



Louisiana Board of Pharmacy

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Minutes

Regular Meeting

Wednesday, May 17, 2006 at 1:00 p.m.

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

Administrative Hearing

Thursday, May 18, 2006 at 8:30 a.m.

Louisiana Board of Pharmacy
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Baton Rouge, Louisiana 70808

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A regular meeting of the Louisiana Board of Pharmacy was held on Wednesday, May 17, 2006 in the Boardroom of the Louisiana Board of Pharmacy, located at 5615 Corporate Blvd., 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 1:15 p.m.

2. Invocation & Pledge

Mr. Aron called upon Mr. Brian Bond, and he delivered the invocation. Mr. Fred Mills 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
Ms. Michele P. Alderman
Dr. Lois R. Anderson
Ms. Patsy L. Angelle
Mr. Carl W. Aron
Mr. Brian A. Bond
Mr. J. Douglas Boudreaux
Mr. Allen W. Cassidy, Jr.
Dr. Reuben R. Dixon
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. Joseph V. Greco
Mr. Alvin A. Haynes, Jr.

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:

Rep. Ronnie S. Johns (R-33)
Dr. F. Lamar Pritchard, Dean – ULM College of Pharmacy
Dr. W. Greg Leader, Associate Dean – ULM College of Pharmacy
Dr. Wayne T. Harris, Dean – Xavier College of Pharmacy

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. Mr. Mills requested an opportunity to present a proposed resolution relative to the Board's efforts to process FEMA claims for payment. With no objection from the members, Mr. Aron indicated he would add the requested item as Item 9-K on the posted agenda. No other items were requested.

Mr. Aron then requested authority from the Board to reorder the agenda as necessary for the purpose of adjusting the sequence of various reports. With no objections offered, Mr. Aron indicated he would exercise that authority only as necessary.

At that point, Mr. Aron indicated he wished to recognize Rep. Ronnie Johns for a special presentation. Rep. Johns congratulated the Board members and staff on their awards received during the recent 102nd Annual Meeting of the National Association of Boards of Pharmacy. He informed the members and guests the Louisiana House of Representatives had passed two resolutions that he wished to present at that time. He then made formal presentations of framed copies of the following resolutions:

Regular Session, 2006
House Resolution No. 40
By Representatives Johns, Durand, and Katz

State of Louisiana
House of Representatives

A Resolution to commend the Louisiana Board of Pharmacy as recipient of the 2006 Fred T. Mahaffey Award presented by the National Association of Boards of Pharmacy.

Whereas, named in honor of the National Association of Boards of Pharmacy's executive director emeritus, the Fred T. Mahaffey Award recognizes a member board of pharmacy that has made substantial contributions to the profession of pharmacy during the past year; and

Whereas, the nominated board's efforts must have contributed to the protection of the public health and welfare through the enforcement of state and federal laws, regulations, and the advancement of the National Association of Boards of Pharmacy's goals and objectives as specified in the Constitution and Bylaws of the association; and

Whereas, the Louisiana Board of Pharmacy and Compliance Staff were recognized for this honor because of their work in the aftermath of Hurricane Katrina; and

Whereas, the Louisiana Board of Pharmacy saw much tragedy after Hurricane Katrina devastated our region and severely hindered the distribution of medicines; and

Whereas, the Louisiana Board of Pharmacy worked in adverse conditions to coordinate hundreds of Louisiana pharmacies as well as pharmacists who obtained emergency licensure transfers in order to provide medicines to patients exposed to hazardous conditions; and

Whereas, the citizens of Louisiana not only needed critical maintenance medications to treat existing illnesses, but they were also in need of medicines for conditions caused by a lack of essentials; and

Whereas, the Louisiana Board of Pharmacy overcame the obstacles created by damaged infrastructure and inoperable communication systems to ensure that legitimate pharmacists were available

to dispense medications to patients.

Therefore, be it resolved that the House of Representatives of the Legislature of Louisiana does hereby commend the Louisiana Board of Pharmacy upon receiving the great honor of being named the 2006 recipient of the Fred T. Mahaffey Award presented by the National Association of Boards of Pharmacy and does hereby commend the Board upon its service to the citizens of Louisiana during one of our darkest hours.

Be it further resolved that a suitable copy of this Resolution be transmitted to Malcolm J. Broussard, Executive Director of the Louisiana Board of Pharmacy.

Joe R. Salter, Speaker
Louisiana House of Representatives

Regular Session, 2006
House Resolution No. 41
By Representatives Johns, Durand, and Katz

State of Louisiana
House of Representatives

A Resolution to commend Mr. Carl Aron as recipient of the Lester E. Hosto Distinguished Service Award presented by the National Association of Boards of Pharmacy.

Whereas, named in memory of the 1990-1991 president of the National Association of Boards of Pharmacy, Lester E. Hosto, the Distinguished Service Award is the highest honor bestowed by the association; and

Whereas, the award is given in recognition of exemplary service in protecting the public health and significant involvement with the association; and

Whereas, Mr. Carl Aron has been in practice as a pharmacist for forty-four years, since he joined the family business in Monroe in 1968 and then took ownership in 1971, and Mr. Aron still operates Aron's Pharmacy in Monroe; and

Whereas, Mr. Aron has been a member of the National Association of Boards of Pharmacy since 1971 and has shown dedication to ensuring that the National Association of Boards of Pharmacy's licensure examinations remain valid and effective, serving on the Advisory Committee on Examinations from 1999 to 2005, including service as chairman of that committee in 2004; and

Whereas, Mr. Aron has received other awards for his dedication and service to the profession of pharmacy, including the Bowl of Hygeia Award for Community Service in 1985 and the Northeast Louisiana University Meritorious Achievement Award in 1989; and

Whereas, Carl Aron currently serves as President of the Louisiana Board of Pharmacy; and

Whereas, during the one hundred second annual meeting of the National Association of Boards of Pharmacy, held April 8 through 11, 2006, Mr. Carl Aron was named the 2006 recipient of the Lester E. Hosto Distinguished Service Award.

Therefore, be it resolved that the House of Representatives of the Legislature of Louisiana does hereby recognize Carl Aron upon his receipt of the 2006 Lester E. Hosto Distinguished Service Award presented by the National Association of Boards of Pharmacy, does hereby commend Mr. Aron upon his many accomplishments and his continued dedication to the profession of pharmacy, and does hereby extend to him best wishes for continued success and happiness in all of his future endeavors.

Be it further resolved that a suitable copy of this Resolution be transmitted to Carl Aon.

Joe R. Salter, Speaker
Louisiana House of Representatives

Mr. Aron thanked Rep. Johns for sponsoring the resolutions, as well as for all of his efforts in securing passage of the Board's legislative measures. Mr. Aron then returned to the posted agenda.

5. Consideration of Minutes

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

Resolved, that the Minutes of the Regular Board Meeting of February 15, 2006 and the Administrative Hearing on February 16, 2006, both of which were held in Baton Rouge, 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 they had approved a proposal to construct a 'secure zone' on the Board's website, for the placement of certain draft documents, as well as the contents of advance meeting packets. He reported the project had been completed, and the password/login information had been distributed to each member.

7. *Confirmation of Acts*

At the request of Mr. Aron, Mr. McKay moved and Mr. Adams 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 16, 2006 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 reminded the members and guests that the Open Meetings Law requires all public bodies to provide an opportunity for public comment at all meetings. He solicited general comments from the guests present. Dr. Pritchard informed the members and staff concerning a security issue in the local neighborhood surrounding the Board office.

9. *Committee Reports*

At this point, Mr. Aron indicated he would re-order the usual sequence of committee reports.

A. *Finance Committee*

Mr. Aron called upon Mr. Mills for the committee report. Mr. Mills directed the members to the various reports in their meeting packet:

- Statement of Assets, Liabilities, & Equity for March 31, 2006
- Interim Budget Performance Report for March 31, 2006
- Summary of Fund Balance for March 31, 2006
- Hancock Bank Investment Account for March 31, 2006

Mr. Mills reviewed all the reports and answered all the questions from members. With no budget items for approval, Mr. Mills indicated the report was informational only and required no action by the members.

B. *Examination/Technician Committee*

Mr. Aron called upon Mr. Oubre for the committee report. Mr. Oubre directed the members to the PTCB examination data as well as the licensure activity reports in their meeting packet. He reviewed the information for the members and responded to their questions.

C. Regulation Revision Committee

Mr. Aron called upon Dr. Anderson for the committee report. She reported the committee had met three times since the last Board meeting: March 30, April 20, and the previous day. The committee had reviewed the concept of remote processing of prescription drug orders that could be applied in all practice settings, as well as a reconsideration of a minimum number of hours of operation in a pharmacy. On behalf of the committee, Dr. Anderson moved and Mr. McKay seconded,

Resolved, that the Board approve Regulatory Proposal 2006-10, and further, to authorize the Executive Director to submit this proposal for promulgation upon the instruction of the President, and further, to authorize the President to approve acceptable amendments as may become necessary during the regulatory process.

Following substantial discussion, the motion was approved after a majority vote in the affirmative. Ms. Angelle, Mr. Boudreaux, Mr. Cassidy, and Mr. Lantier objected. Dr. Anderson concluded her report with information the committee was still working on a proposal for a minimum number of hours of operation in a pharmacy. Finally, she expressed her appreciation to the members of the committee for their efforts: Mr. Adams, Ms. Angelle, Mr. Lantier, and Mr. McKay.

D. Reinstatement Committee

Mr. Aron called upon Mr. Adams for the committee report. Mr. Adams reported that the committee had reinstated two pharmacist licenses, eight pharmacy technician certificates, and four pharmacy permits since the last Board meeting, all according to the committee guidelines previously approved by the Board. He then presented the following files for Board action.

Jimmy Lee Morris (Pharmacist License No. 11526) Mr. Adams moved and Mr. McKay seconded to grant the request to reinstate the lapsed license. The motion was approved after a unanimous vote in the affirmative.

Thomas James Lemoine (Pharmacist License No. 14604) Mr. Adams moved and Ms. Alderman seconded to grant the request for reinstatement of the suspended license, and then once reinstated, to suspend the license for five years, stay the execution thereof, and then place the license on probation for five years, ending November 12, 2001, subject to certain terms as enumerated in the order. The motion was approved after a unanimous vote in the affirmative.

Norva Denise Williams (Pharmacist License No. 14562) Mr. Adams moved and Dr. Dixon seconded to grant the request for the reinstatement of the lapsed license, contingent upon the completion of certain terms as enumerated in the agreement. The motion was approved after a majority vote in the affirmative. Mr. Lantier and Mr. Oubre objected.

Finally, Mr. Adams expressed his appreciation to his fellow committee members for their work earlier that day: Mr. Bond, Mr. Boudreaux, Mr. Cassidy, and Mr. Rabb.

E. Violations Committee

Mr. Aron called upon Dr. Dixon for the committee report. Dr. Dixon reviewed the number of respondents at the last Informal Conference in March 2006, as well as their next Informal Conference in May 2006. He also reported a similar review of the docket for the administrative hearing scheduled for the following day.

F. Impairment Committee

Mr. Aron called upon Mr. Rabb for the committee report. Mr. Rabb presented the following files for Board action.

Parrish Michael Begnaud (Pharmacist License No. 16598) Mr. Rabb moved and Mr. Oubre seconded to accept the voluntary surrender of the license, resulting in the suspension of the license for an indefinite period of time, effective March 27, 2006. The motion was approved after a unanimous vote in the affirmative.

Gina Jo Palermo (Pharmacist License No. 16692) Mr. Rabb moved and Dr. Dixon seconded to accept the voluntary surrender of the license, resulting in the suspension of the license for an indefinite period of time, effective March 7, 2006. The motion was approved after a unanimous vote in the affirmative.

Karen Rena Ross (Pharmacy Technician Candidate Registration No. 11297) Mr. Rabb moved and Mr. Oubre seconded to accept the voluntary surrender of the registration, resulting in the suspension of the registration for an indefinite period of time, effective March 27, 2006. The motion was approved after a unanimous vote in the affirmative.

Aurdie Kent Bellard (Pharmacist License No. 14340) Mr. Rabb moved and Mr. Bond seconded to grant the request for the reinstatement of the suspended license, and then once reinstated, to suspend the license for five years, stay the execution thereof, and then place the license on probation for five years, ending May 17, 2011, subject to certain terms as enumerated in the agreement. The motion was approved after a unanimous vote in the affirmative.

Scott Davis Nealy (Pharmacist License No. 11172) Mr. Rabb moved and Mr. Oubre seconded to grant the request for the reinstatement of the suspended license, and then once reinstated, to suspend the license for ten years, stay the execution thereof, and then place the license on probation for ten years, ending May 17, 2016, subject to certain terms as enumerated in the agreement. The motion was approved after a unanimous vote in the

affirmative.

Barry Jon Sylvester (Pharmacist License No. 14795) Mr. Rabb moved and Dr. Anderson seconded to accept the proposed consent agreement. The motion was approved after a unanimous vote in the affirmative.

Lori Cheyenne Soileau (Pharmacy Intern Registration No. 41867) Mr. Rabb moved and Dr. Dixon seconded to accept the proposed consent agreement. The motion was approved after a unanimous vote in the affirmative.

Ginger Allen Teekell (Pharmacist License No. 16606) Mr. Rabb moved and Ms. Alderman seconded to accept the proposed consent agreement. The motion was approved after a unanimous vote in the affirmative.

Finally, Mr. Rabb expressed his appreciation to the members of the committee for their efforts the previous day: Ms. Alderman, Dr. Anderson, Dr. Dixon, and Mr. Oubre.

G. Tripartite Committee

Mr. Aron called upon Mr. Lantier for the committee report. Mr. Lantier reviewed the information presented by all the organizations during their March 30 committee meeting. Both schools reported their anticipation of their curriculum expansion to a seven year program, with the extra year allocated to the pre-professional side and the professional curriculum remaining a four year program.

Mr. Lantier then reported on the committee discussion concerning the pharmacist preceptor certification program. The schools agreed to resume their collaboration on a web-enabled version of the existing certification program.

Mr. Aron then recognized the deans of the two colleges of pharmacy; they requested the Board to delay the implementation of the August 2005 decision of the Board to require the certification of rotation site pharmacist preceptors beginning in January 2007, in order to relieve anxiety reportedly felt by some pharmacy interns. Mr. Adams then moved and Mr. Oubre seconded to file an Emergency Rule to repeal Section 513 of the Board's rules relative to certified pharmacist preceptors, as well as any other portion of any rule relative to the requirement for certified pharmacist preceptors. Following substantial discussion, Mr. Adams and Mr. Oubre agreed to the withdrawal of the motion.

Mr. Aron indicated he would place the matter on the agenda for the August meeting of the Board. He encouraged the members to fully consider the matter and be prepared to render a decision at that time.

At that point, Mr. Aron declared a brief recess. It was noted that the Board recessed at 3:20 p.m., and then reconvened, in open session, at 3:50 p.m.

H. Legislative Committee

Mr. Aron called upon Mr. Bond for the committee report. Mr. Bond deferred to Mr. Broussard for the presentation of the legislative update. Mr. Broussard directed the members to the updated report in the meeting packet. He discussed several measures on the watch list, and responded to questions from the members.

I. Executive Committee

Mr. Aron reviewed the results of the committee meeting held the previous day. The committee reviewed all of the contracts, agreements, policies and procedures, and committee operations. With respect to the contract vendors, the committee determined that all had fulfilled their contractual obligations and no performance issues were identified. The committee then reviewed the proposals for contracts and agreements for the following fiscal year. Mr. Aron called upon Mr. Rabb to introduce the committee recommendations. Mr. Rabb moved and Mr. Cassidy 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 \$80,000 for Fiscal Year 2006-2007.

The motion was approved after a unanimous vote in the affirmative. Mr. Rabb moved and Mr. Cassidy 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 \$40,000 for Fiscal Year 2006-2007.

The motion was approved after a unanimous vote in the affirmative. Mr. Rabb moved and Ms. Alderman seconded

Resolved, that the Board approve the proposed accounting services contract with Kolder, Champagne, Slaven & Company, in an amount not to exceed \$10,000 for Fiscal Year 2006-2007.

The motion was approved after a unanimous vote in the affirmative. Mr. Rabb 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 2006-2007.

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

Resolved, that the Board approve the proposed information system network support service agreement with Essential Solutions, LLC, at the stipulated rate, in an amount not to exceed \$10,000 for Fiscal Year 2006-2007.

The motion was approved after a unanimous vote in the affirmative. Mr. Rabb 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 \$10,000 for Fiscal Year 2006-2007.

The motion was approved after a unanimous vote in the affirmative. Mr. Rabb moved and Mr. Cassidy 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 2006-2007.

The motion was approved after a unanimous vote in the affirmative. Mr. Rabb moved and Mr. Cassidy seconded

Resolved, that the Board approve the Pharmacy Technician Certification Board (PTCB) as the administrator for the pharmacy technician certification examination for Fiscal Year 2006-2007.

The motion was approved after a unanimous vote in the affirmative. Mr. Rabb moved and Dr. Dixon 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 2006-2007.

The motion was approved after a unanimous vote in the affirmative. Mr. Rabb moved and Mr. McKay seconded

Resolved, that the Board approve National Confederation of Professional Services (NCPS) as the vendor for the drug screening program for Fiscal Year 2006-2007.

The motion was approved after a unanimous vote in the affirmative. Mr. Rabb moved and Ms. Alderman seconded

Resolved, that the Board approve the Impairment Committee's Roster of Approved Addictionists for Fiscal Year 2006-2007.

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

Mr. Aron then informed the members that the Secretary of State had requested a minor alteration in the record retention policy approved by the Board during its last meeting. Mr. Rabb moved and Mr. Adams seconded

Resolved, that the Board approve the proposed revision in the record retention schedule for time and attendance records from 5.5 fiscal years to 6 calendar years.

The motion was approved after a unanimous vote in the affirmative. Mr. Aron reminded the members that the Board's entire policy and procedure manual was due for renewal of its approval. Mr. Broussard reviewed the master listing of policies, detailing all prior revisions. Mr. Rabb moved and Mr. McKay seconded

Resolved, that the Board renew its approval of the Board's Policy & Procedure Manual.

The motion was approved after a unanimous vote in the affirmative. Mr. Aron concluded his report by expressing his appreciation to the members of his committee: Mr. Rabb, Mr. McKay, Mr. Adams, and Dr. Dixon.

J. Reciprocity Committee

Mr. Aron called upon Mr. McKay for the committee report. Mr. McKay reported that four pharmacists had been approved during the interim since the last Board meeting, in accordance with committee policies previously

approved by the Board. He indicated the committee had interviewed 22 reciprocity candidates earlier that day, and that two candidates failed to appear for their appointment. He moved and Mr. Boudreaux seconded

Resolved, that the Board approve

Cathy Sue Bailey
Kelli Wynkoop Blessey
Judy Jane Jordan Borchardt
Joseph H. Chow
Robert Franklin Dunn
Chris Angelo Haritos
David Stewart Joseph
Tyson James Kuhn
Joseph Rudolph Lettrich
James Liddell McCarley, Jr.
Tommy Clifford Morris, Jr.
Todd Kazuo Morisato
Michael James Moti
Sinoe Eugenia Naji
Carl Joe Reeder
Ann Elizabeth Sears
Thomas Brock Smith
John David Thomas
Robin McCoy Thompson
Judy Tate Welch, *and*
Lillian Barnes Willenberg

for pharmacist licensure by reciprocity.

The motion was approved after a unanimous vote in the affirmative. Mr. McKay informed the members that the application for one of the interviewed candidates was placed in pending status, in order to complete the inquiry relative to his application. Finally, Mr. McKay expressed his appreciation to the members of the committee for their efforts earlier that day: Ms. Alderman, Ms. Hall, and Mr. Lantier.

K. Additional Agenda Item

Mr. Aron recognized Mr. Mills to present his request. Mr. Mills reviewed the history of the Board's involvement with the FEMA claims from the pharmacies that dispensed free medications to hurricane victims and evacuees. He reminded the members that FEMA had approved almost all of the claims, and then he informed the members that the Office of the Inspector General had audited the claims and had proposed to disallow approximately a fourth of the total amount approved by FEMA. Mr. Mills suggested that the Board ought to urge and request the Governor's office to authorize full payment of all the claims, reserving the right of audit at an appropriate time following the disbursement of all funds. He suggested the Board adopt a resolution, and then authorize him to advance the matter with the Governor's office. Mr. Mills then moved, and the members offered a unanimous second,

Whereas, in the aftermath of Hurricanes Katrina and Rita, pharmacy providers volunteered to dispense needed medications at the Average Wholesale Price (AWP); and

Whereas, pharmacy providers volunteered to submit claims data via paper claims documentation, a cumbersome and outdated method by today's pharmacy industry standards that ultimately delayed payment streams; and

Whereas, pharmacy providers donated millions of dollars in prescription medications and supplies prior to submitting claims for Federal Emergency Management Agency (FEMA) reimbursement pursuant to the Hurricane Katrina/Rita Pharmacy Relief Fund; and

Whereas, the 2006 hurricane season begins on June 1 and no pharmacy providers have been reimbursed to date for claims submitted; and

Whereas, the Department of Health and Hospitals (DHH) and the Office of Public Health (OPH) are currently soliciting pharmacy provider contracts for the 2006 hurricane season in anticipation of citizens' medication needs in the event of another disaster; and

Whereas, the Office of the Inspector General for the State of Louisiana reviewed submitted claims and based its review on the contractual terms agreed upon by FEMA, DHH, OPH, the Governor's Office, and the Louisiana Board of Pharmacy; and

Whereas, upon review and examination, the documented claims submitted do not appear fraudulent; and

Whereas, DHH has deferred to the Louisiana Board of Pharmacy as the expert in pharmacy claims review for the Hurricane Katrina/Rita Pharmacy Relief Fund; then

Therefore, Be it Resolved, that absent any fraud, the full amount of claims submitted by pharmacy providers to the Hurricane Katrina/Rita Pharmacy Relief Fund be provided to the Louisiana Board of Pharmacy for immediate reimbursement to those pharmacy providers; and

Be it Further Resolved, that should any audit conducted by the State of Louisiana or FEMA reveal any breach of the contractual terms and conditions to the Hurricane/Katrina Pharmacy Relief Fund, all monies owed and to be repaid to the Fund by a pharmacy provider shall be the responsibility of the pharmacy provider; and

Be it Further Resolved, that any legal recourse required to recoup monies improperly dispensed as indicated by any audit shall be the responsibility of DHH; and

Be it Further Resolved, that DHH be directed by the Office of the Governor to provide legal representation to the Louisiana Board of Pharmacy, its members, employees, and agents for legal proceedings related to the Hurricane Katrina/Rita Pharmacy Relief Fund and any monies dispersed or to be recouped thereto.

The motion was approved after a unanimous vote in the affirmative. Mr. Mills expressed his appreciation to the Board staff for all of their efforts to date, and to the members for their support of his resolution.

10. *Staff Reports*

A. *Chief Compliance Officer*

Mr. Aron called upon Ms. Gaudet for the report. She directed the members to a copy of her report on inspections and investigations in the meeting packet. She reviewed all the material and answered the questions from members. Finally, she reviewed the latest information available concerning the impact of the hurricanes on pharmacies across the state.

B. *General Counsel*

Mr. Aron called upon Mr. Finalet for the report. Mr. Finalet informed the members he had received a request from the attorney representing Tyler Drugs, a pharmacy whose owner had been sanctioned by the Board. The attorney renewed a request to the Board to consider a settlement offer advanced by the owner of the pharmacy. Mr. Finalet reminded the members they had rejected the same offer at their last meeting. The members refused to accept the settlement offer, and requested staff to pursue collection of the

judgment.

C. Executive Director

Mr. Aron called upon Mr. Broussard for the report. He opened his report by reviewing his attendance at various conferences since the last Board meeting. He then directed the members to the quarterly census report in their meeting packet. He reported on the exceptions granted to allow certain pharmacists to serve as the pharmacist-in-charge of multiple pharmacies, in accordance with the policy previously approved by the Board. Finally, he explained the new Boardroom Library section on the Board's website, access thereto, and the planned content for that area.

11. Announcements

Mr. Broussard reminded the members and staff of several calendar notes, and then directed them to all of that information in their meeting packet.

12. Recess

Mr. Boudreaux moved and Mr. Bond seconded to recess. The motion was approved after a unanimous vote in the affirmative. With no further business before the Board, Mr. Aron recessed the meeting at 5:55 p.m.

An Administrative Hearing was convened on Thursday, May 18, 2006 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 received notice, each respondent received notice (unless specifically stated otherwise in the official transcript), 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. Rabb 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 Ms. Angelle, Mr. Haynes, 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 requested.

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 and witnesses. Hearing no objections, he indicated he would exercise that option only when necessary to do so.

5. Opportunity for Public Comment

Mr. Aron reminded the members and guests that the Open Meetings Law requires 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. 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. Mr. Malcolm Broussard was the Hearing Clerk. Due to prior knowledge, the members of the Violations Committee (Mr. Adams, Mr. Bond, Dr. Dixon, 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 18, 2006, in the Board office, 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. Formal Hearings
 - 1. Nicholas Michael Schiro (Pharmacist License No. 14563)
 - 2. Brishea J. Lee (Technician Certificate No. 3510)
- G. Report of Violations Committee – Consideration of Voluntary Consent Agreements
 - 3. Health Mart Pharmacy of Breaux Bridge (Pharmacy Permit No. 5052)
+
 - 4. Dickie Ewell Hebert (Pharmacist License No. 9195)
+

- 5. Eric Kyle Vidrine (Pharmacist License No. 15688)
- +
- 6. Wesley James David (Pharmacist License No. 15819)
- 7. Jeanine Rodgers Kidd (Technician Certificate No. 4023)
- 8. Ray's Pharmacy (Pharmacy Permit No. 1673)
- +
- 9. Robert Allen Ray (Pharmacist License No. 11612)
- +
- 10. Martin Philmore Gilchrist (Pharmacist License No. 13324)
- 11. Lake Charles Memorial Hospital Pharmacy (Pharmacy Permit No. 3922)

H. Report of General Counsel

Consideration of Voluntary Consent Agreements

- 12. Avee Pharmacy (Pharmacy Permit No. 5647)
- 13. Esfandiar Khosravi (Pharmacist License No. 17831)
- 14. Prime Therapeutics (Pharmacy Permit No. 5576)
- 15. SmartPak Equine (Pharmacy Permit No. 5083)

Consideration of Voluntary Surrenders

- 16. Dwight Edwin Brumfield (Pharmacist License No. 10088)

I. Adjourn

7. *Formal Hearing*

Mr. Aron called upon Ms. Cangelosi, who presented the following files for Board action.

Brishea J. Lee (Technician Certificate No. 3510) Ms. Cangelosi appeared for the Board and noted the absence of the respondent. After verifying her absence, Mr. Aron ruled the matter would continue as a default proceeding. Ms. Cangelosi offered an opening statement, exhibits and witnesses, and then rested her case. She offered a closing statement as well as proposed Findings of Fact and Conclusions of Law and a proposed Order of the Board; she then submitted the matter to the Board for its consideration. Mr. McKay moved and Ms. Alderman seconded to enter into executive session for the purpose of discussing the respondent's professional competence. The motion was approved after a unanimous roll call vote in the affirmative.

It was noted that the hearing panel entered into executive session at 8:55 a.m. and then reconvened in open session at 9:05 a.m.

Mr. Oubre moved and Mr. McKay seconded,

Resolved, that the Board accept the Findings of Fact and Conclusions of Law as offered by the prosecuting attorney and adopt them as their own. The motion was approved after a unanimous vote in the affirmative. Mr. Oubre

moved and Ms. Alderman seconded,

Resolved, that the Board revoke Technician Certificate No. 3510, and further, to assess the respondent all investigative, administrative, and hearing costs, and further, to condition the acceptance of any future application for reinstatement upon the payment of all assessments.

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

Nicholas Michael Schiro (Pharmacist License No. 14563) Ms. Cangelosi appeared for the Board and noted the absence of the respondent. After verifying the absence of the respondent, Mr. Aron ruled the matter would continue as a default proceeding. Ms. Cangelosi offered an opening statement, exhibits and witnesses, and then rested her case. She offered a closing statement as well as proposed Findings of Fact and Conclusions of Law and a proposed Order of the Board; she 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 respondent's professional competence. The motion was approved after a unanimous vote in the affirmative.

It was noted the hearing panel entered into executive session at 9:35 a.m. and then reconvened in open session at 10:25 a.m.

Mr. Oubre moved and Ms. Alderman seconded

Resolved, that the Board accept the Findings of Fact as proposed by the prosecuting attorney, amend them as reflected in the final order, and then adopt them as their own.

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

Resolved, that the Board accept the Conclusions of Law as proposed by the prosecuting attorney, amend them as reflected in the final order, and then adopt them as their own.

The motion was approved after a majority vote in the affirmative. Mr. Greco objected. Mr. McKay moved and Mr. Boudreaux seconded

Resolved, that the Board suspend Pharmacist License No. 14563.

The motion was approved after a majority vote in the affirmative. Mr. Greco and Mr. Oubre objected. Mr. Oubre moved and Mr. Boudreaux seconded

Resolved, that the Board assess the respondent \$5,000 plus investigative, administrative, and hearing costs, and further, to condition the acceptance of any future application for reinstatement upon the payment of all assessments.

The motion was approved after a majority vote in the affirmative. Mr. Greco objected. Mr. Boudreaux moved and Mr. Lantier seconded

Resolved, that the Board condition the acceptance of any future application for reinstatement upon certain additional terms as enumerated in the final order.

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

Ms. Cangelosi noted the completion of all matters scheduled for hearing that day. Mr.

Aron expressed his appreciation to Ms. Cangelosi and Mr. Shows for their services that day.

8. *Report of Violations Committee – Consideration of Voluntary Consent Agreements*
Mr. Aron called upon Dr. Dixon for the committee report. Dr. Dixon then presented the following files for Board action.

Health Mart Pharmacy of Breaux Bridge (Pharmacy Permit No. 5052) Dr. Dixon moved and Mr. Bond seconded to accept the voluntary consent agreement. The motion was approved after a unanimous vote in the affirmative. The Board revoked the permit, and further, assessed the permit holder \$25,000 plus investigative and administrative costs.

Dickie Ewell Hebert (Pharmacist License No. 9195) 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 suspended the license for five years, stayed the execution thereof for all but one month, and then placed the license on probation for four years and eleven months, ending March 13, 2011, subject to certain terms as enumerated in the agreement. The Board also assessed the respondent \$7,500 plus administrative costs.

Eric Kyle Vidrine (Pharmacist License No. 15688) 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 then assessed him administrative costs.

Wesley James David (Pharmacist License No. 15819) 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 then assessed him administrative costs.

Jeanine Rodgers Kidd (Technician Certificate No. 4023) Dr. Dixon moved and Mr. Lantier 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 the satisfaction of certain terms as enumerated in the agreement. The Board also assessed the respondent investigative and administrative costs.

Ray's Pharmacy (Pharmacy Permit No. 1673) Dr. Dixon moved and Dr. Anderson 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, and then assessed him \$2,500 plus investigative and administrative costs.

Robert Allen Ray (Pharmacist License No. 11612) Dr. Dixon moved and Ms. Alderman 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 then assessed him \$2,500 plus administrative costs.

Martin Philmore Gilchrist (Pharmacist License No. 13324) Dr. Dixon moved and Dr. Anderson 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 then assessed him administrative costs.

Lake Charles Memorial Hospital Pharmacy (Pharmacy Permit No. 3922) Dr. Dixon moved and Dr. Anderson seconded to accept the voluntary consent agreement. The motion was approved after a unanimous vote in the affirmative. The Board issued a Letter of Reprimand to the permit holder, and then assessed him \$15,000 plus investigative and administrative costs.

9. Report of General Counsel

Mr. Aron called upon Mr. Finalet for the report. Mr. Finalet presented the following files for Board Action.

Avee Pharmacy (Pharmacy Permit No. 5647) Mr. McKay moved and Ms. Alderman seconded to accept the voluntary consent agreement. The motion was approved after a unanimous vote in the affirmative. The Board issued a Letter of Reprimand to the permit holder, and then assessed him administrative costs.

Esfandiar Khosravi (Pharmacist License No. 17831) Mr. McKay 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 Reprimand to the permit holder, and then assessed him administrative costs.

Prime Therapeutics (Pharmacy Permit No. 5576) Mr. McKay moved and Mr. Bond 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, and then assessed him administrative costs.

SmartPak Equine (Pharmacy Permit No. 5083) Mr. McKay 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 permit holder, and then assessed him \$5,000 plus administrative costs.

Dwight Edwin Brumfield (Pharmacist License No. 10088) Dr. Anderson moved and Mr. McKay seconded to accept the voluntary surrender of the license. The Board accepted the voluntary surrender of the license, resulting in the suspension of the license for an indefinite period of time.

10. Adjourn

Dr. Anderson moved and Mr. Boudreaux seconded to adjourn. The motion was approved after a unanimous vote in the affirmative. With no further business before the Board, Mr. Aron adjourned the meeting at 11:20 a.m.

Respectfully submitted,

Reuben R. Dixon, Pharm.D.
Secretary