



TEXAS STATE BOARD OF PHARMACY

TEXAS STATE BOARD OF PHARMACY
Health Professions Council Board Room
333 Guadalupe Street, Tower II, Suite 225
Austin, Texas
August 9 - 10, 2011

MINUTES¹

Tuesday, August 9, 2011

President Jeanne D. Waggener, R.Ph., called the meeting to order at 9:02 a.m. Other Board Members present were Vice President Alice Mendoza, R.Ph.; Treasurer Dennis F. Wiesner, R.Ph.; Rosemary Forester Combs; W. Benjamin Fry, R.Ph.; Buford T. Abeldt, Sr., R.Ph.; Joyce A. Tipton, R.Ph.; and Charles Wetherbee.

Board Member L. Suzan Kedron was not present.

Staff present were Gay Dodson, R.Ph., Executive Director/Secretary; Carol Fisher, R.Ph., M.P.A., Director of Enforcement; Allison Benz, R.Ph., M.S., Director of Professional Services; Kerstin Arnold, General Counsel; Cathy Stella, Director of Licensing and Administrative Services; Paul Holder, R.Ph., Pharm.D., Assistant Director of Enforcement; Julie Hildebrand, Litigation Counsel; Caroline Hotchkiss, Staff Attorney; Linda Townsend, Staff Attorney; Sharanya Rao, Legal Program Specialist; and Becky Damon, Executive Assistant.

Also present was Pharmacist Intern Audrey Valencia.

A. Announcements

- President Waggener made general announcements.
- Announcements were made concerning Board Members and staff.

¹See agenda and corresponding attachments for supporting materials.

- Ms. Benz made an announcement concerning continuing education credit for attending the Board Meeting.

B. Discussion and Approval of Minutes of Previous Meetings (Tab 1)

Following discussion, the motion was made by Mr. Fry to approve the minutes of the TSBP Board Business Meeting held June 7, 2011; and the minutes of the Temporary Suspension Hearing held July 14, 2011, Concerning River's Edge Pharmacy and Shantae Yvette Shepard, R.Ph., as presented. The motion was seconded by Mr. Abeldt and passed unanimously.

C. Discussion of and Possible Action Regarding Rules

Final Adoption of Rules

- Rules Concerning Definition of Diversion of Dangerous Drugs and Address of Record (§§281.2, 281.30, 283.4, 283.7, 283.8, 291.1 and 297.3) (Tab 02)

Ms. Benz explained that the Board voted to propose the amendments to §§281.2, 281.30, 283.4, 283.7, 283.8, 291.1 and 297.3 during its June 7, 2011, meeting. The proposed amendments were published in the July 8, 2011, issue of the *Texas Register*, and no comments were received.

Ms. Benz directed the Board's attention to amendments to §§281.2, 281.30, 283.4, 283.7, 283.8, 291.1 and 297.3 and explained that the amendments define confidential address of record and public address of record, clarify application requirements for pharmacies, pharmacists, interns, pharmacy technicians and pharmacy technician trainees, and define diversion of dangerous drugs.

Ms. Benz explained that proposed amendments to §§281.2, 281.30, 283.4, 283.7, 283.8, 291.1 and 297.3 (Tab 02); §281.9 (Tab 03); §291.29 (Tab 04); and §§291.6, 295.5, and 297.4 (Tab 09) were published together and recommended the Board consider them at the same time.

- Rules Concerning Grounds for Disciplining Pharmacy Technicians and Pharmacy Technician Trainees (§281.9) (Tab 03)

Ms. Benz explained that the Board voted to propose the amendments to §281.9 during its June 7, 2011, meeting. The proposed amendments were published in the July 8, 2011, issue of the *Texas Register*, and no comments were received.

Ms. Benz directed the Board's attention to amendments to §281.9, and explained that the amendments clarify the grounds for discipline for pharmacy technicians/trainees.

- Rules Concerning Partner Therapy and Pharmacist Responsibilities with Regard to Prescriptions Issued by a Practitioner Practicing at a Pain Management Clinic (§291.29) (Tab 04)

Ms. Benz explained that the Board voted to propose the amendments to §291.29 during its June 7, 2011, meeting. The proposed amendments were published in the July 8, 2011, issue of the *Texas Register*, and comments were received from the Texas Pharmacy Business Council.

Ms. Benz directed the Board's attention to amendments to §291.29 and explained that the amendments clarify a pharmacist's responsibility in regard to prescriptions for controlled substances and requirements for prescriptions issued for a partner or family member in accordance with the Texas Medical Board rules.

A letter received from Richard Beck, Executive Director, Texas Pharmacy Business Council expressed concern that the proposed amendments create a burden on the pharmacist as to all prescription drug orders, not simply those that are frequently abused. After discussion the Board members noted that this proposed rule is not adding any responsibility to pharmacists because pharmacists already have this responsibility.

- Rules Concerning the Pharmacist-in-Charge Requirements for Class A (Community) Pharmacies (§291.32) (Tab 05)

Ms. Benz explained that the Board voted to propose the amendments to §291.32 during its June 7, 2011, meeting. The proposed amendments were published in the July 8, 2011, issue of the *Texas Register*, and no comments were received.

Ms. Benz directed the Board's attention to amendments to §291.32 and explained that the amendments allow a pharmacist-in-charge to be the pharmacist-in-charge of more than one Class A pharmacy if the pharmacies are not open simultaneously or in the event of an emergency.

Ms. Benz explained that proposed amendments to §291.32; §291.33 (Tab 06); §291.104 (Tab 07); and §303.1 (Tab 08) were published together and recommended the Board consider them at the same time.

- Rules Concerning Security and Patient Counseling Documentation, Partner Therapy, and Procedures for Returning Undelivered Medication to Stock (§291.33) (Tab 06)

Ms. Benz explained that the Board voted to propose the amendments to §291.33 during its June 7, 2011, meeting. The proposed amendments were published in the July 8, 2011, issue of the *Texas Register*, and no comments were received.

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

explained that the amendments clarify the requirements for documenting patient counseling; outline the prescription labeling requirements for drugs dispensed pursuant to partner therapy; outline the procedures for returning undelivered prescription medication to stock; clarify security requirements for the prescription department with regard to accessing the pharmacy in emergency situations; and correct references to the beyond-use-date for patient med-paks.

- Rules Concerning Generic Substitution (§291.104) (Tab 07)

Ms. Benz explained that the Board voted to propose the amendments to §291.104 during its June 7, 2011, meeting. The proposed amendments were published in the July 8, 2011, issue of the *Texas Register*, and no comments were received.

Ms. Benz directed the Board's attention to amendments to §291.104 and explained that the amendments delete the specific language regarding generic substitution since this language is repetitive of language in Chapter 309 and references the requirements in §§309.3 and 309.7.

- Rules Concerning Destruction of Dispensed Medications (§303.1) (Tab 08)

Ms. Benz explained that the Board voted to propose the amendments to §303.1 during its June 7, 2011, meeting. The proposed amendments were published in the July 8, 2011, issue of the *Texas Register*, and no comments were received.

Ms. Benz directed the Board's attention to amendments to §303.1 and explained that the amendments clarify the requirements for the destruction of dispensed drugs with regard to controlled substances.

Following discussion and review of the Preambles and Orders Adopting Rules, the motion was made by Mr. Wetherbee to approve for adoption, by Board Order, amendments §§291.32, 291.33, 291.104 and 303.1. The motion was seconded by Ms. Tipton and passed unanimously.

- Rules Concerning License Fees (§§291.6, 295.5, and 297.4) (Tab 09)

Ms. Waggener advised that the proposed amendments to rules concerning license fees would be considered later in the meeting in conjunction with financial reports (Item #E.1.3).

- Rules Concerning Examination Requirements Including Provisions to Implement S.B. 867 Passed by the 2011 Texas Legislature (§§283.7, 283.8 and 283.11) (Tab 10)

Ms. Benz directed the Board's attention to suggested amendments to §§283.7, 283.8 and 283.11, and explained the amendments clarify the expiration date for a passing grade on a licensure examination; outline the requirements for applicants diagnosed with dyslexia seeking reasonable accommodations; and remove requirements no longer needed.

Following discussion, the motion was made by Ms. Mendoza to approve for proposal amendments to §§283.7, 283.8 and 283.11. The motion was seconded by Mr. Fry and passed unanimously.

- Rules Concerning Accelerated Refills to Implement the Provisions of H.B. 2069 Passed by the 2011 Texas Legislature (§291.34) (Tab 11)

Ms. Benz directed the Board's attention to suggested amendments to §291.34, and explained the amendments implement the provisions of H.B. 2069, passed during the 82nd Regular Session of the Texas Legislature, allowing pharmacist to "accelerate refills" and dispense up to a 90 day supply of a dangerous drug if the total amount dispensed does not exceed the amount authorized on the prescription; patient consents to the change; physician is notified; physician does not specify that it is medically necessary to dispense the initial quantity; the drug is not a psychotropic; and the patient is at least 18 years old.

Following discussion, the motion was made by Mr. Wetherbee to approve for proposal amendments to §291.34. The motion was seconded by Mr. Fry and passed unanimously.

- Rules Concerning the Identification Number for Mid-Level Practitioners Required on Prescriptions, Records of Dispensing, and Records for Transferred Prescriptions (§291.34) (Tab 12)

Ms. Benz directed the Board's attention to suggested amendments to §291.34, and explained the amendments clarify the prescriptions drug order information for prescriptions issued by advanced practice nurses or physician assistants and remove the requirement for an identification to be on the prescription order; clarify the prescription recordkeeping requirements and specify that the supervising physician's name must be recorded for prescriptions issued by advanced practice nurses, physician assistants, or pharmacists; and update the recordkeeping requirements for transferred prescriptions maintained in a data processing system.

Ms. Benz explained that the Board had approved for proposal

amendments to §291.34 at its June 7, 2011, meeting but that due to time constraints the amendments were not published in the July 8, 2011, issue of the *Texas Register*.

Rule Reviews

- For Final Adoption

Ms. Benz directed the Board's attention to the TSBP Rule Review Plan for FY2010-2013 (Tab 13).

- Chapter 291 Concerning Pharmacies (Non-Resident Pharmacy) (Class E) (§§291.101-291.105) (Tab 14)
- Chapter 295 Concerning Pharmacists (§§295.1-295.9, 295.11-295.13, 295.15) (Tab 15)

Following discussion, in accordance with Government Code §2001.039, the motion was made by Ms. Tipton to approve for adoption, as presented, the review of Chapter 291 (§§291.101-291.105), and Chapter 295 (§§295.1-295.9, 295.11-295.13, 295.15). The motion was seconded by Mr. Abeldt and passed unanimously.

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

- Concerning Long Term Care Pharmacy Task Force (Tab 16)

Ms. Benz advised the Board that the Task Force on Long Term Care Pharmacies held its first meeting on June 29, 2011.

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

- Financial Update
 - Review of FY2011 Expenditures (Tab 17)

Ms. Stella reviewed the expenditures for the first three quarters of FY2011 (September 1, 2010 - through May 31, 2011) for the Board.

- Review of Board Member Travel Budget (Tab 18)

Ms. Stella reviewed the Board Member FY2011 Travel Budget.

- Review and Approval of FY2012 Operating Budget and Revenue

Projections (Tab 19)

Ms. Stella directed the Board's attention to the proposed operating budget for FY2012. She reviewed the budget and revenue projections, including Board Member travel.

Following discussion, the motion was made by Mr. Fry to approve the FY2012 Operating Budget, as presented. The motion was seconded by Ms. Mendoza and passed unanimously.

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

- Rules Concerning License Fees (§§291.6, 295.5, and 297.4) (Tab 09)

Ms. Benz explained that the Board voted to propose the amendments to §§291.6, 295.5, and 297.4 during its June 7, 2011, meeting. The proposed amendments were published in the July 8, 2011, issue of the *Texas Register*, and no comments were received.

Ms. Benz directed the Board's attention to two versions of amendments to §291.6 and explained that version #1 was the proposed rules as published in the July 8, 2011, issue of the *Texas Register*, and version #2 is the proposed rules with changes recommended by staff to clarify the initial registration period and to adjust the initial proposed fee reduction to raise additional revenue to cover additional appropriations that will allow the agency to hire an additional six individuals over the biennium.

Ms. Benz direct the Board's attend to two version of amendments §297.4 and explained that version #1 was the proposed rules as published in the July 8, 2011, issue of the *Texas Register*, and version #2 was the proposed rules with changes recommended by staff to increase registration fee by \$1.00 due to an increase in the surcharge to fund TexasOnline.

Following discussion and review of the Preambles and Orders Adopting Rules, the motion was made by Mr. Wetherbee to approve for adoption, by Board Order, amendments to §§281.2, 281.30, 283.4, 283.7, 283.8, 291.1, 297.3, 281.9, 291.29, 295.5; and version #2 of the amendments to §§291.6 and 297.4. The motion was seconded by Mr. Abeldt and passed unanimously.

President Waggener recessed the meeting at 10:27a.m.

President Waggener reconvened the meeting at 10:43 p.m.

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

Discussions (cont'd)

- Review and Approval of TSBP *FY2012 Goals and Objectives* (Tab 22)

Ms. Dodson presented the TSBP *FY2012 Goals and Objectives* and explained the new objectives.

Following review of the Goals and Objectives, the motion was made by Mr. Wetherbee to approve, as presented, the *FY2012 Goals and Objectives*. The motion was seconded by Ms. Mendoza and passed unanimously.

- Review and approval of Accreditation Council for Pharmacy Educations (ACPE) Accredited Professional Programs of Colleges and Schools of Pharmacy (Tab 23)

Following review of a list of ACPE approved professional degree programs of colleges and schools of pharmacy, a motion was made by Mr. Fry to approve the list of ACPE accredited professional programs of colleges and schools of pharmacy, as presented, as required under Board Rule §305.1. The motion was seconded by Ms. Tipton and passed unanimously.

- Discussion Concerning a Requirement for the Pharmacist-in-Charge of a Class E Pharmacy to be licensed in Texas (Tab 24)

Ms. Dodson explained that Mr. Fry had submitted a request for the Board to discuss the requirement that the Pharmacist-in-Charge (PIC) of a Class E pharmacy have a Texas license.

Mr. Fry explained there is a growing trend in other states to require the licensing of the PIC in order to ship into their respective state.

Ms. Waggener recognized Dennis McAllister, Director for Regulatory Affairs, Medco Health Services, Inc. Mr. McAllister stated that he previously had nine different state licenses and believed the licensing of the PIC in Class E pharmacies would be a heavy burden without much benefit.

Ms. Arnold explained that currently when TSBP takes action against the license of a Class E pharmacy in another state the state board in that state is notified of TSBP's action.

Following discussion the Board took no action.

- Report on Shared Regulatory Data Base Project (Tab 25)

Ms. Dodson reported that the new Shared Regulatory Data Base had been live since May 31, 2011. She stated the biggest issue at this time is the stability of the system and explained that the vendor has not been paid because of the system problems.

- Update on Legislation Passed During the 82nd Texas Legislative Regular Session that has an Impact on TSBP and/or the Practice of Pharmacy (Tab 26)

Ms. Dodson directed the Board's attention to a report on legislation considered by the 2011 Texas Legislative Session that could impact pharmacy practice.

- Discussion of Possible Statutory Changes for Consideration During the 83rd Session of the Texas Legislature (Tab 27)

Ms. Dodson advised the Board that there are no recommendations to date.

President Waggener recessed the meeting at 11:42 a.m.

President Waggener reconvened the meeting at 1:07 p.m.

- Professional Recovery Network
 - Dr. Holder discussed the charts which reflect the performance measures regarding the number of individuals participating in the peer assistance program for the past three fiscal years (FY2008-2010) as well as the number of pharmacists participating in the program during the first three quarters of FY2011. (Tab 20)
 - President Waggener recognized Courtney Bolin, Director of the Professional Recovery Network (PRN). Ms. Bolin directed the Board's attention to the PRN budget for September 1, 2010, through May 31, 2011, and reviewed current PRN activities for the Board. (Tab 21)

F. Disciplinary Orders

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

- Report on Agreed Board Orders Entered by Executive Director (Tab 29)
 - The Board reviewed 36 Technician Agreed Board Orders that had

been entered by the Executive Director on behalf of the Board, in accordance with the Board's directives, during the period June 16, 2011, through August 3, 2011.

- The Board reviewed 27 Agreed Board Orders concerning pharmacists and pharmacies that had been entered by the Executive Director on behalf of the Board in accordance with the Board's directive, during the period June 10, 2011, through July 20, 2011.
- Discussion of and Action on Proposed Agreed Board Orders and Proposed Default Board Orders (Tab 30)
 - The Board reviewed the alleged violations, as well as the recommended sanctions for each of the following 12 proposed Agreed Board Orders concerning pharmacy technicians and pharmacy technician trainees who appeared for an informal conference and 15 proposed Default Board Orders concerning pharmacy technicians and pharmacy technician trainees who did not appear for informal conferences.

Agreed Board Orders

1. Sheyrale L. Moore	ABO #T-10-464
2. Brent Deon Evans	ABO #T-10-544
3. Maria Rowena McGee	ABO #T-11-073
4. Rashena Lynette Rhodes	ABO #T-10-541-N
5. Shaneaqua Fanee Burton	ABO #T-11-214
6. Yousuf Ahmed Danawala	ABO #T-11-152-N
7. Jessica Fuentes	ABO #T-11-100-N
8. Darius A. Octave	ABO #T-11-102
9. Don Morris Robinson	ABO #T-11-147-N
10. Lionel Taylor	ABO #T-10-681-N
11. Sharon Lynn Valverde	ABO #T-10-669-N
12. Debra Michelle Winfrey	ABO #T-11-101-N

Default Board Orders

13. Dora Linda Benavidez	ABO #T-11-125
14. Martinus Evette East	ABO #T-11-210-N
15. Lauren Ahley Miluszusky	ABO #T-11-208-N
16. Alicia Renae Morton	ABO #T-10-671-N
17. Rosana Sanchez	ABO #T-10-575-N
18. Christina Marie Stidd	ABO #T-11-158-N
19. Amanda Croft	ABO #T-11-064
20. Colleen Finnerty	ABO #T-10-565
21. Abel Frank Guevara III	ABO #T-11-244
22. Deston Jereon Harris	ABO #T-10-679-N
23. Jessyca Nichelle Lee	ABO #T-11-061

- | | | |
|-----|--------------------------|-----------------|
| 24. | Veronica Esther McDonald | ABO #T-11-014 |
| 25. | Shandy Brooke McMullen | ABO #T-11-117 |
| 26. | Amanda Morrow | ABO #T-10-017 |
| 27. | Patricia Kate Sweat | ABO #T-10-712-N |

- The Board reviewed the alleged violations, as well as the recommended sanctions for each of the following three proposed Agreed Board Orders (Alternative Resolutions); and 21 proposed Agreed Board Orders concerning pharmacists, pharmacies, students, pharmacist-interns, and pharmacy technicians who appeared for an informal conference.

Agreed Board Orders (Alternate Resolutions)

- | | | |
|-----|-----------------------|---------------|
| 28. | Noelle Doan Bui | ABO #L-11-010 |
| 29. | Frank Coedrond Cooper | ABO #M-11-017 |
| 30. | Robin K. Kelly | ABO #L-10-016 |

Agreed Board Order (Following an Informal Conference)

- | | | |
|-----|-------------------------------|-----------------|
| 31. | Eugenia Nnenna Agugua | ABO #M-11-009 |
| 32. | Bayo's Pharmacy | ABO #N-11-010 |
| 33. | Brookshire Bros. Pharmacy #48 | ABO #B-10-005 |
| 34. | CVS/pharmacy #6825 | ABO #H-10-049-B |
| 35. | Robert Lyndon Reeves | ABO #H-10-049-A |
| 36. | CVS/pharmacy #7600 | ABO #B-09-027 |
| 37. | Rose Marie Herr | ABO #E-11-002 |
| 38. | Natalie Ann Hudec | ABO #H-09-037-A |
| 39. | Katy Medical Complex Pharmacy | ABO #H-10-053-B |
| 40. | Ronald Duane Moore | ABO #H-10-053-A |
| 41. | Kelsey Pharmacy | ABO #B-10-023-B |
| 42. | Juliana Lavette Francis | ABO #B-10-023-A |
| 43. | Los Fresnos Pharmacy | ABO #C-11-011 |
| 44. | Roberto Valentin Salinas | ABO #C-11-010 |
| 45. | Javier Adrian Larraga | ABO #T-11-278 |
| 46. | Eugene Enyinna Olewe | ABO #B-11-011 |
| 47. | Prescription Pharmacy | ABO #B-10-014 |
| 48. | Walgreen Co. #3637 | ABO #H-10-043-B |
| 49. | Frank Rocco Morrell | ABO #H-10-043-A |
| 50. | Walgreen Co. #12030 | ABO #B-10-012 |
| 51. | Ronnie M. Wylie | ABO #R-09-006 |

The motion was made by Mr. Fry to approve the 12 proposed Agreed Board Orders concerning pharmacy technicians and pharmacy technician trainees who appeared for an informal conference and 15 proposed Default Board Orders concerning pharmacy technicians and pharmacy technician trainees who did not appear for informal conferences; the three proposed Agreed Board Orders (Alternative Resolutions); and 21 proposed Agreed Board Orders concerning pharmacist, pharmacies,

students, pharmacist-interns who appeared for an informal conference.

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

1. 7-0-0
2. 7-0-0
3. 7-0-0
4. 7-0-0
5. 6-0-1 Mr. Fry abstained
6. 6-0-1 Mr. Fry abstained
7. 6-0-1 Mr. Fry abstained
8. 6-0-1 Mr. Fry abstained
9. 6-0-1 Mr. Fry abstained
10. 6-0-1 Mr. Fry abstained
11. 6-0-1 Mr. Fry abstained
12. 6-0-1 Mr. Fry abstained
13. 7-0-0
14. 7-0-0
15. 7-0-0
16. 7-0-0
17. 7-0-0
18. 7-0-0
19. 6-0-1 Mr. Fry abstained
20. 6-0-1 Mr. Fry abstained
21. 6-0-1 Mr. Fry abstained
22. 6-0-1 Mr. Fry abstained
23. 6-0-1 Mr. Fry abstained
24. 6-0-1 Mr. Fry abstained
25. 6-0-1 Mr. Fry abstained
26. 6-0-1 Mr. Fry abstained
27. 6-0-1 Mr. Fry abstained
28. 7-0-0
29. 7-0-0
30. 7-0-0
31. 6-0-1 Mr. Wetherbee abstained
32. 6-0-1 Mr. Wetherbee abstained
33. 6-0-1 Mr. Fry abstained
34. 6-0-1 Mr. Fry abstained
35. 6-0-1 Mr. Fry abstained
36. 6-0-1 Mr. Fry abstained
37. 6-0-1 Mr. Wetherbee abstained
38. 7-0-0
39. 6-0-1 Mr. Fry abstained
40. 6-0-1 Mr. Fry abstained
41. 6-0-1 Mr. Fry abstained
42. 6-0-1 Mr. Fry abstained
43. 6-0-1 Mr. Wetherbee abstained

44. 6-0-1 Mr. Wetherbee abstained
45. 6-0-1 Mr. Wetherbee abstained
46. 6-0-1 Mr. Wetherbee abstained
47. 6-0-1 Mr. Fry abstained
48. 6-0-1 Mr. Fry abstained
49. 6-0-1 Mr. Fry abstained
50. 6-0-1 Mr. Fry abstained
51. 6-0-1 Mr. Wetherbee abstained

- The Board reviewed the alleged violations, as well as the recommended sanctions for the following two proposed Agreed Board Orders concerning a pharmacist and a pharmacy following a Temporary Suspension Hearing.

Agreed Board Order (Following Temporary Suspension Hearing)

1. River's Edge Pharmacy ABO #A-11-059-B
2. Shantae Yvette Shepard ABO #A-11-059-A

The motion was made by Mr. Wetherbee to approve the two proposed Agreed Board Orders concerning a pharmacist and a pharmacy following a Temporary Suspension Hearing.

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

1. 5-0-2 Ms. Tipton and Mr. Wetherbee abstained
2. 5-0-2 Ms. Tipton and Mr. Wetherbee abstained

The Board reviewed the alleged violations and the Temporary Suspension Orders entered following a Temporary Suspension Hearing concerning the following pharmacist and pharmacy.

1. River's Edge Pharmacy ABO #A-11-044-B
2. Shantae Yvette Shepard ABO #A-11-044-A

- Confidential Agreed Board Orders (Tab 31)

The Board reviewed the alleged violations, as well as the recommended sanctions for each of the following three proposed Confidential Agreed Board Orders (Alternative Resolutions); and ten proposed Confidential Agreed Board Orders following an Informal Conference.

Agreed Board Orders (Alternate Resolution)

1. ABO #M-11-016
2. ABO #M-11-015
3. ABO #M-11-014

Agreed Board Orders (Following an Informal Conference)

4. ABO #N-11-012
5. ABO #G-11-005
6. ABO #G-11-001
7. ABO #G-10-018
8. ABO #R-11-002
9. ABO #G-10-035
10. ABO #G-10-025
11. ABO #E-11-005
12. ABO #B-10-048-B
13. ABO #B-10-048-A

The motion was made by Mr. Fry to approve the three proposed Confidential Agreed Board Orders (Alternative Resolutions); and ten proposed Confidential Agreed Board Orders following an Informal Conference.

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

1. 7-0-0
2. 7-0-0
3. 7-0-0
4. 6-0-1 Mr. Wetherbee abstained
5. 6-0-1 Mr. Wetherbee abstained
6. 6-0-1 Mr. Wetherbee abstained
7. 6-0-1 Mr. Wetherbee abstained
8. 6-0-1 Mr. Wetherbee abstained
9. 6-0-1 Mr. Wetherbee abstained
10. 6-0-1 Mr. Wetherbee abstained
11. 6-0-1 Mr. Wetherbee abstained
12. 6-0-1 Mr. Wetherbee abstained
13. 6-0-1 Mr. Wetherbee abstained

- Consideration of Proposal for Decision
 - In the Matter of Tiffany Shaunett Nicholas, Pharmacy Technician Registration #109142 (Tab 28)

Ms. Hildebrand advised the Board that a hearing was held before State Office of Administrative Hearings (SOAH) Administrative Judge Shannon Kilgore on May 5, 2011, in the matter of Tiffany Shaunett Nicholas, in which TSBP staff sought to revoke the pharmacy technician registration of Tiffany Shaunett Nicholas and impose a \$5,000 administrative penalty.

Ms. Hildebrand reviewed the background in the case for the Board. She directed the Board's attention to Board Order #T-08-494 and reviewed the options available for the Board. Following discussion, the motion was made by Mr. Wetherbee to

accept the *Findings of Fact and Conclusions of Law* in the *Proposal for Decision*, and approve Board Order #T-08-494, as presented, in the matter of Tiffany Shaunett Nicholas, to revoke Ms. Nicholas' pharmacy technician registration and impose a \$5,000 administrative penalty. The motion was seconded by Ms. Mendoza and passed unanimously.

G. Consideration of and Possible Action Concerning Enforcement Reports

- Petition to Serve as a Preceptor

Under Board Rule §283.6, a pharmacist who has been the subject of an order of the Board may not serve as a preceptor if the pharmacist has been the subject of a Board order during a three-year period immediately preceding application for approval as a preceptor. However, a pharmacist who is or has been the subject of an order may petition the Board to act as a preceptor. The Board reviewed a petition from the following individual.

- Monica Montalvo, PharmD.,R.Ph. (Tab 32)

Ms. Fisher reviewed the petition and supporting documentation from Monica Montalvo, PharmD., R.Ph. The motion was made by Mr. Wetherbee that the Board deny the petition of Monica Montalvo, Pharm.D, R.Ph., to serve as a preceptor. The motion was seconded by Mr. Fry and passed unanimously.

- Report on Complaints Closed and Dismissed During the Previous Quarter (Tab 33)

The Board received a report on complaints dismissed and closed during the first three quarters of FY2011 (September 1, 2010 – May 31, 2011). The report also included quarterly averages for FY2010 as compared to FY2011, as well as percentage change from FY2010 to FY2011.

Ms. Fisher reviewed the report for the Board.

- Report on Status of Active/Pending Complaints (Tab 34)

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

Ms. Fisher reviewed the report for the Board.

H. Miscellaneous

- Items to be Placed on Agenda for November Board Meeting (Tab 35)
- Discussion of and Possible Action on Recent Conferences and Events

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

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

President Waggener recessed the meeting at 1:50 p.m.

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

I. TSBP Strategic Plan

- Planning Session for TSBP Strategic Plan for the Fiscal Years 2013-2017 (Tab 36)

Ms. Dodson directed the Board's attention to materials concerning the *FY2013-2017 TSBP Strategic Plan*, and the comments received from the interested parties who responded.

Ms. Dodson introduced Sharanya Rao who would be assisting the Board in the development of the FY2013-2017 Strategic Plan by serving as a facilitator.

Board and staff members reviewed and discussed the responses received from interested parties to identify the issues expected to have the most significant impact on the profession and regulation of pharmacy over the next five years.

President Waggener recessed the meeting at 4:30 p.m.

Wednesday, August 10, 2011

President Jeanne D. Waggener, R.Ph., called the meeting to order at 8:35 a.m. Other Board Members present were Vice President Alice Mendoza, R.Ph.; Treasurer Dennis F. Wiesner, R.Ph.; Rosemary Forester Combs; W. Benjamin Fry, R.Ph.; Buford T. Abeldt, Sr., R.Ph.; Joyce A. Tipton, R.Ph.; and Charles Wetherbee.

Board Members L. Suzan Kedron and Rosemary Forester Combs were not present
Staff present were Gay Dodson, R.Ph., Executive Director/Secretary;

Carol Fisher, R.Ph., M.P.A., Director of Enforcement; Allison Benz, R.Ph., M.S., Director of Professional Services; Kerstin Arnold, General Counsel; Cathy Stella, Director of Licensing and Administrative Services; Paul Holder, R.Ph., Pharm.D., Assistant Director of Enforcement; Sharanya Rao, Legal Program Specialist; and Becky Damon, Executive Assistant.

Also present was Pharmacist Intern Audrey Valencia.

Board and staff members worked in groups to draft the policy issues for the FY2013-2017 Strategic Plan

President Waggener adjourned the meeting at 2:30 p.m.

APPROVED:

Jeanne D. Waggener, R.Ph.
President

Gay Dodson, R.Ph.
Executive Director/Secretary

November 1, 2011



TEXAS STATE BOARD OF PHARMACY

August 3, 2011

**Minutes of the Temporary Suspension Hearing
of Bright Omemgboji Wokocha (Pharmacist License #31516),
Adbright Pharmacy, Incorporated (Pharmacy License #26630), and
Richmond Professional Pharmacy (Pharmacy License #27176)**

Jeanne D. Waggener, R.Ph., Chair of the Disciplinary Panel, called the meeting to order at 8:35 a.m., in conference room number 400A, Tower II, 333 Guadalupe Street, Austin, Texas 78701. Board Members, Dennis F. Wiesner, R.Ph., and Charles F. Wetherbee, J.D., were also present, as the other two members of the Disciplinary Panel.

Staff present: Kerstin E. Arnold, General Counsel; Julie C. Hildebrand, Litigation Counsel; and Shawn Clark, Field Investigator.

Respondent: Bright Omemgboji Wokocha, Adbright Pharmacy, Incorporated, and Richmond Professional Pharmacy, represented by Tanika J. Solomon.

Also present: Senior Police Officer John Kowal of Houston Police Department (via teleconference).

Court Reporter: Kim Pence.

A. Opening:

The Chair called the case of the Application for the Temporary Suspension in the Matter of Bright Omemgboji Wokocha (Pharmacist License #31516), Adbright Pharmacy, Incorporated (Pharmacy License #26630), and Richmond Professional Pharmacy (Pharmacy License #27176). 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: Julie C. Hildebrand, attorney for the Board Staff.

Respondent: Not present.

B. Presentation by Board's Attorney, Julie Hildebrand:

1. Verbal synopsis of allegations.
2. Introduction of documents into evidence. All admitted.
3. Testimony of witnesses: Senior Police Officer John Kowal and Shawn Clark.

C. Presentation by Respondent:

Not present.

D. Motions:

1. A motion was made by Mr. Wetherbee 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 the disciplinary proceedings. Mr. Wiesner seconded the motion. The motion passed unanimously.

(The Board members went into Executive Session at 10:54 a.m.)

Chair Waggener reconvened the meeting at 11:00 a.m., and announced that no action was taken during Executive Session.

2. A motion was made by Mr. Wetherbee that the Application for the Temporary Suspension of Bright Omemgboji Wokocha (Pharmacist License #31516), Adbright Pharmacy, Incorporated (Pharmacy License #26630), and Richmond Professional Pharmacy (Pharmacy License #27176) be granted, in that the evidence and information indicated that the operation of the pharmacies and the practice of pharmacy by the pharmacist are a continuing threat to the public welfare, and recommended that the orders of suspension remain in effect until superseded by subsequent orders of the Board. Mr. Wiesner seconded the motion. The motion passed unanimously with the Temporary Suspension Orders to be adopted effective immediately.

The Chair announced that Bright Omemgboji Wokocha (Pharmacist License #31516), Adbright Pharmacy, Incorporated (Pharmacy License #26630), and Richmond Professional Pharmacy (Pharmacy License #27176) are suspended.

Chair Waggener adjourned the hearing at 11:02 a.m.

APPROVED:

Jeanne D. Waggener, R.Ph.

Chair

Gay Dodson, R.Ph.

Executive Director/Secretary



TEXAS STATE BOARD OF PHARMACY

August 19, 2011

**Minutes of the Temporary Suspension Hearing
of Canh Duc Thai (Pharmacist License #39424), Ngoc Banh (Pharmacist License
#39488), Crenshaw Pharmacy (Pharmacy License #26491), and Pharmacy Depot
(Pharmacy License #27151)**

Jeanne D. Waggener, R.Ph., Chair of the Disciplinary Panel, called the meeting to order at 8:55 a.m., in conference room number 400A, Tower II, 333 Guadalupe Street, Austin, Texas 78701. Board Members, Joyce A. Tipton, R.Ph., and Charles F. Wetherbee, J.D., were also present, as the other two members of the Disciplinary Panel.

Staff present: Kerstin E. Arnold, General Counsel; Julie C. Hildebrand, Litigation Counsel; and Shawn Clark, Field Investigator.

Respondent: Canh Duc Thai (Pharmacist License #39424), Ngoc Banh (Pharmacist License #39488), Crenshaw Pharmacy (Pharmacy License #26491), and Pharmacy Depot (Pharmacy License #27151), represented by Louis Leichter.

Also present: Cory Scott (via teleconference).

Court Reporter: Autumn Smith.

A. Opening:

The Chair called the case of the Application for the Temporary Suspension in the Matter of Canh Duc Thai (Pharmacist License #39424), Ngoc Banh (Pharmacist License #39488), Crenshaw Pharmacy (Pharmacy License #26491), and Pharmacy Depot (Pharmacy License #27151). 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: Julie C. Hildebrand, attorney for the Board Staff.

Respondent: Louis Leichter, attorney for Canh Duc Thai (Pharmacist License #39424), Ngoc Banh (Pharmacist License #39488), Crenshaw Pharmacy (Pharmacy License #26491), and Pharmacy Depot (Pharmacy License #27151).

B. Presentation by Board's Attorney, Julie Hildebrand:

1. Verbal synopsis of allegations.
2. Introduction of documents into evidence. All admitted.
3. Testimony of witnesses: Shawn Clark and Cory Scott.

C. Presentation by Respondent's Attorney, Louis Leichter:

1. Verbal synopsis of allegations.
2. Introduction of documents into evidence. All admitted.
3. Testimony of witness: Canh Duc Thai.

D. Motions:

1. A motion was made by Mr. Wetherbee 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 the disciplinary proceedings. Ms. Tipton seconded the motion. The motion passed unanimously.

(The Board members went into Executive Session at 2:54 p.m.)

Chair Waggener reconvened the meeting at 3:05 p.m., and announced that no action was taken during Executive Session.

2. A motion was made by Mr. Wetherbee that the Application for the Temporary Suspension of Canh Duc Thai (Pharmacist License #39424), Ngoc Banh (Pharmacist License #39488), Crenshaw Pharmacy (Pharmacy License #26491), and Pharmacy Depot (Pharmacy License #27151) be denied, in that the evidence and information indicated that the operation of the pharmacies and the practice of pharmacy by pharmacists are not a continuing threat to the public welfare. Ms. Tipton seconded the motion. The motion passed unanimously.

The Chair announced that the petitions for temporary suspension are denied.

Chair Waggener adjourned the hearing at 3:09 p.m.

APPROVED:

Jeanne D. Waggener, R.Ph.
Chair

Gay Dodson, R.Ph.
Executive Director/Secretary