



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 4, 2015

MINUTES¹

Tuesday, August 4, 2015

President Jeanne D. Waggener, R.Ph., called the meeting to order at 9:03 a.m. Other Board Members present were Vice President Buford T. Abeldt, Sr., R.Ph.; Treasurer Christopher M. Dembny, R.Ph.; W. Benjamin Fry, R.Ph.; L. Suzan Kedron; Dennis F. Wiesner, R.Ph.; Joyce A. Tipton, R.Ph.; Charles F. Wetherbee; Phyllis A. Stine; and Bradley A. Miller, Ph.T.R.

Board Member Alice G. Mendoza, R.Ph., was not 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; Allison Benz, R.Ph., M.S., Director of Professional Services; Kerstin Arnold, General Counsel; Steve Rapp, Director of Information Technology; Caroline Hotchkiss, Assistant General Counsel; Ben Santana, R.Ph., Chief of Compliance; Synthia Hill, R.Ph., Compliance Program Officer; Tyler Vance, Staff Attorney; Megan Holloway, Staff Attorney; Ginger Shuffer, Staff Attorney; and Becky Damon, Executive Assistant.

Also present were Pharmacist Intern Jessica Gumulya and Legal Intern Macy Cotton.

¹See agenda and corresponding attachments for supporting materials.

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.

B. Discussion and Approval of Minutes of Previous Meetings (Tab 01)

Following discussion, the motion was made by Mr. Fry to approve the minutes of the Board Business Meeting held May 5, 2015; the minutes of a Temporary Suspension Hearing held May 12, 2015, concerning Artemis Pharmacy LLC, and Taofik Mobolaji Brown, R.Ph.; the minutes of a Temporary Suspension Hearing held May 12, 2015, concerning Supreme Rx Pharmacy; the minutes of a Temporary Suspension Hearing held May 26, 2015, concerning Supreme Rx Pharmacy, Jesse Cornell Sanders II, R.Ph., and Ragan Yvette Webster, R.Ph.; the minutes of a Temporary Suspension or Restriction Hearing held May 12, 2015, concerning IVMedco Fort Worth; the minutes of a Temporary Suspension or Restriction Hearing held May 26, 2015, concerning IVMedco Fort Worth; the minutes of a Temporary Suspension Hearing held on July 13, 2015, concerning Supreme Rx Pharmacy, RX Max Pharmacy and Artemis Pharmacy LLC; and the minutes of a Show Cause Order Hearing, held May 26, 2015, concerning pharmacy technician Travis Ivy, as presented. The motion was seconded by Mr. Dembny and passed unanimously.

C. Discussion of and Possible Action Regarding Rules

Final Adoption of Rules

- Rules Concerning License Fees (§§291.6 and 295.5) (Tab 02)

Ms. Benz explained that the Board voted to propose the amendments to §§291.6 and 295.5 during its May 5, 2015, meeting. The proposed amendments were published in the June 26, 2015, issue of the *Texas Register*, and no comments were received.

Ms. Benz and Ms. Stella directed the Board's attention to amendments to §§291.6 and 295.5 and explained that the amendments will increase the fee to obtain an amended pharmacy license from \$20.00 to \$100.00; and add a fee to fund the Prescription Drug Monitoring Program as passed by Senate Bill 195 of the 84th Texas Legislature.

Ms. Dodson explained that the State Comptroller's General Council has determined that the portion of Senate Bill 195, that allows TSBP to receive funds from other licensing boards to launch the Prescription Monitoring Program, has an implementation date of September 1, 2016. She explained that staff members were examining several alternate revenue sources to fund the transfer of the program from the Department of Public Safety to the Pharmacy Board during FY2016.

Following discussion of the rules, the Board recommended revisions to the proposed amendments, and postponed action until later in the meeting.

- Rules Concerning Pharmacist Examination Fee (§283.9) (Tab 03)

Ms. Benz explained that the Board voted to propose the amendments to §283.9 during its May 5, 2015, meeting. The proposed amendments were published in the June 26, 2015, issue of the *Texas Register*, and no comments were received.

Ms. Benz directed the Board's attention to amendments to §283.9 and explained that the amendments will increase the pharmacist examination fee from \$52.00 to \$103.00.

Following discussion of the rules, the Board recommended revisions to the proposed amendments, and postponed action until later in the meeting.

- Rules Concerning Pharmacy Technician Continuing Education Requirements (§297.8) (Tab 04)

Ms. Benz explained that the Board voted to propose the amendments to §297.8 during its May 5, 2015, meeting. The proposed amendments were published in the June 26, 2015, issue of the *Texas Register*, and no comments were received.

Ms. Benz directed the Board's attention to amendments to §297.8 and explained that the amendments update the continuing education requirements for pharmacy technicians.

Following discussion and review of the Preamble and Order Adopting Rule, the motion was made by Ms. Tipton to approve for adoption, by Board Order, amendments to §297.8, as presented. The motion was seconded by Mr. Abeldt and passed unanimously.

- Rules Concerning Sterile Compounding by Nuclear Pharmacies (§§291.51-291.54, and 291.133) (Tab 05)

Ms. Benz explained that the Board voted to propose the amendments to §§291.51-291.54, and 291.133 during its May 5, 2015, meeting. The proposed amendments were published in the June 26, 2015, issue of the *Texas Register*, and no comments were received.

Ms. Benz directed the Board's attention to amendments to §§291.51-291.54, and 291.133 and explained that the amendments update the definitions and remove definitions that are no longer necessary; clarify the requirements for pharmacy personnel compounding sterile radiopharmaceuticals; clarify and update the procedures for nuclear pharmacies; require nuclear pharmacies to be inspected prior to renewal; and remove requirements that are referenced in other sections of the rules.

President Waggener recognized the following persons who presented oral remarks to the Board:

Byron Jay Ashworth, R.Ph. – G.E. Healthcare
Gary Cacciatore, R.Ph. – CardinalHealth
Don Warner, R.Ph. – G.E. Healthcare

Following discussion and review of the Preambles and Orders Adopting Rules, the motion was made by Mr. Abeldt to approve for adoption, by Board Order, amendments to §§291.51-291.54, as presented. The motion was seconded by Mr. Miller and passed unanimously.

Following discussion of the rules and review of oral comments received, the Board recommended revisions to the proposed amendments to §291.133, and postponed action until later in the meeting.

Proposal of Rules

- Rules Concerning Grounds for Discipline (§§281.7 and 281.9) (Tab 06)

Ms. Benz directed the Board's attention to suggested amendments to rule language concerning the grounds for discipline. She explained the amendments update the grounds for discipline for pharmacists and pharmacy technicians to include abusive, intimidating, or threatening behavior toward a board employee during the performance of such employee's lawful duties; and adds failure to respond to a continuing education audit to the grounds for discipline for a pharmacy technician.

Following discussion, the motion was made by Mr. Wetherbee to approve for proposal amendments to §§281.7 and 281.9, with recommended changes. The motion was seconded by Ms. Tipton and passed unanimously.

- Rules Concerning Graduates from the Canadian Council for Accreditation of Pharmacy Programs (§283.2) (Tab 07)

Ms. Benz and Ms. Stella directed the Board's attention to suggested amendments to rule language concerning the Canadian Council for Accreditation of Pharmacy Programs. They explained the amendments will clarify that 1993 – 2004 graduates from a college/school of pharmacy whose professional degree program has been approved by the Board and is accredited by the Canadian Council for Accreditation of Pharmacy Programs are not considered foreign graduates for the purpose of licensure; and update definitions regarding interns.

Following discussion, the motion was made by Ms. Kedron to approve for proposal amendments to §283.2, as presented. The motion was seconded by Mr. Dembny and passed unanimously.

- Rules Concerning Notification Requirements of Senate Bill 460 (§291.3) (Tab 08)

Ms. Benz directed the Board's attention to suggested amendments to rule language concerning notification requirements of Senate Bill 460. She explained the amendments implement provisions of Senate Bill 460 requiring pharmacies to notify the board at least 30 days prior to changing locations and allow pharmacies to notify consumers regarding complaints against the practice of pharmacy in an electronic messaging system; update the change of pharmacist employment requirements; and include Veterinary-Verified Pharmacy Practice Sites (Vet-VIPPS) as being in compliance with internet notifications.

Following discussion, the motion was made by Mr. Wetherbee to approve for proposal amendments to §291.3, with recommended changes. The motion was seconded by Mr. Fry and passed unanimously.

- Rules Concerning Inventory Requirements (§291.17) (Tab 09)

Ms. Benz directed the Board's attention to suggested amendments to rule language concerning inventory requirements. She explained the amendments update the inventory requirements; clarify the recordkeeping regarding the time inventory shall be taken; and add Class A-S and Class C-S to the inventory requirements.

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

- Rules Concerning Pharmacist-in-Charge (§§291.32, 291.53 and 291.73) (Tab 10)

Ms. Benz directed the Board's attention to suggested amendments to rule language concerning pharmacist-in-charge. She explained the amendments clarify that a pharmacist may not serve as the pharmacist-in-charge of other pharmacies if the pharmacist is required to be a full-time pharmacist. For example, a pharmacist-in-charge of Class A pharmacy may not serve as the pharmacist-in-charge of a Class B pharmacy or a Class C pharmacy with 101 beds or more. In addition, the amendments would eliminate references to sterile compounding; add transferring or receiving a transferred prescription to the list of pharmacist duties; and correct grammar.

Following discussion, the motion was made by Mr. Fry to approve for proposal amendments to §§291.32, 291.53, and 291.73, as presented. The motion was seconded by Mr. Wetherbee and passed unanimously.

- Rules Concerning Prescription Transfer Requirements (§291.34) (Tab 11)

Ms. Benz directed the Board's attention to suggested amendments to rule language concerning prescription transfer requirements. She explained the amendments clarify that prescriptions must be transferred within four business hours; and update the rules regarding distributions to include dangerous drugs.

Written comments on the draft rule were received from Thomas A. Garza, R.Ph.; Cherie Hodges, R.Ph., and John Voliva, R.Ph., Director of Legislative Relations, PCCA.

Following discussion and review of comments received, the motion was made by Mr. Wetherbee to approve for proposal amendments to §291.34, as presented. The motion was seconded by Mr. Miller and passed unanimously.

President Waggener recessed the meeting at 10:20 a.m.

President Waggener reconvened the meeting at 10:33 a.m.

- Rules Concerning Military Service Members, Military Veterans, and Military Spouses (§§283.12 and 297.10) (Tab 12)

Ms. Benz directed the Board's attention to suggested amendments to rule language concerning military service members, military veterans, and military spouses. She explained the amendments implement provisions of Senate Bill 807 and Senate Bill 1307 regarding military service members, military veterans, and military spouses.

Following discussion the motion was made by Ms. Kedron to approve for proposal amendments to §§283.12 and 297.10, as presented. The motion was seconded by Mr. Wetherbee and passed unanimously.

- Rules Concerning Procedures Relating to Immunizations and Hand Sanitizing (§295.15) (Tab 13)

Ms. Benz directed the Board's attention to suggested amendments to rule language concerning immunizations and hand sanitizing. She explained the amendments add requirements regarding hand sanitizing for pharmacists administering immunizations.

Following discussion the motion was made by Mr. Fry to approve for proposal amendments to §295.15, as presented. The motion was seconded by Ms. Stine and passed unanimously.

- Rules Concerning Administration of Epinephrine by Pharmacist (§295.16) (Tab 14)

Ms. Benz directed the Board's attention to suggested amendments to rule language concerning the administration of epinephrine by a pharmacist. She explained the amendments implement provisions of House Bill 1550 regarding the administration of epinephrine by a pharmacist.

President Waggener recognized Justin Hudman, with the Texas Pharmacy Association, who presented oral comments to the Board.

Following discussion the motion was made by Mr. Wetherbee to approve for proposal amendments to §295.16, with recommended changes. The motion was seconded by Mr. Dembny and passed unanimously.

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

- Presentation Concerning the Pharmacy Technician Certification Board's Certification Requirements in 2020 (Tab 33)

Mr. Wiesner reported that beginning in the year 2020, the Pharmacy Technician Certification Board (PTCB) will require pharmacy technicians to complete specific accredited training, which will include internship hours, before the technician will be eligible to test for certification.

President Waggener recognized Debbi Mack, R.Ph., and Tim Koch with Wal-Mart, and they presented additional information on the changes proposed by PTCB. They explained that currently PTCB has no training prerequisite before testing for certification. They expressed concern that Texas does not have an adequate number of training programs and facilities with preceptors to accommodate the high volume of new pharmacy technicians licensed each year.

President Waggener recognized Adam Chesler with PTCB, who stated that PTCB's goal was to advance the role of Pharmacy Technicians. He explained that PTCB does not want to create a hardship for technicians or pharmacies but that patient safety should be the number one priority. He explained that PTCB will be sending out a survey to pharmacies and also plans to hold a stakeholders meeting later this year.

President Waggener recognized Dennis McAllister, with Express Scripts, who stated that pharmacy technician schools should meet set standards that focus on the quality of education.

Following discussion there was no action taken by the Board.

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

President Waggener reconvened the meeting at 1:17 p.m.

- Professional Recovery Network
 - Ms. Fisher discussed performance measures regarding the number of individuals participating in the peer assistance program for the past three fiscal years (FY2012-2014) as well as the quarterly report on the number of pharmacists participating in the program during the first three quarters of FY2015 (September 1, 2014 – May 31, 2015). (Tab 25)

- President Waggener recognized Courtney Hulbert with the Professional Recovery Network (PRN). Ms. Hulbert directed the Board's attention to the PRN budget report for FY2015 (September 1, 2014 – May 31, 2015). Ms. Hulbert also directed the Board's attention to a corrected version of PRN's 2nd Quarter Expense Report, which was presented to the Board at its May meeting. She explained that two line items were changed and that the previous version was missing Overhead Expenses for February due to a change to codes. Additionally, code 6890 Bad Debt Expenses has been added. The 3rd Quarter Expense Report includes the data from the updated 2nd Quarter Expense Report. Ms. Hulbert reviewed current PRN activities for the Board. (Tab 26)
- Ms. Hulbert directed the Board's attention to the Audited Statement of Revenues and Expenses report for the Pharmacy Peer Assistance Program year ended August 31, 2014, and noted that there were no exceptions noted in the audit. (Tab 27)

Following review of the audit by the Board, the motion was made by Mr. Dembny to approve the PRN audit for the program year ended August 31, 2014, as presented. The motion was seconded by Mr. Abeldt and passed unanimously.

- Discussion Concerning Request From the Texas Consortium on Experiential Programs (Tab 35)

Ms. Benz directed the Board's attention to two letters received from the Texas Consortium on Experiential Program (TCEP). The first letter was a request to expand the definition of a Healthcare Professional Preceptor, and the second letter was a request to expand the duties of an Intern-trainee.

President Waggener recognized Jennifer Ridings-Myhra, R.Ph., and Lisa Killam-Worrall, R.Ph., with The University of Texas at Austin School of Pharmacy, who presented oral remarks to the Board.

President Waggener recognized Dennis McAlister, with Express Scripts, who presented oral remarks to the Board.

Following discussion, the Board directed staff to bring back suggested rule amendments concerning the definition of a Healthcare Professional Preceptor and the pharmacist-intern duties.

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

Proposal of Rules (cont'd)

- Rules Concerning House Bill 71 Interchangeable Biological Products (§§309.5, 291.33, 291.34, 291.104, 309.1-309.4, and 309.6-309.8) (Tab 15)

Ms. Benz directed the Board's attention to a suggested language for proposed new rule §309.5, and suggested amendments to rule language concerning interchangeable biological products. She explained the amendments implement the provisions of House Bill 751 regarding interchangeable biological products.

Following discussion the motion was made by Ms. Tipton to approve for proposal new rule §309.5, and amendments to §§291.33, 291.34, 291.104, 309.1-309.4, and 309.6-309.8, with recommended changes. The motion was seconded by Mr. Wetherbee and passed unanimously.

Final Adoption of Rules (cont'd)

- Rules Concerning License Fees (§§291.6 and 295.5) (Tab 02) (cont'd)

Ms. Benz explained that the Board reviewed the proposed amendments to §291.6 earlier in the meeting and had directed staff to make revisions to the proposed amendments. She directed the Board's attention to the revised amendments concerning pharmacy license fees.

Following discussion and review of the Preamble and Order Adopting Rule, the motion was made by Mr. Abeltdt to approve for adoption, by Board Order, amendments to §291.6, as revised. The motion was seconded by Ms. Stine and passed unanimously.

Ms. Benz explained that the Board reviewed the proposed amendments to §295.5 earlier in the meeting and had directed staff to make revisions to the proposed amendments. She directed the Board's attention to the revised amendments concerning pharmacist license fees.

Following discussion and review of the Preamble and Order Adopting Rule, the motion was made by Mr. Fry to approve for adoption, by Board Order, amendments to §295.5, as revised. The motion was seconded by Mr. Miller and passed unanimously.

- Rules Concerning Pharmacist Examination Fee (§283.9) (Tab 03) (cont'd)

Ms. Benz explained that the Board reviewed the proposed amendments to §283.9 earlier in the meeting and had directed staff to make revisions to the proposed amendments. She directed the Board's attention to the revised amendments concerning the pharmacist examination fee.

Following discussion and review of the Preamble and Order Adopting Rule, the motion was made by Ms. Stine to approve for adoption, by Board Order, amendments to §283.9, as revised. The motion was seconded by Mr. Wetherbee and passed unanimously.

- Rules Concerning Sterile Compounding by Nuclear Pharmacies (§291.133) (Tab 05) (cont'd)

Ms. Benz explained that the Board reviewed the proposed amendments to §291.133 earlier in the meeting and had directed staff to make revisions to the proposed amendments. She directed the Board's attention to the revised amendments concerning sterile compounding by nuclear pharmacies.

Following discussion and review of the Preamble and Order Adopting Rule, the motion was made by Ms. Tipton to approve for adoption, by Board Order, amendments to §291.133, as revised. The motion was seconded by Mr. Wiesner and passed unanimously.

Rule Review

- For Adoption

Ms. Benz directed the Board's attention to the TSBP Rule Review Plan for FY2014-2017 (Tab 16)

- Chapter 291 Concerning Pharmacies (Non-Resident Pharmacy (Class E)) (§§291.101-291.106) (Tab 17)
- Chapter 295 Concerning Pharmacist (§§295.1-295.9, 295.11-295.13, and 295.15) (Tab 18)

Following discussion, in accordance with Government Code §2001.039, the motion was made by Mr. Miller to approve for adoption as presented, the review of Chapter 291 (§§291.101-291.106); and Chapter 295 (§§295.1-295.9, 295.11-295.13, and 295.15). The motion was seconded by Mr. Dembny and passed unanimously.

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

- Task Force on Class C Pharmacies Located in Freestanding Ambulatory Surgical Centers and Class F Pharmacies Located in Freestanding Emergency Medical Care Centers (Tab 19)

Ms. Benz directed the Board's attention to the Final Report of the Task Force on Class C Pharmacies located in Freestanding Ambulatory Surgical Centers and Class F Pharmacies located in Freestanding Emergency Medical Care Centers. She presented to the Board suggested amendments to §291.76 concerning Class C Pharmacies located in Freestanding Ambulatory Surgical Centers and suggested amendments to §291.151 concerning Class F Pharmacies located in Freestanding Emergency Medical Care Centers.

President Waggener recognized Linda Albrecht, R.Ph., the Chair of the Task Force.

Following discussion, the motion was made by Mr. Fry to approve for proposal amendments to §§291.76 and 291.151, with recommended changes. The motion was seconded by Mr. Wetherbee and passed unanimously.

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

- Financial Update
 - Review of FY2015 Operating Budget (Tab 20)

Ms. Stella reviewed the expenditures for the first three quarters of FY2015 (September 1, 2014 – May 31, 2015) for the Board.

- Review of Board Member Travel Budget (Tab 21)

Ms. Stella reviewed the Board Member FY2015 Travel Budget.

- Consideration of Material Changes to Contracts for Goods and Services Awarded Under Chapter 2155 of Texas Government Code (Tab 22)

Ms. Stella presented a report on material changes to TSBP contracts for goods and services for the third quarter of FY2015 (March 1, 2015 – May 31, 2015). The report listed contracts that exceeded either the original cost estimate or the original term date.

Following consideration, in accordance with Section §2155.088 of the Texas Government Code, the motion was made by Mr. Wetherbee to approve the material changes to the contracts for goods and services as reported. The motion was seconded by Ms. Stine and passed unanimously.

- Review and Approval of FY2016 Operating Budget (Tab 23)

Ms. Stella directed the Board's attention to a proposed operating budget for FY2016. She reviewed the budget, including Board Member travel.

- Consideration for Approval of the Executive Director's Salary Increase Noted in the Appropriations Act and the Across-the-Board Salary Increase (Tab 24)

Following discussion, the motion was made by Ms. Stine to approve the FY2016 operating budget, as presented, to include an additional compensation of \$17,564.00, in FY2016, and an additional 2.5% salary increase (\$3,182.00) to cover the increase to the Member Contribution to the Employees Retirement System, effective September 1, 2016, for the Executive Director. The motion was seconded by Mr. Wetherbee and passed unanimously.

- Review and approval of *TSBP FY2014 Annual Report* (Tab 28)

Ms. Dodson directed the Board's attention to a draft of the *TSBP FY2014 Annual Report*. She reviewed the agency's significant accomplishments in FY2014 for the Board.

Ms. Stine left the meeting at 3:10 p.m.

- Review and approval of *TSBP FY2016 Goals and Objectives* (Tab 29)

Ms. Dodson directed the Board's attention to the *TSBP FY2016 Goals and Objectives*.

Following review and discussion, the motion was made by Ms. Tipton to approve the *TSBP FY2014 Annual Report*, and the *TSBP FY2016 Goals and Objectives*, as presented. The motion was seconded by Mr. Miller and passed unanimously.

- Review and Approval of Accreditation Council for Pharmacy Education (ACPE) Accredited Professional Programs of Colleges and Schools of Pharmacy (Tab 30)

Following review of a list of ACPE approved professional degree programs of colleges and schools of pharmacy, a motion was made by Mr. Wetherbee 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 Mr. Abeldt and passed unanimously.

- Discussion Concerning Requirements for Prescription Vials (Tab 31)

Ms. Benz directed the Board's attention to information received from David Borter, Quality Assurance Manager, Centor Inc., concerning prescription containers. She also directed the Board's attention to rule §291.33, concerning prescription containers.

Following discussion there was no action taken by the Board.

- Discussion Concerning Nasal Sprays and Whether They Should be Compounded in a Sterile Environment (Tab 32)

Mr. Fry reported that several pharmacists have approached him requesting that the Board clarify requirements for the compounding of nasal sprays.

Ms. Dodson directed the Board's attention to written comments that were received from John Voliva, R.Ph., Director of Legislative Relations, PCCA.

Mr. Santana presented USP 797 information, and the Federal Drug Administration's requirements concerning the compounding of nasal sprays and nasal inhalants.

President Waggener recognized Paul Holder, Pharm.D., with the Texas A&M University Irma Lerma Rangel College of Pharmacy, who stated nasal sprays should be compounded in a sterile environment as the medications can enter the blood stream.

Following discussion, the Board directed staff to bring back additional information concerning the compounding of nasal sprays.

President Waggener recessed the meeting at 3:35 p.m.

President Waggener reconvened the meeting at 3:42 p.m.

- Discussion Concerning Pharmacist Disciplinary Process and Professional Judgement (Tab 34)

Mr. Wiesner stated that during his years on the Board he has attended various Informal Conferences and Disciplinary Hearings where the Board encourages pharmacists to use their professional judgement. He suggested the Board also place emphasis on a pharmacist's corrective actions, and that the Board strive for consistency in the disciplinary process.

Ms. Dodson stated that the Compliance Program's primary goal has always been to improve patient care.

Following discussion there was no action taken by the Board.

- Discussion Concerning Section 7.560.52(b) of Senate Bill 460 Regarding the Pharmacist-in-Charge of Class E Pharmacies and Possible Amendments to §291.103 (Tab 37)

Ms. Dodson directed the Board's attention to suggested amendments to rule language concerning the Pharmacist-in-Charge requirements of Senate Bill 460. She explained the amendments implement provisions of Senate Bill 460 requiring the Pharmacist-in-Charge of a Class E Pharmacy be licensed in Texas.

President Waggener recognized Denise McAllister who stated that due to personnel changes in pharmacies it may be difficult for Class E Pharmacies to always have a pharmacist licensed in Texas who could take over the duties of the pharmacist-in-charge if needed.

Following discussion, the motion was made by Mr. Fry to approve for proposal amendments to §291.103, as presented. The motion was seconded by Mr. Wetherbee and passed unanimously.

- Discussion Concerning the Draft FDA Memorandum of Understanding (Tab 36)

Ms. Dodson presented a draft memorandum of understanding from the U.S. Food and Drug Administration addressing certain distributions of compounded human drug products.

Following discussion there was no action taken by the Board.

- Discussion Concerning the Upcoming Sunset Commission's Review of the Texas State Board of Pharmacy (Tab 38)

Ms. Dodson presented information on the Sunset Commission's Review of the Pharmacy Board. She explained that the staff were currently working on the Self-Evaluation Report that is due September 1, 2015.

- Discussion Concerning Medical Board Rules Regarding Telemedicine (Tab 39)

Ms. Arnold presented information concerning the Medical Board's rules regarding telemedicine.

- Report on Appeals from State Office of Administrative Hearing Cases (Tab 40)

Ms. Arnold presented information concerning the appeal of cases from the State Office of Administrative Hearing.

- Report on Gartner Security Assessment (Tab 41)

Mr. Rapp reported that Gartner Security had conducted an assessment of the vulnerability and security of TSBP's IT systems. He reported that Gartner had made suggestions for both short term and long term improvements but that overall the review was favorable.

- Update on TSBP Office Move (Tab 42)

Ms. Dodson reported that TSBP staff was working with the Texas Facilities Commission to complete plans for moving the TSBP offices from the 6th Floor to the 5th Floor of Tower III, in the Hobby Building. She explained that the space would not be available until March 2016, and since some remodeling would be necessary it would probably be late next summer or even next fall before the move could be accomplished.

- Report on Interagency Prescription Monitoring Workgroup Meeting and Plans for Implementation of Senate Bill 195 (Tab 43)

Ms. Dodson stated that as discussed earlier in the meeting the TSBP staff was working closely with the State Comptroller's Office to resolve funding issues.

- Update on Legislation Filed During the 84th Texas Legislative Session that has an Impact on TSBP and/or the Practice of Pharmacy (Tab 44)

Ms. Dodson directed the Board's attention to an action chart concerning legislation that was passed during the 84th Session of the Texas Legislature that has 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.

F. Disciplinary Orders

- Consideration of Proposals for Decision (Tab 45)
 - No Proposals for Decision were presented.

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

- Report on Agreed Board Orders Entered by Executive Director (Tab 46)
 - The Board reviewed 26 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 from May 13, 2015, through July 17, 2015.
 - The Board reviewed nine Agreed Board Orders concerning pharmacies and pharmacists, that had been entered by the Executive Director on behalf of the Board, in accordance with the Board's directives, during the period from June 5, 2015, through July 23, 2015.
- Discussion of and Action on Proposed Agreed Board Orders and Proposed Default Board Orders (Tab 47)
 - The Board reviewed the alleged violations, as well as the recommended sanctions for each of the following: 22 proposed Agreed Board Orders concerning pharmacy technicians and pharmacy technician trainees who appeared for an Informal Conference; and 25 proposed Default Board Orders concerning pharmacy technicians and pharmacy technician trainees who did not appear for an Informal Conference.

Agreed Board Orders (Technicians and Technician Trainees)

(Following an Informal Conference)

- | | |
|--------------------------------|-----------------|
| 1. Mays Mohammed Baseem | ABO #T-14-128 |
| 2. Jose Miguel Calvillo | ABO #T-14-145 |
| 3. Earthala Andress Clayton | ABO #T-14-469 |
| 4. Martha Jean Davis | ABO #T-15-108-N |
| 5. Rebecca Angela Garcia | ABO #T-15-095 |
| 6. Abrian Silva | ABO #T-14-390 |
| 7. Andrew Ayala | ABO #T-13-505 |
| 8. Daryl Barlow | ABO #T-15-098 |
| 9. Takia Erin Martinez | ABO #T-15-147 |
| 10. Melvin Dee McCoin | ABO #T-14-343 |
| 11. Allan Jonathan Moreno | ABO #T-15-076 |
| 12. Robert Van Nguyen | ABO #T-14-202 |
| 13. Ashley Nacole Tatum | ABO #T-15-103-N |
| 14. Travis Stephen Trevino | ABO #T-15-140-N |
| 15. Jennifer Watson | ABO #T-15-166-N |
| 16. Sean Mikel Badal | ABO #T-14-471-N |
| 17. Sharon Denise Denmark | ABO #T-14-466 |
| 18. Robert Leyton Gunn | ABO #T-15-180-N |
| 19. Dantoinette Jonell Malone | ABO #T-15-145-N |
| 20. Heaven Leigh Welch | ABO #T-15-114 |
| 21. Sybil Virginia Whittington | ABO #T-15-069-N |
| 22. David Wayne Lindsey, Jr. | ABO #T-14-485 |

Default Board Orders (Technicians and Technician Trainees)

(Did not appear for an Informal Conference)

- | | |
|------------------------------|----------------|
| 23. Michelle Marie Araya | BO #T-14-456-N |
| 24. Brittney Renee Beasley | BO #T-14-266 |
| 25. Danielle Baxter Colvin | BO #T-14-286 |
| 26. Denise Jean Kerstetter | BO #T-14-341 |
| 27. Keith Andrew Kology | BO #T-15-064 |
| 28. Melisa Fay Martin | BO #T-14-422 |
| 29. Crystal Gabrielle Reed | BO #T-14-186 |
| 30. Leeza Nicole Rodriguez | BO #T-14-346-N |
| 31. Christina Sue Schonert | BO #T-14-267 |
| 32. Caressa M. Thomas | BO #T-14-438 |
| 33. Annabell Vallejo | BO #T-15-065 |
| 34. Christopher Bisinai | BO #T-15-132 |
| 35. Jean Curnutt | BO #T-15-160 |
| 36. Deborah Delgado | BO #T-15-135 |
| 37. Ashley Escamilla | BO #T-15-137-N |
| 38. Sherry Denise Hill | BO #T-15-116 |
| 39. Ted Fawn Lee | BO #T-14-443 |
| 40. Melissa Lopez | BO #T-15-136-N |
| 41. Joel Macareno | BO #T-15-134 |
| 42. Dawneshia Joycelyn Smith | BO #T-14-269 |

- | | |
|---------------------|----------------|
| 43. Latosha Bennett | BO #T-14-330 |
| 44. Michele Duchene | BO #T-15-196-N |
| 45. Roy Hernandez | BO #T-14-252 |
| 46. Nina Nobles | BO #T-14-491 |
| 47. Anand A. Patel | BO #T-14-359 |

- The Board reviewed the alleged violations, as well as the recommended sanctions for each of the following: eight proposed Agreed Board Orders (Alternative Resolutions); 38 proposed Agreed Board Orders concerning pharmacies and pharmacists following an Informal Conference; one Default Board Order concerning a pharmacist who did not appear for an Informal Conference; and two proposed Agreed Board Orders concerning pharmacists following a Temporary Suspension Hearing.

Agreed Board Orders (Pharmacies and Pharmacists)
(Alternative Resolutions)

- | | |
|-------------------------------|-----------------|
| 1. CVS/pharmacy #3177 | ABO #H-14-048-B |
| 2. CVS/pharmacy #6892 | ABO #H-14-044-B |
| 3. CVS/pharmacy #6901 | ABO #J-13-004-B |
| 4. H.E.B. Pharmacy #444 | ABO #H-14-050-B |
| 5. David Matthew Lansford | ABO #H-15-042 |
| 6. Medi-Stat Rx | ABO #L-15-010 |
| 7. Specialty Compounding, LLC | ABO #K-13-029 |
| 8. Tammi Sue Tucker | ABO #N-15-015 |

Agreed Board Orders (Pharmacies and Pharmacist)
(Following an Informal Conference)

- | | |
|---|-----------------|
| 9. Eugenia Nnenna Agugua | ABO #F-15-008 |
| 10. Buckner Village Pharmacy | ABO #A-14-016-B |
| 11. Elias Aman Okonkwo | ABO #A-14-016-A |
| 12. BZ Pharmacy | ABO #A-15-006 |
| 13. Canal Rx PC | ABO #K-15-004-B |
| 14. Armando Cadena | ABO #K-15-004-A |
| 15. CVS/pharmacy #2979 | ABO #H-14-057-B |
| 16. CVS/pharmacy #7729 | ABO #H-14-051-B |
| 17. Ly Thi Dang | ABO #H-14-051-A |
| 18. CVS/pharmacy #7756 | ABO #C-14-017-B |
| 19. Donna Ruth Lewis | ABO #C-14-017-A |
| 20. Green Oaks Hospital | ABO #J-14-010 |
| 21. H.E.B. Pharmacy #029 | ABO #H-15-007-B |
| 22. Cynthia Yvonne Payne | ABO #H-15-007-A |
| 23. John David Herber | ABO #L-15-009 |
| 24. Infusion Services & Specialty
Pharmacy | ABO #K-15-009-B |
| 25. Marsha L. Proctor | ABO #K-15-009-A |
| 26. Clemis Jackson | ABO #M-15-011 |

27. Keyur D. Modi	ABO #F-15-006
28. Erin Lea Onion	ABO #A-14-009
29. Palafox Pharmacy	ABO #B-13-002-B
30. Samuel Ambrosio Gurrola	ABO #B-13-002-A
31. Mai Kim Pham	ABO #L-15-017
32. Pharmacy Creations	ABO #L-15-016
33. Randalls Pharmacy #1858	ABO #B-14-012
34. Reliance Pharmacy	ABO #J-10-017-B
35. Joseph Hung Nguyen	ABO #J-10-017-A
36. Regina Ortiz Simien	ABO #H-14-015-A
37. Tom Thumb Pharmacy #2557	ABO #J-14-009-B
38. Judy Schmidlkof Krahl	ABO #J-14-009-A
39. Tristar-Cleveland	ABO #A-15-018-B
40. Larry D. Labove	ABO #A-15-018-A
41. Walgreens #03730	ABO #B-13-015
42. Walgreens #3441	ABO #H-14-037-B
43. Walgreens #6857	ABO #C-14-030-B
44. Walgreens #7720	ABO #H-14-041-B
45. Walgreens #11515	ABO #C-14-039-B
46. Walker Pharmacy	ABO #B-14-022

Default Board Order (Pharmacist)
(Did not appear for an Informal Conference)
47. Ronald E. Inkrott

BO #L-15-008

Agreed Board Orders (Pharmacists)
(Following a Temporary Suspension Hearing)
48. Taofik Mobolaji Brown
49. Ragan Yvette Webster

ABO #A-15-016-A
ABO #A-15-026-A

- Confidential Agreed Board Orders (Tab 48)
 - The Board reviewed the alleged violations, as well as the recommended sanctions for each of the following 10 proposed Confidential Agreed Board Orders following an Informal Conference.

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

1. ABO #G-15-003
2. ABO #N-15-013
3. ABO #N-15-017
4. ABO #G-15-009
5. ABO #M-15-006
6. ABO #L-15-007
7. ABO #G-14-022
8. ABO #E-15-002

9. ABO #R-14-006
10. ABO #M-15-009
11. ABO #M-15-008

- Discussion of and Action on Proposed Remedial Plans (Tab 49)
 - The Board reviewed the alleged violations, as well as the recommended sanctions for each of the following eight proposed Remedial Plans (Alternative Resolutions).

Remedial Plans (Pharmacies and Pharmacists)
(Alternative Resolutions)

- | | |
|----------------------------|-------------|
| 1. Patricia Laura Bazan | #H-14-050-A |
| 2. Myrna Elizabeth Colon | #H-13-065-A |
| 3. Tyrone Davis | #H-14-044-A |
| 4. David Thomas Glover | #H-14-057-A |
| 5. Mohammad Shoab Patel | #H-15-008 |
| 6. Southpark Pharmacy | #H-14-035-B |
| 7. Prince Chimezie Ogbonna | #H-14-035-A |
| 8. Ellen Elaine Wood | #J-13-004-A |

The motion was made by Ms. Tipton to approve the following:

- 22 proposed Agreed Board Orders concerning pharmacy technicians and pharmacy technician trainees who appeared for an Informal Conference, and 25 proposed Default Board Orders concerning pharmacy technicians and pharmacy technicians trainees who did not appear for an Informal Conference;
- eight proposed Agreed Board Orders (Alternative Resolutions) concerning pharmacies and pharmacists; 38 proposed Agreed Board Orders concerning pharmacies and pharmacists following an Informal Conference, and one Default Board Order concerning a pharmacist who did not appear for an Informal Conference;
- two proposed Agreed Board Orders concerning pharmacists following a Temporary Suspension Hearing;
- 10 proposed Confidential Agreed Board Orders following an Informal Conference; and
- eight proposed Remedial Plans (Alternative Resolutions).

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

Agreed Board Orders (Technicians and Technician Trainees)
(Following an Informal Conference)

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. 7-0-1 Mr. Abeldt abstained
8. 7-0-1 Mr. Abeldt abstained
9. 7-0-1 Mr. Abeldt abstained
10. 7-0-1 Mr. Abeldt abstained
11. 7-0-1 Mr. Abeldt abstained
12. 7-0-1 Mr. Abeldt abstained
13. 7-0-1 Mr. Abeldt abstained
14. 7-0-1 Mr. Abeldt abstained
15. 7-0-1 Mr. Abeldt abstained
16. 7-0-1 Mr. Miller abstained
17. 7-0-1 Mr. Miller abstained
18. 7-0-1 Mr. Miller abstained
19. 7-0-1 Mr. Miller abstained
20. 7-0-1 Mr. Miller abstained
21. 7-0-1 Mr. Miller abstained
22. 7-0-1 Mr. Miller abstained

Default Board Orders (Technicians and Technician Trainees)
(Did not appear for an Informal Conference)

23. 8-0-0
24. 8-0-0
25. 8-0-0
26. 8-0-0
27. 8-0-0
28. 8-0-0
29. 8-0-0
30. 8-0-0
31. 8-0-0
32. 8-0-0
33. 8-0-0
34. 7-0-1 Mr. Abeldt abstained
35. 7-0-1 Mr. Abeldt abstained
36. 7-0-1 Mr. Abeldt abstained
37. 7-0-1 Mr. Abeldt abstained
38. 7-0-1 Mr. Abeldt abstained
39. 7-0-1 Mr. Abeldt abstained
40. 7-0-1 Mr. Abeldt abstained
41. 7-0-1 Mr. Abeldt abstained

42. 7-0-1 Mr. Abeldt abstained
43. 7-0-1 Mr. Miller abstained
44. 7-0-1 Mr. Miller abstained
45. 7-0-1 Mr. Miller abstained
46. 7-0-1 Mr. Miller abstained
47. 7-0-1 Mr. Miller abstained

Agreed Board Orders (Pharmacies & Pharmacists)
(Alternative Resolutions)

1. 8-0-0
2. 8-0-0
3. 8-0-0
4. 7-0-1 Mr. Wiesner abstained
5. 8-0-0
6. 8-0-0
7. 8-0-0
8. 8-0-0

Agreed Board Orders (Pharmacies & Pharmacists)
(Following an Informal Conference)

9. 8-0-0
10. 8-0-0
11. 8-0-0
12. 7-0-1 Mr. Wiesner abstained
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. 7-0-1 Mr. Wiesner abstained
22. 7-0-1 Mr. Wiesner abstained
23. 8-0-0
24. 8-0-0
25. 8-0-0
26. 7-0-1 Mr. Miller abstained
27. 8-0-0
28. 7-0-1 Mr. Miller abstained
29. 8-0-0
30. 8-0-0
31. 8-0-0
32. 8-0-0
33. 8-0-0
34. 7-0-1 Mr. Miller abstained
35. 7-0-1 Mr. Miller abstained

36. 7-0-1 Mr. Wiesner abstained
37. 8-0-0
38. 8-0-0
39. 8-0-0
40. 8-0-0
41. 7-0-1 Mr. Miller abstained
42. 7-0-1 Mr. Wiesner abstained
43. 7-0-1 Ms. Tipton abstained
44. 7-0-1 Mr. Miller abstained
45. 7-0-1 Mr. Wiesner abstained
46. 8-0-0

Default Board Order (Pharmacist)
(Did not appear for an Informal Conference)

47. 8-0-0

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

48. 6-0-2 Mr. Wiesner and Ms. Tipton abstained
49. 6-0-2 Mr. Wiesner and Ms. Tipton abstained

Confidential Agreed Board Orders (Pharmacists)
(Following an Informal Conference)

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. Miller abstained
11. 8-0-0

Remedial Plans (Pharmacies and Pharmacists)
(Alternative Resolutions)

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

- The Board reviewed the alleged violations and the Temporary Suspension Orders entered for the following pharmacies and pharmacists following Temporary Suspension Hearings.

1. Artemis Pharmacy LLC	#A-15-016-BS1
2. Taofik Mobolaji Brown	#A-15-016-AS1
3. Artemis Pharmacy LLC	#A-15-016-BS2
4. IVMedco Fort Worth	#K-15-012-BS1
5. IVMedco Fort Worth	#K-15-012-BS2
6. RX Max Pharmacy	#A-15-015-BS2
7. Supreme RX Pharmacy	#A-15-017-BS1
8. Supreme RX Pharmacy	#A-15-017-BS2
9. Jesse Cornell Sanders II	#A-15-025-AS1
10. Ragan Yvette Webster	#A-15-026-AS1
11. Supreme RX Pharmacy	#A-15-017-BS3

F. Consideration of and Possible Action Concerning Enforcement Reports

- Report on Complaints Closed and Dismissed During the Previous Quarter (Tab 50)

The Board received a report on complaints dismissed and closed during the first three quarters of FY2015 (September 1, 2014 – May 31, 2015). The report also included quarterly averages for FY2014 as compared to FY2015, as well as percentage change from FY2014 to FY2015.

Ms. Fisher reviewed the report for the Board.

- Report on Status of Active/Pending Complaints (Tab 51)

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

Ms. Fisher reviewed the report for the Board.

G. Miscellaneous

- Items to be Placed on Agenda for November Board Meeting (Tab 52)
 - Information concerning nasal sprays and whether they should be compounded in a sterile environment.
 - Information about the availability of ACPE courses for IV certification
 - Review of the current rules concerning recordkeeping for sterile compounding in hospitals

- Discussion of and Possible Action on Recent Conferences and Events

The Board discussed Board Member and Executive Director 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.

- Election of Officers (Tab 53)

President Waggener called for nominations for the offices of Vice President and Treasurer.

Mr. Wiesner nominated Ms. Tipton for the office of Vice President. The nomination was seconded by Mr. Dembny and passed unanimously.

Mr. Fry nominated Mr. Abeldt for the office of Treasurer. The nomination was seconded by Mr. Dembny and passed unanimously.

- Evaluation of Executive Director (Tab 54)

Mr. Abeldt 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 Mr. Wetherbee and passed unanimously.

President Waggener declared the Board in Executive Session at 5:19 p.m.

At 5:25 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 5:52 p.m.

APPROVED:

Jeanne D. Waggener, R.Ph.
President

Gay Dodson, R.Ph.
Executive Director/Secretary.

November 3, 2015



TEXAS STATE BOARD OF PHARMACY

August 10, 2015

**Minutes of the Agreed Temporary Suspension Hearing
of Jesse Cornell Sanders II (Pharmacist License #19454)**

Chair Jeanne D. Waggener, R.Ph., called the meeting to order at 9:00 a.m., in Suite 3-600, 333 Guadalupe Street, Austin, Texas 78701. Board Members, Joyce A. Tipton, R.Ph., M.B.A., and Phyllis A. Stine, were also present.

Staff present: Kerstin E. Arnold, General Counsel; and Caroline K. Hotchkiss, Assistant General Counsel.

Respondent: Jesse Cornell Sanders II (Pharmacist License #19454), represented by Don E. Lewis, was not present.

A. Opening:

The Chair called the case of the Consideration of Agreed Temporary Suspension in the Matter of Jesse Cornell Sanders II (Pharmacist License #19454). 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: Caroline K. Hotchkiss, attorney for the Board staff.

Respondent: Don E. Lewis, attorney for Jesse Cornell Sanders II, or any other representative on behalf of the Respondent, was not in attendance.

B. Presentation by Board's Attorney, Caroline K. Hotchkiss:

Verbal synopsis of procedural history and proposed settlement, which had previously been presented to the panel members for review.

C. Motion:

A motion was made by Ms. Tipton that the proposed Agreed Temporary Suspension Order of Jesse Cornell Sanders II (Pharmacist License #19454) be adopted, that Respondent's pharmacist license be suspended and shall continue in effect, pending a hearing on the suspended license, until further Order of the Board, in accordance with the Administrative Procedure Act and the Board's rules. Ms. Stine seconded the motion.

Temporary Suspension Minutes

August 10, 2015

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The motion passed unanimously with the Agreed Temporary Suspension Order being effective immediately.

The Chair announced that the Agreed Temporary Suspension Order is adopted and Respondent's license is suspended.

Chair Waggener adjourned the hearing at 9:05 a.m.

APPROVED:

Jeanne D. Waggener, R.Ph.
Chair

Gay Dodson, R.Ph.
Executive Director/Secretary



TEXAS STATE BOARD OF PHARMACY

October 8, 2015

**Minutes of the Temporary Suspension Hearing
of Niko RX Pharmacy (Pharmacy License #28818);
Maria Cecilia Gutierrez (Pharmacist License #17909);
Sheila Zulema Gallegos (Registration #227495); and
Hanna Grace Gutierrez (Registration #230221)**

Chair Dennis F. Wiesner, R.Ph., called the meeting to order at 9:16 a.m., in conference room number 400A, Tower II, 333 Guadalupe Street, Austin, Texas 78701. Board Members, Buford T. Abeldt, Sr., R.Ph., and Phyllis A. Stine were also present.

Staff present: Kerstin Arnold, General Counsel; Caroline Hotchkiss, Assistant General Counsel; John Plasek, Field Investigator; Ronald Head, Field Investigator; and Kate Hayden, Legal Assistant.

Respondents: Niko RX Pharmacy (Pharmacy License #28818) (no representative present); Maria Cecilia Gutierrez (Pharmacist License #17909), represented by Julie A. Nelson and Ricardo Ramos (via teleconference); Sheila Zulema Gallegos (Registration #227495) (was not present); and Hanna Grace Gutierrez (Registration #230221) (was not present).

Court Reporter: Renae Seggern, Ken Owen & Associates, L.P.

A. Opening:

The Chair called the case of the Petition for the Temporary Suspension in the Matters of Niko RX Pharmacy (Pharmacy License #28818); Maria Cecilia Gutierrez (Pharmacist License #17909); Sheila Zulema Gallegos (Registration #227495); and Hanna Grace Gutierrez (Registration #230221). 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: Caroline Hotchkiss, attorney for the Board staff.

Respondents: Macy Lynn Pena, Individual Owner, on behalf of Niko RX Pharmacy, or any other representative of the pharmacy, was not in attendance; Maria Cecilia Gutierrez and Julie A. Nelson and Ricardo Ramos, attorneys for Ms. Gutierrez; Sheila Zulema Gallegos and Hanna Grace Gutierrez were not in attendance for the hearing today.

B. Presentation by Board's Attorney, Caroline Hotchkiss:

1. Verbal synopsis of allegations.
2. Introduction of documents into evidence. All admitted.
3. Testimony of Board witnesses: John Plasek, Ronald Head, and Kate Hayden.
4. Cross examination of Maria Cecilia Gutierrez.
5. Closing statement.

C. Presentation by Respondent's Attorneys, Julie A. Nelson and Ricardo Ramos:

1. Opening statement.
2. Introduction of documents into evidence. All admitted.
3. Testimony of Maria Cecilia Gutierrez.
4. Cross examination of John Plasek, Ronald Head, and Kate Hayden.
5. Closing statement.

D. Motions:

1. A motion was made by Mr. Abelt 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 actions against the Respondents at 11:40 a.m. Ms. Stine seconded the motion. The motion passed unanimously.

The panel members went into Executive Session.

The Chair reconvened the meeting at 11:50 a.m., and announced that no action was taken during Executive Session.

2. A motion was made by Mr. Abelt that the Petition for the Temporary Suspension of Maria Cecilia Gutierrez (Pharmacist License #17909) be denied, in that there was insufficient evidence and information to indicate that the Ms. Gutierrez's practice as a pharmacist poses a continuing threat to the public welfare. Ms. Stine seconded the motion. The motion passed unanimously with the denial of the Temporary Suspension Order.
3. A motion was made by Mr. Abelt that the Petitions for the Temporary Suspension of Niko RX Pharmacy (Pharmacy License #28818); Sheila Zulema Gallegos (Registration #227495); and Hanna Grace Gutierrez (Registration #230221) be granted, in that the evidence and information indicate that the Respondents' operation as a pharmacy, and practice as a pharmacy technician or a pharmacy technician trainee, respectively, pose a continuing threat to the public welfare. Mr. Abelt further moved that the staff proposed Temporary Suspension Orders be adopted, that Respondents' pharmacy license and registrations be suspended and shall continue in effect, pending a hearing on the suspended license and registrations, until further Order of the Board, in accordance with the Administrative Procedure Act and the Board's rules. Ms. Stine seconded the motion. The motion passed unanimously with the Temporary Suspension Orders being effective immediately.

Temporary Suspension Minutes

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The Chair announced that the Petitions for Temporary Suspension of Niko RX Pharmacy, Sheila Zulema Gallegos, and Hanna Grace Gutierrez were granted.

Chair Wiesner adjourned the hearing at 11:55 a.m.

APPROVED:

Dennis F. Wiesner, R.Ph.
Chair

Gay Dodson, R.Ph.
Executive Director/Secretary