TEXAS STATE BOARD OF PHARMACY

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Health Professions Council Board Room
333 Guadalupe Street, Tower II, Suite 225
Austin, Texas

May 3, 2016

MINUTES[1]

Tuesday, May 3, 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.; Treasurer Buford T. Abeldt, Sr., R.Ph.; Dennis F. Wiesner, R.Ph.; L. Suzan Kedron; Alice G. Mendoza, R.Ph.; Phyllis A. Stine; Bradley A. Miller, Ph.T.R.; Jenny Downing Yoakum, R.Ph.; and Suzette Tijerina, R.Ph.

Board Member Chip Thornsburg 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; Caroline Hotchkiss, Assistant General Counsel; Ben Santana, R.Ph., Chief of Compliance; Tyler Vance, Staff Attorney; Megan Holloway, Staff Attorney; Ginger Shuffer, Staff Attorney; and Becky Damon, Executive Assistant.

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.

[1]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. Stine to approve the minutes of the Board Business Meeting held February 2, 2016; the minutes of a Temporary Suspension Hearing held February 3, 2016, concerning Upshaw Pharmacy, Nikkol Francis Denson, R.Ph., and George Washington, R.Ph.; the minutes of a Temporary Suspension Hearing held February 18, 2016, concerning Shayna Kelly, Pharmacy Technician; the minutes of an Agreed Temporary Suspension Hearing held April 18, 2016, concerning Upshaw Pharmacy; the minutes of a Confidential Temporary Suspension Hearing held April 5, 2016; and the minutes of the TSBP Executive Committee Meeting held April 18, 2016. The motion was seconded by Ms. Mendoza and passed unanimously.

C. Discussion of and Possible Action Regarding Rules

Final Adoption of Rules

- Rules Concerning Social Security Numbers and Examination Retake Requirements (§§283.4, 283.7, 283.8 and 283.11) (Tab 02)

  Ms. Benz explained that the Board voted to propose the amendments to (§§283.4, 283.7, 283.8 and 283.11 during its February 2, 2016, meeting. The proposed amendments were published in the March 11, 2016, issue of the *Texas Register*, and no comments were received.

  Ms. Benz directed the Board's attention to amendments to §§283.4, 283.7, 283.8 and 283.11 and explained that the amendments 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. In addition, the amendments to §283.8, implement provisions of Senate Bill 460 passed during the 84th Texas Legislative session allowing applicants to apply for a Texas pharmacist license who failed to achieve the minimum passing grade to retake the NAPLEX and MPJE examinations four additional times for a total of five times.

  Following discussion and review of the Preamble and Order Adopting Rules, the motion was made by Ms. Mendoza to approve for adoption, by Board Order, amendments to §§283.4, 283.7, 283.8 and 283.11, as presented. The motion was seconded by Mr. Abeldt and passed unanimously.

- Rules Concerning Closing a Pharmacy (§291.5) and Pharmacy License Renewal (§291.14) (Tab 03)

  Ms. Benz explained that the Board voted to propose the amendments to §291.5 and §291.14 during its February 2, 2016, meeting. The proposed amendments were published in the March 11, 2016, issue of the *Texas Register*, and no comments were received.

  Ms. Benz directed the Board's attention to the amendments and explained the amendments to §291.5 clarify the requirements for closing a pharmacy and eliminate the requirements for a pharmacy to transfer records to a pharmacy within a reasonable distance. The amendments to §291.14 implement provisions of Senate Bill 460 passed during the 84th Texas Legislative session which change the expiration date for a pharmacy license that has expired from one year to 91 days and allows the board to not renew the license of a pharmacy if the board determines that the pharmacy is not located or no longer exists at the pharmacy's address of record.

  Following discussion and review of the Preambles and Orders Adopting Rules, the motion was made by Mr. Miller to approve for adoption, by Board Order, amendments to §§291.5 and 291.14, as presented. The motion was seconded by Mr. Dembny and passed unanimously.

- Rules Concerning Prescription Transfer Requirements and the Log of Initials or Codes That Identify Individuals Involved in the Data Entry of a Prescription (§291.34) (Tab 04)

  Ms. Benz explained that the Board voted to propose the amendments to §291.34 during its February 2, 2016, meeting. The proposed amendments were published in the March 11, 2016, issue of the *Texas Register*, and comments were received from: CVS Health; Vanese S. Berry, R.Ph.; Gloria Cox, R.Ph.; Marcia Smith-Anderson, R.Ph.; Brenda Richardson, R.Ph., the Texas Association of Independent Pharmacy Owners; DaVita Rx; Damita Wyatt, Pharm.D.; Ijeoma Cynthia Uche, R.Ph; Bolivar Johnson, C.Pht.; Melissa Belcher, Pharm.D.; and Alejandra Del Valle, C.Ph.T.

  Ms. Benz directed the Board's attention to the amendments and explained that the amendments to §291.34 clarify that prescriptions must be transferred within four hours; update the rules regarding distribution to include dangerous drugs; and implement provisions of House Bill 751 regarding interchangeable biological products.

  Following discussion and review of the Preambles and Orders Adopting Rules, the motion was made by Mr. Dembny to approve for adoption, by Board Order, amendments to §291.34, as presented. The motion was seconded by Ms. Stine and passed 6-3-0, with Mr. Miller, Ms. Stine, Mr. Abeldt, Mr. Dembny, Ms. Yoakum, and Ms. Tijerina in favor, Mr. Wiesner, Ms. Kedron, and Ms. Mendoza opposed.

- Amendments Concerning Compounding Sterile Preparations (§291.133) (Tab 05)

  Ms. Benz explained that the Board voted to propose the amendments to §291.133 during its February 2, 2016, meeting. The proposed amendments were published in the March 11, 2016, issue of the *Texas Register*, and comments were received from Cardinal Health.

  Ms. Benz directed the Board's attention to the amendments and explained that the amendments to §291.133 eliminate training requirements that are out-of-date; update the requirements for sterility testing; clarify the requirements for temperature and humidity; and clarify the requirements for blood labeling procedures.

  Following discussion and review of the Preambles and Orders Adopting Rules, the motion was made by Ms. Yoakum to approve for adoption, by Board Order, amendments to §291.133, as presented. The motion was seconded by Mr. Miller and passed unanimously

- Amendments Concerning Registration Requirements for Pharmacy Technicians and Pharmacy Technician Trainees (§§297.3 and 297.10) (Tab 06)

  Ms. Benz explained that the Board voted to propose the amendments to §§297.3 and 297.10 during its February 2, 2016, meeting. The proposed amendments were published in the March 11, 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 §§297.3 and 297.10 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 Preambles and Orders Adopting Rules, the motion was made by Mr. Miller to approve for adoption, by Board Order, amendments to §§297.3 and 297.10, as presented. The motion was seconded by Mr. Dembny and passed unanimously

Proposal of Rules

- Rules Concerning Grounds for Discipline for a Pharmacy License (§281.8) (Tab 07)

  Ms. Benz directed the Board's attention to suggested amendments to rule language concerning grounds for discipline for a pharmacy license. She explained the amendments to §281.8, 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 copayment or deductible for a compounded drug.

  Following discussion, the motion was made by Mr. Dembny to approve for proposal amendments to §281.8, as presented. The motion was seconded by Mr. Abeldt and passed unanimously.

- Rules Concerning Burden of Proof (§281.31) (Tab 08)

  Ms. Benz directed the Board's attention to suggested amendments to rule language concerning burden of proof. She explained the amendments to §281.31 clarify the rules for show cause order hearings.

  Following discussion, the motion was made by Mr. Dembny to approve for proposal amendments to §281.31, as presented. The motion was seconded by Mr. Miller passed unanimously.

- Rules Concerning Application for Reissuance or Removal of Restrictions of a License or Registration (§281.66) (Tab 09)

  Ms. Benz directed the Board's attention to suggested amendments to rule language concerning reissuance or removal of restrictions of a license or registration. She explained the amendments to §281.66 correct grammar in the rule.

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

- Rules Concerning Licensing Requirements (§283.12) (Tab 10)

  Ms. Benz directed the Board's attention to suggested amendments to rule language concerning licensing requirements. She explained 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, the motion was made by Ms. Stine to approve for proposal the amendments to §283.12, as presented. The motion was seconded by Ms. Mendoza and passed unanimously.

- Rules Concerning Licensing Requirements (§291.1) (Tab 11)

  Ms. Benz directed the Board's attention to suggested amendments to rule language concerning licensing requirements. She explained the amendments to §291.1 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, the motion was made by Mr. Abeldt to approve for proposal the amendments to §291.1, as presented. The motion was seconded by Mr. Dembny and passed unanimously.

- Rules Concerning Perpetual Inventory in Class A and Class A-S Pharmacies (§291.17) (Tab 12)

  Ms. Benz directed the Board's attention to suggested amendments to rule language concerning perpetual inventory. She explained the amendments to §291.17 require Class A and Class A-S pharmacies to maintain perpetual inventories.

  Following discussion, the motion was made by Mr. Wiesner to approve for proposal the amendments to §291.17, with a revision to not require a perpetual inventory. The motion failed due to lack of second.

  Following discussion, the motion was made by Ms. Yoakum to approve for proposal the amendments to §291.17, as presented. The motion was seconded by Ms. Mendoza and passed 8-1-0, with Mr. Wiesner opposed.

- Rules Concerning Shipping of Prescription Medications (§291.33) (Tab 13)

  Ms. Benz directed the Board's attention to suggested amendments to rule language concerning the shipping of prescription medications. She explained the amendments to §291.33 require pharmacies that ship prescription medications to ensure the medications are maintained at an appropriate temperature range to maintain the integrity of the medication throughout the delivery process.

  President Waggener recognized Dennis McAllister, with Express Scripts who presented comments to the Board.

  Following discussion, the motion was made by Mr. Dembny to approve for proposal the amendments to §291.33, with revisions. The motion was seconded by Mr. Abeldt and passed unanimously.

- Rules Concerning Floor Stock Documentation in Ambulatory Surgical Centers (§291.76) (Tab 14)

  Ms. Benz directed the Board's attention to suggested amendments to rule language concerning floor stock documentation in ambulatory surgical centers. She explained 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, the motion was made by Ms. Yoakum to approve for proposal the amendments to §291.76, as presented. The motion was seconded by Ms. Mendoza and passed unanimously.

- Rules Concerning Notification Requirements for Class E Pharmacies Dispensing Controlled Substances to Texas Residents (§291.104) (Tab 15)

  Ms. Benz directed the Board's attention to suggested amendments to rule language concerning Class E Pharmacies. She explained 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, the motion was made by Mr. Abeldt to approve for proposal the amendments to §291.104, as presented. The motion was seconded by Mr. Dembny and passed unanimously.

- Rules Concerning Sterile Compounding (§291.133) (Tab 16)

  Ms. Benz directed the Board's attention to suggested amendments to rule language concerning sterile compounding. She explained the amendments to §291.133 update the rules with regard to USP <797>.

  Following discussion, the motion was made by Mr. Wiesner to approve for proposal the amendments to §291.133, as presented. The motion was seconded by Mr. Miller and passed unanimously.

- Rules Concerning Floor Stock Documentation in Class F Pharmacies (§291.151) (Tab 17)

  Ms. Benz directed the Board's attention to suggested amendments to rule language concerning floor stock documentation in Class F pharmacies. She explained 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, the motion was made by Mr. Dembny to approve for proposal the amendments to §291.151, as presented. The motion was seconded by Ms. Mendoza and passed unanimously.

Rule Review

- For Proposal

  Ms. Benz directed the Board's attention to the TSBP Rule Review Plan for FY2014-2017 (Tab 18)

  - Chapter 291 Concerning Pharmacies (Institutional Pharmacy (Class C)) (§§291.71-291.76) (Tab 19)

  - Chapter 303 Concerning Destruction of Dangerous Drugs and Controlled Substances (§§303.1-303.3) (Tab 20)

  Following discussion, in accordance with Government Code §2001.039, the motion was made by Ms. Kedron to approve for proposal as presented, the review of Chapter 291 (§§291.71-291.76); and Chapter 303 (§§303.1-303.3). The motion was seconded by Mr. Wiesner passed unanimously.

D. <u>Discussion of and Possible Action Concerning the Following Reports and Discussions</u>

- Discussion Concerning PTCB Examination and Training Requirements for Pharmacy Technicians (Tab 37)

  Mr. Wiesner explained that currently TSBP requires pharmacy technician applicants to have passed the Pharmacy Technician Certification Board (PTCB) exam, before they can be registered. He further explained that PTCB is implementing changes in their certification program which will require new candidates for certification to complete an American Society of Health-System Pharmacies or Accreditation Council for Pharmacy Education (ASHP/ACPE) accredited pharmacy technician education program.

  Mr. Wiesner stated that the requiring of ASHP/ACPE accredited programs could impact the availability of technicians for Texas pharmacies as the training can take years and the cost of training could be a barrier for many prospective technicians.

  President Waggener directed the Board to comments received from Robin Randy, R.Ph.; the National Association of Chain Drug Stores; and Angelina College.

  President Waggener recognized Chris O'Connor, Senior Counsel, Regulatory and Governmental Affairs, Ascend Learning. Mr. O'Connor presented a report that Ascend Learning had commissioned a third party research organization to conduct an analysis of the pharmacy technician education and job placement capacity in Texas.

President Waggener recognized Everett McAllister, CEO and Executive Director of the Pharmacy Technician Certification Board. Mr. McAllister presented information concerning the proposed changes to the PTCB Certification Program.

President Waggener explained that due to scheduling requirements further discussion of the PTCB Examination and Training Requirements for Pharmacy Technicians would be postponed until later in the meeting.

- Presentation and Discussion Concerning Automated Storage and Dispensing Technology (Tab 36)

President Waggener recognized Bob Dufour, R.Ph., with MedAvail; Sunny Lalli, R.Ph., Director, Pharmacy and Regulatory Affairs, with MedAvail; and Ricardo Gonzales, Vice President, CommuniCare Health Centers.

Mr. Gonzales explained that CommuniCare Health Centers provides services to over 50,000 uninsured and underserved patients each year. He stated that often transportation is a barrier for patient's and having prescriptions available at the Health Centers would have a positive impact on their compliance and adherence to prescribed medication.

Mr. Gonzales stated CommuniCare Health Centers would like the Board to consider allowing a pilot project in two of their clinics with support provided by Walgreens retail pharmacies located near each clinic.

Mr. Lalli presented the Board an overview of the MedAvail MedCenter also known as the Walgreens Prescription Center (WPC). He explained the WPC is an automated solution that allows patients to access pharmacist counseling and support combined with prescription dispensing using automated technology.

Mr. Dufour explained that the WPC system is controlled by a pharmacist and a pharmacist must approve every medication dispensed.

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. Johnson presented information concerning the Asteres ScriptCenter automated prescription pick-up system. He explained that the system dispenses prescription that are completed and ready to be dispensed.

Mr. Wilson stated Baylor Scott and White would like the Board's to consider allowing a pilot project to place Scriptcenters in two Baylor Scott and White medical centers.

Following discussion, the Board directed staff to work with CommuniCare Health Centers and Baylor Scott and White to determine the eligibility of pilot projects. The Board asked staff to present recommendations concerning the requests for the pilot projects to the Board at its August 2016 meeting.

President Waggener recessed the meeting at 11:45 a.m.

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

- Financial Update

  - Review of FY2016 Operating Budget (Tab 21)

    Ms. Stella reviewed the expenditures for the first two quarters of FY2016 (September 1, 2015 - through February 29, 2016) for the Board.

  - Review of Board Member Travel Budget (Tab 22)

    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 23)

    Ms. Stella presented a report on material changes to TSBP contracts for goods and services for the first two quarters of FY2016 (September 1, 2015 – February 29, 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 Ms. Stine to approve the material changes to the contracts for goods and services as reported. The motion was seconded by Mr. Dembny and passed unanimously.

- Review and Approval of Exceptional Item Request for FY2018-2019 (Tab 24)

  Ms. Stella directed the Board's attention to the recommended Exceptional Item Request for FY2018-2019. Following review and discussion the Board recommended increasing the exceptional item request to include the new staff position of Assistant Director of Enforcement, and a request for $100,000.00 for improvements to the Hobby Building.

Following review and discussion of the budget documents, the motion was made by Mr. Dembny to approve the proposed Exceptional Item Request for FY2018-2019, with the recommended changes, and to give President Waggener and Executive Director Gay Dodson the authority to approve any additional changes that might arise during the 2017 Legislative Session. The motion was seconded by Ms. Mendoza and passed unanimously.

- Review TSBP Revenue Projections and Fee Recommendations (Tab 25)

  Ms. Stella provided the Board a report on revenue projections, history of TSBP's fee structure, and scenarios of fee structures necessary to support the agency's budget for FY2018-2019.

- Report on Internal Risk Assessment (Tab 26)

  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.

F. <u>Disciplinary Orders</u>

- Consideration of Proposal for Decision

  - In the Matter of Sheila Zulema Gallegos, Technician Registration #227495 (Tab 43)

    Ms. Hotchkiss advised the Board that a hearing was held before State Office of Administrative Hearings Administrative Judge Elizabeth Drews, on December 14, 2015, in the matter of Sheila Zulema Gallegos.

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

    Ms. Hotchkiss directed the Board's attention to proposed Board Order #T-15-392-N, which she reviewed for the Board.

    Following discussion, the motion was made by Ms. Stine to accept the *Findings of Fact and Conclusions of Law* in the *Proposal for Decision* and approve Board Order #T-15-392-N, as presented, in the matter of Sheila Zulema Gallegos, to suspend Ms. Gallegos' pharmacy technician registration, effective upon registration, for thirty days, followed by a three year probation with conditions. The motion was seconded by Mr. Dembny and passed unanimously.

D. <u>Discussion of and Possible Action Concerning the Following Reports and Discussions</u> (cont'd)

- Review and approval of *TSBP FY2015 Annual Report* (Tab 30)

  Ms. Dodson directed the Board's attention to a draft of the *TSBP FY2015 Annual Report*. She reviewed the agency's significant accomplishments in FY2015 for the Board.

- Discussion Concerning *TSBP FY2017-2021 Strategic Plan* (Tab 31)

  Ms. Dodson directed the Board's attention to a draft of the *TSBP FY2017-2021 Strategic Plan*.

- *TSBP FY2017 Calendar of Events* (Tab 32)

  Ms. Dodson directed the Board's attention to a draft of the *TSBP FY2017 Calendar of Events*.

  Following review, the motion was made by Mr. Dembny to approve the *TSBP FY2015 Annual Report; the TSBP FY2017-2021 Strategic Plan; and the TSBP FY2017 Calendar of Events*, as presented. The motion was seconded by Mr. Abeldt and passed unanimously.

- Report on Customer Service Survey (Tab 33)

  Ms. Dodson directed the Board's attention to the results of the TSBP Report on Customer Service for FY2014-2015. Ms. Dodson reviewed the report for the Board.

- 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 (FY2013-2015) as well as the quarterly report on the number of pharmacists participating in the program during the first two quarters of FY2016 (September 1, 2015 – February 29, 2016). (Tab 27)

  - President Waggener recognized Courtney Hulbert with the Professional Recovery Network (PRN). Ms. Hulbert directed the Board's attention to the PRN budget report for FY2016 (September 1, 2015 – February 29, 2016). Ms. Hulbert reviewed current PRN activities for the Board. (Tab 28)

  - Ms. Hulbert directed the Board's attention to the PRN Proposed Budget for FY2018-2019 and pointed out that PRN was asking for a 4% increase in funding. (Tab 29)

- Discussion Concerning the Licensure of a Pharmacy Management Company in a Hospital Pharmacy (Tab 34)

  President Waggener recognized Heidi Bragg, R.Ph., Director, Regulatory Management for Cardinal Health Pharmacy Services, LLC. Ms. Bragg presented information concerning hospital pharmacies which are operated by a pharmacy management company. Ms. Bragg suggested potential amendments to rule §291.74 which currently requires the pharmacy management company to be listed as the owner or operator of the hospital pharmacy.

  Following discussion the Board instructed staff to research the issue and present possible amendments of rules at a future Board meeting.

- Presentation and Discussion Concerning Telepharmacy (Tab 35)

  President Waggener recognized Adam Chesler, Pharm.D., with TelePharm who presented information concerning the changes in telepharmacy.

  Following discussion, the Board directed staff to bring back suggested rule amendments concerning telepharmacy.

- Presentation and Discussion Concerning Pharmacist Point of Care Testing (Tab 38)

  Mr. Wiesner stated that currently pharmacist can conduct limited patient testing but cannot initiate treatment/therapy.

  President Waggener recognized Griff Danheim, Specialty Markets Director, for Quidel Corporation. Mr. Danheim presented information concerning the diagnostic testing equipment available for pharmacies.

  Following discussion there was no action taken by the Board.

- Discussion Concerning End-to-End Electronic Prescriptions, Entities Involved, and NCPDP Standard for Electronic Prescriptions (Tab 39)

  Mr. Wiesner explained that the standards for prescription claims are constantly changing. He passed out information with examples of State legislation or rules that address patient and prescriber choice involving electronic transfer of information.

  Following discussion there was no action taken by the Board.

- Report on Prescription Monitoring Program Implementation (Tab 40)

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

  Ms. Benz presented the minutes from the January 18, 2016, meeting of the PMP work group.

  Ms. Benz explained that staff was moving forward with the selection of a prescription pad vendor.

  Ms. Benz presented screen shots of the new program and explained that emails will be sent out to users explaining how to register on the new system.

- Report on Sunset Review (Tab 41)

  President Waggener stated she wished to thank the staff for their outstanding work with the Sunset Commission.

  Ms. Dodson presented the Board a summary of the Sunset Commission's recommendation and explained that the Sunset Commission would schedule a public hearing in June.

- Discussion of Possible Statutory Changes for Consideration During the 85th Session of the Texas Legislature (Tab 42)

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

- Discussion Concerning PTCB Examination and Training Requirements for Pharmacy Technicians (Tab 37) (cont'd)

  President Waggener recognized Lisa McCarthy, M.Ed., CPhT, PhTR Department Chair, Pharmacy Technology Program, Austin Community College. Ms. McCarthy stated she supported keeping PTCB as the only acceptable examination for pharmacy technician certification in Texas.

  President Waggener recognized David Dubose, R.Ph., who stated he was concerned about the number of ASHP/ACPE accredited pharmacy technician education programs in Texas, and recommended that Texas accept both the PTCB and ExCPT examination.

  President Waggener recognized Tim Cooks, R.Ph., who stated that Texas does not require pharmacy technician educational programs that this would be PTCB's requirement.

  Following discussion the Board directed staff to continue to monitor PTCB's implementation of changes to the pharmacy technician certification program.

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

- Consideration of Proposal for Decision

  - In the Matter of Tiana Jean Witcher, Pharmacist License #30135 (Tab 44)

    - Executive Session

      The motion was made by Mr. Dembny that the Board go into Executive Session, under the authority of Texas Occupations Code §552.011, to deliberate relating to discipline of a licensee and to consult with counsel. The motion was seconded by Mr. Abeldt and passed unanimously. President Waggener declared the Board in Executive session at 3:17 p.m.

      President Waggener announced the Board would enter Open Session at 3:26 p.m., and announced that no actions were taken and no decision were made during Executive Session.
      Ms. Arnold directed the Board's attention to Board Order #L-10-017, concerning Tiana Jean Witcher, R,Ph., enter by the Board on November 1, 2011.

      Following discussion, the motion was made by Mr. Dembny to vacate Board Order #L-10-107, and dismiss all action against Tiana Jean Witcher, Pharmacist License #30135. The motion was seconded by Ms. Mendoza and passed unanimously

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 45)

  - The Board reviewed 34 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 February 18, 2016, through April 25, 2016.

  - The Board reviewed six 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 February 18, 2016, through April 28, 2016, and one Confidential Agreed Board Order entered on March 3, 2016.

- Discussion of and Action on Proposed Agreed Board Orders and Proposed Default Board Orders (Tab 46)

  - 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 20 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.	Savannah Nicole Marin	ABO #T-16-012-N
2.	Heather Cheree Adams	ABO #T-15-332
3.	Ashley Rosalie Doner	ABO #T-16-035-N
4.	Ivan Castillo Hernandez	ABO #T-15-207
5.	Marcie Mae McCann	ABO #T-16-032-N
6.	Stephanie Sanchez	ABO #T-15-206
7.	Ell Rayena Young	ABO #T-15-339
8.	Becky Lynn Bradley	ABO #T-14-492
9.	Esmeralda Morales Cirlos	ABO #T-14-494
10.	Mark Dunn	ABO #T-15-445-N
11.	Salvador Escobar	ABO #T-15-374
12.	Kasey Jo Hart	ABO #T-15-327-N
13.	Yvette Rodriguez	ABO #T-16-057-N
14.	Ariel Thompson	ABO #T-15-291
15.	Andrea Cherie Young	ABO #T-16-056-N
16.	Jasmine Simone Jones	ABO #T-15-425
17.	Theisha Meyatta Kawah	ABO #T-16-133
18.	Tessa Ray	ABO #T-15-415
19.	Crayanny Renee Robinson	ABO #T-15-424-N

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

20.	Claude Doni	DBO #T-15-430
21.	Eric Anthony Guzman	DBO #T-15-435
22.	Marco Antonio Ibarra	DBO #T-15-209
23.	Norman Eugene Miller	DBO #T-15-437
24.	Michael Kariuki Njenga	DBO #T-15-384
25.	Calvin Riley Parker	DBO #T-15-427-N
26.	Samantha Smith	DBO #T-15-429
27.	Joshua Eli Trevino	DBO #T-16-047
28.	Roberta Jo Underwood	DBO #T-16-042
29.	Jose Miguel Calvillo	DBO #T-16-049
30.	Vonda Lashone Collier	DBO #T-15-402
31.	Latorre Haymon	DBO #T-15-442
32.	Veronica Ann Hinton	DBO #T-15-369
33.	Kirsten Paige Laskoskie	DBO #T-15-411-N

34.	Chris Lewis	DBO #T-15-443
35.	Lesa McBride	DBO #T-15-370
36.	Taylor Marie Russell	DBO #T-15-447-N
37.	Lorenzo Cruz	DBO #T-16-099
38.	Quar'tesha Milligan	DBO #15-455-N
39.	Shawntel Kaye Williams	DBO #T-16-116

The motion was made by Mr. Dembny to approve the 19 proposed Agreed Board Orders concerning pharmacy technicians and pharmacy technician trainees who appeared for an Informal Conference; and 20 proposed Default Board Orders concerning pharmacy technicians and pharmacy technician trainees who did not appear for an Informal Conference.

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

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

1. 8-0-1 Mr. Dembny abstained
2. 8-0-1 Mr. Abeldt abstained
3. 8-0-1 Mr. Abeldt abstained
4. 8-0-1 Mr. Abeldt abstained
5. 8-0-1 Mr. Abeldt abstained
6. 8-0-1 Mr. Abeldt abstained
7. 8-0-1 Mr. Abeldt abstained
8. 8-0-1 Ms. Stine abstained
9. 8-0-1 Ms. Stine abstained
10. 8-0-1 Ms. Stine abstained
11. 8-0-1 Ms. Stine abstained
12. 8-0-1 Ms. Stine abstained
13. 8-0-1 Ms. Stine abstained
14. 8-0-1 Ms. Stine abstained
15. 8-0-1 Ms. Stine abstained
16. 9-0-0
17. 9-0-0
18. 9-0-0
19. 9-0-0

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

20. 8-0-1 Mr. Abeldt abstained
21. 8-0-1 Mr. Abeldt abstained
22. 8-0-1 Mr. Abeldt abstained
23. 8-0-1 Mr. Abeldt abstained
24. 8-0-1 Mr. Abeldt abstained
25. 8-0-1 Mr. Abeldt abstained
26. 8-0-1 Mr. Abeldt abstained
27. 8-0-1 Mr. Abeldt abstained
28. 8-0-1 Mr. Abeldt abstained

29. 8-0-1 Ms. Stine abstained
30. 8-0-1 Ms. Stine abstained
31. 8-0-1 Ms. Stine abstained
32. 8-0-1 Ms. Stine abstained
33. 8-0-1 Ms. Stine abstained
34. 8-0-1 Ms. Stine abstained
35. 8-0-1 Ms. Stine abstained
36. 8-0-1 Ms. Stine abstained
37. 9-0-0
38. 9-0-0
39. 9-0-0

- The Board reviewed the alleged violations, as well as the recommended sanctions for each of the following: 26 proposed Agreed Board Orders (Alternative Resolutions); 34 proposed Agreed Board Orders concerning pharmacies; pharmacists; interns; and technicians following an Informal Conference; and three Temporary Suspension Orders concerning one pharmacy and one technician following Temporary Suspension Hearings.

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

1.	American Specialty Pharmacy	ABO #K-16-001-A
2.	Bharat Pareek	ABO #K-16-001-B
3.	Iftikhar Hussain	ABO #K-16-005
4.	Anazaohealth Corporation	ABO #L-16-005
5.	Commcare Pharmacy-FTL	ABO #L-15-031
6.	CVS/pharmacy #5799	ABO #H-15-046-B
7.	Bill Thomas	ABO #H-15-046-A
8.	CVS/pharmacy #7149	ABO #J-15-007
9.	CVS/pharmacy #7805	ABO #H-15-047-B
10.	Amanda Chidimma Okafor	ABO #H-15-047-A
11.	CVS/pharmacy #7816	ABO #H-15-037-B
12.	CVS/pharmacy #8445	ABO #H-15-048-B
13.	Hometown Pharmacy	ABO #K-15-032-B
14.	Edward L. Emde	ABO #K-15-032-A
15.	Sung Kyung Lee	ABO #L-15-035
16.	Owen Pharmacy	ABO #K-15-033-B
17.	Stephen Frank Owen	ABO #K-15-033-A
18.	Park Irmat Drug Corp.	ABO #L-16-008
19.	Walgreens #03878	ABO #H-15-062-B
20.	Walgreens #4133	ABO #H-15-031
21.	Walgreens Mail Service, Inc.	ABO #H-16-003
22.	Walgreens #5423	ABO #H-15-040-B
23.	Walgreens #5765	ABO #H-15-082-B
24.	Walgreens #7112	ABO #H-15-050-B
25.	Walgreens #11646	ABO #H-15-060-B
26.	Walmart Pharmacy 10-2996	ABO #H-15-052-B

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

27.	Isaac Simeon Achobe	ABO #R-16-001
28.	Baylor Medical Center at Uptown	ABO #K-15-037-B
29.	Nighat Iqbal Uddin	ABO #K-15-037-a
30.	Central Texas Rehabilitation Hospital Pharmacy	ABO #K-15-026-B
31.	Carla Kenyon Demler	ABO #K-15-026-A
32.	Civic Center Pharmacy	ABO #L-16-004
33.	CVS/pharmacy #1057	ABO #B-13-016
34.	CVS/pharmacy #5380	ABO #H-15-051-B
35.	CVS/pharmacy #7477	ABO #H-14-056-B
36.	Christa Adhiambo	ABO #H-14-056-A
37.	Christopher L. Brockman	ABO #H-15-061
38.	CVS/pharmacy #8342	ABO #K-15-008-B
39.	Kashawne Torey Williams	ABO #K-15-008-A
40.	Tiffany Tiara Griffin	ABO #T-15-133
41.	Dougherty's Pharmacy-Forest Park Dallas	ABO #H-15-065-B
42.	Steven Michael Pettit	ABO #H-15-065-A
43.	H.E.B. Pharmacy #387, L.P.	ABO #J-15-004-B
44.	Nichole Layne Morgan Venters	ABO#J-15-004-A
45.	Kathryn Michelle Herzog	ABO #A-14-020
46.	Kroger Pharmacy #108	ABO #B-15-007
47.	Robert Andrew Record	ABO #H-15-004-A
48.	Ashley Brook Saylor	ABO #J-16-003
49.	Tom Thumb Pharmacy #2581	ABO #B-14-008
50.	Tom Thumb Pharmacy #3582	ABO #H-15-045-B
51.	Simmy B. Mathew	ABO #H-15-045-A
52.	Walgreens #4395	ABO #H-15-055-B
53.	Jerry Bernard Davis	ABO #H-15-055-A
54.	Walgreens #4690	ABO #H-15-077-B
55.	Roberto Perez Garcia	ABO #H-15-077-A
56.	Walgreens #9601	ABO #H-15-039-B
57.	Allison Glogosh Hill	ABO #H-15-039-A
58.	Walgreen #10846	ABO #H-16-002-B
59.	Catherine Cao	ABO #H-16-002-A
60.	Wickliffe Pharmaceuticals, Inc.	ABO #L-14-055

Temporary Suspension Order (Pharmacy)
(Following a Temporary Suspension Hearing**)**

60.	Upshaw Pharmacy	TSO #J-16-002-S1

Agreed Temporary Suspension Order (Pharmacy)
(Following a Temporary Suspension Hearing**)**

61.	Upshaw Pharmacy	TSO #J-16-002-S2

Temporary Suspension Order (Technician)
(Following a Temporary Suspension Hearing**)**

62. Shayna Kelly TSO #T-15-226-S1

The motion was made by Mr. Dembny to approve the 26 proposed Agreed Board Orders (Alternative Resolutions); 34 proposed Agreed Board Orders concerning pharmacies; pharmacists; pharmacist-interns; and technicians following an Informal Conference

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

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

1. 9-0-0
2. 9-0-0
3. 9-0-0
4. 9-0-0
5. 9-0-0
6. 9-0-0
7. 9-0-0
8. 9-0-0
9. 9-0-0
10. 9-0-0
11. 9-0-0
12. 9-0-0
13. 9-0-0
14. 9-0-0
15. 9-0-0
16. 9-0-0
17. 9-0-0
18. 9-0-0
19. 9-0-0
20. 9-0-0
21. 9-0-0
22. 9-0-0
23. 9-0-0
24. 9-0-0
25. 9-0-0
26. 9-0-0

Agreed Board Orders (Pharmacies; Pharmacists; Interns; and Technicians)
*(*Following an Informal Conference)

27. 8-0-1 Mr. Abeldt abstained
28. 9-0-0
29. 9-0-0
30. 9-0-0
31. 9-0-0
32. 9-0-0
33. 8-0-1 Mr. Abeldt abstained

34. 9-0-0
35. 8-0-1 Mr. Abeldt abstained
36. 8-0-1 Mr. Abeldt abstained
37. 8-0-1 Mr. Abeldt abstained
38. 8-0-1 Mr. Abeldt abstained
39. 8-0-1 Mr. Abeldt abstained
40. 8-0-1 Mr. Abeldt abstained
41. 8-0-1 Mr. Abeldt abstained
42. 8-0-1 Mr. Abeldt abstained
43. 7-0-2 Mr. Abeldt and Mr. Wiesner abstained
44. 7-0-2 Mr. Abeldt and Mr. Wiesner abstained
45. 8-0-1 Mr. Abeldt abstained
46. 9-0-0
47. 8-0-1 Mr. Abeldt abstained
48. 8-0-1 Mr. Abeldt abstained
49. 8-0-1 Mr. Abeldt abstained
50. 9-0-0
51. 9-0-0
52. 8-0-1 Mr. Abeldt abstained
53. 8-0-1 Mr. Abeldt abstained
54. 8-0-1 Mr. Abeldt abstained
55. 8-0-1 Mr. Abeldt abstained
56. 8-0-1 Mr. Abeldt abstained
57. 8-0-1 Mr. Abeldt abstained
58. 8-0-1 Mr. Abeldt abstained
59. 8-0-1 Mr. Abeldt abstained
60. 8-0-1 Mr. Abeldt abstained

- Confidential Agreed Board Orders (Tab 47)
  - The Board reviewed the alleged violations, as well as the recommended sanctions for three proposed Confidential Board Orders (Alternative Resolutions); seven proposed Confidential Board Orders following Informal Conferences; and one Confidential Board Order following a Temporary Suspension Hearing.

<u>Agreed Confidential Board Orders</u> (Pharmacists)
(Alternative Resolutions)

1. ABO #L-16-003
2. ABO #L-14-056
3. ABO #G-14-009

(Following an Informal Conference)

4. ABO #M-16-005
5. ABO #L-15-034
6. ABO #E-16-001
7. ABO #L-14-051
8. ABO #G-15-018
9. ABO #N-16-006
10. ABO #E-16-002

Confidential Board Order (Pharmacist)
(Following a Temporary Suspension Hearing)

1. TSO #G-16-007-S1

The motion was made by Mr. Abeldt to approve the three proposed Confidential Agreed Board Orders (Alternative Resolutions) and seven proposed Confidential Agreed Board Orders following Informal Conferences.

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

Agreed Confidential Board Orders
(Alternative Resolutions)

1. 9-0-0
2. 9-0-0
3. 9-0-0

(Following an Informal Conference)

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

- Discussion of and Action on Proposed Remedial Plans (Tab 48)
  - The Board reviewed the alleged violations, as well as the recommended sanctions for each of the following nine proposed Remedial Plans (Alternative Resolutions).

Remedial Plans (Pharmacies and Pharmacists)
(Alternative Resolutions)

1. Jennifer Ngoc Cao	#H-15-062-A
2. Monica Duran	#H-15-082-A
3. Simon Le	#H-15-038-A
4. Dianna Jean Martin	#H-15-030-A
5. Khiem Buu Nguyen	#H-15-040-A
6. Mai Thi Nguyen	#H-15-052-A
7. Bhaveshkumar Bhimjibhai	#H-15-050-A
8. Manish Ambalal Patel	#H-15-037-A
9. Brook Taylor Paterra	#H-15-011-A

The motion was made by Ms. Mendoza to approve the nine proposed Remedial Plans (Alternative Resolutions).

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

Remedial Plans (Alternative Resolutions)

1. 9-0-0
2. 9-0-0
3. 9-0-0
4. 9-0-0
5. 9-0-0
6. 9-0-0
7. 9-0-0
8. 9-0-0
9. 9-0-0

F. Consideration of and Possible Action Concerning Enforcement Reports

- Report on Complaints Closed and Dismissed During the Previous Quarter (Tab 49)

  The Board received a report on complaints dismissed and closed during the first two quarters of FY2016 (September 1, 2015 – February 29, 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 50)

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

  Ms. Fisher reviewed the report for the Board.

Ms. Stine left the meeting at 3:48 pm.

F. Disciplinary Orders (cont'd)

- Confidential Agreed Board Orders (Tab 47) (cont'd)

  - The Board reviewed the alleged violations, as well as the recommended sanctions for one Confidential Agreed Board Order following a Temporary Suspension Hearing.

    Confidential Agreed Board Order (Pharmacist)
    (Following a Temporary Suspension Hearing**)**

    1. TSO #G-16-007

    The motion was made by Mr. Miller to approve the one proposed Confidential Agreed Board Order following a Temporary Suspension Hearing. The motion was seconded by Ms. Mendoza and passed 6-0-2 with Mr. Wiesner and Mr. Miller abstaining.

G. Miscellaneous

- Items to be Placed on Agenda for August Board Meeting (Tab 51)
  - Possible rules concerning telepharmacy
  - Pilot Project applications
- 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.

President Waggener adjourned the meeting at 4:00 p.m.

APPROVED:

_____
Jeanne D. Waggener, R.Ph.
President

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

August 2, 2016

TEXAS STATE BOARD OF PHARMACY

May 19, 2016

Minutes of the Consideration of Show Cause Order and Temporary Suspension Hearing of Veronica Molina (Registration #105847)

Chair Jeanne D. Waggener, R.Ph., called the meeting to order at 1:12 p.m., in conference room number 400A, Tower II, 333 Guadalupe Street, Austin, Texas 78701. Board Members, Phyllis A. Stine and Suzette Tijerina, R.Ph., were also present.

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

Respondent: Veronica Molina (Registration #105847).

Court Reporter: Amy Clark, Integrity Legal Support Solutions.

A. Opening:

The Chair called the case of the Consideration of Show Cause Order and Petition for the Temporary Suspension in the Matter of Veronica Molina (Registration #105847). 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 Hotchkiss, attorney for the Board staff.
Respondent: Veronica Molina was 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. Cross examination of Veronica Molina.
4. Closing statement.

C. Presentation by Respondent:

1. Opening statement.
2. Introduction of documents into evidence. All admitted.
3. Testimony of Veronica Molina.
4. Closing statement.

D. Motions:

1. A motion was made by Ms. Stine 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 Respondent at 1:41 p.m. Ms. Tijerina seconded the motion. The motion passed unanimously.

   The panel members went into Executive Session.

   The Chair reconvened the meeting at 1:52 p.m., and announced that no action was taken during Executive Session.

2. A motion was made by Ms. Tijerina that the Order requiring an examination of Veronica Molina (Registration #105847) be adopted in that the evidence indicates probable cause that Ms. Molina has developed an incapacity of a nature that prevents a pharmacy technician from practicing with reasonable skill, competence, and safety to the public. Ms. Tijerina further moved that the Order require Ms. Molina to submit to a mental examination by a physician or other health care professional designated by the Board no later than 60th day after the date of the Order. Ms. Stine seconded the motion. The motion passed unanimously with the Order being effective immediately.

3. A motion was made by Ms. Stine that the Petition for the Temporary Suspension of Veronica Molina (Registration #105847) be denied, in that there was insufficient evidence and information to indicate that Respondent's practice as a pharmacy technician or a pharmacy technician trainee poses a continuing threat to the public welfare. Ms. Tijerina seconded the motion. The motion passed unanimously with the denial of the Petitions for Temporary Suspension.

   The Chair announced that the Order was granted and the Petition for Temporary Suspension in the Matter of Veronica Molina was denied.

Chair Waggener adjourned the hearing at 1:55 p.m.

APPROVED:

_____
Jeanne D. Waggener, R.Ph.
Chair

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