



TEXAS STATE BOARD OF PHARMACY

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

May 7, 2013

MINUTES¹

Tuesday, May 7, 2013

President Jeanne D. Waggener, R.Ph., called the meeting to order at 9:02 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.

Executive Director/Secretary Gay Dodson, R.Ph., was not present.

Staff present were 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 Jacqueline Waters.

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 01)

Following discussion, the motion was made by Mr. Fry to approve the minutes of the TSBP Public Hearing held February 5, 2013; the minutes of the TSBP Board Business Meeting held February 5, 2013; and the minutes of the Temporary Suspension Hearing held March 4, 2013, concerning Express Rx Pharmacy and Esther Chinedozi Amaka, R.Ph., as presented.

The motion was seconded by Ms. Tipton and passed unanimously.

C. Discussion of and Possible Action Regarding Rules

Final Adoption of Rules

- Rules Concerning Definitions of Discipline Authorized (§281.61) (Tab 02)

Ms. Benz explained that the Board voted to propose the amendments to §281.61 during its February 5, 2013, meeting. The proposed amendments were published in the March 8, 2013, issue of the *Texas Register*, and no comments were received.

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

Following discussion and review of the Preambles and Orders Adopting Rules, the motion was made by Ms. Kedron to approve for adoption, by Board Order, amendments to §281.61. The motion was seconded by Mr. Abeldt and passed unanimously.

- Rules Concerning Operational Standards (§291.33) (Tab 03)

Ms. Benz explained that the Board voted to propose the amendments to §291.33 during its February 5, 2013, meeting. The proposed amendments were published in the March 8, 2013, issue of the *Texas Register*, and comments in support of the changes were received from H.E.B. Pharmacy and the Coalition for Nurses in Advanced Practice.

Ms. Benz directed the Board's attention to amendments to §291.33 and explained 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.

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

- Rules Concerning Records (§291.34) (Tab 04)

Ms. Benz explained that the Board voted to propose the amendments to §291.34 during its February 5, 2013, meeting. The proposed amendments were published in the March 8, 2013, issue of the *Texas Register*, and comments were received from American Pharmaceutical Services an Omnicare Company; H.E.B. Pharmacy; the National Association of Chain Drug Stores; and the Joint Committee on Internship Programs.

Ms. Benz directed the Board's attention to 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 of the rule and the comments on the rule the motion was made by Mr. Wetherbee to withdraw proposed amendments to §291.34. The motion was seconded by Mr. Fry and passed unanimously.

Mr. Wiesner made a motion to propose amendments to §291.34 incorporating the withdrawn language and rewording the language for the transfer of prescriptions to incorporate the comments by allowing a pharmacist intern under the supervision of a pharmacist to transfer a prescription to a pharmacist. The motion was seconded by Mr. Abeldt and passed 7-1-0, with Mr. Fry opposing.

Mr. Wetherbee made a motion to propose amendments to §291.34 incorporating the comments on auto refills to allow prescriptions for schedule IV and Schedule V controlled substances to be dispensed by an auto refill program if a pharmacist determines dispensing would be appropriate, and to add the patient's agent to the rule. The motion was seconded by Ms. Tipton and passed unanimously.

Mr. Fry suggested that the auto refill provision should be added to the Class E rules. The Board directed staff to bring suggested rule language to the August 2013 Board meeting.

Following discussion the Board recommended establishing a task force to review current rules relating to electronic prescription transfers between pharmacies not owned by the same entity.

- Rules Concerning Continuing Education Requirements for Pharmacy Technicians (§297.8) (Tab 05)

Ms. Benz explained that the Board voted to propose the amendments to §297.8 during its February 5, 2013, meeting. The proposed amendments were published in the March 8, 2013, 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 require the law portion of the continuing education requirements for pharmacy technicians to be regarding Texas pharmacy law.

Following discussion and review of the Preambles and Orders Adopting Rules, the motion was made by Ms. Mendoza to approve for adoption, by Board Order, amendments to §297.8. The motion was seconded by Mr. Wiesner and passed unanimously.

Proposal of Rules

- Rules Concerning Mental or Physical Examinations (§281.6) (Tab 06)

Ms. Arnold directed the Board's attention to suggested amendments to §281.6 and explained that the amendments specifies the procedures to follow for a mental or physical examination.

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

- Rules Concerning Informal Disposition of a Contested Case (§281.22) (Tab 07)

Ms. Benz directed the Board's attention to suggested amendments to §281.22 and explained that the amendments correct the citation reference.

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

- Rules Concerning Criminal Offenses (§281.63) (Tab 08)

Ms. Benz directed the Board's attention to suggested amendments to §281.63 and explained that the amendments correct wording.

Following discussion, the motion was made by Mr. Wetherbee to approve for proposal amendments to §281.63, as presented. The motion was seconded by Ms. Stine and passed unanimously.

- Rules Concerning Reinstatement (§281.66) (Tab 09)

Ms. Arnold directed the Board's attention to suggested amendments to §281.66 and explained that the amendments differentiate the reinstatement requirements for individuals with criminal offenses and individuals without criminal offenses.

Following discussion, the motion was made by Mr. Fry to approve for proposal amendments to §281.66, as presented. The motion was seconded by Mr. Abeldt and passed unanimously.

- Rules Concerning Sanctions for Out-of-State Disciplinary Actions (§281.67) (Tab 10)

Ms. Benz directed the Board's attention to suggested amendments to §281.67 and explained that the amendments correct references.

Following discussion, the motion was made by Mr. Fry to approve for proposal amendments to §281.67, as presented. The motion was seconded by Mr. Wetherbee and passed unanimously.

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

Ms. Benz directed the Board's attention to suggested amendments to §291.17 and explained that the amendments clarify the requirements for notarization of inventories.

Following discussion, the Board directed staff to make changes to the rule language with regard to the definition of working days. The Board directed staff to bring suggested rule language to the August 2013 Board meeting.

Rule Review

- Ms. Benz presented the proposed Rule Review Plan for FY2014-2017. (Tab12)

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

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

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

- Discussion of the Pharmacists to Technician Ratio (Tab 19)

Ms. Benz presented information concerning the history of technicians in Texas and a report on the pharmacy technician ratios in other states.

Ms. Benz directed the Board's attention to a report presented by Dennis McAllister at the February Board Meeting concerning technician ratios, and to comments received from Brookshire Brothers Pharmacy and the Texas Pharmacy Association.

The president recognized Dennis McAllister, R.Ph., with Express Scripts who presented a White Paper concerning pharmacy technicians.

The president recognized the following persons who presented oral remarks to the Board regarding the pharmacist to technician ratio:

Name

Lugina Mendez-Harper, R.Ph., Prime Therapeutics
Susan Del Monico, R.Ph., CVS Caremark
Jeff Mesaros, R.Ph., Medco Health
Kim Caldwell, R.Ph., Humana
Joe DaSilva, Texas Pharmacy Association
Mary Staples, R.Ph., National Association Chain Drug Stores
Greg Myhra, R.Ph., Wal-mart Pharmacies
Keith Moseley, R.Ph., Brookshire Brothers
Julie Spier, R.Ph., Texas Federation of Drug Stores
Michele Farmer-Driscoll, R.Ph., Walgreens Pharmacies
Debbie Mack, R.Ph., Wal-mart Pharmacies
Doug Read, R.Ph., H.E.B. Pharmacy

Following discussion, the motion was made by Mr. Fry to direct staff to draft proposed amendments to §291.32 to change the ratio of pharmacists to technicians to a 1:4 ratio for Class A and Class B pharmacies, with a 1:2 ratio for pharmacists to technician trainees, and a 1:8 ratio for Class G pharmacies. The motion was seconded by Mr. Wetherbee and passed unanimously.

President Waggener recessed the meeting at 12:12 p.m.

President Waggener reconvened the meeting at 1:03 p.m.

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

- 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 17)
 - President Waggener recognized Courtney Hulbert, Director of the Professional Recovery Network (PRN). Ms. Hulbert directed the Board's attention to the PRN budget report for the first two quarters of FY2013, September 1, 2012, through February 28, 2013, and reviewed current PRN activities for the Board. (Tab 18)

E. Disciplinary Orders

- Consideration of Proposal for Decision
 - In the Matter of James Robert Mitchell, Technician Registration #126695 (Tab 25)

Ms. Arnold advised the Board that a hearing was held before State Office of Administrative Hearings (SOAH) Administrative Judge Steven M. Rivas on December 10, 2012, in the matter of pharmacy technician James Robert Mitchell.

Mr. Vance reviewed the background in the case for the Board. He directed the Board's attention to proposed Board Order #T-11-079, which he reviewed for the Board.

Following discussion, the motion was made by Mr. Fry to accept the *Findings of Fact and Conclusions of Law* in the *Proposal for Decision* and approve Board Order #T-11-079, as presented, in the matter of James Robert Mitchell, to impose a suspension for a period of one year, with the suspension being probated with conditions. The motion was seconded by Mr. Abeldt and passed unanimously.

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

- Task Force on Pharmacy Compounding (Tab 13)

Ms. Benz reported the Task Force met on April 9, 2013, and the Task Force's final report is scheduled to be presented at the August 6, 2013, Board Meeting.

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

- Financial Update

- Review of FY2013 Operating Budget (Tab 14)

Ms. Stella reviewed the expenditures for the first two quarters of FY2013 (September 1, 2012, through February 28, 2013) for the Board.

- Review of Board Member Travel Budget (Tab 15)

Ms. Stella reviewed the Board Member FY2013 Travel Budget.

- Update on Legislative Appropriations Request for FY2014-2015 (Tab 16)

Ms. Stella presented a report comparing the recommendations from the House of Representatives and the Senate concerning the Legislative Appropriations Request for FY2014-2015.

Ms. Stella presented a draft of fee changes which might be required depending on appropriations approved.

- Report on Internal Risk Assessment (Tab 20)

Ms. Stella directed the Board's attention to an internal risk assessment that is reported annually to the State Auditor's Office. She reviewed the risk assessment for the Board.

Following discussion, it was the consensus of the Board that the report was an adequate risk assessment for TSBP.

- *TSBP FY2014 Calendar of Events* (Tab 21)

Ms. Fisher directed the Board's attention to a draft of the *TSBP FY2014 Calendar of Events*. Following review, the motion was made

by Mr. Fry to approve the *TSBP FY2014 Calendar of Events*, as presented. The motion was seconded by Mr. Abeldt and passed unanimously.

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

Mr. Rapp reported on the Shared Regulatory Data Base system and explained that the Funeral Services Commission would soon go live on the system and this would require additional testing to assure TSBP data was not affected.

- Report on Appeals from State Office of Administrative Hearing Cases (Tab 23)

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

- Update on Legislation Filed During the 83rd Texas Legislative Session that has an Impact on TSBP and/or the Practice of Pharmacy (Tab 24)

Ms. Arnold 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 2:17 p.m.

President Waggener reconvened the meeting at 2:32 p.m.

Ms. Kedron left the meeting at 2:33 p.m.

E. Disciplinary Orders (cont'd)

- Report on Agreed Board Orders Entered by Executive Director (Tab 26)
 - The Board reviewed 33 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 February 19, 2013, through May 3, 2013.
 - The Board reviewed 18 Agreed Board Orders concerning pharmacists, pharmacies, and pharmacist-interns that had been entered by the Executive Director on behalf of the Board, in accordance with the Board's directives, during the period February 25, 2013, through May 3, 2013.

- Discussion of and Action on Proposed Agreed Board Orders and Proposed Default Board Orders (Tab 27)
 - The Board reviewed the alleged violations, as well as the recommended sanctions for each of the following: 17 proposed Agreed Board Orders concerning pharmacy technicians and pharmacy technician trainees who appeared for an Informal Conference; and 19 proposed Default Board Orders concerning pharmacy technicians and pharmacy technician trainees who did not appear for an Informal Conference.

Agreed Board Orders

1. Kathy Sharon Hancock	ABO #T-12-281-N
2. Che-Von Dante' Dunn	ABO #R-12-006-T
3. Donnetta Alexander	ABO #T-12-016-N
4. Grace Abosede Asiwe	ABO #T-13-012
5. Laquisha Wynette Day	ABO #T-13-048-N
6. Oscar Nolazco	ABO #T-12-532-N
7. Robert Allen Pinkard	ABO #T-12-530
8. Giovanni Torres	ABO #T-13-005
9. Crystal Mae Beltran	ABO #T-13-067
10. Luke Bennett Dees	ABO #T-12-499
11. Michael Anthony Ortiz	ABO #T-12-520-N
12. Bessie Phillips	ABO #T-13-063-N
13. Olga Marin Rodriguez	ABO #T-12-464
14. Carlos Adrian Serrata	ABO #T-12-569
15. Samantha Taraba	ABO #T-13-053
16. Deloyd Herman Wheatley	ABO #T-12-529
17. Gina Witherspoon	ABO #T-13-102

Default Board Orders

18. Jasmine Dominique Esparza	ABO #T-12-490
19. Homar Eluid Hernandez	ABO #T-13-008
20. Norma Loreda	ABO #T-13-092
21. Ashley Victoria Myers	ABO #T-12-415-N
22. Paula Renee Pugh	ABO #T-12-046
23. Connie Reed	ABO #T-12-480
24. Alain Reyes	ABO #T-12-500-N
25. Jasmine Denetra Robinson	ABO #T-12-495-N
26. Harry Rick Siackasone	ABO #T-12-494
27. Kendall Heard	ABO #T-12-483-N
28. Hue Le	ABO #T-12-518
29. George Johnny Martinez	ABO #T-12-560
30. Argentina Rivera	ABO #T-12-548
31. Jennifer Renee Saucedo-Diaz	ABO #T-12-493
32. Shawntel Kaye Williams	ABO #T-12-572
33. Ashley Renee Fitzpatrick	ABO #T-12-207

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| 34. | Joshua Hicks | ABO #T-13-152-N |
| 35. | Dylan James Newman | ABO #T-13-137 |
| 36. | Erin Ashley Woddail | ABO #T-12-076 |

The motion was made by Mr. Fry to approve the 17 proposed Agreed Board Orders concerning pharmacy technicians and pharmacy technician trainees who appeared for an Informal Conference and 19 proposed Default Board Orders concerning pharmacy technicians and pharmacy technician trainees who did not appear for an Informal Conference.

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

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

- The Board reviewed the alleged violations, as well as the recommended sanctions for each of the following: 12 proposed Agreed Board Orders (Alternative Resolutions); 26 proposed Agreed Board Orders concerning pharmacists, pharmacies, students, and pharmacist-interns, who appeared for an Informal Conference; and one proposed Agreed Board Order concerning a pharmacist following a Temporary Suspension Hearing.

Agreed Board Orders (Alternative Resolutions)

- | | |
|-------------------------|-----------------|
| 1. Sara Elicia Garza | ABO #E-13-004 |
| 2. Cindy Im | ABO #H-12-005-A |
| 3. Kgomotso Magosi | ABO #H-12-027-A |
| 4. Walgreen Co. #3441 | ABO #H-12-026 |
| 5. Walgreen Co. #3638 | ABO #H-12-037-B |
| 6. Walgreen Co. #4099 | ABO #H-12-004-B |
| 7. Dorothy Owusu Ansah | ABO #H-12-004-A |
| 8. Walgreen Co. #4131 | ABO #H-11-089-B |
| 9. Tanya Renay Finlay | ABO #H-11-089-A |
| 10. Walgreen Co. #4899 | ABO #H-13-008-B |
| 11. Wilfred Cecil Cross | ABO #H-13-008-A |
| 12. Walgreen Co. #10613 | ABO #K-12-033-B |

Agreed Board Orders (Following an Informal Conference)

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|---------------------------------------|-----------------|
| 13. CVS/pharmacy #7682 | ABO #B-11-037 |
| 14. Lawrence Bros. Pharmacy #1424 | ABO #B-10-039-B |
| 15. Steve H. Smith | ABO #B-11-028 |
| 16. Julian Vargas IV | ABO #B-11-029 |
| 17. M. Ricky McKeehan | ABO #J-11-025 |
| 18. Pharmhouse Pharmacy | ABO #B-09-022-B |
| 19. Red Oak Drug, Inc. | ABO #K-12-042-B |
| 20. Michael L. Boyd | ABO #K-12-042-A |
| 21. Glenn Rhinehart | ABO #L-13-005 |
| 22. Kevin James Rigsby | ABO #E-10-022 |
| 23. Rx Perts | ABO #K-11-027 |
| 24. Strawberry Family Drug & Pharmacy | ABO #M-13-006 |
| 25. Kelley Latrece Lavallais | ABO #M-13-005 |
| 26. Sullivan Pharmacy | ABO #H-12-072-B |
| 27. Joe D. Sullivan Jr. | ABO #H-12-072-A |
| 28. Target Store T-824 | ABO #A-12-013 |
| 29. Triumph Pharmacy | ABO #K-12-027-B |
| 30. Sandra Salinas How | ABO #K-12-027-A |
| 31. George Ogbonna Udeani | ABO #M-13-015 |
| 32. UPS Supply Chain Solutions, Inc. | ABO #L-13-004 |
| 33. Walgreen Co. #03370 | ABO #B-12-006 |
| 34. Walgreen Co. #4662 | ABO #H-12-006-B |
| 35. Walgreen Co. #6148 | ABO #J-12-011-B |

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| 36. Walgreen Co. #15155 | ABO #H-12-016-B |
| 37. Walgreen Co. #7491 | ABO #H-12-010 |
| 38. Walgreen Co. #7720 | ABO #H-12-070 |

Agreed Board Orders (Following a Temporary Suspension Hearing)

- | | |
|----------------------------|-----------------|
| 39. Esther Chinedozi Amaka | ABO #A-13-063-A |
|----------------------------|-----------------|

The motion was made by Ms. Tipton to approve the 12 proposed Agreed Board Orders (Alternative Resolutions); 26 proposed Agreed Board Orders concerning pharmacists, pharmacies, students, and pharmacist-interns, who appeared for an Informal Conference; and one proposed Agreed Board Order concerning a pharmacist following a Temporary Suspension Hearing.

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

1. 6-0-0
2. 6-0-0
3. 6-0-0
4. 6-0-0
5. 6-0-0
6. 6-0-0
7. 6-0-0
8. 6-0-0
9. 6-0-0
10. 6-0-0
11. 6-0-0
12. 6-0-0
13. 5-0-1 Mr. Wiesner abstained
14. 5-0-1 Ms. Stine astained
15. 5-0-1 Mr. Wiesner abstained
16. 5-0-1 Ms. Stine abstained
17. 5-0-1 Mr. Abeltdt abstained
18. 5-0-1 Mr. Wetherbee abstained
19. 5-0-1 Mr. Wetherbee abstained
20. 5-0-1 Mr. Wetherbee abstained
21. 5-0-1 Mr. Wetherbee abstained
22. 5-0-1 Mr. Fry abstained
23. 6-0-0
24. 5-0-1 Mr. Wetherbee abstained
25. 5-0-1 Mr. Wetherbee abstained
26. 6-0-0
27. 6-0-0
28. 5-0-1 Ms. Stine abstained
29. 5-0-1 Ms. Tipton abstained

30. 5-0-1 Ms. Tipton abstained
31. 5-0-1 Mr. Wetherbee abstained
32. 6-0-0
33. 6-0-0
34. 5-0-1 Mr. Wiesner abstained
35. 5-0-1 Mr. Wiesner abstained
36. 5-0-1 Mr. Wiesner abstained
37. 5-0-1 Mr. Wiesner abstained
38. 6-0-0
39. 5-0-1 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. Express Pharmacy ABO #A-12-025-B
2. Esther Chinedozi Amaka ABO #A-12-025-A

- Confidential Agreed Board Orders (Tab 28)

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; 15 proposed Confidential Agreed Board Orders following an Informal Conference; and one Confidential Default Board Order concerning a pharmacist who did not appear for an Informal Conference.

Agreed Board Orders (Alternative Resolution)

1. ABO #G-12-034
2. ABO #N-13-014
3. ABO #N-13-016

Agreed Board Order (Following a Mediated Settlement Conference)

4. ABO #N-12-014

Agreed Board Orders (Following an Informal Conference)

5. ABO #N-13-021
6. ABO #G-13-010
7. ABO #M-13-017
8. ABO #N-12-021
9. ABO #M-13-010
10. ABO #G-12-030
11. ABO #G-13-007
12. ABO #M-12-015
13. ABO #L-12-026

14. ABO #N-13-009
15. ABO #M-13-019
16. ABO #N-13-012
17. ABO #N-12-033
18. ABO #N-13-018
19. ABO #E-12-012

Default Board Order

20. ABO #N-13-015

The motion was made by Mr. Abeldt to approve the three proposed Confidential Agreed Board Orders (Alternative Resolution); one proposed Confidential Agreed Board Order following a Mediated Settlement Conference; 15 proposed Confidential Agreed Board Orders following an Informal Conference; and one Confidential Default Board Order concerning a pharmacist who did not appear for an Informal Conference.

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

1. 6-0-0
2. 6-0-0
3. 6-0-0
4. 6-0-0
5. 6-0-0
6. 6-0-0
7. 5-0-1 Mr. Wetherbee abstained
8. 5-0-1 Mr. Wiesner abstained
9. 5-0-1 Mr. Wiesner abstained
10. 6-0-0
11. 6-0-0
12. 5-0-1 Mr. Fry abstained
13. 5-0-1 Mr. Wetherbee abstained
14. 5-0-1 Mr. Wiesner abstained
15. 6-0-0
16. 6-0-0
17. 5-0-1 Mr. Wetherbee abstained
18. 5-0-1 Mr. Wiesner abstained
19. 5-0-1 Mr. Wetherbee abstained
20. 6-0-0

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).

- o Deborah L. Altsman, R.Ph. (Tab 29)

Ms. Fisher reviewed the petition from Deborah L. Altsman, R.Ph. The motion was made by Ms. Tipton that the Board grant the petition of Deborah L. Altsman, R.Ph., to serve as a preceptor. The motion was seconded by Mr. Fry and passed 6-0-0.

- o Jennifer Ann Miller, R.Ph. (Tab 30)

Ms. Fisher reviewed the petition from Jennifer Ann Miller, R.Ph. The motion was made by Mr. Abeldt that the Board grant the petition of Jennifer Ann Miller, R.Ph., to serve as a preceptor. The motion was seconded by Mr. Wetherbee and passed 6-0-0.

Ms. Arnold reported that the staff was requesting that the Board allow staff to review preceptor petitions with the Executive Director approving the granting or denying of the petitions on behalf of the Board.

The motion was made by Mr. Wetherbee to allow Board staff to review preceptor applications and for the Executive Director to approve on behalf of the Board. The motion was seconded by Mr. Fry and passed unanimously

Ms. Stine left the meeting at 3:08 p.m.

- Report on Complaints Closed and Dismissed During the Previous Quarter (Tab 31)

The Board received a report on complaints dismissed and closed the first two quarters of FY2013 (September 1, 2012 – February 28, 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 32)

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 33)
 - Amendments to add auto refill requirements to the rules concerning Class E pharmacies.
 - Amendments to §291.34 concerning records in Class A pharmacies.
 - Amendments to §291.32 concerning pharmacist to technician ratio.
 - Amendments to §291.17 concerning inventory requirements.
 - Discussion concerning DPS rules on electronic prescriptions for Schedule CII – CV drugs.
- Discussion of and Possible Action on Recent Conferences and Events

The Board discussed Board Member attendance at recent conferences and events.
- Discussion of and Possible Action on Upcoming Conferences and Events

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

President Waggener adjourned the meeting at 3:20 p.m.

APPROVED:

Jeanne D. Waggener, R.Ph.
President

Gay Dodson, R.Ph.
Executive Director/Secretary

August 6, 2013



TEXAS STATE BOARD OF PHARMACY

June 27, 2013

**Minutes of the Temporary Suspension Hearing
of Nathan John Hellums (Pharmacist License #17146)**

Dennis Wiesner, R.Ph., Chair of the Disciplinary Panel, called the meeting to order at 9:03 a.m., in conference room number 400A, Tower II, 333 Guadalupe Street, Austin, Texas 78701. Board Members, Jeanne D. Waggener, R.Ph., and Phyllis A. Stine, appeared telephonically, as the other two members of the Disciplinary Panel.

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

Respondent: Nathan John Hellums (Pharmacist License #17146), who was not present but represented by Hector DeLeon.

Court Reporter: Crystal Greer.

A. Opening:

The Chair called the case of the Petition for the Temporary Suspension in the Matter of Nathan John Hellums (Pharmacist License #17146). 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: Kerry D. Sullivan, attorney for the Board Staff.

Respondent: Hector DeLeon, attorney for Nathan John Hellums (Pharmacist License #17146).

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

1. Verbal synopsis of allegations and terms of proposed Agreed Temporary Suspension Order.

C. Presentation by Respondent's Attorney, Hector DeLeon:

1. Acknowledgement of receipt of the proposed Agreed Temporary Suspension Order and approval as to form.

D. Motions:

1. A motion was made by Ms. Waggener to accept the proposed Agreed Temporary Suspension Order in the Matter of Nathan John Hellums (Pharmacist License Number 17146), presented by the Board. The motion was seconded by Ms. Stine. The motion passed unanimously.

The Chair announced that the motion to accept the proposed Agreed Temporary Suspension Order passed and that the Pharmacist License of Nathan John Hellums, Number 17146, was suspended effective immediately and would remain so until further action of the Board.

Chair Wiesner adjourned the hearing at 9:10 a.m.

APPROVED:

Dennis F. Wiesner, R.Ph.
Chair

Gay Dodson, R.Ph.
Executive Director/Secretary