



TEXAS STATE BOARD OF PHARMACY

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

August 7, 2012

MINUTES¹

Tuesday, August 7, 2012

President Jeanne D. Waggener, R.Ph., called the meeting to order at 9:03 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.; L. Suzan Kedron; Joyce A. Tipton, R.Ph.; Charles Wetherbee; and Phyllis A. Stine.

Board Member Alice Mendoza, R.Ph., was not present.

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; Steve Rapp, Director of Information Technology; and Becky Damon, Executive Assistant.

Also present was Pharmacist Intern Sean Pazoki.

A. Announcements

- President Waggener made general announcements.
- Announcements were made concerning Board Members and staff.

¹See agenda and corresponding attachments for supporting materials.

- 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)

Ms. Dodson explained that the minutes of the Executive Committee Meeting held July 27, 2012, were revised to reflect an overall increase of \$652,080, due to the expected cost of moving the agency from the William P. Hobby building to private leased space. Following discussion, the motion was made by Mr. Fry to approve the minutes of the Executive Committee Meeting held July 27, 2012, as revised. The motion was seconded by Mr. Wetherbee and passed unanimously.

Following discussion, the motion was made by Ms. Kedron to approve the minutes of the TSBP Board Business Meeting held May 8, 2012, as presented. The motion was seconded by Mr. Wiesner and passed unanimously.

C. Discussion of and Possible Action Regarding Rules

Final Adoption of Rules

- Rules Concerning Grounds for Discipline for a Pharmacist License (§281.7) (Tab 02)

Ms. Benz explained that the Board voted to propose the amendments to §281.7 during its May 8, 2012, meeting. The proposed amendments were published in the June 22, 2012, issue of the *Texas Register*, and no comments were received.

Ms. Benz directed the Board's attention to amendments to §281.7 and explained that the amendments clarify the definition of "unprofessional conduct," correct grammar, and add "allowing an individual whose license to practice pharmacy, either as a pharmacist or a pharmacist-intern, or a pharmacy technician/trainee whose registration has been disciplined by the board, resulting in the license or registration being revoked, canceled, retired, surrendered, denied, or suspended, to have access to prescription drugs in a pharmacy" as a grounds for discipline for a pharmacist license.

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 §281.7. The motion was seconded by Mr. Wetherbee and passed unanimously.

- Rules Concerning Informal Disposition of a Contested Case (§281.22) (Tab 03)

Ms. Benz explained that the Board voted to propose the amendments to §281.22 during its May 8, 2012, meeting. The proposed amendments were published in the June 22, 2012, issue of the *Texas Register*, and no comments were received.

Ms. Benz directed the Board's attention to amendments to §281.22 and explained that the amendments update the reference to §281.30.

Ms. Benz explained that proposed amendments to §281.22 (Tab 03) and §291.30 (Tab 04) were published together and recommended the Board consider them at the same time.

- Rules Concerning Pleadings and Notice in a Contested Case (§281.30) (Tab 04)

Ms. Benz explained that the Board voted to propose the amendments to §281.30 during its May 8, 2012, meeting. The proposed amendments were published in the June 22, 2012, issue of the *Texas Register*, and no comments were received.

Ms. Benz directed the Board's attention to amendments to §281.30 and explained that the amendments implement new procedures for the proper handling of default hearings. She also explained that the amendment to §281.22 changes the title of §281.30 referenced in this rule to reflect the new title to §281.30

Following discussion and review of the Preambles and Orders Adopting Rules, the motion was made by Mr. Wetherbee to approve for adoption, by Board Order, amendments to §281.22 and §281.30. The motion was seconded by Ms. Tipton and passed unanimously.

- Rules Concerning Sanctions Imposed in Pill Mill Cases (§281.64) (Tab 05)

Ms. Benz explained that the Board voted to propose the amendments to §281.64 during its May 8, 2012, meeting. The proposed amendments were published in the June 22, 2012, issue of the *Texas Register*, and no comments were received.

Ms. Benz directed the Board's attention to amendments to §281.64 and explained that the amendments clarify the sanctions for criminal offenses involving illegal dispensing.

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 §281.64. The motion was seconded by Mr. Fry and passed unanimously.

- Rules Concerning Provision of Drugs in Clinic Pharmacies and Temporary Locations (Class D) (§291.93) (Tab 06)

Ms. Benz explained that the Board voted to propose the amendments to §291.93 during its May 8, 2012, meeting. The proposed amendments were published in the June 22, 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 requirements for mailing medication from Class D (Clinic) pharmacies.

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 Mr. Wetherbee and passed unanimously.

- Rules Concerning Recall Procedures for Compounded Preparations (§§291.131 and 291.133) (Tab 07)

Ms. Benz explained that the Board voted to propose the amendments to §§291.131 and 291.133 during its May 8, 2012, meeting. The proposed amendments were published in the June 22, 2012, issue of the *Texas Register*. Comments were received from the International Academy of Compounding Pharmacists and Richie's Specialty Pharmacy.

Ms. Benz directed the Board's attention to amendments to §§291.131 and 291.133 and explained that the amendments clarify the requirements for the recall of compounded preparations.

Following discussion, the Board delayed action on the proposed amendments to §§291.131 and 291.133 until later in the meeting.

- Rules Concerning Continuing Education Approved by Other State Boards of Pharmacy (§295.8) (Tab 08)

Ms. Benz explained that the Board voted to propose the amendments to §295.8 during its May 8, 2012, meeting. The proposed amendments were published in the June 22, 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 allow pharmacists to receive continuing education credit for programs approved by other state boards of pharmacy.

Following discussion and review of the Preambles and Orders Adopting Rules, the motion was made by Mr. Wetherbee to approve for adoption, by Board Order, amendments to §295.8. The motion was seconded by Mr. Abeldt and passed unanimously.

- Rules Concerning License Fees (§§291.6, 295.5 and 297.4) (Tab 09)

Ms. Stella explained that the Board voted to propose the amendments to §§291.6, 295.5 and 297.4 during its May 8, 2012, meeting. The proposed amendments were published in the June 22, 2012, issue of the *Texas Register*, and no comments were received.

Ms. Stella directed the Board's attention to amendments to §§291.6, 295.5 and 297.4 and explained that the amendments will increase fees to raise additional revenue to meet revenue projections.

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 §§291.6, 295.5 and 297.4. The motion was seconded by Ms. Kedron and passed unanimously.

Ms. Kedron left the meeting at 10:10 a.m.

Proposal of Rules

- Rules Concerning the Administrative Penalties for Failure to Provide Patient Counseling (§281.65) (Tab 10)

Ms. Benz directed the Board's attention to suggested amendments to §281.65 and explained the amendments increase the administrative penalties for pharmacist and pharmacies failing to provide patient counseling.

Following discussion and review the motion was made by Ms. Stine to table the proposed amendments to §281.65. The motion was seconded by Mr. Wetherbee and passed unanimously.

The Board directed staff to formulate a plan including education that will encourage pharmacist to provide verbal patient counseling.

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

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

Following discussion, the motion was made by Mr. Wiesner to approve for proposal amendments to §291.17, as presented. The motion was seconded by Ms. Stine and passed unanimously.

President Waggener recessed the meeting at 10:30 a.m.

President Waggener reconvened the meeting at 10:47 a.m.

Ms. Kedron rejoined the meeting at 10:50 a.m.

- Rules Concerning Labeling Prescriptions for Partner Therapy in Class D Pharmacies (§291.93) (Tab 12)

Ms. Benz directed the Board's attention to suggested amendments to §291.93 and explained 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, the motion was made by Mr. Wetherbee to approve for proposal amendments to §291.93, as presented. The motion was seconded by Ms. Stine 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 13)

Ms. Benz directed the Board's attention to suggested amendments to §291.104 and explained 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, the motion was made by Mr. Wetherbee to approve for proposal amendments to §291.104, as presented. The motion was seconded by Ms. Tipton and passed unanimously.

Rule Review

- For Adoption

Ms. Benz directed the Board's attention to the TSBP Rule Review Plan for FY2010-2013. (Tab 14)

- Chapter 291 Concerning Pharmacies (Institutional Pharmacy) (Class C) (§§291.71-291.76) (Tab 15)
- Chapter 303 Concerning Destruction of Dangerous Drugs & Controlled Substances (§§303.1-303.3) (Tab 16)

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 291 (§§291.71-291.76), and Chapter 303 (§§303.1-303.3). The motion was seconded by Ms. Tipton and passed unanimously.

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

- Concerning Long Term Care Pharmacy Task Force (Tab 17)

Ms. Benz directed the Board's attention to the Task Force's suggested amendments to §§291.31-291.34 and explained these amendments would be presented to the Board along with other changes to the Class A rules at a future meeting.

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

- Presentation Concerning Pharmacist Verification of Drugs for Automated Medication Supply Systems (Tab 28)

Ms. Waggener recognized Heidi Bragg, R.Ph., Director Regulatory Compliance, Cardinal Health. Ms. Bragg explained that Cardinal Health was requesting the Board consider a modification to the rule requiring a pharmacist to verify products refilled in an automated medication supply system.

Ms. Benz directed the Board's attention to suggested amendments to §291.74.

Following discussion, the motion was made by Ms. Tipton to approve for proposal amendments to §291.74, as presented. The motion was seconded by Mr. Wiesner and passed unanimously.

- Financial Update
 - Review of FY2012 Operating Budget (Tab 18)

Ms. Stella reviewed the expenditures for the first three quarters of FY2012 (September 1, 2011 - through May 31, 2012) for the Board.
 - Review of Board Member Travel Budget (Tab 19)

Ms. Stella reviewed the Board Member FY2012 Travel Budget.
 - Review and Approval of FY2013 Operating Budget (Tab 20)

Ms. Stella directed the Board's attention to a proposed operating budget for FY2013. She reviewed the budget and explained the differences between the FY2012 budget and the FY2013 budget.

Following discussion, the motion was made by Mr. Fry to approve the FY2013 operating budget, as presented. The motion was seconded by Mr. Wetherbee and passed unanimously.

President Waggener recessed the meeting at 11:47 a.m.

President Waggener reconvened the meeting at 12:38 p.m.

- Review and Approval of Legislative Appropriations Request for FY2014-2015 (Tab 21)

Ms. Stella directed the Board's attention to the Exceptional Item Request for the FY2014-2015 Legislative Appropriations Request (LAR).
- 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 (FY2009-2011) as well as the number of pharmacists participating in the program during the first three quarters of FY2012. (Tab 22)
 - 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 May 31, 2012, and reviewed current PRN activities for the Board. (Tab 23)

- Review and Approval of *TSBP FY2011 Annual Report* (Tab 24)

Ms. Dodson directed the Board's attention to a draft of the *TSBP FY2011 Annual Report*. She reviewed the agency's significant accomplishments in FY2011 for the Board.

Following discussion, the motion was made by Ms. Kedron to approve the *TSBP FY2011 Annual Report* as presented. The motion was seconded by Ms. Stine and passed unanimously.

- Review and Approval of *TSBP FY2013 Goals and Objective* (Tab 25)

Ms. Dodson presented the *TSBP FY2013 Goals and Objectives* and explained the new objectives.

Following discussion, the motion was made by Mr. Fry to approve the *TSBP FY2013 Goals and Objectives* as presented. The motion was seconded by Mr. Wiesner and passed unanimously.

- Review and Approval of Accreditation Council for Pharmacy Education (ACPE) Accredited Professional Programs of Colleges and Schools of Pharmacy (Tab 26)

Following review of a list of ACPE approved professional degree programs of colleges and schools of pharmacy by Ms. Stella, a motion was made by Mr. Fry to approve the list of ACPE accredited professional programs of colleges and schools of pharmacy, as presented, as required under Board Rule §305.1. The motion was seconded by Ms. Stine and passed unanimously.

- Discussion Concerning Information Required on a Prescription Label When the Prescription is Issued by an Advanced Practice Nurse or a Physician Assistant (Tab 27)

Mr. Wiesner explained that it is required that both the name of the advanced practice nurse or physician assistant and the name of the supervising physician be on a prescription order when the prescription is issued by an advanced practice nurse or a physician assistant.

Mr. Wiesner questioned whether or not it was necessary to also require both names on the prescription label.

President Waggener recognized Dennis McAllister, R.Ph., Director Regulatory Affairs, Express Scripts. Mr. McAllister stated he did not believe the name of the supervising physician needed to be on the label as it was electronically available if needed.

Following discussion the Board directed staff to develop suggested rule language concerning prescription labeling when the prescription order is issued by an advanced practice nurse or a physician assistant, and to present the proposed language for consideration by the Board at the November 2012 meeting.

C. Discussion of and Possible Action Regarding Rules (cont'd)

Final Adoption of Rules

- Rules Concerning Recall Procedures for Compounded Preparations (§§291.131 and 291.133) (Tab 07) (cont'd)

Ms. Benz explained that the Board reviewed the proposed amendments and the comments on the amendments earlier in the meeting, and as directed by the Board, the rule language had been revised for their review and consideration.

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 §§291.131 and 291.133, as revised. The motion was seconded by Mr. Wiesner and passed unanimously.

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

- Discussion Concerning Continuing Education (Tab 29)

Ms. Benz explained that TSBP had recently received several letters and emails commenting on continuing education requirements. She directed the Board's attention to an NABP listing of the continuing pharmacy education requirements from each of the state boards of pharmacy.

Ms. Dodson explained that TSBP rules do not require any targeted continuing education, such as pharmacy law and counseling. She stated that both the National Associations of Medical and Nursing Boards have suggested working with the National Association of Boards of Pharmacy to design continuing education that would be appropriate for all three licensees.

Ms. Waggener recognized Paul Davis, R.Ph., Executive Director, of The Texas Society of Health System Pharmacists, who stated he thought rules concerning required courses for continuing education should not be too specific.

Following discussion the Board directed staff to develop suggested rule language concerning Continuing Education and to present the proposed language for consideration by the Board at the November 2012 meeting.

- Report on Shared Regulatory Data Base Project (Tab 30)

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

Ms. Kedron left the meeting at 1:30 p.m.

- Discussion Concerning Health Information Exchange (Tab 31)

Ms. Waggener recognized Tiffany Champagne with Greater Houston HealthConnect. Ms. Champagne presented information concerning their health information exchange. She explained that HealthConnect was a secure electronic network that allows patient information to be exchanged between the healthcare providers in a region (hospitals, physicians, community health centers, labs and pharmacies).

President Waggener thanked Ms. Champagne for her presentation and recessed the meeting at 1:55 p.m.

President Waggener reconvened the meeting at 2:10 p.m.

- Discussion Concerning Automatic Refill Programs (Tab 43)

Ms. Fisher explained that TSBP has received numerous complaints from patients because their pharmacy automatically refilled their prescription, when the prescription was not needed or wanted.

Ms. Waggener recognized Dennis McAllister, R.Ph., Director, Regulatory Affairs, Express Scripts. Mr. McAllister presented a hand-out with information on the Medco Auto Refill program. He explained that the goal of the automatic refill program was for patients to have their medications on hand. He further explained that unless the patient chose the option of not participating in the program they would be automatically enrolled.

Following discussion the Board directed staff to develop suggested rule language concerning automatic refills and to present the proposed language for consideration by the Board at the November 2012 meeting.

- Discussion of Possible Statutory Changes for Consideration During the 83rd Session of the Texas Legislature (Tab 32)

Ms. Dodson directed the Board's attention to the following:

- A list of recommendations for Legislative Action during the 82nd Session of the Texas Legislature on which no action was taken;
- An updated list of recommendations for Legislative Action during the 82nd Session of the Texas Legislature with TSBP staff priority recommendations for the 83rd Session of the Texas Legislature;
- A list of staff suggested law changes for the 83rd Session of the Texas Legislature; and
- An updated list of staff suggested law changes for the 83rd Session of the Texas Legislature with priority recommendations.

Mr. Wiesner left the meeting at 3:30 p.m.

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 33)
 - No Proposals for Decision were presented.
- Report on Agreed Board Orders Entered by Executive Director (Tab 34)
 - The Board reviewed 55 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 May 17, 2012, through July 23, 2012.
 - The Board reviewed 34 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 May 16, 2012, through August 2, 2012.

- Discussion of and Action on Proposed Agreed Board Orders and Proposed Default Board Orders (Tab 35)
 - The Board reviewed the alleged violations, as well as the recommended sanctions for each of the following: 29 proposed Agreed Board Orders concerning pharmacy technicians and pharmacy technician trainees who appeared for an Informal Conference; and 20 proposed Default Board Orders concerning pharmacy technicians and pharmacy technician trainees who did not appear for an Informal Conference.

Agreed Board Orders

1. Manuel Mauro Sandoval	ABO #T-08-949
2. Kingsley K. Akanna	ABO #T-11-433
3. Gabrielle Freshour	ABO #T-12-037
4. Richard Antonio Garcia	ABO #T-12-139-N
5. Ernesto Herrera	ABO #T-12-008-N
6. Maria Rowena McGee	ABO #T-12-082
7. Monty Ray McMinn	ABO #T-12-066
8. Sheryl Lynn McNamara	ABO #T-12-090-N
9. Sharon Roberts Polley	ABO #T-11-324
10. Leticia Salas	ABO #T-12-163
11. Ernesto Sanchez	ABO #T-12-010
12. Jacob Marquez Serrano	ABO #T-12-020
13. Brittany Allen	ABO #T-11-459
14. James Nicholas Campos	ABO #T-12-102-N
15. Bryan Maxwell Davis	ABO #T-11-519
16. Monica Jill Gonzalez	ABO #T-11-509-N
17. Takia Erin Martinez	ABO #T-11-600
18. Jerry A. Tamez	ABO #T-12-197
19. Kristen A. Thomas	ABO #T-11-592
20. Michelle Marie Tripp	ABO #T-11-437
21. Nnamdi N. Akabueze	ABO #T-12-195
22. Terence Johnson	ABO #T-12-193
23. Antonio Valdez Rodriguez	ABO #T-12-198-N
24. Carlos Rodriguez, Jr.	ABO #T-11-601
25. Ivan Ray Rosenquist	ABO #T-11-594-N
26. Terry Sanchez	ABO #T-12-124-N
27. Jesus Soto	ABO #T-12-199
28. Jason Ryan Swayden	ABO #T-11-517
29. Christian Armando Zayas	ABO #T-11-575-N

Default Board Orders

30. Matthew Brandon Bohne	ABO #T-11-528
31. Jasmine Janai Davis	ABO #T-12-164-N
32. Clovis Renee Garibay	ABO #T-11-497-N

33.	Francisco Gabriel Ordonez	ABO #T-12-151
34.	Anne Sandford	ABO #T-11-168
35.	Morgan K. Williams	ABO #T-10-422
36.	Vastie Sharika Coleman	ABO #T-11-416
37.	Adan Garza	ABO #T-10-714
38.	Jessica Renee Harvey	ABO #T-12-172
39.	Jose Martin Martinez	ABO #T-11-613
40.	Jacquelyn Sonyette Perry	ABO #T-11-457-N
41.	Andrew Thomas Winston	ABO #T-12-019
42.	Jamal Brown	ABO #T-12-221-N
43.	Christina Marie C'de Baca	ABO #T-12-155
44.	Sonia De La Cruz	ABO #T-11-611
45.	Javier Lara Martinez	ABO #T-12-086
46.	Angel Renee McClosky	ABO #T-12-201
47.	Paul Anthony Riggs	ABO #T-11-602
48.	Norma Raquel Villarreal	ABO #T-12-314-N
49.	Trent Jarvis Watts	ABO #T-12-236-N

The motion was made by Mr. Wetherbee to approve the 29 proposed Agreed Board Orders concerning pharmacy technicians and pharmacy technician trainees who appeared for an Informal Conference and 20 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. 5-0-0
2. 5-0-0
3. 5-0-0
4. 5-0-0
5. 5-0-0
6. 5-0-0
7. 5-0-0
8. 5-0-0
9. 5-0-0
10. 5-0-0
11. 5-0-0
12. 5-0-0
13. 4-0-1 Ms. Tipton abstained
14. 4-0-1 Ms. Tipton abstained
15. 4-0-1 Ms. Tipton abstained
16. 4-0-1 Ms. Tipton abstained
17. 4-0-1 Ms. Tipton abstained
18. 4-0-1 Ms. Tipton abstained

19. 4-0-1 Ms. Tipton abstained
20. 4-0-1 Ms. Tipton abstained
21. 5-0-0
22. 5-0-0
23. 5-0-0
24. 5-0-0
25. 5-0-0
26. 5-0-0
27. 5-0-0
28. 5-0-0
29. 5-0-0
30. 5-0-0
31. 5-0-0
32. 5-0-0
33. 5-0-0
34. 5-0-0
35. 5-0-0
36. 4-0-1 Ms. Tipton abstained
37. 4-0-1 Ms. Tipton abstained
38. 4-0-1 Ms. Tipton abstained
39. 4-0-1 Ms. Tipton abstained
40. 4-0-1 Ms. Tipton abstained
41. 4-0-1 Ms. Tipton abstained
42. 5-0-0
43. 5-0-0
44. 5-0-0
45. 5-0-0
46. 5-0-0
47. 5-0-0
48. 5-0-0
49. 5-0-0

- The Board reviewed the alleged violations, as well as the recommended sanctions for each of the following: two proposed Agreed Board Orders (Alternative Resolutions); and 34 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. Terry Paul Bacchus ABO #H-11-092-A
2. Walgreen Co. #10465 ABO #H-12-017-B

Agreed Board Order (Following an Informal Conference)

3. ABC Pharmacy ABO #A-11-027-B
4. Maurice Harvey Litt ABO #A-11-027-A
5. Buena Vista Discount Pharmacy ABO #B-12-003
6. CVS/pharmacy #3505 ABO #B-10-043
7. CVS/pharmacy #5838 ABO #K-11-031
8. CVS/pharmacy #6742 ABO #H-11-091-B
9. Nettie Smith Roach ABO #H-11-091-A
10. CVS/pharmacy #6794 ABO #B-11-024
11. CVS/pharmacy #7600 ABO #H-11-043
12. CVS/pharmacy #8440 ABO #H-11-020-B
13. My Thanh Nguyen ABO #H-11-020-A
14. Doyfran Pharmacy ABO #L-12-012
15. Victor Egbulefu ABO #M-12-006
16. H.E.B. Pharmacy #556 ABO #H-12-003-B
17. Johnathan Cuevas ABO #H-12-003-A
18. Lindberg Pharmacy ABO #B-12-005
19. Jorge A. Martillo ABO #K-11-043
20. Mitul M. Patel ABO #H-11-085
21. Matthew Clinton Pond ABO #E-11-020
22. Diana M. Rodriguez-Lopez ABO #J-12-016
23. Sam's Pharmacy #10-8282 ABO #H-11-024-B
24. Kendra Lynis Forbes ABO #H-11-024-A
25. Specialty Compounding, LLC ABO #K-10-065-B
26. Raymond Lawrence Solano ABO #K-10-065-A
27. Texas Oncology Pharmacy -
Austin ABO #G-12-025-B
28. Wal-Mart Pharmacy #10-3432 ABO #B-10-042
29. Walgreen Co. #4014 ABO #H-11-046-B
30. Walgreen Co. #6329 ABO #H-11-088-B
31. Hoa H. Pham ABO #H-11-088-A
32. Emily Thuy Nguyen . ABO #H-10-058
33. Walgreen Co. #6694 ABO #K-11-065
34. Thomas Neal Pessia ABO #K-11-066
35. Walgreen Co. #6821 ABO #H-11-040-B
36. Weslaco Pharmacy, Inc. ABO #B-11-041

The motion was made by Mr. Wetherbee to approve the two proposed Agreed Board Orders (Alternative Resolutions) and 34 proposed Agreed Board Orders concerning pharmacist, pharmacies, students, pharmacist-interns, and pharmacy technicians who appeared for an Informal Conference.

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

1. 5-0-0
2. 5-0-0

3. 5-0-0
4. 5-0-0
5. 4-0-1 Mr. Wetherbee abstained
6. 4-0-1 Mr. Wetherbee abstained
7. 4-0-1 Ms. Tipton abstained
8. 5-0-0
9. 5-0-0
10. 4-0-1 Mr. Wetherbee abstained
11. 5-0-0
12. 4-0-1 Mr. Wetherbee abstained
13. 4-0-1 Mr. Wetherbee abstained
14. 5-0-0
15. 4-0-1 Mr. Wetherbee abstained
16. 5-0-0
17. 5-0-0
18. 3-0-1 Mr. Wetherbee and Mr. Fry abstained
19. 5-0-0
20. 5-0-0
21. 5-0-0
22. 5-0-0
23. 4-0-1 Mr. Wetherbee abstained
24. 4-0-1 Mr. Wetherbee abstained
25. 4-0-1 Mr. Wetherbee abstained
26. 4-0-1 Mr. Wetherbee abstained
27. 5-0-0
28. 4-0-1 Mr. Wetherbee abstained
29. 4-0-1 Mr. Fry abstained
30. 5-0-0
31. 5-0-0
32. 5-0-0
33. 4-0-1 Mr. Wetherbee abstained
34. 4-0-1 Mr. Wetherbee abstained
35. 4-0-1 Ms. Tipton abstained
36. 4-0-1 Mr. Wetherbee abstained

- Confidential Agreed Board Orders (Tab 36)

The Board reviewed the alleged violations, as well as the recommended sanctions for each of the following: one proposed Confidential Agreed Board Orders (Alternative Resolution); 13 proposed Confidential Agreed Board Orders following an Informal Conference; and one proposed Confidential Default Board Order concerning a pharmacist who did not appear for an Informal Conference.

Agreed Board Orders (Alternative Resolution)

1. ABO #G-11-029

Agreed Board Orders (Following an Informal Conference)

2. ABO #L-12-014
3. ABO #N-12-011
4. ABO #G-11-021
5. ABO #M-11-018
6. ABO #N-12-023
7. ABO #S-12-006
8. ABO #F-12-013
9. ABO #M-12-007
10. ABO #L-12-016
11. ABO #M-12-018
12. ABO #M-12-010
13. ABO #M-12-014
14. ABO #N-12-019

Default Board Order

15. ABO #N-12-007

The motion was made by Mr. Abeltdt to approve the one proposed Confidential Agreed Board Order (Alternative Resolution), 13 proposed Confidential Agreed Board Orders following an Informal Conference, and one proposed Confidential Agreed Board Order concerning a pharmacist who did not appear for an Informal Conference.

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

1. 5-0-0
2. 4-0-1 Mr. Wetherbee abstained
3. 4-0-1 Mr. Wetherbee abstained
4. 4-0-1 Mr. Wetherbee abstained
5. 5-0-0
6. 5-0-0
7. 5-0-0
8. 5-0-0
9. 4-0-1 Mr. Wetherbee abstained
10. 4-0-1 Mr. Fry abstained
11. 4-0-1 Mr. Fry abstained
12. 4-0-1 Ms. Tipton abstained
13. 4-0-1 Mr. Wetherbee abstained
14. 4-0-1 Mr. Wetherbee abstained
15. 4-0-1 Mr. Wetherbee 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 individuals to determine whether the petitions met the requirements of §283.6 (c).

- Mary Catherine Flinn, R.Ph. (Tab 37)

Ms. Fisher reviewed the petition from Mary Catherine Flinn, R.Ph. The motion was made by Ms. Stine that the Board grant the petition of Mary Catherine Flinn, R.Ph., to serve as a preceptor. The motion was seconded by Mr. Fry and passed 5-0-0.

- My Thanh Nguyen, R.Ph. (Tab 38)

Ms. Fisher reviewed the petition from My Thanh Nguyen, R.Ph. The motion was made by Ms. Tipton that the Board grant the petition of My Thanh Nguyen, R.Ph., to serve as a preceptor. The motion was seconded by Mr. Wetherbee and passed 5-0-0.

- 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 three quarters of FY2012 (September 1, 2011 – May 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 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 November Board Meeting (Tab 41)

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

- Suggested rule language concerning label requirements when the prescription is issued by an Advanced Practice Nurse or a Physician Assistant;
 - Suggested rule language concerning continuing education requirements;
 - Suggested rule language concerning Automatic Refill Programs; and
 - Discussion concerning community pharmacy accreditation.
- 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 recessed the meeting at 4:18 p.m.

President Waggener reconvened the meeting at 4:23 p.m.

- Evaluation of Executive Director (Tab 42)

Mr. Wetherbee made a motion that the Board go into Executive Session to consider personnel matters under the authority of the Texas Government Code, Section 551.074. The motion was seconded by Ms. Stine and passed unanimously.

President Waggener declared the Board in Executive Session at 4:25 p.m.

At 4:35 p.m., President Waggener announced that the Board would resume the meeting in Open Session. President Waggener announced that no action was taken and no decisions were made during Executive Session.

The Board reviewed their evaluation with Ms. Dodson and thanked her for her outstanding service to the Board.

President Waggener adjourned the meeting at 5:05 p.m.

APPROVED:

Jeanne D. Waggener, R.Ph.
President

Gay Dodson, R.Ph.
Executive Director/Secretary
November 6, 2012