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## 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 6, 2016

### MINUTES<sup>1</sup>

#### Tuesday, August 2, 2016

President Jeanne D. Waggener, R.Ph., called the meeting to order at 9:00 a.m. Other Board Members present were Vice President Christopher M. Dembny, R.Ph.; Dennis F. Wiesner, R.Ph.; L. Suzan Kedron; Alice G. Mendoza, R.Ph.; Phyllis A. Stine; Bradley A. Miller, Ph.T.R.; Chip Thornsburg; Jenny Downing Yoakum, R.Ph.; and Suzette Tijerina, R.Ph.

Board Member Buford T. Abeltdt, Sr., 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; Jennifer Pigeon, Director of Information Technology; Caroline Hotchkiss, Assistant General Counsel; Ben Santana, R.Ph., Chief of Compliance; Megan Holloway, Staff Attorney; Mary Martha Murphy, Staff Attorney; and Becky Damon, Executive Assistant.

Also present was Pharmacist Intern Anh-Thu P. Tran.

#### 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.

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

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

Following discussion, the motion was made by Ms. Kedron to approve the minutes of the Board Business Meeting held May 3, 2016; the minutes of a Temporary Suspension Hearing held May 19, 2016, concerning Veronica Molina, Pharmacy Technician; and the minutes of a Confidential Temporary Suspension Hearing held May 19, 2016. The motion was seconded by Mr. Dembny and passed unanimously.

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

Final Adoption of Rules

- Rules Concerning Grounds for Discipline for a Pharmacy License (§281.8) (Tab 02)

Ms. Benz explained that the Board voted to propose the amendments to §281.8 during its May 3, 2016, meeting. The proposed amendments were published in the June 24, 2016, issue of the *Texas Register*, and comments were received from the Alliance of Independent Pharmacists of Texas and Richie's Specialty Pharmacy.

Ms. Benz directed the Board's attention to amendments to §281.8 and explained that the amendments implement provisions of Senate Bill 460 which amends the Texas Pharmacy Act to include waiving, discounting, reducing, or offering to waive, discount, or reduce a patient's copayment or deductible for a compounded drug.

Following discussion of the rules, the Board postponed action until later in the meeting.

- Rules Concerning Burden of Proof (§281.31) (Tab 03)

Ms. Benz explained that the Board voted to propose the amendments to §281.31 during its May 3, 2016, meeting. The proposed amendments were published in the June 24, 2016, issue of the *Texas Register*, and comments were received from Richie's Specialty Pharmacy.

Ms. Benz directed the Board's attention to the amendments and explained the amendments to §281.31 clarify the rules for show cause order hearings.

Following discussion and review of the Preamble and Order Adopting Rule, the motion was made by Mr. Dembny to approve for adoption, by Board Order, amendments to §281.31, as presented. The motion was seconded by Ms. Yoakum and passed unanimously.

- Rules Concerning Application for Reissuance or Removal of Restrictions of a License or Registration (§281.66) (Tab 04)

Ms. Benz explained that the Board voted to propose the amendments to §281.66 during its May 3, 2016, meeting. The proposed amendments were published in the June 24, 2016, issue of the *Texas Register*, and no comments were received.

Ms. Benz directed the Board's attention to the amendments and explained that the amendments to §281.66 correct grammar in the rule.

Following discussion and review of the Preamble and Order Adopting Rules, the motion was made by Mr. Dembny to approve for adoption, by Board Order, amendments to §281.66, as presented. The motion was seconded by Ms. Yoakum and passed unanimously.

- Amendments Concerning Licensing Requirements (§283.12) (Tab 05)

Ms. Benz explained that the Board voted to propose the amendments to §283.12 during its May 3, 2016, meeting. The proposed amendments were published in the June 24, 2016, issue of the *Texas Register*, and comments were received from Richie's Specialty Pharmacy.

Ms. Benz directed the Board's attention to the amendments and explained that the amendments to §283.12 eliminate the provisions allowing individuals who are unable to obtain a social security number to provide an individual taxpayer identification number in lieu of a social security number because a social security number is required in order to process criminal background checks.

Following discussion and review of the Preamble and Order Adopting Rules, the motion was made by Mr. Dembny to approve for adoption, by Board Order, amendments to §283.12, as presented. The motion was seconded by Ms. Mendoza and passed unanimously.

- Amendments Concerning Licensing Requirements (§291.1) (Tab 06)

Ms. Benz explained that the Board voted to propose the amendments to §291.1 during its May 3, 2016, meeting. The proposed amendments were published in the June 24, 2016, issue of the *Texas Register*, and comments were received from Richie's Specialty Pharmacy.

Ms. Benz directed the Board's attention to the amendments and explained that the amendments to §291.1 eliminate the provisions allowing individuals who are unable to obtain a social security number to provide and individual taxpayer identification number in lieu of a social security number because a social security number is required in order to process criminal background checks.

Following discussion and review of the Preamble and Order Adopting Rules, the motion was made by Mr. Miller to approve for adoption, by Board Order, amendments to §291.1, as presented. The motion was seconded by Ms. Tijerina and passed unanimously.

- Amendments Concerning Perpetual Inventory in Class A and Class A-S Pharmacies (§291.17) (Tab 07)

Ms. Benz explained that the Board voted to propose the amendments to §291.17 during its May 3, 2016, meeting. The proposed amendments were published in the June 24, 2016, issue of the *Texas Register*, and comments were received from the Texas Pharmacy Business Council; the National Association of Chain Drug Stores; the Alliance of Independent Pharmacists of Texas; and Richie's Specialty Pharmacy.

Ms. Benz directed the Board's attention to the amendments and explained that the amendments to §291.17 require Class A and Class A-S pharmacies to maintain perpetual inventories.

Following discussion and review of comments received, the motion was made by Ms. Yoakum to withdraw from consideration for final adoption the proposed amendments to §291.17. The motion was seconded by Mr. Thornsburg and passed 8-1-0, with Mr. Dembny opposed.

Following discussion the Board directed staff to bring back suggested rule language concerning the Perpetual Inventory in Class A and Class A-S pharmacies to its November Board meeting.

- Amendments Concerning Shipping of Prescription Medications (§291.33) (Tab 08)

Ms. Benz explained that the Board voted to propose the amendments to §291.33 during its May 3, 2016, meeting. The proposed amendments were published in the June 24, 2016, issue of the *Texas Register*, and comments were received from the Coalition for Nurses in Advanced Practice and Richie's Specialty Pharmacy.

Ms. Benz directed the Board's attention to the amendments and explained that the amendments to §291.33 correct references to other citations, including the requirements relating to the time period for a pharmacy to notify TSBP of a change of location.

Following discussion and review of the Preamble and Order Adopting Rules, the motion was made by Mr. Thornsburg to approve for adoption, by Board Order, amendments to §291.33, as presented, including the suggestions received from the Coalition for Nurses in Advanced Practice. The motion was seconded by Ms. Mendoza and passed unanimously.

- Amendments Concerning Floor Stock Documentation in Ambulatory Surgical Centers (§291.76) (Tab 09)

Ms. Benz explained that the Board voted to propose the amendments to §291.76 during its May 3, 2016, meeting. The proposed amendments were published in the June 24, 2016, issue of the *Texas Register*, and comments were received from the Coalition for Nurses in Advanced Practice.

Ms. Benz directed the Board's attention to the amendments and explained that the amendments to §291.76 allow pharmacists to record certain information in the patient's chart in lieu of keeping a separate log.

Following discussion and review of the Preamble and Order Adopting Rules, the motion was made by Ms. Stine to approve for adoption, by Board Order, amendments to §291.76, as presented, including the suggestions received from the Coalition for Nurses in Advanced Practice. The motion was seconded by Mr. Dembny and passed unanimously

- Amendments Concerning Notification Requirements for Class E Pharmacies Dispensing Controlled Substances to Texas Residents (§291.104) (Tab 10)

Ms. Benz explained that the Board voted to propose the amendments to §291.104 during its May 3, 2016, meeting. The proposed amendments were published in the June 24, 2016, issue of the *Texas Register*, and comments were received from Richie's Specialty Pharmacy in favor of the change.

Ms. Benz directed the Board's attention to the amendments and explained that the amendments to §291.104 update the requirements for Class E pharmacies to submit prescription information to the Texas State Board of Pharmacy instead of the Texas Department of Public Safety.

Following discussion and review of the Preamble and Order Adopting Rules, the motion was made by Mr. Dembny to approve for adoption, by Board Order, amendments to §291.104, as presented. The motion was seconded by Ms. Mendoza and passed unanimously

- Amendments Concerning Sterile Compounding (§291.133) (Tab 11)

Ms. Benz explained that the Board voted to propose the amendments to §291.133 during its May 3, 2016, meeting. The proposed amendments were published in the June 24, 2016, issue of the *Texas Register*, and comments were received from Aaron D. Reich, Pharm.D., and Richie's Specialty Pharmacy.

Ms. Benz directed the Board's attention to the amendments and explained that the amendments to §291.133 update the rules with regard to USP <797>.

Following discussion of the rules the Board postponed action until later in the meeting.

- Amendments Concerning Floor Stock Documentation in Class F Pharmacies (§291.151) (Tab 12)

Ms. Benz explained that the Board voted to propose the amendments to §291.151 during its May 3, 2016, meeting. The proposed amendments were published in the June 24, 2016, issue of the *Texas Register*, and no comments were received.

Ms. Benz directed the Board's attention to the amendments and explained that the amendments to §291.151 allow pharmacists to record certain information in the patient's chart in lieu of keeping a separate log.

Following discussion and review of the Preamble and Order Adopting Rules, the motion was made by Mr. Dembny to approve for adoption, by Board Order, amendments to §291.151, as presented. The motion was seconded by Ms. Kedron and passed unanimously

#### Proposal of Rules

- Rules Concerning Administrative Penalty for Failing to Operate a Pharmacy (§281.65) (Tab 13)

Ms. Benz directed the Board's attention to suggested amendments to rule language concerning administrative penalties. She explained the amendments to §281.65 add an administrative penalty for failing to operate a pharmacy within six months of the date of issuance of the pharmacy license and make minor corrections.

Following discussion, the motion was made by Ms. Mendoza to approve for proposal amendments to §281.65, as presented. The motion was seconded by Ms. Yoakum and passed unanimously.

- Rules Concerning Schedule II Prescriptions from Out-of-State Practitioners (§291.34) (Tab 14)

Ms. Benz directed the Board's attention to suggested amendments to rule language concerning the dispensing of Schedule II Controlled Substance prescriptions from out of state practitioners. She explained the amendments to §291.34 implement provisions of Senate Bill 195 passed during the 2015 Texas Legislative Session which updated the requirements regarding Class A pharmacies dispensing Schedule II Controlled Substance prescriptions issued by prescribers licensed in a state other than Texas, to require a written plan approved the Texas State Board of Pharmacy.

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

- Rules Concerning Class C Pharmacies Operated by Management Companies (§291.74) (Tab 15)

Ms. Benz directed the Board's attention to suggested amendments to rule language concerning Class C pharmacies. She explained the amendments to §291.74 eliminate references to pharmacies operated by management companies which are no longer authorized by DEA; implement provisions of Senate Bill 460 regarding notification for a change of location; and remove references to Class C-S pharmacies which are no longer necessary.

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

- Rules Concerning Class H Pharmacies (§291.155) (Tab 16)

Ms. Benz directed the Board's attention to suggested amendments to rule language concerning Class H pharmacies. She explained the amendments to §291.155 clarify that a licensed Class H pharmacy may continue to operate after a Class A or Class C pharmacy obtains a license in the same county.

Following discussion, the motion was made by Ms. Stine to approve for proposal the amendments to §291.155, as presented. The motion was seconded by Mr. Thornsburg and passed unanimously.

- New Rule Concerning Pharmacists Dispensing Opioid Antagonist (§295.14) (Tab 17)

Ms. Benz directed the Board's attention to suggested new rule language concerning opioid antagonist dispensing. She explained that new rule §295.14 implements Senate Bill 1462, passed during the 2015 Texas Legislative Session allowing pharmacists to dispense naloxone to individuals under a standing order from a physician.

Following discussion, the motion was made by Mr. Dembny to approve for proposal new rule §295.14, as presented. The motion was seconded by Ms. Tijerina and passed unanimously.

- Rules Concerning the Definition of an Epinephrine Auto-Injector (§295.16) (Tab 18)

Ms. Benz directed the Board's attention to suggested amendments to rule language concerning the administration of epinephrine. She explained the amendments to §295.16 update the definition of auto-injectors.

Following discussion, the motion was made by Ms. Kedron to approve for proposal the amendments to §295.16, as presented. The motion was seconded by Mr. Dembny and passed unanimously.

#### Rule Review

- For Adoption

Ms. Benz directed the Board's attention to the TSBP Rule Review Plan for FY2014-2017 (Tab 19)

- Chapter 291 Concerning Pharmacies (Institutional Pharmacy (Class C)) (§§291.71-291.76) (Tab 20)
- Chapter 303 Concerning Destruction of Dangerous Drugs and Controlled Substances (§§303.1-303.3) (Tab 21)

Following discussion, in accordance with Government Code §2001.039, the motion was made by Ms. Stine 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. Tijerina passed unanimously.

President Waggener recessed the meeting at 10:15 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 Concerning Pharmacy Technicians
  - Review of the 2014 TSBP Task Force to Review Pharmacy Technician Practice Final Report (Tab 33)

Ms. Dodson directed the Board's attention to the final report of the 2014 TSBP Task Force to Review Pharmacy Technician Practice. She explained that the report was presented at the May 6, 2014, Board meeting and Mr. Wiesner had requested it be presented again for review.

- Discussion of Pharmacy Technician Certification Exams (Tab 34)

President Waggener recognized Lisa McCartney, M.Ed., CPhT, PhTR Department Chair, Pharmacy Technology Program, Austin Community College. Ms. McCartney presented information on American Society of Health-System Pharmacies and Accreditation Council for Pharmacy Education (ASHP/ACPE) accredited pharmacy technician programs and also on the Pharmacy Technician Certification Board (PTCB) examination.

President Waggener explained that due to scheduling requirements further discussion concerning pharmacy technician certification exams would be postponed until later in the meeting.

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

- Recommendation Regarding Petition for a Pilot Project from Baylor Scott & White Pharmacy #201 (The Scott & White Round Rock Pharmacy) Pharmacy License #29834, and Baylor Scott & White Pharmacy #2014 (Baylor Medical Plaza Pharmacy at Carrollton) Pharmacy License #27871 (Tab 22)

Ms. Dodson presented a recommendation concerning a petition for a pilot project from The Scott & White Round Rock Pharmacy, pharmacy license #29834, and Baylor Medical Plaza Pharmacy at Carrollton, pharmacy license #27871. She explained that President Waggener had appointed Christopher Dembny, R.Ph.; Kerstin Arnold; Allison Benz, R.Ph., and Ms. Dodson to serve on a task force to review the pilot project request. The pilot project proposed to use ScriptCenter kiosks for the pick-up of finished prescriptions. The ScriptCenter kiosks would be installed in two locations to provide prescription access to Scott & White employees and discharged patients. Ms. Dodson advised the Board that it was the recommendation of the task force that the pilot project be approved, with the modification that the pilot project not include prescriptions for any controlled substances.

President Waggener recognized Phil Burgess, R.Ph., President, Philip Burgess Consulting, John Wilson, R.Ph., with Baylor Scott and White, and Daryle Johnson, with Asteres, Inc. Mr. Burgess explained the purpose of the pilot was to utilize ScriptCenter kiosks to give prescription access to Scott & White employees and discharge patients.

Ms. Dodson presented written comments that were received from Dr. Damita Wyatt; the Alliance of Independent Pharmacists of Texas; and the Texas Pharmacy Association (TPA).

President Waggener recognized Joe DaSilva and Justin Hudman with the Texas Pharmacy Association (TPA). Mr. DaSilva reported that the TPA Board of Directors supports the Baylor Scott & White pilot project.

Following discussion, the motion was made by Mr. Thornsburg to approve the pilot project to allow Scott & White to dispense finished prescriptions including prescriptions for controlled substances, using Scriptcenter kiosks. The motion was seconded by Mr. Wiesner and passed 8-1-0, with Mr. Dembny opposed.

President Waggener recessed the meeting at 11:50 a.m.

President Waggener reconvened the meeting at 12:30 p.m.

Ms. Mendoza left the meeting during the recess.

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

- Discussion Concerning Pharmacy Technicians
  - Discussion of Pharmacy Technician Certification Exams (Tab 34) (cont'd)

Ms. Dodson reported that the bid for the pharmacy technician exam is reviewed by the Board every four years. She explained that both the PTCB and ExCPT exams were reviewed and scored by psychometricians in FY2014.

Ms. Dodson presented written comments received from the Pharmacy Technician Educators Council; Kevin T. Hope, R.Ph.; Thera Granger; Veronica Velasquez, BA, CPhT, PhTR; Laura Wells, B.S., CPhT; Lauralee Krabill, MBA, RN-BC, CNOR; and a joint letter from ASHP and ACPE.

President Waggener recognized Lindsey McDonald a representative from the National Healthcareer Association (NHA). Ms. McDonald explained that NHA provides the ExCPT exam. She stated that currently 31 states recognize both the PTCB and the ExCPT exam. She stated that NHA has strict qualifications for applicants to take the ExCPT exam.

President Waggener recognized David Dubose, R.Ph., a representative from PassAssured. Mr. Dubose explained that it is projected that Texas will need 15,000 new technicians each year. He recommended that the Board recognize both the PTCB and the ExCPT exam.

President Waggener recognized Mary Staples a representative from the National Association of Chain Drug Stores. Ms. Staples asked the Board to accept all national technician exams so that technicians have a choice.

President Waggener recognized Debbie Mack a representative from Walmart. Ms. Mack stated she was in favor of the Board accepting multiple exams.

President Waggener recognized Doug Read a representative from H.E.B. Mr. Read stated that H.E.B. was opposed to PTCB being the only exam accepted in Texas.

President Waggener recognized Brad Shields a representative for the Texas Society of Health System Pharmacists and the Texas Federation of Drug Stores. Mr. Shields suggested the Board appoint a Task Force to review technician education issues.

Following discussion the Board directed staff to convene a Task Force to review technician education issues.

## F. Disciplinary Orders

- Consideration of Proposal for Decision

- In the Matter of Cedric Martin Washington, Pharmacy Technician Registration #112624 (Tab 40)

Ms. Hotchkiss advised the Board that a hearing was held before State Office of Administrative Hearings Administrative Judge Casey A. Bell, on February 11, 2016, in the matter of Cedric Martin Washington.

Ms. Hotchkiss reviewed the background of the case for the Board.

Ms. Hotchkiss directed the Board's attention to proposed Board Order #T-15-314, which she reviewed for the Board.

- In the Matter of Mastery Pharmacy South, Pharmacy License #23660 (Tab 41)

Ms. Hotchkiss advised the Board that a hearing was held before State Office of Administrative Hearings Administrative Judge Casey A. Bell, on February 11, 2016, in the matter of Mastery Pharmacy South.

Ms. Hotchkiss reviewed the background of the case for the Board.

Ms. Hotchkiss directed the Board's attention to proposed Board Order #E-15-005, which she reviewed for the Board.

Following discussion, the motion was made by Mr. Thornsburg to accept the *Findings of Fact and Conclusions of Law* in the *Proposal for Decision* concerning Cedric Martin Washington and approve Board Order #T-15-314, as presented, in the matter of Cedric Martin Washington, to suspend Mr. Washington's pharmacy technician registration for one year, followed by a five year probation with conditions, and an administrative penalty of \$5,000, and to accept the *Findings of Fact and Conclusions of Law* in the *Proposal for Decision* concerning Mastery Pharmacy and approve Board Order #E-15-005, as presented, in the matter of Mastery Pharmacy South, to place the pharmacy on a five year probation with conditions, and an administrative penalty of \$5,000. The motion was seconded by Ms. Stine and passed unanimously.

- In the Matter of Shayna Kelly, Pharmacy Technician Registration #199025 (Tab 42)

Ms. Hotchkiss advised the Board that a hearing was held before State Office of Administrative Hearings Administrative Judge Beth Bierman, on April 26, 2016, in the matter of Shayna Kelly.

Ms. Hotchkiss reviewed the background of the case for the Board.

Ms. Hotchkiss directed the Board's attention to proposed Board Order #T-15-226, which she reviewed for the Board.

Following discussion, the motion was made by Mr. Dembny to accept the *Findings of Fact and Conclusions of Law* in the *Proposal for Decision* and approve Board Order #T-15-226, as presented, in the matter of Shayna Kelly, to suspend Ms. Kelly's pharmacy technician registration for the longer of one hundred eighty days or until such time as written documentation is provided by a Board approved mental health professional which states Ms. Kelly is able to practice as a pharmacy technician without posing a danger to herself or the public, followed by a five year probation with conditions. If Ms. Kelly fails to provide written documentation as required within two years after the entry of this order her pharmacy technician registration shall be revoked. The motion was seconded by Ms. Yoakum and passed unanimously.

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

- Professional Recovery Network
  - President Waggener recognized Emily Abel with the Professional Recovery Network (PRN). Ms. Abel directed the Board's attention to the PRN budget report for FY2016 (September 1, 2015 – May 31, 2016). Ms. Abel reviewed current PRN activities for the Board. (Tab 29)
  - Ms. Fisher discussed performance measures regarding the number of individuals participating in the peer assistance program for the past three fiscal years (FY2013-2015) as well as the quarterly report on the number of pharmacists participating in the program during the first three quarters of FY2016 (September 1, 2015 – May 31, 2016). (Tab 28)
  - Ms. Abel directed the Board's attention to the Audited Statement of Revenues and Expenses report for the Pharmacy Peer Assistance Program year ended August 31, 2015, and noted that there were no exceptions noted in the audit. (Tab 30)

Following review of the audit by the Board, the motion was made by Ms. Stine to approve the PRN audit for the program year ended August 31, 2015, as presented. The motion was seconded by Mr. Dembny and passed unanimously.

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

Final Adoption of Rules (cont'd)

- Rules Concerning Grounds for Discipline for a Pharmacy License (§281.8) (Tab 02) (cont'd)

Ms. Benz explained that the Board reviewed the proposed amendments to §281.8 earlier in the meeting.

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 §281.8, as presented. The motion was seconded by Mr. Miller and passed unanimously.

- Amendments Concerning Sterile Compounding (§291.133) (Tab 11) (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.

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

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

- Financial Update
  - Review of FY2016 Operating Budget (Tab 23)

Ms. Stella reviewed the expenditures for the first three quarters of FY2016 (September 1, 2015 - through May 31, 2016) for the Board.

- Review of Board Member Travel Budget (Tab 24)

Ms. Stella reviewed the Board Member FY2016 Travel Budget.

- Consideration of Material Changes to Contracts for Goods and Services Awarded Under Chapter 2155 of Texas Government Code (Tab 25)

Ms. Stella presented a report on material changes to TSBP contracts for goods and services for the first three quarters of FY2016 (September 1, 2015 – May 31, 2016). 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. Dembny to approve the material changes to the contracts for goods and services as reported. The motion was seconded by Ms. Yoakum and passed unanimously.

- Review and Approval of FY2017 Operating Budget (Tab 26)

Ms. Stella directed the Board's attention to a proposed operating budget for FY2017. She reviewed the budget, including Board Member travel.

Following discussion, the motion was made by Mr. Dembny to approve the FY2017 operating budget, as presented. The motion was seconded by Mr. Thornsburg and pass unanimously.

- Update on Legislative Appropriations Request for FY2018-2019 (Tab 27)

Ms. Stella directed the Board's attention to a joint letter from Greg Abbott, Governor; Dan Patrick, Lieutenant Governor; and Joe Straus, Speaker of the House, concerning the Legislative Appropriations Requests (LAR) for FY2018-19. Ms. Stella explained that according to the letter state agencies were required to trim four percent from their base appropriation levels.

- Review and approval of *TSBP FY2017 Goals and Objectives* (Tab 31)

Ms. Dodson directed the Board's attention to the *TSBP FY2017 Goals and Objectives* and explained the new objectives.

Following review and discussion, the motion was made by Mr. Dembny to approve the *TSBP FY2017 Goals and Objectives*, as presented. The motion was seconded by Ms. Yoakum and passed unanimously.

- Discussion Concerning the Verification of Compounded Prescriptions (Tab 32)

Ms. Fisher directed the Board's attention to rules §§291.131 and 291.133, concerning the procedures to ensure that compounded preparations are accurate. She indicated that the current rule language does not clearly require the compounding pharmacist to review the original prescription order during the verification process. She suggested that the rules be clarified in order to help prevent errors.

Following discussion, the Board directed staff to bring back suggested rule language for the Board's consideration at its November Board Meeting

- Report on Prescription Monitoring Program Implementation (Tab 40)

Ms. Benz presented a report on the progress of the Prescription Monitoring Program (PMP) transition from the Department of Public Safety to TSBP.

Ms. Benz presented the minutes from the April 25, 2016, meeting of the PMP work group.

Ms. Benz assured the Board that the PMP would be ready to go live on September 1, 2016.

President Waggener recessed the meeting at 2:05 p.m.

President Waggener reconvened the meeting at 2:15 p.m.

- Report on Appeals from State Office of Administrative Hearings Cases and Other Court Actions (Tab 36)

Ms. Arnold stated there was nothing to report at this time.

- Report on Sunset Review (Tab 37)

Ms. Dodson explained that the Sunset Commission will report on their review of the Pharmacy Board at a public hearing to be held August 22, 2016.

- Report on TSBP Office Move (Tab 38)

Ms. Dodson reported that the move of the TSBP offices to the 5<sup>th</sup> floor of the Hobby Building had been postponed until the middle of September.

- Discussion of Possible Statutory Changes for Consideration During the 85<sup>th</sup> Session of the Texas Legislature (Tab 39)

Ms. Dodson gave a verbal review of recommendations for consideration during the 85<sup>th</sup> session of the Texas Legislature. She requested Board members submit to her any additional recommendations they would like to have considered.

**F. Disciplinary Orders** (cont'd)

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 43)
  - The Board reviewed 31 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 26, 2016, through July 28, 2016.
  - The Board reviewed 22 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 May 10, 2016, through July 25, 2016, and three Confidential Agreed Board Order, entered during the period from July 12, 2016, through August 2, 2016.
- Discussion of and Action on Proposed Agreed Board Orders and Proposed Default Board Orders (Tab 44)
  - The Board reviewed the alleged violations, as well as the recommended sanctions for each of the following: 19 proposed Agreed Board Orders concerning pharmacy technicians and pharmacy technician trainees who appeared for an Informal Conference; and 12 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. Stephanie Agosto Perez      | ABO #T-16-087   |
| 2. Alice Olukemi Aje           | ABO #T-16-126   |
| 3. Diana April Campos          | ABO #T-16-122   |
| 4. Michael Anthony Dovenbarger | ABO #T-14-495   |
| 5. Sheila Eaton                | ABO #T-16-124-N |
| 6. Eric Gloria                 | ABO #T-16-132-N |
| 7. Jacquelyn Gonzales          | ABO #T-15-413   |
| 8. Gina Renee Parr-McBride     | ABO #T-15-423-N |
| 9. Kristina Amanda Scheller    | ABO #T-16-085   |
| 10. Felicia Donyea Williams    | ABO #T-15-372   |
| 11. Karina Betancourt          | ABO #T-16-131   |
| 12. Ralphiel Collier           | ABO #T-16-174   |
| 13. Natosha Laquese Dehorney   | ABO #T-16-051   |
| 14. Jazmine Lashay Jackson     | ABO #T-16-221-N |
| 15. Perry John Presler         | ABO #T-16-135   |

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|------------------------------|-----------------|
| 16. Antonio Valdez Rodriguez | ABO #T-16-145   |
| 17. Bryan Lamont Scott       | ABO #T-16-146   |
| 18. Jacquelyn Syas           | ABO #T-15-433   |
| 19. Andres Telles            | ABO #T-16-088-N |

**Default Board Orders** (Technicians and Technician Trainees)

(Did not appear for an Informal Conference)

- |                              |                 |
|------------------------------|-----------------|
| 20. Jenipher Nikole Crawford | DBO #T-15-458-N |
| 21. Raymond Francisco Lepe   | DBO #T-15-459   |
| 22. Aaron Reyes              | DBO #T-16-142   |
| 23. Charles Nana Agawereh    | DBO #T-15-457-N |
| 24. Larry Lyman Baskin       | DBO #T-16-151   |
| 25. Matthew James Joy        | DBO #T-15-386   |
| 26. Sharoze Memon            | DBO #T-15-461-N |
| 27. Melanie Rochel Mendez    | DBO #T-15-446   |
| 28. Devin D. O'Sullivan      | DBO #T-16-214-N |
| 29. Veronica Renee Perez     | DBO #T-15-420   |
| 30. Chasity Rayona Peters    | DBO #T-16-175-N |
| 31. Crystal White            | DBO #T-16-152-N |

The motion was made by Ms. Kedron to approve the 19 proposed Agreed Board Orders concerning pharmacy technicians and pharmacy technician trainees who appeared for an Informal Conference; and 12 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. Dembny and passed as follows.

**Agreed Board Orders** (Technicians and Technician Trainees)

(Following an Informal Conference)

1. 7-0-1 Ms. Tijerina abstained
2. 7-0-1 Ms. Tijerina abstained
3. 7-0-1 Ms. Tijerina abstained
4. 7-0-1 Ms. Tijerina abstained
5. 7-0-1 Ms. Tijerina abstained
6. 7-0-1 Ms. Tijerina abstained
7. 7-0-1 Ms. Tijerina abstained
8. 7-0-1 Ms. Tijerina abstained
9. 7-0-1 Ms. Tijerina abstained
10. 7-0-1 Ms. Tijerina abstained
11. 7-0-1 Mr. Miller abstained
12. 7-0-1 Mr. Miller abstained
13. 7-0-1 Mr. Miller abstained
14. 7-0-1 Mr. Miller abstained
15. 7-0-1 Mr. Miller 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

**Default Board Orders** (Technicians and Technician Trainees)

(Did not appear for an Informal Conference)

20. 7-0-1 Ms. Tijerina abstained
21. 7-0-1 Ms. Tijerina abstained
22. 7-0-1 Ms. Tijerina abstained
23. 7-0-1 Mr. Miller abstained
24. 7-0-1 Mr. Miller abstained
25. 7-0-1 Mr. Miller abstained
26. 7-0-1 Mr. Miller abstained
27. 7-0-1 Mr. Miller abstained
28. 7-0-1 Mr. Miller abstained
29. 7-0-1 Mr. Miller abstained
30. 7-0-1 Mr. Miller abstained
31. 7-0-1 Mr. Miller abstained

- The Board reviewed the alleged violations, as well as the recommended sanctions for each of the following: 22 proposed Agreed Board Orders (Alternative Resolutions); 45 proposed Agreed Board Orders concerning pharmacies and pharmacists following an Informal Conference; and one Default Board Order concerning pharmacist who did not appear for an Informal Conference.

**Agreed Board Orders** (Pharmacies and Pharmacists)

(Alternative Resolutions)

- |   |                 |
|---|-----------------|
| 1. Ali Reza Aghamoosa                     | ABO #L-16-012   |
| 2. CVS/pharmacy #1339                     | ABO #H-15-015-B |
| 3. Kathryn Ley                            | ABO #H-15-015-A |
| 4. CVS/pharmacy #7603                     | ABO #H-15-029-B |
| 5. Kelly West Panuska                     | ABO #H-15-029-A |
| 6. CVS/pharmacy #8336                     | ABO #C-15-041-B |
| 7. Sun Ok Lee                             | ABO #C-15-041-A |
| 8. Nathan R. Gammage                      | ABO #L-15-040   |
| 9. Amirose De Guzman                      | ABO #L-16-011   |
| 10. Brandon Hendrickson                   | ABO #L-16-024   |
| 11. Lakeside Pharmacy                     | ABO #C-16-017-B |
| 12. Ricardo Herrera Jr.                   | ABO #C-16-017-A |
| 13. Medicine Man Pharmacy-<br>Port Lavaca | ABO #C-16-016-B |
| 14. Tom Thumb Pharmacy                    | ABO #H-16-009-B |
| 15. Walgreens #3996                       | ABO #C-16-018-B |
| 16. Laura N. Fidone                       | ABO #C-16-018-A |
| 17. Walgreens #15339                      | ABO #H-15-056-B |
| 18. Dena Anne-Kerls Johnson               | ABO #H-15-056-A |
| 19. Gerald Wayne Hollas                   | ABO #J-16-004   |
| 20. Walmart Pharmacy 10-248               | ABO #H-15-025-B |

- |                              |                 |
|------------------------------|-----------------|
| 21. Walmart Pharmacy 10-2239 | ABO #C-16-019-B |
| 22. Zoopharm                 | ABO #F-16-013   |

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

- |                                 |                 |
|---------------------------------|-----------------|
| 23. Joy A. Abolo                | ABO #M-16-008   |
| 24. Accredo Health Group, Inc.  | ABO #L-15-032   |
| 25. Accredo Health Group, Inc.  | ABO #K-16-002   |
| 26. Frank Castaneda             | ABO #B-15-005-A |
| 27. CVS/pharmacy #5807          | ABO #H-15-083-B |
| 28. CVS/pharmacy #5962          | ABO #H-15-069   |
| 29. CVS/Pharmacy #7440          | ABO #H-16-008-B |
| 30. CVS/pharmacy #7600          | ABO #H-15-032   |
| 31. Portia Nicole Davis         | ABO #H-15-018-A |
| 32. Nikkol Francis Denson       | ABO #A-16-011   |
| 33. Jessica DiLeo               | ABO #L-16-029   |
| 34. Richard Lee Dobie III       | ABO #K-16-009-A |
| 35. Executive Pharmacy          | ABO #L-15-038   |
| 36. David Linn Finke            | ABO #A-15-038   |
| 37. H.E.B. Pharmacy #161, L.P.  | ABO #H-15-044-B |
| 38. Paul Allen Henry            | ABO #R-15-009   |
| 39. Hyonbo Ko                   | ABO #E-14-015   |
| 40. Deborah Rae Malpica         | ABO #N-16-013   |
| 41. Matlock Pharmacy            | ABO #K-14-009-B |
| 42. Manish K. Desai             | ABO #K-14-009-A |
| 43. William Edward Paul         | ABO #H-15-071-A |
| 44. Sharonda Peete              | ABO #F-16-008   |
| 45. Pharmacy Depot              | ABO #K-15-034-B |
| 46. Pharmacy Innovations        | ABO #L-16-013   |
| 47. Joe W. Riley                | ABO #J-16-007   |
| 48. Mahmud Abdullah Sardar      | ABO #L-16-019   |
| 49. Sav-RX Bag N' Save Pharmacy | ABO #L-14-058   |
| 50. Stafford Pharmacy/DME, LLC  | ABO #B-15-008-B |
| 51. Kevin Wayne McDonald II     | ABO #B-15-008-A |
| 52. Strohecker's Pharmacy       | ABO #L-16-007   |
| 53. Tyler Matthew Treharne      | ABO #L-16-017   |
| 54. Christopher V. Tita         | ABO #R-15-003   |
| 55. VAC Pharmacy Incorporated   | ABO #K-15-038-B |
| 56. George E. Anwuri            | ABO #K-15-038-A |
| 57. Jose de Jesus Valadez       | ABO #H-15-081   |
| 58. Leyna Thanh Vo              | ABO #H-15-060-A |
| 59. Walgreens #4605             | ABO #H-15-038-B |
| 60. Walgreens #5827             | ABO #H-15-070   |
| 61. Walgreens #9647             | ABO #B-13-006   |
| 62. Walgreens #9720             | ABO #H-14-039-B |
| 63. Hanh T. Tran                | ABO #H-14-039-A |

- |                               |                 |
|-------------------------------|-----------------|
| 64. Walgreens #15187          | ABO #H-15-035-B |
| 65. Sanketkumar G. Parikh     | ABO #H-15-035-A |
| 66. Charles Scott Weatherford | ABO #L-16-010   |
| 67. Woods Pharmacy LLC        | ABO #F-15-033   |

**Default Board Orders** (Pharmacist)

(Did not appear for an Informal Conference)

- |                 |                 |
|-----------------|-----------------|
| 68. Jessica Seo | DBO #H-15-048-A |
|-----------------|-----------------|

The motion was made by Mr. Dembny to approve the 22 proposed Agreed Board Orders (Alternative Resolutions); 45 proposed Agreed Board Orders concerning pharmacies and pharmacists following an Informal Conference; and one Default Board Order concerning pharmacist who did not appear for an Informal Conference

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

**Agreed Board Orders** (Pharmacies and Pharmacist)

(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
9. 8-0-0
10. 8-0-0
11. 8-0-0
12. 8-0-0
13. 8-0-0
14. 8-0-0
15. 8-0-0
16. 8-0-0
17. 8-0-0
18. 8-0-0
19. 8-0-0
20. 8-0-0
21. 8-0-0
22. 8-0-0

**Agreed Board Orders** (Pharmacies; Pharmacists; Interns; and Technicians)

(Following an Informal Conference)

23. 8-0-0
24. 7-0-1 Mr. Miller abstained
25. 7-0-1 Mr. Dembny abstained
26. 7-0-1 Mr. Dembny abstained
27. 7-0-1 Mr. Dembny abstained

28. 7-0-1 Ms. Stine abstained
29. 7-0-1 Ms. Stine abstained
30. 7-0-1 Mr. Dembny abstained
31. 7-0-1 Mr. Wiesner abstained
32. 7-0-1 Mr. Stine abstained
33. 7-0-1 Mr. Miller abstained
34. 7-0-1 Mr. Miller abstained
35. 7-0-1 Mr. Dembny abstained
36. 7-0-1 Ms. Stine abstained
37. 6-0-2 Mr. Dembny and Mr. Wiesner abstained
38. 8-0-0
39. 7-0-1 Ms. Stine abstained
40. 7-0-1 Ms. Stine abstained
41. 7-0-1 Mr. Wiesner abstained
42. 7-0-1 Mr. Wiesner abstained
43. 7-0-1 Mr. Wiesner abstained
44. 7-0-1 Ms. Stine abstained
45. 7-0-1 Mr. Dembny abstained
46. 7-0-1 Mr. Miller abstained
47. 7-0-1 Mr. Miller abstained
48. 7-0-1 Ms. Stine abstained
49. 7-0-1 Mr. Miller abstained
50. 7-0-1 Ms. Stine abstained
51. 7-0-1 Ms. Stine abstained
52. 7-0-1 Mr. Miller abstained
53. 7-0-1 Mr. Miller abstained
54. 7-0-1 Ms. Stine abstained
55. 7-0-1 Mr. Miller abstained
56. 7-0-1 Mr. Miller abstained
57. 7-0-1 Mr. Dembny abstained
58. 7-0-1 Mr. Dembny abstained
59. 7-0-1 Mr. Dembny abstained
60. 7-0-1 Mr. Miller abstained
61. 7-0-1 Mr. Miller abstained
62. 7-0-1 Mr. Dembny abstained
63. 7-0-1 Mr. Dembny abstained
64. 7-0-1 Mr. Miller abstained
65. 7-0-1 Mr. Miller abstained
66. 7-0-1 Mr. Miller abstained
67. 7-0-1 Mr. Wiesner abstained

**Default Board Orders** (Pharmacist)

(Did not appear for an Informal Conference)

68. 7-0-1 Ms. Stine abstained

- Confidential Agreed Board Orders (Tab 45)
  - The Board reviewed the alleged violations, as well as the recommended sanctions for two proposed Confidential Board Orders (Alternative Resolutions); and eight proposed Confidential Board Orders following Informal Conferences.

**Agreed Confidential Board Orders** (Pharmacists)

(Alternative Resolutions)

1. ABO #G-15-019
2. ABO #M-16-017

(Following an Informal Conference)

3. ABO #M-16-014
4. ABO #M-16-015
5. ABO #M-16-011
6. ABO #R-16-003
7. ABO #N-16-010
8. ABO #M-15-013
9. ABO #M-16-010
10. ABO #G-16-010

The motion was made by Mr. Dembny to approve the two proposed Confidential Agreed Board Orders (Alternative Resolutions) and eight proposed Confidential Agreed Board Orders following Informal Conferences.

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

**Agreed Confidential Board Orders**

(Alternative Resolutions)

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

(Following an Informal Conference)

3. 7-0-1 Mr. Miller abstained
4. 7-0-1 Ms. Stine abstained
5. 7-0-1 Ms. Stine abstained
6. 7-0-1 Ms. Stine abstained
7. 7-0-1 Ms. Stine abstained
8. 7-0-1 Mr. Dembny abstained
9. 7-0-1 Ms. Stine abstained
10. 7-0-1 Ms. Stine abstained

- The Board reviewed the alleged violations and the Confidential Temporary Suspension Order entered following a Temporary Suspension Hearing.

1. TSO #G-16-011-S1

- Discussion of and Action on Proposed Remedial Plans (Tab 46)
  - The Board reviewed the alleged violations, as well as the recommended sanctions for each of the following two proposed Remedial Plans (Alternative Resolutions) and one Remedial Plan following an Informal Conference.

**Remedial Plans** (Pharmacists)  
(Alternative Resolutions)

1. Tulsi Gunvant Gajera #H-15-025-A
2. Ginger D. Millis #H-16-009-A

**Remedial Plan** (Pharmacist)  
(Following an Informal Conference)

3. Robert Aaron Seals #H-15-044-A

The motion was made by Mr. Dembny to approve the two proposed Remedial Plans (Alternative Resolutions) and one proposed Remedial Plan following an Informal Conference.

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

**Remedial Plans** (Pharmacists)  
(Alternative Resolutions)

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

**Remedial Plan** (Pharmacist)  
(Following an Informal Conference)

3. 7-0-1 Mr. Dembny abstained

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

- Report on Complaints Closed and Dismissed During the Previous Quarter (Tab 47)

The Board received a report on complaints dismissed and closed during the first three quarters of FY2016 (September 1, 2015 – May 31, 2016). The report also included quarterly averages for FY2015 as compared to FY2016, as well as percentage change from FY2015 to FY2016.

Ms. Fisher reviewed the report for the Board.

- Report on Status of Active/Pending Complaints (Tab 48)

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 August Board Meeting (Tab 49)
  - Suggested rule amendments concerning the verification of compounded prescriptions.
  - Suggested rule amendments concerning perpetual inventory.
  - Discussion concerning electronic prescriptions for controlled substances.

- 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 50)

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

Ms. Stine nominated Ms. Mendoza for the office of Treasurer. The nomination was seconded by Mr. Wiesner and passed unanimously.

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

- Evaluation of Executive Director (Tab 51)

Ms. Kedron 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. Dembny and passed unanimously.

President Waggener declared the Board in Executive Session at 3:02 p.m.

At 3:20 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.

TSBP Board Business Meeting

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President Waggener adjourned the meeting at 3:40 p.m.

APPROVED:

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Jeanne D. Waggener, R.Ph.  
President

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Gay Dodson, R.Ph.  
Executive Director/Secretary

November 1, 2016