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ALABAMA STATE BOARD OF PHARMACY

BUSINESS MEETING

Wednesday, October 21, 2015

9:30 a.m.

LOCATION: Alabama State Board of Pharmacy
111 Village Street
Hoover, Alabama 35242

REPORTER: Sheri G. Connelly, RPR

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ATTENDEES

BOARD MEMBERS:

- Dan McConaghy, President
- Tim Martin, Vice President
- Buddy Bunch, Treasurer
- David Darby, Member
- Donna Yeatman, Member

ALSO PRESENT:

- Susan Alverson, Ph.D., Executive Secretary
- Cristal Anderson, Director of Compliance
- Eddie Braden, Chief Inspector
- Mark Delk, Drug Inspector
- Scott Daniel, Drug Inspector
- Peyton Zarzour, Drug Inspector
- Glenn Wells, Drug Inspector
- Travis Hadder
- Chuck Ellis
- Donnis Hackney
- Chris Burgess
- Cammie Burgess
- Micah Russell

- 1 Daryle Johnson
- 2 Brad Nelson
- 3 Nancy Bishop
- 4 Charlie Cook
- 5 Bruce Harris
- 6 Ronda Lacey
- 7 Kelli Newman
- 8 Jessica Blackburn
- 9 Clemice Hurst
- 10 Julie Hunter
- 11 James Jackson
- 12 Bart Bamberg
- 13 Matthew Muscato
- 14 Kelly Tate
- 15 Sharon Hester
- 16 Eddie Vanderver
- 17 Rick Stephens
- 18 Louise Jones
- 19 Roger Bates
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1 MR. MCCONAGHY: I'd like to call the
2 October 21, 2015, State Board of Pharmacy
3 meeting to order and we're going to start with
4 we have a new inspector here that Eddie would
5 like to introduce and then he's going to have to
6 go to work.

7 MR. BRADEN: Yes, thank you,
8 Mr. President. A lot of you met Peyton at the
9 District 6 APA meeting that we had several weeks
10 ago. This is Peyton Zarzour. He has come to
11 work for us October 1. He will be an inspector
12 covering Central Alabama with Mark Delk. We're
13 going to be realigning some of the assignments
14 for some of the other inspectors but Peyton has
15 a vast background in law enforcement and he
16 worked for the Dental Board as an investigator
17 for them for several years so we wanted to
18 welcome him and let you know who he was.

19 MR. ZARZOUR: Thank you.

20 MR. BRADEN: And now they've got to go
21 to Huntsville. Don't be calling people up in
22 Huntsville.

23 MR. MCCONAGHY: And now we'd like

1 everybody to introduce themselves and tell us
2 who the represent and we'll start with the
3 obvious guy in the front there.

4 MR. DANIEL: Scott Daniel, Alabama
5 State Board of Pharmacy.

6 MR. HADDER: Travis Hadder,
7 PharMerica.

8 MR. ELLIS: I'm Chuck Ellis with
9 PharMerica.

10 MS. HACKNEY: Donnis Hackney with
11 PharMerica.

12 MR. BURGESS: Chris Burgess, Heritage
13 Pharmacy.

14 MS. BURGESS: Cammie Burgess, UAB.

15 MR. RUSSELL: Micah Russell, Proxsys
16 Rx.

17 MR. JOHNSON: Daryle Johnson, Asteres
18 Corporation.

19 MR. NELSON: Brad Nelson, Proxsys
20 Rx.

21 MS. BISHOP: Nancy Bishop, Department
22 of Public Health.

23 MR. COOK: Charlie Cook, ALSHP.

1 MR. HARRIS: Bruce Harris, APCI.

2 MS. LACEY: Ronda Lacey, McWhorter
3 School of Pharmacy.

4 MS. NEWMAN: Kelli Newman, Medicaid.

5 MS. BLACKBURN: Jessica Blackburn, I'm
6 a student at the Harrison School of Pharmacy.

7 MS. HURST: Clemice Hurst, Alabama
8 Medicaid.

9 MS. HUNTER: Julie Hunter, Omnicare.

10 MR. JACKSON: James Jackson, Wal-Mart
11 Pharmacy.

12 MR. BAMBERG: Bart Bamberg, Publix
13 Supermarkets.

14 MR. MUSCATO: Matthew Muscato,
15 Walgreens Pharmacy.

16 MS. TATE: Kelly Tate, Walgreens.

17 MS. HESTER: Sharon Hester,
18 Transdermal Therapeutics.

19 MR. VANDERVER: Eddie Vanderver, CAPS,
20 Incorporated.

21 MR. STEPHENS: Rick Stephens, Senior
22 Care Pharmacy.

23 MS. JONES: Louise Jones, Alabama

1 Pharmacy Association.

2 MR. BATES: Roger Bates, Alabama
3 Pharmacy Association.

4 MR. DELK: Mark Delk, State Board.

5 MR. MCCONAGHY: Okay. Thank y'all.

6 We have -- y'all look at the agenda and I need a
7 motion to adopt the agenda.

8 MR. DARBY: Motion to adopt the
9 agenda.

10 MS. YEATMAN: Second.

11 MR. MCCONAGHY: All in favor?

12 DR. MARTIN: Aye.

13 MR. DARBY: Aye.

14 MS. YEATMAN: Aye.

15 MR. BUNCH: Aye.

16 MR. MCCONAGHY: The first item on the
17 agenda is presentations and we have PharMerica.
18 Y'all can come on up front here.

19 MR. ELLIS: Do I have a slide or is
20 that just -- are we just doing the --

21 MS. HACKNEY: Handouts.

22 MR. ELLIS: We're just doing handouts.

23 DR. MARTIN: We have some material in

1 our Dropbox.

2 MR. HADDER: Yeah, we provided the
3 slides and some stuff. You guys can just --

4 MR. MCCONAGHY: Yeah, we've got the
5 slides.

6 MR. HADDER: You can just follow along
7 if that's okay.

8 MR. DARBY: Yeah, that's fine.

9 MR. ELLIS: We don't have a slide
10 because I found out 20 minutes ago that I'm
11 doing slide one so we'll just -- we'll go with
12 that. My employee is telling me that I'm doing
13 slide one. I think they thought it would be
14 nice but that's all right.

15 Anyway, we're -- I'm Chuck Ellis. I'm
16 the regional pharmacy director with PharMerica.
17 I have Georgia, Alabama, Mississippi, and
18 Louisiana is my areas that I oversee. We have
19 two pharmacies here in Alabama that have been
20 here a long time -- long-term care pharmacies.
21 We have one here in Birmingham, Hoover, and one
22 down in the Daphne location near Mobile and we
23 were trying to figure out before we came in how

1 long they've been here. We think at least 25,
2 30 years or more but we've had these long-term
3 care pharmacies a long time.

4 About a year ago, we purchased RX
5 Advantage, which is a pharmacy that I'm going to
6 let Travis get up and talk about here in a few
7 minutes and they do a little bit different
8 packaging option. Our pharmacies now do kind of
9 a bingo card type setup and RX Advantage, they
10 use kind of a multidose packaging or a pillow
11 pack as we talk sometimes, which has all the
12 medications in a single dose.

13 What we are up here today for is to
14 look at expanding our options to having that
15 multipackaging come also out of our Birmingham
16 location. So we're going to continue to do it
17 in Daphne, but we want to also have a machine up
18 here in our Birmingham location and what that's
19 going to do is right now we've got medication
20 that we're delivering from Daphne all the way up
21 to Huntsville area every day and it's just a --
22 needless to say a pretty long hike up there. So
23 we think by dispensing out of multiple

1 locations, we have the ability to even have a
2 little bit better patient care and be able to
3 bring deliveries up multiple times a day to
4 these northern Alabama pharmacies. So that's
5 kind of where we are and then I'm going to shut
6 up and let Travis do his thing because we don't
7 want this presentation to last very long.

8 MR. HADDER: I'll give you a
9 background on RX Advantage. We're a long-term
10 care pharmacy in Daphne, Alabama. We service
11 roughly 5,500 patients from the Daphne north
12 area. We cover the whole state of Alabama as
13 Chuck mentioned, usually hitting our deliveries
14 once a day to all of those locations. Hours of
15 operation are Monday through Friday 8:00 to
16 6:00, Saturday 9:00 to 2:00, closed on Sunday.
17 Fifty-five percent of our business is Montgomery
18 north.

19 As Chuck mentioned, we do the
20 multiunit dose packaging system, not traditional
21 punch card system, and we've been doing that
22 since 1999. Currently, as Chuck did mention,
23 we're going to be consolidating the RX Advantage

1 pharmacy in Daphne with the current PharMerica
2 location in Daphne. In your slides it says
3 10/31 but it's probably going to be closer to
4 11/21 when we consolidate those two pharmacies.

5 So that's the background on RX
6 Advantage. Donnis is going to give a little bit
7 of background on the Birmingham location and
8 then we'll talk about the operations side of how
9 we see this working.

10 MS. HACKNEY: I work over in the
11 PharMerica that's in Birmingham and it's over
12 behind the Hoover Met and we've been in that
13 location I want to say at least 25 years and
14 Eddie has been coming out for a few years. But
15 we do exclusively the bingo cards kind of
16 packaging for our homes and we service 16
17 facilities out of Birmingham and we go as far as
18 Huntsville and then out toward Winfield and then
19 out toward Oxford, so we kind of -- down to
20 Montgomery.

21 So we already service a fairly large
22 area in the northern part of the state and we go
23 out to our facilities twice a day. We have a

1 launch about one o'clock and then we also have a
2 launch where we ship to everywhere at 9:00 p.m.
3 and then we're also open on Sunday. So we just
4 feel like if we can kind of work together that
5 we can service some of the facilities that are
6 north of Montgomery, you know, and be able to go
7 out to their buildings a couple of times a day,
8 especially since a lot of these nursing homes
9 are now taking higher acuity patients that need,
10 you know, a little bit faster medications in
11 this leg to be provided from Mobile.

12 MR. HADDER: So one of the things to
13 talk about now is the operations on how we see
14 it working. The Daphne location would be the
15 off-site order entry. Currently PharMerica --
16 RX Advantage uses the pharmacy information
17 system QS/1. PharMerica has a proprietary
18 system, LTC400. The LTC400 does not give us the
19 options to provide the packaging the way RX
20 Advantage has historically done. So we want to
21 continue to use QS/1, so we'll have the pharmacy
22 information system in Daphne use QS/1.
23 Birmingham will continue to use the LTC400 for

1 their bingo card patients but they'll also have
2 QS/1.

3 What we're proposing to do is have the
4 data entry done in the pharmacy in Daphne where
5 the knowledge base has been. As I mentioned,
6 we've been doing this since 1999 multiunit dose
7 packing, so our knowledge base, our technicians,
8 and pharmacists are in Daphne. They'll be doing
9 the order entry. The prescription will come
10 faxed in to us via DocuTrack. It will be
11 entered into the QS/1 system that will be
12 Donniss' in Birmingham. It will be verified.
13 The drug utilization review will be done by the
14 pharmacist in Daphne.

15 If there was a problem with the
16 prescription -- drug allergy, duplicate therapy,
17 it will be stopped at that point and we have a
18 process on how that would follow up. Once that
19 pharmacist has reviewed it, signed off on that
20 prescription, it would then be electronically
21 sent to the Birmingham pharmacy to be dispensed.
22 At that point, the Birmingham pharmacy will
23 perform the final verification. When they're

1 there, they have the pharmacy information system
2 QS/1 to look at. They also have a copy of the
3 original order, which is part of our process
4 that they review the original order there in
5 what we call RPH2 and 3. They do the final
6 check and look at the final order. Once they've
7 signed off on it, it will then go out to be
8 delivered to the facility. If they found an
9 issue that was missed on the first two checks,
10 they could send it back and we would rework that
11 process.

12 In order to -- the refill process will
13 be the same way. It would come into the Daphne
14 location. We would process that refill. The
15 label would electronically be sent to the
16 Birmingham pharmacy. They would then fill that
17 prescription. Again, same thing, the final
18 verification would be done in the Birmingham
19 location. They would again have access to the
20 original order via DocuTrack to look to make
21 sure it was correct.

22 I gave you guys a couple of slides as
23 well for the security tracking inside QS/1 so

1 you can see the different spots and times of,
2 you know, it's time, date of stamp where the
3 pharmacist is checking as they move it through
4 verification, quality assurance. There's also a
5 spot for QA and then delivery. So you can track
6 that prescription time and you see which
7 initials of the person that was actually perform
8 that function inside QS/1.

9 One of the questions that's come up --
10 you know, I think may come up is that
11 customers -- that can either be responsible
12 parties calling about their bills or customers
13 being the facilities. They would call the RX
14 Advantage pharmacy number or what would be the
15 Daphne location for questions or concerns, you
16 know. We also provide 24/7 on-call service,
17 which is our pharmacist. Again, that's
18 important to us because of the packaging system
19 is different than your traditional punch cards.
20 So the dispensing would be done in Birmingham,
21 but everything else, back office stuff and order
22 entry we're hoping to do out of Daphne.

23 The policy and procedure that I have

1 provided you is something that Donnis and I have
2 put together. Our plan is to review that once a
3 year. We do not plan to roll out 55 percent of
4 the business. If you approve it, day one, we're
5 going to slow roll it to work through any kinks
6 there may be. We'll be reviewing that policy
7 and procedure as we go through to make any
8 changes that may be necessary and one thing
9 that's not covered in your slide, which we felt
10 was an important piece, is an emergency backup
11 pharmacy. You know, being in Daphne, we're in
12 hurricane zone unfortunately. If we can get
13 this machine up and operational in Birmingham
14 and have the ability to do off-site, this gives
15 us potential if for some reason we ever did have
16 a disaster, now we have a full pharmacy ready to
17 go to continue to provide the services to our
18 customers.

19 MR. ELLIS: And the biggest deal to us
20 is that there -- it is technically some off-site
21 order entry but everything will remain in the
22 State of Alabama. It's an Alabama pharmacy,
23 Alabama technicians. It's not going to be done

1 off site or in another state or anything like
2 that.

3 MR. MCCONAGHY: Will it all be one way
4 from -- as far as the processing part of it, it
5 will all be -- unless you have an emergency, I
6 would assume it would be the other way --

7 MS. HACKNEY: We don't anticipate it
8 going the opposite direction unless there were,
9 you know, another Ivan or something.

10 MR. HADDER: All this -- yeah, all the
11 knowledge base for the data entry would be kept
12 at Daphne so we anticipate it all being pushed
13 to Birmingham. Is that your question?

14 MR. MCCONAGHY: Yeah.

15 MR. ELLIS: And at some point we may
16 decide to do the order entry in Birmingham, we
17 just think on a very slow amount starting with a
18 few homes here and there. It just doesn't make
19 any sense to do it initially there but we -- you
20 know, we think it's -- we think it's a win-win
21 and ultimately the whole idea is to help the
22 patients start getting, you know, a couple of
23 deliveries a day to these zones versus one.

1 Sometimes now the Huntsville deliveries don't
2 get there until after midnight having come from
3 Daphne, so it's just -- we think it will be a
4 much better way for these nursing homes to get
5 services.

6 MS. HACKNEY: So many of these nursing
7 homes are -- you know, before it was mostly kind
8 of elderly care where maybe someone was on two
9 or three drugs but now they just keep getting
10 sicker and sicker and so they could be on -- you
11 know, you could have people that had to have
12 recent amputations or you know, a lot of
13 veterans are also ending up in these homes and
14 so just being able to get there, you know, in
15 basically half the time.

16 MR. MCCONAGHY: Donna, would you think
17 this is like the workload sharing that the
18 chains do? I'm not that familiar with that
19 where they're -- you've got pharmacists at one
20 place that's processing for the others when it's
21 slow?

22 MS. YEATMAN: I'm going to tell you
23 I'm ignorant to that because we don't do it at

1 CVS, so.

2 DR. MARTIN: I think it would come
3 under the nonhospital remote.

4 MS. YEATMAN: I think it -- I mean, it
5 sounds very similar but I don't have an in-depth
6 working knowledge. My understanding is
7 Walgreens does do it. Is that the case?

8 MR. BRADEN: So does Publix.

9 DR. MARTIN: So have y'all read that
10 rule, the nonhospital remote processing?

11 MS. HACKNEY: We just want to make
12 sure since it's kind of -- long-term care
13 pharmacies always fall under this weird --

14 DR. MARTIN: It's in the crack, right.

15 MS. HACKNEY: -- area, and so we just
16 wanted to make sure everything was okay before
17 we --

18 MR. ELLIS: We'd rather ask for
19 permission than forgiveness.

20 MR. DARBY: Thank you.

21 DR. MARTIN: I'm glad you are.

22 MS. YEATMAN: That's what we tell the
23 grads, so thank you.

1 DR. MARTIN: We've just got to be sure
2 that what you want to do is within the law.
3 Nonhospital pharmacy off-site order entry is
4 680-X-2-.039 -- 680-X-2-.39, right towards the
5 back of the rules. It's about three rows in
6 from the back.

7 MR. DARBY: I would make a motion that
8 we grant the request by PharMerica to do
9 off-site processing between their Daphne and
10 Birmingham locations.

11 MR. MCCONAGHY: We can do that in
12 discussion.

13 MR. DARBY: Yeah, you get a second and
14 amend it.

15 DR. MARTIN: Second.

16 MR. MCCONAGHY: Okay. Any discussion?

17 MS. YEATMAN: I just -- I want to read
18 the rule and make sure.

19 DR. MARTIN: You know, I guess what we
20 have to do is say if we approve this, approve it
21 with the understanding that it would be in
22 compliance with that existing rule.

23 MR. MCCONAGHY: Yeah.

1 MR. ELLIS: And because I have to go
2 to multiple boards, anytime we've typically had
3 issues is when they want to do the order entry
4 in another state, you know, Atlanta or something
5 and then do the dispensing in Alabama and that
6 typically runs into issues, you know, or because
7 that's, you know, dealing with non-Alabama
8 pharmacists. So when I looked at the rule, it
9 seemed like it complied but you know, obviously
10 people have different interpretations.

11 DR. MARTIN: Well, you know, if it --
12 what Donnis was saying is right that you kind of
13 fit into institution and you kind of fit into
14 community. You probably fit more into community
15 than you do into institution from a legal
16 standpoint.

17 MR. DARBY: They have a retail
18 license.

19 MS. HACKNEY: We have a retail
20 license.

21 MR. DARBY: Yeah.

22 DR. MARTIN: And so you have to
23 function under that. It would actually be

1 easier if you were -- if you had an
2 institutional permit because we take those, you
3 know, one at a time. At this point we haven't
4 put out a rule to cover that for all
5 institutional remote processing sites. I
6 think --

7 MS. YEATMAN: What I'm reading, they
8 comply. There's nothing in here --

9 DR. MARTIN: I don't see anything in
10 here that they'd have a problem with.

11 MS. YEATMAN: I don't see any issues.

12 MR. BUNCH: Are they asking for
13 anything else --

14 MR. MCCONAGHY: Just for
15 informational, I think the only problem that's
16 ever come up is when the one part has been
17 forced to do a lot more than what they should be
18 doing maybe, you know, so that you're putting a
19 little too much pressure on -- on the folks that
20 are verifying and processing --

21 MR. HADDER: Right.

22 MR. MCCONAGHY: -- the orders and you
23 need to -- if you need to make sure you've got

1 enough folks there that that doesn't happen but
2 I think that's about the only place that we've
3 seen it.

4 MS. HACKNEY: See, that's one of the
5 auspices. They're already accustomed to this
6 workload and we're actually going to be taking
7 some of it off of them.

8 MR. HADDER: From the dispensing
9 sides.

10 MR. ELLIS: They're going to quote you
11 when they want more people, I'll tell you that.

12 MR. HADDER: I appreciate you putting
13 that on the record.

14 MR. ELLIS: So I appreciate that.

15 MR. MCCONAGHY: Yeah, I know some of
16 them.

17 MS. YEATMAN: Part of the rule states
18 that you have to outline the responsibility for
19 each of the pharmacists, which you have done so
20 far but if at some point you decided to change
21 the remote entry like you mentioned maybe, then
22 you'll need to submit a change and make sure
23 that's provided --

1 MR. HADDER: Okay.

2 MS. YEATMAN: -- to comply.

3 MR. MCCONAGHY: Okay. We have a
4 motion and a second. Any more discussion?

5 (No response.)

6 MR. MCCONAGHY: All in favor?

7 MR. DARBY: Aye.

8 MS. YEATMAN: Aye.

9 MR. BUNCH: Aye.

10 DR. MARTIN: Aye.

11 MR. MCCONAGHY: Motion approved.

12 MR. ELLIS: We appreciate your time.

13 MR. HADDER: Thank you very much.

14 MR. MCCONAGHY: Buddy Bunch,
15 treasurer's report, you're next up.

16 MR. BUNCH: All right. Treasurer
17 report, we've still got money in the bank, still
18 paying bills. Expenses were up a little bit.
19 We bought a -- bought a new vehicle I guess that
20 we hadn't budgeted for and a new employee that
21 wasn't budgeted for, so that was up a little
22 bit. But travel was up a little bit, I think
23 which is good. I think that's getting our guys

1 out and going to meetings and this type thing,
2 so -- but basically income was more than we had
3 budgeted by a little bit. The out-of-state
4 reciprocations I think added to that so that
5 was -- that was the reason for that, I believe.
6 But you've got it in your Dropbox and if you
7 have any questions, we'll take those.

8 DR. MARTIN: I move we accept the
9 treasurer's report as submitted.

10 MS. YEATMAN: Second.

11 MR. DARBY: Second.

12 MR. MCCONAGHY: All in favor?

13 MR. DARBY: Aye.

14 DR. MARTIN: Aye.

15 MS. YEATMAN: Aye.

16 MR. BUNCH: Aye.

17 MR. MCCONAGHY: I don't know about
18 y'all but I'm always really impressed when you
19 can give a treasurer's report without ever
20 mentioning a number. Good job.

21 MR. BUNCH: I was trained by the best.
22 He's on the other end of the desk -- smoking
23 mirrors.

1 MR. MCCONAGHY: Usually when you start
2 mentioning a lot of numbers is when you're in a
3 bind, so that's a good thing when you're not
4 mentioning them.

5 MR. BUNCH: David can do that next
6 year. It's all his then.

7 MR. DARBY: Just leave me a lot of
8 money.

9 MR. MCCONAGHY: Next on the agenda is
10 the Board of Pharmacy Wellness Committee report
11 for October. Are you doing that, Susan?

12 DR. ALVERSON: I am. This was sent by
13 Dr. Garver. Gentlemen and ladies, there are
14 presently 150 people in our screening program
15 with signed contracts and orders. This number
16 includes any people on a diagnostic monitoring
17 contract but does not include any of the
18 professionals that I'm about to list.

19 There's one pharmacist in inpatient
20 treatment, one pharmacist in intensive
21 outpatient treatment, one pharmacist going for
22 evaluation, one tech in treatment, and three
23 techs going for evaluation. The total number of

1 pharmacy professionals identified in 2015 is 29.
2 This number does not include any holdovers from
3 the previous years, those who for whatever
4 reasons were not complete in the year in which
5 they were identified. All of these individuals
6 who are in treatment or evaluation or undecided
7 are presently out of the workplace and without a
8 license. There are still over a dozen others
9 who are working their way through halfway house,
10 Time-out for Recovery, or who are in the process
11 of being investigated and scheduled for
12 hearings. There are 84 individuals in facility-
13 driven aftercare.

14 The completed work portion of the
15 monthly report is as follows: We have met
16 personally with all licensees returning to work
17 to sign contracts and explain how monitoring
18 works. All returning licensees have been placed
19 in the caduceus, either pharmacy or health
20 professional.

21 Thank you for letting me serve
22 recovering pharmacy professionals.

23 MR. MCCONAGHY: All right.

1 DR. MARTIN: Can I make a comment on
2 that, Mr. President?

3 MR. MCCONAGHY: Yes, sir.

4 DR. MARTIN: I don't want to
5 necessarily add more work on Dr. Garver but I
6 think it would be good to know on a given month
7 how many people were returned to practice. I
8 thought -- with all of that, I thought that was
9 going to be the next thing that he was going to
10 put in there. So I'm guessing maybe next time
11 he's here in person we can ask him some of this,
12 but I'm guessing that's a pretty standard metric
13 across his business how many people --

14 DR. ALVERSON: Return to, right.

15 DR. MARTIN: -- successfully return to
16 the workplace.

17 DR. ALVERSON: I will contact him and
18 tell him that we'd like to have that metric.

19 DR. MARTIN: No hurry, just when he
20 gets -- a couple of months if it takes that
21 long.

22 MR. MCCONAGHY: Any other comments?

23 (No response.)

1 MR. MCCONAGHY: Next up is the Board
2 meetings. David, you're usually the specialist
3 on reading the minutes to be approved. Will you
4 do that?

5 MR. DARBY: I would make a motion we
6 approve the Board of Pharmacy business meeting
7 minutes from September 16, 2015.

8 MS. YEATMAN: Second.

9 MR. MCCONAGHY: All in favor?

10 DR. MARTIN: Aye.

11 MR. DARBY: Aye.

12 MS. YEATMAN: Aye.

13 MR. BUNCH: Aye.

14 DR. MARTIN: I also make a motion we
15 approve the Board of Pharmacy interview meeting
16 minutes from September 16, 2015.

17 MS. YEATMAN: Second.

18 MR. MCCONAGHY: All in favor?

19 DR. MARTIN: Aye.

20 MR. DARBY: Aye.

21 MS. YEATMAN: Aye.

22 MR. BUNCH: Aye.

23 MR. MCCONAGHY: Is that all at this

1 time? We got them caught up, okay.

2 DR. MARTIN: Yeah.

3 MR. MCCONAGHY: Eddie, have you got
4 your inspector's report?

5 MR. BRADEN: Yes, sir. As the Board
6 will see in the Dropbox, the complaints and --
7 received and completed for the month of
8 September and we continue to break that down
9 into how many we have done for the year and how
10 many we've done for that month of September.
11 We've also included that we did some assists on
12 a 503B facility in the State, one of the few
13 that are in the State, which took several weeks
14 of our time with the FDA and then we had some
15 additional training that some of the staff
16 attended.

17 MR. MCCONAGHY: Okay. Any questions
18 for Eddie?

19 (No response.)

20 MR. DARBY: Do you have some items for
21 executive session?

22 MR. BRADEN: Yes, sir, we have some
23 other items -- Cristal and I have some other

1 items for executive session.

2 MR. MCCONAGHY: All right. Susan,
3 secretary's report.

4 DR. ALVERSON: All right. The
5 computer system is working very well. As we
6 find little blips, we have them repaired or
7 corrected usually within a matter of an hour or
8 two. We heard from GLS and they said that
9 everything that they had about us had been
10 transferred. I spoke to CyberBest and they
11 agreed that they had everything, that they were
12 able to read everything and determine where
13 everything went, and so we agreed with GLS that
14 they would disconnect from us, so we can no
15 longer see GLS screens.

16 As of Monday morning, we had
17 registered 1,300 pharmacy technicians. Knowing
18 that we usually register at least 4,000, we know
19 we have a big chunk of that still in front of
20 us. The new system is working well. What's
21 slowing us down this time is we are having to go
22 backward and collect proof of citizenship from
23 everybody who didn't do that previously before

1 we realized we had to do that, so that's taking
2 a little extra work but we're getting it done.

3 MR. DARBY: How -- I mean, how is that
4 going as far -- how many techs have sent in
5 their proof of citizenship?

6 DR. ALVERSON: We won't register
7 unless we have that.

8 DR. MARTIN: So all 1,300, I guess.

9 DR. ALVERSON: Well, we have more than
10 that.

11 MR. DARBY: Because I know I sent my
12 techs' in but I'm sure they haven't registered
13 because they're like me.

14 DR. ALVERSON: And that's what has
15 slowed us down. We've had to create a database
16 for all those technicians who have sent that
17 proof.

18 MR. BUNCH: Are you having a lot that
19 just -- they're not sending the proof or is it
20 coming in pretty good?

21 DR. ALVERSON: We're having a fair
22 number who are not sending it and so we're
23 having to send an email back and say, we can't

1 register you until you send us proof of
2 citizenship.

3 MR. DARBY: Let me ask you because I
4 sent in one technician's proof and she got an
5 email back saying that they received her
6 proof.

7 DR. ALVERSON: Right.

8 MR. DARBY: I sent in another
9 technician's proof and we didn't get an email
10 back on that one. Should she have got -- is the
11 process everybody should get an email back?

12 DR. ALVERSON: We had not planned to
13 send an email back.

14 MR. DARBY: Oh, that's fine, yeah.

15 DR. ALVERSON: And I'm guessing that
16 was earlier when we weren't overwhelmed by the
17 system.

18 MR. DARBY: Yeah.

19 DR. ALVERSON: I think we're just
20 sending emails when someone registers and we
21 don't have that proof of citizenship.

22 DR. MARTIN: Yeah, the State tells us
23 what constitutes that; right?

1 DR. ALVERSON: Yes, it does. There's
2 a long list but we've encouraged people to send
3 a picture of their driver's license or a
4 passport. That's the easiest thing to get a
5 picture and send it in.

6 MR. BUNCH: They just email -- they
7 just take a picture of their driver's license
8 and then the techs just put their name and their
9 registration number?

10 DR. ALVERSON: Right. We've asked
11 them to put their license -- registration
12 number, excuse me, in the --

13 MR. DARBY: Subject.

14 DR. ALVERSON: -- subject line on the
15 email but that doesn't happen --

16 MR. BUNCH: Right.

17 DR. ALVERSON: -- all the time or a
18 lot of the time. So then we have to track it
19 down, so that's what's -- but this should never
20 be happening again because as we register
21 everybody now, that data will automatically go
22 into the system. We won't have to place it in
23 the system.

1 DR. MARTIN: And we'll do the same
2 thing for pharmacists next time?

3 DR. ALVERSON: Yes, but for
4 pharmacists it's a lot easier because to get
5 into pharmacy school, you must show proof of
6 citizenship or your right to be in the country
7 so we -- before we give an intern/extern
8 license, we require that proof of citizenship.
9 So it's only for people reciprocating that we
10 might not have that.

11 DR. MARTIN: That's good news.

12 DR. ALVERSON: So we're ahead of the
13 game there.

14 All right. The question has come up
15 about somewhere down the line requesting
16 background checks on pharmacy owners -- pharmacy
17 business owners. I just turned what I was
18 reading off. But that is progressing.

19 All right. The next thing I wanted to
20 mention, we've all spoken about this but just so
21 it goes on the record, we arranged to send an
22 email blast to all pharmacies using our new
23 computer system and I had hoped it would go out

1 over the weekend. I think it has gone by
2 yesterday when I spoke to the computer company
3 but we received information that on the
4 teacher's PEEHIP contract, it's actually written
5 into Alabama statutes under Title 16-25A-18 that
6 if a physician prescribes for a brand name drug,
7 a pharmacist may only fill with a brand name
8 drug if the physician writes in longhand on the
9 face of the prescription one of three
10 statements: Medically necessary or do not
11 substitute or fill as written.

12 So the PBM that monitors stores that
13 has been auditing a number of pharmacies in the
14 State over the last week and I think continues
15 this week to recoup payment on brand name drugs
16 that were dispensed under that contract and
17 which the physician did not write one of those
18 three statements on the face of the prescription
19 in longhand. So we have spoken to the PEEHIP
20 office. They agreed that that was happening,
21 that that's part of the -- their law and we did
22 inform them that we would be notifying
23 pharmacies that that -- that that was the law at

1 this time.

2 DR. MARTIN: Can I be just kind of
3 picky for a second?

4 DR. ALVERSON: Yes.

5 DR. MARTIN: It can be filled, it just
6 won't be paid by PEEHIP.

7 DR. ALVERSON: Correct, and we did put
8 that on the email. It said it's your choice how
9 you fill it but if it does not have the required
10 handwriting, you will not receive payment.

11 DR. MARTIN: Right.

12 DR. ALVERSON: So we didn't tell them
13 they couldn't. That's up to the pharmacist we
14 feel to make that decision. But the PEEHIP
15 manager did confirm that a prescription could
16 not be received over the phone because even if
17 the pharmacist wrote those words on the face of
18 the prescription, they would not accept it. You
19 could not call the physician to say, do you wish
20 to put that on the face of the prescription
21 because then the physician didn't write it. You
22 could not send in a prescription by electronic
23 means and I'm not sure about faxing since that

1 would be a copy, so.

2 MR. MCCONAGHY: Did they define
3 anywhere in that rule the definition of
4 pharmaceutically and therapeutically equivalent?

5 DR. ALVERSON: It does say that the
6 product must be therapeutically equivalent.

7 MR. DARBY: And pharmaceutical -- it
8 says pharmaceutically and therapeutically
9 equivalent.

10 DR. ALVERSON: Equivalent, yes, it
11 does.

12 MR. DARBY: Did they define what that
13 means?

14 DR. ALVERSON: No, they did not. I
15 gave a copy of that law to Louise this morning,
16 so if you wish her to read it verbatim, she has
17 it with her.

18 MR. DARBY: I've got it.

19 DR. ALVERSON: That's -- you have it,
20 okay.

21 MR. DARBY: I had it pulled up here.

22 DR. ALVERSON: All right. We received
23 word from the FDA that they are going to have

1 another 50-state meeting as they title them to
2 discuss the compounding legislation and they've
3 all been in the spring but this one is going to
4 be next month in November and the meeting is
5 scheduled at the time that our board meeting was
6 scheduled, so -- so everybody knows, we've moved
7 the November meeting up. So we will be meeting
8 the week before what was on the schedule and we
9 will be meeting Monday and Tuesday, not Tuesday
10 and Wednesday, because that Wednesday is a state
11 holiday. So we will have hearings on Monday
12 the --

13 MR. DARBY: Eighth.

14 DR. ALVERSON: -- eighth and the Board
15 meeting next month will be on Tuesday, the 9th.

16 DR. MARTIN: Monday is the 9th.

17 MR. DARBY: Yeah, Monday is the 9th.

18 DR. ALVERSON: Monday is the -- I'm
19 sorry.

20 MR. DARBY: We come to Birmingham on
21 Sunday night.

22 MR. MCCONAGHY: This meeting will be
23 on the 10th.

1 DR. ALVERSON: This meeting will be on
2 the 10th, right, which will be a Tuesday and we
3 did find out in enough time to post it so we had
4 a 30-day lead-in time where it was posted
5 publicly.

6 DR. MARTIN: So that's on the
7 Secretary of State's website?

8 DR. ALVERSON: It is.

9 DR. MARTIN: And have we gone back to
10 check our website to see what it says on meeting
11 dates?

12 DR. ALVERSON: We will.

13 DR. MARTIN: Okay. Because I think it
14 still says --

15 DR. ALVERSON: The wrong dates.

16 DR. MARTIN: Yeah.

17 DR. ALVERSON: All right. We will
18 have six people from this office going to that
19 meeting. I was just at an NABP meeting and they
20 announced that they're expecting the memorandum
21 of understanding in its supposed final form to
22 be rolled out at that meeting and it will be
23 focused on track and trace or Title II of the

1 Compounding Act and a lot of it is going to have
2 impact on licenses for us, so there will have to
3 be a license for third-party logistics
4 businesses.

5 We presently, like many states, have a
6 manufacturer/wholesaler/distributor license.
7 The FDA has said those three licenses must be
8 split and each much be a freestanding license
9 and they told us at the last meeting that the
10 State license may be no more strict and no more
11 lenient than the federal guidelines, and if we
12 don't get it done in the prescribed time,
13 federal regulations will take over in every
14 state that hasn't completed it by the deadline.

15 DR. MARTIN: So you think they will
16 give us a year and a half to do that like it's
17 taken them a year and a half to get the MOU?

18 DR. ALVERSON: I doubt it. I do know
19 track and trace though is six months behind or
20 was six months behind early on, so our hope is
21 to be able to write that in the rules and to be
22 able to get it through whatever legislative
23 process we need to use this spring. So we hope

1 if you're speaking to your legislators, you'll
2 speak fondly and tell them to move it quickly
3 please, so.

4 At the meeting there was a lot of
5 discussion about telemedicine. Every state
6 seems to be grappling with that. We are getting
7 more and more calls all the time. We are
8 particularly getting calls from insurance
9 companies encouraging us to change our present
10 law and what we have been saying is we wish to
11 see what the Board of Medical Examiners does so
12 we don't end up in conflict with them.

13 As you know, the Board of Medical
14 Examiners rescinded their legislation but
15 they've also presented a new plan to the
16 legislature that says if a company wishes to
17 implement a telemedicine program in Alabama,
18 they will have to submit that program to the
19 Board of Medical Examiners.

20 They will evaluate it, determine
21 whether it's actually needed and whether it's
22 safe for the patient and then they will make a
23 decision on each program individually.

1 DR. MARTIN: What does that mean about
2 the current programs that are out there since
3 the exception has been rescinded and now we're
4 back to the old law and the new law hasn't been
5 implemented? They're just --

6 DR. ALVERSON: Well, I mean, it seems
7 to me right now you could set up a telemedicine
8 program.

9 DR. MARTIN: Well, I think they're in
10 violation, aren't they? I mean, anybody that's
11 doing that, if they're practicing under the old
12 law, they're in frank violation.

13 DR. ALVERSON: They have rescinded the
14 section that says there must be a
15 doctor-patient relationship and any definition
16 of that.

17 DR. MARTIN: Oh, I thought they
18 rescinded the exception -- the emergency rule
19 they put into place that gave permission to do
20 it without that. Well, it will work --
21 eventually it's going to work its way out.

22 DR. ALVERSON: It's going to work out
23 but.

1 DR. MARTIN: I know we're putting
2 pharmacists in difficult situations.

3 DR. ALVERSON: We are.

4 DR. MARTIN: Not knowing how to
5 respond.

6 DR. ALVERSON: And for most of those,
7 the pharmacist doesn't know if it has come from
8 the physician or from a telemedicine or I mean,
9 it's very difficult to determine that on the
10 prescription but it seemed every state was
11 grappling with that, so.

12 MR. MCCONAGHY: I hope you convey to
13 the insurance companies this Board's opinion on
14 anything that they would request we do.

15 DR. ALVERSON: I've tried to be a good
16 southern lady. And the last -- we seem to have
17 had a number of questions and I don't know if
18 you want to give us any advice on this -- if a
19 store loses a contract on an insurance program
20 but they own more than one store, could they
21 transfer the prescription to one of their other
22 stores --

23 MR. DARBY: Sure.

1 DR. MARTIN: Why not.

2 DR. ALVERSON: -- and still be within
3 the law.

4 MR. DARBY: It would have to be
5 filled -- it would have to be physically filled
6 at the store they transferred it to.

7 DR. ALVERSON: All right. Could they
8 send it back once it's filled to the first store
9 for the patient to pick it up if it's at a
10 distance?

11 MR. DARBY: I don't -- I don't think
12 so.

13 MS. YEATMAN: No.

14 MR. DARBY: They could deliver it to
15 the patient.

16 DR. ALVERSON: Could they mail it to
17 the patient or deliver it to the patient?

18 MR. DARBY: They could deliver it to
19 the patient; isn't that correct?

20 MS. YEATMAN: I don't think they can
21 mail them.

22 MR. DARBY: They couldn't have a --
23 you can't have a pick-up location under our --

1 the way I read the rule.

2 MR. BUNCH: You don't think they could
3 mail it if it's within the State?

4 MS. YEATMAN: I thought we talked
5 about that yesterday.

6 MR. MCCONAGHY: Yeah, that's -- I know
7 that within the past --

8 MS. YEATMAN: I mean, it could be
9 emergency issue only mailing it.

10 MR. DARBY: Yeah.

11 MS. YEATMAN: It couldn't be a --

12 MR. DARBY: No, we would have to have
13 a mail order if they -- if it was a routine.

14 MS. YEATMAN: If it was a one-off you
15 could mail it but if you were routinely mailing
16 it, you would have to have a separate
17 registration.

18 MR. DARBY: I mean, that's -- without
19 reading the rule, that's --

20 DR. ALVERSON: All right.

21 MR. DARBY: -- what I would think.

22 DR. ALVERSON: All right.

23 MS. YEATMAN: That's how I understand.

1 DR. ALVERSON: That is what I have to
2 save for today. Do you have any questions,
3 recommendations, admonishments?

4 (No response.)

5 DR. ALVERSON: Thank you.

6 MR. MCCONAGHY: Mr. Ward is not here.
7 Donna, do you want to do his attorney's report?

8 MS. YEATMAN: I'll read it. Did he
9 give it to you?

10 MR. MCCONAGHY: No, I just thought
11 you -- you could say the same thing he always
12 says.

13 MS. YEATMAN: I can't say those words.
14 I was raised better.

15 MR. MCCONAGHY: His normal statement
16 is he doesn't have a report but he does have
17 items for the executive session.

18 MS. YEATMAN: That's what you were
19 looking for, I'm sorry.

20 MR. MCCONAGHY: Right.

21 MR. BUNCH: Not his normal --

22 MS. YEATMAN: Not his normal report.

23 MR. MCCONAGHY: Old business is the

1 next item and I'm not sure we have any old
2 business. I don't have any listed. Do y'all
3 have any that I don't know of? Susan, do you
4 have any that falls into old business?

5 DR. ALVERSON: No, I do not.

6 MR. MCCONAGHY: And we go to new
7 business and the first item on that is I guess
8 basically setting the meeting and the hearing
9 dates for January 2016 and since I won't be
10 here, I'll let y'all handle that.

11 MR. DARBY: I would make a motion that
12 the meeting date for January be January 20 and
13 the hearing date would be January 19, 2016.

14 MS. YEATMAN: Second.

15 MR. MCCONAGHY: All in favor?

16 DR. MARTIN: Aye.

17 MR. BUNCH: Aye.

18 MR. DARBY: Aye.

19 MS. YEATMAN: Aye.

20 MR. MCCONAGHY: The number two item is
21 for the contract for the Board of Pharmacy
22 Wellness Program that -- for Dr. Garver is up
23 for renewal and I think you had of a copy of it

1 in the Dropbox and to my knowledge, it's
2 basically exactly the same as it was before but
3 do we have any comments.

4 MS. YEATMAN: I would just say it
5 looks like there was one thing added, which was
6 what Tim alluded to that you asked for, which
7 was more statistical information of impaired
8 pharmacists, so I think based on -- it looks
9 everything else is exactly the same but that was
10 added just for the record.

11 MR. MCCONAGHY: When I look at them, I
12 just look at the money part of it and it's the
13 same, so.

14 DR. MARTIN: Did Jim do this?

15 MR. MCCONAGHY: I don't know if he did
16 it but he has reviewed it.

17 DR. MARTIN: Jim's office.

18 MR. MCCONAGHY: Yeah.

19 DR. MARTIN: I move we renew the
20 contract for Dr. Michael Garver for the Wellness
21 Program.

22 MR. BUNCH: Second.

23 MR. MCCONAGHY: All in favor?

1 DR. MARTIN: Aye.

2 MS. YEATMAN: Aye.

3 MR. BUNCH: Aye.

4 MR. DARBY: Aye.

5 MR. MCCONAGHY: Okay. Susan already
6 brought up number three. That was to reschedule
7 the November hearing and business meeting dates
8 to November 9 and 10, the business meeting being
9 on the 10th, so I don't -- I don't think we have
10 to take any action on that other than just
11 announce it. So anybody that's interested in
12 coming to that one, it will be the 10th.

13 Do we have any other new business?

14 MR. NELSON: President McConaghy, I
15 have a question for you.

16 MR. MCCONAGHY: Yeah.

17 MR. NELSON: Brad Nelson, Proxys Rx.
18 We gave a presentation last month and I just
19 wanted to again offer our support to any type of
20 information that y'all were looking for for
21 that. I did give my contact information to
22 everyone. I haven't heard anything yet,
23 depending on whether or not y'all had questions,

1 but I did want to again say that this is
2 something that we would like to work in
3 conjunction with the Board on and move forward
4 on, particularly with the discussion around
5 technology in the pharmacy world these days and
6 I just wanted to bring that up again just in
7 case you had any more questions for us.

8 MR. MCCONAGHY: Anybody got any
9 questions?

10 MS. YEATMAN: I think the issue was
11 that the law didn't provide for that at this
12 point, so.

13 MR. DARBY: Right. Yeah, I reread the
14 minutes.

15 MS. YEATMAN: Yeah, I did too.

16 MR. DARBY: And I think that's where
17 we kind of left it that the law just won't allow
18 for it right now.

19 MR. NELSON: So in this particular
20 case, is this more of a legislature statute
21 change versus a rule change?

22 MS. YEATMAN: That's my understanding.

23 MR. NELSON: Because when we last

1 spoke with Jim afterward, he said that he would
2 have to engage with you and to determine whether
3 or not it could be more of a rule change similar
4 to the -- I guess the change with the CE
5 components going from every year versus every
6 two years where y'all can make a call on a
7 particular delivery method, but he was unsure at
8 that point, said that y'all would be
9 discussing -- potentially discussing that in
10 executive session, so I just wanted to check on
11 that. If it does require that type of change,
12 we completely understand but without Jim being
13 here, I wasn't -- I wasn't sure.

14 MS. YEATMAN: Yeah, my understanding
15 after the meeting was it was a -- it's not a
16 rule change.

17 MR. DARBY: And basically it's the
18 same issue that we were talking about with the
19 picking -- the picking up prescriptions --
20 filling a prescription at one location and
21 taking it to another that it expressly says you
22 cannot have a pick-up station. I think
23 that's --

1 MS. YEATMAN: Right.

2 MR. DARBY: -- the actual wording in
3 there. It doesn't allow for a pick-up station.

4 MR. NELSON: I thought it said that it
5 doesn't allow for you to establish a business or
6 a different individual. That seems like it
7 would be out of the scope of the pharmacy, that
8 the pharmacy has nothing to do with it, and that
9 would just leave it to some arbitrary person but
10 as long as the security in the pharmacy is tied
11 into it that it might allow. That's what --
12 that was the discussion that I was having with
13 Jim that there is a potential for that allowance
14 because it's still pharmacy control and tied
15 directly to that.

16 MS. YEATMAN: And I don't -- I don't
17 get that. What it specifically states is "No
18 pharmacy shall authorize any person or firm or
19 business establishment to serve as a pick-up
20 station or intermediary for the purpose of
21 having prescriptions filled or delivered," and
22 then it goes through and takes out FQHCs but it
23 doesn't specifically say --

1 MR. DARBY: Is that a rule or is
2 that --

3 MS. YEATMAN: It's 34-23-70.

4 MR. DARBY: So that's a statute.

5 MS. YEATMAN: That's a statute.

6 MR. DARBY: Yeah.

7 MR. NELSON: And it was -- it was
8 talking about --

9 MS. YEATMAN: And it doesn't -- I
10 mean, just my opinion --

11 MR. NELSON: Oh, I understand.

12 MS. YEATMAN: -- it doesn't say
13 whether or not it has to be someone who's not
14 affiliated with the pharmacy. I read that to
15 say that no pharmacy shall have medications
16 anywhere else to be picked up as a pick-up
17 station, so I think that's where we --

18 MR. DARBY: Yeah.

19 MS. YEATMAN: -- ended last month.

20 MR. NELSON: Yeah, I was --

21 MS. YEATMAN: So that would require
22 legislative changes.

23 MR. NELSON: Yeah, that would be a

1 legislative change.

2 MS. YEATMAN: Correct.

3 MR. NELSON: I was taking it
4 personally as to the firm -- establishing a firm
5 that is not the pharmacy -- person that is not a
6 pharmacy personnel because we do as pharmacies
7 have delivery people that are designated by the
8 pharmacies that make deliveries out and if we
9 are allowing delivery people to make deliveries,
10 then we have established that pharmacy personnel
11 to make those deliveries. It's almost a -- kind
12 of a Catch 22 with that, so that was where we
13 came from and whether there might be room for
14 this.

15 MS. YEATMAN: I don't -- I think
16 it's -- it's beyond anything that we can do.

17 MR. DARBY: It's a rare occurrence
18 when Donna and I agree on things, so.

19 MR. NELSON: Okay.

20 MS. YEATMAN: Get that in the minutes.

21 MR. MCCONAGHY: If it makes you feel
22 any better, I don't totally agree with the whole
23 thing if it's -- you know, if it's the pharmacy

1 going to a pharmacy or you'd consider that a
2 pharmacy.

3 MR. DARBY: Yeah.

4 MR. MCCONAGHY: I disagree with their
5 opinion somewhat but the way it's worded right
6 now, it's pretty plain what it says, so.

7 MR. NELSON: So it would have to go
8 into legislative review and that -- I might be
9 coming back to y'all for just some advice.

10 MR. DARBY: I wouldn't be opposed to
11 you getting it changed legislatively.

12 MR. NELSON: Well, could --

13 MR. DARBY: I'm not opposed to the
14 concept.

15 MS. YEATMAN: Right.

16 MR. NELSON: Okay. I was going to ask
17 if I could have a voice of support to
18 potentially propose changes with the legislature
19 for the purposes of increasing medication access
20 if I could come back to you for advice in that
21 particular case if y'all are okay with that as
22 a -- as a personal thing -- as a personal thing
23 that y'all have. Is that okay with y'all if I

1 reach out to you in that?

2 MR. DARBY: Yeah, you always can reach
3 out to us.

4 MR. NELSON: Okay. Thank you much. I
5 appreciate it very much.

6 MS. YEATMAN: I thought somebody else
7 had a hand up.

8 MR. MCCONAGHY: Yeah, I thought I saw
9 one more hand while we're moving right along
10 there. Roger.

11 MR. BATES: Yeah, what I was going
12 to -- it was a follow-up to Susan's discussion
13 about telemedicine. She's going to be getting
14 from me an actual letter asking for a
15 presentation at the December meeting. There was
16 one company, Teladoc, who was authorized by the
17 Alabama Board of Medical Examiners to function
18 under the telehealth rules that were just
19 recently rescinded. There are discussions about
20 even now with regard to a legislative package
21 that will be offered in the upcoming session to
22 deal with this issue from a statutory
23 perspective and just to kind of I guess add a

1 piece or two to that whole discussion, the
2 withdrawal to Tim's point of those previous
3 rules wasn't disfavor with the practice. It had
4 to do with the issuance of a North Carolina
5 opinion, which I think all of you are now
6 familiar with, having to do with the regulation
7 of professionals and the antitrust violations
8 that came to the public boards as a result of
9 that.

10 So we're in a quandary at the moment
11 because the actual rule for telehealth was
12 withdrawn but the authority and granted
13 permission to do that still exists in the form
14 of resolution from the Board of Medical
15 Examiners. UAB is actually doing a little bit
16 of this but there are some nuances between what
17 those things involve and in advance of the
18 legislative session and I guess Logan and I will
19 be visiting on this for sure as we get into
20 legislative session, there will be items and
21 issues which we will all need to come to some I
22 guess position of support or not as to the way
23 the statute will look.

1 My prediction is it's going to look
2 very much like the Board of Medical Examiners
3 approved telehealth rules that they already had
4 in place, it's just that it will be a
5 legislative response as opposed to a regulatory
6 response. So I thought I would get the chief
7 medical officer from Teladoc who is -- lives in
8 Nashville here at the December meeting to give a
9 little bit of explanation about that whole
10 practice, particularly as it relates to
11 pharmacy. We're doing that with regard to some
12 other pieces of it as well but it might be
13 helpful to the Board in advance of this whole
14 legislative discussion that the people that
15 practice the profession know exactly what's
16 being talked about and their program was
17 reviewed, Tim, just like you mentioned, by the
18 Board of Medical Examiners, protocols were
19 reviewed. Everything about it was reviewed
20 before they granted them the authority, so it
21 was used once and then this North Carolina
22 opinion came out and kind of changed the legal
23 landscape, but I'm going to be sending Susan and

1 Dan a request to have that presentation at the
2 December meeting, so maybe that will be of some
3 help to you all.

4 DR. ALVERSON: Can I ask, is there any
5 consensus on what the term telemedicine --

6 MR. BATES: I think you're going to
7 hear a lot about that in December. The answer
8 is no.

9 DR. ALVERSON: All right.

10 MR. BATES: It means whatever the
11 legislature is going to say it means.

12 DR. ALVERSON: Because there are
13 various programs --

14 MR. BATES: Yes, Internet box --

15 DR. ALVERSON: -- that have already
16 put that into insurance --

17 MR. BATES: Yes. Blue Cross Blue
18 Shield just -- for the record, Blue Cross Blue
19 Shield was actually involved with Teladoc with
20 this presentation that went to the Board of
21 Medical Examiners and they approved that
22 process. They were involved with that process,
23 which was obviously a big issue because of the

1 coverage of Blue Cross Blue Shield in Alabama.
2 So that will be something we'll try to have more
3 education about in December that will be helpful
4 to you.

5 MR. MCCONAGHY: Was that the same
6 group, does anybody remember, at the APA
7 Mid-Winter a couple of years ago that presented
8 about the telemedicine? I think it was Teladoc
9 and it was --

10 MS. JONES: I think you're right.

11 MR. MCCONAGHY: It was -- it was
12 really informative then and they kind of made us
13 believe that the Medical Board had already
14 approved all the things that they were talking
15 about there --

16 MR. BATES: That's right.

17 MR. MCCONAGHY: -- and that we really
18 needed to act on the pharmacy side of it but.

19 MR. BATES: Dan, I think to your
20 point, part of it is removing the confusion over
21 some of the perceptions and rumors about what
22 some of it is and what some of it is not because
23 a lot of things that are probably bad in

1 medicine in the BME's view under the guise of
2 technology are things they're trying to ward off
3 but I think what they did with Teladoc was
4 define the model that they found acceptable and
5 so to hear that and to understand those
6 protocols and how that carries out we thought
7 might be helpful in fancy the legislative
8 session.

9 DR. MARTIN: Yeah, I hope that the
10 technical people and the medicine people and the
11 pharmacy people are all talking. Otherwise, you
12 know, it's just going to be death by a thousand
13 slashes, you know, over the next three or four,
14 five years. Maybe there's no way to avoid that,
15 it's just the way things evolve and come around.

16 MR. BATES: Well, there was between
17 the BME and the Teladoc folks when they put in
18 the original rules, how far beyond that it went,
19 I don't know.

20 DR. MARTIN: It's exciting, isn't it?

21 MR. BATES: Yes, it is, just another
22 wonderful day in the neighborhood.

23 MR. MCCONAGHY: Any other new business

1 or comment for the good of the all? Isn't that
2 what they say?

3 I would volunteer that we're having
4 that intergovernmental meeting with the FDA and
5 I have been in contact with some of the folks at
6 NCPA and we've got some of the compounding folks
7 here and if you just have some real burning
8 questions that you would like to have them ask
9 in an open forum like that, after the meeting
10 get them to me and we'll try to make sure they
11 get asked.

12 If there's no other new business, then
13 hearing that we need to go into executive
14 session, we will now go into executive session
15 for the purpose of discussing qualifications or
16 competencies of professionals, permitholders, or
17 registrants. Other legal matters may be
18 discussed, including existing and pending cases.

19 The executive session will start at
20 probably 10:45 and hopefully we will be out of
21 there at 11:15. At that time we will resume the
22 business meeting but the only things that we
23 will discuss will be matters that were discussed

1 in the executive session that will only have
2 numbers and resolutions attached to them. So
3 you're welcome to come back if you would like to
4 but nobody ever does, so we are adjourned for --
5 well, I take that back. We have to do a
6 motion -- an individual motion.

7 DR. MARTIN: Correct, an individual
8 voice vote.

9 MR. MCCONAGHY: So I'd ask for that
10 motion.

11 MR. DARBY: I make the motion we go
12 into executive session.

13 MS. YEATMAN: Second.

14 MR. MCCONAGHY: Buddy, how do you vote
15 on that?

16 MR. BUNCH: I vote yea.

17 MR. MCCONAGHY: Donna?

18 MS. YEATMAN: Yes.

19 MR. MCCONAGHY: Tim?

20 DR. MARTIN: Yes.

21 MR. MCCONAGHY: David?

22 MR. DARBY: Yes.

23 MR. MCCONAGHY: Yes. So we are

1 officially adjourned for executive session.

2

3 (Whereupon, a recess for executive
4 session was taken from 10:29 a.m. to
5 12:32 p.m.)

6

7 MR. DARBY: We are out of executive
8 session.

9 Case number 15-0099, recommended
10 action of voluntary inactivation surrender, I
11 move we accept the recommended action.

12 MS. YEATMAN: Second.

13 MR. MCCONAGHY: All in favor?

14 DR. MARTIN: Aye.

15 MR. DARBY: Aye.

16 MS. YEATMAN: Aye.

17 MR. BUNCH: Aye.

18 MR. DARBY: Case number 15-0117, I
19 make a motion we accept the recommended action
20 of permanent surrender.

21 MS. YEATMAN: Second.

22 MR. MCCONAGHY: All in favor?

23 DR. MARTIN: Aye.

1 MR. BUNCH: Aye.

2 MS. YEATMAN: Aye.

3 MR. DARBY: Case number 15-0118, case
4 number 15-0122, case number 15-0129, I make the
5 motion that we accept the recommended action of
6 plan of action for future prevention.

7 MS. YEATMAN: Second.

8 MR. MCCONAGHY: All in favor?

9 MS. YEATMAN: Aye.

10 DR. MARTIN: Aye.

11 MR. BUNCH: Aye.

12 MR. DARBY: Case number 15-0123, I
13 make a motion we accept the recommended action
14 of a letter of concern and action plan.

15 MS. YEATMAN: Second.

16 MR. MCCONAGHY: All in favor?

17 DR. MARTIN: Aye.

18 MS. YEATMAN: Aye.

19 MR. BUNCH: Aye.

20 MR. DARBY: Case numbers 15-0021,
21 15-0107, 15-0076, 15-0124, 15-0114, and 15-0125,
22 I make a motion we accept the recommended action
23 of no violation.

1 MS. YEATMAN: Second.

2 MR. MCCONAGHY: All in favor?

3 DR. MARTIN: Aye.

4 MS. YEATMAN: Aye.

5 MR. BUNCH: Aye.

6 MR. DARBY: Then case numbers 15-0128

7 and 15-0130, I also make the motion we accept

8 the recommended action of no violation.

9 MS. YEATMAN: Second.

10 MR. MCCONAGHY: All in favor?

11 DR. MARTIN: Aye.

12 MS. YEATMAN: Aye.

13 MR. BUNCH: Aye.

14 MR. DARBY: And that's all. I make a

15 motion we adjourn.

16 DR. MARTIN: Second. Vote aye.

17 MS. YEATMAN: Aye.

18

19 (Whereupon, the hearing was concluded

20 at 12:34 p.m.)

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CERTIFICATE

STATE OF ALABAMA
SHELBY COUNTY

I, Sheri G. Connelly, RPR, Certified Court Reporter, hereby certify that the above and foregoing hearing was taken down by me in stenotype and the questions, answers, and statements thereto were transcribed by means of computer-aided transcription and that the foregoing represents a true and correct transcript of the said hearing.

I further certify that I am neither of counsel, nor of kin to the parties to the action, nor am I in anywise interested in the result of said cause.

/s/ Sheri G. Connelly
SHERI G. CONNELLY, RPR
ACCR No. 439, Expires 9/30/2016

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