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             ALABAMA STATE BOARD OF PHARMACY
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                        WORK SESSION
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                Wednesday, April 16, 2014
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                         8:10 a.m.
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    LOCATION: Alabama State Board of Pharmacy
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                   111 Village Street
20
                   Hoover, Alabama 35242
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                   Sheri G. Connelly, RPR
    REPORTER:
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1	APPEARANCES
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3	BOARD MEMBERS:
4	Mark Conradi, President
5	Tim Martin, Vice President
6	Dan McConaghy, Treasurer
7	Buddy Bunch, Member
8	David Darby, Member
9	
10	ALSO PRESENT:
11	Henry Burks, Chief Inspector
12	Susan Alverson, Director of Professional
13	Affairs and Secretary
14	Eddie Braden, Investigator
15	Mark Delk, Investigator
16	Lynn Martin
17	Rhonda Coker
18	Cara Leos
19	Gary Mount
20	Steve Bethea
21	Tammie Koelz
22	Paul Rengering
23	Matthew Muscato

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1
         Meredith Gray
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         Tracy Davis
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         Brian Wensel
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         Kelli Newman
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         Clemice Hurst
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         Kayla Bratcher
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              MR. CONRADI: I want to welcome y'all
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    to the April work session. Like I said, we
12
    don't have any formal agenda. We thought we
13
    would have the automatic dispensing for nursing
14
    home rule maybe ready to read and tweak a little
15
    bit but we don't.
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              First off I'd like to start in the
17
    front of the room and y'all go around and tell
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    who you are, who you're with, and we'll do that
19
    again at the business meeting, so.
20
              MS. LEOS: Okay. Good morning, Cara
21
    Leos with ALSHP.
22
              MR. MOUNT: Gary Mount, director of
23
    pharmacy, Baptist South Montgomery.
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- MS. MARTIN: Lynn Martin, Board of
- ² Pharmacy.
- MS. COKER: Rhonda Coker, Board of
- 4 Pharmacy.
- MR. BETHEA: Steve Bethea, USA Medical
- 6 Center Mobile.
- 7 MS. KOELZ: Tammie Koelz, Walgreens.
- MR. RENGERING: Paul Rengering,
- 9 Walgreens Pharmacy.
- MR. MUSCATO: Matthew Muscato,
- 11 Walgreens Pharmacy.
- MR. GRAY: Meredith Gray, Creighton
- 13 University student.
- MS. DAVIS: Tracy Davis, I represent
- the Alabama Pharmacy Association.
- MR. WENSEL: Brian Wensel, Cigna
- 17 Health Spring.
- MR. BRADEN: Eddie Braden, State drug
- 19 inspector.
- MR. DELK: Mark Delk, State drug
- inspector.
- MR. CONRADI: Thank you.
- MR. DARBY: Where did you say you were

1 a student at? 2 MS. GRAY: Creighton University. 3 MR. DARBY: That's what I thought you said. 4 5 MS. GRAY: Yeah, that's -- that's --6 MR. BUNCH: What in the world are you 7 doing here? 8 MS. GRAY: That's my second time to get that question. I'm from Alabama originally. 9 10 MR. BUNCH: Oh, okay. 11 MR. DARBY: Are y'all like on spring 12 break or are you just --13 MS. GRAY: No, actually I do a 14 distance program. 15 MR. DARBY: Oh, okay. 16 MS. GRAY: So I can live wherever so 17 I'm with my family right now but I was in 18 Nashville for my first few years. 19 MR. DARBY: Okay. Glad to have you. 20 MR. CONRADI: So I guess I'll just 21 throw it open, see if y'all have any -- any 22 topics we want to talk about or bring -- bring 23 something up that we might need to talk about

- in a future work session or anything. Has
- ² anybody got anything?
- Tim, have you got anything on your
- 4 side -- hospital side?
- DR. MARTIN: There are a couple of
- 6 things that are still underway, still some
- ⁷ dialogue going back and forth on collaborative
- 8 practice and for -- I know for the Board members
- ⁹ you've heard this and probably for several who
- are out in the audience have heard that we had a
- really, really good session with MASA with
- their -- actually with their physician
- leadership, had a scheduled 30-minute session
- that ended up going two hours.
- MR. CONRADI: Wow.
- DR. MARTIN: Good dialogue and
- interchange, so we're in a -- we're in the best
- position we've ever been. This wasn't the best
- 19 legislative session to try to get something
- introduced and the timing wasn't quite right, so
- I expect you'll see that, if at all possible,
- 22 prefiled next spring.
- There's still conversation taking

- 1 place on traditional hours. What started as a
- ² rather small topic of traditional hours has
- 3 grown to traditional hours and preceptor and
- 4 preceptor training and preceptor certification
- 5 and number of hours required per students and
- 6 it's launched over into some ACPE requirements
- and it's easier to get a consensus on a small
- 8 issue than a big, broad issue like that
- 9 obviously. We're still making progress and
- we're expecting that that's going to happen
- 11 pretty soon.
- The only thing for today that I'm
- aware of, I know Steve, you had had some
- 14 conversations about pharmacists that come into
- 15 facilities and perform functions, whatever they
- are, but they're not on the staff of the
- hospital, so do you want to give us a little
- more background about that so we make sure we're
- 19 hearing the question right?
- MR. BETHEA: Sure. One of the
- concerns or one of the questions is it kind of
- boils down to the definition of how you define
- the practice of pharmacy for a particular

- 1 pharmacist. Is it filling the prescription,
- ² interpreting the prescription, discussing drug
- interactions with a physician, discussing drug
- 4 therapy with a physician, discussing medication
- 5 therapy with a patient. Some of those are part
- of the practice of pharmacy and some of them not
- and if they're all considered part of the
- practice of pharmacy, which is something we've
- ⁹ all done throughout our lives, does it require
- the pharmacist to be an employee of the location
- or the place where this is taking place or can
- they do this in a separate area -- doctor's
- office, clinic, on the sidewalk. Are there
- parameters where they can and cannot practice
- 15 pharmacy.
- And with regard to what you were
- talking about pharmacists coming into the
- hospital to counsel patients on the drug therapy
- 19 from the time they enter to the time they leave,
- 20 basically to insure the patients are getting the
- best possible care from a drug management
- standpoint and also making sure once discharged
- the patients are connected with the pharmacy

- where that therapy -- that medication therapy
- 2 can continue or to be connected with the lab if
- it's going to require a lab test or connected
- 4 with a physical therapist if that's going to
- 5 take place.
- 6 So they work closely with the social
- yorkers but they also work with indigent drug
- 8 programs and they work closely with other
- ⁹ caregivers besides doctors. Where do these
- 10 pharmacists need a separate permit, say a
- 11 pharmacy services permit, or do the institution
- they work for need that, what if they're
- independent contractors.
- DR. MARTIN: Well, you know, you're
- asking a question that is difficult to answer
- because we never state in the Practice Act, this
- is the role of the pharmacist. We just say,
- technicians can't do this and this and this. I
- can give you my opinion and invite the other
- board members to chime in if they'd like to.
- MR. MCCONAGHY: Let me chime in with
- 22 this before that.
- DR. MARTIN: Yeah, go ahead.

- MR. MCCONAGHY: The -- I just had a
- 2 message from a couple of Medicaid folks and RCO
- folks, which that's what we had a lot of
- 4 conversations about that issue on that and
- 5 they're -- they're near the building so.
- DR. MARTIN: So we can drag this out a
- 7 little bit until they get here.
- MR. MCCONAGHY: If we can drag it a
- 9 little while until they get here.
- DR. MARTIN: Yeah.
- MR. MCCONAGHY: And see what kind of
- thought they have already about it. I don't
- 13 know -- do you know what kind of -- what they
- 14 had discussed so far, I mean.
- MR. BETHEA: I know a bit about it. I
- have not read in to what their plan is. I don't
- know what their policies and procedures are. I
- just didn't want to go -- it's a forward
- thinking way to do things but it's forward
- thinking for Alabama. It's not forward thinking
- for a lot of places because this has been done
- in a number of other states quite successfully
- in reducing the cost of care and improving

- outcomes for the patients. So from a standpoint
- of it being a good thing, it's a great thing.
- We just want to make sure that we don't cross
- 4 any hard-drawn boundaries that might come back
- 5 and bite us is basically the purpose of it.
- 6 MR. MCCONAGHY: Yeah, I've been
- ⁷ sitting in on a lot of these RCO meetings that
- 8 the Medicaid folks and all have been putting on
- ⁹ and so far they have carefully avoided the
- 10 pharmacy issue at all in those discussions about
- 11 how the RCO was going to -- was going to go and
- 12 I -- you know, the way I'm looking at it, I'm
- like you, it's like that's probably the best
- piece of the whole deal is if you've got the
- pharmacist in there looking at all the things
- and helping to improve the outcomes and reduce
- the costs because they're the only ones that
- 18 really know both sides of it but the -- they
- 19 have -- in the meetings that they put on around
- the State, they have -- you -- they don't even
- 21 mention the word pharmacy for the most part.
- 22 They stay away from that as much as they can and
- 23 I suspect there's a reason for that but the --

- 1 yeah, what you're talking about there, I've had
- a lot of discussions on that already even on the
- 3 ACO model that -- like the one down in Mobile
- 4 that you probably got -- had some -- a lot of
- 5 contact with those pharmacists down there. What
- 6 do you -- what do you think about how they're
- ⁷ handling things?
- MR. BETHEA: It's -- right now they
- 9 haven't come into the hospital.
- MR. MCCONAGHY: Right.
- MR. BETHEA: So I couldn't address
- that. My concern is when we've had other
- pharmacists come in like from pharmacy schools
- 14 to carry students around and round with our
- team, what we don't want to happen is for the
- 16 physicians and the caregivers to get two
- different messages, one from this pharmacist
- 18 from this outside source and another one from
- our hospital pharmacists who really have to take
- 20 care of getting that medication, taking that
- recommendation, and the pharmacist gave a
- 22 position and turning it into a more per patient
- when the drug is not on formulary or the dose is

- way out of bounds or, you know, it turns into
- 2 it's his fault that type of thing. That's what
- 3 we would like to avoid.
- Where does the -- where does one leave
- off and the other pick up. We're taking care of
- 6 the same patients -- two different pharmacy
- organizations caring for the same patient. We
- 8 need to make sure that the policies and
- 9 procedures are in place, so that's a smooth
- hand-off and if it don't, we'll run into these
- 11 battles -- either turf battles or care battles
- or differences of opinion. They typically occur
- on Friday nights or Saturday mornings, you know,
- and that's what we want to avoid.
- 15 It's a good thing. We want to make
- sure we do it in the right way and if -- if we
- go down the road of saying that a certain permit
- is needed, then that really opens up a larger
- can of worms for well, what about people that
- are practicing managed care with the Blue
- 21 Cross -- the pharmacist at Blue Cross Blue
- 22 Shield about other scenarios that you can think
- of.

- 1 Consultant pharmacists. DR. MARTIN: MR. BETHEA: Exactly. 3 That's the one that comes DR. MARTIN: 4 to mind for me, so before we get over into the ACO RCO part, we'll give our other friends a few minutes to arrive, let's talk a little bit about 6 7 the faculty piece. 8 So the way I see it is -- and I'm not 9 suggesting this is the only way to see it or even the right way to see it, but that it's very 10 similar to what happens with consultant 11 12 pharmacists that if I'm a nursing home, for 13 example, and I have to have a consulting 14 pharmacist come in to perform those functions
- charge, I can decide it's going to be that
- person or it's going to be that person, nothing

that are required, as the nursing home person in

- compels me to take either one and then I can
- build the constraints around that relationship
- that protect me and perhaps protect the
- 21 consultant pharmacist.
- So I can say yes, you can be the
- consultant pharmacist and when you're here,

15

- 1 here's what I expect of you and maybe we sign an
- 2 agreement or a contract or something like that.
- 3 But that consultant pharmacist isn't working
- 4 under a permit. They're working under their own
- ⁵ pharmacy license.
- So if you believe that and you extend
- ⁷ that thinking into the faculty member that's in
- 8 the hospital, and I know across the State
- 9 there's probably lots and lots of pharmacy
- school faculty practicing in hospitals who are
- 11 not practicing under the permit of the hospital
- 12 and are not practicing under anything else like
- a pharmacy services permit. So they're
- practicing under their license, so I would think
- in that case talking about faculty that we're
- talking about the relationship between the host
- organization, the hospital, and those people
- that it chooses to allow to come in to do those
- 19 things and that if the host facility is
- 20 concerned about a pharmacist, let's say a member
- of a faculty coming into a hospital and
- 22 complicating a process, making recommendations
- that are not consistent with what the hospital

- pharmacist made, or doing something that's
- detrimental to the transition of care,
- discharge, that the facility would correct that
- 4 and perhaps, you know, build in those
- 5 expectations into the agreement of the contract
- 6 if there is one, but I see that pharmacist is
- ⁷ still practicing under their license. I mean,
- 8 am I seeing it right?
- 9 MR. MCCONAGHY: Yeah, and that's what
- 10 Kelli -- we were kind of waiting on them because
- 11 I know they were wanting to be in on this
- discussion. If you can remember what you said
- just a few minutes ago, that's about the best
- 14 summary I've heard of the concerns that I think
- we need to be looking at or we can get her to
- 16 read it back if you don't remember exactly what
- it was but I think you know -- just tell it
- where they can hear it because that was a really
- 19 good summary of all the issues I think we're
- 20 looking at.
- MR. BETHEA: Yeah, I would be happy to
- repeat it. I'm not so sure I could repeat it
- verbatim but the concern is -- basically

- 1 revolves around the definition of what a
- 2 pharmacist -- the practice of a pharmacist is,
- 3 the dispensing of drugs, certainly reading a
- 4 prescription, filling medication order,
- 5 discussing drug therapies with the physicians,
- 6 the patients, providing -- discussing the
- ⁷ patient care with other health caregivers,
- 9 physical therapists, laboratory department. All
- 9 of these things encompass the practice of
- 10 pharmacy but they're not tied to a particular
- 11 location.
- They are for the pharmacists that are
- employed by a hospital. They are for
- pharmacists employed by a drug store but outside
- of that and I guess the concern we had was --
- was a different -- was a pharmacy services
- permit needed to practice pharmacy, either from
- a separate organization in contract to a
- hospital or to a physician's office or could
- they operate under their license doing the
- 21 practice of pharmacy without being affiliated
- with a pharmacy and the concern was if we do
- that, how does this relate to some issues we've

- 1 had with pharmacy school faculty operating
- 2 really under their license to come in and make
- 3 rounds with physicians and talk to patients and
- 4 then the follow-up problem is what happens when
- 5 they're gone, they're gone on weekends and work
- 6 nights and we have these questions that arise
- ⁷ from physicians or patients, well, this
- 9 pharmacist told me that, your staff told me
- 9 this. It's conflicting.
- We want to make sure we -- and we want
- to make sure we have an avenue to cover all of
- the bases of the policies or procedures so that
- we know when one party starts and the other one
- 14 stops but what we didn't want to do is cross any
- boundaries with laws governing the practice of
- 16 pharmacy to make sure that this -- this is the
- appropriate thing to do.
- DR. MARTIN: I think -- I think the
- law is clear and we would probably agree on
- 20 two -- the law is clear on two out of three of
- 21 the categories I can think of and I think we
- would agree on two out of three of those
- 23 categories. One is eventually the Board -- this

- board or some future board is going to have to
- deal with this issue of what is the practice of
- 3 pharmacy and is it here or is it here or is it
- 4 here. All those things that you mentioned, like
- you can lump it altogether, whether it's
- 6 preparing a product for dispensing, dispensing
- ⁷ the product, stocking an automated drug --
- 8 preparing an automated drug cabinet inventory
- ⁹ for stocking by someone else, giving out drug
- information, giving recommendations to
- 11 physicians and other providers.
- I think we would agree that those are
- functions we see that a person who's not a
- pharmacist shouldn't be doing. So I think we
- agree that those should be things that a
- pharmacist do and I think we would also agree,
- and this is just me talking, I think we would
- 18 also agree that there's some functions that when
- the pharmacist is performing that function, they
- need to be doing that under a permit and to me
- the simplest way of thinking that -- think of
- that is if they're working in a pharmacy and
- handling drug products and dealing with those

- things, the facility piece is what's -- what's
- ² permitted.
- And then the other piece is the --
- 4 this relatively recent category called pharmacy
- 5 services permit that came up primarily because
- of the need to have -- a facility have a permit
- 7 at one location where a lot of functions were
- 8 happening but no drugs were involved. And so if
- ⁹ we try to extend the purpose of the pharmacy
- services permit to cover faculty or somebody
- coming in to the hospital from a Medicaid
- contractor to look at a patient, the pharmacy
- services permit doesn't fit because the pharmacy
- services permit is for a location just like the
- other permits for a location.
- So I think what that brings me back to
- is kind of the consultant model that if I'm
- consultant or let's just -- let's just put it in
- more real terms. If I work for one of the --
- 20 and I hope I'm using this terminology right when
- I say a Medicaid contractor, okay, and I go into
- 22 a facility, I'm going in there under my license
- as a pharmacist. I'm not going in there under

- the permit of the facility. I'm going in there
- 2 perhaps, hopefully even, with the permission,
- 3 awareness, you know, BAAs in place and all of
- 4 that but I'm not practicing pharmacy under the
- 5 permit of that facility and I'm not practicing
- 6 under a pharmacy services permit because it
- 7 doesn't fit.
- 8 So the only thing that leaves is me as
- ⁹ a pharmacist performing those functions that we
- agreed were pharmacist functions but they don't
- have to be performed under a permit. That puts
- the burden clearly, if there's concern about
- what that pharmacist is going to say, do, puts
- the burden back on the host facility to say,
- we'll let you in here, we'll sign a business
- associate's agreement, this is a win-win. It's
- in your interest, our interest for these
- 18 functions to be performed but these are the
- 19 conditions.
- So if the site is concerned about this
- or that happening, it could be built into an
- 22 agreement or in the absence of an agreement, it
- would just be call up the head of the --

- whatever the organization is called and say,
- hey, you know, Steve's really, you know,
- 3 creating havoc here, I don't want him back.
- 4 That's kind of -- that's my view on it but
- 5 that's just the view of one person.
- 6 MR. BETHEA: Well, the least
- 7 complicated would be the best and that's, you
- 8 know, whether getting into additional permits or
- 9 rules I think --
- DR. MARTIN: Well, let's take it to
- the worst case scenario. Let's say that there
- was a Medicaid contractor in a hospital
- 13 facilitating a transition in care and they made
- a bad decision and that somehow got to the Board
- of Pharmacy. Would the Board of Pharmacy be
- 16 anxious to speak with you as the facility permit
- holder or be more anxious to speak to that
- 18 individual pharmacist? My opinion is if that
- were to be asked of me, I would say that doesn't
- come under Steve and his permit, that's
- ²¹ different.
- MS. NEWMAN: Do I have the opportunity
- 23 to ask --

- DR. MARTIN: I tell you what, y'all
- introduce yourselves so your names are on the
- 3 record before you speak if you don't mind.
- 4 MS. NEWMAN: Kelli Littlejohn Newman,
- ⁵ Alabama Medicaid.
- 6 MS. HURST: Clemice Hurst, Alabama
- ⁷ Medicaid.
- MS. BRATCHER: Kayla Bratcher,
- 9 student, Samford.
- MS. NEWMAN: Thank you, Board, and
- gentlemen for allowing us to come and talk and
- we apologize for being late. We honestly left
- at 6:15 this morning but just not accustomed to
- the Birmingham traffic. But Steve and I have
- been in discussion about this and we actually
- even had online discussion with the Board and it
- brings a good question, you know. First of all,
- 18 Medicaid, we want to follow the law, number one.
- 19 That's our number one goal in everything we do.
- 20 And number two is we -- we want to
- 21 facilitate these -- these networks. The
- 22 pharmacists are doing a great job. They've been
- doing it for years. We want to follow the law

- 1 but we also understand that the hospital has
- some concerns, you know, with permitting and
- we -- we support that.
- 4 One thing that we've tossed around --
- 5 that we've tossed around and we even mentioned
- 6 to Steve that, you know, where does it -- where
- does this go? Where does it lead just for the
- 8 things that you've said, Tim, you know, the
- ⁹ things that we do, Clemice and I as pharmacists,
- and we have students that rotate through us. We
- 11 practice pharmacy every day at Medicaid, make
- drug decisions that affect a million people, and
- talk to physicians each and every day and we are
- 14 not permitted so that, you know, but who's -- an
- additional question where do we -- what are our
- options? What about the Medicaid? What about
- the Blue Cross Blue Shields? What about or HID
- or PA contractors who are making decisions on a
- thousand drug decisions a week, so you know, we
- 20 are just at the Board's mercy.
- We're here to talk and discuss and you
- tell us -- you advise us what we need to do
- if -- if an option is for Medicaid to be

- 1 permitted and that cover the gamut of
- everything -- all of our different contractors,
- 3 that might be an option or just as you said,
- 4 Tim, that we are liable as my own pharmacist
- ⁵ license, I'm liable for the decisions I make.
- 6 Clemice is the same and her preceptor and our
- ⁷ preceptor license covers the students. So you
- 8 know, just -- there's so many additional
- 9 questions that -- not just in this one
- particular hospital network because now we have
- got four networks but in the future there could
- be five different RCOs. There could be all
- sorts of things that we just don't know right
- now, so thank you for that. It's just those
- additional questions that we just don't know the
- 16 answer to.
- DR. MARTIN: One thing that we can
- 18 say -- and thank you Kelli and I believe that's
- 19 right on target. One thing we can say today is
- a facility permit would not fit. The second
- thing we can say today is a pharmacy services
- permit would not fit, so that means there's no
- 23 existing permit that would fit for this

- 1 application, so I think it pushes us back to can
- we live with saying that pharmacist practicing
- 3 under those conditions is practicing under his
- 4 or her own license. That's where it takes me.
- MR. BUNCH: Maybe taking another step
- out of the two institutions there, the Medicaid
- ⁷ and the hospitals, you know, we have pharmacists
- 8 that are asking us about leaving -- independent
- 9 pharmacies leaving their store setting and going
- out and doing MTM and this type thing and the
- 11 rules basically say you can't do that because
- 12 you're tied to the pharmacy so.
- DR. MARTIN: And now we're saying he
- 14 probably can.
- MR. BUNCH: Probably can, so it's
- 16 considering --
- MR. CONRADI: Getting paid may be
- 18 different.
- MR. BUNCH: Well, yeah.
- DR. MARTIN: Getting paid always
- 21 complicates it.
- MR. BUNCH: Yeah, and just getting the
- money out of it, you know, the guy won't, you

- 1 know, they want to be able to go to the
- patient's house and consult them and talk to
- 3 them about their drugs and you know, this kind
- 4 of type of thing if they're not in the pharmacy,
- 5 so it's a -- what is that following, you know,
- 6 (inaudible) not told them they can do that.
- 7 MR. MCCONAGHY: Well, my total concern
- ⁸ in the whole issue when I think about the big
- 9 picture is the patient -- and we're here to
- 10 protect the public health -- is the patient.
- 11 You've got a -- a hospital has a formulary and
- their physicians and pharmacists are going to go
- toward that formulary no matter, you know, how
- 14 you look at it. You know, ideally all of us as
- pharmacists would like to make sure the patient
- gets the optimal therapy but we all know that
- doesn't always happen because of a formulary or
- what somebody is willing to pay for.
- When you've got a hospital with that,
- 20 maybe Medicaid only covers certain things here,
- the PBMs, we won't even get into them, that's --
- you know, are pushing people toward a certain
- formulary basically of what they want the

- 1 patient to use and whoever does this is going to
- 2 have to be familiar with all of that and be able
- 3 to coordinate it for the patient to get the best
- 4 outcome out of it and that's the thing that
- 5 concerns me more than anything is -- is the
- 6 patient going to get the best benefit out of
- ⁷ this overall deal because of the different
- 8 entities and which way they're going to get
- 9 pushed and pulled and the doctors are going to
- be right in the middle making the final decision
- anyway.
- MR. MCCONAGHY: Cara, you
- 13 had something.
- MS. LEOS: Yeah, and I guess I've been
- fortunate to work in both of the positions that
- 16 Steve is addressing, both as a faculty member
- and as one of the first four pharmacists with
- 18 Kelli in the East network and I held that
- position for two years -- two years. So I mean,
- ²⁰ I know exactly what those pharmacists are doing
- when they go in the hospital and everything
- because I did that job and you're exactly right,
- there's a lot of issues there with the

- 1 transitioning and to be perfectly honest and
- when Kelli wrote the RFP, I could definitely see
- 3 her fingerprints all over that thinking about
- 4 where we wanted to go with pharmacy in the State
- because we are the best person -- the best
- 6 profession for that.
- However, in my experience both as a
- 8 faculty member coming into a hospital doing so
- 9 too under Auburn -- two different hospital
- 10 systems and as this network pharmacist, the key
- was really to address the issues that you have
- about, you know, well, what happens on the
- evenings, weekends, or whatever, is the
- 14 communication, you know. And my director of
- pharmacy in both hospitals in both situations I
- worked at did exactly what Tim was saying.
- Here's -- here's the expectations and we even
- sat down regularly and spoke, especially when
- the care network was first getting up and going
- and we were still trying to figure out how we
- were going to push this out, what it was going
- to look like, what our network policies and
- 23 procedures were going to look like.

1 So I mean, I would just encourage you 2 that because Dan and I talked twice informally 3 about this because as we were crafting the rules and everything for the pharmacy services permit, 4 5 you and I shared a call about 30 minutes when we were both driving home from a board meeting one 6 7 day --8 MR. MCCONAGHY: Oh, yeah. 9 MS. LEOS: -- saying do we think the 10 networks are going to need to go here and you know, the fact of the matter is the wording does 11 12 not yet permit cognitive thought. That's what 13 our license kind of does and that was kind of 14 the conclusion we came to both times because 15 we -- we discussed it at first and then we came 16 back to it about a year later and talked about it again, so I would just say I would just 17 18 encourage you as being somebody that's now been 19 on both sides of this to really open up that 20 conversation and to make sure that they're 21 integrated and understand your formulary and 22 what their role is going to be in that. 23 MR. BETHEA: Yeah, that's much less a

- 1 concern I had. We can work that out but
- ² especially with our local pharmacists. I've
- 3 known two out of the three since they were in
- 4 diapers, so they're friends as well as
- ⁵ colleagues. I have no question about the
- 6 competence and doing the right thing and Dan,
- you brought up a good point in talking about the
- 8 care of the patients, what's best for the
- 9 patient without the formulary because we've
- already had situations where we've had to expand
- our formulary even to the financial disadvantage
- of the hospital because it's better for the
- patient because if we know if we put them on a
- drug they're going to have problems with at
- discharge, they're going to be right back in the
- hospital. So that goes hand in hand with what's
- the overall best thing for the patient and this
- 18 certainly is and when we moved down that -- that
- 19 road, my concern was, is there a law against so
- 20 it so that if not --
- DR. MARTIN: I don't think so.
- MR. BETHEA: And we wanted to make
- 23 sure the Board was in like mind with this

- 1 program.
- DR. MARTIN: Yeah, I think we are and
- you're touching on an issue that's -- that's as
- 4 you said earlier, it's a big issue of -- and you
- 5 can take it to -- in many different directions,
- 6 so I think I'm going to call on Brian in just a
- ⁷ second. I know you raised your hand. I didn't
- 8 want you to think we were ignoring you.
- I think we have to be careful today as
- we talk about this particular situation that
- we're talking about this particular situation
- that next week, next month, next year, there
- right be another thing that pops out that well,
- does that apply to this and I think they're
- qoing to be kind of onesies as they come up
- until we develop some comfort and precedent of
- how we're going to do it. So I just ask you to
- 18 keep that in mind and as we're considering the
- 19 solution in this situation, it's for this
- 20 situation.
- Brian, you had a comment, I think.
- MR. WENSEL: Yeah, I was going to say
- coming from the Medicare Advantage side, there's

- 1 a very good possibility and touching on what
- 2 Buddy had mentioned about the MTM services that
- within the next two to three years, we could see
- 4 that as a star measure for the Medicare
- 5 Advantage health plans. So I think there's
- 6 going to be a huge opportunity for pharmacists
- 7 to make an impact there as well.
- DR. MARTIN: Yeah, in fact, it would
- 9 be the next one that pops out that you have to
- 10 deal with.
- MR. WENSEL: Uh-huh.
- DR. MARTIN: There's one piece we're
- missing here and nobody has said it so I'm going
- to step in and say it, okay. This is -- falls
- in a category of what I would call kind of
- cutting edge practice, okay, and if it's cutting
- edge practice, it probably means -- it does mean
- we're going to see more of it. So it's not so
- much that it's Steve in Mobile or Tim in
- Tuscaloosa or Clint in Montgomery or whoever,
- it's that what we're saying is we now are
- 22 expecting a different skill mix for the
- 23 pharmacists who are practicing in these

- ¹ situations.
- So it's not a -- it's not an
- 3 exception. It's becoming the norm and we have
- 4 to not only enable it, monitor it, make sure
- 5 it's safe, we also have to show students about
- it, you know, and we have to teach that, hey, if
- you're the person with the license coming into
- 8 this environment, then coordinating formulary
- 9 issues is part of your job. That is now part of
- your skill mix to deal with those really sticky,
- uncomfortable situations when you've got the
- patient on one thing, the payer as they leave
- the hospital is going to say another thing, and
- that's part of the job now and we've got to
- have -- we've got to have people out there who
- know how to do it and can be models for the
- students that are coming up because it's only
- 18 going to continue.
- MR. BETHEA: It's interesting you
- mentioned that because I had a conversation with
- 21 Karen Barlow, the dean of the pharmacy school at
- 22 Auburn -- Auburn's branch, and I have a meeting
- with her next week to discuss getting pharmacy

- 1 students involved in this very -- this very
- 2 program. They are teaching in that direction
- now, having a daughter that's finishing up her
- 4 third year of pharmacy school, they are going to
- 5 patient's houses. They are counseling patients
- on changing therapies to alleviate the side
- 7 effects -- it's part of the curriculum now and
- 8 to have a -- have a service like a patient care
- 9 network pharmacist available to the teaching
- institutions would just be phenomenal.
- DR. MARTIN: Let's give Susan a shot.
- MS. ALVERSON: I think one of the
- issues that we have to consider too is
- 14 liability. When someone does go in on behalf of
- a university into an institution or you have
- someone coming in on behalf of Medicaid and
- making decisions, who -- who is liable?
- MR. CONRADI: That would be part of
- 19 your BAA contract, I would think.
- MS. ALVERSON: And if I'm liable, then
- I want the last word. So I think a lot of that
- we have to all consider when we're writing
- contracts about, you know, where is the hammer

- ¹ going to fall if it falls.
- DR. MARTIN: And what we've seen --
- what we've seen so far, at my institution at
- 4 least, is if we have faculty members in the --
- 5 in the facility giving advice, making
- 6 recommendations, doing counseling, facilitating
- ⁷ transition perhaps, the contracts that are in
- 8 place and that are required to be in place
- 9 between the host facility and the university
- tend to not address that very well. So what I'm
- hearing you say is we have an opportunity not
- only for training pharmacists preparing to train
- students but as we're entering into these
- 14 arrangements being careful that we're addressing
- liability in a way that makes sense.
- MS. ALVERSON: Right. And I think in
- a more universal sense, pharmacy has been able
- to hide to some degree behind a longstanding
- 19 legal precedent that is the doctor's final
- decision. The doctor wrote the order, and so
- when push comes to shove, I can wash my hands
- 22 and say, I just filled it. But I think those
- 23 days are also coming rapidly to an end.

- I remember when our daughter wanted to
- go to med school and we were speaking to her
- pediatrician and the pediatrician said, you
- 4 know, I could teach you 95 percent of my job is
- 5 technical but what I can't teach you and what
- 6 nobody wants to take on is who's going to say
- it's on me, I'm the one that made the decision
- 8 if the patient dies, it's on me because the lab
- 9 person doesn't want to say it's their fault.
- 10 The nurse doesn't want to say it's their fault.
- Nobody wants to say it's my fault.
- DR. MARTIN: Yeah.
- MS. ALVERSON: And I think pharmacy as
- we take on new roles is moving into that
- position of being, I've got to step up and say
- 16 it's on me.
- DR. MARTIN: I think Cara, you had
- 18 one.
- MS. LEOS: Yeah, Kelli -- I can't
- remember because I carry my own liability
- insurance, like I'm sure most of us in this room
- do too. I can't remember when we set all of
- that up -- I can't remember if I ever had to

- 1 provide -- how did we -- how did we -- because I
- 2 know you and I talked about it but I can't
- 3 remember.
- 4 MS. NEWMAN: The network pharmacist
- 5 much like -- I mean, my work in community or
- 6 long-term care or when I worked all these other,
- 7 I never had to show proof of my liability
- 8 insurance. They are working as an individual
- 9 pharmacist under the liability. I carry -- I
- carry a policy for myself working at Medicaid
- 11 for the decisions I make because I -- that's
- what we do as a pharmacist. So we don't --
- 13 Medicaid is not -- we don't have a liability
- agreement between the network and Medicaid on
- the individual decisions that are made, much
- like we don't have that for an individual
- ¹⁷ practitioner.
- MS. LEOS: And I think what we did
- 19 and -- because in these networks, at least there
- was and correct me if I'm wrong, there's three
- roles for pharmacists. There's one on the board
- for the -- the executive board for the network.
- They're saying network pharmacists, who is just

- 1 kind of that individual responsible for the
- oversee and then there is a, quote, clinical
- 3 pharmacist who is the one that -- and Kelli puts
- 4 some pretty touch stipulations as to who can
- 5 actually be in that role. Not just any
- 6 pharmacist can actually be in that role. And so
- 7 what I did was when we were presenting
- 8 everything to our board and our pharmacist on
- 9 our board and everything else was that I
- 10 presented what my credentials were because not
- only did I have to pass that aspect for the RFP,
- but I also presented my proof of liability
- insurance so that my board at the network felt
- 14 comfortable with that as well.
- As far as the faculty, I don't know --
- the university -- Auburn used to carry insurance
- on us as well -- as well as our own insurance,
- 18 so.
- DR. MARTIN: Well, this has been a
- good discussion. If there are any -- any
- summary remarks anyone would like to make or
- burning last comments. We'd like stop at about
- 23 10 minutes to 9:00 and prepare for the business

- 1 session but Board members, anything you'd like
- to say before we move to wrap it up?
- MR. MCCONAGHY: I've got one. I kind
- 4 of disagree with you, Tim, that this is like a
- 5 cutting-edge thing because I grew up in a
- 6 pharmacy family in a rural area and my dad was
- ⁷ the pharmacist. The doctor -- there were only
- 8 two doctors in the area and they came by and
- 9 they did their MTM stuff together drinking
- coffee in the mornings. He went to the hospital
- and basically ran the hospital pharmacy and
- decided what the patients needed to get. There
- was a small nursing home there. He did the same
- thing. He went to people's house. I mean, it's
- not a new concept. It's what pharmacy is in my
- opinion and it's just gotten away from --
- because of all the business entity part of it,
- the different players pulling in different
- direction, the pharmacy profession has gotten
- away from what it really is and into a bunch of
- segments of different interest groups but the
- profession itself, that's what it is. That's
- what it was. That's what I grew up wanting to

- be a pharmacist for is because that's what my
- ² dad did.
- MR. BUNCH: I agree. I think we need
- 4 to make it -- that goes back to what I said a
- 5 while ago, the guy that wants to go out to the
- 6 lady's house and talk to her about her
- medications, we've all done it, but you know,
- 8 it's illegal to do it technically.
- DR. MARTIN: Is it -- is it not
- 10 illegal?
- MR. BUNCH: It's not illegal.
- MR. CONRADI: I'm glad Ward ain't
- 13 here.
- MR. BUNCH: I don't know how do we end
- up addressing that, you know, to make it legal
- but I think that's the role.
- DR. MARTIN: But you know, that's a
- very -- that's a very important point and this
- will get into, you know, kind of board
- 20 philosophy and whether you -- whether the Board
- 21 chooses to step out to endorse something or
- whether the Board chooses to remain silent but
- 23 have a position.

- MR. BUNCH: Yeah.
- DR. MARTIN: And I think what we're
- 3 choosing is to remain silent but have a
- 4 position.
- MR. BUNCH: And that's -- that's kind
- of what I had recommended to some of these
- ⁷ folks, see if they wanted to do that to -- maybe
- 8 to instigate it through -- or initiate it
- 9 through APA or through a cooperative or whoever
- and get it going and then the Board, as you say,
- 11 not be the driving force. I don't know that
- 12 it's our job to get behind that and do it but
- 13 rather to write the rules.
- DR. MARTIN: So our job in this case
- seems to be that an issue has come up, the issue
- has been brought to the Board, the Board
- considering whether this presents a threat in
- any way to public safety as it relates to care
- with medications and our opinion is that it does
- 20 not.
- Now, at some point in the future, we
- might be asked to codify that in some way but I
- don't think the Board is saying -- at this point

- 1 I'm not even attempting to speak with the
- 2 Board -- that we're ready to codify it today.
- THE COURT: Nothing says you can't
- 4 practice pharmacy outside of a pharmacy. You
- ⁵ just can't do the dispensing function for that
- 6 type thing. It's nothing if you're at the
- ⁷ grocery store and give advice. If somebody
- 8 walks up to you just like a physician --
- 9 MR. BUNCH: Well, we had a gentlemen
- come before the Board and ask to be able to do
- that and we didn't think that he could.
- MR. CONRADI: Right.
- MR. BUNCH: We didn't tell him he that
- 14 he could.
- MR. CONRADI: We didn't tell him he
- 16 couldn't though, did we?
- MR. BUNCH: Well, no, but he wanted
- something to defend himself.
- MR. CONRADI: Yeah.
- MR. BUNCH: I mean, you know, he
- 21 didn't want to be called back in on a Tuesday
- 22 and say, we didn't tell you you could do that
- but we didn't tell you you couldn't, so he's --

- 1 he's in limbo.
- DR. MARTIN: Buddy's got a good point.
- 3 That's not -- those kind of things, it's a fine
- 4 line and until you sit in one of these chairs,
- 5 it's hard to understand where that fine line is
- 6 and I'm not even sure I clearly understand it
- all the time but the things that need to be
- 8 initiated, pushed forward by the Board of
- 9 Pharmacy, there are things that need to be
- initiated and pushed forward by the profession.
- 11 That means the associations and other people out
- there or outside of the Board, but from the
- Board perspective, we don't see this presenting
- 14 a threat to the public.
- MR. BUNCH: That's well said.
- DR. MARTIN: In my opinion.
- MR. BUNCH: Well, I second that.
- DR. MARTIN: Okay. Cara, last
- 19 comment.
- MS. LEOS: I know. I just want to ask
- 21 for one point of clarification on there. The
- question that was brought forward to y'all today
- was about these network pharmacists coming into

- a hospital and doing what they're doing and you
- know, and we're saying that no, we don't think
- that that's a problem. However, Buddy brought
- 4 up a question because that's very important
- because as that network pharmacist, not only did
- 6 I come see the patient in the hospital but guess
- ⁷ what I did within seven days of them going home,
- 8 I went to their house and performed MTM in their
- 9 house.
- So I know we're saying today what --
- 11 you know, on this network pharmacist aspect as
- 12 far as what Steve has brought forward that no,
- you don't think a permit is there but I'm also
- 14 hearing this whole limbo conversation, which is
- really the just of that as it should. I mean,
- working with the patient out in the community --
- because my job is to keep them out of the
- hospital. So I mean, I worked more with a
- 19 patient in their home or in their doctor's
- office than anything else. So I just wanted to
- make sure that we had that point of
- 22 clarification. Are we saying, no, we don't
- think a permit is needed for the hospital aspect

- of it only or no, we don't think a permit is
- 2 needed for what these pharmacists do with the
- 3 networks period.
- MR. BUNCH: That's the reason I
- 5 brought that up.
- 6 MS. LEOS: Yeah.
- 7 MR. BUNCH: It's really the same
- 8 thing.
- 9 MS. LEOS: It is the same thing.
- DR. MARTIN: In my mind it's clear.
- MR. CONRADI: I don't see anything
- that prohibits you from going out to a home.
- MR. MCCONAGHY: There's probably --
- MR. CONRADI: You can't -- you can't
- dispense drugs and all.
- MR. MCCONAGHY: There's two
- 17 different --
- MR. CONRADI: Use your knowledge, two
- different things, yeah.
- MR. MCCONAGHY: -- mindsets, I guess,
- that everybody thinks about in terms of it and I
- think a lot of you know where mine is but the --
- there's those that want every rule spelled out

```
1
    that this is what you can do, this is what you
2
    can't do, either this side or that side.
                                               But
3
    we're a profession that's supposed to allow you
4
    to go out there and you've maybe got a better
5
    idea than anybody else does on how to do it and
    that's why patients want to come to you.
6
7
              We're a profession. We should be just
    staying within the guidelines and taking care of
8
    patients and not having to spell out, you know,
9
10
    that's for technicians or where you -- this is
11
    what you do, one, two, three, period. We're a
12
    profession and we shouldn't be getting into that
    discussion of ABC type stuff. Just get the
13
14
    quidelines and stay within them.
15
                         Thank you. I think most of
              MS. LEOS:
16
    us would agree. That's great. Thank you.
17
              MR. CONRADI: Let's take about a
18
    five-minute break and we'll get back started.
19
    Thanks.
20
21
         (Whereupon, the work session was
22
         concluded at 8:56 a.m.)
23
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1
                       CERTIFICATE
2
3
    STATE OF ALABAMA
4
    SHELBY COUNTY
5
6
               I, Sheri G. Connelly, RPR, Certified
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    Court Reporter, hereby certify that the above
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    and foregoing hearing was taken down by me in
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    stenotype and the questions, answers, and
    statements thereto were transcribed by means of
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    computer-aided transcription and that the
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    foregoing represents a true and correct
    transcript of the said hearing.
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21
                   SHERI G. CONNELLY, RPR
22
                   ACCR No. 439, Expires 9/30/2014
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