



Louisiana Board of Pharmacy

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Minutes

Regular Meeting

Wednesday, May 5, 2004 at 1:00 p.m.

Louisiana Board of Pharmacy
5615 Corporate Blvd., Suite 8-E
Baton Rouge, Louisiana 70808

Administrative Hearing

Thursday, May 6, 2004 at 9:00 a.m.

Louisiana Board of Pharmacy
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Baton Rouge, Louisiana 70808

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- E – Board Policy: *Reciprocity Committee* (revised May 2004)

A regular meeting of the Louisiana Board of Pharmacy was held on Wednesday, May 5, 2004 in the Boardroom of the Louisiana Board of Pharmacy, located at 5615 Corporate Boulevard, Suite 8-E in Baton Rouge, Louisiana. The meeting was held pursuant to public notice, each member received notice, and notice was properly posted.

1. Call to Order

Mr. Carl Aron, President, called the meeting to order at 1:20 p.m.

2. Invocation & Pledge

Mr. Aron called upon Mr. Clovis Burch, and he delivered the invocation. Ms. Jacqueline Hall then led the group in the recitation of the Pledge of Allegiance.

3. Quorum Call

Mr. Aron called upon the Secretary, Dr. Reuben Dixon, to call the roll.

Members Present:

Mr. Joseph L. Adams
Dr. Lois R. Anderson
Mr. Carl W. Aron
Mr. Brian A. Bond
Mr. Clovis S. Burch
Mr. Wayne A. Camp
Mr. Theodore S. Carmichael
Mr. Salvatore J. D'Angelo
Dr. Reuben R. Dixon
Mr. Joseph V. Greco
Ms. Jacqueline L. Hall
Mr. Larry J. Lantier, Jr.
Mr. Marty R. McKay
Mr. Fred H. Mills, Jr.
Mr. Richard J. Oubre
Mr. T. Morris Rabb

Members Absent:

Mr. Jeffrey M. Landry

Staff Present:

Mr. Malcolm J. Broussard, Executive Director
Mr. Carlos M. Finalet, III, General Counsel
Ms. Kathleen V. Gaudet, Chief Compliance Officer
Mr. Stephen L. Collins, Compliance Officer
Mr. Melvin J. Fontenot, Compliance Officer
Mr. Huey J. Savoie, Compliance Officer
Mr. Rayland M. Trisler, Compliance Officer

Guests:

Mr. & Mrs. William J. Drago

Mr. Stuart Burgess – Southwest Medical Center Pharmacy
Mr. Tushar Patel – McKesson Automation

Dr. Dixon certified that a quorum of the Board was present.

4. Call for Additional Agenda Items

Mr. Aron asked if there were any additional agenda items, and none were offered.

At this point Mr. Aron requested authority from the Board to reorder the agenda as necessary for the purpose of adjusting the sequence of various reports. Mr. Camp moved, and Mr. Bond seconded, to grant the President the authority to reorder the agenda as necessary. The motion was approved after a unanimous vote in the affirmative.

5. Consideration of Minutes

Mr. Aron reminded the Board members that they had received the draft minutes from the last meeting in their advance-meeting packet; he then requested any changes. Hearing no corrections, Mr. Oubre moved, and Mr. Lantier seconded,

Resolved, that the Minutes of the Board Meeting of February 11, 2004 and the Administrative Hearing of February 12, 2004, both held in New Orleans, Louisiana are hereby adopted, ratified, and approved in their entirety.

The motion was approved after a unanimous vote in the affirmative. Dr. Dixon reminded the members to sign the Minute Book.

6. Report on Action Items

Mr. Aron called upon Mr. Broussard for his report. Mr. Broussard reminded the members that during their last meeting in February, the members had requested an update on the new criminal background check procedures, specifically with respect to the average time to receive the reports from the Louisiana State Police and the Federal Bureau of Investigation. He directed their attention to a written overview of the process in their meeting packet, and noted the current average response time to be 3-4 weeks.

7. Confirmation of Acts

At the request of Mr. Aron, Mr. Burch moved, and Dr. Dixon seconded,

Resolved, that the actions taken and decisions made by the Board officers, Board committees, and Executive Director in the general conduct and transactions of Board business since February 12, 2004 are approved, adopted, and ratified by the entire Board.

The motion was approved after a unanimous vote in the affirmative.

8. Opportunity for Public Comment

Mr. Aron informed the Board and guests that Act 285 of the 2001 Louisiana Legislature required all public bodies to provide an opportunity for public comment at all meetings. He solicited general comments, but none were offered.

9. *Special Order of the Day – Presentation of Gold Certificate*

Mr. Aron presented to Mr. William J. Drago a pharmacist certificate engraved in gold, commemorating fifty years of practice as a pharmacist licensed in Louisiana. Mr. Aron thanked Mr. Drago for his service to the citizens of the state and to the profession of pharmacy; he also informed Mr. Drago that one of the benefits of the gold certificate is a waiver of all future renewal fees. The members and guests congratulated Mr. Drago with a standing ovation.

10. *Committee Reports*

A. *Finance Committee*

Mr. Aron called upon Mr. Carmichael for the committee report. Mr. Carmichael directed the members to several documents in their meeting packet: Statement of Assets, Liabilities, and Equity, Interim Budget Performance Report, and Summary of Fund Balance, all for the Third Quarter of the current fiscal year, as well as the Hancock Bank Statement for March 31, 2004. He reviewed all of the reports, and answered questions from the members. He indicated that the reports were for information only and required no action from the members. Mr. Carmichael thanked the members of his committee for their work.

B. *Examination/Technician Committee*

Mr. Aron called upon Mr. Camp for the committee report. Mr. Camp noted that the NAPLEX information for the first trimester of the year was not yet available. He then presented the MPJE results for the second half of 2003, as well as information concerning PTCB and DSM results. Finally, he directed the members to the licensure activity report, showing new pharmacists and technicians credentialed since the last board meeting.

C. *Reciprocity Committee*

Mr. Aron called upon Mr. McKay for the committee report. He reported that the committee had approved six pharmacists since the last board meeting, and that they had interviewed six candidates that morning. He then moved, and Mr. Lantier seconded,

Resolved, that the board approve

Paul Nathan Herman
Jason Robert Hodges
Angela Lynn Hughes
James Joseph Mayo
Carol Louise Petersen, *and*
Henry Fox Skelton, II

for pharmacist licensure by reciprocity.

The motion was approved after a unanimous vote in the affirmative. Mr. McKay informed the members that another pharmacist had been scheduled for an interview but had not appeared. The committee reviewed his application and determined that additional information was necessary for their further consideration of the reciprocity application. Mr. McKay moved, and Mr. Lantier seconded,

Resolved, that before any further consideration is taken relative to the reciprocity application of Anthony John Calello, the applicant shall submit to a medical evaluation by an addictionist approved by the Louisiana Board of Pharmacy, at applicant's expense, and that the addictionist's report shall be submitted to the board office.

The motion was approved after a unanimous vote in the affirmative. Finally, Mr. McKay thanked the members of his committee for their work that morning.

D. Regulation Revision Committee

Mr. Aron called upon Mr. D'Angelo for the committee report. Mr. D'Angelo reminded the members they remanded the proposed revision of the pharmacy technician chapter back to the committee for additional consideration. The committee voted to remove the requirement for a certified pharmacist preceptor for the practical experience earned by pharmacy technician candidates. Mr. D'Angelo reminded the members that the requirement for a certified pharmacist preceptor for pharmacy interns was already established in regulation, and current proposal would not change that. Mr. D'Angelo moved, and Mr. McKay seconded,

Resolved, that the Board approve Draft No. 9 of the proposed revision to Chapter 8 – Pharmacy Technicians, and further, the Board authorizes staff to initiate the promulgation of the proposed regulation upon the instruction of the President, and further, the Board authorizes the President to approve any non-substantive changes that may become necessary during the promulgation process.

The motion was approved after a unanimous vote in the affirmative. Mr. D'Angelo then reported on discussions with the Department of Education and the Health Works Commission to facilitate the offering of pharmacy technician education and training to high school seniors. Mr. Finalet relayed some of the concerns the committee members expressed relative to legal questions concerning the authority of minors to possess controlled dangerous substances, as well as the authority of the Board to discipline minors. The committee recommended that the Board request an opinion from the Attorney General's office on several substantive questions. Mr. McKay moved, and Mr. Camp seconded,

Resolved, that the Board request an opinion from the Attorney General for the State of Louisiana relative to the following questions: (1) whether the placement of students in a pharmacy would cause the pharmacy to be considered a 'drug free zone', (2) whether there were any laws that prohibited minors from having access to controlled substances, (3) whether there were any concerns relative to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), and (4) whether the Board would be precluded from disciplining any minors that might be under the Board's jurisdiction.

The motion was approved after a unanimous vote in the affirmative. Finally, Mr. D'Angelo thanked the members of his committee for their efforts.

At this point, Mr. Aron declared a brief recess. It was noted that the Board recessed at 2:55 p.m. and reconvened at 3:15 p.m. He resumed the posted agenda, in open session.

E. Reinstatement Committee

Mr. Aron called upon Mr. Rabb for the committee report. Mr. Rabb informed the members that the credentials of one pharmacist, four pharmacy technician certificates and one pharmacy permit had been reinstated since the last meeting, using committee policies previously approved by the board. The committee met earlier that morning to consider petitions from one pharmacy permit and one pharmacy technician. Mr. Rabb reported that while the application from the pharmacy permit did not require committee action, staff had requested committee review prior to reinstatement. Following their consideration, the committee unanimously agreed to reinstate the pharmacy permit with immediately. Mr. Rabb then presented the following file for Board action.

Carol Virginia Pichon (Pharmacy Technician Certificate No. 1591) Mr. Rabb moved, and Mr. Oubre seconded, to grant the application for reinstatement, and further, to condition the reinstatement upon completion of the following terms: (a) respondent shall obtain and submit ten (10) hours of ACPE-accredited continuing pharmacy education, in the manner and subject matter of respondent's choice, to the Board office no later than May 5, 2005, provided however, that the continuing education records submitted in support of the application prior to committee consideration shall be accepted in fulfillment of this condition, and (b) respondent shall pay administrative costs, and further, reinstatement shall be automatic upon completion of the terms and necessary processing by the Board office. The motion was approved after a unanimous vote in the affirmative. The Board ordered the conditional reinstatement of the certificate, subject to completion of certain terms as identified in the consent order.

Mr. Rabb reported that his committee had reviewed their standing committee policies and procedures, and agreed with staff recommendations for revision. He then moved, and Mr. Burch seconded,

Resolved, that the Board approve the May 2004 revision of the policy entitled "*Reinstatement Committee*."

The motion was approved after a unanimous vote in the affirmative. A copy of the revised and approved policy is appended.

Finally, Mr. Rabb expressed appreciation to the members of his committee for their work earlier that morning.

F. Violations Committee

Mr. Aron called upon Dr. Dixon for the committee report. Dr. Dixon reported that the committee conducted their last Informal Conference on March 11, 2004; that docket included 5 pharmacists, 9 technicians, and 2 permits. He informed the members the next Informal Conference was

scheduled for June 8-9; that docket includes 21 pharmacists, one intern, 6 technicians, and 13 permits. He then announced that the docket for the Administrative Hearing scheduled for the next day included 7 formal hearings and 9 consent agreements, for a total of 16 cases. He stated his intention to present his committee policies for approval the next day during the hearing.

Finally, Dr. Dixon thanked the members of his committee for their efforts.

G. Impairment Committee

Mr. Aron called upon Mr. Burch for the committee report. Mr. Burch informed the members that the committee had met the previous day to consider voluntary surrenders from 3 pharmacists, 2 technicians and 2 technician candidates, a petition for reinstatement from one pharmacist, a petition for probation modification from one pharmacist, as well as to provide guidance to 3 technicians. He then presented the following files for Board action.

Jeremy Christopher Powell (Pharmacist License No. 16108) Mr. Burch moved, and Mr. Rabb seconded, to accept the voluntary surrender of the license. The motion was approved after a unanimous vote in the affirmative. The Board accepted the voluntary surrender of the license, resulting in the indefinite suspension of the license, effective March 11, 2004.

John Braxton Harper (Technician Certificate No. 5905) Mr. Burch moved, and Dr. Dixon seconded, to accept the voluntary surrender of the certificate. The motion was approved after a unanimous vote in the affirmative. The Board accepted the voluntary surrender of the certificate, resulting in the indefinite suspension of the certificate, effective March 15, 2004.

Chandra Dione Eugene (Technician Candidate Registration No. 9578) Mr. Burch moved, and Mr. Oubre seconded, to accept the voluntary surrender of the registration. The motion was approved after a unanimous vote in the affirmative. The Board accepted the voluntary surrender of the registration, resulting in the indefinite suspension of the registration, effective March 22, 2004.

Felicia Lotts Christian (Technician Candidate Registration No. 9439) Mr. Burch moved, and Mr. Camp seconded, to accept the voluntary surrender of the registration. The motion was approved after a unanimous vote in the affirmative. The Board accepted the voluntary surrender of the registration, resulting in the indefinite suspension of the registration, effective March 2, 2004.

Stephanie Ann Richards (Pharmacist License No. 15339) Mr. Burch moved, and Mr. Rabb seconded, to accept the voluntary surrender of the license. The motion was approved after a unanimous vote in the affirmative. The Board accepted the voluntary surrender of the license, resulting in the indefinite suspension of the license, effective March 29, 2004.

Karen Odom Howington (Pharmacist License No. 14835) Mr. Burch moved, and Mr. Camp seconded, to accept the voluntary surrender of the license. The motion was approved after a unanimous vote in the affirmative. The Board accepted the voluntary surrender of the license, resulting in the indefinite suspension of the license, effective April 2, 2004.

Christopher Noel Murdock (Technician Certificate No. 5501) Mr. Burch moved, and Mr. Oubre seconded, to accept the voluntary surrender of the certificate. The motion was approved after a unanimous vote in the affirmative. The Board accepted the voluntary surrender of the certificate, resulting in the indefinite suspension of the certificate, effective March 23, 2004.

Jerry Dale Walters (Pharmacist License No. 16806) Mr. Burch moved, and Dr. Anderson seconded, to grant the request for reinstatement, then suspend the license for ten years, stay the execution thereof, then place the license on probation for ten years, subject to certain terms as identified in the consent agreement. The motion was approved after a unanimous vote in the affirmative. The Board reinstated the license, suspended it for ten years, stayed the execution thereof, then placed the license on probation for ten years, beginning on May 5, 2004 and terminating on May 4, 2014, subject to certain terms as identified in the consent agreement.

Ronnie Steve Polito (Pharmacist License No. 11348) Mr. Burch moved, and Mr. Lantier seconded, to grant the request for probation modification by removing the restriction that prevents the respondent from serving as a pharmacist-in-charge. The motion was approved after a unanimous vote in the affirmative. The Board modified the probation board order dated August 22, 2002 by deleting Article 2.e, and further, ordered that all remaining terms shall remain in force for the duration of the probation.

Scott Vincent Hill (Technician Certificate No. 4000) Mr. Burch moved, and Mr. Camp seconded, to approve the proposed non-disciplinary Diagnostic Monitoring Contract for a two year period, subject to certain terms as identified in the consent agreement. The motion was approved after a unanimous vote in the affirmative. The Board approved the non-disciplinary Diagnostic Monitoring Contract for two years, beginning on May 5, 2004 and terminating on May 4, 2006, subject to certain terms as identified in the consent agreement.

Finally, Mr. Burch thanked the members of his committee for their work.

H. Tripartite Committee

Mr. Aron called upon Mr. Adams for the committee report. Mr. Adams indicated the committee had not met since the last board meeting.

I. Legislative Committee

Mr. Aron called upon Mr. Broussard for the committee report. Mr. Broussard directed the members to the weekly legislative update in their meeting packet. He reviewed legislation heard in committee earlier that day, as well as scheduled actions on other bills under consideration.

J. Executive Committee

Mr. Aron reported that his committee met the previous day; they reviewed the activities of all committees and then reviewed all contracts for professional services. No performance issues were identified, and the committee recommended the continuation of all existing contracts. Mr. Burch then moved, and Mr. McKay seconded,

Resolved, that the Board approve the proposed legal services contract with Celia R. Cangelosi, at the stipulated rate, in an amount not to exceed \$40,000 for Fiscal Year 2004-2005.

The motion was approved after a unanimous vote in the affirmative. Mr. Burch moved, and Mr. Oubre seconded,

Resolved, that the Board approve the proposed legal services contract with E. Wade Shows, at the stipulated rate, in an amount not to exceed \$25,000 for Fiscal Year 2004-2005.

The motion was approved after a unanimous vote in the affirmative. Mr. Burch moved, and Dr. Dixon seconded,

Resolved, that the Board approve the proposed accounting services contract with Kolder, Champagne, Slaven & Company, at the stipulated rate, in an amount not to exceed \$10,000 for Fiscal Year 2004-2005.

The motion was approved after a unanimous vote in the affirmative. Mr. Burch moved, and Mr. Oubre seconded,

Resolved, that the Board approve the proposed licensure database software support agreement with Software Applications, Inc., at the stipulated rate, in an amount not to exceed \$5,000 for Fiscal Year 2004-2005.

The motion was approved after a unanimous vote in the affirmative. Mr. Burch moved, and Mr. Oubre seconded,

Resolved, that the Board approve the proposed information system network support services agreement with Essential Solutions, LLC, at the stipulated rate, in an amount not to exceed \$5,000 for Fiscal Year 2004-2005.

The motion was approved after a unanimous vote in the affirmative. Mr. Burch moved, and Mr. Bond seconded,

Resolved, that the Board approve the proposed website maintenance agreement with Mr. Michael Yoches, at the stipulated rate, in an amount not to exceed \$5,000 for Fiscal Year 2004-2005.

The motion was approved after a unanimous vote in the affirmative. Mr. Burch moved, and Mr. Camp seconded,

Resolved, that the Board approve the National Association of Boards of Pharmacy as the administrator for the pharmacist

licensure examinations (NAPLEX, MPJE, and FPGEE) for Fiscal Year 2004-2005.

The motion was approved after a unanimous vote in the affirmative. Mr. Burch moved, and Mr. Bond seconded,

Resolved, that the Board approve the Pharmacy Technician Certification Board as the administrator of the pharmacy technician certification examination (PTCB) for Fiscal Year 2004-2005.

The motion was approved after a unanimous vote in the affirmative. Mr. Burch moved, and Mr. Camp seconded,

Resolved, that the Board approve the NABP Foundation as the publisher of the Board's newsletter, at the stipulated rate, in an amount not to exceed \$25,000 for Fiscal Year 2004-2005.

The motion was approved after a unanimous vote in the affirmative. Mr. Burch moved, and Mr. Oubre seconded,

Resolved, that the Board approve the National Confederation of Professional Services (NCPS) as the vendor for the drug screening program for Fiscal Year 2004-2005.

The motion was approved after a unanimous vote in the affirmative. Mr. Burch moved, and Mr. Bond seconded,

Resolved, that the Board approve the Impairment Committee's Roster of Approved Addictionists for Fiscal Year 2004-2005.

The motion was approved after a unanimous vote in the affirmative. Mr. Aron then informed the members that the committee had conducted the annual performance review with the executive director, using the survey forms completed by the board members. The committee provided guidance to the director, and determined his job performance to be satisfactory.

Finally, Mr. Aron thanked the members of his committee for their efforts.

11. Report of Chief Compliance Officer

Mr. Aron called upon Ms. Gaudet for her report. She reported on the inspection rate of all the pharmacies in the state. She then reported on the number of complaints received, investigated, and adjudicated. She also reported that all the new compliance officers were board-certified investigators, and that they would pursue their advance certification within the next twelve months.

12. Report of General Counsel

Mr. Aron called upon Mr. Finalet for his report. Mr. Finalet presented a proposed policy and procedure document for consideration by the members. Following his presentation of the proposal, Mr. D'Angelo moved, and Mr. Adams seconded,

Resolved, that the Board approve the policy entitled "*Declaratory Statements and Advisory Opinions.*"

The motion was approved after a unanimous vote in the affirmative. A copy of the approved policy is appended. Mr. Finalet deferred the remainder of his report pending completion of the next item of business.

At this point, Mr. Aron re-ordered the agenda to accommodate guests with urgent travel requirements.

13. Request for Opinion – Centralized Prescription Processing in Hospital Pharmacy

Mr. Aron recognized Mr. Stuart Burgess, Director of Pharmacy at Southwest Louisiana Medical Center in Lafayette, and Mr. Tushar Patel, Pharmacist Consultant at McKesson Automation in San Antonio, Texas. Mr. Burgess reviewed his facility's process for packaging medication, as well as their plans to purchase robotic technology from McKesson Automation. The technology is able to utilize bar code technology in its packaging process. In order to increase the efficiency of the robotic technology, petitioner wishes to also package medications for two other hospital pharmacies in the vicinity. Petitioner had requested guidance from the Board as to whether this proposal is compliant with current pharmacy laws and regulations.

In response to member questions, the petitioner indicated that the primary medications to be packaged include oral solids, exclusive of controlled substances and refrigerated items. Several members expressed support for the use of robotic technology to improve patient safety at the facility where the technology is located, but also expressed concern for moving inventory from one permitted facility to another. In particular, they noted the current provision of Section 1505.A; although that section is currently under review, the petitioner's proposal seemed to be in conflict with that regulation.

In summary, staff confirmed that the petitioner could utilize the robotic technology for its facility at the current time, but could not utilize that technology for any other facility. Further, Mr. Aron directed the Regulation Revision Committee to consider this issue in its review of technology. Finally, he directed staff to enroll the petitioners to the Board's List of Interested Parties.

At this point, Mr. Aron returned to the posted agenda.

12. Report of General Counsel (cont.)

Mr. Aron called upon Mr. Finalet for the remainder of his report. Mr. Finalet indicated that he had a report on the status of current litigation involving NorthCare Drugs. Given the nature of the information in the report, he suggested a motion for executive session.

Mr. D'Angelo moved, and Mr. Oubre seconded, to enter executive session for the purpose of reviewing the status of existing litigation with NorthCare Drugs. The motion was approved after a unanimous roll call vote in the affirmative.

It was noted that the Board entered executive session at 5:25 p.m., and then came out of executive session at 5:35 p.m.

14. Report of Executive Director

Mr. Aron called upon Mr. Broussard for his report. Mr. Broussard began his report by noting the various conferences he attended and presentations made. He directed the members to the current census report, noting the total number of credentials processed on an annual basis at approximately 14,000.

He then presented the results from the 2004 Pharmacist CE audit: a survey of approximately 5% of licensed pharmacists yielded a 92% compliance rate. He then reported on activities related to the Board of Nursing.

Mr. Broussard then reported on the range of topics presented during the most recent Annual Meeting of the National Association of Boards of Pharmacy (NABP) and how those topics related to current and planned activities of the Board. In addition, he reported that Florida and California are now full members of NABP, and that fact now required action by this Board relative to licensure by reciprocity and licensure by examination score transfer. Mr. D'Angelo moved, and Dr. Dixon seconded,

Resolved, that the Board accept NAPLEX score transfer requests from applicants taking the test in Florida, and further, that the Board continue to deny applications for licensure by reciprocity based solely on Florida licensure until such time as Florida revises its rules on accepting applications for licensure by reciprocity.

The motion was approved after a majority vote in the affirmative; Mr. Adams objected. Since California's process was still evolving, decisions on score transfer and reciprocity from applicants in that state were deferred.

Mr. Broussard then requested guidance from the Board relative to an interpretation of Board regulations at a specific practice site. The pharmacist has allowed customer service representatives to access prescription records while they assist customers with prescription refill requests. The Board reaffirmed staff's interpretation that access to prescription records in a pharmacy requires a credential of some kind from the Board of Pharmacy.

Finally, Mr. Broussard announced that Mr. Aron had been appointed as Chair of the NABP Advisory Committee on Examinations (ACE), one of the standing committees. The members congratulated Mr. Aron.

15. Request for Exception – Nuclear Pharmacy Technician Training and Certification

Mr. Aron announced that the petitioner had requested the withdrawal of this agenda item shortly before the meeting convened.

16. Request for Exception – Minimum Requirements for Prescription Department

Mr. Aron announced that the petitioner had requested the withdrawal of this agenda item shortly before the meeting convened.

17. Announcements

Mr. Broussard reminded the Board members of several calendar notes, and alerted them to the calendar in their meeting packet.

18. Recess

Mr. Burch moved, and Mr. Bond seconded, to recess. The motion was approved after a unanimous vote in the affirmative. With no further business before it, Mr. Aron placed the Board in recess at 6:00 p.m.

An Administrative Hearing was convened on Thursday, May 6, 2004 in the Boardroom of the Louisiana Board of Pharmacy, located at 5615 Corporate Blvd., Suite 8-E in Baton Rouge, Louisiana. The hearing was held pursuant to public notice, each member and respondent received notice, and notice was properly posted.

1. Call to Order

Mr. Aron called the meeting to order at 8:40 a.m.

2. Invocation & Pledge

Mr. Aron called upon Mr. Bond, and he delivered the invocation. Mr. Camp then led the group in the recitation of the Pledge of Allegiance.

3. Quorum Call

Mr. Aron called upon Secretary Dixon, and he called the roll. After doing so, he informed Mr. Aron that Mr. Greco, Mr. Landry, and Mr. Mills were absent, but that all other members, constituting a quorum, were present.

4. Call for Additional Agenda Items

Mr. Aron asked if there were any additional agenda items. None were offered.

At this point, Mr. Aron requested authority from the Board to reorder the agenda as necessary for the purpose of adjusting the sequence of various witnesses and reports. Mr. McKay moved, and Mr. Oubre seconded, to grant the President the authority to reorder the agenda as necessary with respect to witnesses and reports. The motion was approved after a unanimous vote in the affirmative.

It was noted that Mr. Greco arrived at 9:00 a.m.

5. Opportunity for Public Comment

Mr. Aron informed the Board and guests that Act 285 of the 2001 Louisiana Legislature required all public bodies to provide an opportunity for public comment at all meetings. He solicited comments from the guests in attendance, but none were offered.

6. Report of the Violations Committee – Consideration of Consent Agreements

Mr. Aron called upon Dr. Dixon for his report. Dr. Dixon opened his report with information that his committee was prepared to present their updated policies for Board approval. Dr. Dixon then moved, and Mr. Rabb seconded,

Resolved, that the Board approve the May 2004 revision of the policies entitled "*Violations Committee – Publication of Final Adverse Actions*" and "*Violations Committee – RS 46:2625.*"

The motion was approved after a unanimous vote in the affirmative. Copies of the revised and approved policies are appended.

Dr. Dixon then informed the members that the committee had proposed consent agreements that required Board action, and further, that the only respondent required to make an appearance was the first one on the agenda. He then presented the following files for Board action.

Daniel Gerard Levy, II (Pharmacist License No. 14451) Dr. Dixon moved, and Mr. Camp seconded, to accept the Voluntary Consent Agreement. The motion was approved after a majority vote in the affirmative; Mr. Oubre requested the record to reflect his abstention from the vote in this matter. The Board suspended the permit for five years, beginning March 31, 2004, and then prohibited any application for reinstatement for at least six months. Further, the Board conditioned the acceptance of any reinstatement application upon certain terms as identified in the agreement. Finally, the Board assessed the respondent \$5,000 plus administrative and investigative costs. *Charges:*

- (1) LRS 37:1241.A.10 – has departed from or failed to conform to the minimal standards of acceptable pharmacy practice.
- (2) LRS 40:968.A.1 – unlawful distribution or dispensation of a controlled substance in Schedule III.
- (3) LRS 40:970.A.1 – unlawful distribution or dispensation of a controlled substance in Schedule V.
- (4) LRS 40:971.B.1.b – unlawful acquisition of controlled dangerous substance by misrepresentation.
- (5) LRS 40:971.C.2 – unlawful dispensation of controlled substance by pharmacist.
- (6) LAC 46:LIII.1107.I – failure to properly operate a prescription department as pharmacist-in-charge.
- (7) LAC 46:LIII.3501 – improper dispensation of legend drugs without legitimate prescription.
- (8) LAC 46:LIII.3529.A.1.a – improper dispensation of controlled substance without legitimate prescription.

At this point, Mr. Aron re-ordered the agenda to permit Dr. Dixon and General Counsel to present all the proposed voluntary consent agreements.

CVS ProCare Pharmacy No. 2909 (Pharmacy Permit No. 4542) Dr. Dixon moved, and Mr. Camp seconded, to accept the Voluntary Consent Agreement. The motion was approved after a unanimous vote in the affirmative. The Board issued a Letter of Warning to the permit holder, then assessed the permit holder \$5,000 plus administrative and investigative costs. *Charges:*

- (1) LRS 37:1232.A – failure of out-of-state pharmacy to maintain a current pharmacy permit.
- (2) LAC 46:LIII.1101.C.2 – failure to renew annual permit on or before January 15.

Chasitie Mitchell Richard (Technician Certificate No. 2687) Dr. Dixon moved, and Mr. Oubre seconded, to accept the Voluntary Consent Agreement. The motion was approved after a unanimous vote in the affirmative. The Board issued a Letter of Warning to the respondent, and further, ordered the respondent to obtain a certain amount of continuing education credit by a certain date, and further, assessed the respondent administrative and investigative costs. *Charges:*

- (1) LRS 37:1241.A.2 – obtained a certificate by fraud or misrepresentation.
- (2) LRS 37:1241.A.22 – failure to furnish information to the Board.
- (3) LAC 46:LIII.809 – failure to complete continuing education requirements for certificate renewal.

Barbara Olinde Roe (Technician Certificate No. 5018) Dr. Dixon moved, and Mr. Camp seconded, to accept the Voluntary Consent Agreement. The motion was approved after a unanimous vote in the affirmative. The Board suspended the certificate for an indefinite period of time, and further, conditioned the acceptance of any future application for reinstatement upon certain terms as identified in the agreement. *Charges:*

- (1) LRS 37:1241.A.2 – obtained a certificate by fraud or misrepresentation.
- (2) LRS 37:1241.A.22 – failure to furnish information to the Board.
- (3) LAC 46:LIII.809 – failure to complete continuing education requirements for certificate renewal.

7. Report of General Counsel – Consideration of Consent Agreements

Mr. Aron called upon Dr. Dixon to present the following files for Board action.

Christopher Aaron McClure (Technician Certificate No. 3883) Dr. Dixon moved, and Mr. Oubre seconded, to accept the Voluntary Consent Agreement. The motion was approved after a unanimous vote in the affirmative. The Board revoked the certificate, and further, prohibited any future application by the respondent. *Charges:*

- (1) LRS 37:1241.A.10 – departure from, or failure to conform to, the minimal standards of acceptable pharmacy practice.
- (2) LRS 40:967.A.1 – unlawful possession with intent to distribute a controlled substance in Schedule II.
- (3) LRS 40:967.C – unlawful acquisition of controlled substance in Schedule II.
- (4) LRS 40:968.A.1 – unlawful possession with intent to distribute a controlled substance in Schedule III.
- (5) LRS 40:968.C – unlawful acquisition of controlled substance in Schedule III.

Sherman Melvin Cutrer (Pharmacist License No. 16739) Dr. Dixon moved, and Mr. McKay seconded, to accept the Voluntary Consent Agreement. The motion was approved after a unanimous vote in the affirmative. The Board issued a Letter of Warning to the respondent, and further, assessed the respondent administrative and investigative costs. *Charges:*

- (1) LRS 37:1241.A.6 – has had his license in another jurisdiction disciplined for conduct that would provide grounds for discipline in this state.
- (2) LRS 37:1241.A.7 – has failed to report to the Board any adverse action taken against him in another jurisdiction.

Karen A. Gibson (Technician Certificate No. 1946) Dr. Dixon moved, and Mr. Camp seconded, to accept the Voluntary Consent Agreement. The motion was approved after a unanimous vote in the affirmative. The Board revoked the certificate, and further, prohibited any future application by the respondent.

Charges:

- (1) LRS 37:1241.A.10 – departure from, or failure to conform to, the minimal standards of acceptable pharmacy practice.
- (2) LRS 40:968.A.1 – unlawful possession with intent to distribute a controlled substance in Schedule III.
- (3) LRS 40:968.C – unlawful acquisition of controlled substance in Schedule III.
- (4) LRS 40:969.A.1 – unlawful possession with intent to distribute a controlled substance in Schedule IV.
- (5) LRS 40:969.C – unlawful acquisition of controlled substance in Schedule IV.

Justin Peter Breaux (Technician Candidate Registration No. 9115) Dr. Dixon moved, and Mr. McKay seconded, to accept the Voluntary Consent Agreement. The motion was approved after a unanimous vote in the affirmative. The Board revoked the registration, and further, prohibited any future application by the respondent. *Charges:*

- (1) LRS 37:1241.A.10 – departure from, or failure to conform to, the minimal standards of acceptable pharmacy practice.
- (2) LRS 40:971.B.1.b – unlawful acquisition of controlled substances by fraud, forgery, or deception.

Natasha Dawn Holland (Technician Certificate No. 4999) Dr. Dixon moved, and Mr. Oubre seconded, to accept the Voluntary Consent Agreement. The motion was approved after a unanimous vote in the affirmative. The Board revoked the certificate, and further, prohibited any future application by the respondent. *Charges:*

- (1) LRS 37:1241.A.10 – departure from, or failure to conform to, the minimal standards of acceptable pharmacy practice.
- (2) LRS 40:968.A.1 – unlawful possession with intent to distribute a controlled substance in Schedule III.
- (3) LRS 40:968.C – unlawful acquisition of controlled substance in Schedule III.
- (4) LRS 40:969.A.1 – unlawful possession with intent to distribute a controlled substance in Schedule IV.
- (5) LRS 40:969.C – unlawful acquisition of controlled substance in Schedule IV.

At this point, Mr. Aron declared a brief recess to prepare for the formal hearings. It was noted that the Board recessed at 9:10 a.m. and then reconvened at 9:25 a.m.

8. *Appearances*

Mr. Aron declared the Administrative Hearing in session, and then served as the Hearing Officer. Mr. Carlos M. Finalet, III served as General Counsel for the Board. Ms. Celia R. Cangelosi served as Prosecuting Attorney for the Board. Mr. E. Wade Shows served as Counsel to the Hearing Officer. Ms. Marlene Cashen was the Official Recorder. Due to prior knowledge, the members of the Violations Committee (Dr. Dixon, Mr. Bond, Mr. Burch, Mr. D'Angelo, and Mr. Rabb) abstained from the formal hearings, and the remainder of the Board members present served as the jury, with Mr. Aron's reminder that any of them could abstain from any particular matter where appropriate.

Mr. Aron directed the entry of the posted docket into these minutes, and waived the reading thereof. The posted docket is re-created here:

NOTICE IS HEREBY GIVEN that an Administrative Hearing has been ordered and called for 8:30 a.m. on Thursday, May 6, 2004, in the Boardroom of the Louisiana Board of Pharmacy, located at 5615 Corporate Blvd., Suite 8-E in Baton Rouge, Louisiana, for the purpose to wit:

A G E N D A

- A. Call to Order
- B. Invocation & Pledge of Allegiance
- C. Quorum Call
- D. Call for Additional Agenda Items
- E. Opportunity for Public Comment
- F. Report of Violations Committee – Consideration of Consent Agreements

Appearance Required

- 1. Pharmacist License No. 14451 – Daniel Gerard Levy, II
- G. Formal Hearings
- 2. Pharmacy Permit No. 3497 – Bonvillain Pharmacy
 - 3. Technician Certificate No. 5751 – Shane Lawrence Calvin
 - 4. Pharmacist License No. 16115 – Scott Haines Acosta
 - 5. Pharmacist License No. 10297 – Holmes Lowell Milliken
 - 6. Technician Certificate No. 1130 – Kavin Armstead
 - 7. Technician Certificate No. 5105 – Louis Randy Hatten
 - 8. Technician Certificate No. 3349 – Shelita LaGrange Mott

H. Report of Violations Committee – Consideration of Consent Agreements (cont)

Appearances Not Required

- 9. Pharmacy Permit No. 4542 – CVS ProCare Pharmacy No. 2909
- 10. Technician Certificate No. 2687 – Chasitie Mitchell Richard
- 11. Technician Certificate No. 5018 – Barbara Olinde Roe

I. Report of General Counsel – Consideration of Consent Agreements

- 12. Technician Certificate No. 3883 – Christopher Aaron McClure
- 13. Pharmacist License No. 16739 – Sherman Melvin Cutrer
- 14. Technician Certificate No. 1946 – Karen A. Gibson
- 15. Technician Candidate Registration No. 9115 – Justin Peter Breaux
- 16. Technician Certificate No. 4999 – Natasha Dawn Holland

J. Petition for Declaratory Judgment – Louisiana Methadone Treatment Association

K. Adjourn

9. Formal Hearings

Mr. Aron declared his intent to abstain from the matters scheduled for the formal hearing, due to his prior knowledge of the cases on the docket. At Mr. Aron's request, Mr. Shows assumed the duty of Hearing Officer, and presided over the following matters. At Ms. Cangelosi's request, Mr. Shows re-ordered the agenda to facilitate the presentation of cases where the respondent was present.

Shelita LaGrange Mott (Technician Certificate No. 3349) Ms. Cangelosi appeared for the Board and noted the presence of the respondent. She presented an opening statement and indicated that respondent agreed to stipulate to the proposed findings of fact. The respondent then presented her testimony. Ms. Cangelosi offered proposed Findings of Fact and Conclusions of Law, and then submitted the matter to the Board for its consideration. Mr. Lantier moved, and Mr. Oubre seconded, to enter into executive session for the purpose of discussing the professional competence of the respondent. The motion was approved after a unanimous roll call vote in the affirmative.

The Board entered executive session at 9:40 a.m., and then returned to open session at 9:45 a.m.

Mr. McKay moved, and Mr. Lantier seconded,

Resolved, that the Board accept the Findings of Fact offered by the prosecuting attorney and then adopt them as their own; and further, to accept the Conclusions of Law offered by the prosecuting attorney and then adopt them as their own; and further, that the

Board issue a Letter of Warning to the respondent and assess the respondent administrative and investigative costs.

The motion was approved after a unanimous roll call vote in the affirmative.

Shane Lawrence Calvin (Technician Certificate No. 5751) Ms. Cangelosi appeared for the Board and noted the absence of the respondent. Mr. Shows indicated the hearing would continue as a default proceeding. Ms. Cangelosi presented an opening statement, then offered witnesses and exhibits. At the conclusion of her presentation, she offered proposed Findings of Fact and Conclusions of Law, and then submitted the matter to the Board for its consideration. Mr. Oubre moved, and Mr. Lantier seconded, to enter into executive session for the purpose of discussing the professional competence of the respondent. The motion was approved after a unanimous roll call vote in the affirmative.

The Board entered executive session at 10:00 a.m., and then returned to open session at 10:05 a.m.

Mr. Oubre moved, and Mr. Greco seconded,

Resolved, that the Board accept the Findings of Fact offered by the prosecuting attorney, and then adopt them as their own; and further, to accept the Conclusions of Law offered by the prosecuting attorney, and then adopt them as their own; and further, that the Board revoke the certificate with no recourse for reinstatement, and further, to assess the respondent \$2,000 plus administrative and investigative costs.

The motion was approved after a unanimous roll call vote in the affirmative.

Louis Randy Hatten (Technician Certificate No. 5105) Ms. Cangelosi appeared for the Board and noted the presence of the respondent. She presented an opening statement and indicated that respondent agreed to stipulate to the proposed findings of fact, as corrected. The respondent then presented his testimony. At the conclusion of her presentation, Ms. Cangelosi offered proposed Findings of Fact and Conclusions of Law, and then submitted the matter to the Board for its consideration. Mr. McKay moved, and Mr. Greco seconded, to enter into executive session for the purpose of discussing the professional competence of the respondent. The motion was approved after a unanimous roll call vote in the affirmative.

The Board entered executive session at 10:35 a.m., and then returned to open session at 10:40 a.m.

Mr. Lantier moved, and Mr. Oubre seconded,

Resolved, that the Board accept the corrected Findings of Fact offered by the prosecuting attorney, and then adopt them as their own; and further, to accept the corrected Conclusions of Law offered by the prosecuting attorney, and then adopt them as their

own; and further, that the Board issue a Letter of Warning to the respondent, and further, to assess the respondent administrative and investigative costs.

The motion was approved after a unanimous roll call vote in the affirmative.

At Ms. Cangelosi's request, Mr. Shows declared a brief recess to facilitate the execution of a consent agreement. The Board recessed at 10:45 a.m., and then reconvened at 10:50 a.m.

Bonvillain Pharmacy (Pharmacy Permit No. 3497) Ms. Cangelosi appeared for the Board, and noted the presence of the respondent with his counsel. Ms. Cangelosi informed the panel that the respondent had just offered to execute a consent agreement. Mr. Camp moved, and Mr. Adams seconded, to accept the Voluntary Consent Agreement. The motion was approved after a unanimous vote in the affirmative. The Board suspended the permit for five years, beginning on May 6, 2004, stayed the execution thereof, then placed the permit on probation for the suspensive period, subject to certain terms as identified in the agreement; and further, assessed the respondent \$1,000 plus administrative and investigative costs.

Kavin Armstead (Technician Certificate No. 1130) Ms. Cangelosi appeared for the Board, and noted the absence of the respondent. Mr. Shows indicated the hearing would continue as a default proceeding. Ms. Cangelosi presented an opening statement, then offered witnesses and evidence. At the conclusion of her presentation, she offered proposed Findings of Fact and Conclusions of Law, and then submitted the matter to the Board for its consideration. Mr. Carmichael moved, and Mr. Adams seconded,

Resolved, that the Board accept the Findings of Fact offered by the prosecuting attorney and adopt them as their own; and further, to accept the Conclusions of Law offered by the prosecuting attorney and adopt them as their own; and further, that the Board suspend the certificate for an indefinite period of time, and further, to assess the respondent \$500 plus administrative and investigative costs, and further, conditioned the acceptance of any future application for reinstatement upon satisfaction with certain terms as identified in the Board Order.

The motion was approved after a unanimous roll call vote in the affirmative.

Scott Haines Acosta (Pharmacist License No. 16115) Ms. Cangelosi appeared for the Board, and noted the absence of the respondent. Mr. Shows indicated the hearing would continue as a default proceeding. Ms. Cangelosi presented an opening statement, then offered witnesses and evidence. At the conclusion of her presentation, Ms. Cangelosi offered proposed Findings of Fact and Conclusions of Law, and then submitted the matter to the Board for its consideration. Mr. Oubre moved, and Mr. Camp seconded, to enter into executive session for the purpose of discussing the professional competence of

the respondent. The motion was approved after a unanimous roll call vote in the affirmative.

The Board entered executive session at 11:25 a.m., and then returned to open session at 11:35 a.m.

Mr. Camp moved, and Mr. Oubre seconded.

Resolved, that the Board accept the corrected Findings of Fact offered by the prosecuting attorney and adopt them as their own; and further, to accept the corrected Conclusions of Law offered by the prosecuting attorney and adopt them as their own; and further, that the Board suspend the license for an indefinite period of time, and further, to assess the respondent \$2,000 plus administrative and investigative costs, and further, conditioned the acceptance of any future application for reinstatement upon the satisfaction of certain terms as identified in the Board Order.

The motion was approved after a unanimous roll call vote in the affirmative.

Mr. Shows declared a luncheon recess. It was noted that the Board recessed at 11:40 a.m., and then reconvened at 12:25 p.m. Mr. Shows resumed the posted agenda.

Holmes Lowell Milliken (Pharmacist License No. 10297) Ms. Cangelosi appeared for the Board, and noted the absence of the respondent. Mr. Shows indicated the hearing would continue as a default proceeding. Ms. Cangelosi presented an opening statement, and then offered witnesses and evidence. At the conclusion of her presentation, Ms. Cangelosi offered proposed Findings of Fact and Conclusions of Law, and then submitted the matter to the Board for its consideration. Mr. McKay moved, and Mr. Lantier seconded, to enter into executive session for the purpose of discussing the professional competence of the respondent. The motion was approved after a unanimous roll call vote in the affirmative.

The Board entered executive session at 12:45 p.m., and then returned to open session at 12:50 p.m.

Mr. Adams moved, and Mr. Camp seconded,

Resolved, that the Board accept the corrected Findings of Fact offered by the prosecuting attorney and adopt them as their own; and further, to accept the corrected Conclusions of Law offered by the prosecuting attorney and adopt them as their own; and further, that the Board revoke the license, and further, to assess the respondent \$5,000 plus administrative and investigative costs, and further, conditioned the acceptance of any future application for reinstatement upon the satisfaction of certain terms as identified in the Board Order.

The motion was approved after a unanimous roll call vote in the affirmative.

Ms. Cangelosi indicated the completion of the formal hearings. Mr. Shows returned the gavel to Mr. Aron. Mr. Aron expressed his appreciation to Mr. Shows and all the witnesses who appeared during the hearings. Mr. Aron then returned to the posted agenda.

10. Petition for Declaratory Judgment – Louisiana Methadone Treatment Association

Mr. Aron announced that the petitioners had requested a continuance until the next meeting of the Board, and that the petitioners had agreed to an informal conference with the Board's senior professional staff to review the regulations at issue.

Mr. McKay requested permission to introduce the Reciprocity Committee's policy and procedure document as it was revised by the committee during the previous day. Mr. Aron heard no objection, and permitted Mr. McKay to introduce the revised policy. Mr. McKay moved, and Mr. Adams seconded,

Resolved, that the Board approve the May 2004 revision of the policy entitled "*Reciprocity Committee.*"

The motion was approved after a unanimous vote in the affirmative. A copy of the revised and approved policy is appended.

11. Adjourn

Mr. D'Angelo moved, and Mr. Carmichael seconded, to adjourn. The motion was approved after a unanimous vote in the affirmative. With no further business before it, Mr. Aron adjourned the Board at 12:55 p.m.

Respectfully submitted,

Reuben R. Dixon, Pharm.D.
Secretary