



Louisiana Board of Pharmacy

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Minutes

Regular Meeting

Wednesday, November 20, 2002 at 1:00 p.m.

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

Administrative Hearing

Thursday, November 21, 2002 at 9:00 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, November 20, 2002 in the Board office 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 1:10 p.m.

2. Invocation

Mr. Aron called upon Mr. Richard Oubre, and he delivered the invocation.

3. Pledge of Allegiance

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

4. Quorum Call

Mr. Aron called upon the Secretary, Dr. Reuben Dixon, to call the roll. After doing so, Dr. Dixon stated that a quorum of the Board was present. He also reminded members to sign the Minute Book as it was circulated during the meeting.

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 – *late arrival*
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

Absent:

Mr. Jeffrey M. Landry

Present by Board Invitation:

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

Mr. Rayland M. Trisler, Compliance Officer

Guests:

Mr. & Mrs. Melvin J. "Joe" Fontenot
Mr. Mark R. Malouse – U.S. Navy

At this point, Mr. Aron introduced the newest members of the Board and staff. Mr. Greco represents District 6, Ms. Hall represents District 2, and Mr. Mills represents District 3. Mr. Fontenot has agreed to join the staff as a compliance officer on December 2, 2002. The board members welcomed them.

It was noted that Mr. Greco arrived at 1:15 p.m.

5. Call for Additional Agenda Items

Mr. Aron asked if there were any additional agenda items. Mr. McKay moved, and Mr. Lantier seconded, for permission to present a report from the Tripartite Committee. The motion was approved after a unanimous roll call vote in the affirmative. Mr. Aron indicated he would schedule the report subsequent to the report of the Impairment Committee.

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. D'Angelo moved, and Mr. Adams seconded, to grant the President the necessary authority to reorder the agenda in the best interest of the Board. The motion was approved after a unanimous vote in the affirmative.

6. 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. Burch moved, and Mr. Oubre seconded,

Resolved, that the Minutes of the Regular Board Meeting of August 21, 2002 and the Administrative Hearing of August 22, 2002, 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.

7. Report on Action Items

Mr. Aron asked Mr. Broussard to report on the action items from the August 2002 Board meeting. Mr. Broussard reported on one matter from that meeting.

A. Personnel Changes in the Compliance Division

During the last meeting, the Board directed the engagement of a Chief Compliance Officer and an additional staff compliance officer.

Ms. Gaudet will be promoted to the position of Chief Compliance Officer on December 1, 2002. To fill the resulting vacancy, Mr. Fontenot will be appointed as a staff compliance officer, effective December 2, 2002. In response to a question from Mr. Burch, Mr. Aron clarified that

Ms. Gaudet will retain some of her territory for inspection purposes, although the size would be reduced to provide time for Ms. Gaudet to fulfill her administrative duties in the Board office.

8. *Confirmation of Acts*

At the request of Mr. Aron, Mr. Camp moved, and Dr. Anderson 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 August 22, 2002 are approved, adopted, and ratified by the entire Board.

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

9. *Opportunity for Public Comment*

Mr. Aron informed the Board and guests that Act 285 of the 2001 Louisiana Legislature 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.

10. *Election of Officers*

Mr. Aron initiated the annual election of officers by indicating the process would be conducted in accordance with *Robert's 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. McKay seconded, for approval by acclamation. The motion was approved after a unanimous vote in the affirmative.

First Vice President – Mr. D'Angelo nominated Mr. Burch.

Hearing no further nominations, Mr. Aron closed the nominations. Mr. Bond moved, and Mr. Lantier seconded, for approval by acclamation. The motion was approved after a unanimous vote in the affirmative.

Second Vice President – Mr. Oubre nominated Mr. Rabb.

Hearing no further nominations, Mr. Aron closed the nominations. Dr. Dixon moved, and Mr. Carmichael seconded, for approval by acclamation. The motion was approved after a unanimous vote in the affirmative.

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

Hearing no further nominations, Mr. Aron closed the nominations. Mr. Bond moved, and Mr. Lantier seconded, for approval by acclamation. The motion was approved after a unanimous vote in the affirmative.

Secretary – Mr. Mills nominated Dr. Dixon.

Hearing no further nominations, Mr. Aron closed the nominations. Mr. Adams moved, and Mr. Oubre seconded, for approval by acclamation. The motion was approved after a unanimous vote in the affirmative.

Mr. Aron offered his appreciation to the other members of the Executive Committee for their service during the prior year.

11. *Committee Reports*

A. *Finance Committee*

Mr. Aron called upon Mr. Carmichael for the committee report. Mr. Carmichael directed the members to the first report in their packet. The current financial report for the first fiscal quarter consisted of the Statement of Assets, Liabilities, & Equity, the Interim Budget Performance Report, the Income Statement Summary, and the Fund Balance Summary. He reviewed that report with assistance from Mr. Broussard, and they responded to questions from the members. Mr. Broussard indicated that report was for information purposes only and did not require board approval. Mr. Carmichael then directed the members to the Budget Worksheet for FY 03-04, and explained the format of the report. Mr. Broussard reviewed the revenue and expense projections, citing the associated notes, and highlighting certain significant changes. Mr. Carmichael responded to questions from members. Finally, Mr. Broussard directed the members to the final committee document in their meeting packet, which was a report from Hancock Bank detailing the identification and performance of all instruments in the investment account for the first fiscal quarter. He indicated the bank report was informational only and required no action by the board.

Mr. Carmichael moved, and Mr. Oubre seconded,

Resolved, that the Board approve the Proposed Budget for Fiscal Year 2003-2004, as recommended by the Finance Committee.

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

B. *Examination/Technician Committee*

Mr. Aron called upon Mr. Camp for the committee report. Mr. Camp noted that a copy of the report was in the meeting packet. He presented data from the NAPLEX, MPJE, DSM, and PTCB examinations. Mr. Camp also directed the members to the Licensure Activity Report listing 46 pharmacists and 200 technicians credentialed since the last Board meeting.

Mr. Aron then opened a discussion of whether or not the Board should re-institute a practical component of the pharmacist licensure examination. Some concerns were raised as to the resources required to construct a psychometrically sound testing instrument, the legal defensibility of that instrument, and the logistics necessary for the development and administration of the test. Some members questioned the need for the test, and others indicated they wanted additional information before any decisions were made. Mr. Aron instructed staff to survey other state boards of pharmacy to determine their recommendations, if any, as well as to determine what legal issues may arise for the board relative to testing issues.

C. *Reciprocity Committee*

Mr. Aron called upon Mr. Adams for the committee report. Mr. Adams reported that five pharmacists had been approved for reciprocity since the last Board meeting, and that five pharmacists had been interviewed earlier that day. Mr. Adams moved, and Mr. Lantier seconded,

Resolved, that the Board issue a license by reciprocity to Kimberly Winkler Gilbreath, Donald Stephan Lawler, Sharron Renee Barnes Michael, and Nancy Nga Pham.

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

Resolved, that the Board issue a license by reciprocity to Elna Plata Leal after January 1, 2003.

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

D. Regulation Revision Committee

Mr. Aron called upon Mr. D'Angelo for the committee report. He reported the committee had met three times since the last Board meeting – on September 24, October 15-16, and November 12. He reminded the members that the office had sent copies of *Chapter 1- Introduction*, *Chapter 3 – Board Hearings*, and *Chapter 6 – Illegal Payments; Required Disclosures of Financial Interests*, with instructions to review for approval during this meeting. Mr. D'Angelo moved, and Dr. Dixon seconded,

Resolved, that the Board approve the final committee drafts of *Introduction* and *Board Hearings*, and further, to authorize the committee to make cosmetic and non-substantive changes during the preparation of the documents for promulgation, and further, to authorize the promulgation of these chapters upon the President's instruction.

Dr. Dixon offered a revision for clarification in Chapter 3, and Mr. Aron approved the change after hearing no objections from the members. Following a short discussion, the motion was approved after a unanimous vote in the affirmative. Mr. D'Angelo then moved, and Dr. Dixon seconded,

Resolved, that the Board approve the final committee draft of *Illegal Payments; Required Disclosures of Financial Interests*, and further, to authorize the committee to make cosmetic and non-substantive changes during the preparation of the document for promulgation, and further, to authorize the promulgation of this chapter upon the President's instruction.

The motion was approved after a unanimous vote in the affirmative. Mr. Aron requested the committee to reconsider the regulation concerning automated medication systems, specifically, as it applies to pharmacies already possessing a permit from the board. Mr. D'Angelo indicated he would ask the committee to reconsider that regulation. Finally, Mr. D'Angelo directed the members to the Master Project Record, which was included in the meeting packet. That report provided a comprehensive status report of all subject matters under consideration by the committee.

In closing, Mr. D'Angelo expressed his appreciation to his committee members and staff for their assistance in the regulation revision project.

At 2:50 p.m., Mr. Aron declared a brief recess. Mr. Aron reconvened the meeting at 3:15 p.m., resuming the posted agenda.

E. Reinstatement Committee

Mr. Aron called upon Mr. Rabb for the committee report, and he deferred the presentation of the formal report until the Administrative Hearing, scheduled for the next day. Mr. Rabb thanked his committee members for their work that day.

F. Violations Committee

Mr. Aron called upon Dr. Dixon for the committee report, and he deferred the presentation of the formal report until the Administrative Hearing, scheduled for the next day. Dr. Dixon thanked his committee members for their work during the last informal hearing.

G. Impairment Committee

Mr. Aron called upon Mr. Burch for the committee report, and he deferred the presentation of the formal report until the Administrative Hearing, scheduled for the next day.

Mr. Burch initiated a discussion of a staff recommendation to change the vendor of the drug testing program to National Confederation of Professional Services, Inc. (NCPS). Mr. Burch moved, and Mr. Oubre seconded,

Resolved, that the Board authorize the Executive Director to enter into an agreement with National Confederation of Professional Services, Inc. (NCPS) to administer the Board's drug testing program.

Mr. Burch asked Mr. Broussard to describe the drug testing program and the opportunity for improvement with the new vendor. Mr. Broussard discussed the details of the prior vendor, Professional Recovery Network (PRN), the current vendor (FirstLab), and the proposed vendor. He addressed the administrative challenges, the programmatic opportunities, and the costs to all involved parties. The motion was approved after a unanimous vote in the affirmative.

Mr. Burch thanked his committee members for their work on the previous day.

H. Tripartite Committee

Mr. Aron called upon Mr. McKay for the committee report. Mr. McKay reported on the committee's October 15 meeting. He summarized the reports from the professional organizations as well as the colleges of pharmacy. He then discussed the ongoing work to develop and implement a preceptor training program, and reviewed the most recent draft submitted by the schools.

I. Executive Committee

Mr. Aron reported that the committee had not met since the last Board meeting, and no formal report from the committee. However, he did want to inform the members of a recent breach in security for the Foreign Pharmacy Graduate Equivalency Examination (FPGEE) sponsored by the National Association of Boards of Pharmacy (NABP). NABP has advised that the

matter is still under investigation by federal authorities, but that state boards should be prepared for the potential cancellation of Foreign Pharmacy Graduate Equivalency Certificates (FPGEC) issued to candidates based upon scores of examinations affected by the security breach.

12. Report of General Counsel

Mr. Aron called upon Mr. Finalet for his report. He reported on his recent attendance at the Federation of Associated Regulatory Boards (FARB) attorney certification seminar in Colorado Springs. Some of the topics included were solicitation of prior disciplinary information on licensure applications, successful challenges to agency adjudications based upon failure to follow proper notice requirements, and opportunities and challenges associated with distance learning institutions.

Mr. Finalet then made a short presentation of the impact of the Health Insurance Portability & Accountability Act of 1996 (HIPAA) on the Board and its duties and operations. He opined that none of the HIPAA mandates would restrict the Board in its current duties or operations. To support that opinion, he discussed the different sections of HIPAA related to required disclosures, public health activities, and health oversight agencies. Mr. D'Angelo requested that Mr. Finalet develop a summary of minimum requirements for pharmacies to comply with HIPAA mandates. As an alternative, Mr. Aron directed the placement of a short article in the board's newsletter advising pharmacists of the April 14, 2003 effective date of the federal law, together with direction for additional assistance.

Finally, Mr. Finalet reported there was no pending litigation.

13. Report of Executive Director

Mr. Broussard began his report with synopses of recent meetings. He also reported on presentations he delivered to state and local pharmacy organizations.

He then reported the current census: 5,917 pharmacists, 960 interns, 3,502 technicians, 1,612 technician trainees, and 1,792 pharmacy permits.

He informed the Board that the technician CE audit for 2001-2002 had just been completed. Of the 103 technicians selected for the audit, 68% were in compliance. Only 8 people failed to respond to the letters for corrective action, and those technicians have been invited to meet with the Violations Committee.

Mr. Broussard then briefly reviewed the current status of the renewals for pharmacists and pharmacies. Of the approximately 6,000 pharmacist applications mailed, almost 1,000 were received and processed out the first week of November, a first-time phenomenon probably related to recent disciplinary activities concerning CE and renewal issues documented in the newsletter.

Finally, he requested approval from the Board to renew an agreement with Michael Yoches to maintain the Board's website content for the duration of the current fiscal year. Mr. Oubre moved, and Mr. Adams seconded,

Resolved, that the Board approve the proposal from Michael Yoches to maintain the content of the Board's website, at the stipulated rate of \$35/hour, in an amount not to exceed \$5,000 for Fiscal Year 2002-2003.

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

14. Special Presentation – Compliance Officers

Mr. Aron asked Mr. Broussard to initiate the presentation. Mr. Broussard reminded the members they had budgeted for equipment acquisitions for the current fiscal year, and then displayed the new video projection equipment. To illustrate the usage of the equipment, he called upon Ms. Gaudet to lead a presentation from the compliance officers.

Ms. Gaudet reminded the members of the two tropical weather systems that visited Louisiana during the months of September and October. In the immediate aftermath of the weather, an administrative decision was made to insert the board's compliance officers to the affected areas of the state, with instructions to assess damages, answer questions, and facilitate acquisition of appropriate assistance. During those assessment visits, the compliance officers took photographs. The presentation consisted of statistical data showing immediate and ongoing power outages for different parishes, as well as photographs of different areas of the state, all using new presentation software (PowerPoint®).

At the conclusion of the presentation, Mr. Broussard demonstrated the real-time connection to the Internet using the video projector, visiting the Board's website and illustrating the licensure verification modules. Mr. Broussard reviewed other parts of the website and discussed some short and long range plans for the website.

15. Announcements

Dr. Dixon announced that he had been appointed to the NABP Task Force on Transition of Pharmacy Regulation From the Dispensing Process to Outcomes. He solicited ideas from members and staff.

Mr. D'Angelo solicited comments from members concerning the current regulation governing practical experience earned by pharmacy interns.

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

16. Recess

Mr. McKay 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 5:35 p.m.

An Administrative Hearing was convened on Thursday, November 21, 2002 in the Board office, located at 5615 Corporate Blvd., Suite 8-E in Baton Rouge, Louisiana. The meeting 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 9:05 a.m.

2. *Invocation*

Mr. Aron called upon Mr. Oubre, and he delivered the invocation.

3. *Pledge of Allegiance*

Following the invocation, Dr. Anderson 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 Mr. Landry was absent, but that all other members, constituting a quorum, were present.

5. *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 reports. Mr. D'Angelo moved, and Mr. Adams seconded, to grant the President the necessary authority to reorder the agenda in the best interest of the Board. The motion was approved after a unanimous vote in the affirmative.

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 Complaint Counsel 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 present for the most recent Informal Hearing (Dr. Dixon, Mr. D'Angelo, and Mr. Bond) were recused from the consideration of matters under their jurisdiction, and the remainder of the Board members present served as the jury, with Mr. Aron's reminder that any of them could recuse themselves from any particular matter where appropriate.

Mr. Aron then asked Ms. Gaudet to sound the docket, which she did. It was noted that the matter of Pharmacist License No. 13125 was continued until the next Board meeting, without prejudice to the respondent.

7. *Report of Reinstatement Committee – Consideration of Recommendations*

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

Medic Pharmacy of Ruston (Pharmacy Permit No. 2773) Mr. Rabb moved, and Mr. Camp seconded, to grant the request for modification of the terms of probation imposed in the May 17, 2001 Board Order, specifically, to amend Article 1-c to read *“Shirley Bryan, wife of Edward E. Bryan, shall not be permitted to be present in or have keys or other access to the pharmacy department.”* The motion was approved after a unanimous vote in the affirmative. The Board amended Article 1-c of the May 17, 2001 Board Order to read as proposed.

Mr. Aron thanked Mr. Rabb and the members of his committee for their efforts.

8. Report of Impairment Committee – Consideration of Recommendations

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

Jerry Dale Walters (Pharmacist License No. 16806) Mr. Burch moved, and Mr. Bond 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, resulting in the indefinite suspension of the license, effective August 27, 2002.

Kim Cox Vines (Pharmacist License No. 15475) Mr. Burch moved, and Mr. Lantier 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, resulting in the indefinite suspension of the license, effective October 7, 2002.

Russell Allen Hayes (Pharmacist License No. 15916) Mr. Burch moved, and Mr. Camp 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, resulting in the indefinite suspension of the license, effective September 23, 2002.

Thomas Ryan Fuselier (Pharmacist License No. 11321) Mr. Burch moved, and Mr. Adams 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, resulting in the indefinite suspension of the license, effective September 26, 2002.

Kimberly Scoggins Cunningham (Pharmacist License No. 15115) Mr. Burch moved, and Mr. Camp 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, resulting in the indefinite suspension of the license, effective October 11, 2002.

Gregory Jude Dolese (Pharmacist License No. 14728) Mr. Burch moved, and Mr. Rabb seconded, to deny the request for modification of the terms of respondent's August 16, 2001 Board Order. The motion was approved after a unanimous vote in the affirmative. The Board denied the request for modification of the terms of respondent's August 16, 2001 Board Order.

John Colby Bourque (Pharmacist License No. 16232) Mr. Burch moved, and Mr. Lantier seconded, to grant the request for modification of the terms of respondent's August 16, 2001 Board Order, specifically, to remove Article 2-g,

which reads “Respondent is to maintain and submit to the Board upon request a perpetual inventory of all controlled dangerous substances, i.e., Schedule II – V.” The motion was approved after a unanimous vote in the affirmative. The Board granted the request for modification of the terms of respondent’s August 16, 2001 Board Order by removing Article 2-g.

Mr. Aron expressed his appreciation to Mr. Burch and the members of his committee for their work.

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

Mr. Aron called upon Dr. Dixon for the committee report. Dr. Dixon presented the following files for Board action:

Laningham’s Thrifty Way, Inc. (Pharmacy Permit No. 1841) 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 permit for two years, stayed the execution, then placed the permit on probation for two years, beginning November 21, 2002 and ending November 20, 2002, subject to the following conditions of probation: (1) Respondent shall not violate any federal, state, or local laws or regulations pertaining to the practice of pharmacy, (2) Respondent shall maintain a perpetual inventory of Schedule II controlled dangerous substances for the period of probation, and (3) Respondent shall conduct a physical inventory on November 1, 2002 and provide a copy of that inventory to the Board no later than November 6, 2002. The Board also assessed the permit holder \$1,500 plus administrative costs of \$250.

Charges:

- (1) LRS 37:1241.A.1 – has practiced pharmacy in violation of any laws or regulations pertaining to the practice of pharmacy.
- (2) LAC 46:LIII.1127.7 – has failed to maintain adequate security for prescription medications.
- (3) LAC 46:LIII.3537 – has failed to provide a safe and secure storage area for controlled dangerous substances in such a manner as to deter diversion.

Barry Kent Laningham (Pharmacist License No. 11585) 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 Reprimand to the respondent, and assessed the license \$500 plus administrative costs of \$250. *Charges:*

- (1) LRS 37:1241.A.1 – has practiced pharmacy in violation of any laws or regulations pertaining to the practice of pharmacy.
- (2) LAC 46:LIII.1127.7 – has failed to maintain adequate security for prescription medications.
- (3) LAC 46:LIII.3537 – has failed to provide a safe and secure storage area for controlled dangerous substances in such a manner as to deter diversion.

Adam Dale Hounshell (Technician Certificate No. 4162) 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 the respondent from any application or reapplication to practice or assist in the practice of pharmacy. *Charges:*

- (1) LRS 37:1241.A.1 – has assisted in the practice of pharmacy in violation of pharmacy laws and regulations.
- (2) LRS 37:1241.A.4 – has been convicted of a felony involving moral turpitude.
- (3) LRS 37:1241.A.15 – has evaded, or assisted another person, directly or indirectly, in evading any local, state, or federal laws pertaining to the practice of pharmacy.
- (4) LRS 40:968.C – unlawful possession of a Schedule III substance.
- (5) LRS 40:969.C – unlawful possession of a Schedule IV substance.
- (6) LRS 40:971.B.1.b – unlawful acquisition or possession of a controlled dangerous substance by misrepresentation, fraud, or forgery.

Pegasus Pharmacy (Pharmacy Permit No. 4901) 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 permit, stayed the execution, then placed the permit on probation for five years, beginning November 21, 2002 and ending November 20, 2007, subject to the following conditions of probation: (1) Respondent shall not violate any federal, state, or local laws or regulations pertaining to the practice of pharmacy. The Board also assessed the permit holder \$5,000 plus administrative costs of \$250 and investigative costs of \$1,098.99. *Charges:*

- (1) 21 CFR 1306.05(a) – all prescriptions for controlled substances shall be dated as of, and signed on, the date when issued.
- (2) 21 CFR 1306.11(a) – a prescription for a Schedule II controlled substance may be transmitted by the practitioner or his agent to a pharmacy via facsimile equipment, provided the original written signed prescription is presented to the pharmacist for review prior to the actual dispensing of the controlled substance.
- (3) LRS 37:1241.A.1 – has permitted anyone in his employ to practice pharmacy in violation of pharmacy laws or regulations.
- (4) LRS 37:1241.A.10 – has departed from or failed to conform to the minimal standards of acceptable and prevailing pharmacy practice, whether or not actual injury to a patient has occurred.
- (5) LRS 37:1241.A.15 – has evaded, or assisted another person, directly or indirectly, in evading any federal, state, or local laws or regulations pertaining to the practice of pharmacy.
- (6) LAC 46:LIII.2713.A – pharmacists and/or pharmacies are prohibited

from entering into any agreement and/or arrangement, or participating in any process that directly or indirectly denies and/or limits freedom of choice to the patient.

- (7) LAC 46:LIII.2713.B – pharmacists and/or pharmacies are prohibited from supplying facsimile and/or other equipment or supplies, or participating in any process that directly or indirectly denies and/or limits freedom of choice to the patient.

Michael Ray Barton (Pharmacist License No. 14268) 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 Reprimand to the respondent, then assessed the license \$2,500 plus administrative costs of \$250. *Charges:*

- (1) 21 CFR 1306.05(a) – all prescriptions for controlled substances shall be dated as of, and signed on, the date when issued.
- (2) 21 CFR 1306.11(a) – a prescription for a Schedule II controlled substance may be transmitted by the practitioner or his agent to a pharmacy via facsimile equipment, provided the original written signed prescription is presented to the pharmacist for review prior to the actual dispensing of the controlled substance.
- (3) LRS 37:1241.A.1 – has permitted anyone in his employ to practice pharmacy in violation of pharmacy laws or regulations.
- (4) LRS 37:1241.A.10 – has departed from or failed to conform to the minimal standards of acceptable and prevailing pharmacy practice, whether or not actual injury to a patient has occurred.
- (5) LRS 37:1241.A.15 – has evaded, or assisted another person, directly or indirectly, in evading any federal, state, or local laws or regulations pertaining to the practice of pharmacy.
- (6) LAC 46:LIII.2713.A – pharmacists and/or pharmacies are prohibited from entering into any agreement and/or arrangement, or participating in any process that directly or indirectly denies and/or limits freedom of choice to the patient.
- (7) LAC 46:LIII.2713.B – pharmacists and/or pharmacies are prohibited from supplying facsimile and/or other equipment or supplies, or participating in any process that directly or indirectly denies and/or limits freedom of choice to the patient.

Express Access Pharmacy, Inc. d/b/a Express Scripts (Pharmacy Permit No. 4693) 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 assessed the permit holder \$2,500 plus administrative costs of \$250 plus investigative costs of \$80. *Charges:*

- (1) LRS 37:1241.A.1 – has permitted anyone in his employ to practice pharmacy in violation of pharmacy laws or regulations.
- (2) LRS 37:1241.A.12 – has engaged in the practice of pharmacy without

- the required permit to operate a pharmacy.
- (3) LRS 37:1232 – has failed to acquire a current permit prior to doing business in the state.

Chanel Riley Pounds (Technician Certificate No. 4056) 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 one year, stayed the execution, then placed the certificate on probation for one year, beginning October 31, 2002 and ending October 30, 2003, subject to the following conditions of probation: (1) Respondent shall not violate any federal, state, or local laws or regulations pertaining to the practice of pharmacy, (2) Respondent shall pay \$250 administrative costs at execution of agreement, (3) Respondent shall pay \$50 renewal fee of certificate for 2002-2003, as well as \$25 administrative fee for personal check returned for insufficient funds, (4) Respondent shall obtain 20 hours of ACPE-approved continuing education (CE) and submit same to the Board office no later than December 31, 2002, and further, these hours shall not be credited toward renewal of certificate for 2003-2004, and shall be in addition to the 10 hours CE required for that renewal, and (5) Respondent shall make all payments required by this order by money order or cashier's check; no personal checks or cash will be accepted. *Charges:*

- (1) LRS 37:1241.A.1 – has assisted in the practice of pharmacy in violation of pharmacy laws or regulations.
- (2) LRS 37:1207.A – failure to pay renewal fee at time designated by the board.
- (3) LAC 46:LIII.807.F – failure to notify the board, in writing, within ten days of any change in mailing address.

Donna Fay Decou (Technician Certificate No. 2240) 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 suspended the certificate for an indefinite period of time, and further, conditioned any future application for reinstatement on meeting with the board's reinstatement committee. *Charges:*

- (1) LRS 37:1241.A.2 – obtained a certificate renewal by fraud or misrepresentation.
- (2) LAC 46:LIII.809.A – failure to earn continuing education for renewal of certificate.

Julie Ann Johnson (Technician Certificate No. 4841) 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 or reapplication to practice or assist in the practice of pharmacy. *Charges:*

- (1) LRS 37:1241.A.1 – has assisted in the practice of pharmacy in violation of pharmacy laws and regulations.
- (2) LRS 37:1241.A.4 – has been convicted of a felony involving moral

turpitude.

- (3) LRS 37:1241.A.15 – has evaded, or assisted another person, directly or indirectly, in evading any local, state, or federal laws pertaining to the practice of pharmacy.
- (4) LRS 40:968.C – unlawful possession of a Schedule III substance.
- (5) LRS 40:969.C – unlawful possession of a Schedule IV substance.
- (6) LRS 40:971.B.1.b – unlawful acquisition or possession of a controlled dangerous substance by misrepresentation, fraud, or forgery.

Mr. Aron thanked Dr. Dixon and the members of his committee for their work.

10. Opportunity for Public Comment

Mr. Aron informed the Board that Act 285 of the 2001 Louisiana Legislature 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.

11. Adjourn

Mr. Lantier moved, and Mr. Oubre 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 10:00 a.m.

Respectfully submitted,

Reuben R. Dixon, Pharm.D.
Secretary