abstained
23. 7-0-1 Mr. Wiesner abstained
24. 7-0-1 Mr. Wiesner abstained
25. 7-0-1 Ms. Stine abstained
26. 7-0-1 Mr. Wiesner abstained
27. 7-0-1 Mr. Wiesner abstained
28. 7-0-1 Ms. Stine abstained
29. 7-0-1 Ms. Stine abstained
30. 7-0-1 Mr. Fry abstained
31. 7-0-1 Mr. Wiesner abstained
32. 7-0-1 Ms. Stine abstained
33. 6-0-2 Mr. Wiesner and Ms. Stine abstained
34. 6-0-2 Mr. Wiesner and Ms. Stine abstained
35. 7-0-1 Ms. Stine abstained
36. 7-0-1 Ms. Stine abstained
37. 7-0-1 Mr. Wiesner abstained
38. 7-0-1 Mr. Wiesner abstained
39. 7-0-1 Ms. Mendoza abstained
40. 7-0-1 Ms. Mendoza abstained
41. 7-0-1 Ms. Stine abstained
42. 7-0-1 Mr. Wiesner abstained
43. 7-0-1 Mr. Wiesner abstained
44. 7-0-1 Ms. Tipton abstained
45. 7-0-1 Mr. Wiesner abstained
46. 7-0-1 Mr. Wetherbee abstained
47. 7-0-1 Mr. Wetherbee abstained
48. 7-0-1 Mr. Wetherbee abstained
49. 7-0-1 Mr. Wiesner abstained
50. 7-0-1 Mr. Wiesner abstained
51. 7-0-1 Mr. Wiesner abstained

52. 7-0-1 Mr. Wiesner abstained
53. 7-0-1 Mr. Wiesner abstained
54. 7-0-1 Mr. Wiesner abstained
55. 7-0-1 Mr. Wiesner abstained
56. 7-0-1 Mr. Wiesner abstained
57. 7-0-1 Mr. Wiesner abstained
58. 7-0-1 Ms. Tipton abstained
59. 7-0-1 Ms. Stine and Mr. Wetherbee abstained
60. 7-0-1 Ms. Stine and Mr. Wetherbee abstained
61. 7-0-1 Ms. Stine and Mr. Wetherbee abstained

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

- |                    |                 |
|--------------------|-----------------|
| 1. Medicine Shoppe | ABO #C-13-001-B |
| 2. Esther H. Cohen | ABO #C-13-001-A |

- Confidential Agreed Board Orders (Tab 24)

The Board reviewed the alleged violations, as well as the recommended sanctions for each of the following: three proposed Confidential Agreed Board Orders (Alternative Resolution); one proposed Confidential Agreed Board Order following a Mediated Settlement Conference; one proposed Confidential Agreed Board Order following a Temporary Suspension Hearing; and 11 proposed Confidential Agreed Board Orders following an Informal Conference.

**Agreed Board Orders** (Alternative Resolution)

1. ABO #M-13-009
2. ABO #G-12-024
3. ABO #N-12-029

**Agreed Board Order** (Following a Mediated Settlement Conference)

4. ABO #N-12-030

**Agreed Board Orders** (Following a Temporary Suspension Hearing)

5. ABO #G-13-003

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

6. ABO #N-13-004
7. ABO #G-12-015
8. ABO #M-13-003
9. ABO #N-12-022
10. ABO #G-12-005
11. ABO #M-13-002
12. ABO #N-13-010

13. ABO #N-13-001
14. ABO #M-12-019
15. ABO #F-11-046
16. ABO #G-12-009

The motion was made by Mr. Fry to approve the three proposed Confidential Agreed Board Orders (Alternative Resolution); one proposed Confidential Agreed Board Order following a Mediated Settlement Conference; one proposed Confidential Agreed Board Order following a Temporary Suspension Hearing; and 11 proposed Confidential Agreed Board Orders following an Informal Conference.

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

1. 8-0-0
2. 8-0-0
3. 8-0-0
4. 7-0-1 Mr. Wiesner abstained
5. 6-0-2 Mr. Wiesner and Mr. Wetherbee abstained
6. 7-0-1 Mr. Wiesner abstained
7. 7-0-1 Mr. Wiesner abstained
8. 7-0-1 Mr. Wiesner abstained
9. 7-0-1 Ms. Tipton abstained
10. 7-0-1 Mr. Wiesner abstained
11. 7-0-1 Mr. Wiesner abstained
12. 7-0-1 Ms. Tipton abstained
13. 7-0-1 Ms. Stine abstained
14. 7-0-1 Mr. Wiesner abstained
15. 7-0-1 Mr. Wiesner abstained
16. 7-0-1 Ms. Mendoza abstained

The Board reviewed the alleged violations and the Temporary Suspension Order entered following a Temporary Suspension Hearing concerning a pharmacist.

1. ABO #G-13-003

**G. Consideration of and Possible Action Concerning Enforcement Reports**

- Petition to Serve as a Preceptor (Tab 25)
  - No petitions to serve as a preceptor were presented.
- Report on Complaints Closed and Dismissed During the Previous Quarter (Tab 26)

The Board received a report on complaints dismissed and closed the first quarter of FY2013 (September 1, 2012 – November 31, 2012). The report

also included quarterly averages for FY2012 as compared to FY2013, as well as percentage change from FY2012 to FY2013.

Ms. Fisher reviewed the report for the Board.

- Report on Status of Active/Pending Complaints (Tab 27)

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

Ms. Fisher reviewed the report for the Board.

**G. Miscellaneous**

- Items to be Placed on Agenda for May Board Meeting (Tab 28)

The Board requested that discussion concerning the pharmacist to technician ratio be placed on the agenda for the May 2013 Board Meeting.

- 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 2:55 p.m.

APPROVED:

---

Jeanne D. Waggener, R.Ph.  
President

---

Gay Dodson, R.Ph.  
Executive Director/Secretary

May 7, 2013



---

# TEXAS STATE BOARD OF PHARMACY

---

March 4, 2013

**Minutes of the Temporary Suspension Hearing  
of Express Rx Pharmacy (Pharmacy License #27759), and  
Esther Chinedozi Amaka (Pharmacist License #39677)**

Chair Joyce A. Tipton, R.Ph., called the meeting to order at 9:12 a.m., in conference room number 400A, Tower II, 333 Guadalupe Street, Austin, Texas 78701. Board Members, Phyllis A. Stine and Charles F. Wetherbee were also present.

Staff present: Kerstin E. Arnold, General Counsel; Kerry D. Sullivan, Litigation Counsel; Catherine Stella, Director of Administrative Services and Licensing Division, Jessica Reyes, Compliance Specialist and Ronald White, Field Investigator.

Respondents: Express Rx Pharmacy (Pharmacy License #27759), and Esther Chinedozi Amaka (Pharmacist License #39677), represented by Godson E. Anyanwu.

Court Reporter: Kimberly Ann Pence.

**A. Opening:**

The Chair called the case of the Petition for the Temporary Suspension in the Matter of Express Rx Pharmacy (Pharmacy License #27759), and Esther Chinedozi Amaka (Pharmacist License #39677). 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: Godson E. Anyanwu, attorney for Express Rx Pharmacy and Esther Chinedozi Amaka.

Respondent's attorney requested a continuance of the matter due to his recent involvement as Respondent's counsel and his inability to review the evidence. Board staff's attorney objected to the continuance on the grounds that sufficient notice had been provided to Respondent in accordance with Section 565.059(b)(1) of the Texas Pharmacy Act. Chair Tipton announced that the matter would proceed for hearing.

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

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

3. Testimony of Board witnesses: Ronald White, Jessica Reyes, Catherine Stella and Esther Chinedozi Amaka.

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

1. Opening statement.
2. 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 12:33 p.m.)

Chair Tipton reconvened the meeting at 12:40 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 Express Rx Pharmacy (Pharmacy License #27759), and Esther Chinedozi Amaka (Pharmacist License #39677) 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 Express Rx Pharmacy and Esther Chinedozi Amaka was granted.

Chair Tipton adjourned the hearing at 12:44 p.m.

**APPROVED:**

---

Joyce Tipton, R.Ph.  
Chair

---

Gay Dodson, R.Ph.  
Executive Director/Secretary