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## TEXAS STATE BOARD OF PHARMACY

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333 Guadalupe Street, Tower III, Suite 100  
Austin, Texas

Tuesday, February 1, 2022

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

#### BOARD BUSINESS MEETING

#### Tuesday, February 1, 2022

President Julie Spier, R.Ph., called the meeting to order at 9:00 a.m. Other Board Members present were Vice President Lori Henke, Pharm.D.; Treasurer Rick Fernandez, R.Ph.; Donnie Lewis, R.Ph.; Bradley A. Miller, Ph.T.R.; Donna Montemayor, R.Ph.; Ian Shaw; Suzette Tijerina, R.Ph.; Rick Tisch; and Jenny Downing Yoakum, R.Ph.

Board Member Daniel Guerrero was not in attendance.

Staff present were Timothy L. Tucker, Pharm.D., Executive Director/Secretary; Megan Holloway, General Counsel; Caroline Hotchkiss, Director of Enforcement; Ann Du, Financial Services Director; John Griffith, Litigation Counsel; Eamon Briggs, Assistant General Counsel; Linda Yazdanshenas, PMP Manager; Ann Driscoll, Ph.T.R., Operations Director; Shayda Bakhshi, Outreach Coordinator; and Lily Moreno, Executive Assistant.

#### **A. Announcements**

President Spier made general announcements, including concerning continuing education credit for attending the Board Meeting, and reviewed the meeting procedures.

President Spier introduced and welcomed new Board member, Ian Shaw.

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

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

Following discussion, the motion was made by Ms. Henke to approve the minutes of the Board Member Training Session held November 1, 2021, and the Board Business Meeting held November 2, 2021. The motion was seconded by Mr. Lewis and passed unanimously.

**C. Public Comments**

The Board heard public comments from the following regarding proposed amendments concerning centralized prescription dispensing:

- Jeenu Philip, R.Ph., Director, Pharmacy Affairs, Walgreen Co., in opposition to the amendments, as the language appears to require out-of-state pharmacies to obtain a Class E pharmacy license to outsource, and recommending that the license types be removed from the definitions, that out-of-state pharmacies be added to the definition, or that exclusions are added to the rule; and
- Mark Sullivan, Pharmacy Operations Manager, Brookshires Grocery Company, and President, Texas Federation of Drug Stores, in opposition to the amendments, as requiring a Class E pharmacy license to outsource would be burdensome and would impact the pharmacy's ability to service patients outside of Texas. Mr. Sullivan recommended that the Board either include in the amended language that out-of-state outsourcing pharmacies are not required to obtain a Class E pharmacy license; amend the language to clarify that out-of-state pharmacies are able to outsource; or add additional language to include out-of-state pharmacies that are licensed in the state in which they are located.

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

**Final Adoption of Rules**

- Rules Concerning Internship Requirements (§283.4) (Item D.1.1)

Mr. Griffith explained that the Board voted to propose the amendments to §283.4 during its November 2, 2021 meeting. The proposed amendments were published in the December 24, 2021 issue of the Texas Register, and no comments were received.

Mr. Griffith directed the Board's attention to amendments to §283.4 and explained the amendments specify that a person may not have previously failed the NAPLEX or Texas Pharmacy Jurisprudence Examination to be designated an extended-intern as a resident in a residency program accredited by the American Society of Health-System Pharmacists and correct grammatical errors.

Following discussion and review of the Preamble and Order Adopting

Rules, the motion was made by Mr. Lewis to approve for adoption, by Board Order, the amendments to §283.4, as presented. The motion was seconded by Mr. Tisch and passed unanimously.

- Rules Concerning Professional Responsibility of Pharmacists (§291.29) (Item D.1.2)

Mr. Griffith explained that the Board voted to propose the amendments to §291.29 during its November 2, 2021 meeting. The proposed amendments were published in the December 24, 2021 issue of the Texas Register and no comments were received.

Mr. Griffith directed the Board's attention to amendments to §291.29 and explained the amendments establish the determination of a valid prescription issued as a result of teledentistry dental services, in accordance with House Bill 2056 of the 87th Legislative Session, or telemedicine medical services.

Following discussion and review of the Preamble and Order Adopting Rules, the motion was made by Mr. Tisch to approve for adoption, by Board Order, the amendments to §291.29, as presented. The motion was seconded by Mr. Miller and passed unanimously.

- Rules Concerning Schedule II Controlled Substance Prescriptions (§291.34) (Item D.1.3)

Mr. Griffith explained that the Board voted to propose the amendments to §291.34 during its November 2, 2021 meeting. The proposed amendments were published in the December 24, 2021 issue of the Texas Register and no comments were received.

Mr. Griffith directed the Board's attention to amendments to §291.34 and explained the amendments extend the time period for a pharmacist to dispense prescription drug orders for Schedule II controlled substances issued by a practitioner in another state to the end of the thirtieth day after the date the prescription is issued to be consistent with federal law and correct a citation reference.

Following discussion and review of the Preamble and Order Adopting Rules, the motion was made by Ms. Henke to approve for adoption, by Board Order, the amendments to §291.34, as presented. The motion was seconded by Mr. Lewis and passed unanimously.

### Proposal of Rules

- Rules Concerning Pharmacist Reinstatement Requirements (§281.66) (Item D.2.1)

Mr. Griffith directed the Board's attention to suggested amendments to rule language concerning pharmacist reinstatement requirements. He explained the proposed amendments to §281.66 specify the number of continuing education and internship hours required for reinstatement of a license to practice pharmacy.

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

- Rules Concerning Centralized Prescription Dispensing (§§291.104 and 291.125) (Items D.2.2.1 and D.2.2.2)

Mr. Griffith directed the Board's attention to suggested amendments to rule language concerning centralized prescription dispensing. He explained the proposed amendments to §291.104 specify the requirements for a Class E pharmacy engaged in the outsourcing of prescription drug order dispensing to a central fill pharmacy and the proposed amendments to §291.125 specify the circumstances under which a Class E pharmacy may outsource prescription drug order dispensing to a central fill pharmacy. Mr. Griffith explained that this matter came to Board staff's attention after a warning notice was issued to a pharmacy that was acting as a central-fill pharmacy for a Class E pharmacy and that the purpose of the suggested amendments is to clarify that Class E pharmacies are not prohibited from outsourcing centralized prescription dispensing.

Written comments were received from the following:

- Pavlos Pavlidis, Vice President, Chief Operating Officer, Biologics by McKesson;
- Jeenu Philip, R.Ph., Director, Pharmacy Affairs, Walgreen Co;
- Todd Donnelly, MS, MBA, RPh, CHC, CCE, Senior Vice President, Compliance, Exact Care Pharmacy; and
- Nicholas H. Meza, Roger N. Morris, and Ed Rickert, Quarles & Brady, LLP.

Following discussion, the motion was made by Mr. Tisch to approve for proposal amendments to §§291.104 and 291.125, as presented. The motion was seconded by Mr. Shaw and failed 3-6-0, with Ms. Henke, Mr. Fernandez, Mr. Miller, Ms. Montemayor, Ms. Tijerina, and Ms. Yoakum opposed.

A motion was made by Ms. Montemayor to return the proposed amendments to §§291.104 and 291.125 to Board staff for additional review. The motion was seconded by Mr. Fernandez and passed unanimously.

### Rule Review

- For Adoption

Mr. Griffith directed the Board's attention to the Board Review Plan for FY2022-FY2025 (Item D.3).

- Chapter 291 Concerning Pharmacies (Nuclear Pharmacy (Class B)) (§§291.51 – 291.55) (Item D.3.1.1)
- Repeal of Chapter 305 Concerning Educational Requirements (§§305.1 – 305.2) (Item D.3.1.2)
- Chapter 309 Concerning Generic Substitution (§§309.1 – 309.8) (Item D.3.1.3)

Following discussion, in accordance with Government Code §2001.039, the motion was made by Ms. Tijerina to approve for adoption as presented, the review of Chapter 291 (§§291.51 – 291.55) and Chapter 309 (§§309.1 – 309.8). The motion was seconded by Ms. Henke and passed unanimously. A motion was made by Mr. Miller to approve for adoption, the repeal of Chapter 305 (§§305.1 – 305.2) concerning educational requirements. The motion was seconded by Mr. Lewis and passed unanimously.

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

- Report on Compounding Advisory Group (Item E.1)

Dr. Tucker reported that the Compounding Advisory Group had not met since the previous Board meeting.

- Report on Prescription Monitoring Program (PMP) Advisory Committee (Item E.2)

Ms. Yazdanshenas reported that the PMP Advisory Committee meeting was held via videoconference on November 17, 2021, and included a presentation by Bamboo Health, a PMP funding update from Dr. Tucker, and a presentation concerning wholesale tracking data.

- Report on Interagency Prescription Monitoring Program Work Group (Item E.3)

Ms. Yazdanshenas reported that the Interagency Prescription Monitoring Program Workgroup Meeting was held on December 16, 2021, and included a review of PMP statistics, an update concerning PMP funding for integration and NarxCare, and a discussion concerning the PMP audit by the State Auditor's Office.

**F. Discussion of and Possible Action Concerning the Following Reports and Discussions**

- Financial Report

- Review of FY2022 First Quarter Expenditures (Item F.1.1)

Ms. Du reviewed the expenditures for the first quarter of FY2022 (September 1, 2021 – November 30, 2021) for the Board.

- Review of Board Member Travel (Item F.1.2)

Ms. Du reported that following the post-payment audit by the Comptroller's office there is a policy change for Board member travel, in which Board members must complete a cost-comparison analysis between using their personal vehicle or renting a vehicle. She explained that if it is more cost-effective to rent a vehicle, and the individual opts to use their personal vehicle, they will only be reimbursed up to the cost of the rental plus gasoline reimbursement. Ms. Du reminded Board members to maintain copies of receipts for which they are seeking reimbursement.

Ms. Du also reviewed the first quarter FY2022 Board Member Travel Budget (September 1, 2021 – November 30, 2021).

- Consideration of Material Changes to Contracts for Goods and Services Awarded Under Chapter 2155 of Texas Government Code (Item F.1.3)

Ms. Du reported that there were no material changes to contracts for goods and services.

- Professional Recovery Network

- Ms. Hotchkiss discussed performance measures regarding the number of individuals participating in the peer assistance program for the first quarter of FY2022 (September 1, 2021 – November 30, 2021). (Item F.2.1)

- Ms. Hotchkiss recognized PRN Program Director Raquel Leal, LPC. Ms. Leal directed the Board's attention to the PRN expense report through the first quarter of FY2022 (September 1, 2021 – November 30, 2021) and reviewed PRN activities for the Board. (Item F.2.2)
- Discussion Concerning FY2023-FY2027 Strategic Plan (Item F.3)

President Spier directed the Board's attention to the FY2023-FY2027 Strategic Plan timeline and questionnaire responses. She reviewed the issue statements from the internal/external assessment.

Dr. Tucker explained that staff will be developing an action plan based on the issue statements and welcome any feedback.
- Review and Approval of TSBP FY2021 Annual Report (Item F.4)

Ms. Driscoll directed the Board's attention to a draft of the TSBP FY2021 Annual Report.

Following review, a motion was made by Mr. Tisch to approve the TSBP FY2021 Annual Report, as presented. The motion was seconded by Mr. Lewis and passed unanimously.
- Report on Prescription Monitoring Program (Item F.5)

Ms. Yazdanshenas reviewed the Prescription Monitoring Program data for the first quarter of FY2022 (September 1, 2021 – November 30, 2021).

Following a question from Mr. Fernandez, Ms. Yazdanshenas explained that there may be some states with whom the Board will not be able to connect because of laws and rules in those states regarding sharing data.
- Report on Appeals from State Office of Administrative Hearing Cases and Other Court Actions (Item F.6)

Ms. Holloway explained that there have been no updates since the last meeting concerning the appeal status of the *Garrett* lawsuit that was filed in district court in Travis County and sought to invalidate the restriction that licensed Texas physicians cannot dispense prescriptions to patients at their offices without a pharmacy license.

Ms. Holloway provided an update concerning an appeal filed by CVS/pharmacy #7816 (Texas Pharmacy License #24526), following the entry of the Board Order at the February 2, 2021 Board meeting that was entered after a hearing held by the State Office of Administrative Hearings. She explained that the case was decided and that in December 2021, the court affirmed the Board Order and no appeal had been filed.

Ms. Holloway provided an update on the *Whole Women's Health* lawsuit, concerning Senate Bill 8 of the 87<sup>th</sup> Legislative Session (SB 8). She explained that the plaintiffs are suing the Executive Directors of the Texas Medical Board, the Texas Board of Nursing, and the Texas State Board of Pharmacy; the Executive Commissioner of the Texas Public Health and Human Services Commission; and the Texas Attorney General.

Ms. Holloway explained that on December 10, 2021, the United States Supreme Court remanded the case to the United States Court of Appeals for the Fifth Circuit. Subsequently, the plaintiffs requested the Supreme Court to direct the Fifth Circuit Court to remand the case to District Court, which was rejected. The Fifth Circuit Court remanded the case to the Texas Supreme Court to certify the question of whether state officials or agencies can enforce SB 8 and oral argument for the case was set for February 24, 2022.

Ms. Holloway provided an update on a lawsuit filed by Lightcare Rx, LLC (Texas Pharmacy License #32609) in federal district court. She explained that Board staff filed and served notice of a hearing at the State Office of Administrative Hearings (SOAH), following an informal conference held in March 2021 regarding the alleged failure of the pharmacy to operate. She explained that the lawsuit alleges that the Board's failure to operate rule is unconstitutional and discriminates against pharmacies in HEAT zones. Ms. Holloway reported that in November 2021, the court denied the motion to dismiss which was filed on October 26, 2021, and stayed the case pending the Administrative Law Judge's opinion in the SOAH case.

Ms. Holloway reported on an appeal filed by CVS/pharmacy #8336 (Texas Pharmacy License #24881), following the entry of the Board order at the May 11, 2021 Board meeting that was entered after a hearing held by the State Office of Administrative Hearings. Ms. Holloway explained that the Board is being represented by an attorney from the Office of the Attorney General, who is working on a briefing schedule and getting the case set for hearing.

- Update on Agency Move (Item F.7)

Ms. Driscoll reported that in January 2022, staff attended an executive summit with other agencies and received a general overview of the project, including that the build is on time and on budget. Staff also met with Texas Facilities Commission (TFC) regarding cubicle workspace layout and finalized the plan, as most workspace for staff will be cubicles in the new location. Ms. Driscoll also reported that Information Technology (IT) staff met with Texas Department of Information Resources and TFC concerning moving IT equipment with minimizing downtime for agency services to the public as a priority in the planning. She explained that Board staff requested the move date for September 2022 and should receive the expected date from TFC in the next month. Ms. Driscoll also



reported that staff is looking for alternative meeting sites for the November 2022 and February 2023 Board meetings.

President Spier suggested that staff inform the public of potential downtime of services as the moving date is solidified. Ms. Driscoll explained that staff has discussed putting a notification on the website and will implement social media.

In response to a question from Mr. Lewis about funding for the move, Ms. Driscoll explained that funding is minimal and Board staff will be moving most of their existing furniture.

- Report on New Pharmacy License Fact Sheet (Item F.8)

President Spier directed the Board's attention to the New Pharmacy License Fact Sheet, which she indicated was developed based on a recommendation at an informal conference and contains frequently asked questions for new pharmacy owners and managing officers to help them understand their responsibilities.

Dr. Tucker explained that Board staff will provide the document to all new pharmacy applicants.

Mr. Fernandez suggested adding information about diversion.

President Spier recessed the meeting at 10:15 a.m.

President Spier reconvened the meeting at 10:37 a.m.

- Discussion Concerning PREP Act Amendments (Item F.10)

Ms. Holloway directed the Board's attention to a chart showing, by license type, what is authorized by the PREP Act and what is authorized by the Texas Pharmacy Act and Board Rules, and explained the different entries and color-coding system. Ms. Holloway clarified that Board staff had not yet delved into the rules to determine the possible rule amendments but could do so if the Board directed staff and would bring back at a future Board meeting.

Ms. Henke suggested publishing the chart separate from the Board meeting materials as a resource for pharmacists and Ms. Holloway explained that it could be added to the PREP Act page on the website.

Ms. Montemayor suggested providing resources for mental health and wellness for pharmacists and a statement from the Board. Ms. Holloway suggested that resources could be included in the Board newsletter.

President Spier indicated that she and Dr. Tucker would get together and work on a statement from the Board for pharmacists.

- Discussion Concerning Rules for Pharmacies Compounding Non-Sterile Preparations (Item F.11)

Ms. Holloway explained that at the November 2, 2021 Board meeting, the Board directed Board staff to review the non-sterile compounding rules. Ms. Holloway reviewed the areas identified by Board compliance staff that could be strengthened to allow for increased enforceability, which include training, hand hygiene, and cleaning/sanitizing.

Ms. Holloway explained that at the November 2, 2021 Board meeting, there were also comments concerning how the “line in the sand” could be amended to exclude certain types of non-sterile compounding (e.g., magic mouthwash and flavoring) from the additional non-sterile compounding requirements and she reviewed an updated “line in the sand” for the Board.

Ms. Holloway explained that the Board could choose either to take no action; direct staff to bring back suggested amendments based on the Board compliance staff’s comments; direct staff to bring back suggested amendments based on a modified “line in the sand;” or direct staff to bring back something else.

Ms. Yoakum made a motion for staff to come back with a discussion item concerning language for proposed amendments based on the compliance staff’s comments. The motion was seconded by Ms. Henke and passed unanimously.

- Discussion Concerning Emergency Kits in Long-Term Care Facilities (Item F.12)

Dr. Tucker explained that at the November 2, 2021 Board meeting, the Board asked that staff review the rules for emergency kits in long-term care facilities which prohibited duplicate drugs in emergency kits at one location. He reported that after review and discussions Board staff determined that DEA rules do not prohibit multiple emergency kits from storing the same medication. Dr. Tucker explained that Board staff recommended that language prohibiting duplicate drugs in the emergency kits be removed from Board rule §291.121(b)(4)(B)(iii).

Following discussion, a motion was made by Mr. Lewis to propose amendments to §291.121, as recommended by Board staff, to remove language prohibiting duplicate drugs in the emergency kits. The motion was seconded by Mr. Tisch and passed unanimously.

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

- Report on Complaints Closed and Dismissed During the Previous Quarter (Item G.1)

Ms. Hotchkiss reported on complaints dismissed and closed during the first quarter of FY2022 (September 1, 2021 – November 30, 2021). The report also included a comparison of complaints closed with disciplinary orders to those closed without disciplinary orders and a comparison of quarterly averages for FY2022 to the quarterly averages for FY2021, as well as percentage change from FY2021 to FY2022.

- Report on Status of Active/Pending Complaints (Item G.2)

Ms. Hotchkiss reviewed the *Report on Status of Active/Pending Complaints* for the Board.

**H. Disciplinary Orders**

Ms. Holloway explained that the items listed under Proposals for Decision for Kenneth Edward Cooper Jr (Item H.1.2) and Venkata Ramanaro Yarlagadda (Item H.1.4) would be presented with the proposed orders.

- Report on Agreed Board Orders Entered by Executive Director (Item H.2)
  - The Board reviewed 9 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 4, 2021, through December 17, 2021.
  - The Board reviewed 8 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 4, 2021, through January 24, 2022.
  - The Board reviewed 7 Board Orders concerning pharmacies 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 15, 2021, through January 26, 2022.
  - The Board reviewed 1 Confidential Agreed Board Order concerning a pharmacist that had been entered by the Executive Director on behalf of the Board, in accordance with the Board's directives, on January 13, 2022.

- Discussion of and Action on Proposed Agreed Board Orders, Proposed Default Board Orders, and Proposed Remedial Plans (Items H.3 and H.4)

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;
  - 3 proposed Default Board Orders concerning pharmacy technicians and pharmacy technician trainees who did not appear for an Informal Conference;
  - 5 proposed Agreed Board Orders concerning pharmacies and pharmacists (Alternative Resolutions);
  - 8 proposed Agreed Board Orders concerning pharmacies and pharmacists who appeared for an Informal Conference;
  - 5 proposed Default Board Orders concerning pharmacies and pharmacists who did not appear for an Informal Conference;
  - 1 proposed Agreed Board Order concerning a pharmacist who attended a Mediated Settlement Conference;
  - 2 proposed Confidential Agreed Board Orders concerning pharmacists who appeared for an Informal Conference;
  - 1 proposed Confidential Default Board Order concerning a pharmacist who did not appear for an Informal Conference;
  - 3 proposed Remedial Plans concerning pharmacists (Alternative Resolutions); and
  - 1 proposed Remedial Plan concerning a pharmacist who attended an Informal Conference.
- Discussion of and Action on Proposed Agreed Board Orders, Proposed Default Board Orders, and Proposed Remedial Plans (Items H.3 and H.4), continued

The motion was made by Ms. Montemayor to approve the proposed Disciplinary Orders and Remedial Plans, as presented. The motion was seconded by Mr. Lewis, and the motion passed as follows:

TSBP Board Business Meeting

Minutes/February 1, 2022

Page 13

No.	Name	T, R, or P*	ABO, DBO, or RP**	Order # or Plan #	Board Vote (Yes-No- Recuse)	Recused Board Members
1	Demeatria Monette Taylor	T	ABO	2021-01399	7-0-2	Lewis, Tijerina
2	Clint Byron Bickley	T	ABO	2021-04776	7-0-2	Fernandez, Miller
3	Maria Guadalupe Gonzalez	T	ABO	2021-04189	7-0-2	Fernandez, Miller
4	Liz Herrera	T	ABO	2021-05483	7-0-2	Fernandez, Miller
5	Jonah Matthew Parton	T	ABO	2021-04700	7-0-2	Fernandez, Miller
6	Joshua Adam Seumalo	T	ABO	2021-04187	7-0-2	Fernandez, Miller
7	Natasha Turner	T	ABO	2021-05833	7-0-2	Fernandez, Miller
8	Donella Marie Williams	T	ABO	2021-03977	7-0-2	Fernandez, Miller
9	Ashleigh T. Carter	T	ABO	2022-00072	7-0-2	Lewis, Montemayor
10	Hannah Fernandes	T	ABO	2021-05564	7-0-2	Lewis, Montemayor
11	Dylan M Hoover	T	ABO	2021-02587	7-0-2	Lewis, Montemayor
12	Adam Truett Jervis	T	ABO	2021-05150	7-0-2	Lewis, Montemayor
13	Samantha Jo Moore	T	ABO	2021-01329	7-0-2	Lewis, Montemayor
14	Jonathan Moreno	T	ABO	2021-03836	7-0-2	Lewis, Montemayor
15	Alia Roberts	T	ABO	2021-05156	7-0-2	Lewis, Montemayor
16	Kristen Schleicher	T	ABO	2020-01516	7-0-2	Lewis, Montemayor
17	Robert Zamora	T	ABO	2020-04537	7-0-2	Lewis, Montemayor
18	Christopher Nicholas Gonzalez	T	DBO	2022-00133	7-0-2	Lewis, Montemayor
19	Vincent Weatherspoon	T	DBO	2022-00209	7-0-2	Lewis, Montemayor
20	Shaterica Michelle Sessions	T	DBO	2021-04985	8-0-1	Henke
21	Ambre T. Camp	P	ABO	2021-05918	9-0-0	-
22	Crystal Latrice Champion- Kendricks	R	ABO	2021-04059	9-0-0	-
23	Medex Plus, Inc.	P	ABO	2021-05307	9-0-0	-
24	Winston Terrel Epperson	R	ABO	2021-03989	9-0-0	-
25	Tuankhanh To	R	ABO	2022-00882	9-0-0	-

\*Technician or Technician Trainee (T), Pharmacist (R), and Pharmacy (P)  
 \*\*Agreed Board Order (ABO), Default Board Order (DBO), and Remedial Plan (RP)

No.	Name	T, R, or P*	ABO, DBO, or RP**	Order # or Plan #	Board Vote (Yes-No- Recuse)	Recused Board Members
26	Olanrewaju Bankole Adeleye	R	ABO	2021-04028	7-0-2	Fernandez, Montemayor
27	John Kent Ballard	R	ABO	2021-05500	8-0-1	Lewis
28	CVS/pharmacy #6240	P	ABO	2021-00543	7-0-2	Montemayor, Tijerina
29	Calandre Michelle Carr	R	ABO	2021-04622	7-0-2	Montemayor, Tijerina
30	Harmony Pharmacy LLC	P	ABO	2021-02525	8-0-1	Lewis
31	Ndufolu Biy Kigham	R	ABO	2021-04929	8-0-1	Montemayor
32	Pharma	P	ABO	2021-03096	7-0-2	Lewis, Montemayor
33	TX United Pharmacy	P	ABO	2021-03441	7-0-2	Lewis, Montemayor
34	Kenneth Edward Cooper Jr.	R	DBO	2020-02150	8-0-1	Fernandez
35	John James Kotzur	R	DBO	2021-04334	7-0-2	Henke, Lewis
36	Plainview-Hale County City Health District	P	DBO	2021-04431	8-0-1	Lewis
37	UR Direct Rx	P	DBO	2020-04243	8-0-1	Lewis
38	Thuy T. Ngo	R	DBO	2021-05492	8-0-1	Lewis
39	Jonathan Chiedu Obiagwu	R	ABO	2020-00938	8-0-1	Yoakum
40	<i>Confidential</i>	R	ABO	2022-00597	7-0-2	Henke, Lewis
41	<i>Confidential</i>	R	ABO	2022-00186	8-0-1	Lewis
42	<i>Confidential</i>	R	DBO	2021-05136	7-0-2	Fernandez, Lewis
43	Mousa Abkhezr	R	RP	2021-04224	9-0-0	-
44	Priscilla Ruth Anderson	R	RP	2021-03347	9-0-0	-
45	Timothy John Rogers	R	RP	2021-05496	9-0-0	-
46	Warren Matthew Deforge	R	RP	2021-03455	7-0-2	Fernandez, Montemayor

\*Technician or Technician Trainee (T), Pharmacist (R), and Pharmacy (P)  
 \*\*Agreed Board Order (ABO), Default Board Order (DBO), and Remedial Plan (RP)

**J. Consideration of Personnel Matters**

Ms. Henke made a motion that the Board go into Executive Session to consider personnel matters under the authority of the Texas Government Code, §551.074. The motion was seconded by Mr. Lewis and passed unanimously.

President Spier declared the Board in Executive Session at 11:09 a.m.

At 12:19 p.m., President Spier announced that the Board would resume the meeting in Open Session and that no action was taken and no decisions were made during Executive Session.

President Spier recessed the meeting at 12:20 p.m.  
President Spier reconvened the meeting at 1:03 p.m.

**F. Discussion of and Possible Action Concerning the Following Reports and Discussions, continued**

- Discussion Concerning E-Prescribing Software by Pharmacies (Item F.9)

Ms. Hotchkiss provided background and introduced Tina Goodman, CEO of Weno Exchange, LLC, an intermediary electronic prescription software company. Ms. Hotchkiss explained that Board staff had been in contact with this company regarding the accepted method of issuance for a controlled substance prescription for dispensing, specifically regarding the pharmacy's responsibility to retrieve a prescription if the pharmacy software is not integrated with the intermediary electronic prescription software. She explained that it is Board staff's position that Board regulations do not require a pharmacy to have or use a specific data processing system, and the Board would not be able to require that a pharmacy must be able to accept an electronic prescription or to disallow another means of lawfully obtaining a prescription drug order from a prescriber.

Ms. Goodman presented information regarding her company's services, which includes standalone software for prescribers to issue an electronic prescription and for pharmacies to connect to the system to access the electronic prescription. Ms. Goodman also described circumstances the company has experienced where pharmacies are not joining the system to retrieve the electronic prescriptions and using other means to obtain the prescription. Ms. Goodman requested the Board clarify rule language to require pharmacies to fill an electronic prescription that was lawfully sent without using other means to obtain the prescription.

Following discussion, no action was taken by the Board with regards to this matter.

**I. Miscellaneous**

- Items to be Placed on Agenda for May 3, 2022 Board Meeting:

President Spier requested Board members to submit any items for the May 3, 2022 Board meeting to staff.

- Discussion of and Possible Action on Upcoming Meetings

President Spier reviewed upcoming meetings and conferences.

Ms. Holloway clarified that the informal conferences scheduled for February 15, 2022 were canceled.

Dr. Tucker reported on upcoming meeting attendance opportunities with NABP, including the Opioid Regulatory Collaborative Summit on March 7-8, 2022 and the Annual Meeting on May 19-21, 2022.

## **H. Disciplinary Orders**

- Consideration of Proposal for Decision in the Matter of Demond Bennett, Pharmacy Technician Registration #105758 (Item H.1.1)

President Spier recognized John Griffith, Litigation Counsel, who directed the Board's attention to the Proposal for Decision and the corresponding proposed Board Order. He advised the Board that following a hearing held before State Office of Administrative Hearings (SOAH) Administrative Law Judge Kerrie Jo Qualtrough, a Proposal for Decision was issued on June 30, 2021, in the matter of Demond Bennett. Mr. Griffith reviewed the background in the case for the Board and reviewed Board Order #2019-03538, which would reprimand Mr. Bennett's technician registration, as recommended by Judge Qualtrough and Board staff. Mr. Griffith clarified that a technical correction was made with regards to the incorrect registration number in the Proposal for Decision.

Following discussion, the motion was made by Ms. Montemayor to accept the Findings of Fact and Conclusions of Law in the Proposal for Decision and approve the entry of Board Order #2019-03538 in the matter of Demond Bennett. The motion was seconded by Mr. Fernandez and passed unanimously.

- Consideration of Proposal for Decision in the Matter of Oladipo Ken George, Pharmacist License #42818 (Item H.1.3)

Mr. Griffith directed the Board's attention to the Proposal for Decision and the corresponding proposed Board Order. He advised the Board that following a hearing held before State Office of Administrative Hearings (SOAH) Administrative Law Judge Andrew Lutostanski, a Proposal for Decision was issued on October 5, 2021, in the matter of Oladipo Ken George. Mr. Griffith reviewed the background in the case for the Board and reviewed Board Order #2020-05491, which would impose a one-year probation with probation fee on Mr. George's pharmacist license, as recommended by Judge Lutostanski and Board staff.

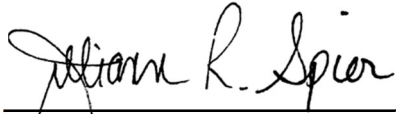
Following discussion, the motion was made by Mr. Lewis to accept the Findings of Fact and Conclusions of Law in the Proposal for Decision and approve the entry of Board Order #2020-05491 in the matter of Oladipo Ken George. The motion was seconded by Ms. Yoakum and passed unanimously.



Mr. Lewis made a motion to adjourn the meeting. The motion was seconded by Ms. Yoakum.


President Spier adjourned the meeting at 1:38 p.m.

APPROVED:



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Julie Spier, R.Ph.  
President



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Timothy L. Tucker, Pharm.D.  
Executive Director/Secretary

May 3, 2022