



# Louisiana Board of Pharmacy

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## Minutes

### **Regular Meeting**

Wednesday, November 17, 2004 at 1:00 p.m.

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

### **Administrative Hearing**

Thursday, November 18, 2004 at 8:30 a.m.

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

## Table of Contents

<u>Agenda Item No.</u>	<u>Description</u>	<u>Page No.</u>
<i>Wednesday, November 17, 2004</i>		
1.	Call to Order	4
2.	Invocation & Pledge of Allegiance	4
3.	Quorum Call	4
4.	Call for Additional Agenda Items	5
5.	Consideration of Minutes	5
6.	Report on Action Items	5
7.	Confirmation of Acts	6
8.	Opportunity for Public Comment	6
9.	Special Order of the Day	
	Presentation of Gold Certificate	6
10.	Election of Officers	6
11.	Committee Reports	
	A. Finance Committee	9
	B. Examination/Technician Committee	9
	C. Reciprocity Committee	9
	D. Regulation Revision Committee	7
	E. Reinstatement Committee	10
	F. Violations Committee	11
	G. Impairment Committee	12
	H. Tripartite Committee	14
	I. Legislative Committee	14
	J. Executive Committee	14
12.	Report of Chief Compliance Officer	14
13.	Report of General Counsel	14
14.	Report of Executive Director	15
15.	Requests for Proposal	
	A. Recycling of Prescription Drugs	7
	B. Prescription Monitoring Programs	8
16.	Requests for Exception – Pharmacist-in-Charge at Multiple Locations	16
17.	Request for Exception – Acceptance of High School Diploma from School Not Approved by La. Dept. of Education	7, 16
18.	Request for Exception – Acceptance of CME for Satisfaction of CE Requirement	16
18.A	Collaborative Practice	17
19.	Announcements	17
20.	Recess	17

## Table of Contents

<u>Agenda Item No.</u>	<u>Description</u>	<u>Page No.</u>
<i>Thursday, August 19, 2004</i>		
1.	Call to Order	17
2.	Invocation & Pledge of Allegiance	17
3.	Quorum Call	17
4.	Call for Additional Agenda Items	17
5.	Opportunity for Public Comment	18
6.	Appearances	18
7.	Formal Hearings	19
8.	Motions for Reconsideration & New Trial	22
9.	Report of Violations Committee	23
10.	Report of General Counsel	24
11.	Adjourn	25

A regular meeting of the Louisiana Board of Pharmacy was held on Wednesday, November 17, 2004 in the Boardroom of the Louisiana Board of Pharmacy, located at 5615 Corporate Boulevard, Suite 8-E in Baton Rouge, Louisiana. The meeting was held pursuant to public notice, each member received notice, and notice was properly posted.

*1. Call to Order*

Mr. Carl Aron, President, called the meeting to order at 1:05 p.m.

*2. Invocation & Pledge*

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

**Members Absent:**

Mr. Jeffrey M. Landry

**Staff Present:**

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

**Guests:**

Rep. John LaBruzzo – Louisiana House of Representatives  
Mr. Salvatore J. D'Angelo  
Mr. Fred H. Shiel, Jr. – U. S. Drug Enforcement Administration

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

At this point, Mr. Aron recognized the new members of the board: Ms. Alderman, Ms. Angelle, Mr. Boudreaux, and Mr. Cassidy. He then read aloud a letter from Mr. Ted Carmichael, thanking the members for making his just-completed term a pleasurable experience.

*4. Call for Additional Agenda Items*

Mr. Aron asked if there were any additional agenda items; Mr. Adams requested an opportunity to discuss collaborative practice. Hearing no objections, Mr. Aron indicated he would place that topic on the agenda as Item 18.A.

Mr. Aron then requested authority from the Board to reorder the agenda as necessary for the purpose of adjusting the sequence of various reports. Dr. Anderson moved, and Mr. Lantier seconded, to grant the President the authority to reorder the agenda as necessary. The motion was approved after a unanimous vote in the affirmative. Mr. Aron indicated he would take Agenda Items 15-A and 17 out of sequence immediately following the election of officers. In addition, he indicated he would re-order the report of the Regulation Revision Committee to be the first committee report.

*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 changes. Hearing no corrections, Mr. Oubre moved and Dr. Dixon seconded,

**Resolved**, that the Minutes of the Board Meeting of August 18, 2004 and the Administrative Hearing of August 19, 2004, 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. 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 reported on two action items from the previous Board meeting.

A. Historical Financial Data for Staff and Operational Expenses

Mr. Broussard indicated he completed the requested research and compiled the data. He presented that data to the Finance Committee the previous day, and the information was included in the meeting packet. He deferred the discussion of the data until the report of the Finance Committee later that day.

B. Web-Based Education and Training Programs

Mr. Broussard indicated he had met with one vendor and viewed a

demonstration of an existing product for another state agency, but that he had not yet developed a request for a proposal.

#### 7. *Confirmation of Acts*

At the request of Mr. Aron, Mr. McKay moved and Mr. Lantier 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 18, 2004 are approved, adopted, and ratified by the entire Board.

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

#### 8. *Opportunity for Public Comment*

Mr. Aron informed the Board and guests that the Open Meetings Law requires all public bodies to provide an opportunity for public comment at all meetings. He solicited general comments, but none were offered.

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

Mr. Aron called upon Mr. Fred H. Shiel. Mr. Aron then reminded the members and guests that Mr. Shiel had dedicated 17 years of his practice to the Board as a compliance officer. Mr. Aron then presented to Mr. Shiel a pharmacist certificate engraved in gold, commemorating fifty years of practice as a pharmacist licensed in Louisiana. Mr. Aron thanked Mr. Shiel for his service to the citizens of the state and to the profession of pharmacy; he also informed Mr. Shiel that one of the benefits of the gold certificate is a waiver of all future renewal fees. The members and guests congratulated Mr. Shiel with a standing ovation.

#### 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. Mills nominated Mr. Aron. Hearing no further nominations, Mr. Aron closed the nominations. Mr. McKay moved, and Mr. Rabb seconded, for approval by acclamation. The motion was approved after a unanimous vote in the affirmative.

**First Vice President** – Mr. Bond nominated Mr. Rabb. Hearing no further nominations, Mr. Aron closed the nominations. Dr. Dixon moved, and Mr. Oubre seconded, for approval by acclamation. The motion was approved after a unanimous vote in the affirmative.

**Second Vice President** – Mr. Oubre nominated Mr. McKay. Hearing no further nominations, Mr. Aron closed the nominations. Mr. Oubre moved, and Mr. Rabb seconded, for approval by acclamation. The motion was approved after a unanimous vote in the affirmative.

**Third Vice President** – Mr. Oubre nominated Mr. Adams. Hearing no further nominations, Mr. Aron closed the nominations. Mr. McKay moved, and Mr. Rabb seconded, for approval by acclamation. The motion was approved after a unanimous vote in the affirmative.

**Secretary** – Ms. Hall nominated Dr. Dixon. Hearing no further nominations, Mr. Aron closed the nominations. Mr. Oubre moved, and Mr. Adams

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.

*15. Requests for Proposal*

*A. Recycling of Prescription Drugs*

Mr. Aron introduced Louisiana Representative John LaBruzzo, from District 81, who was the author of House Concurrent Resolution No. 292 in the Regular Session of the 2004 Louisiana Legislature. The resolution requested the Dept. of Health and Hospitals to establish a study commission to research and study the implementation of a recycling method for unused prescription drugs, and further, to present its findings and recommendations to the legislature prior to the convening of the 2005 Regular Session on April 25, 2005. Mr. Aron informed the members that DHH Undersecretary Charles Castille requested the Board to be the lead agency in establishing the study commission.

Rep. LaBruzzo described his concerns with the wastage of unused prescription drugs in nursing homes and other health care facilities. Since the passage of the resolution, he learned some of the limitations of his original vision, and has revised that vision to primarily benefit the state prison population. He described his desired outcome as a scenario where patients could authorize the donation of their unused prescription drugs to either charitable pharmacies or to prison pharmacies. The prison pharmacies could use those donations to offset their purchases of drugs for their patients. Finally, he understood that controlled substances could not be donated. He then requested assistance from the Board, as well as a liaison appointment.

Mr. Aron assigned the project to the Regulation Revision Committee, appointed Mr. Broussard as the liaison, and directed him to keep Mr. LaBruzzo apprised of the project's progress. Finally, Mr. Aron thanked Mr. LaBruzzo for his time that day, as well as his assistance in the legislature.

*17. Request for Exception – Acceptance of High School Diploma from School Not Approved by Louisiana Department of Education*

Mr. Aron described the Board's current policy and procedure relative to credentials from high schools as they relate to the regulations governing pharmacy technician candidates. He then described the petitioner's request and the allocation of time to the petitioner's counsel. When called from the gallery, counsel failed to answer. A check in the outer offices revealed that counsel had failed to appear. Mr. Aron indicated he would defer the matter until the end of the meeting.

*11. Committee Reports*

*D. Regulation Revision Committee*

Mr. Aron called upon Dr. Anderson for the committee report. She reported that the committee had met three times since the last Board meeting, and she had two items that required Board action.

1. Memorandum of Understanding (MOU) Between Dept. of Education, Workforce Commission, and Board of Pharmacy.

Dr. Anderson reviewed the history of the pilot project that was

developed to enable selected high schools to offer pharmacy technician education and training to graduating high school seniors. Mr. McKay indicated that he believed that the concerns of all the parties were adequately addressed in the MOU. Dr. Anderson noted that every member had received a copy of the proposed MOU in their advance meeting packet. She then moved and Mr. McKay seconded,

**Resolved**, that the Board approve the Memorandum of Understanding Between the Louisiana Department of Education, the Louisiana Workforce Commission, and the Louisiana Board of Pharmacy.

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

2. Deferral of Enforcement of Regulation Section 1505.A

Dr. Anderson described the history of the Board's actions relative to this regulation, and she concluded with a request that the committee be directed to come to the next Board meeting with a definitive recommendation. She then moved and Mr. McKay seconded,

**Resolved**, that the Board defer the enforcement of Regulation Section 1505.A until the February 2005 Board meeting.

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

Finally, Dr. Anderson thanked the members of the committee for their work.

At this point, Mr. Aron indicated he wished to re-order the agenda again, to accommodate guests in the audience who were present for Agenda Item 15.B. Hearing no objections, he moved to that point on the agenda.

15. *Requests for Proposal*

*B. Prescription Monitoring Programs*

Mr. Aron called upon Mr. Broussard for the initial presentation. Mr. Broussard reminded the members they had received background information on the topic in their advance meeting packet. He responded to questions from the members. Dr. Dixon then moved and Mr. McKay seconded,

**Resolved**, that the Board (1) authorize its Executive Director to initiate a collaborative discussion with prescribers, dispensers, law enforcement, substance abuse treatment professionals, and any other interested parties, with the goal being the development and implementation of a prescription monitoring program for Louisiana, and further, (2) authorize its Executive Director to file an application for a planning grant for the maximum amount permitted for such a purpose from the Harold Rogers Prescription Drug Monitoring Program at the Bureau of Justice Assistance in the U. S. Dept. of Justice, and further, (3) direct staff to present any proposed legislation to the Board for its approval prior to filing same with the legislature.

The motion was approved after a unanimous vote in the legislature. Mr.

Aron indicated he would ask the Executive Committee to oversee the project, with assistance from other parties they deemed appropriate.

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

## 11. *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, and Equity, Interim Budget Performance Report, and Summary of Fund Balance, all for the First Quarter of the current fiscal year, the Hancock Bank Statement for September 30, 2004, the Budget Worksheet for Fiscal Year 2005-2006, the Proposed Budget for Fiscal Year 2005-2006, and finally, a spreadsheet reflecting results of research requested by the Board relative to a long-term analysis of certain operating ratios: specifically, personnel expenses/total revenue and operating expenses/total revenue. He reviewed all of the reports, and answered questions from the members. Hearing no further questions, Mr. Mills moved and Mr. Lantier seconded,

**Resolved**, that the Board approve the Proposed Budget for Fiscal Year 2005-2006 as submitted and reviewed by the Finance Committee.

The motion was approved after a unanimous vote in the affirmative. Mr. Mills thanked the members of the committee for their work the previous day.

### B. *Examination/Technician Committee*

Mr. Aron called upon Mr. Oubre for the committee report. Mr. Oubre directed the members to the meeting packet, which contained the NAPLEX, MPJE, and PTCB examination data, the licensure activity reports, as well as a new report showing historical data for both schools of pharmacy for both examinations, dating back to 2000.

At this point, Mr. Aron declared a brief recess. It was noted that the Board recessed at 2:50 p.m., and that Mr. Greco departed the meeting at 3:20 p.m. The Board reconvened at 3:25 p.m., and Mr. Aron resumed the posted agenda.

### C. *Reciprocity Committee*

Mr. Aron called upon Mr. McKay for the committee report. He reported that the committee had approved 28 pharmacists since the last board meeting in accordance with committee policies and procedures previously approved by the Board. He reported the committee interviewed 15 candidates the previous day and 12 candidates that morning. He then moved and Mr. Oubre seconded,

**Resolved**, that the Board approve  
Jean King Aldridge  
Kathryn Leah Smith-Barnes  
Brian Alan Burford  
Wendalyn Joy Carney

Michelle Le'dit Hamilton  
Chad Stuart Herlyn  
Nikki Lynne Hudak-Fink  
Curtis Byron Hughes  
Betty Vassey Jones  
Thomas David Karlin  
JoAnn Hanna Khoury  
Sejal Ghanshyam Patel  
James Lynn Sheets  
Debbie Jean Spoonhour  
Kathy Grissom White  
Biola Kafayat Adesulu  
Timothy Lynn Fancher  
Adam Gray Hait  
Jonathan Neal Kwiatkowski  
Melinda Leigh Mathews  
Mathew Martin Marong  
Jerry Alan Plunk  
Norman Roy Rivera  
Sarah Anne Stephens  
Stephen N. Uhl, *and*  
Bruce Alan Williams

for pharmacist licensure by reciprocity.

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

*E. Reinstatement Committee*

Mr. Aron called upon Mr. Adams for the committee report. Mr. Adams informed the members that the credentials of one pharmacist and eight pharmacy technicians had been reinstated since the last meeting, in accordance with committee policies and procedures previously approved by the board.

The committee met earlier that morning to consider petitions from four pharmacists and one technician. Mr. Adams then presented the following files for Board action.

**Kathie Smith Garcie (Technician Certificate No. 2151)** Mr. Adams moved and Dr. Dixon seconded to grant the application for reinstatement, and further, to condition the reinstatement of the certificate upon the successful completion of certain terms as enumerated in the consent order. The motion was approved after a unanimous vote in the affirmative. The Board ordered the reinstatement of the certificate, contingent upon the successful completion of certain requirements enumerated in the consent order.

**Daniel Gerard Levy, II (Pharmacist License No. 14451)** Mr. Adams moved and Dr. Dixon seconded to grant the application for reinstatement, to suspend the remainder of the original suspensive period, and to place the license on

probation until March 30, 2009, subject to certain terms as enumerated in the consent order. The motion was approved after a unanimous vote in the affirmative. The Board reinstated the license, suspended the remainder of the original suspensive period, and then placed the license on probation until March 30, 2009, subject to certain terms as enumerated in the consent order.

**Marco Bisa Moran (Pharmacist License No. 16442)** Mr. Adams moved and Dr. Dixon seconded to grant the application for reinstatement, to suspend the license for ten years, beginning November 15, 2001, to stay the execution of the suspension, and then place the license on probation for ten years, ending November 14, 2011, subject to certain terms as enumerated in the consent order. The motion was approved after a unanimous vote in the affirmative. The Board reinstated the license, suspended it for ten years, stayed the execution thereof, and then placed the license on probation for ten years, terminating on November 14, 2011, subject to certain terms as enumerated in the consent order.

**John Joseph Morgan, Jr. (Pharmacist License No. 13009)** Mr. Adams moved and Mr. Boudreaux seconded to grant the application for reinstatement, and further, to condition the reinstatement upon the successful completion of certain requirements enumerated in the consent order. The motion was approved after a unanimous vote in the affirmative. The Board ordered the reinstatement of the license, contingent upon the successful completion of certain requirements enumerated in the consent order.

**Dwight Edwin Brumfield (Pharmacist License No. 10088)** Mr. Adams moved and Ms. Alderman seconded to grant the application for reinstatement, to suspend the remainder of the original suspensive period, and then place the license on probation for the remainder of the suspensive period, terminating on May 22, 2008, subject to certain terms as enumerated in the consent order. The motion was approved after a unanimous vote in the affirmative. The Board reinstated the license, suspended the remainder of the original suspensive period, and then placed the license on probation until May 22, 2008, subject to certain terms as enumerated in the consent order.

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

*F. Violations Committee*

Mr. Aron called upon Dr. Dixon for the committee report. Dr. Dixon reported that the committee conducted their last Informal Conference on September 1, 2004; that docket included four pharmacists, five technicians, four interns, and three permits. He informed the members the next Informal Conference was scheduled for December 1; that docket includes three pharmacists, 15 technicians, and one permit. He then announced that the docket for the Administrative Hearing scheduled for the next day included four formal hearings, five consent agreements from the committee, and two

consent agreements from staff, as well as motions for reconsideration and motions for new trials from two petitioners. Finally, Dr. Dixon thanked the members of his committee for their efforts.

*G. Impairment Committee*

Mr. Aron called upon Mr. Rabb for the committee report. Mr. Rabb informed the members that the committee had met the previous day to consider voluntary surrenders from three pharmacists, petitions for reinstatement from four pharmacists and one intern; and approval for diagnostic monitoring agreement from one intern. He then presented the following files for Board action.

**Douglas Christopher Montecino (Pharmacist License No. 15620)** Mr. Rabb moved and Mr. Oubre seconded to accept the voluntary surrender of the license. The motion was approved after a unanimous vote in the affirmative. The Board accepted the voluntary surrender of the license, resulting in the indefinite suspension of the license, effective August 23, 2004.

**Doddi Vidrine Ardoin (Pharmacist License No. 16007)** Mr. Rabb moved and Mr. Bond seconded to accept the voluntary surrender of the license. The motion was approved after a unanimous vote in the affirmative. The Board accepted the voluntary surrender of the license, resulting in the indefinite suspension of the license, effective September 9, 2004.

**Brian George Coit (Pharmacist License No. 17252)** Mr. Rabb moved and Ms. Alderman seconded to accept the voluntary surrender of the license. The motion was approved after a unanimous vote in the affirmative. The Board accepted the voluntary surrender of the license, resulting in the indefinite suspension of the license, effective November 5, 2004.

**Kerry Michael Finney (Pharmacist License No. 13535)** Mr. Rabb moved and Dr. Dixon seconded to grant the application for reinstatement, then suspend the license for ten years, stay the execution thereof, and then place the license on probation for ten years, beginning November 17, 2004, subject to certain terms as enumerated in the consent order. The motion was approved after a unanimous vote in the affirmative. The Board reinstated the license, suspended the license for ten years, stayed the execution thereof, and then placed the license on probation for ten years, beginning November 17, 2004, subject to certain terms as enumerated in the consent order.

**Jean Terry Benoit (Pharmacist License No. 9922)** Mr. Rabb moved and Mr. Oubre seconded to grant the application for reinstatement, then suspend the license for ten years, stay the execution thereof, and then place the license on probation for ten years, beginning November 17, 2004, subject to certain terms as enumerated in the consent order. The motion was approved after a unanimous vote in the affirmative. The Board reinstated the license, suspended the license for ten years, stayed the execution thereof, and then

placed the license on probation for ten years, beginning November 17, 2004, subject to certain terms as enumerated in the consent order.

**Scott Taylor Lovitt (Intern Registration No. 41953)** Mr. Rabb moved and Dr. Dixon seconded to grant the application for reinstatement, then suspend the registration, and any subsequent license, for five years, stay the execution thereof, and then place the registration, and any subsequent license, on probation for five years, beginning November 17, 2004, subject to certain terms as enumerated in the consent order. The motion was approved after a unanimous vote in the affirmative. The Board reinstated the registration, suspended it, and any subsequent license, for five years, stayed the execution thereof, and then placed the registration, and any subsequent license, on probation for five years, beginning November 17, 2004, subject to certain terms as enumerated in the consent order.

**Charissa Dawn Guidry (Pharmacist License No. 15560)** Mr. Rabb moved and Mr. Bond seconded to grant the application for reinstatement, then suspend the license for ten years, stay the execution thereof, and then place the license on probation for ten years, beginning November 17, 2004, subject to certain terms as enumerated in the consent order. Prior to the vote, Mr. Cassidy informed the members of his personal knowledge of the respondent and her family and that he felt obliged to abstain from any vote in the matter. The motion was approved after a unanimous vote in the affirmative of those members present and voting; Mr. Cassidy abstained. The Board reinstated the license, suspended it for ten years, stayed the execution thereof, and then placed the license on probation for ten years, beginning November 17, 2004, subject to certain terms as enumerated in the consent order.

**Steve Larry Wilson, Jr. (Pharmacist License No. 15952)** Mr. Rabb moved and Dr. Anderson seconded to grant the application for reinstatement, to suspend the license for an indefinite period of time, stay the execution thereof, and then to place the license on probation for an indefinite period of time, to coincide with the limitation imposed on his Mississippi pharmacist license by the Mississippi Board of Pharmacy, and subject to certain terms as enumerated in the consent order. The motion was approved after a unanimous vote in the affirmative. The Board reinstated the license, suspended it for an indefinite period of time, stayed the execution thereof, and then placed the license on probation for an indefinite period of time, subject to certain terms as enumerated in the consent order.

**Caleb Lamar Cox (Intern Registration No. 41143)** Mr. Rabb moved and Ms. Alderman seconded to approve the Diagnostic Monitoring Agreement, subject to certain terms as enumerated in the agreement, and for a period of time concluding with either his licensure as a pharmacist in Louisiana or the expiration of his intern registration, whichever first occurs. The motion was approved after a unanimous vote in the affirmative. The Board approved the Diagnostic Monitoring Agreement, subject to the time period and certain other

terms as enumerated in the consent order.

At Mr. Aron's request, Mr. Broussard presented a census report for the Practitioner Recovery Program. Finally, Mr. Rabb thanked the members of his committee for their work on the previous day.

*H. Tripartite Committee*

Mr. Aron called upon Mr. Lantier for the committee report. Mr. Lantier reported on the committee's October 7 meeting that included representatives from educator and practitioner organizations, where the sole topic of discussion was the preceptor training program mandated by Section 705.B.1 of the Board's regulations. Following a protracted discussion, the committee arrived at a consensus that the Board should move forward with the program. Mr. Lantier then moved and Dr. Anderson seconded,

**Resolved**, that the Board commence enforcement of the provisions of Regulation Section 705.B.1 on January 1, 2005.

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

*I. Legislative Committee*

Mr. Aron called upon Mr. Bond for the committee report. Mr. Bond indicated that since the legislature was not in session, he had no formal report. However, he did wish to inform the new members of the Board that Mr. Broussard publishes a weekly legislative report during the session; that report tracks all pharmacy and/or Board-related measures as they move through the legislative process.

*J. Executive Committee*

Mr. Aron reported that his committee had not met since the last Board meeting, and that he had no report for this meeting.

*12. Report of Chief Compliance Officer*

Mr. Aron called upon Ms. Gaudet for her report. She presented the Statistical Summary for the Compliance Division for the first quarter of the current fiscal year. She reviewed the inspections and investigations conducted during that time frame, and she reviewed the disposition of complaints and outcomes of the discipline process. She responded to a question concerning audit during investigations. Finally, Mr. Aron complimented the compliance division for the quality of their work for the Board.

*13. Report of General Counsel*

Mr. Aron called upon Mr. Finalet for his report. Mr. Finalet informed the members that the court had issued a permanent injunction against NorthCare Pharmacy and that NorthCare Pharmacy had closed its office and left the area. He then reviewed the status of the appeal of a declaratory statement by one of the methadone clinics. He then reminded the Board that it had authorized the issuance of temporary letters to pharmacists working in methadone clinic, to allow them to dispense prescriptions, until such time as the Board could promulgate regulations for that practice. Given that the

promulgation was effective January 1, 2004, Mr. Finalet asked the Board whether those temporary letters were still necessary. Following a short review for the benefit of new members, Dr. Dixon moved and Mr. Oubre seconded.

**Resolved**, that the Board recall all temporary letters issued to pharmacists in methadone clinics, and further, that all such letters be rendered null and void on December 31, 2004.

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

Mr. Finalet then presented information to the Board concerning the ability of compliance officers to utilize cameras during their inspection and investigation activities. Mr. McKay moved and Mr. Rabb seconded,

**Resolved**, that the Board interpret LRS 37:1182.A.14 and LRS 37:1182.A.15 so as to authorize its compliance officers to collect photographic images during their inspections and investigations, and further, to authorize staff to construct a policy statement to that effect for its review at the next meeting.

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

Mr. Mills requested Mr. Finalet to review general information concerning legal procedures known as 'Motion for Reconsideration' and 'Motion for New Trial.' Without discussing particular cases, Mr. Finalet reviewed general information related to such procedures.

#### *14. Report of Executive Director*

Mr. Aron called upon Mr. Broussard for his report. He opened his report by reviewing his recent activities with other organizations on a variety of topics. He also directed the members to the census report in their meeting packet. He reported the results of the technician continuing education audit, as well as the utilization of the online renewal capability for pharmacists. He then reviewed current regulatory activities from the Boards of Pharmacy, Medical Examiners, Examiners of Psychologists, and Nursing.

Mr. Broussard then reviewed the status of two requests for opinion from vendors engaged in the business of electronic transmission of prescriptions. He reminded the members of the activities to date related to those requests, and he requested the Board to respond to the vendors' requests for opinion. Mr. McKay moved and Mr. Oubre seconded,

**Resolved**, that the Board disapprove the proposal from SureScripts, Inc., since their system, as presented and described to the Board, is not compliant with the requirements of Section 1129 of the Board's regulations, as currently written, and further, that the Board commend SureScripts, Inc. for their approach to the Board prior to engaging in business in the state, and further, to encourage SureScripts, Inc. to work with the Board on the improvements to its technology regulations.

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

**Resolved**, that the Board disapprove the proposal from SafeMed, Inc., since their system, as presented and described to the Board, is not compliant with the requirements of Section 1129 of the

Board's regulations, as currently written, and further, to direct staff to issue an Order to Cease and Desist to SafeMed, Inc.

The motion was approved after a unanimous vote in the affirmative. At the request of several members, Mr. Aron directed staff to notify pharmacies and pharmacists of these two decisions.

Finally, Mr. Broussard reviewed several communications from the DEA, NABP, and PMC Quality Commitment, Inc.

*16. Requests for Exception – Pharmacist-in-Charge at Multiple Locations*

Mr. Aron informed the members that the Board had received requests from two pharmacists who wished to serve as the pharmacist-in-charge of more than one permit at the same time, and that he would present each request separately. Mr. Oubre moved and Dr. Anderson seconded,

**Resolved**, that the Board deny the request from Scott W. Emfinger, holder of Pharmacist License No. 16473, to hold the position of pharmacist-in-charge at both Island Pharmacy and Island Institutional Pharmacy.

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

**Resolved**, that the Board approve the request from Karen A. Wells, holder of Pharmacist License No. 15649, to hold the position of pharmacist-in-charge at both Rite Aid Pharmacy No. 7332 and the Center of Behavioral Health Louisiana.

The motion was approved after a majority vote in the affirmative; Mr. Oubre objected.

*17. Request for Exception – Acceptance of High School Diploma from School Not Approved by Louisiana Department of Education*

Mr. Aron reminded the members he had deferred this item earlier that day due to the absence of the petitioner or petitioner's counsel. At his request, the waiting area was searched again, and no one responded to the call for their presence. With no objection from the members, Mr. Aron deferred the consideration of the request until the next Board meeting, in order to receive whatever information petitioner wished to present.

*18. Request for Exception*

Mr. Aron informed the members that the Board had received a request from a pharmacist to permit the use of some amount of continuing medical education (CME) to satisfy continuing education requirements relative to renewal of pharmacist licensure. Following a short discussion, Mr. Oubre moved and Dr. Dixon seconded,

**Resolved**, that the Board prohibit the use of continuing medical education (CME) to satisfy continuing pharmaceutical education requirements relative to renewal of pharmacist licensure.

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

*18.A Collaborative Practice*

Mr. Aron called upon Mr. Adams to present his requested agenda item. Mr. Adams suggested that the Board should review its previous work on collaborative practice

regulations and adopt a more rigorous position on its implementation. Following a short discussion, Mr. Aron added the topic to the agenda of the next meeting of the Regulation Revision Committee.

#### *19. Announcements*

Mr. Broussard reminded the Board members of several calendar notes, and alerted them to the calendar in their meeting packet. Finally, Mr. Aron explained the Flower Fund to the new members, and reminded all members that contributions to the fund were private and voluntary.

#### *20. Recess*

Mr. Mills moved and Mr. McKay seconded to recess. The motion was approved after a unanimous vote in the affirmative. With no further business before it, Mr. Aron placed the Board in recess at 6:30 p.m.

An Administrative Hearing was convened on Thursday, November 18, 2004 in the Boardroom of the Louisiana Board of Pharmacy, located at 5615 Corporate Blvd., Suite 8-E in Baton Rouge, Louisiana. The hearing was held pursuant to public notice, each member and respondent received notice, and notice was properly posted.

#### *1. Call to Order*

Mr. Aron called the meeting to order at 8:50 a.m.

#### *2. Invocation & Pledge*

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

#### *3. Quorum Call*

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

#### *4. Call for Additional Agenda Items*

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

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

#### *5. Opportunity for Public Comment*

Mr. Aron informed the Board 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 (Dr. Dixon, Mr. Adams, and Mr. Bond) 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, November 18, 2004, in the Boardroom of the Louisiana Board of Pharmacy, located at 5615 Corporate Blvd., Suite 8-E in Baton Rouge, Louisiana, for the purpose to wit:

### *A G E N D A*

- A. Call to Order
- B. Invocation & Pledge of Allegiance
- C. Quorum Call
- D. Call for Additional Agenda Items
- E. Opportunity for Public Comment
- F. Formal Hearings
  - 1. Charles N. Angle, III (Technician Certificate No. 1102)
  - 2. Brianne Marquis Synette Johnson (Technician Certificate No. 5172)
  - 3. Kelly Marie Dees (Technician Certificate No. 4135)
  - 4. Louis Randy Hatten (Technician Certificate No. 5105)
- G. Report of Violations Committee – Consideration of Consent Agreements
  - 5. Kerry Layne Nelson (Pharmacist License No. 16539)
  - 6. Charles Stuart Buck, Jr. (Pharmacist License No. 11964)
  - 7. Safescript Pharmacy No. 13 (Pharmacy Permit No. 5149)
  - 8. Coram Alternate Site Services (Pharmacy Permit No. 3322)
  - 9. Erica Sheree Guillory (Technician Certificate No. 4681)

- H. Report of General Counsel – Consideration of Consent Agreements/Surrenders
  - 10. Toccara Montrell Sykes (Technician Certificate No. 6316)
  - 11. Tiffany Weldon Toney (Technician Certificate No. 5669)
- I. Motions for Reconsideration
  - 12. Budget Saver Pharmacy (Pharmacy Permit No. 1386)
  - 13. Norman George Nasif (Pharmacist License No. 10299)
- J. Motions for New Trial
  - 14. Budget Saver Pharmacy (Pharmacy Permit No. 1386)
  - 15. Norman George Nasif (Pharmacist License No. 10299)
- K. Adjourn

*7. Formal Hearings*

Mr. Aron called upon Ms. Cangelosi, and she presented the following cases.

**Louis Randy Hatten (Technician Certificate No. 5105)** Ms. Cangelosi appeared for the Board and noted the absence of the respondent. Mr. Aron indicated the matter would proceed as a default proceeding. Ms. Cangelosi presented an opening statement, offered witnesses and exhibits, and then rested her case. She offered proposed Findings of Fact and Conclusions of Law, and a proposed order, and then submitted the matter to the Board for its consideration. Mr. Oubre moved and Dr. Anderson seconded to enter into executive session for the purpose of discussing the professional competence of the respondent. The motion was approved after a unanimous roll call vote in the affirmative.

The Board entered executive session at 9:05 a.m., and then returned to open session at 9:20 a.m., at the instant case.

Dr. Anderson moved and Ms. Alderman seconded,

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

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

**Resolved**, that the Board suspend Technician Certificate No. 5105 for an indefinite period of time; and further, to assess the respondent administrative, investigative, and hearing costs associated with this hearing; and further, to assess the respondent \$916.24 in costs associated with the hearing conducted on May 6, 2004; and further, to condition the acceptance of any future

application for reinstatement upon certain terms as enumerated in the Board Order.

**Brianne Marquis Synette Johnson (Technician Certificate No. 5172) Ms.**

Cangelosi appeared for the Board, and she noted the absence of the respondent.

Mr. Aron ruled the matter would proceed as a default proceeding. Ms. Cangelosi presented an opening statement, offered witnesses and exhibits, and then rested her case. She offered proposed Findings of Fact and Conclusions of Law, and a proposed order, and then submitted the matter to the Board for its consideration. Mr. McKay moved and Dr. Anderson seconded to enter into executive session for the purpose of discussing the professional competence of the respondent. The motion was approved after a unanimous roll call vote in the affirmative.

The Board entered into executive session at 9:35 a.m., and then returned to open session at 9:40 a.m., at the instant case.

Mr. McKay moved and Mr. Oubre seconded,

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

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

**Resolved**, that the Board revoke Technician Certificate No. 5172; and further, to assess the respondent administrative, investigative, and hearing costs; and further, to condition the acceptance of any future application for reinstatement upon certain terms as enumerated in the Board Order.

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

It was noted that Ms. Angelle departed the meeting at 9:45 a.m.

**Charles N. Angle, III (Technician Certificate No. 1102) Ms.** Cangelosi appeared for the Board, and she noted the absence of the respondent. Mr. Aron ruled the matter would proceed as a default proceeding. Ms. Cangelosi presented an opening statement, offered witnesses and exhibits, and then rested her case. She offered proposed Findings of Fact and Conclusions of Law, and a proposed order, and then submitted the matter to the Board or its consideration. Mr. Lantier moved and Dr. Anderson to enter into executive session for the purpose of discussing the professional competence of the respondent. The motion was approved after a unanimous roll call vote in the affirmative.

It was noted that the hearing panel entered into executive session at 9:55 a.m., and then returned to open session at 10:00 a.m., at the instant case.

Mr. Lantier moved and Mr. Cassidy seconded,

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

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

**Resolved**, that the Board revoke Technician Certificate No. 1102, and further, to assess the respondent administrative, investigative, and hearing costs, and further, to condition the acceptance of any future application for reinstatement upon certain terms as enumerated in the Board Order.

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

**Kelly Marie Dees (Technician Certificate No. 4135)** Ms. Cangelosi appeared for the Board, and she noted the absence of the respondent. She also noted the failure to a witness to respond to a properly executed subpoena, but indicated she believed she had sufficient evidence notwithstanding the absence of the witness. Mr. Aron ruled the matter would proceed as a default proceeding. Ms. Cangelosi presented an opening statement, offered witnesses and exhibits, and then rested her case. She offered proposed Findings of Fact and Conclusions of Law, and a proposed order, and 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 professional competence of the respondent. The motion was approved after a unanimous roll call vote in the affirmative.

It was noted the hearing panel entered into executive session at 10:20 a.m., and then returned to open session at 10:30 a.m., at the instant case.

Mr. Oubre moved and Ms. Alderman seconded,

**Resolved**, that the Board accept the Findings of Fact proposed by the prosecuting attorney, and then adopt them as their own, and further, to accept the Conclusions of Law proposed by the prosecuting attorney, and then 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. 4135, and further, to assess the respondent administrative, investigative, and hearing costs, and further, to condition the acceptance of any future application for reinstatement upon certain terms enumerated in the Board Order.

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

Mr. Aron indicated the completion of the matters scheduled for formal hearing. He then requested the pleasure of the members relative to the witness who failed to respond to a properly executed subpoena. Mr. Lantier moved and Mr. McKay seconded,

**Resolved**, that the Board direct staff to correspond with the witness

who failed to respond to the subpoena, determine the reason for the failure, and report to the hearing officer for further direction.

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

Mr. Aron declared a recess to enable preparation for the next matter. It was noted that the Board recessed at 10:35 a.m., and that Mr. Oubre departed the meeting at 11:00 a.m. Mr. Aron reconvened the hearing at 11:05 a.m., and then re-ordered the agenda to take up the motions for reconsideration and new trial.

*8. Motions for Reconsideration & New Trial*

Mr. Aron reminded the members that Mr. Shows had served as the hearing officer for these matters during the administrative hearing on August 19, 2004. Mr. Aron indicated his intention to abstain from participating in these matters, and further, that Mr. Shows would serve as the hearing officer for these same matters that day.

**Norman George Nasif (Pharmacist License No. 10299) & Budget Saver**

**Pharmacy (Pharmacy Permit No. 1386)** Mr. Shows informed the members that counsel for respondents had timely filed Motions for Reconsideration and Motions for New Trial for both respondents. He informed the members that the statutory and regulatory authorities do not provide for a Motion for New Trial; but they do provide for a Motion for Rehearing. Given the similarity in the Motions for Reconsideration and the Motions for New Trial, as well as the similarity in the fact patterns among the respondents, Mr. Shows suggested a consolidation of all matters; there were no objections. Ms. Cangelosi appeared for the Board, and she noted the absence of the respondent as well as his counsel. Mr. Shows informed the members that Mr. Paul Breaux, counsel for the respondent, had filed written briefs and waived appearance and oral arguments. Mr. Shows addressed the issue of quorum by noting that the members who participated in the original hearing – Adams, Anderson, Camp, Carmichael, Greco, Lantier, McKay, Mills, and Oubre – were present except for Mr. Camp, Mr. Carmichael (who were no longer members) and Mr. Oubre (already excused that day). He then noted that there were three new members of the Board – Alderman, Boudreaux, and Cassidy – who were not present at the original hearing, thus providing a total of nine members and a quorum for consideration of this matter. Ms. Cangelosi presented an opening statement and noted that she had provided copies of all evidence and transcripts to the new members; Mr. Shows confirmed for the record the new members had received and reviewed those materials. Ms. Cangelosi then identified all documents distributed to the hearing panel members. Mr. Shows suggested a brief recess to give members adequate opportunity to review all the materials. Mr. Mills moved and Dr. Anderson seconded to recess for the purpose of reviewing the materials submitted by both parties in the matter.

It was noted that the hearing panel recessed at 11:15 a.m., and that they reconvened at 11:25 a.m., at the instant case.

Mr. Mills moved and Mr. McKay seconded,

**Resolved**, that the Board deny the Motions for Reconsideration and the Motions for New Trial from both Norman George Nasif and Budget Saver Pharmacy.

The motion was approved after a unanimous roll call vote in the affirmative. Mr. Shows indicated the conclusion of the proceeding and that judgment would be prepared and forwarded to all parties. He then relinquished the chair to Mr. Aron.

At this point, Mr. Aron declared a brief recess for lunch. It was noted the Board recessed at 11:30 a.m., and that they reconvened at 11:55 a.m. Mr. Aron resumed the posted docket.

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

Mr. Aron called upon Dr. Dixon for his report. He presented the following files for Board consideration.

**Kerry Layne Nelson (Pharmacist License No. 16539)** 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 license for ten years, beginning September 15, 2004, and further, assessed the respondent \$10,000 plus administrative and investigative costs, and further, conditioned the acceptance of any future application for reinstatement upon certain terms as enumerated in the consent order. *Charges:*

- (1) LRS 40:968.C – unlawful possession of Schedule III controlled substance.
- (2) LRS 40:971.B.1.b – unlawful acquisition of controlled substance by forgery.
- (3) LAC 46:LIII.1111.B – failure to verify authenticity of prescription.
- (4) LAC 46:LIII.3539.A.1.a – unlawful dispensation of prescription for controlled substance.

**Charles Stuart Buck, Jr. (Pharmacist License No. 11964)** Dr. Dixon moved and Mr. McKay seconded to accept the Voluntary Consent Agreement. The motion was approved after a unanimous vote in the affirmative. The Board revoked the license, and further, prohibited any application for reinstatement for ten years, and further, assessed the respondent \$10,000, and further, conditioned the acceptance of any future application for reinstatement on certain terms enumerated in the consent order. *Charges:*

- (1) LRS 37:1241.A.12 – has engaged in the practice of pharmacy without a license.
- (2) LAC 46:LIII.1103.B – entry into prescription department without authority.
- (3) LAC 46:LIII.2545.A – dispensation of controlled substances without license to do so.
- (4) LAC 46:LIII.2545.B.1.a – attempted or actual diversion of controlled substances.

**Safescript Pharmacy No. 13 (Pharmacy Permit No. 5149)** Dr. Dixon moved and Mr. Mills seconded to accept the Voluntary Consent Agreement. The motion was approved after a unanimous vote in the affirmative. The Board revoked the permit, effective October 1, 2004, and further, assessed the permit holder \$50,000 plus administrative costs. *Charges:*

- (1) LRS 37:1241.A.3 – has committed repeated occasions of negligence or incompetence in the practice 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, whether or not actual injury to a patient has occurred.
- (3) LRS 37:1241.A.15 – has assisted another person in evading any local, state, or federal laws or regulations pertaining to the practice of pharmacy.
- (4) LRS 40:971.A.1.d – failure to maintain records of controlled substances.

**Coram Alternate Site Services (Pharmacy Permit No. 3322)** 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 issued a Letter of Warning to the permit holder, and further, assessed the respondent \$5,000 plus administrative and investigative costs. *Charges:*

- (1) LRS 37:1232.A – operation of an out-of-state pharmacy with an expired permit.

**Erica Sheree Guillory (Technician Certificate No. 4681)** Dr. Dixon moved and Mr. McKay seconded to accept the Voluntary Consent Agreement. The motion was approved after a unanimous vote in the affirmative. The Board revoked the certificate, and further, prohibited any future application for reinstatement.

*Charges:*

- (1) LRS 40:967.C – unlawful possession of Schedule III controlled substance.
- (2) LRS 40:971.B.b – unlawful acquisition of controlled substance by fraud or deception.

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

*10. Report of General Counsel – Consideration of Consent Agreements/Surrenders*  
Mr. Aron called upon Mr. Finalet for the report. He presented the following files for Board consideration.

**Toccarra Montrell Sykes (Technician Certificate No. 6316)** Mr. Mills moved and Mr. McKay seconded to accept the Voluntary Consent Agreement. The motion was approved after a unanimous vote in the affirmative. The Board revoked the certificate, and further, prohibited any future application for reinstatement. *Charges:*

- (1) LRS 37:1241.A.15 – has evaded any local, state, or federal laws or regulations pertaining to the practice of pharmacy.

- (2) LRS 40:968.C – unlawful possession of Schedule III controlled dangerous substance.
- (3) LRS 40:971.B.1.b – unlawful acquisition of controlled substance by fraud or deception.

**Tiffany Weldon Toney (Technician Certificate No. 5669)** Mr. Lantier moved and Dr. Anderson 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 for reinstatement. *Charges:*

- (1) LRS 37:1241.A.15 – has evaded any local, state, or federal laws or regulations pertaining to the practice of pharmacy.
- (2) LAC 46:LIII.3501.1 – unlawful dispensation of legend drugs.
- (3) LAC 46:LIII.3501.3 – unlawful possession of legend drugs.

At this point, Mr. Aron yielded the floor to Mr. Broussard on a point of personal privilege. Mr. Broussard reviewed the unusual level of activities by staff during calendar year 2004 and expressed his appreciation for their hard work. The Board echoed that sentiment with a standing ovation.

#### *11. Adjourn*

Mr. Mills moved and Dr. Anderson seconded to adjourn. The motion was approved after a unanimous vote in the affirmative. With no further business before it, Mr. Aron adjourned the Board at 12:30 p.m.

Respectfully submitted,

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Reuben R. Dixon, Pharm.D.  
Secretary