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ALABAMA STATE BOARD OF PHARMACY

BUSINESS MEETING

Tuesday, November 10, 2015

10:13 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
- Edward R. Braden, Chief Drug Inspector
- Cristal Anderson, Director of Compliance
- Mark Delk, Drug Inspector
- Peyton Zarzour, Drug Inspector
- Glenn Wells, Drug Inspector
- Scott Daniel, Drug Inspector
- Dr. Mike Garver, Wellness Program.
- Mitzi Ellenburg, Director of Operations
- Charlie Cook
- Rod Harbin, Jr.
- Nancy Bishop
- Ronda Lacey

- 1 Anita Pritchett
- 2 Wes Averett
- 3 Jon Linna
- 4 Jay McEniry
- 5 Julie Hunter
- 6 Scotty Armstead
- 7 Kelli Newman
- 8 Clemice Hurst
- 9 Jessica Blackburn
- 10 Eddie Vanderver
- 11 Ralph E. Sorrell
- 12 Rick Stephens
- 13 Louise Jones
- 14 Tracy Davis
- 15 Corey Pachciarz
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1 MR. MCCONAGHY: I'd like to call this
2 November 10, 2015, Alabama State Board of
3 Pharmacy meeting to order and we have a quorum
4 with all members being present. We're going to
5 do the same things we did a while ago.

6 Please stand up and tell us who you
7 are and who you represent so she can get you
8 back down or nothing has changed. You could
9 probably just ditto it, so I don't think anybody
10 came in or left during that time, so how about
11 if we just skip that, you can just ditto those
12 folks in there.

13 I need a motion to adopt the agenda.

14 MR. DARBY: I move we adopt the agenda
15 as written.

16 MS. YEATMAN: Second.

17 MR. MCCONAGHY: All in favor?

18 MR. DARBY: Aye.

19 DR. MARTIN: Aye.

20 MS. YEATMAN: Aye.

21 MR. BUNCH: Aye.

22 MR. MCCONAGHY: The agenda is adopted
23 and to start with, we're going to go off the

1 agenda and change it and allow Dr. Garver to go
2 first so he can get about his business.

3 DR. GARVER: Thank you, Mr. President.
4 Gentlemen, Ms. Yeatman, thank you very much.
5 This is the status of the Wellness Committee
6 since the last report was submitted in October.

7 There are presently 151 people in our
8 screening program with signed contracts and
9 orders. This number includes any individuals on
10 a diagnostic monitoring contract but does not
11 include any of the health professionals listed
12 below. There's one pharmacist in inpatient
13 treatment. There is one pharmacist who is still
14 going for an evaluation. He has got extended
15 health problems. He has a hearing scheduled in
16 December and we'll be talking about that going
17 forward with the Board's staff.

18 There's one tech in inpatient
19 treatment and there are three pharmacy techs who
20 are in the process of having an evaluation. The
21 total number of pharmacy health professionals
22 that have been identified for Wellness in 2015
23 is 34. This number does not include any

1 holdovers from previous years. That includes
2 those that for whatever reasons were not
3 complete in the year they were identified.

4 All the individuals who are in
5 treatment or in evaluation or undecided are
6 presently out of the workplace and not
7 practicing. There are still over a dozen others
8 who are working their way through halfway house,
9 Time Out for Recovery, or who are in the process
10 of being investigated or scheduled for hearings
11 and there are presently 82 individuals in the
12 facility-driven aftercare.

13 Any questions?

14 MR. MCCONAGHY: No questions. Thank
15 you.

16 DR. GARVER: Thank you, again. Good
17 to see you. Happy holidays.

18 DR. MARTIN: Same to you.

19 MR. MCCONAGHY: Our next agenda item
20 is the treasurer's report, Buddy Bunch.

21 MR. BUNCH: I'll give you my usual
22 concise and to the point treasurer report that I
23 normally do. We -- you guys have it in your

1 Dropbox, I think. You've looked over it. You
2 can see where we are. Total income is up above
3 percent of budget, about 11-and-a-half percent.
4 Blake says we have money to pay the bills. I
5 guess the -- how are we on the technician
6 registrations coming in? Is it --

7 DR. ALVERSON: It's really increased
8 because some of the pharmacies have given their
9 technicians a deadline -- you need to be
10 registered by November 1 or else, so it's very
11 much increased.

12 MR. BUNCH: Very good, okay. That's
13 what I was thinking. But again, you have it in
14 your Dropbox. If there's any questions, we'll
15 address those. If not, Mr. President, I would
16 ask for a motion to approve the treasurer's
17 report.

18 MR. MCCONAGHY: Do we have a motion?

19 DR. MARTIN: I move we approve the --
20 or accept, rather, the treasurer's report as
21 submitted.

22 MS. YEATMAN: Second.

23 MR. MCCONAGHY: All in favor?

1 DR. MARTIN: Aye.

2 MR. DARBY: Aye.

3 MR. BUNCH: Aye.

4 MS. YEATMAN: Aye.

5 MR. MCCONAGHY: All right. David,
6 you're our Board minutes specialist. Will you
7 read those in for us?

8 MR. DARBY: I was still studying the
9 treasurer's report.

10 MR. MCCONAGHY: Yeah.

11 MR. DARBY: I make a motion we approve
12 the minutes of the business meeting from October
13 21, 2015.

14 MS. YEATMAN: Second.

15 MR. MCCONAGHY: All in favor?

16 DR. MARTIN: Aye.

17 MR. BUNCH: Aye.

18 MS. YEATMAN: Aye.

19 MR. DARBY: I also make a motion we
20 approve the minutes of the interview meeting of
21 October 21, 2015.

22 MS. YEATMAN: Second.

23 MR. MCCONAGHY: All in favor?

1 DR. MARTIN: Aye.

2 MS. YEATMAN: Aye.

3 MR. BUNCH: Aye.

4 MR. MCCONAGHY: All right. Next up,
5 Eddie Braden and the inspector's report.

6 MR. BRADEN: Yes, sir, Mr. President
7 and members of the Board, as you can see October
8 we have a number of completed inspections that
9 we completed involving 797 also, the number of
10 complaints that we have received, the number of
11 complaints that we completed the investigations
12 on that are ready to be either heard by the
13 Board or heard by the case review committee.

14 We still are continuing to do a
15 breakdown of the cases over the year and we had
16 some additional activities. Inspectors attended
17 the APA District 6 meeting, which was here in
18 Birmingham at Samford University School of
19 Pharmacy, and then we continued to go into
20 November.

21 Also, all of the inspectors attended
22 the Malta-Gon conference. That was a good
23 experience for us all. We got to meet with

1 other inspectors, investigators, compliance
2 agents at other boards of pharmacy that are
3 involved in Malta-Gon and that was very
4 informative to us. Thank you.

5 MR. MCCONAGHY: All right. Susan,
6 have you got a secretary's report today?

7 DR. ALVERSON: I do. I just have a
8 few bullet points written down. Since Eddie
9 mentioned going to Malta-Gon, I'd like to start
10 there. As he said, one of the best parts is
11 just the informal discussion with other states
12 and how they're handling problems. There were a
13 few things though that came up in the general
14 meetings that I would like to mention.

15 One is that Arkansas mentioned that
16 they are being sued by a PBM. I don't know a
17 single or if it's a group but apparently they
18 have identified that some PBMs are paying
19 pharmacies one price or based on a certain price
20 for a drug but then they are charging the
21 insurance company a cost that's higher than what
22 they are paying the pharmacist, so -- and
23 keeping the difference between those two cost

1 items as profit and so that has developed into a
2 lawsuit in Arkansas, which I think would be
3 worth our monitoring.

4 They asked states to report on where
5 they are with 503A and 503B and as you can well
6 imagine, it's all over the place.

7 There was quite a discussion about
8 Naloxone, how various states have implemented
9 either pharmacy-directed dispensing of Naloxone
10 or prescription-directed Naloxone, and of
11 course, we already have a law. Some of the
12 things that came up though were of interest in
13 that states that have had it more -- longer than
14 we have, have run into pharmacists who are
15 resistant to it. For things like, well, you
16 know, I gave this -- this person got Naloxone
17 last month and it's been used, they're here this
18 month with Naloxone, you know. It seems that
19 I'm supporting this habit rather than making a
20 positive contribution and they said we should
21 all be aware that that does become an issue.

22 It was discussed it would be great if
23 a pharmacist could say, well, this is a

1 treatment option or this is a place you could go
2 but every state agreed that there aren't enough
3 treatment options. It's not as though you can
4 pick up the phone and say, hey, ABC treatment
5 program, we have a client for you because it
6 just doesn't happen that easily.

7 So the lack of treatment and the lack
8 of resources was identified of course as a
9 problem beyond pharmacy but it most certainly
10 impacts what a pharmacist can do in terms of
11 helping.

12 There was a presentation by Surescript
13 and just one of the items in their -- I thought
14 was interesting, they were talking about how
15 difficult it is to write programs that are
16 appropriate for everybody, that meet everybody's
17 needs, physicians, pharmacists, PBMs, and
18 they -- they mentioned this instance that when
19 it was developed, there was a place put in for
20 the physician to make notes and they commented
21 they wished they'd never put that in there
22 because the physicians never write notes, it's
23 just a blank space, and since CVS/Caremark is a

1 partial owner of Surescript, CVS/Caremark is now
2 dropping coupons into the doctors' notes and
3 discounts for patients.

4 So the physician doesn't know that
5 that's in there in their section but it's
6 showing up in pharmacies all over the country.
7 I don't know if you've experienced that or not
8 and I don't know if there's a -- it just seemed
9 to me that that's advertising on a prescription
10 which I thought was an issue for us.

11 I would say most states have the same
12 concerns that we do, the same problems with
13 pharmacies, and it was very good to be with
14 people who are trying different approaches to
15 things, so.

16 MR. BUNCH: Do you think that's
17 something we need to pursue on the Surescript
18 thing?

19 DR. ALVERSON: I do.

20 MR. BUNCH: You know -- well, the
21 eScript -- the eScript, the pharmacist sees it.
22 I'm not sure on the printed -- you know, they
23 give them a printed report before they leave the

1 office. I don't -- is that going over onto
2 that? Has anybody seen that?

3 MR. MCCONAGHY: I don't know.

4 MR. DARBY: I didn't see it.

5 MR. BUNCH: I don't know if a patient
6 ever sees that coupon but I'm with you, I mean,
7 I agree that they should not be advertising.
8 It's against the law to do that. I can't put
9 anything on the prescription for a coupon or
10 anything to come to my store, so CVS shouldn't
11 be able to do that either. I'm not sure -- I'm
12 not sure the patient is seeing it anyway.

13 DR. ALVERSON: I didn't get the
14 impression that patients saw it but I don't know
15 who's -- that's all --

16 MR. BUNCH: It may be the beginning of
17 a slippery slope, so we may need to look at
18 doing something about that. That's a good
19 point.

20 DR. ALVERSON: We're really
21 progressing along with technician background
22 checks and we would like to know if we're going
23 to have to put something in our law as opposed

1 to just initiating a new policy and so if we're
2 going to have to put something in the law that
3 this is part of registration.

4 MR. WARD: Do it by rule.

5 DR. ALVERSON: Pardon?

6 MR. WARD: Do it by rule.

7 DR. MARTIN: Do it by rule.

8 DR. ALVERSON: Do it by rule.

9 MR. WARD: Yeah, 34-23, I think it's
10 131 says that you can -- you can adopt rules for
11 qualifications of technicians, so I'd put it
12 in -- you have a rule now, it's 2-.14 that deals
13 with techs, put it in there. That would be very
14 easy to do. Yeah, 34-23-131(c), "The board
15 shall develop rules and regulations relating to
16 the registration of all pharmacy technicians,"
17 so that -- and we have a rule. It's 680-2-.14,
18 so we just amend that.

19 DR. ALVERSON: Can we bring that
20 wording for the next meeting so we can vote on
21 it --

22 MR. WARD: Sure.

23 DR. ALVERSON: -- and begin that

1 process? All right. Those are the things I
2 wanted to mention to you today.

3 MR. DARBY: Have we started mailing
4 out technician registrations for people who have
5 already renewed? Have we started mailing out
6 the new registration back to them?

7 DR. ALVERSON: Yes, that -- that
8 happens as we get them in.

9 MR. DARBY: Okay.

10 MR. MCCONAGHY: At that meeting where
11 they were talking about the Naloxone, did you
12 get the feeling that any of the other states
13 were developing those rules through the pharmacy
14 board or if they were like ours and came from an
15 outside entity and just kind of got passed?

16 DR. ALVERSON: I felt that a lot of
17 them were developed through the pharmacy board.
18 Now, a number of them were developed in
19 combination between the medical board and the
20 pharmacy board but the pharmacy most certainly
21 had input into how that legislation or how it
22 was implemented and I would say this, that for a
23 number of states, they included consulting on

1 the part of the pharmacist and that was related
2 to collaborative practice and was an issue for
3 the pharmacists to use their knowledge, their
4 skills to make this a successful program as
5 opposed to just filling a prescription and
6 having it delivered by a technician.

7 MR. MCCONAGHY: Any more questions for
8 Susan?

9 (No response.)

10 MR. MCCONAGHY: All right, Mr. Ward,
11 do you have an attorney's report today?

12 MR. WARD: Just in executive
13 session.

14 MR. MCCONAGHY: Okay. The next item
15 is old business. I don't see any in here. Do
16 any of the Board members have any old business
17 items?

18 (No response.)

19 DR. ALVERSON: I thought Donna had
20 one.

21 MS. YEATMAN: I'm not ready to proceed
22 with it now, Susan. Thank you.

23 DR. ALVERSON: All right. I'm

1 sorry.

2 MS. YEATMAN: You're good. I have to
3 get some legal counsel first.

4 MR. WARD: Do you have a copy of 795
5 handy with you?

6 DR. ALVERSON: I do not. I can get
7 one for you.

8 I'm sorry, I thought maybe you were
9 forgetful like me.

10 MS. YEATMAN: No. Well, not this
11 time. I figure it's better to get his approval
12 than get my hand slapped.

13 MR. MCCONAGHY: Okay. No old
14 business. We'll move to new business. We have
15 several items listed there. I'm not sure who's
16 discussing them but number one was the DAW-
17 substitution permitted.

18 DR. ALVERSON: I believe that was
19 related to three with the PEEHIP requirements
20 and we discussed that I believe at the last
21 meeting about not being able to fill a
22 prescription unless the prescription had written
23 in longhand but going back and rereading that

1 regulation, it in fact says, you will fill the
2 prescription with the generic, even though the
3 physician-signed substitution is not
4 permissible. If it's not written in longhand,
5 you must fill it with the generic and I don't
6 understand how someone could override pharmacy
7 law to create a -- I can understand saying you
8 have to have longhand but I don't see how you
9 can demand that something be written -- that you
10 dispense the generic.

11 MR. BUNCH: I remember when, you know,
12 when the legislature passed that -- that law a
13 while -- a few years ago. I was just wondering
14 where the Board of Pharmacy was on that at that
15 time.

16 Jim, do you remember anything about
17 that, whether we took a stand on it or anything?

18 MR. WARD: No, sir. The only thing I
19 remember is that there was an amendment to the
20 generic requirement. I think it's 34-23-8 but I
21 don't remember anything about this one which
22 is -- which applies specifically I think to
23 PEEHIP, doesn't it?

1 DR. ALVERSON: It does.

2 MR. DARBY: PEEHIP and the State of
3 Georgia.

4 MS. YEATMAN: Very specific.

5 MR. WARD: Yeah, I don't remember --

6 DR. ALVERSON: Pharmacists have said,
7 and I think rightly so, I'm caught no matter
8 what I do. If I do fill it with a generic, the
9 Board of Pharmacy is going to sanction me.

10 DR. MARTIN: Right.

11 DR. ALVERSON: If I don't fill it with
12 the generic --

13 MS. YEATMAN: I'm losing money.

14 DR. ALVERSON: -- I lose, yeah.

15 MR. BUNCH: And you're carving out the
16 one section of -- you know, one -- one group of
17 people for that law.

18 DR. ALVERSON: Right.

19 MS. YEATMAN: To me that's a patient
20 safety concern. If the physician has decided
21 the brand name is required --

22 DR. ALVERSON: Right.

23 MS. YEATMAN: -- then our

1 responsibility for the patient's safety is to
2 fill what the physician --

3 DR. ALVERSON: Correct.

4 MS. YEATMAN: -- has requested.

5 MR. WARD: I think this might be one
6 of the rare times where all of the communities
7 of interest in pharmacy would be together on
8 trying to get this changed. I think everybody
9 would want this changed.

10 MR. MCCONAGHY: I didn't have anything
11 to do with the Board back then but I do remember
12 a lot of the activity that went on around this
13 rule and there wasn't a whole lot of opposition
14 from the pharmacy community at that time because
15 what we were seeing a lot more of at that time
16 was where, say, the physician would write
17 dispense as written on, say, Lasix or some of
18 the eye drops in particular, and you were
19 required to do the dispense as written and so it
20 was -- at that time I think there wasn't a lot
21 of opposition because it was -- it kind of
22 helped you use generics instead of the name
23 brands on some of those products when they were

1 using them maybe as a lot of people thought
2 unnecessarily. But now when they start taking
3 money back because it's not written on there,
4 then that's a different issue.

5 MR. WARD: Yeah.

6 MR. MCCONAGHY: It's a -- you know,
7 you've got one law requiring you to break the
8 other law. So if it's something we need to take
9 up, I do think it needs to be discussed further
10 for sure.

11 MS. YEATMAN: I think it absolutely
12 needs to be discussed.

13 MR. BUNCH: Yeah, we need -- we need
14 to -- yeah, we need to be on that because that's
15 a major -- I think that's two conflicts in the
16 law.

17 DR. ALVERSON: I also think that's a
18 slippery slope if somebody can override our
19 regulations and it stand.

20 MR. DARBY: Yeah, it's not just a
21 regular -- I mean, it's a statute. I mean,
22 they're overriding a --

23 DR. ALVERSON: Right.

1 MR. DARBY: That's part of the Code.

2 MR. BUNCH: I remember back during
3 that time too there was a lot of like -- some of
4 the ophthalmologists were really -- it was a big
5 deal not -- to them not to substitute
6 prednisolone for Pred Forte. I think it was a
7 pretty --

8 MS. ELLENBURG: We had one
9 ophthalmologist and we got a complaint from him
10 every day, every day.

11 MR. BUNCH: Yeah. It was a big to-do
12 then. It was almost like you just -- you just
13 don't substitute anything that guy wrote. I
14 remember that.

15 MS. ELLENBURG: Right.

16 MR. MCCONAGHY: Mitzi.

17 MS. ELLENBURG: I don't know if it
18 made it to the Dropbox but there was two letters
19 of concern from independent pharmacies that had
20 been audited and they're having to pay the money
21 back, so I didn't know if they made it in there
22 or not.

23 MR. MCCONAGHY: Yeah, I saw the email

1 and it was in both cases where they, you know, a
2 lot of things have changed since that rule was
3 written too because your docs are trying to
4 make, what, 75 percent of their scripts come
5 electronically now. There's no way they're
6 going to write on there in longhand that it's --
7 that they want name brand medically necessary
8 and apparently the folks at the concerned party
9 said it needed to be enforced as it is, so.

10 MR. BUNCH: I think it's a public
11 health issue because like Dan said, it comes
12 through on an eScript on a Friday afternoon or a
13 Saturday and it wouldn't make any difference
14 anyway what day it was on because you couldn't
15 call the physician and do anything because you
16 can't take an oral one, you know, as dispense as
17 written according to what's going on now with
18 recoupment, so it would have to be a written
19 prescription, so the patient either has to pay
20 for the medication or not get it. So I think
21 that's -- I think we need to really make this a
22 priority to do something with it.

23 DR. ALVERSON: I called the Board of

1 Medicine and explained our concerns and
2 that's -- they have asked to bring their exec
3 and the president of the Board to meet with Dan
4 and me and the same two people from the nursing
5 board. I think this is one of the things that
6 they are very concerned about also.

7 MR. MCCONAGHY: I just think we need
8 to be careful and make sure it's addressed as a
9 public health issue and not a recoupment
10 issue.

11 MR. BUNCH: Yeah.

12 DR. ALVERSON: I agree.

13 MR. BUNCH: I agree and I think it can
14 be.

15 MS. YEATMAN: I think it is.

16 DR. ALVERSON: And the second thing,
17 requirements for technicians to reinstate
18 legislation and I'm going to ask Mitzi to kind
19 of expound on that. Right now if someone -- a
20 pharmacist also for some reason let their
21 license lapse, if they registered and then moved
22 to Europe or decided to be a real estate agent,
23 whatever, when they come back, they have to

1 catch up on all of that CE or a fair amount of
2 that CE and also pay enrollment for the time
3 period that they've been out. Mitzi knows that
4 better than I do.

5 MS. ELLENBURG: Well, the --

6 DR. ALVERSON: I hate to put you on
7 the spot.

8 MS. ELLENBURG: No, the pharmacists,
9 like you said, it's back fees plus penalties for
10 whatever time and then the law also goes on to
11 say that it has to have CE for each year that
12 it's been lapsed. A technician again is fees
13 plus penalties and usually it's just -- none of
14 them is going to have CE, so we make them double
15 it from the current year so that they can at
16 least be a little aware of what's going on in
17 pharmacy now before they're reissued their
18 registration.

19 MR. BUNCH: This may be an off-the-
20 wall question but if you had a technician
21 that -- that left pharmacy for a period of time
22 and then they gave up their technician
23 registration, they just called or sent it in and

1 said, I don't want to be a technician any longer
2 but then eight years later, they wanted to be
3 one again, can they start out new like any
4 person? So if they've been registered at one
5 time, then they have to --

6 MS. ELLENBURG: That registration is
7 still --

8 MR. BUNCH: Yeah. Well, the reason --

9 MS. ELLENBURG: Well, it's inactive
10 due to nonpayment but it's still their
11 registration.

12 MR. BUNCH: Yeah, and I had asked for
13 that to be put on there. I had a pharmacist
14 call me and that's exactly what happened to a
15 technician that had worked for him about eight
16 years ago, went into something else, came back
17 and I forget, I think the penalty was \$300 or
18 \$600. It was a fair amount of money.

19 MS. ELLENBURG: Yeah.

20 MR. BUNCH: And I just thought it was
21 a little -- maybe a little bit too stringent.

22 MS. ELLENBURG: Right.

23 MR. BUNCH: But if it's in the law, it

1 may be a little --

2 MS. ELLENBURG: Well, I think it's
3 just in the rule but.

4 MR. BUNCH: In the rules. We may want
5 to look at that and if the Board is agreeable to
6 maybe reduce the amount of what it takes to come
7 back into the profession, especially with a
8 technician.

9 MR. WARD: Well, also on a pharmacist,
10 if it's past five years, they have to take the
11 MPJE again.

12 MR. BUNCH: Right, I think the
13 pharmacists may be a little different though
14 category than a technician. I don't think you
15 see pharmacists --

16 MR. WARD: Louise, didn't we look at
17 this a couple of years ago about technicians
18 coming back and the amount of money they had to
19 pay? Didn't we change the rule then? I think
20 you were --

21 MS. JONES: That sounds familiar.

22 MR. WARD: -- you kind of headed that
23 up.

1 MS. ELLENBURG: Well, there's a fairly
2 new rule in the back called registration and
3 reregistration.

4 MR. BUNCH: Louise, you're supposed to
5 remember everything.

6 MS. JONES: It sounds familiar.

7 MR. WARD: Hold on a minute.

8 MS. YEATMAN: Where is it, Mitzi?

9 MS. JONES: Sorry.

10 MS. ELLENBURG: It's towards the back.
11 It's like 37 or something for registration and
12 reregistration.

13 MR. WARD: Yeah, we did something
14 about it.

15 MR. MCCONAGHY: While they're looking
16 that up, I --

17 MR. WARD: Mitzi is exactly right, 37.
18 That's continuing education.

19 MR. MCCONAGHY: Okay.

20 MR. WARD: And it says -- I'll find
21 it. Go ahead, I'll find it.

22 DR. MARTIN: Sufficient cause.

23 MR. WARD: Yeah, that's while she

1 still has her license. It's somewhere. I'll
2 find it in a minute. Y'all go ahead. I'll find
3 it.

4 MR. BUNCH: But I just wanted to bring
5 that up. I just felt like it was a little bit
6 too punitive, you know, to do that. It's
7 something that we can certainly look at and if
8 it is a rule, maybe make a change on that.
9 Thank you.

10 MR. MCCONAGHY: While we're looking at
11 that too, the -- I think, Mitzi, I had -- a
12 friend of mine who had been licensed in Alabama
13 when they first got out of school and then moved
14 off, didn't think they would ever come back, so
15 they let that license go. They've been licensed
16 and doing everything they're supposed to do in
17 another state and then at some point decided to
18 move back to Alabama and when you've been gone
19 for 20 years and you have to do that
20 reinstatement, it's not that it's a great
21 hardship maybe but it just seems a little -- not
22 so friendly, I guess you'd say, to make them go
23 back and pay all of those years of -- that they

1 weren't here because they kept all -- everything
2 up in other states, you know, where they went to
3 and you required them -- required them to go
4 back and pay as if they had practiced here the
5 whole time, just while we're looking at it.

6 MR. WARD: Here it is. It's in
7 2-.14 -- 2-.14(10), paragraph ten.

8 DR. ALVERSON: Here I think some of --
9 like your friend, some of the issue is with NABP
10 policy, in this country you always have to keep
11 up with your home state because you can't
12 reciprocate out of some -- someplace else.

13 MS. ELLENBURG: Now, they've changed
14 that if you've taken the -- if you have an
15 original license from another state.

16 DR. ALVERSON: Right.

17 MS. ELLENBURG: It wouldn't
18 necessarily be the first one.

19 MR. BUNCH: It may have been part of
20 the thinking on that, you know, to charge that,
21 you know, if you -- if you -- if you were
22 keeping them -- well, you wouldn't be keeping
23 them on the books. It wouldn't really be any

1 maintenance as far as them, so I think it would
2 be -- have anything to do with why we were
3 charging that much.

4 DR. ALVERSON: And there may be an
5 option where you could put your license on hold,
6 you know, if you went about it in a -- some
7 manner rather than just all of a sudden we don't
8 hear from you forever.

9 MR. BUNCH: Yeah.

10 DR. MARTIN: That's a good point.

11 DR. ALVERSON: And we're not going to
12 solve that today.

13 DR. MARTIN: No.

14 DR. ALVERSON: Someone is going to
15 have to --

16 DR. MARTIN: I put it on -- I put it
17 on a work list.

18 MR. WARD: How many -- is this a huge
19 problem?

20 DR. MARTIN: It's a consistent
21 problem.

22 MR. WARD: Is it.

23 DR. MARTIN: Yeah.

1 MR. WARD: They're leaving and then
2 coming back after so many years?

3 DR. MARTIN: Yeah.

4 DR. ALVERSON: We just --

5 MS. ELLENBURG: Or these techs
6 registering in high school and then going on to
7 do something else and years later coming back.

8 MR. WARD: Well, I think when we
9 changed it, we mirrored that pharmacy rule.

10 MS. ELLENBURG: Right.

11 MR. WARD: You can change it by the
12 rule if you want to.

13 MR. MCCONAGHY: All right. Any other
14 new business items?

15 (No response.)

16 MS. YEATMAN: Am I going to be out of
17 order if I go back to old business now that I've
18 got --

19 MR. MCCONAGHY: I don't mind getting
20 out of order. You ought to know that.

21 MS. YEATMAN: I probably won't do it
22 properly because I'm still learning but there's
23 been a lot of confusion on the applicability and

1 compliance of 795 and 797, specifically around
2 our investigators going in and looking for
3 compliance and so I would like to make a motion
4 that we go on the record as saying that anyone
5 engaged in compounding in accordance with 795
6 should be compliant with the Board regulations
7 and statutes by March 31 of next year.

8 DR. ALVERSON: If I could comment on
9 that, when we put it in the newsletter, we
10 stated that we were going to give everybody a
11 year to become compliant. When our
12 investigators are out, they have been telling
13 people but we never set the end of that year.
14 We are now well over a year since we published
15 the fact that we would --

16 MR. WARD: They're supposed to be
17 doing it in theory as soon as they start
18 performing activities that are covered by 795,
19 that's when they're supposed to comply right
20 then.

21 DR. ALVERSON: Correct, but there were
22 a lot of pharmacies that were already built and
23 to come into compliance you had to designate a

1 section, you may have to do some small amount of
2 reworking, some construction work, and so --

3 MR. WARD: Well, then that motion, it
4 needs to be limited to those situations, not
5 people who have it.

6 MS. YEATMAN: Tell me what I'm
7 supposed to say.

8 MR. WARD: We'll talk about it some
9 more and get it right.

10 MS. YEATMAN: I'm still too early.

11 DR. ALVERSON: I think we have to have
12 a closing point for this because pretty soon,
13 that year is going to be two years.

14 MR. MCCONAGHY: Well, it sounded to me
15 like you made a motion, Donna. Did you make a
16 motion?

17 MR. DARBY: There wasn't a second.

18 MS. YEATMAN: I did but it was not
19 seconded.

20 MR. MCCONAGHY: Okay.

21 MS. YEATMAN: But under advice of
22 counsel, it sounds like the motion needs to be
23 reworked.

1 MR. MCCONAGHY: Okay.

2 MS. YEATMAN: So I will withdraw until
3 it can be reworked.

4 MR. MCCONAGHY: Withdraw it. Any
5 other new or old business?

6 I've got some new business. Ralph
7 Sorrell back in the back has been elected to
8 take my place, thank goodness, and Ralph, if
9 you'd stick around when we go into the executive
10 session, that would be good.

11 The Board will now go into executive
12 session for the purpose of discussing
13 qualifications or competencies of professional
14 permitholders or registrants. Other legal
15 matters may be discussed, including existing and
16 pending cases. The executive session will start
17 at probably 11:00 and hopefully we'll be out of
18 there by 11:30 and at that time the public
19 meeting will resume and no further business will
20 be conducted except to read in any actions taken
21 during the executive session. That's my motion.
22 I need a second.

23 MR. DARBY: Second.

1 MR. WARD: I need to say that as a
2 lawyer licensed to practice law in the State of
3 Alabama, one of the reasons for the executive
4 session is to discuss the resolution of pending
5 cases.

6 MR. MCCONAGHY: We need an individual
7 vote on this, I think.

8 MR. WARD: Yes, sir.

9 MR. MCCONAGHY: Buddy?

10 MR. BUNCH: I vote yes.

11 MR. MCCONAGHY: Donna?

12 MS. YEATMAN: Aye.

13 MR. MCCONAGHY: Tim?

14 DR. MARTIN: Yes.

15 MR. MCCONAGHY: David?

16 MR. DARBY: Yes.

17 MR. MCCONAGHY: Yes. So we are now
18 adjourned for executive session.

19 MS. JONES: Dan, if I can interrupt
20 really quick. I just have a quick announcement.
21 On November 18, so next Wednesday, there will be
22 a meeting in Birmingham. I don't know if the
23 location has been determined yet, at three

1 o'clock, of any interested party. It's a group
2 that has somewhat been meeting earlier this year
3 and is kind of transitioning to an open forum
4 meeting and so that will be held on November 18.
5 It is going to be attended by the two schools of
6 pharmacy, the pharmacy association, ALSHP, and I
7 know the State Board of Pharmacy has been
8 participating on some level in previous meetings
9 but APA requested at the last meeting that it be
10 transitioned to more of an open forum
11 informational sharing meeting and so just know
12 that that will be happening. If you're
13 interested in learning that location, once I
14 have it, I'm happy to share it with anybody but
15 we would love to have everybody there that's
16 interested in participating. Thank you.

17 MR. MCCONAGHY: Okay. We're adjourned
18 for executive session.

19

20 (Whereupon, a recess was taken for
21 executive session from 10:52 a.m. to
22 1:06 p.m.)

23

1 MR. MCCONAGHY: We're back in session.

2 MR. DARBY: Case number 15-0021 from
3 October 2015 case log was mislabeled on
4 document. It should have actually been case
5 number 15-0120 and the recommended action was no
6 violation. I make a motion we make that change.

7 MR. BUNCH: Second.

8 MR. MCCONAGHY: All in favor?

9 MS. YEATMAN: Aye.

10 MR. DARBY: Aye.

11 DR. MARTIN: Aye.

12 MR. BUNCH: Aye.

13 MR. DARBY: Case number 11-0249, I
14 make the motion that the pharmacist in that case
15 be allowed to be a supervising pharmacist.

16 MR. BUNCH: Second.

17 MS. YEATMAN: Second.

18 MR. WARD: Which one, the one we
19 talked about?

20 MR. DARBY: Right.

21 MR. WARD: But in all others -- but in
22 all other aspects his order remains unchanged.

23 MR. DARBY: But no further changes to

1 his order.

2 MS. YEATMAN: Second.

3 MR. MCCONAGHY: All in favor?

4 MR. DARBY: Aye.

5 DR. MARTIN: Aye.

6 MS. YEATMAN: Aye.

7 MR. BUNCH: Aye.

8

9 (Whereupon, the meeting was adjourned
10 at 1:07 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 meeting 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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