



Louisiana Board of Pharmacy
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Minutes

Regular Board Meeting

Wednesday, November 17, 2021 at 10:00 a.m.
Embassy Suites Baton Rouge Hotel
4914 Constitution Avenue
Baton Rouge, Louisiana 70808

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The Louisiana Board of Pharmacy convened a regular meeting on Wednesday, November 17, 2021 at the Embassy Suites Baton Rouge Hotel located at 4914 Constitution Avenue in Baton Rouge, Louisiana 70808. The meeting was held pursuant to public notice, each member received notice, and public notice was properly posted.

1. Call to Order

Mr. Carl Aron, President, called the meeting to order at 10:17 a.m.

2. Invocation & Pledge of Allegiance

Mr. Allen Cassidy delivered the invocation and Dr. Robert Cloud led the group in the Pledge of Allegiance.

3. Quorum Call

Mr. Aron called upon the Secretary, Mr. Richard Indovina, to call the roll of members to establish a quorum.

Members Present:

Mr. Carl W. Aron
Mr. Allen W. Cassidy, Jr.
Dr. J. Robert Cloud
Mr. David A. Darce
Ms. Jacqueline L. Hall
Mr. Richard M. Indovina, Jr.
Mr. Kevin LaGrange
Mr. Robert C. LeBas
Mr. Marty R. McKay
Mr. Anthony G. Mercante
Mr. Blake P. Pitre
Mr. Don L. Resweber
Mr. Douglas E. Robichaux
Dr. Raymond J. Strong

Members Absent:

Mr. Richard Mannino
Mr. J. Troy Menard
Mr. Rhonny K. Valentine

Staff Present:

Mr. Malcolm J. Broussard, Executive Director
Mr. Carlos M. Finalet, III, General Counsel
Mr. M. Joseph Fontenot, Executive Director – Designate
Mr. Benjamin S. Whaley, Chief Compliance Officer
Ms. Kelley L. Villeneuve, Office Manager

Guests:

Mr. Ben J. Sims – Brookshire Grocery Co.
Mr. Peter Prevot – La. Association for Therapeutic Alternatives
Mr. Jacob Irving – Ilera Holistic Healthcare

Mr. Jesse McCormick – Capitol Partners
Mr. Purvis Nash – Award recipient
Ms. R. DeAnn Nash
Ms. Jessica Elliott – La. Alliance of Retail Pharmacies
Ms. Shelly Dupre – National Association of Chain Drug Stores
Dr. Dana Antoon – Channell Drugs
Mr. Merrill Patin – Award recipient
Ms. Elain Patin
Mr. A. Wayne Nash – Family Pharmacy
Ms. Ellen D. Hungate – Award recipient
Mr. Grady K. Hungate – Award recipient
Dr. Julie H. Taylor – Genoa Healthcare
Mr. Timothy Koch – Wal-Mart Stores
Dr. Maimuna Bruce – Cardinal Health
Dr. Jessica Adams – Cardinal Health
Mr. Donelson Caffery – La. Independent Pharmacies Association

Mr. Indovina certified Mr. Mannino, Mr. Menard, and Mr. Valentine were absent; however, the remaining 14 members were present, constituting a quorum for the conduct of official business.

4. Call for Additional Agenda Items & Adoption of Agenda

Mr. Aron asked if there were any additional agenda items to be added; none were requested. Without objection, the members adopted the posted agenda dated November 11, 2021. There were no objections to Mr. Aron's request for authority to re-order the agenda should the President determine it appropriate to do so.

5. Consideration of Draft Minutes from Previous Meeting

Mr. Aron reminded the members they had received the draft minutes from the Regular Board Meeting held on August 18, 2021 and the Administrative Hearing held on August 19, 2021. With no objections, he waived the reading of the draft minutes. With no requests for amendments or corrections, and with no objection, Mr. Aron declared the minutes were approved as presented.

6. Report on Action Items

Mr. Aron called upon Mr. Broussard for the report. Mr. Broussard directed the members to the report in their meeting binder. There were no member questions or public comments.

7. Confirmation of Acts

Pursuant to Mr. Aron's declaration that the officers, committees, and executive director had attended to the business of the Board since their last physical meeting in accordance with policies and procedures previously approved by the Board, Mr. Robichaux moved,

Resolved, that the actions taken and decisions made by the Board officers, members and committees, and executive director in the general conduct and transactions of Board business since August 19, 2021 are approved, adopted, and ratified by the entire Board.

There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative.

8. *Opportunity for Public Comment*

Mr. Aron reminded the members and guests the Open Meetings Law requires all public bodies to provide an opportunity for public comment at all meetings and for each agenda item upon which a vote is to be taken. He solicited general comments on non-agenda items from the guests present; none were offered.

* *Statement of Purpose*

Mr. Aron reminded the members of the purpose and mission of the Board of Pharmacy by reciting the relevant portion of the Louisiana Pharmacy Practice Act. He urged the members to keep their legislative mandate in mind as they considered all the matters before them.

9. *Special Orders of the Day*

A. *Annual Election of Board Officers*

Before conducting the annual election of Board officers, Mr. Aron requested the members' indulgence for a personal privilege. He recalled his 50 continuous years of service to the Board, the last 25 of which had been in a leadership capacity. He expressed his appreciation to all of the previous board members with whom he served as well as all five of the Board's executive officers. He indicated his health was not as good as it had been, and that he believed it was time for another member to assume the leadership role. With that, he indicated he would not seek another term as President, and that he looked forward to continuing to serve as a member of the Board for the remainder of his appointed term. He then opened the nomination process, indicating the officers elected would assume their respective positions immediately.

Mr. Aron recognized Mr. Indovina to offer a nomination for the office of President. Before making his nomination, Mr. Indovina expressed his appreciation to Mr. Aron for his personal friendship as well as his professional service, leadership and mentorship. The members and guests recognized Mr. Aron with a standing ovation.

Mr. Indovina nominated Mr. McKay for the office of President. With no further nominations, Mr. Aron closed the nominations. Mr. Resweber moved to elect Mr. McKay to the office of President by acclamation. There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative. Mr. McKay assumed the office of President immediately and then exchanged seating places with Mr. Aron.

Mr. McKay expressed his appreciation to Mr. Aron for his sustained leadership and indicated he looked forward to a continuation of Mr. Aron's mentorship. Mr. McKay then announced his first decision was to declare Mr. Aron as President Emeritus of the Board, noting the last member to hold that distinction was the late Mr. Salvatore D'Angelo.

Mr. McKay requested nominations for the remaining officer positions. He then recognized Mr. Aron who nominated the following members *in globo*:

- Ms. Jacqueline Hall for the office of First Vice President;

- Mr. Rhonny Valentine for the office of Second Vice President;
- Mr. Donald Resweber for the office of Third Vice President; and
- Mr. Richard Indovina for the office of Secretary.

There were no further nominations for any of the offices. Mr. McKay closed the nominations. Mr. Mercante moved to elect by acclamation all of the nominees to the offices for which they were nominated. There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative. Mr. McKay identified all of the officers elected and congratulated them.

Mr. McKay then recognized Mr. Resweber for a personal privilege. Mr. Resweber noted he was both overwhelmed and humbled by his election to the Board's Executive Committee. Mr. McKay welcomed Mr. Resweber as the newest member of that committee, noting he had served the Board well as a public member for 10 years.

B. Presentation of Pharmacist Gold Certificates

Mr. McKay reminded the members and guests of the special recognition granted by the Board to pharmacists who achieve 50 years of practice as a licensed pharmacist in Louisiana. On receipt of a Pharmacist Gold Certificate, the recipient is granted a waiver of license renewal fees for the remainder of their life.

He noted the Board issued new licenses to 116 pharmacists during Calendar Year 1970, and of that number, 40 of them had qualified for their Gold Certificate. During Calendar Year 1971, the Board issued new licenses to 193 pharmacists, and of that number, 62 of them had qualified for their Gold Certificates. He announced four pharmacists had requested the presentation of their Gold Certificates that day. Mr. McKay then presented a Pharmacist Gold Certificate to each of the following pharmacists:

Mr. Purvis Glen Nash (PST.009719) was licensed by the Board on May 22, 1970 and has maintained his license continuously since then.

Ms. Ellen Ellis Hungate (PST.009815) was licensed by the Board on January 22, 1971 and has maintained her license continuously since then.

Mr. Grady Killian Hungate (PST.009821) was licensed by the Board on January 22, 1971 and has maintained his license continuously since then.

Mr. Merrill Anthony Patin (PST.009827) was licensed by the Board on January 22, 1971 and has maintained his license continuously since then.

The members and guests congratulated all of the recipients with generous applause.

10. Committee Reports

A. Finance Committee

Mr. McKay called upon Mr. Resweber for the committee report. Mr. Resweber directed the members to a copy of the interim report for the current fiscal year in their meeting binder. He noted the report contained the usual financial statements – net position, equity, revenue, expenses, and fund balance summary – as of September 30, 2021 which marked the end of the first quarter of the fiscal year. There were no questions from the members. He indicated that report was for information only and did not require action by

the Board.

Mr. Resweber then directed the members to a copy of the proposed budget for the next fiscal year in their meeting binder. He reported the committee had met the previous day to review the proposal developed by staff and then voted to recommend its approval. On behalf of the committee, Mr. Resweber moved,

Resolved, to approve and adopt the *Proposed Budget for Fiscal Year 2022-2023*.

There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative.

Finally, Mr. Resweber expressed his appreciation to the other committee members for their efforts the previous day.

B. Application Review Committee

Mr. McKay called upon Mr. Robichaux for the committee report. Mr. Robichaux reported the committee met on October 6 to consider nine applications referred by the staff. The applicant for a medication administration registration and the applicant for a pharmacy permit did not appear, so the committee deferred consideration until the committee's next meeting. The remaining seven applications considered were for a pharmacy benefit manager (PBM) permit. The committee reviewed and approved the issuance of permits for all seven applicants. Mr. Robichaux then reported the committee was scheduled to meet again on December 7, 2021 to consider several applications.

Finally, Mr. Robichaux expressed his appreciation to the other committee members for their ongoing efforts.

C. Reciprocity Committee

Mr. McKay called upon Mr. Cassidy for the committee report. He reported the staff had evaluated 53 applications for pharmacist licensure by reciprocity since the last Board meeting and that none of them contained information that warranted a committee level review. In conformance with policies and procedures previously approved by the Board, the staff approved the applications and issued the credentials. Mr. Cassidy then directed the members to a list of the new pharmacists licensed by reciprocity in their meeting binder.

Finally, he closed his report with appreciation to the other committee members for their ongoing efforts.

D. Violations Committee

Mr. McKay called upon Mr. Indovina for the committee report. Mr. Indovina reported the committee was scheduled to meet on September 8-9; however, that meeting was postponed due to the local impact of Hurricane Ida. Shortly thereafter, one of the respondents requested an opportunity to enter into a voluntary consent agreement. The committee directed staff to prepare a proposal with their usual terms for such types of cases. Mr. Indovina reported the respondent accepted the proposal, and he then presented it to the members for their consideration.

Enclara Pharmacia, Inc. d/b/a Enclara Pharmacia [Memphis, TN] (PHY.007178): Mr. Indovina moved to approve the proposed voluntary consent agreement. There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative. The Board assessed a fine of \$5,000 plus administrative and investigative costs.

Mr. Indovina then directed the members to the complaint investigation policy monitor report in their meeting binder. He informed the members there were 174 open cases at the beginning of the fiscal year, that staff had opened 156 new cases and closed 180, leaving 150 cases pending as of November 10. Of the 180 case closures, he reported the average number of days to complete the investigation was 44 days. In addition, three of those case closure (1.7%) had exceeded the policy benchmark of 180 days. He also reminded the members the most common reason for an investigation to exceed the 180-day threshold was a collaborative investigation with other state or federal agencies and that another reason for a nonresident case would be a case on appeal.

Mr. Indovina reported the committee's next meeting was scheduled for December 8-9, 2021 to consider the 37 cases on that docket. He closed his report with appreciation to the other committee members for their ongoing work.

E. Impairment Committee

Mr. McKay called upon Ms. Hall for the committee report. Ms. Hall reported the committee met the previous day to consider six referrals from the staff – two requests for reinstatement, three requests for modification of previous orders, and one appearance for informal conference. Following their interviews of the applicants and subsequent deliberations, the committee developed recommendations for the Board's consideration. Ms. Hall then presented the following cases.

Christopher Brooks Klingman (PST.017980): Ms. Hall moved to approve the proposed voluntary consent agreement. There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative. The Board released the applicant from a previously-executed private agreement, suspended the license for five years and stayed the execution of the suspension, then placed the license on probation for five years effective November 17, 2021 subject to certain terms enumerated within the voluntary consent agreement.

Mandy Renee Arrant (PST.019118): Ms. Hall moved to approve the proposed voluntary consent agreement. There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative. The Board granted the request for reinstatement of the previously suspended license, converted the duration of the suspensive period to a term of five years and stayed the execution of the suspension, then placed the license on probation for five years effective November 17, 2021 subject to certain terms enumerated within the voluntary consent agreement.

Michael Thomas Savario (PST.016568): Ms. Hall moved to grant the request for modification of previous orders. There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative. The Board granted his request for modification of previous orders, removed all probationary terms, terminated the probationary period originally scheduled to conclude on May 29, 2028, then restored the license to active and unrestricted status.

Wade Randall Veillon (PST.011709): Ms. Hall moved to grant the request for modification of previous orders. There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative. The Board granted his request for modification of previous orders, removed all probationary terms, terminated the probationary period originally scheduled to conclude on March 6, 2028, then restored the license to active and unrestricted status.

Lisa Kay Moreau (PST.014955): Ms. Hall moved to grant the request for modification of previous orders. There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative. The Board granted her request for modification of previous orders, removed Condition #2e from her November 2020 Probation Board Order to allow her to serve as the pharmacist-in-charge of a pharmacy, and further, reconfirmed all remaining terms and conditions imposed by that order.

Tiffany Annette Pitre (CPT.001615): Ms. Hall reported the committee interviewed the respondent following a report of her violation of probationary terms. Following their deliberation, the committee voted to exercise the provisions of Condition #3 of her November 2016 Probation Board Order, then summarily suspended her technician certificate effective immediately. Ms. Hall noted that committee decision did not require any action by the Board.

Mr. Pitre requested the Minutes reflect that he abstained from discussion and voting on the previous case. Mr. McKay ordered the Minutes reflect Mr. Pitre abstained from discussion and decision on the matter of Tiffany Annette Pitre, holder of CPT.001615.

Ms. Hall then reported the committee conducted their annual review of the Board's roster of approved addictionists. In addition to removing those practitioners no longer properly credentialed, the committee recommended the addition of a medical psychologist. She directed the members to a draft copy of the Board's roster with the proposed changes noted. On behalf of the committee, Ms. Hall then moved,

Resolved, to renew the Board's approval of the updated *Roster of Approved Addictionists* for Fiscal Year 2021-2022.

There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative.

Finally, Ms. Hall closed her report with appreciation to her fellow committee members for their work the previous day.

F. Reinstatement Committee

In the absence of the committee chair, Mr. McKay called upon Mr.

Resweber for the committee report. Mr. Resweber reported the committee met the previous day to consider four referrals from the staff – two applications for reinstatement of lapsed credentials and two requests for modification of previous orders. Following their interviews of the applicants and subsequent deliberations, the committee deferred one of the requests for modification of previous orders to their next committee meeting and then developed recommendations for the Board’s consideration. Mr. Resweber presented the following cases to the members for their consideration.

Kevin Troy Marks (PST.015077): Mr. Resweber moved to approve the reinstatement of the lapsed license contingent upon the completion of certain requirements identified within the hearing order prior to November 17, 2025. There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative. The Board granted his request for reinstatement of the lapsed license, contingent upon his satisfaction of certain requirement identified within the hearing order prior to November 17, 2025.

Lisa Efferson Gonzales (CPT.003941): Mr. Resweber moved to approve the reinstatement of the lapsed certificate without further requirement. There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative. The Board reinstated the lapsed certificate, then restored it to active and unrestricted status.

Kimberly Juanita Murphy (PST.016122): Mr. Resweber moved to deny the request for modification of previous orders. There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative. The Board denied the request for modification of previous orders.

Mr. Resweber closed his report with appreciation to the other committee members for their efforts the previous day.

G. Tripartite Committee

Mr. McKay called upon Dr. Strong for the committee report. Dr. Strong reported the committee had not met since the previous Board meeting.

H. Regulation Revision Committee

Mr. McKay called upon Mr. Indovina for the committee report. Mr. Indovina reported the committee met earlier that day to consider the two items on their posted agenda. He reported the committee completed their work on those items and then presented the committee’s recommendations.

- Regulatory Proposal 2021-D ~ Raw Marijuana Products (Draft #6)

Mr. Indovina reported the proposal was originally drafted to implement the provisions of Act 424 of the 2021 Legislature which authorized the use of raw or crude marijuana in the state medical marijuana program. Additional changes had been included in response to stakeholder requests. He then offered a motion for the approval of Draft #6. During the discussion on that motion, Mr. Indovina noted the committee approved one additional change to Draft #6 and upgraded the draft number before voting to recommend the approval of that document. Mr. Broussard

reported that after the committee meeting and before the Board meeting, he was able to post Draft #7 on the members' reading page for the Board meeting as well as the Regulatory Proposals page in the Public Library on the Board's website. Mr. Indovina then moved,

Resolved, to approve Regulatory Proposal 2021-D ~ Raw Marijuana Products (Draft #7), and further, to authorize the executive director to promulgate the proposed rule amendments.

There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative. Mr. Indovina reminded the members the effective date of the new law was January 1, 2022 but the new rule change could not be promulgated before that date. He reported the committee discussed the potential for a decision for an enforcement discretion that would allow marijuana pharmacies to dispense any new raw marijuana products as soon as they became available. He then moved,

Resolved, to authorize marijuana pharmacies to dispense raw marijuana products approved by the La. Dept. of Agriculture & Forestry and produced by Good Day Farms and Ilera Holistic Health, notwithstanding any contrary provisions of Subchapter E of Chapter 24 of Part LIII of the Louisiana Administrative Code, subject to the dispensing limitations identified in Act 424 of the 2021 Legislature.

There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative.

- Regulatory Proposal 2021-G ~ Fees (Draft #3)

Mr. Indovina noted the fees charged by the Board have not changed since 2005. While staff was preparing draft legislation to make changes to those fees, they received advice from legislative staff to promulgate those fees by rule instead of waiting for the legislative session. He directed the members to a copy of the regulatory proposal in their meeting binder. The proposal will create a new section of rule to identify all of the pharmacy program fees charged by the Board, and many of the fees listed therein represent changes from the current fees stated in the pharmacy law. He also directed the members to a cross-walk document appended to the regulatory proposal identifying the current and proposed amount of each fee. He reported the committee had voted to recommend the approval of the proposal. He then moved,

Resolved, to approve Regulatory Proposal 2021-G ~ Fees (Draft #3), and further, to authorize the executive director to promulgate the proposed rule.

Mr. Broussard replied to a question from one member seeking clarification of the proposed application fee for a new pharmacist license. Mr. McKay noted Mr. Fontenot had prepared financial data reflecting staff labor costs to support proposed increases. There were no further member questions or public comments. The motion was adopted after a unanimous vote in the affirmative.

Mr. Indovina identified several of the topics remaining on the committee's agenda, and then closed his report with appreciation to the other committee members for their ongoing efforts.

At this point, Mr. McKay declared a brief recess. It was noted the members recessed at 11:24 a.m. and then reconvened at 11:37 a.m. Mr. McKay resumed the sequence of the posted agenda.

I. Executive Committee

Mr. McKay reported the committee had met the previous day to consider the items on their posted agenda. The committee members considered a number of policy statements, reviewed the report from the legislative auditor on their annual audit of the Board's financial report, and also considered a proposed resolution opposing the use of marijuana for recreational purposes. He indicated Ms. Hall was prepared to offer motions on behalf of the committee.

- Proposed New PPM.I.A.35 ~ Emergency Prescriptions for Durable Medical Equipment (Draft #1)

Mr. McKay reported an inquiry whether Section 519 of the Board's rules authorizing the dispensing of emergency prescriptions during a declared emergency was also applicable to prescriptions for durable medical equipment (DME). He considered the intent of the rule and issued an interim interpretation such that the rule was applicable to prescriptions for DME. The proposed policy statement is a formal interpretation of the rule and is intended to survive current states of emergency. Mr. McKay reported the committee voted to recommend the approval of the policy. Ms. Hall then moved,

Resolved to approve the proposed new PPM.I.A.35 ~ Emergency Prescriptions for Durable Medical Equipment (Draft #1).

There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative.

- Proposed Revision of PPM.I.D.4 ~ COVID-19 Public Health Emergency: Compounding Hand Sanitizer for OTC Sale (Draft #1)

Mr. McKay reminded the members of their approval of this interim policy in March 2020 pursuant to the issuance of guidance by the FDA allowing for the temporary compounding of hand sanitizer for OTC sale. The FDA recently announced their intent to withdraw that temporary allowance effective December 31, 2021 as well as the termination of their enforcement discretion on March 31, 2022, following which hand sanitizer compounded under the federal allowance should no longer be sold OTC. The proposed revision of the Board's interim policy mirrors the federal action by termination of the authorization for compounding for OTC sale effective December 31, 2021 and the termination of authorization for OTC sales effective March 31, 2022. The committee voted to approve the proposed policy

revision. Ms. Hall then moved,

Resolved, to approve the proposed revision of PPM.I.D.4 ~ COVID-19 Public Health Emergency: Compounding Hand Sanitizer for OTC Sale (Draft #1).

There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative.

- Proposed Revision of PPM.I.D.28 ~ COVID-19 Public Health Emergency: Guidance for Licensees re PREP Act Declaration by HHS (Draft #1)

Mr. McKay reminded the members of their approval of this interim policy in February 2021 and their multiple revisions corresponding with the issuance of additional amendments of the PREP Act Declaration by the federal HHS. He reported HHS issued their Ninth Amendment of the Declaration in September 2021. The proposed revision reflects that federal action. The committee voted to recommend the approval of the proposed revision. Ms. Hall then moved,

Resolved, to approve the proposed revision of PPM.I.D.28 ~ COVID-19 Public Health Emergency: Guidance to Licensees re PREP Act Declaration by HHS (Draft #1).

There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative.

- Review of Interim Policies (I.D.1 through I.D.29)

Mr. McKay reported the committee reviewed all of the interim policies still in place, focusing on the four policies scheduled to terminate on December 31, 2021. The committee determined it appropriate to suggest a further extension of the scheduled expiration date – by one full year – for two of the policies: PPM.I.D.12 ~ Flexible Staffing Ratios as well as PPM.I.D.19 ~ CE for Pharmacist License Renewal. Mr. McKay noted the effect of the proposed extension of the expiration date for the pharmacist license renewal policy would be to continue the waiver of the requirement for live CE for all of Calendar Year 2022 and apply to the renewal of pharmacist licenses for Calendar Year 2023. More specifically, only 15 hours would be required without regard to whether it was obtained by live or home study. The committee determined it appropriate to make no changes to any of the other interim policies. Ms. Hall then moved,

Resolved, with respect to the *November 2021 Summary of Interim Policies*, to extend the expiration date of PPM.I.D.12 ~ Flexible Staffing Ratios as well as PPM.I.D.19 ~ CE for Pharmacist License Renewal from December 31, 2021 to December 31, 2022; and further, to make no changes to any other interim policies listed in that summary.

There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative.

- Proposed New PPM.I.D.30 ~ State of Emergency – Hurricane Ida: NABP Emergency Passport (Draft #1)
 In the immediate aftermath of Hurricane Ida, Mr. McKay reported receipt of multiple requests to grant temporary privileges to a large number of pharmacists scheduled to work for national pharmacy chain temporary locations in the state. Given the week-long office closure after the storm and the anticipated delay in the issuance of such temporary privileges, the Board requested NABP reactivate their Emergency Passport Program for Louisiana. NABP agreed to do so, and the Board limited the use of such passports to pharmacists practicing within disaster zones within the state, and further, fixed the expiration date of such passports to November 30, 2021. Mr. McKay indicated he selected that expiration date to give the Board an opportunity to terminate or extend the policy. The committee reviewed the interim policy and determined it appropriate to extend it to February 28, 2022, noting their next meeting was scheduled for February 16, 2022. Ms. Hall then moved,
Resolved, to extend the expiration date of PPM.I.D.30 ~ State of Emergency – Hurricane Ida: NABP Emergency Passport to February 28, 2022.

There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative.
- Proposed New PPM.II.E.5 ~ Financial Security Procedures (Draft #1)
 Mr. McKay informed the members Act 66 of the 2021 Legislature requires all state agencies to develop cybersecurity and financial security procedures. The Dept. of Treasury developed and distributed proposed template policies; staff adapted it for Board use. The committee voted to recommend the approval of the proposed policy. Ms. Hall then moved,
Resolved, to approve the proposed new PPM.II.E.5 ~ Financial Security Procedures (Draft #1).

There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative.
- Report of Annual Financial Audit by Legislative Auditor
 Mr. McKay reminded the members of their approval of the Board's annual financial report, subject to legislative audit, during their August 18 meeting. The Legislative Auditor completed their annual financial audit and issued their report, a copy of which was included in the members' meeting binder. He noted the auditor's statement of no adverse findings or recommendations, and that in the auditor's opinion, the audited financial report dated June 30, 2021 is an accurate statement of the Board's financial position on that day. Mr. McKay indicated the report was for information only and did not require further action by the Board. There were no member questions or public comments.

- Request for Rescission/Removal of Previous Board Order, Refund of Assessment Paid & Removal of National Practitioner Data Bank (NPDB) Report re Case No. 12-0285 ~ Sterling Associates, Inc. d/b/a Sterling Pharmacy [Ruston, LA] (PHY.004944)

Mr. McKay reported the committee's consideration of the request and their deferral of the request until their next meeting in February 2022. At Mr. Robichaux's request, Mr. Finalet summarized the context of the request for removal of a prior Board order.

At this point, Mr. McKay declared a luncheon recess. It was noted the members recessed at 11:48 a.m., and then reconvened at 12:49 p.m. Mr. McKay informed the members the last item in the Executive Committee report was a resolution sponsored by the District Attorney for the 22nd Judicial District. He reported Mr. Broussard was out of the room speaking with the District Attorney to arrange his presentation later that day. Mr. McKay deferred the remainder of the committee report pending that presentation. In the interim, he reordered the agenda to take up Agenda Item 12 relative to a request from Wal-Mart Pharmacies.

12. Request from Wal-Mart Pharmacies re Return-to-Stock Process in Central Fill Pharmacies – Presentation by Mr. Timothy Koch, Senior Director, U.S. Ethics & Compliance, Wal-Mart Stores, Inc.

Mr. McKay recognized Mr. Timothy Koch and invited him to the witness table to make his presentation to the members in support of his firm's request. Mr. Koch presented his firm's process for return-to-stock situations at local pharmacies for prescription medications dispensed from their central fill pharmacies. He responded to questions from several members.

Mr. Fontenot asked Mr. Koch about the storage conditions of prescriptions delivered from the central fill pharmacies to the local pharmacies. Mr. Koch replied the firm currently uses a third-party logistic company contracted by their distributor, McKesson. Mr. Fontenot reminded Mr. Koch and the members of the Board's historical interpretation of its rules relative to the return of dispensed prescriptions to the pharmacy for re-use: where the dispensing pharmacy retains professional control of the environmental conditions during delivery, the pharmacy may return such medications to stock for re-use, but where the dispensing pharmacy uses a contracted carrier and does not retain professional control of the environmental conditions during delivery, the pharmacy may accept such medications for return but not for re-use. Mr. Koch suggested since the delivery vehicle also delivers other prescription medications for pharmacy stock that professional control over environmental conditions should not be a limiting factor. Mr. McKay suggested the standards for delivery of stock medications may be different than standards for delivery of dispensed medications. Mr. Broussard questioned whether any environmental monitoring devices were part of Wal-Mart procedures for these deliveries. Mr. Koch related his awareness of compendial standards, but he was unable to state with certainty when Wal-Mart would know whether those compendial standards had ever been breached.

Mr. McKay reminded the members that Wal-Mart had approached the Board several years ago on this same topic and the Board declined to approve the process citing their interpretation of Section 1141 of the Board's rules for centralized dispensing pharmacies as well as the historical interpretation cited by Mr. Fontenot. Mr. McKay

informed the members that Wal-Mart had approached the Board office in the immediate aftermath of Hurricane Ida looking to use this process to provide continuity of care to Louisiana residents. He indicated he had approved the process for the limited number of pharmacies identified by Wal-Mart and he also fixed the expiration date of his approval for November 30, 2021 to give the Board this opportunity to review the matter. He suggested the members had several options in how they could proceed and asked for a motion.

Mr. Indovina indicated he was comfortable with the process described by Wal-Mart but he also understood the Board's historical interpretation relative to the return of previously dispensed prescription medications to pharmacies. He suggested the initiation of a pilot project to authorize the continuation of the return-to-stock process for a limited period of time while the Regulation Revision Committee considers the matter to determine whether any rule revisions might be appropriate. He then moved,

Resolved, to authorize a pilot project to allow Wal-Mart Pharmacies to continue the return-to-stock process described for their central fill pharmacy in Texas to serve all Wal-Mart pharmacies in Louisiana until December 31, 2022; and further, to request the Board's Regulation Revision Committee review the topic and develop recommendations for the Board's consideration.

Mr. Koch responded to questions from several members. There were no public comments. The motion was adopted after a unanimous vote in the affirmative.

At this point, Mr. McKay reordered the agenda to take up the staff reports.

11. *Staff Reports*

J. Report of Executive Director – Designate

Mr. McKay called upon Mr. Fontenot for his report. Mr. Fontenot directed the members to the quarterly report of the prescription monitoring program, detailing the prescription transaction counts as well as queries from prescribers, dispensers, and law enforcement agencies. The report also included information on the dispensing of medical cannabis products in the marijuana pharmacies. He reported the program staff continues to issue prescriber report cards detailing their opioid prescribing rate in comparison to their peers. He also reported the program staff continues to notify prescriber licensing boards of their licensees who appear to not be compliant with the mandatory use law for prescribers. He noted the program staff continues to monitor compliance with mandatory reporting requirements and noted the compliance rate in pharmacies is very high.

Mr. Fontenot then directed the members to the requests from 14 pharmacies seeking a waiver from the duty to report zero prescription transaction reports to the prescription monitoring program. Mr. Pitre then moved,

Resolved, to authorize the issuance of full PMP reporting waivers to:

- > PHY.008307-NR – Adelaide Apothecary (KY);
- > PHY.008318-NR – Amazon Pharmacy #007 (ID);
- > PHY.008314-NR – Apex Specialty Pharmacy (MO);
- > PHY.008340-IR – Custom Scripts Pharmacy (LA);

- > PHY.008296-HOS – Encompass Health Rehabilitation Hospital of Shreveport (LA);
 - > PHY.008268-NR – Health Haven Pharmacy (NH);
 - > PHY.008338-NR – Heritage Biologics (MO);
 - > PHY.008331-NR – IV Solutions Rx (FL)
 - > PHY.008261-HOS – Louisiana Extended Care Hospital of Lafayette (LA);
 - > PHY.008317-NR – OptionOne Infusion (OK);
 - > PHY.008301-NR – Roman Health Pharmacy (TX);
 - > PHY.008302-NR – Roman Health Pharmacy (AZ);
 - > PHY.008072-NR – RxCrossroads by McKesson (KY); and
 - > PHY.008306-NR – ScriptCo Pharmacy (TX)
- once they have executed the standard consent agreement for that purpose.

There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative.

Finally, Mr. Fontenot indicated completion of his report.

K. Report of General Counsel

Mr. McKay called upon Mr. Finalet for his report. Mr. Finalet presented the following proposed voluntary consent agreements to the members for their consideration.

Bryan Meredith Ness (CPT.009182): Mr. Robichaux moved to approve the proposed voluntary consent agreement. There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative. The Board issued a Letter of Reprimand; and further, assessed a fine of \$250 plus administrative costs.

Marlene Yvette Owens (CPT.012948): Mr. Robichaux moved to approve the proposed voluntary consent agreement. There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative. The Board issued a Letter of Reprimand; and further, assessed a fine of \$250 plus administrative costs.

Lecoryer Deshawn Nicholas (CPT.014323): Mr. Robichaux moved to approve the proposed voluntary consent agreement. There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative. The Board issued a Letter of Reprimand, and further, assessed a fine of \$250 plus administrative costs.

Nikki Meyers Hawkins (CPT.006693): Mr. Robichaux moved to approve the proposed voluntary consent agreement. There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative. The Board issued a Letter of Reprimand; and further, assessed a fine of \$250 plus administrative costs.

Jason Warren Dupeire (PST.018298): Mr. Robichaux moved to accept the voluntary surrender of the credential. There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative. The

Board accepted the voluntary surrender, resulting in suspension of the license for an indefinite period of time effective September 17, 2021.

Ariel Nekia Tobias (CPT.010655): Mr. Robichaux moved to approve the proposed voluntary consent agreement. There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative. The Board issued a Letter of Reprimand; and further, assessed a fine of \$250 plus administrative costs.

Fisher Clinical Services, Inc. d/b/a Fisher BioServices [Rockville, MD] (PHY.005649): Mr. Robichaux moved to approve the proposed voluntary consent agreement. Mr. Finalet replied to questions from two members relative to the nature of the disciplinary action and the date of its filing. There were no public comments. The motion was adopted after a unanimous vote in the affirmative. The Board issued a Letter of Reprimand; and further, assessed a fine of \$5,000 plus administrative costs.

Finally, Mr. Finalet indicated the completion of his report.

L. Report of Executive Director

Mr. McKay called upon Mr. Broussard for his report. Mr. Broussard directed the members to his report in the meeting binder. He reviewed the following topics:

- Meeting Activity
- Reports
 - Internal Reports
 - Credentials Division
 - Census Report
 - Licensure Activity Report
 - Application Activity Report
 - Exceptions Report
 - Compliance Division
 - Census Report
 - Complaint Investigation Policy Monitor
 - External Reports
 - Annual Report for Fiscal Year 2020-2021
 - Board Reports to Administrative and Legislative Agencies

Mr. Broussard directed the members to a copy of the annual report in their meeting binders and indicated the necessity of its approval to authorize its submission and filing. Ms. Hall then moved,

Resolved, to approve the Annual Report for Fiscal Year 2020-2021, and to direct its filing with the Office of the Governor, the Health & Welfare Committees of the Senate and House of Representatives, the David Poynter Legislative Research Library, the Louisiana State Library, and its subsequent publication on the Board's website.

There were no member questions or public comments. The motion was

adopted after a unanimous vote in the affirmative.

- Examinations
 - MPJE
 - NAPLEX
 - ExCPT
 - PTCE
- Operations
 - Credentials Division
 - Compliance Division
 - Administrative Division
- State Activities
 - Louisiana Legislature
- Regional & National Activities
 - National Association of Boards of Pharmacy (NABP)
 - NABP-AACP District 6
 - MALTAGON
- International Activities
 - International Pharmaceutical Federation (FIP)
 - World Health Professions Alliance (WHPA)

Finally, Mr. Broussard indicated the completion of his report.

At that point, Mr. McKay indicated his intent to place the Board in a brief recess until the anticipated arrival of the District Attorney for the 22nd Judicial District. Mr. Timothy Koch from Wal-Mart Stores requested an opportunity to clarify some earlier comments he made in support of his firm's request during the Board's consideration of Agenda Item 12. Mr. McKay agreed.

12. Request from Wal-Mart Pharmacies re Return-to-Stock Process in Central Fill Pharmacies – Presentation by Mr. Timothy Koch, Senior Director, U.S. Ethics & Compliance, Wal-Mart Stores, Inc.

Mr. McKay recognized Mr. Koch for the purpose of clarification of previous comments. Mr. Koch recalled a previous question from Mr. McKay as to whether any other state pharmacy board had declined similar requests from Wal-Mart. Mr. Koch said he recalled a previous attempt to service Alabama from Florida, but the Alabama Board would only allow them to do so if the facility was located in Alabama; they expressed no concern for the business model. The North Carolina Board regulations specifically prohibit centralized dispensing. The Kentucky Board adopted the same position as Alabama. The Georgia Board regulations contained a particular labeling requirement that was not conducive to their business model, so they did not expand to that state. In summary, Mr. Koch indicated Wal-Mart has never been turned down in another state due to the business model presented earlier that day.

Mr. Darce questioned Mr. Koch as to the pharmacy technician staffing ratio in Texas, where the facility intended to service Louisiana is located. Mr. Koch indicated he was unsure of their specific rule on that point but would check and get an answer. Mr. McKay recalled his understanding of different ratios in different practice settings. Mr. Broussard indicated several states use different ratios in different practice settings. Mr.

Koch replied to Mr. Darce the applicable ratio in their facility is 6:1. Mr. Broussard reminded the members of the Board's historical interpretation of rules relative to nonresident pharmacies. While the Board requires nonresident pharmacies to comply with Louisiana rules for professional practice, the Louisiana Board typically defers to the resident board's rules for physical specifications and staffing ratios.

13. *New Agenda Items Added During Meeting*

There were no new agenda items added during the meeting.

14. *Announcements*

Mr. Broussard directed the members to the announcements in their meeting binder, and noted the listing of the board meeting dates for Calendar Year 2022.

At this point, Mr. McKay noted the arrival of the District Attorney for the 22nd Judicial District, then reordered the agenda to return to the report from the Executive Committee to report on the final agenda item from that committee.

10. *Committee Reports*

I. Executive Committee

- Proposed Resolution to Oppose the Legalization of Marijuana for Recreational Use in Louisiana

Mr. McKay reminded the members of the Board's membership on the Governor's Drug Policy Board as well as the role of that agency. He reported the resolution was discussed at the previous meeting of that agency and that several members of that board – including the Board of Pharmacy – indicated their organizations had not yet formally considered the resolution. The Drug Policy Board deferred consideration of the resolution until their next meeting in January 2022 to give their member organizations time to duly consider the issue. Mr. McKay reported the committee reviewed and discussed the resolution but deferred making any recommendation due to the anticipated presence of the sponsor of the resolution during the Board meeting that day.

Mr. McKay introduced the Honorable Warren Montgomery, District Attorney for the 22nd Judicial District in the parishes of Saint Tammany and Washington and invited him to present his resolution to the members. Mr. Montgomery reviewed the resolution and the purpose of its submission to the Drug Policy Board. He replied to a question from one member. Mr. McKay questioned the members as their pleasure concerning the proposed resolution. Mr. Indovina then moved

Resolved, to support the proposed Resolution to Oppose the Legalization of Marijuana for Recreational Use in Louisiana, and to direct the Board's representative to the Drug Policy Board to support the resolution when it is offered to that agency.

There were no member questions or public comments. The motion was adopted after a unanimous vote in the affirmative. Mr. Broussard

replied to a question from one member as to any other uses of the resolution by the Board.

Finally, Mr. McKay closed his report with appreciation to the other committee members for their ongoing work.

At this point, Mr. McKay reordered the agenda to return to the sequence of the posted agenda.

15. Adjourn

Having completed the tasks itemized on the posted agenda, with no further business pending before the Board and without objection, Mr. McKay adjourned the meeting at 2:35 p.m.

Minutes prepared by Malcolm Broussard and then approved as presented during the subsequent meeting on February 17, 2022.

Richard M. Indovina, Jr.
Secretary