



# Louisiana Board of Pharmacy

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## Minutes

**Special Meeting:**

Tuesday, March 14, 2017 at 12:00 p.m.

**Location:**

Louisiana Board of Pharmacy  
3388 Brentwood Drive  
Baton Rouge, Louisiana 70809-1700

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A special meeting of the Louisiana Board of Pharmacy was held on Tuesday, March 14, 2017 in the Boardroom of the Board's office, located at 3388 Brentwood Drive in Baton Rouge, Louisiana. The meeting was held pursuant to public notice, each member received notice, and notice was properly posted.

*1. Call to Order*

Mr. Carl Aron, President, called the meeting to order at 12:10 p.m.

*2. Invocation & Pledge*

Mr. Aron called upon Mr. Brian Bond, and he delivered the invocation. Mr. Richard Indovina then led the group in the recitation of the Pledge of Allegiance.

*3. Quorum Call*

Mr. Aron called upon the Secretary, Mr. Bond, to call the roll to establish a quorum.

**Members Present:**

- Mr. Carl W. Aron
- Mr. Brian A. Bond
- Mr. Allen W. Cassidy, Jr.
- Ms. Jacqueline L. Hall
- Mr. Richard M. Indovina, Jr.
- Mr. Richard Mannino
- Mr. Marty R. McKay
- Ms. Chris B. Melancon
- Ms. Diane G. Milano
- Mr. Ronald E. Moore
- Mr. Blake P. Pitre
- Mr. T. Morris Rabb
- Mr. Don L. Resweber
- Mr. Douglas E. Robichaux
- Mr. Richard A. Soileau
- Dr. Raymond J. Strong
- Mr. Rhonny K. Valentine

**Staff Present:**

- Mr. Malcolm J. Broussard, Executive Director
- Mr. Carlos M. Finalet, III, General Counsel
- Mr. M. Joseph Fontenot, Assistant Executive Director

**Guests:**

- Ms. Lisa LaCour – Albany Drugs
- Mr. Aurdie Bellard – LSU-A/E Pharmacy Technician Training Program
- Ms. Chelsea Carmouche – LSU-A/E Program Student
- Ms. Chelesie Baptiste – LSU-A/E Program Student
- Ms. Alexis Peck – LSU-A/E Program Student
- Ms. Courtlyn Richard – LSU-A/E Program Student
- Ms. Logan Guillory – LSU-A/E Program Student

Dr. Charles Feucht – LSU-A/E Pharmacy Technician Training Program  
Mr. Kevin LaGrange – Pharmacist  
Mr. Robert Lancon – Adams & Reese  
Mr. Doug Boudreaux – Pharmacist  
Mr. Chris Whittington – Whittington Law Group  
Mr. Robert Ray – Pharmacist  
Mr. John Lee – Ochsner Health System  
Mr. Nic Walts – Magellan  
Mr. Nick Caharin – National Association of Chain Drug Stores  
Mr. John Kelly – Health Logic  
Mr. Michael Tinnerello – Pharmacist  
Ms. Linda Spradley – Spradley & Spradley  
Mr. Matt Moreau  
Mr. Randal Johnson – La. Independent Pharmacies Association

Mr. Bond certified all 17 members were present, constituting a quorum for the conduct of official business.

*4. Call for Additional Agenda Items & Adoption of Agenda*

Mr. Aron asked if there were any additional agenda items but none were requested. With no further requests for amendment, and with no objection, the Board adopted the posted agenda dated January 25, 2017. Mr. Aron then requested authority from the Board to reorder the agenda as necessary for the purpose of accommodating certain guests and/or reports. There were no objections to that request.

*5. Opportunity for Public Comment*

Mr. Aron reminded the members and guests the Open Meetings Law requires all public bodies to provide an opportunity for public comment at all meetings and for each agenda item upon which a vote is to be taken. He solicited general comments on non-agenda items from the guests present, but no comments were offered.

*\* Statement of Purpose*

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

*6. Consideration of Comments & Testimony from Public Hearings*

Mr. Aron reordered the sequence of the items on the posted agenda to consider the two sets of proposed rules which elicited no comments or testimony at the public hearing before considering the two sets of proposed rules which did elicit comments and testimony at the public hearing. Mr. Aron called upon Mr. McKay, Chair of the Regulation Revision Committee, to lead the discussion.

*B. Regulatory Project 2016-4 ~ Standing Orders for Distribution of Naloxone*

Mr. McKay directed the members to the documents in their meeting binder, noting that no comments or testimony had been received during the public hearing. With no suggestions for any revisions to the original proposed rule, Mr.

McKay moved,

**Resolved**, to instruct the executive director to transmit appropriate replies to all of the commentators at the March 1 public hearing, to then compile and transmit the Second Report to the Joint Legislative Oversight Committee on Health & Welfare, and to then publish the original proposal as a Final Rule in the Louisiana Register.

The motion was adopted after a unanimous vote in the affirmative.

C. *Regulatory Project 2016-5 ~ Reinstatement of CDS Licenses*

Mr. McKay directed the members to the documents in their meeting binder, noting that no comments or testimony had been received during the public hearing. With no suggestions for any revisions to the original proposed rule, Mr. McKay moved,

**Resolved**, to instruct the executive director to transmit appropriate replies to all of the commentators at the March 1 public hearing, to then compile and transmit the Second Report to the Joint Legislative Oversight Committee on Health & Welfare, and to then publish the original proposal as a Final Rule in the Louisiana Register.

The motion was adopted after a unanimous vote in the affirmative.

A. *Regulatory Project 2015-9 ~ Pharmacy Technicians*

Mr. McKay directed the members to the documents in their meeting binder, noting that several comments and substantial testimony were received during the public hearing. He directed the members to the compilation of the comments prepared by the staff, as well as to a set of staff notes describing all of the requested changes.

- *Item 1*

Ms. Hall moved to amend the proposed rule to allow for the possibility of more than one board-approved pharmacy technician certification examination, by substituting the word ‘the’ with the word ‘a’ when describing the examination. The motion was adopted after a unanimous vote in the affirmative. Staff was given the discretion to identify every location of that occurrence in the current chapter of rules.

Mr. Mannino moved to eliminate the requirement for national accreditation of technician training programs by striking the words “*nationally-accredited and*” in §903.A.2.c.i. Prior to the vote on that motion, Mr. Moore offered a substitute motion to refer the entire proposed rule back to the Regulation Revision Committee to re-visit the national accreditation requirement. Following substantial discussion among the members, Mr. Moore withdrew his substitute motion.

Prior to the vote on Mr. Mannino’s motion, Mr. Aron solicited public comments. A representative of the LSU-A/E Pharmacy Technician Training Program, a nationally-accredited program, spoke in favor of retaining the requirement for national accreditation of training programs.

Following a roll call vote, Mr. Mannino’s motion failed by a vote of 2-14. Ms. Milano also voted in favor of the motion.

Mr. Aron directed staff to note the change made with Ms. Hall’s

motion and reply to the commentators appropriately.

- *Item 6*

Mr. McKay reviewed the commentator's suggestion to require either national accreditation or board-approval of the training program but not both. He suggested staff's explanation for the original language was appropriate and there was no need to make any changes. There was no motion to accept that suggested change.

Mr. McKay then moved to accept the proposed revisions offered by staff in §903.A.2.d and §903.B.2 that were drafted in response to the commentator's suggestion of the vagueness of the term 'satisfactorily progressing' contained in §903.B.2.

Prior to the vote on Mr. McKay's motion, Mr. Aron solicited public comments. A representative of the LSU-A/E Pharmacy Technician Training Program spoke in favor of the suggested change.

The motion was adopted after a unanimous vote in the affirmative. Mr. Aron directed staff to reply to the commentators appropriately.

- *Item 7*

Mr. McKay noted the commentator's request to insert the name of a particular organization in the Board's rule at §903.A.2.c.ii. He indicated the Board does not follow that practice with any other rule relative to licensure examinations and recommended no change in the proposed rule. There was no motion to accept that suggested change.

Mr. Aron directed staff to reply to the commentator appropriately.

- *Item 14*

Mr. McKay noted the commentator's request as well as the proposed revision drafted by staff to grant that request. Mr. McKay moved to accept the proposed change at §903.C.5.a.

Prior to the vote on Mr. McKay's motion, Mr. Aron solicited public comments. The commentator who made the request was in the audience and requested consideration for a retroactive application of the proposed change. There was no motion to grant that request.

The motion was adopted after a unanimous vote in the affirmative.

Mr. Aron directed staff to reply to the commentator appropriately.

Having reviewed all of the comments and testimony received on the proposed rule during the public hearing, Mr. McKay then moved,

**Resolved**, to instruct the executive director to submit the proposed revisions noted in Items 1, 6, and 14 to the state register for publication, to schedule a second public hearing to receive further comments and testimony on those proposed revisions, and present those additional comments and testimony to the Board for our consideration.

The motion was adopted after a unanimous vote in the affirmative.

At this point, Mr. Aron declared a recess. It was noted the members recessed at 2:10 p.m. and then reconvened at 2:40 p.m.

D. *Regulatory Project 2016-6 ~ Marijuana Pharmacy*

Mr. McKay directed the members to the documents in their meeting binder, noting that several comments and substantial testimony was received during the public hearing. He directed the members to the compilation of the comments prepared by the staff, as well as to a set of staff notes describing all of the requested changes.

- *Item 1*

Mr. McKay noted the commentator's request to amend one of the product dosage forms, and then moved to accept the proposed revision drafted by staff in §2443.C.1.d. The motion was adopted after a unanimous vote in the affirmative.

- *Item 2*

Mr. McKay noted the commentator's request and also noted the same comment was offered by multiple commentators. He then moved to accept the proposed revision drafted by staff in §2447.A.4.a. Prior to the vote on Mr. McKay's motion, Mr. Aron solicited public comments. One person in the audience spoke in favor of the proposed change. The motion was adopted after a unanimous vote in the affirmative.

- *Items 3-A, 3-B, and 3-C*

Mr. McKay noted staff's suggested responses. He declined to offer a motion to make the requested changes; no motion was offered for the requested amendments.

- *Items 3-D and 3-E*

Mr. McKay moved to accept the proposed technical changes as drafted by staff to §2457.E.2.b.iii and ix as suggested by the commentator. There were no public comments. The motion was adopted after a unanimous vote in the affirmative.

- *Item 3-F*

Mr. McKay noted staff's suggested reply. He declined to offer a motion to make the requested change; no motion was offered for the requested amendment.

- *Item 4-A*

Mr. McKay moved to accept the proposed change as drafted by staff to §2441.A.4.c. There were no public comments. The motion was adopted after a unanimous vote in the affirmative.

- *Item 4-B*

Mr. McKay moved to delete the first occurrence of the word 'restricted' in §2445.B and insert in lieu thereof the word 'limited'. The commentator was in the audience and spoke in favor of the motion. The motion was adopted after a unanimous vote in the affirmative.

- *Item 4-C*

Mr. McKay noted staff's suggested reply and he declined to offer a motion to make the requested change. No motion was offered to make the requested change.

- *Item 4-D*

Mr. McKay moved to accept the proposed change in §2447.A.20 to increase 180 days to 310 days. The commentator was in the audience

and spoke in favor of the motion. On specific questioning, the commentator suggested an extension from the published six months to ten months. The motion was adopted after a unanimous vote in the affirmative.

- *Items 4-E, 4-F, and 4-G*
- Mr. McKay noted staff's suggested reply and he declined to offer a motion to make the requested change. No motion was offered to make the requested change. The commentator was in the audience and accepted the explanations of the Board's intent.
- *Item 4-H*  
Mr. McKay opened the discussion about the request to have the authority to accept verbal requests, using the Board's existing rule relative to the authorization for emergency dispensing of Schedule II prescriptions. The commentator explained the potential need for emergency dispensing of marijuana products. Mr. McKay moved to direct staff to prepare an amendment using the language found in §2745.F.1.f, relative to authorization for emergency dispensing of Schedule II medications, substituting marijuana for Schedule II, the Board for the DEA, recommendations for prescriptions, and any other substitutions appropriate for the proposed rule. There were no further public comments. The motion was adopted after a unanimous vote in the affirmative.
- *Item 5*  
Mr. McKay moved to accept the proposed change in §2447.A.4.b as drafted by staff, and then also add 'or its staff' at the end of the sentence. There were no public comments. The motion was adopted after a majority vote in the affirmative; Mr. Cassidy objected to the exclusion of board members.
- *Items 8, 9, 10, 11, 12, 14-A, 14-B, and 15-A*  
Mr. McKay noted staff's suggested replies and he declined to offer a motion to make the requested amendments. No other motion was offered to make the changes.
- *Item 15-B*  
Mr. McKay moved to accept the change in §2451.N requested by the commentator. There were no further public comments. The motion was adopted after a unanimous vote in the affirmative.

At this point, Mr. Aron declared a recess. It was noted the members recessed at 5:10 p.m. and then reconvened at 5:30 p.m.

- *Item 16*  
Mr. Aron reviewed the proposed replies developed by staff to the questions posed by the commentator and determined they were appropriate. There were no motions offered to make any of the requested changes.



- *Item 17-1*  
Mr. McKay moved to accept the proposed changes to §2443.C.2.c.iv and §2443.D.1.e.i as prepared by staff. There were no public comments. The motion was adopted after a unanimous vote in the affirmative.
- *Item 17-2*  
Mr. Rabb moved to accept the proposed changes to §2443.D.2 by adding a new Clause (d) as prepared by staff. There were no public comments. The motion was adopted after a unanimous vote in the affirmative.
- *Item 17-3*  
Mr. Moore moved to accept the proposed changes to §2443.B as prepared by staff. There were no public comments. The motion was adopted after a unanimous vote in the affirmative.
- *Item 17-4*  
Mr. McKay moved to accept the proposed changes to §2447.A.10 as prepared by staff. There were no public comments. The motion was adopted after a unanimous vote in the affirmative.
- *Item 17-5*  
Mr. McKay moved to accept the proposed technical change to §2447.A.15 as prepared by staff. There were no public comments. The motion was adopted after a unanimous vote in the affirmative.
- *Item 17-6*  
Mr. Moore moved to accept the proposed change to §2447.B.2 as prepared by staff. There were no public comments. The motion was adopted after a unanimous vote in the affirmative.
- *Item 18-A*  
Following a question from Mr. Mannino, Mr. McKay moved to amend §2451.E to add an additional sentence which reads “Nothing herein shall preclude a pharmacist from compounding a marijuana product appropriate for his patient.” There were no public comments. The motion was adopted after a majority vote in the affirmative; Mr. Pitre objected.
- *Item 18-B*  
Mr. Moore then moved to amend that same section (§2451.E) to delete a portion of the first sentence such that it would ultimately read “A marijuana pharmacy shall sell marijuana products in a secure and light-resistant container.” There were no public comments. The motion was adopted after a majority vote in the affirmative; Mr. Moore and Mr. Pitre objected.

Having reviewed all of the comments and testimony received on the proposed rule during the public hearing, Mr. McKay then moved,

**Resolved**, to instruct the executive director to submit the proposed revisions noted in Items 1, 2, 3-D, 3-E, 4-A, 4-B, 4-D, 4-H, 5, 15-B, 17-1, 17-2, 17-3, 17-4, 17-5, 17-6, 18-A, and 18-B to the state register for publication, to schedule a second public hearing to receive further comments and testimony on those proposed revisions, and present those additional comments and testimony to the Board for our consideration.

The motion was adopted after a unanimous vote in the affirmative. Mr. Aron

then directed staff to reply appropriately to all of the commentators.

7. *Consideration of Legislative Proposal 2017-C ~ Pharmacy Benefit Managers (Draft #2)*

Mr. McKay directed the members to a copy of the proposal in their meeting binder. He then moved,

**Resolved**, to approve *Legislative Proposal 2017-C ~ Pharmacy Benefit Managers (Draft #2)*, and further, to instruct the executive director to transmit the proposal to the legislative staff at the Health & Welfare Committee in the Louisiana House of Representatives.

The motion was adopted after a unanimous vote in the affirmative.

8. *Announcements*

Mr. Aron directed the members to the announcements in their meeting binder.

9. *Adjourn*

Having completed the tasks itemized on the posted agenda, with no further business pending before the Board, and without objection, Mr. Aron adjourned the meeting at 5:55 p.m.

Respectfully submitted,

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Brian A. Bond  
Secretary