



Louisiana Board of Pharmacy

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Minutes

The Executive Committee of the Louisiana Board of Pharmacy convened a regular meeting on **Tuesday, November 14, 2023** at the Louisiana Board of Pharmacy located at 3388 Brentwood Drive in Baton Rouge, Louisiana 70809. The meeting was held pursuant to public notice, each member received notice, and public notice was properly posted.

1. Call to Order

Mr. Marty McKay, President, called the meeting to order at 4:31 p.m.

2. Quorum Call

Members Present: Ms. Jacqueline L. Hall, Mr. Richard M. Indovina, Jr., Mr. Marty R. McKay, Mr. Don L. Resweber, and Mr. Rhonny K. Valentine.

Members Absent: None

Guests: Mr. Malcolm Broussard, Dr. Lovie F. Rodgers, Dr. Thanh V. Nguyen, Mr. Galen W. Perkins, Mr. Charlie Corona, Dr. Tommy E. Curtain.

3. Call for Additional Agenda Items & Adoption of Agenda

Mr. McKay asked if there were any additional agenda items to be added; none were requested. Without objection, the members adopted the posted agenda dated November 13, 2023.

4. Consideration of Draft Minutes from Previous meeting: August 15, 2023

Mr. McKay reminded the members they had received the draft minutes from the previous committee meeting held on August 15, 2023. With no objections, he waived the reading of the draft minutes. With no requests for amendments or corrections, and with no objection, Mr. McKay declared the minutes were approved as presented.

5. Opportunity for Public Comment

None offered

6. Consideration of Request from Dr. Tommy E. Curtain, PharmD, Pharmacist Applicant in regards to LAC 46:LIII.503(B)

From 2015 through 2017 Dr. Curtain was unable to pass the Louisiana MPJE examination after 5 attempts. Dr. Curtain successfully passed his NAPLEX examination. According to Section 503(B) of the Board's regulations, in the event the candidate for pharmacist licensure fails the examination, the candidate may repeat the examination in compliance with the test administrator's policy. NABP policies place a 5-attempt maximum limit per jurisdiction to pass the MPJE unless a board of pharmacy determines otherwise. In 2017, Dr. Curtain requested that the Louisiana Board of Pharmacy

consider a request for a 6th attempt to pass the La. MPJE examination. The Board considered his request but made the decision not to approve a sixth attempt. Dr. Curtain subsequently became licensed in the state of Delaware.

Dr. Curtain has been licensed as a pharmacist in Delaware since July 2020. After being licensed in Delaware for three years, Dr. Curtain is formally requesting consideration for another attempt for the Louisiana MPJE examination, so that he can reciprocate to Louisiana. The committee decided unanimously to offer the following recommendation, in the form of a motion, to the Board:

Resolved, to authorize Dr. Tommy E. Curtain, PharmD a sixth and final allowance by the Board for Dr. Curtain to take the Louisiana Multistate Pharmacy Jurisprudence Examination (MPJE).

7. Consideration of Request from Crescent City Therapeutics in regards to LAC 46:LIII.2447(A)(18)

On December 15, 2022 the Board awarded the 10th marijuana pharmacy permit to Crescent City Therapeutics, LLC. According to Section 2447(A)(18) of the Board's regulations, if an applicant has been awarded a marijuana pharmacy permit and has not commenced operation of such pharmacy within 310 days of being notified of the marijuana pharmacy permit award, the board may, in the board's discretion, rescind such marijuana pharmacy permit, unless such delay was caused by force majeure. A marijuana pharmacy shall be deemed to have commenced operation if the pharmacy is capable of operating in accordance with the applicant's approved application. Calculating 310 days from the date of being notified of the award, October 21, 2023 would have been the date the permit was expected to commence operations.

Dr. Lovie Rodgers, PharmD, CEO of Crescent City Therapeutics submitted a request for an extension to the deadline for Crescent City Therapeutics, LLC to begin operation of the marijuana pharmacy due to delays outside of their control. Dr. Rodgers cited a delay in receiving a building permit from the City of Kenner and provided a letter from the City of Kenner explaining the delay in obtaining the building permit due to staffing shortages within the permitting office. The committee decided unanimously to offer the following recommendation, in the form of a motion, to the Board:

Resolved, to approve the request from Crescent City Therapeutics, LLC for an extension, until February 15, 2024, to commence operation.

8. Consideration of request from Express Rx of Saint Joseph (PHY.008025-IR) in regards to LAC 46:LIII.2425(A)(1).

According to Section 2425(A)(1) of the Board's regulations, at the time a telepharmacy dispensing site opens, there shall be no other pharmacies licensed by the board within 15 miles (driving distance) of the location of the telepharmacy dispensing site. This mileage restriction shall not apply if a demonstration of need is presented to the board and a waiver to the mileage restriction is deemed appropriate.

Express Rx of Saint Joseph (PHY.008025-IR) is currently classified as an independent retail pharmacy, not a telepharmacy. The permit holder is requesting to convert his existing pharmacy permit to a telepharmacy dispensing site due to the lack of financial viability, staffing issues, and a demonstrated need for the local community. The nearest pharmacy permit is 13.6 miles from the pharmacy's location.

After the committee reviewed the regulation and consulted with staff, it determined the need for the pharmacy by the public in that area of the state was demonstrated and decided unanimously to offer the following recommendation, in the form of a motion, to the Board:

Resolved, to approve the request by Express Rx of Saint Joseph (PHY.008025-IR) for a waiver to the mileage restriction imposed upon a telepharmacy dispensing site based on a demonstration of need for the pharmacy by the public in this area of the state.

9. Consideration of:

- ***Proposed New PPM.I.B.3.a ~ Open Meetings by Electronic Means (Draft #1);***
- ***Proposed New PPM.I.B.3.b ~ Open Meetings by Electronic Means for the PBM Monitoring Advisory Council (Draft #1); and***
- ***Proposed New PPM.V.A.2.a ~ Open Meetings by Electronic Means (Draft #1).***

Act 393 of the 2023 Regular Session made significant changes to the Open Meetings Law and created changes directed to public participation and board member participation in meetings. These changes are directed to those members of the public and board members who have disabilities recognized by the Americans with Disabilities Act (ADA).

The 3 proposed new Open Meetings by Electronic Means policies referenced were drafted for the Board, the PMP Advisory Council, and the PBM Monitoring Advisory Council in order to maintain compliance with the law.

The committee decided unanimously to offer a recommendation to the Board to approve the proposed policies.

Consideration of:

- ***Proposed Revision PPM.V.A.2 ~ PMP – Advisory Council (Draft #1)***

Act 14 of the 2023 Regular Session made changes to the PMP law in regards to the frequency of advisory council meetings and gave the ability to meet by electronic means. The proposed revisions to the PMP Advisory Council policy was drafted to incorporate these changes. The Executive Committee reviewed these revisions and decided unanimously to offer a recommendation to the Board to approve the proposed policy revision.

10. Consideration of Proposed Agreement for Hosting Services with Tyler Technologies

During the May Board meeting, the Board approved an agreement for the maintenance of the eLicense information system with Tyler Technologies in an amount not to exceed \$100,000 for Fiscal Year 2023-2024. It was anticipated at the time that the \$100,000 cap would cover both the annual maintenance agreement and some necessary enhancements during the year. As the Board office continues to improve the information systems, the plan was to transition from purchasing and maintaining our own servers in-house to an environment hosted by the State Office of Technology Services (OTS). After working several months to implement this transition, OTS identified components of the eLicensing system which prevented the immediate hosting of our licensing software.

Tyler Technologies provided a quote for hosting services for our licensing software. Recognizing this as a possible solution, the committee decided unanimously to offer the following recommendation, in the form of a motion, to the Board:

***Resolved**, to approve the Executive Director, with concurrence of the Board President, to enter into an agreement with Tyler Technologies to maintain, enhance, and provide hosting services for the Board's eLicense information system, at the stipulated rate(s), in an amount not to exceed \$160,000 for Fiscal Year 2023-2024.*

11. Review of Financial Audit Report from Legislative Auditor

The committee reviewed the report and it will be presented to the Board.

12. Review & Consideration of Exceptions Report

Board Policy permits the President to review and respond to requests for exceptions to laws, rules, and policies in the interim between meetings of the board. Board Policy also permits the Executive Director, with concurrence of the Board President, to issue Special Work Permits and approve dual PIC privileges with notice to the Board at its next meeting. The committee reviewed the current "Exceptions Report", had no questions or comments, and the report will be presented to the full Board as required in policy.

13. Consideration for an Attorney General's Opinion re Walgreens Settlement Agreement

Mr. Finalet provided the committee members an overview in regards to the Walgreens Settlement Agreement and the request from an attorney representing Walgreens in regards to Case Nos. 23-0084 and 23-0085. The committee decided unanimously to offer the following recommendation, in the form of a motion, to the Board:

***Resolved**, the Louisiana Board of Pharmacy requests an Attorney General's opinion from Jeff Landry, Attorney General for the state of Louisiana, on whether the proposed Walgreens Settlement Agreement dated as of December 9, 2022 which sets forth the terms of settlement between and among the Settling States, the Participating Subdivisions, and Walgreens applies to the alleged drug losses in the Board's Case Nos. 23-0084 and 23-0085.*

14. Review of Administrative Operations

Mr. Fontenot provided the members with an update in regards to staff and office operations, no decisions were made.

15. New Agenda Items Added During Meeting – No new agenda items added

16. Adjourn - Having completed the tasks itemized on the posted agenda, with no further business pending before the committee and without objection, Mr. McKay adjourned the meeting at 5:37 p.m.

Minutes prepared by Executive Director Joe Fontenot and then approved as presented during the subsequent meeting on February 20, 2024.