



TEXAS STATE BOARD OF PHARMACY

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

February 6, 2018

MINUTES¹

BOARD BUSINESS MEETING

Tuesday, February 6, 2018

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

Staff present were Allison Vordenbaumen Benz, R.Ph., M.S., Executive Director/Secretary; Cathy Stella, Director of Licensing and Administrative Services; Carol Fisher, R.Ph., M.P.A., Director of Enforcement; Kerstin Arnold, General Counsel; Caroline Hotchkiss, Assistant General Counsel; Megan Holloway, Assistant General Counsel; 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.

¹See 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 Mr. Dembny to approve the minutes of the Board Member Training Session held November 6, 2017; the minutes of the Board Business Meeting held November 7, 2017; the minutes of a Temporary Suspension Hearing held November 15, 2017; and the minutes of a Temporary Suspension Hearing held January 19, 2018, as presented. The motion was seconded by Ms. Tijerina and passed unanimously.

C. Discussion of and Possible Action Regarding Rules

Final Adoption of Rules

- Rules Concerning Licensing Requirements (§283.3) (Tab 02)

Ms. Holloway explained that the Board voted to propose the amendments to §283.3 during its November 7, 2017, meeting. The proposed amendments were published in the December 29, 2017, issue of the *Texas Register*, and no comments were received.

Ms. Holloway directed the Board's attention to amendments and explained that the amendments to §283.3 clarify requirements for pharmacist licensure by removing a reference to good moral character.

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 §283.3, as presented. The motion was seconded by Ms. Kedron and passed unanimously.

- Rules Concerning the Duties of a Pharmacist in Charge of a Class G Pharmacy (§291.153) (Tab 03)

Ms. Holloway explained that the Board voted to propose the amendments to §291.153 during its November 7, 2017, meeting. The proposed amendments were published in the December 29, 2017, issue of the *Texas Register*, and no comments were received.

Ms. Holloway directed the Board's attention to the amendments to §291.153 and explained that the proposed amendments remove a reference to drug therapy management as a pharmacist duty in a Class G setting and correct grammatical errors.

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

- Rules Concerning the Definition of Employment (§295.2) (Tab 04)

Ms. Holloway explained that the Board voted to propose the amendments to §295.2 during its November 7, 2017, meeting. The proposed amendments were published in the December 29, 2017, issue of the *Texas Register*, and no comments were received.

Ms. Holloway directed the Board's attention to amendments to §295.2 and explained that the amendments add a definition of the term employment.

Following discussion and review of the Preambles and Orders Adopting Rules, the motion was made by Ms. Kedron to approve for adoption, by Board Order, amendments to §295.2, as presented. The motion was seconded by Ms. Mendoza and passed unanimously.

- Rules Concerning Continuing Education Requirements for Pharmacists (§295.8) (Tab 05)

Ms. Holloway explained that the Board voted to propose the amendments to §295.8 during its November 7, 2017, meeting. The proposed amendments were published in the December 29, 2017, issue of the *Texas Register*, and no comments were received.

Ms. Holloway directed the Board's attention to amendments to §295.8 and explained that the amendments add a requirement of one hour of continuing education on opioid abuse for pharmacist license renewal.

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

Following further discussion the Board asked staff to bring back recommended rule language concerning adding the requirement of one hour of continuing education on opioid abuse for pharmacist reactivating their license.

- Rules Concerning Renewal Fees for Expired Pharmacy Technician Registrations (§297.3) (Tab 06)

Ms. Holloway explained that the Board voted to propose the amendments to §297.3 during its November 7, 2017, meeting. The proposed amendments were published in the December 29, 2017, issue of the *Texas Register*, and no comments were received.

Ms. Holloway directed the Board's attention to amendments to §297.3 and explained that the amendments create a schedule for the renewal of an expired pharmacy technician registration

Following discussion and review of the Preambles and Orders Adopting Rules, the motion was made by Ms. Mendoza to approve for adoption, by Board Order, amendments to §297.3, as presented. The motion was seconded by Mr. Miller and passed unanimously.

Proposal of Rules

- Rules Concerning Prescription Pick Up Locations (§291.9) (Tab 07)

Ms. Holloway directed the Board's attention to suggested amendments to rule language concerning prescription pick up locations. She explained the proposed amendments clarify the requirements for prescription pick up locations to be consistent with Drug Enforcement Administration (DEA) requirements.

Ms. Yoakum presented a letter from the DEA concerning the delivery of controlled substances to the prescribing practitioner, rather than directly to the patient, under certain circumstances.

Following discussion, the motion was made by Mr. Dembny to approve for proposal amendments to §291.9, with recommended changes. The motion was seconded by Ms. Yoakum and passed unanimously.

- Rules Concerning Automated Checking Devices (§291.33) (Tab 08)

Ms. Holloway directed the Board's attention to suggested amendments to rule language concerning automated checking devices. She explained the proposed amendments update the requirements for the use of automated checking devices in Class A pharmacies.

Following discussion, the motion was made by Mr. Wiesner to approve for proposal amendments to §291.33, as presented. The motion was seconded by Ms. Kedron and passed unanimously.

- Rules Concerning Automated Storage and Distribution Devices (§291.33) (Tab 09)

Ms. Holloway directed the Board's attention to suggested amendments to rule language concerning automated storage and distribution devices. She explained the proposed amendments update the requirements for the use of automated storage and distribution devices in Class A pharmacies.

President Waggener recognized John Wilson, R.Ph., with Baylor Scott and White, and Daryle Johnson, with Asteres, Inc. Mr. Johnson described the security established for the Baylor Scott and White Pilot Project using automated storage and distribution devices.

Following discussion, the motion was made by Mr. Thornsburg to approve for proposal amendments to §291.33, as presented. The motion was seconded by Ms. Mendoza and passed unanimously.

- Rules Concerning Dispensing Pharmacist Initial Log (§§291.75 and 291.76) (Tab 10)

Ms. Holloway directed the Board's attention to suggested amendments to rule language concerning pharmacist initial logs. She explained the proposed amendments clarify the requirements for maintaining a log of pharmacy personnel initials or identification codes.

Following discussion, the motion was made by Ms. Kedron to approve for proposal amendments to §§291.75 and 291.76, as presented. The motion was seconded by Mr. Wiesner and passed unanimously.

- Rules Concerning Drugs Dispensed Through a Telepharmacy System (§291.121) (Tab 11)

Ms. Holloway directed the Board's attention to suggested amendments to rule language concerning telepharmacies. She explained the proposed amendments clarify the requirements for delivery of drugs dispensed at a remote site through a telepharmacy system.

Following discussion, the motion was made by Ms. Yoakum to approve for proposal amendments to §291.121, as presented. The motion was seconded by Mr. Abeldt and passed unanimously.

- Rules Concerning Prescription Drug Order Clarification (§291.125) (Tab 12)

Ms. Holloway directed the Board's attention to suggested amendments to rule language concerning prescription drug order clarification. She explained the proposed amendments clarify the definition of an outsourcing pharmacy and update the requirements for centralized prescription dispensing.

Following discussion, the motion was made by Ms. Yoakum to approve for proposal amendments to §291.125, as presented. The motion was seconded by Mr. Dembny and passed unanimously.

- Rules Concerning Pharmacies Located in a Freestanding Emergency Medical Care Facility (Class F) Emergency Room (§291.151) (Tab 13)

Ms. Holloway directed the Board's attention to suggested amendments to rule language concerning emergency medical care facilities. She explained the proposed amendments clarify the duties of the pharmacist-in-charge to include ensuring a pharmacist visits the pharmacy at least once each calendar week; clarify the requirements regarding the withdrawal of drugs from the freestanding emergency medical care facility; and correct a rule reference.

Following discussion, the motion was made by Mr. Abeldt to approve for proposal amendments to §291.151, as presented. The motion was seconded by Ms. Yoakum and passed unanimously.

President Waggener recessed the meeting at 10:00 a.m.

President Waggener reconvened the meeting at 10:12 a.m.

Rule Review

- For Adoption

Ms. Holloway directed the Board's attention to the TSBP Rule Review Plan for FY2018-2021 (Tab 14)

- Chapter 291 Concerning Pharmacies (Nuclear Pharmacy (Class B)) (§§291.51-291.55) (Tab 15)
- Chapter 305 Concerning Educational Requirements (§§305.1-305.2) (Tab 16)
- Chapter 309 Concerning Generic Substitution (§§309.1-309.8) (Tab 17)

Following discussion, in accordance with Government Code §2001.039, the motion was made by Mr. Thornsburg to approve for adoption as presented, the review of Chapter 291 (§§291.51-291.55); Chapter 305 (§§305.1-305.2); and Chapter 309 (§§309.1-309.8). The motion was seconded by Mr. Abeldt passed unanimously.

Ms. Holloway directed the Board's attention to comments received from Lisa McCartney, M.Ed., CPhT., PhTR, concerning rule §305.2. Ms. McCartney's comments noted that as of 2015, pharmacy technician education and training programs are accredited jointly by the American Society of Health-System Pharmacists and the Accreditation Council in Pharmacy Education (ASHP/ACPE).

Following discussion the Board directed staff to review rules concerning pharmacy technician training programs and to bring back recommendations to a future Board meeting.

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

- Financial Update
 - Consideration of Material Changes to Contracts for Goods and Services Awarded Under Chapter 2155 of Texas Government Code (Tab 18)

No material changes to contracts for goods and services were presented.
 - Review of FY2017 Operating Budget (Tab 19)

Ms. Stella reviewed the expenditures for FY2017 (September 1, 2016 - through August 31, 2017) for the Board.
 - Review of Board Member Travel Budget (Tab 20)

Ms. Stella reviewed the Board Member FY2018 Travel Budget.
- Review and Approval of *TSBP FY2017 Annual Report* (Tab 24)

Ms. Benz directed the Board's attention to a draft of the *TSBP FY2017 Annual Report*. She reviewed the agency's significant accomplishments in FY2017 for the Board.

Following review and discussion, the motion was made by Mr. Dembny to approve the *TSBP FY2017 Annual Report*, as presented. The motion was seconded by Mr. Abeldt and passed unanimously.
- Discussion Concerning the *TSBP FY2019-2023 Strategic Plan* (Tab 25)

Ms. Benz directed the Board's attention to a listing of four issues for the Board to review concerning for the *TSBP FY2019-2023 Strategic Plan*.

She requested that Board members contact her if they had any additional issues they would like to have considered.

Ms. Benz also presented a summary of suggestions received from the National Community Pharmacists Association (NCPA); the Accreditation Council for Pharmacy Education (ACPE); the American Society of Health-System Pharmacist (ASHP); the American Association of Pharmacy Technicians (AAPT); and the National Associations of Chain Drug Stores (NACDS), in response to a letter TSBP mailed in September 2017, requesting input.

- Discussion Concerning Board Investigative/Disciplinary Priorities (Tab 26)

Ms. Benz directed the Board's attention to the current list of Board Investigative and Disciplinary priorities and asked that the Board member's review and make recommendations for any needed changes.

- Discussion Concerning Class D Pharmacy Rules (Tab 28)

Mr. Wiesner stated he was concerned about the limited types of drugs that were approved for the formulary in Class D Pharmacies. He explained that many of the patients of Class D pharmacies are diabetic and the approved formulary does not include diabetic medications.

Mr. Wiesner stated that although Class D pharmacies could get approval for an expanded formulary if 80% or more of their patients were indigent he was concerned that this requirement might be too restrictive.

Ms. Benz explained that all Class D pharmacy formularies are reviewed by the TSBP Compliance staff every two years, and that that the majority of medication dispensed from a Class D pharmacy was prepackaged.

Mr. Santana explained that he reviews the requests from Class D pharmacies for expanded formularies and that very few are denied as they generally meet the 80% indigent requirement.

Mr. Wiesner stated he would like to work with Board staff concerning expanded formularies in Class D pharmacies and bring back additional information to a future Board meeting.

- Review and Approval of Internal Audit Plan (Tab 21)

Ms. Benz presented information concerning the proposed TSBP Internal Audit Plan for FY2018.

President Waggener recognized Kimberly Lopez Gonzalez with Garza/Gonzalez & Associates, a Certified Public Accounting firm. Ms. Gonzalez explained that TSBP's FY2018 Internal Audit Plan was prepared using a risk assessment process, where various documents and questionnaires completed by TSBP's Board President, Executive Director, and staff were reviewed.

She explained audit topics were identified as High, Moderate, and Low risk areas and that the area recommended for internal audit in FY2018 was the Prescription Monitoring Program.

Following discussion a motion was made by Ms. Mendoza to approve the FY2018 Internal Audit Plan. The motion was seconded by Mr. Abeltdt and passed unanimously.

- Discussion Concerning Finger Tip Testing in Pharmacies Under Common Ownership (Tab 29)

Ms. Holloway directed the Board member's attention to suggested rule language concerning finger tip testing, sterility testing, and controlled environment testing in pharmacies under common ownership (§291.133).

Ms. Holloway directed the Board's attention to comments received from the Texas Society of Health System Pharmacist (TSHP), and from James G. Hrncir, R.Ph.

President Waggener recognized Paul Davis representing TSHP, and Steven Knight, President-Elect Designee (TSHP). Mr. Knight stated that TSHP was concerned that the suggested rule changes relating to sterile drug preparation and product testing would result in extra cost.

Ms. Yoakum suggested rule changes concerning sterility and potency testing should be postponed until new USP <797> rules were published. She explained that finger tip testing is environmentally bound and therefore, does not agree with having finger tip testing for multiple pharmacy locations with joint ownership.

President Waggener recognized Colt Knutson with CAPS Pharmacy who stated that the environment in sterile compounding pharmacies are monitored constantly.

Following discussion the Board directed staff to review rules concerning finger tip testing in pharmacies under common ownership and to bring back recommendations to a future Board meeting.

President Waggener recessed the meeting at 11:37 a.m.

President Waggener reconvened the meeting at 1:09 p.m.

- Professional Recovery Network
 - President Waggener recognized Brittany Lash with the Professional Recovery Network (PRN). Ms. Lash directed the Board's attention to the PRN budget report for the first quarter of FY2018 (September 1, 2017 – November 30, 2017). Ms. Lash reviewed current PRN activities for the Board. (Tab 23)
 - Ms. Hotchkiss discussed performance measures regarding the number of individuals participating in the peer assistance program for the past three fiscal years (FY2015-2017) as well as the quarterly report for the first quarter of FY2018 (September 1, 2017 - November 30, 2017). (Tab 22)
- Discussion Concerning New License Required When Class AS, Class CS, and Class ES Pharmacies Change Location (Tab 30)

Ms. Benz presented current rules concerning the requirement for a new pharmacy license when a pharmacy changes location. She explained that the current rules do not require a sterile compounding pharmacy be inspected before issuing a new license when the pharmacy changes location.

Following discussion the Board directed staff to review rules concerning inspection of Class AS, Class CS, and Class ES pharmacies when the pharmacy changes location and to bring back recommendations to a future Board meeting.

E. Disciplinary Orders

- Consideration of Proposals for Decision (Tab 38 and Tab 39)
 - In the Matters of ACP Pharmacy at St. Luke's, Pharmacy License #29595 (Tab 38) and Markou Gabir, R.Ph., Pharmacist License #56246 (Tab 39)

Ms. Arnold advised the Board that a hearing was held before State Office of Administrative Hearings (SOAH) Administrative Judge Joanne Summerhays, on October 24, 2017, in the matter of ACP Pharmacy at St. Luke's and Markou Gabir, R.Ph.

Ms. Hotchkiss reviewed the background in the case for the Board. She directed the Board's attention to two versions of proposed Board Order #C-16-004-B, concerning ACP Pharmacy at St. Luke's; and two versions of Board Order #C-16-004-A, concerning Markou Gabir, R.Ph.

- Executive Session

The motion was made by Ms. Yoakum 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 Ms. Kedron and passed unanimously. President Waggener declared the Board in Executive Session at 1:40 p.m.

President Waggener announced the Board would enter Open Session at 2:00 p.m., and announced that no actions were taken and no decision were made during Executive Session. Following discussion, the motion was made by Mr. Thornsburg to accept the *Findings of Fact and Conclusions of Law* in the *Proposal for Decision*, and approve version one of Board Order #C-16-004-B, in the matter of ACP Pharmacy at St. Luke's and version one of Board Order #C-16-004-A, in the matter of Markou Gabir, R.Ph., as presented, to issue an administrative penalty against ACP Pharmacy at St. Luke's of \$750.00, and an administrative penalty against Markou Gabir, R.Ph., of \$500.00. The motion was seconded by Mr. Abeldt, and failed 3-5-1, with Mr. Thornsburg, Mr. Abeldt and Ms. Mendoza in favor; Mr. Dembny, Mr. Wiesner, Ms. Yoakum, Ms. Kedron, and Ms. Tijerina opposed; and Mr. Miller abstained.

Following further 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 version two of Board Order #C-16-004-B, in the matter of ACP Pharmacy at St. Luke's and version two of Board Order #C-16-004-A, in the matter of Markou Gabir, R.Ph., as presented, to issue an administrative penalty against ACP Pharmacy at St. Luke's of \$3,000.00, and an administrative penalty against Markou Gabir, R.Ph., of \$2,000.00. The motion was seconded by Ms. Yoakum, and passed 5-3-1, with Mr. Dembny; Ms. Tijerina; Ms. Yoakum, Mr. Wiesner, and Ms. Kedron in favor; Mr. Thornsburg, Mr. Abeldt, and Ms. Mendoza opposed, and Mr. Miller abstained.

D. Discussion of and Possible Action Concerning the Following Reports and Discussions (Cont'd)

- Discussion and Possible Action Concerning Prospective Review in Rural Hospitals (Tab 27)

Ms. Benz directed the Board's attention to rule §291.74 concerning drug utilization review in Class C Hospitals, and explained that amendments to the rule to update the requirements for drug utilization review as

authorized by Section 562.1011(i) of the Texas Pharmacy Act, were adopted by the Board at its November 7, 2017, Board Business meeting.

Ms. Benz presented a letter received from the Texas Organization of Rural & Community Hospitals (TORCH), concerning the recent rule change to require Texas rural hospitals have prescriptions issued by medical staff be reviewed by a pharmacist before drugs may be administered to a patient, except in the case of an emergency.

President Waggener recognized Quang Ngo, Executive Vice-President of TORCH, who presented an impact analysis review concerning the cost and effect of required prospective review by a pharmacist in rural hospitals.

President Waggener recognized Ted Matthews, CEO of Eastland Memorial Hospital, who explained that Eastland was the only hospital in Eastland County and the cost to the hospital to enact prospective review could cost up to \$150,000.00, per year.

President Waggener recognized Jeff Barnhart, CEO of Hereford Regional Medical Center, who stated the hospital takes patient safety seriously but was concerned about the financial impact of prospective review.

President Waggener recognized Reg Scarbough, R.Ph., consulting pharmacist for Eastland Memorial, who stated that prospective drug utilization review is difficult to do as the hospital system does not notify the nurse if the drug order has been reviewed.

President Waggener recognized Gary Luker, R.Ph., a consulting pharmacist for a number of rural hospitals, who stated he felt the new rules would cause more harm than good as rural hospitals might eliminate pharmacy technician positions and have nurses fill patient medication orders.

President Waggener recognized Andrea Darr, a provider of remote pharmacy services who stated that the cost are considerably lower than what was quoted earlier in the meeting and that the new rules could prevent medication errors.

President Waggener recognized Paul Davis, a representative with TSHP, who stated that the impact assessment provided by TORCH estimated that the average increased cost will be in a range of \$50,000 to \$75,000, each year.

Following discussion the Board directed staff to convene a Task Force to review prospective drug utilization review in rural hospitals.

Following further discussion, the motion was made by Mr. Thornsburg to approve for proposal amendments to §291.74, to negate the amendments regarding drug utilization review adopted at the November 7, 2017, Board Business meeting. The motion was seconded by Mr. Abeldt and passed unanimously.

- Discussion Concerning Disciplinary Aggravating and Mitigating Factors (Tab 31)

Ms. Holloway presented information on rule §281.62, concerning disciplinary guidelines. She explained the rules describe aggravating and mitigating factors to be considered in determining the disciplinary sanctions imposed by the Board.

Following discussion the Board directed staff to review rules concerning disciplinary guidelines and to bring back recommendations to a future Board meeting.

- Discussion Concerning Goals and Competency Objectives of Internship Programs (Tab 32)

Ms. Benz reported that at the November 9, 2017, Texas Pharmacy Congress (TPC) meeting there was discussion concerning the goals and competency objectives of Internship Programs in Texas. She explained that TPC asked that the Board review rules concerning Intern Requirements.

Following discussion the Board asked Ms. Benz to work with the Texas Consortium on Experiential Programs and bring recommendations back to the Board.

- Report on Customer Service Survey Report (Tab 33)

Ms. Benz directed the Board's attention to the results of the *TSBP Report on Customer Service for FY2016-2017*. Ms. Benz reviewed the report for the Board.

- Discussion Concerning Rule Change Relating to Costs of Hearings at the State Office of Administrative Hearings (Tab 34)

Ms. Arnold presented information concerning the State Office of Administrative Hearing (SOAH) requirement to arrange for a stenographic recording of cases, and presented suggested rules that would allow if a respondent is found to be in violation following a contested case hearing, the Board may impose the costs of transcribing the hearing on the respondent.

Following discussion the Board directed staff to review rules concerning the costs of transcribing contested case hearings before SOAH and to bring back recommendations to a future Board meeting.

- Report on Appeals from State Office of Administrative Hearings Cases and Other Court Actions (Tab 35)

Ms. Arnold explained that a SOAH case was held on November 1, 2016, concerning Lifecek Drug #52, and that at the TSBP Board Business Meeting held February 7, 2017, the Board approved Board Order #K-16-009-B, which imposed an administrative penalty of \$3,000.00.

Ms. Arnold explained that Lifecheck Drug #52, paid the \$3,000.00, penalty and was then sold to a new owner. However, the previous owner of the pharmacy was continuing an appeal on the Board's decision to enter Board Order #K-16-009-B.

Ms. Arnold suggested that in order to settle this matter the Board refund the \$3,000.00, administrative penalty to the owner of Lifecheck Drug #52, pharmacy at the time of the Board Order.

Following discussion a motion was made by Mr. Dembny to refund the \$3,000.00. The motion was seconded by Mr. Thornsburg and passed 8-1-0, with Ms. Kedron opposed.

- Report on Prescription Monitoring Program (Tab 36)

Ms. Benz presented a report on the Prescription Monitoring Program activities for the first quarter of FY2018 (September 1, 2017 – November 30, 2017); and the minutes of the October 31, 2017, Interagency Work Group meeting.

- Update on Legislation Passed During the 85th Texas Legislative Session that have an Impact on TSBP and/or the Practice of Pharmacy (Tab 37)

Ms. Benz directed the Board's attention to an action chart concerning legislation that was passed during the 85th Session of the Texas Legislature that has an impact on TSBP and/or the practice of pharmacy. The chart contains the bill number, action required of TSBP, the effective date of the bill, TSBP's internal deadline, and the current status of TSBP's implementation of the bill.

E. Disciplinary Orders (Cont'd)

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

- Report on Agreed Board Orders Entered by Executive Director (Tab 40)
 - The Board reviewed 25 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 November 16, 2017, through January 31, 2018.
 - The Board reviewed 17 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 November 9, 2017, through January 31, 2018.
 - The Board reviewed two Confidential Agreed Board Orders concerning pharmacists that had been entered by the Executive Director on behalf of the Board, in accordance with the Board's directives, on January 12, 2018.
- Discussion of and Action on Proposed Agreed Board Orders and Proposed Default Board Orders (Tab 41)
 - The Board reviewed the alleged violations, as well as the recommended sanctions for each of the following: 17 proposed Agreed Board Orders concerning pharmacy technicians and pharmacy technician trainees who appeared for an Informal Conference; and 14 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. Alexis Alan Pina | ABO #T-17-164 |
| 2. Tara Ann Marie Volovar | ABO #T-17-205 |
| 3. Elvis E. Ayuk | ABO #T-17-277 |
| 4. Mackenzie Matus Bateman | ABO #T-17-251 |
| 5. Yuvonda Etiouse Ford | ABO #T-17-176-N |
| 6. Joe Guzman | ABO #T-17-274 |
| 7. Patricia Lee Kimmons | ABO #T-17-306-N |
| 8. Janice Miranda | ABO #T-17-252-N |
| 9. Andre Smith | ABO #T-17-300 |
| 10. Ariel Thompson | ABO #T-17-282 |
| 11. Racquel M. Williams | ABO #T-17-169 |
| 12. Rebekah Anne Carroll | ABO #T-16-330-N |
| 13. Dominique S. Clack | ABO #T-17-284-N |
| 14. Tracy M. Boyd | ABO #T-17-260 |

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|-----------------------------|-----------------|
| 15. Alexander Clethen | ABO #T-18-002 |
| 16. Robert Leyton Gunn, Jr. | ABO #T-18-007 |
| 17. Latwanda Renee Mann | ABO #T-17-290-N |

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

- | | |
|------------------------------|-----------------|
| 18. Andrea M. James | DBO #T-17-311 |
| 19. Howard Alexander Plumley | DBO #T-17-297 |
| 20. Andrea Nicole White | DBO #T-17-228 |
| 21. Felicia Donyea Williams | DBO #T-17-281 |
| 22. Tamika Wright | DBO #T-17-301-N |
| 23. Aleacia Danyle Arteaga | DBO #T-17-316-N |
| 24. Lizette Susana Flores | DBO #T-17-310 |
| 25. Maegan Jayneen Heinikel | DBO #T-17-099 |
| 26. Ameer Lee Pierce | DBO #T-17-230 |
| 27. Andres Telles | DBO #T-18-003-N |
| 28. Kam Rachelle Bounds | DBO #T-17-320 |
| 29. Ashley Nicole Gammage | DBO #T-18-012-N |
| 30. Colt Goen Goen | DBO #T-17-319-N |
| 31. Elizabeth Lucio | DBO #T-17-336-N |

The motion was made by Mr. Dembny to approve the following:
17 proposed Agreed Board Orders concerning pharmacy technicians and pharmacy technician trainees who appeared for an Informal Conference, and 14 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. Mendoza and passed as follows.

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

1. 8-0-1 Mr. Miller abstained
2. 8-0-1 Mr. Wiesner abstained
3. 8-0-1 Mr. Dembny abstained
4. 8-0-1 Mr. Dembny abstained
5. 8-0-1 Mr. Dembny abstained
6. 8-0-1 Mr. Dembny abstained
7. 8-0-1 Mr. Dembny abstained
8. 8-0-1 Mr. Dembny abstained
9. 8-0-1 Mr. Dembny abstained
10. 8-0-1 Mr. Dembny abstained
11. 8-0-1 Mr. Dembny abstained
12. 8-0-1 Mr. Thornsburg abstained
13. 8-0-1 Mr. Thornsburg abstained
14. 8-0-1 Mr. Thornsburg abstained

15. 8-0-1 Mr. Thornsburg abstained
16. 8-0-1 Mr. Thornsburg abstained
17. 8-0-1 Mr. Thornsburg abstained

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

18. 8-0-1 Mr. Dembny abstained
19. 8-0-1 Mr. Dembny abstained
20. 8-0-1 Mr. Dembny abstained
21. 8-0-1 Mr. Dembny abstained
22. 8-0-1 Mr. Dembny abstained
23. 8-0-1 Mr. Thornsburg abstained
24. 8-0-1 Mr. Thornsburg abstained
25. 8-0-1 Mr. Thornsburg abstained
26. 8-0-1 Mr. Thornsburg abstained
27. 8-0-1 Mr. Thornsburg abstained
28. 8-0-1 Mr. Thornsburg abstained
29. 8-0-1 Mr. Thornsburg abstained
30. 8-0-1 Mr. Thornsburg abstained
31. 8-0-1 Mr. Thornsburg abstained

- The Board reviewed the alleged violations, as well as the recommended sanctions for each of the following: 20 proposed Agreed Board Orders concerning pharmacies and pharmacists (Alternative Resolutions); five Temporary Suspension Orders following Temporary Suspension Hearings; four Agreed Board Orders following Temporary Suspensions; 38 proposed Agreed Board Orders concerning pharmacies, pharmacists, and technicians; who appeared for an Informal Conference; and one Default Board Order concerning a pharmacist who did not appear for an Informal Conference.

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

- | | |
|------------------------------------|-----------------|
| 1. A1 Pharmacy Services | ABO #K-17-030 |
| 2. Cape Pharmacy & Supplies | ABO #K-17-033 |
| 3. CVS/pharmacy#6982 | ABO #H-17-005-B |
| 4. CVS/pharmacy #7462 | ABO #H-16-054-B |
| 5. Sunil Rashiklal Patel | ABO #J-17-016 |
| 6. Gus's Drug Store | ABO #C-17-006-B |
| 7. Steven Neil Delao | ABO #C-17-006-A |
| 8. John Boyce Ivers | ABO #C-17-023-A |
| 9. Lifechek Drug #20 | ABO #C-17-004-B |
| 10. Carmen Gertrude Hoffman | ABO #C-17-004-A |
| 11. Stonegate Pharmacy on Broadway | ABO #K-16-028-B |

- | | |
|------------------------------------|-----------------|
| 12. Mario Jesus De Los Santos Jr. | ABO #K-16-028-A |
| 13. Transdermal Therapeutics, Inc. | ABO #K-17-039 |
| 14. Walgreens #06145 | ABO #H-16-068-B |
| 15. Walgreens #5092 | ABO #H-17-019-B |
| 16. Walgreens #6660 | ABO #H-17-033-B |
| 17. Walgreens #6907 | ABO #H-17-038-B |
| 18. Giang V. Le | ABO #H-17-038-A |
| 19. Walgreens #7195 | ABO #H-17-031-B |
| 20. Jin Kyung Lee | ABO #H-17-031-A |

Temporary Suspension Orders (Pharmacy and Pharmacist)
(Following a Temporary Suspension Hearing)

- | | |
|--------------------------------|-------------------|
| 21. Friendly Pharmacy | TSO #A-17-018-BS1 |
| 22. Folorunso Oluremi Akinyele | TSO #A-17-018-AS1 |
| 23. Houston Midtown Pharmacy | TSO #J-18-002-S1 |
| 24. Eric Christopher Jones | TSO #A-18-003-S1 |
| 25. Alfred Leon Wimberley | TSO #A-18-004-S1 |

Agreed Board Orders (Pharmacy and Pharmacist)
(Following a Temporary Suspension)

- | | |
|--------------------------------|-----------------|
| 26. Friendly Pharmacy | ABO #A-17-018-B |
| 27. Folorunso Oluremi Akinyele | ABO #A-17-018-A |
| 28. Eric Christopher Jones | ABO #A-18-003 |
| 29. Alfred Leon Wimberley | ABO #A-18-004 |

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

- | | |
|---------------------------|-----------------|
| 30. Burke Family Pharmacy | ABO #K-17-005-B |
| 31. David G. Guerrero | ABO #K-17-005-A |
| 32. Lynn Michelle Clark | ABO #M-18-003 |
| 33. Collin Drugs | ABO #C-17-015-B |
| 34. Pervez T. Mahmud | ABO #C-17-015-A |
| 35. Claudette Avalos | ABO #T-17-201 |
| 36. CVS/pharmacy #4794 | ABO #C-16-044-B |
| 37. Deidre Lynn Daniels | ABO #C-16-044-A |
| 38. CVS/pharmacy #5512 | ABO #H-16-067-B |
| 39. Richard William Lewis | ABO #H-16-067-A |
| 40. CVS/Pharmacy #6918 | ABO #H-16-004-B |
| 41. CVS/pharmacy #7198 | ABO #M-17-027 |
| 42. CVS/pharmacy #7446 | ABO #H-17-015-B |
| 43. CVS/pharmacy #7603 | ABO #H-16-043-B |
| 44. Tuyetlan T. Le | ABO #H-16-043-A |
| 45. CVS/pharmacy #10027 | ABO #H-16-023-B |
| 46. Urmila Amit Patel | ABO #H-16-023-A |
| 47. Kevin Luverne Dahle | ABO #J-17-007 |

48. Jessaca Therese Sibr	ABO #J-17-011
49. Doc Lane's Veterinary Pharmacy, LLC	ABO #K-16-037
50. Lisa Darlene Durden	ABO #M-17-028
51. ECO Pharmacy of Sienna Plantation	ABO #A-15-036-B
52. Angela Marie Patrick	ABO #A-17-022
53. Hovie Pharmacy	ABO #K-16-031
54. Mastery Pharmacy South	ABO #L-16-040
55. Suelynn Murray	ABO #M-17-023
56. Otukayode Adeleke Otufale	ABO #R-17-009
57. Bernard Siu-Nam Pang	ABO #J-17-003
58. Pharmacy Plus #8	ABO #K-17-021-B
59. Charles George Dobis	ABO #K-17-021-A
60. Portland Professional Pharmacy	ABO #K-17-036-B
61. RX Unlimited Pharmacy	ABO #F-17-025
62. Stafford Pharmacy/DME, LLC	ABO #K-17-019
63. Walgreens #7638	ABO #B-16-013
64. Ragan Yvette Webster	ABO #E-17-010
65. John David Wiley, III	ABO #R-18-001
66. Stephen Weston Wilson	ABO #N-17-010
67. CVS/pharmacy #7446	ABO #H-17-015-B

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

68. Ndufolo Biy Kigham	DBO #E-17-007
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The motion was made by Mr. Thornsburg to approve the following: 20 proposed Agreed Board Orders concerning pharmacies and pharmacists (Alternative Resolutions); four Agreed Board Orders following Temporary Suspensions; 38 proposed Agreed Board Orders concerning pharmacies, pharmacists, and technicians; who appeared for an Informal Conference; and one Default Board Order concerning a pharmacist who did not appear for an Informal Conference.

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

Agreed Board Orders (Pharmacies & Pharmacists)
(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

Agreed Board Orders (Pharmacy and Pharmacist)
(Following a Temporary Suspension)

26. 8-0-1 Mr. Wiesner abstained
27. 8-0-1 Mr. Wiesner abstained
28. 6-0-3 Mr. Wiesner, Mr. Dembny, and Mr. Miller abstained
29. 6-0-3 Mr. Wiesner, Mr. Dembny, and Mr. Miller abstained

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

30. 8-0-1 Mr. Dembny abstained
31. 8-0-1 Mr. Dembny abstained
32. 8-0-1 Mr. Wiesner abstained
33. 8-0-1 Mr. Wiesner abstained
34. 8-0-1 Mr. Wiesner abstained
35. 8-0-1 Mr. Wiesner abstained
36. 8-0-1 Mr. Wiesner abstained
37. 8-0-1 Mr. Wiesner abstained
38. 8-0-1 Mr. Wiesner abstained
39. 8-0-1 Mr. Wiesner abstained
40. 8-0-1 Mr. Wiesner abstained
41. 8-0-1 Mr. Miller abstained
42. 8-0-1 Mr. Wiesner abstained
43. 8-0-1 Mr. Wiesner abstained
44. 8-0-1 Mr. Wiesner abstained
45. 8-0-1 Mr. Wiesner abstained
46. 8-0-1 Mr. Wiesner abstained
47. 8-0-1 Mr. Wiesner abstained
48. 8-0-1 Mr. Wiesner abstained
49. 8-0-1 Mr. Wiesner abstained
50. 8-0-1 Mr. Dembny abstained
51. 8-0-1 Mr. Wiesner abstained
52. 8-0-1 Mr. Wiesner abstained

53. 8-0-1 Mr. Wiesner abstained
54. 8-0-1 Mr. Miller abstained
55. 8-0-1 Mr. Miller abstained
56. 8-0-1 Mr. Wiesner abstained
57. 7-0-2 Mr. Wiesner and Ms. Yoakum abstained
58. 8-0-1 Mr. Wiesner abstained
59. 8-0-1 Mr. Wiesner abstained
60. 8-0-1 Mr. Wiesner abstained
61. 8-0-1 Mr. Wiesner abstained
62. 8-0-1 Mr. Wiesner abstained
63. 8-0-1 Mr. Wiesner abstained
64. 7-0-2 Mr. Wiesner and Ms. Yoakum abstained
65. 7-0-2 Mr. Wiesner and Ms. Yoakum abstained
66. 8-0-1 Mr. Wiesner abstained
67. 8-0-1 Mr. Wiesner abstained

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

68. 8-0-1 Mr. Miller abstained

- Confidential Agreed Board Orders (Tab 42)
 - The Board reviewed the alleged violations, as well as the recommended sanctions for each of the following four proposed Confidential Agreed Board Orders concerning pharmacists who appeared for an Informal Conference.

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

1. ABO #N-18-003
2. ABO #M-18-006
3. ABO #G-15-027
4. ABO #G-16-008

- Discussion of and Action on Proposed Remedial Plans (Tab 43)
 - The Board reviewed the alleged violations, as well as the recommended sanctions for each of the following: five proposed Remedial Plans concerning pharmacists (Alternative Resolutions); and five proposed Remedial Plans concerning pharmacies and pharmacists following an Informal Conference.

Remedial Plans (Pharmacists)
(Alternative Resolutions)

1. Awad Ahmed #H-16-054-A
2. Sanaullah Khan #H-17-034-A
3. Christopher Huy Nguyen #H-16-068-A
4. Jessica Lynn Rardin #H-17-033-A
5. Kathryn Brooke Thurman #H-17-019-A

Remedial Plans (Pharmacies and Pharmacist)
(Following and Informal Conference)

6. Emmanuel Dingsangha #H-17-015-A
7. Katie Kumar #J-17-014
8. Sabrina Rene Robinson #J-17-015
9. Paragon Infusion Care-Houston #H-16-045-B
10. Melanie Kay Diamond #H-16-045-A

The motion was made by Mr. Miller to approve the following: four proposed Confidential Agreed Board Order concerning pharmacists who appeared for an Informal Conference; five proposed Remedial Plans concerning pharmacists (Alternative Resolutions); and five proposed Remedial Plans concerning pharmacies and pharmacist following and informal conference.

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

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

1. 7-0-2 Mr. Wiesner and Ms. Yoakum abstained
2. 7-0-2 Mr. Wiesner and Ms. Yoakum abstained
3. 8-0-1 Mr. Dembny abstained
4. 8-0-1 Mr. Thornsburg abstained

Remedial Plans (Pharmacists)
(Alternative Resolutions)

1. 9-0-0
2. 9-0-0
3. 9-0-0
4. 9-0-0
5. 9-0-0

Remedial Plans (Pharmacies and Pharmacist)
(Following and Informal Conference)

6. 8-0-1 Mr. Wiesner abstained
7. 8-0-1 Mr. Wiesner abstained
8. 8-0-1 Mr. Wiesner abstained
9. 8-0-1 Mr. Wiesner abstained
10. 8-0-1 Mr. Wiesner abstained

F. Consideration of and Possible Action Concerning Enforcement Reports

- Report on Complaints Closed and Dismissed During the Previous Quarter (Tab 44)

The Board received a report on complaints dismissed and closed during the first quarter of FY2018 (September 1, 2017 – November 30, 2017). The report also included quarterly averages for FY2017 as compared to FY2018, as well as percentage change from FY2017 to FY2018.

Ms. Fisher reviewed the report for the Board.

- Report on Status of Active/Pending Complaints (Tab 45)

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 May Board Meeting (Tab 46)
 - Suggested rule amendments concerning Pharmacy Technician education requirements
 - Suggested rule amendments concerning finger tip testing
 - Suggested rule amendments concerning a new license for a Sterile Compounding pharmacies when the pharmacy moves to a different location
 - Suggested rule amendments concerning Disciplinary Aggravating and Mitigating Factors
 - Suggested rules amendments concerning costs of hearing at SOAH
 - Suggested rule amendments concerning continuing education on opioid abuse for pharmacist reactivating license.

- Discussion of and Possible Action on Upcoming Meetings

The Board discussed Board Member and Executive Director attendance at upcoming meetings.

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

APPROVED:

Jeanne D. Waggener, R.Ph.
President

Allison Vordenbaumen Benz, R.Ph., M.S.
Executive Director/Secretary

May 1, 2018