



Louisiana Board of Pharmacy
5615 Corporate Blvd., Suite 8-E, Baton Rouge, LA 70808-2537
Telephone (225) 925-6496 *** Facsimile (225) 925-6499
www.labp.com email: labp@labp.com

Minutes

Regular Meeting

Tuesday, November 28, 2000 at 1:00 p.m.

Louisiana Board of Pharmacy (Conference Room)
5615 Corporate Blvd., Suite 8-E
Baton Rouge, Louisiana

Administrative Hearing

Wednesday, November 29, 2000 at 9:00 a.m.

First Circuit Court of Appeals – Courtroom No. 2
1600 North Third Street
Baton Rouge, Louisiana

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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 1:10 p.m.

2. Invocation

Mr. Aron called upon Ms. Ruth Jean, and she delivered the invocation.

3. Pledge of Allegiance

Following the invocation, Mr. Richard Oubre led the group in the recitation of the Pledge of Allegiance.

4. Quorum Call

Mr. Aron called upon the Secretary, Mr. Reuben Dixon, to call the roll. After doing so, Mr. Dixon stated that a quorum of the Board was present.

Present:

Mr. Carl W. Aron
Mr. Philip C. Aucoin
Mr. B. Belaire Bourg
Mr. Reuben R. Dixon
Mr. Joseph L. Adams
Ms. Lois R. Anderson
Mr. Brian A. Bond
Mr. Clovis S. Burch
Mr. Wayne A. Camp
Mr. Theodore S. Carmichael – *late arrival*
Mr. Salvatore J. D'Angelo
Ms. Ruth C. Jean
Mr. Larry J. Lantier, Jr.
Mr. Marty R. McKay
Mr. Richard J. Oubre
Mr. T. Morris Rabb

Absent:

Mr. Jeffrey M. Landry – *present on second day*

Present by Board Invitation:

Mr. Malcolm J. Broussard, Executive Director
Mr. Carlos M. Finalet, III, General Counsel
Mr. H. Jerome Foti, Acting Chief Inspector
Mr. Stephen L. Collins, Inspector
Ms. Kathleen V. Gaudet, Inspector
Mr. W. Jerry Johnson, Inspector

5. Call for Additional Agenda Items

Mr. Aron asked if there were any additional agenda items. After hearing no others, he

requested consent to address recent staffing changes in the Board office. With no objections, that item was added to the agenda.

At this point Mr. Aron requested the authority from the Board to reorder the agenda as necessary for the purpose of adjusting the sequence of various reports. Mr. Aucoin moved, and Mr. Camp seconded, that

Resolved, that the President may reorder the agenda with respect to the sequence of committee reports as necessary.

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

6. Recent Staffing Changes

Mr. Aron informed the Board that Ms. Mary Beth Isacks had tendered her resignation as Administrative Assistant, effective January 1, 2001. He read the letter aloud to the Board and ordered its insertion into these minutes (*Appendix C*). Mr. Aron then informed the Board that he, Mr. Broussard, and Mr. Finalet had interviewed two applicants for the vacancy, and had selected a replacement. He then introduced Ms. Gail Leggett as the new Administrative Assistant. Mr. Aucoin moved, to a unanimous second, that

Resolved, that the Board thanks Ms. Mary Beth Isacks for her 10.5 years of service, for her dedication, for her willingness to help, and for the fine job she's done, and to wish her and her husband the best of luck in their new endeavor.

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

7. 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. Mr. Rabb and Mr. Aucoin congratulated Mr. Dixon on the quality of the minutes from the last Board meeting. Hearing no corrections, Mr. McKay moved, and Mr. Oubre seconded, that

Resolved, that the Minutes of the Regular Board Meeting of August 16, 2000 and the Administrative Hearing of August 17, 2000, both 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. Mr. Dixon then reminded the Board members to sign the Book of Minutes.

8. Report on Action Items

Mr. Aron asked Mr. Broussard to report on the action items from the August 2000 Board meeting. Mr. Broussard reminded the Board that staff was given two directives.

A. Request for Opinion from Attorney General

During the August meeting, the Board adopted a resolution containing a proposed interpretation of LRS 37:1241.A.17, relative to generic interchange. The Board had instructed Mr. Finalet to request an opinion from the Attorney General's office as to the "reasonableness" of that interpretation.

The request was prepared August 18, and it amends another

request from the Board (No. 00-35) presently under review in that office.
The office has yet to receive a written response as of this date.

B. Letter to Hospital Pharmacies re LAC 46:LIII.2541.E

During the August meeting, the Board adopted a resolution requesting staff to enforce universal compliance with this regulation concerning minimum square footage in Intravenous Admixture rooms no later than January 1, 2002. In particular, the “grandfathering” practice in existence since the regulation was promulgated in 1988 will cease at that time. The Board instructed staff to notify all hospital permits of that resolution; that communication was accomplished by letter dated September 6, 2000.

9. *Confirmation of Acts*

At the request of Mr. Aron, Mr. Oubre moved, and Mr. Lantier seconded, that

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 August 16, 2000 are approved, adopted, and ratified by the entire Board.

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

10. *Election of Officers*

Mr. Aron informed the Board that it was time for the annual election of officers. He indicated that the process would be conducted in accordance with *Roberts Rules of Order* and the *Open Meetings Law*.

President – Mr. D’Angelo nominated Mr. Aron.

Hearing no further nominations, Mr. Aron closed the nominations. Mr. Burch moved, and Mr. Oubre seconded, for approval by acclamation. There were no objections.

First Vice President – Mr. Oubre nominated Mr. Aucoin.

Hearing no further nominations, Mr. Aron closed the nominations and then asked for a motion of approval by acclamation. Ms. Jean so moved, Mr. Burch seconded the motion, and there were no objections.

Second Vice President – Mr. Camp nominated Mr. Bourg.

Hearing no further nominations, Mr. Aron closed the nominations and then asked for a motion of approval by acclamation. Mr. Dixon so moved, Ms. Jean seconded the motion, and there were no objections.

Third Vice President – Mr. Aucoin nominated Mr. Rabb.

Hearing no further nominations, Mr. Aron closed the nominations and then asked for a motion of approval by acclamation. Mr. Dixon so moved, Mr. Lantier seconded the motion, and there were no objections.

Secretary – Mr. Bourg nominated Mr. Dixon.

Hearing no further nominations, Mr. Aron closed the nominations and then asked for a motion of approval by acclamation. Ms. Jean so moved, Mr. Oubre seconded the motion, and there were no

objections.

11. *Committee Reports*

A. *Finance Committee*

In Mr. Carmichael's absence, Mr. Aron asked Mr. Broussard to initiate the report and introduce Mr. Russell Champagne, CPA. Mr. Broussard reminded the members they had received the Budget Worksheet in their advance-meeting packet. The FY 2001-2002 Budget was distributed this morning and is on the agenda for approval. Mr. Broussard then introduced Mr. Champagne, who reviewed three separate documents. He distributed and then reviewed the last fiscal year-end statement from June 30, 2000. With no questions, he then distributed and reviewed the most recent monthly financial statement from October 31, 2000. With no questions, he then reviewed the proposed budget for FY 2001-2002. Mr. Broussard informed the members that the Finance Committee had met on November 2, 2000, and they voted at that time to make no adjustments to the budget proposed at that time, and further, to recommend Board approval. Mr. Champagne then responded to one question concerning mileage for board members. With no further discussion, Mr. Aucoin moved, and Mr. Oubre seconded, that

Resolved, that the Board approve the Fiscal Year 2001-2002 Budget, as submitted.

The motion was approved after a unanimous vote in the affirmative. A copy of the approved budget is appended to these minutes (*Appendix A*).

B. *Examination/Technician Committee*

Mr. Aron called upon Mr. Burch for the committee report. Mr. Burch noted that the committee had not met since the last Board meeting. He then presented data from the NAPLEX, MPJE, DSM, and PTCB examinations, and responded to questions.

C. *Reinstatement Committee*

Mr. Aron called upon Mr. Rabb for the committee report. Mr. Rabb deferred the presentation of his report until the Administrative Hearing.

D. *Reciprocity Committee*

Mr. Aucoin introduced the names of the reciprocity candidates as well as the results of the committee deliberations. Mr. Aucoin moved, and Mr. Burch seconded, that

Resolved, that the following two candidates be approved for licensure by reciprocity:

Christopher Cline Rowley
Nanette Marie Sabell

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

E. *Impaired Committee*

Mr. Bourg indicated he would present several files for Board action during

the Administrative Hearing, but he did have other information at this time.

He first complimented Mr. Finalet and Mr. Foti for their case file preparations, noting that their work had enhanced the committee's deliberations.

Mr. Bourg then informed the members that the committee has been looking for additional addictionists, and had reviewed credentials of two addictionists and found them to be satisfactory. The committee was also developing a Memorandum of Understanding relative to the Board's expectations and compensation to various Board-approved addictionists. Mr. Burch moved, and Mr. Adams seconded, that

Resolved, that the Impairment Committee is authorized to develop the aforementioned Memorandum of Understanding, and to secure the professional services of additional addictionists throughout the state.

Finally, Mr. Bourg indicated that the committee was also reviewing the drug monitoring program following the discovery of a deficiency, and they would be returning with additional recommendations at a later date.

It was noted that Mr. Carmichael arrived during the report of the Impaired Committee.

F. Violations Committee

Mr. Aron called upon Mr. Dixon for the committee report. Mr. Dixon deferred the presentation of his report until the Administrative Hearing, noting that the committee intended to present ten Voluntary Consent Agreements and two Formal Hearings for the Board's consideration.

G. Regulation Revision Committee

Mr. Aron called upon Mr. D'Angelo to review the activities of his committee since the last Board meeting. Mr. D'Angelo reviewed the highlights of the September 28 and October 19 meetings, as well as the August 24 public hearing. He then presented the committee's Project Record, which delineates the status of all the committee's activities.

Mr. D'Angelo then introduced a proposed interim policy from his committee, to address a need arising from LRS 37:1202.B.6.b, commonly referred to as the "three strike rule". Following clarification that the proposed interim policy relates to the unsuccessful attempts of the same examination, and that the policy does not apply to reciprocity applicants, Mr. Oubre moved, and Mr. Lantier seconded, that

Resolved, that the Board approve the proposed interim policy entitled "Pharmacist Licensure Reexamination", such that following the third unsuccessful attempt of an examination for licensure, an applicant shall not be permitted to attempt another examination for licensure until two years from the last date of examination.

During the discussion, and prior to the vote on the motion, a question arose concerning legal interpretation of the proposed policy relative to the underlying statute. On the advice of counsel, Mr. D'Angelo moved, and Mr. Burch seconded, that

Resolved, that the Board enter executive session.

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

It was noted that the Board entered executive session at 1:45 p.m.; they came out of executive session at 2:10 p.m., at which time Mr. Aron declared a brief recess to re-open the meeting room. He then returned to the posted agenda, and in particular to the motion pending on the floor.

Mr. Burch offered an amendment to the pending motion. He moved, and Mr. Aucoin seconded, to substitute “one year” for “two years”. The results of the voice vote were such that the Chair was unable to discern a majority, and he requested a roll call vote. Mr. Dixon called the roll, and the members answered in the following manner: *For the amendment*: Mr. Aucoin, Mr. Adams, Mr. Burch, Mr. Camp, Mr. Carmichael, Mr. D’Angelo, Ms. Jean, and Mr. Rabb. *Against the amendment*: Mr. Bourg, Mr. Dixon, Ms. Anderson, Mr. Bond, Mr. Lantier, Mr. McKay, and Mr. Oubre. The amendment was approved by a vote of 8-7.

Mr. Aron then requested a vote on the amended motion, which read

Resolved, that the Board approved the proposed interim policy entitled “Pharmacist Licensure Reexamination”, such that following the third unsuccessful attempt of an examination for licensure, an applicant shall not be permitted to attempt another examination for licensure until one year from the last date of examination.

The motion was approved after a majority vote in the affirmative. Negative votes were recorded for Mr. Bond, Mr. Oubre, and Mr. McKay. It was noted that the interim policy is effective immediately. A copy is appended to these minutes (*Appendix B*).

H. Tripartite Committee

Mr. Aron called upon Ms. Jean for the committee report. She reported on the November 2 meeting of the committee with both schools of pharmacy as well as the two statewide practitioner organizations. Both schools committed to working with the Board to establish preceptor certification programs as well as pharmacy technician continuing education programs. She also relayed sentiments from both schools of pharmacy requesting more interaction between students, faculty, and Board members.

I. Executive Committee

Mr. Aron reported on the September 27, 2000 committee meeting. There was a discussion of the number of Board meetings to be held, with some thought given to changing from four meetings to six meetings per year. That change could address the concerns expressed by the schools during the Tripartite Committee meeting referenced earlier. Through substantial input by most Board members, a consensus was reached to attempt to hold either full Board meetings or other Board-related events in cooperation with both schools of pharmacy.

The committee also addressed a request from Ms. Celia Cangelosi

relative to her contract with the Board. During Mr. Finalet's transition period last summer, Ms. Cangelosi performed more tasks (Board orders, subpoenas, etc.) than usual, such that by the end of this fiscal year, we may very well exceed the \$25,000 contractual cap. As a caution, the Executive Committee approved an increase in the maximum amount of Ms. Cangelosi's contract for this fiscal year, from \$25,000 to \$40,000. Mr. Aucoin moved, and Mr. McKay seconded, that

Resolved, that the Board authorize an amendment to the current fiscal year contract with Ms. Celia Cangelosi, such that the maximum amount payable be changed from \$25,000 to \$40,000.

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

Mr. Aron recessed the Board for approximately 10 minutes. It was noted that Mr. Aron reconvened the Board at 3:55 p.m., and he returned to the posted agenda.

12. Report of General Counsel

Mr. Finalet reported on two recent seminars he attended relative to certification of attorneys for administrative agencies. Based on observation and interaction with other attendees, he offered an opinion that this Board would compare to most agencies very favorably. He also reported there was no pending litigation.

13. Report of Executive Director

Mr. Broussard reviewed his meeting activity since the last Board meeting. In particular, he summarized a recent meeting with the Boards of Medicine, Nursing, and Pharmacy relative to Advanced Nurse Practitioners. He then reviewed the current status of both physical and human resources. In particular, Mr. Aron reviewed Phase II renovation of the office, the proposed expansion of the Boardroom. Mr. Broussard reviewed the recent staffing changes; in addition to the Administrative Assistant change, the Board also hired a new part-time student, Mr. Brad Guidry. The Dept. of Civil Service just approved the new Licensing Assistant position; Mr. Broussard indicated that position would be filled shortly after the new year. Finally, in response to a question from Mr. Aucoin concerning the recent Board approval relative to the Civil Service reclassification request on behalf of the Board's inspectors, Ms. Gaudet provided an update on that process.

14. Report on MALTAGO 2000 Conference

Mr. Aron called upon Mr. Camp to review the agenda for that conference. Mr. Camp indicated that major presentations were provided relative to the methamphetamine clandestine labs, as well as the concept of central fill and automation in pharmacy. Other presentations reviewed Internet pharmacies and pharmacy provider numbers. Mr. Aron indicated that he, Mr. Bond, Mr. Bourg, Mr. Burch, Mr. Carmichael, Mr. McKay, Mr. Oubre, Mr. Rabb, Mr. Finalet, Mr. Broussard had also attended that conference.

15. Report on NABP District VI 2000 Conference

Mr. Aron called upon Mr. Camp to review the agenda for that conference. Mr. Camp indicated that major presentations were provided relative to medication error reduction and Internet pharmacies. Since NABP business was conducted at that seminar, Mr. Broussard reviewed the two resolutions approved at that conference so that those members attending the NABP Annual Conference next year would have some basis for informed action. Mr. Aron indicated that he, Mr. Bond, Mr. Bourg, Mr. Rabb, and Mr. Broussard had also attended that conference.

16. Report on NABP Health Law Officers Conference 2000

Mr. Aron called upon Mr. Adams to review the agenda for that conference. Mr. Adams indicated that major presentations were provided relative to street drug updates, pharmacy benefit managers, the investigation of Internet pharmacy websites, and a workshop on regulating for pharmaceutical care outcomes. Mr. Aron indicated that he, Mr. Bourg, Mr. Collins, Mr. Foti, Ms. Gaudet, Mr. Johnson, Mr. Finalet, and Mr. Broussard had also attended that conference.

17. Request for Opinion from FlavoRx™

Mr. Aron asked Mr. Broussard to review the request. After doing so, he responded to several questions. Mr. Bourg then moved, and Mr. Oubre seconded, that

Resolved, that the addition of flavoring agents to a drug product constitutes part of the practice of compounding and is therefore within the scope of practice for pharmacists.

The motion was approved after a majority vote in the affirmative. Negative votes were recorded for Mr. Adams, Mr. Aucoin, and Mr. McKay.

18. Request for Exception to LAC 46:LIII.3517.A.2

Mr. Aron presented the request from a pharmacy for an exception to the referenced regulation. After considerable discussion, Mr. D'Angelo moved, and Mr. Burch seconded, that

Resolved, that the Board deny the request for an exception from the Northeast Louisiana War Veterans Home Pharmacy.

The motion was approved after a majority vote in the affirmative. Negative votes were recorded for Ms. Anderson, Mr. Aucoin, Mr. Lantier, and Mr. Rabb.

19. Request for Exception to LAC 46:LIII.805.4.c

Mr. Aron asked Mr. Broussard to present the request and the background information. Following a brief discussion, Mr. Bourg moved, and Mr. Camp seconded, that

Resolved, that the Board take no action on the request to extend a pharmacy technician applicant's work permit.

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

20. Announcements

Mr. Broussard reminded the Board members of several calendar notes, especially the tentative dates for the 2001 Board meetings.

21. Recess

Mr. Aucoin moved, and Mr. Dixon seconded, to recess. Mr. Aron placed the Board in recess at 5:30 p.m.

An Administrative Hearing was convened on Wednesday, November 29, 2000 in Courtroom No. 2 at the First Circuit Court of Appeals, located at 1600 North Third Street 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 9:00 a.m.

2. Invocation

Mr. Aron called upon Ms. Jean, and she delivered the invocation.

3. Pledge of Allegiance

Following the invocation, Mr. Aucoin led the group in the recitation of the Pledge of Allegiance.

4. Quorum Call

Mr. Aron called upon Secretary Dixon and he called the roll. After doing so, he informed Mr. Aron that all the Board members were present.

5. 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. Ms. Marlene Cashen was the Court Reporter. Due to prior knowledge, the members of the Violations Committee (Mr. Dixon, Mr. Burch, Mr. Camp, Mr. D'Angelo, and Mr. Rabb) were recused from the consideration of the matters under their jurisdiction, and the remainder of the Board members present served as the jury. Mr. Aron then asked Mr. Foti to sound the docket, which he did then do.

6. Report of Reinstatement Committee – Consideration of Recommendations

Mr. Aron called upon Mr. Rabb to present his committee's report. Mr. Rabb presented the following files for Board action:

Joseph Nolan Bernard (License No. 10850) Mr. Rabb moved, and Mr. Oubre seconded, to deny the request for reinstatement, and further, to recommend the receipt of an evaluation from a Board-approved addictionist prior to any future request for reinstatement. The motion was approved after a unanimous vote in the affirmative. The Board denied the request for reinstatement.

Aurelius Edwin Archie (License No. 11121) Mr. Rabb moved, and Mr. Aucoin seconded, to grant the request for automatic reinstatement, following the completion of these terms: (1) pass the Multistate Pharmacy Jurisprudence

Examination and (2) obtain 250 hours of updated practical experience under a Special Work Permit. The permit shall be requested in writing by the Pharmacist-in-Charge of a Board-approved pharmacy as well as the respondent. The respondent shall submit documentation of the completion of said hours, as well as a letter of competency of the respondent to practice pharmacy from the Pharmacist-in-Charge. The motion was approved after a unanimous vote in the affirmative. The Board ordered the license reinstated following the completion of certain terms as identified in the Board order.

Scott Davis Nealy (License No. 11172) Mr. Rabb moved, and Mr. Lantier seconded, to grant the request for reinstatement, then place the license on probation for five years beginning November 29, 2000, subject to the following conditions: (1) Do not violate any local, state, or federal pharmacy laws. (2) Remain alcohol and drug free. Respondent is not to use any legend drugs except as part of the respondent's medical treatment when legally prescribed by a licensed practitioner who is aware of the impairment. Respondent is to notify the Board in writing of any prescribed drugs prior to beginning treatment. (3) Accept employment at Board-approved sites only. (4) Inform prospective employers of impairment. (5) Supervision at any place of employment shall be by a licensed pharmacist. (6) Respondent shall maintain a perpetual inventory of all Schedule II controlled dangerous substances and shall submit totals to the Board upon request. (7) Submit random urine, blood, or other drug screens upon request by the Board or agent of the Board and have results submitted to the Board office. Any positive drug screen may be grounds for sanction by the Board. (8) Respondent is prohibited from holding the position of Pharmacist-in-Charge. The motion was approved after a unanimous vote in the affirmative. The Board ordered the license reinstated, then placed the license on probation for five years, beginning November 29, 2000, subject to certain terms as identified in the Board order.

Charles Larry Haygood (License No. 8863) Mr. Rabb moved, and Mr. Bourg seconded, to grant the request for reinstatement, then place the license on probation for five years, beginning November 29, 2000, subject to the following conditions: (1) Do not violate any local, state, or federal pharmacy laws. (2) Accept employment at Board-approved sites only. (3) Supervision at any place of employment shall be by a Louisiana licensed pharmacist. (4) Respondent is prohibited from holding the position of Pharmacist-in-Charge. The motion was approved after a unanimous vote in the affirmative. The Board ordered the license reinstated, then placed the license on probation for five years, beginning November 29, 2000, subject to certain terms as identified in the Board order.

Fortesque Sipho Tsamaesi (License No. 13698) Mr. Rabb moved, and Mr. Dixon seconded, to grant the request for reinstatement. The motion was approved after a unanimous vote in the affirmative. The Board ordered the license reinstated.

7. Report of Impaired Committee – Consideration of Recommendations

Mr. Aron called upon Mr. Bourg to present the remainder of his committee report. Mr. D'Angelo moved, and Mr. Camp seconded, that

Resolved, that the Board enter into executive session for the purpose of reviewing the health status and professional competency of several licensees.

The motion was approved after a unanimous roll call vote in the affirmative. It was noted that the Board entered executive session at 9:20 a.m. and re-opened the hearing at 9:50 a.m.

At this point, Mr. Aron returned to the posted agenda. Mr. Bourg then presented the following files for Board action:

Christopher Allan Entwisle (License No. 14302) Mr. Bourg moved, and Mr. Oubre seconded, to grant the request to modify the existing terms of probation, such that Article 6 of the August 12, 1999 Board order be amended to read "Supervised by the Pharmacist-in-Charge and work only in the presence of another licensed pharmacist, with the exception of employment at Touro Infirmary, 1401 Foucher Street, New Orleans, Louisiana (Pharmacy Permit No. 4355), wherein such probation restriction shall allow the respondent to work a maximum of three overnight shifts per six-week period." The motion was approved after a unanimous vote in the affirmative. The Board modified the terms of probation, specifically Article 6 of their August 12, 1999 order, as detailed in the new Board order.

Leo Gerard Riche (License No. 14961) Mr. Bourg moved, and Mr. Camp seconded, to deny the request for reinstatement. The motion was approved after a unanimous vote in the affirmative. The Board denied the request for reinstatement.

Salvadore Joseph Russo, Jr. (License No. 10667) Mr. Bourg moved, and Ms. Jean seconded, to accept the voluntary surrender of the license, which was tendered on September 8, 2000. The motion was approved after a unanimous vote in the affirmative. The Board accepted the voluntary surrender, resulting in the indefinite suspension of the license, beginning September 8, 2000.

Mark Alan Herring (License No. 13768) Mr. Bourg moved, and Ms. Anderson seconded, to grant the request to modify the terms of probation, specifically Article 7 of their September 14, 1998 Board order, such that respondent may hold the position of Pharmacist-in-Charge, but only at Boudreaux's New Drug Store, 503 West Sallier Street, Lake Charles, Louisiana (Pharmacy Permit No. 4537). The motion was approved after a unanimous vote in the affirmative. The Board modified the terms of probation, specifically Article 7 of their September 14, 1998 Board order, as detailed in the new Board order.

Curtis Ray Waycaster (License No. 14284) Mr. Bourg moved, and Mr. Burch seconded, to grant the request for reinstatement, then place the license on probation for five years, beginning November 29, 2000, subject to the following

terms: (1) Do not violate any local, state, or federal pharmacy laws. (2) Remain alcohol and drug free. Respondent is not to use any legend drug except as part of the respondent's medical treatment that is legally prescribed by a licensed practitioner who is aware of the impairment. Respondent is to notify the Board in writing of any prescribed drugs prior to beginning treatment. (3) Accept employment at Board-approved sites only. (4) Inform prospective employers of impairment. (5) Submit to random urine, blood, or other drug screens upon request by the Board or agent of the Board and have results submitted to the Board office. Any positive drug screen may be grounds for sanction by the Board. (6) Respondent is prohibited from holding the position of Pharmacist-in-Charge. The motion was approved after a unanimous vote in the affirmative. The Board ordered the license reinstated, then placed the license on probation for five years, beginning November 29, 2000, subject to certain terms as identified in the Board order.

Steven Louis Elliott (License No. 15439) Mr. Bourg moved, and Ms. Anderson seconded, to grant the request for automatic reinstatement, following the completion of one term: that respondent obtain 300 hours of updated practical experience under a Special Work Permit. The permit shall be requested in writing by the Pharmacist-in-Charge of a Board-approved pharmacy as well as the respondent. The respondent shall submit documentation of the completion of said hours, as well as a letter of competency of the respondent to practice pharmacy from the Pharmacist-in-Charge; further, following the reinstatement of the license, to place the license on probation for five years, beginning the date of reinstatement, subject to the following terms: (1) Do not violate any local, state, or federal pharmacy laws. (2) Remain alcohol and drug free. Respondent is not to use any legend drug except as part of the respondent's medical treatment legally prescribed by a licensed practitioner who is aware of the impairment. Respondent is to notify the Board in writing of any prescribed drugs prior to beginning treatment. (3) Attend Alcoholics Anonymous meetings as recommended by the respondent's treating physician. (4) Accept employment only at Board-approved sites. (5) Inform prospective employers of impairment. (6) Supervision at any place of employment shall be by a licensed pharmacist. (7) Respondent shall maintain a perpetual inventory of all Schedule II controlled dangerous substances, and shall submit totals to the Board upon request. (8) Submit to random urine, blood, or other drug screens upon request by the Board or an agent of the Board and have the results submitted to the Board office. Any positive drug screen may be grounds for sanction by the Board. (9) Respondent is prohibited from holding the position of Pharmacist-in-Charge. The motion was approved after a majority vote in the affirmative. Approvals were recorded by Mr. Adams, Ms. Anderson, Mr. Aucoin, Mr. Bourg, Mr. Burch, Mr. Dixon, Mr. Landry, Mr. Lantier, Mr. McKay, Mr. Oubre, and Mr. Rabb. Objections were recorded by Mr. Bond, Mr. Camp, Mr. Carmichael, and Ms. Jean. Mr. D'Angelo abstained from voting on this motion. The Board ordered the automatic reinstatement of the license following completion of 300 hours of updated practical experience under a Special Work Permit, and further, to place the license on probation for

five years, beginning on the date of reinstatement, subject to certain terms as identified in the Board order.

8. *Report of Violations Committee – Consideration of Recommendations*

Mr. Aron called upon Mr. Dixon to present his committee report. Mr. Dixon presented the following files for Board action.

Ginger Gale Bordelon (Technician Certificate No. 1448) Mr. Dixon moved, and Ms. Jean seconded, to accept the Voluntary Consent Agreement. The motion was approved after a unanimous vote in the affirmative. The Board suspended the certificate for five years, beginning October 12, 2000, then prohibited any application for reinstatement prior to October 12, 2001, and further, any reinstatement on probation is contingent on the complete payment of all assessments and costs. The Board also assessed the certificate \$1,000 and administrative costs of \$889.08. *Charges:*

- (1) LRS 37:1225(3) – unprofessional conduct, or conduct endangering the public health, safety, or welfare.
- (2) LRS 37:1225(23) – violating, or attempting to violate, any of the provisions of Louisiana pharmacy law, this Code of Ethics, or any other local, state, or federal law regulating or pertaining to the practice of pharmacy.
- (3) LAC 46:LIII.829.A.3 – violation of pharmacy laws or regulations by a pharmacy technician.
- (4) LRS 40:978.B – dispensing Schedule III and Schedule IV controlled dangerous substances without authorization.
- (5) LRS 40:968.A.1 – dispensing Schedule II controlled dangerous substance without authorization.
- (6) LRS 40:969.A.1 – dispensing Schedule IV controlled dangerous substances without authorization.
- (7) LAC 46:LIII.3501 – dispensing a legend drug without authorization.

Lloyd Joseph Duplantis, Jr. (License No. 9535) Mr. Dixon moved, and Mr. Bourg 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, beginning August 23, 2000, then stayed the suspension and placed the license on probation for five years, beginning August 23, 2000, subject to the following terms: (1) The respondent is not to violate any federal, state, or local laws or regulations pertaining to the practice of pharmacy. (2) The assessment set forth must be satisfied on or before November 15, 2000. The Board assessed the license \$1,500 and administrative costs of \$1,000. *Charges:*

- (1) LRS 37:1241.A.1 – has practiced pharmacy, or permitted anyone in his employ to practice pharmacy, in violation of any rules and regulations of the Board of Pharmacy.
- (2) LRS 37:1241.A.15 – has evaded, or has assisted another person, directly or indirectly, in evading any local, state, or federal laws, rules, or regulations pertaining to the practice of pharmacy.

- (3) LRS 37:1241.A.11 – has committed fraud in connection with the practice of pharmacy, including but not limited to Medicaid fraud, Medicare fraud, or insurance fraud.
- (4) LAC 46:LIII.2709.C.2 – Medicaid fraud consists of false claims by a pharmacist intended to defraud Medicaid programs such as billing for services not rendered.

Melvin Louis Jackson, III (License No. 14588) Mr. Dixon moved, and Mr. Aucoin seconded, to accept the Voluntary Consent Agreement. Prior to the vote, two minor corrections, as well as a change in the date of a committee appearance, were agreed upon by all parties. The amended motion was approved after a unanimous vote in the affirmative. The Board suspended the license for five years, beginning August 22, 2000, and then prohibited any application for reinstatement prior to August 22, 2001, and further, any reinstatement on probation is contingent upon the following terms: (1) Respondent not to violate any federal, state, or local laws or regulations pertaining to the practice of pharmacy. (2) Submit to an evaluation by Douglas W. Cook, M.D. and cause that evaluation to be submitted to the Board. (3) Meet with the Impairment Committee at their next meeting on February 7, 2001 and submit to the monitoring plan of that committee. (4) Satisfy all assessments. The Board also assessed the license \$2,500. *Charges:*

- (1) LRS 37:1241.A.1 – has practiced pharmacy, or permitted anyone in his employ to practice pharmacy, in violation of any rules and regulations of the Board of Pharmacy.
- (2) LRS 37:1241.A.10 – has departed from, or failed to conform to, the minimal standards of acceptable and prevailing pharmacy practice.
- (3) LRS 37:1241.A.5 – is habitually intemperate or is addicted to the use of alcohol or habit-forming drugs.

At this point, Mr. Aron declared a brief recess at 10:50 a.m. At 11:05 a.m., Mr. Aron reconvened the hearing and resumed the posted agenda. Mr. Dixon presented the following files for Board action.

Carlton Ireneaus Isidor Charles (License No. 11135) Mr. Dixon moved, and Mr. McKay seconded, to accept the Voluntary Consent Agreement. Prior to the deliberations, Ms. Jean asked to be recused, citing her association with the respondent and his family; Mr. Aron ordered the record to reflect the recusation. Following deliberations, Mr. Bourg offered a substitute motion to reject the proposed consent agreement and schedule the matter for formal hearing. In the absence of a second, Mr. Aron ruled the motion dead. The original motion was approved after a majority vote in the affirmative. Mr. Aucoin objected. The Board suspended the license for ten years, beginning September 7, 2000, then prohibited any application for reinstatement prior to September 6, 2005, and further, any reinstatement on probation is contingent upon the satisfaction of all assessments. The Board also assessed the license \$10,000, with \$5,000 due at execution of the agreement and \$5,000 due prior to reinstatement. *Charges:*

- (1) LRS 37:1241.A.1 – has practiced pharmacy, or permitted anyone in his employ to practice pharmacy, in violation of any rules and regulations of the Board of Pharmacy.
- (2) LRS 37:1241.A.4 – has been convicted of a felony or other public offense involving moral turpitude in the courts of any state, territory, or country. Conviction shall include a finding or verdict of guilty, an admission of guilt, or a plea of *nolo contendere*.
- (3) LRS 37:1241.A.15 – has evaded, or assisted, directly or indirectly, another person in evading, any local, state, or federal laws, rules, or regulations pertaining to the practice of pharmacy.
- (4) LRS 40:969.A.1 – manufacture or distribution. Except as authorized by this part, it shall be unlawful for any person, knowingly or intentionally, to produce, manufacture, distribute, or dispense, or to possess with intent to produce, manufacture, distribute, or dispense, a controlled dangerous substance classified in Schedule IV.
- (5) LRS 40:969.C – possession. It is unlawful for any person, knowingly or intentionally, to possess a controlled dangerous substance classified in Schedule IV unless such substance was obtained directly or pursuant to a valid prescription or order from a practitioner, or as provided in LRS 40:978 while acting in the course of his professional practice or except as otherwise authorized by this part. Any person who violates this subsection shall be imprisoned with or without hard labor for not more than five years and, in addition, may be required to pay a fine of not more than \$5,000.

Tausha Lynette Lee (License No. 16632) Mr. Dixon moved, and Mr. Aucoin seconded, to accept the Voluntary Consent Agreement. The motion was approved after a unanimous vote in the affirmative. The Board reprimanded the license, and further, the license was assessed administrative costs of \$250.

Charges:

- (1) LRS 37:1241.A.1 – has practiced pharmacy, or permitted anyone in his employ to practice pharmacy, in violation of any rules and regulations of the Board of Pharmacy.
- (2) LRS 37:1241.A.12 – has engaged, or aided and abetted a person to engage, in the practice of pharmacy without a license, registration, certificate, permit, or any other designation deemed necessary to engage in the practice of pharmacy.

Walgreen's Pharmacy No. 3047(Permit No. 3245) Mr. 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 assessed the permit \$5,000 and administrative costs of \$575.60. *Charges:*

- (1) LRS 37:1241.A.1 – has practiced pharmacy, or permitted anyone in his employ to practice pharmacy, in violation of any rules and regulations of the Board of Pharmacy.
- (2) LRS 37:1241.A.12 – has engaged, or aided and abetted a person to engage, in the practice of pharmacy without a license, registration,

certificate, permit, or any other designation deemed necessary to engage in the practice of pharmacy.

Howard Allen Rainwater (License No. 14916) Mr. Dixon moved, and Mr. Aucoin seconded, to accept the Voluntary Consent Agreement. The motion was approved after a unanimous vote in the affirmative. The Board revoked the probation imposed in their November 15, 1995 Board order, then executed the active suspension for five years, beginning August 23, 2000; further, the respondent may apply for reinstatement at any time. Charges:

(1) Board Order dated November 15, 1995 – violation of Article 1, entitled “Abstinence”. Board has received or gathered sufficient evidence to substantiate the lack of compliance.

Sherri Marie Barnett (Technician Certificate No. 1239) Mr. Dixon moved, and Mr. Adams seconded, to accept the Voluntary Consent Agreement. The motion was approved after a unanimous vote in the affirmative. The Board revoked the certificate. Charges:

(1) LRS 40:968.C – unlawful to possess a controlled dangerous substance classified in Schedule III unless such substance was obtained by a valid prescription order from a practitioner.

Shawn Michael Corley (Technician Certificate No. 3286) Mr. 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 certificate. Charges:

(1) LRS 37:1225(3) – unprofessional conduct or conduct endangering the public health, safety, or welfare.

(2) LRS 37:1225(23) – violating, or attempting to violate, pharmacy laws, rules, or regulations.

(3) LRS 40:968.A.1 – unlawful to distribute or dispense a controlled dangerous substance classified in Schedule III except as authorized in this part.

(4) LRS 40:969.A.1 – unlawful to distribute or dispense a controlled dangerous substance classified in Schedule IV except as authorized in this part.

Paula Maria Lopez (Technician Certificate No. 2705) Mr. Dixon moved, and Mr. Bourg seconded, to accept the Voluntary Consent Agreement. The motion was approved after a unanimous vote in the affirmative. The Board revoked the certificate. Charges:

(1) LRS 37:1241.A.1 – has practiced pharmacy, or permitted anyone in his employ to practice pharmacy, in violation of any rules and regulations of the Board of Pharmacy.

(2) LRS 37:1241.A.15 – has evaded, or assisted another person, directly or indirectly, in evading any local, state, or federal laws, rules, or regulations pertaining to the practice of pharmacy.

(3) LRS 37:1241.A.7 – has failed to report any adverse action taken by another licensing jurisdiction, government agency, law enforcement agency, or court for conduct that would constitute grounds for action by the Board.

(4) LRS 37:1213 – has failed to notify the Board, in writing, of any changes in employment within 10 days of a change.

(5) LAC 46:LIII.3501.3 – legend drugs shall be procured and possessed by a pharmacy permittee for legitimate dispensing by a pharmacist in the course of the practice of pharmacy.

Allison Ann Monetta [also known as Allison Ann Beagle] (Technician Certificate No. 1266) Mr. 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. *Charges:*

(1) LRS 37:1241.A.15 – has evaded, or assisted another person, directly or indirectly, in evading any local, state, or federal laws, rules, or regulations pertaining to the practice of pharmacy.

(2) LRS 40:967.A.1 – unlawful to distribute or dispense any controlled dangerous substance classified in Schedule II, except as authorized in this part.

(3) LRS 40:969.A.1 – unlawful to distribute or dispense any controlled dangerous substance classified in Schedule IV, except as authorized in this part.

Frederick O’Neal Selvage (Technician Certificate No. 2078) Mr. Aucoin moved, and Mr. Bourg seconded, to accept the voluntary surrender of the certificate, which was tendered on June 15, 2000. The motion was approved after a unanimous vote in the affirmative. The Board accepted the voluntary surrender, resulting in the indefinite suspension of the certificate, beginning June 15, 2000. *Charges:*

(1) LRS 37:1241.A.10 – had departed from, or failed to conform to, the minimal standards of acceptable or prevailing standards of pharmacy practice.

(2) LRS 37:1241.A.15 – has evaded, or assisted another person, directly or indirectly, in evading, any local, state, or federal laws, rules, or regulations pertaining to the practice of pharmacy.

9. Adjourn

With no further business, Mr. Aron adjourned the hearing at 11:45 a.m.

Respectfully submitted,

Reuben R. Dixon, Secretary