

President Dr. Andy Bowman called the meeting to order at 10:00 am with Board Members Robert Graves, Keith Vance, Ashley Duggins, Bill Mixon and Gene Minton present. Also present were Executive Director Jay Campbell, Board Counsel Clint Pinyan, Associate Executive Director Ellen Vick, Director of Investigations Josh Kohler, Director of Inspections Krystal Stefanyk, Director of Finance and Human Resources Rhonda Jones, Accounting Manager JP Brown, IT Manager Antoine Pryor, and Director of Operations Kristin Moore. Present as visitors were: Gray Stewart, Mutual Drug; Lisa Sandenff, Mutual Drug; Chad Cobus, Walgreens Pharmacy; Tete Kuyateh, Walgreens Pharmacy; Tori Mayer, Publix; Leslie Rucker, Mutual Drug; Andrew Darkow, Campbell/Duke; Sydney Brodeur, Campbell Univ.; Matthew Fowler, Campbell Univ.; Askhara Kumar, UNC/ESOP; and Orin L. Autry, Campbell University.

### Ethics Statement & Welcome

President Bowman read the Ethics Statement regarding conflicts of interest and/or appearances of conflicts of interest of any Board member. No conflicts were noted by Board members.

Dr. Bowman welcomed the audience and asked them to introduce themselves.

### Consideration of Minutes of the February 2019 Meeting

The members received the February 26, 2019 meeting minutes prior to this meeting for review. It was moved by Mr. Graves, seconded by Mr. Mixon, to approve the minutes as submitted. The motion passed with no dissenting votes.

### SL2017-741, Section 12 Legislative Report – Controlled Substance Reporting System

Mr. Campbell presented a report of the North Carolina Controlled Substances Reporting System from the Department of Health and Human Services, which that agency is required by statute to produce and distribute to a number of state entities.

The law that requires the report specifically authorizes the recipients to request further information. Mr. Campbell stated that if the members would like additional information or data in future reports, he will request it from the Department of Health and Human Services.

### Request for Rule Change to Allow for Prescription Adaptation – Express Scripts

On February 27, 2019 Board staff received a letter from Rich Palombo of Express Scripts requesting the Board to “consider proposing legislation or rule” regarding “the ability of pharmacists to use their professional judgment to adapt prescriptions, while still meeting the intent of the prescriber.”

Mr. Campbell stated that the letter requests, among other things, that a pharmacist may complete missing information on a prescription if there is sufficient evidence to do so; a pharmacist may extend a maintenance drug for the limited quantity necessary to coordinate a patient’s refills in medication synchronization program; and a pharmacist who adapts a prescription in accordance with these rules must document the adaptation in the patient’s record. These particular activities are already permitted under North Carolina law.

After discussion, the Board directed Mr. Campbell to contact Mr. Palombo to receive more clarification of Express Script's request.

Request for 1:5 Technician Ratio, Walgreens, 8538 North Tryon Street, Charlotte, NC – Permit #12483

The Board has instructed Board staff that a request for increase to a technician:pharmacist ratio of 3:1 or 4:1 may be allowed by staff without formal Board action so long as the pharmacy demonstrates that it employs sufficient certified technicians to meet the ratio. The Board has directed staff to refer any request for a 5:1 or higher ratio to the full Board for consideration.

Walgreens, permit #12483, submitted an application to increase their technician:pharmacist ratio to 5:1. Pharmacist Manager Tetee Semi-Zor Kuyateh, license #25886, appeared before the Board to explain the reasoning for their request.

After discussion, Ms. Duggins made a motion to deny the request. The motion was seconded by Mr. Graves and approved by the Board on a 5 to 1 split decision. The Board explained that the pharmacist-manager's testimony established that this pharmacy has experienced a doubling of its prescription volume in recent months yet, Walgreens has not authorized additional pharmacist staffing and, for the vast majority of each day, a pharmacist works alone at this pharmacy. The Board believes that charging a single pharmacist with oversight of five technicians in these circumstances will overtax already-strained pharmacists and create a public safety issue.

The Board adjourned for a break at 10:45am and resumed open session at 11:02am

NC Commission for Public Health Recommendations

The Commission for Public Health is the public health rulemaking body for North Carolina. It consists of 13 members, 4 elected by the NC Medical Society and 9 appointed by the Governor. One of the Governor's appointees is required to be a licensed pharmacist. Virginia R. Niehaus, who serves at the Chief of Staff for the commission, reached out to Mr. Campbell to inquire if the Board would like to recommend any pharmacists for the Governor's consideration to serve on the committee. Dr. Bowman and Mr. Minton both stated that they were interested in serving on the commission.

After discussion, on a motion from Dr. Duggins, seconded by Dr. Vance, on a 4 to 2 split decision, the Board recommended both Dr. Bowman and Mr. Minton for the Governor's consideration.

DME Election Results for Medical Equipment Representative

The election for the DME Subcommittee Medical Equipment Supplier Seat was held during the 2019 renewal period. Cindy Parham, Investigations/Inspections Coordinator, stated that Mr. Doug Tonucci, who is the current Medical Equipment Representative, ran for a second term.

There were no other candidates for the seat. Mr. Tonucci received two (2) votes during the election.

On a motion from Mr. Minton, seconded by Dr. Vance with no dissenting votes, the Board members voted to accept the election results as presented. Mr. Tonucci will serve his second 4 year term until 2022.

### Legislative Update

Mr. Campbell updated the Board on several legislative matters.

H.212/S.151, An Act to Increase the Punishment for Breaking and Entering a Pharmacy. This bill would make it a Class D felony to rob or burglarize a pharmacy.

H.318, Opioid Prescription and Treatment Opt Out Act. This bill would allow a patient, in consultation with a physician, PA, or NP licensed in the state, to create a “voluntary nonopioid advance directive.” The bill would require the Department of Health and Human Services to consult with the Medical and Pharmacy Boards to develop and update an “official voluntary nonopioid advance directive form” by January 1, 2020. The form would indicate to “all health care providers that the named patient shall not be offered prescribed, supplied with, or otherwise administered a controlled substance containing an opioid.”

H.228/S.178, An Act to Modernize Laws Pertaining to the North Carolina Medical Board and the Practice of Medicine. Introduced at the Medical Board’s request, the bill would work a number of disparate modernization changes to the Medical Practice Act. It includes provisions increasing some fees charged by the Medical Board. Its most significant new substantive provisions are a requirement that all Medical Board licensees report suspected sexual misconduct by any Medical Board licensee to the Medical Board, as well as a requirement that all Medical Board licensees report suspected fraudulent prescribing, drug diversion, misuse, or theft of any controlled substances by another person licensed by the Medical Board.

H.195, An Act Implementing North Carolina Board of Nursing Technical Changes, Procedural Efficiencies, and Fee Ceiling Increases. It works a number of disparate modernization changes to the Nursing Practice Act. It includes provisions increasing the allowable per diem for nursing board members (to \$200) and raising some of the nursing board’s fees. It adds several “unprofessional conduct” bases for discipline against nursing board licensees. It specifically sets out a “failure to respond to the Board’s inquiries in a reasonable manner or time regarding any matter affecting the license to practice nursing” basis for discipline. It includes specific authority to “retain[] jurisdiction over an expired, inactive, or voluntarily surrendered license”. It includes a stronger protection of investigative materials from Public Records Act disclosure.

H.143, The SAVE Act. This bill would allow nurse practitioners to engage in practice without the oversight of a supervising physician.

### Financials

JP Brown, Accounting Manager, presented the February 2019 financial report to the Board.

Request from NC Association of Free & Charitable Clinics to Eliminate the 6 Month Expiration Date Minimum for Donated Drugs and a Proposal of Changes to the Legislation - Randy Jordan

Randy Jordan, NC Association of Free & Charitable Clinics (NCAFCC), spoke to the Board concerning a proposed amendment to N.C.G. S § 90-85.44, which governs the conditions under which prescription drugs, devices, and medical equipment may be donated for re-dispensing. N.C.G.S §90-85.44(c)(3) limits the eligibility of a donated drug to be dispensed to one with at least six months remaining on its expiration date at the time of donation. NCAFCC would like to amend the statute to allow donation of a drug that has not reached its expiration date.

After discussion, on a motion from Mr. Minton, seconded by Dr. Vance with no dissenting votes, the Board supports NCAFCC proposed amendment to §90-85.44(c)(3) after finding the proposed amendment creates no health or safety risk to the public. The Board members instructed Mr. Campbell to draft a letter to NCAFCC in support of the amendment for approval of the Board at the April 16, 2019 meeting.

Investigative Statistics

Joshua Kohler, Director of Investigations, presented the February 2019 investigative report.

Annual SEI Filing Reminder

Mr. Campbell stated that Statement of Economic Interest (SEI) forms have been submitted for all the Board members.

Reports to the Board

Wendy Cox, UNC Eshleman School of Pharmacy, updated the Board on various happenings at the school, including the school's dean search.

Consent Agenda

Dr. Vance recused himself from the matters regarding Marley Drug, Inc. On a motion from Mr. Graves, seconded by Mr. Mixon, the Board approve the consent agenda as presented. The motion passed with no dissenting votes.

The following items were approved.

Prehearing Conference

Consent Orders

CVS Pharmacy, Permit #10425, was subject of a prehearing conference held February 18, 2019, heard by Gene Minton, regarding allegations that between 2/2/2016 - 3/7/2017

pharmacists negligently dispensed Vimpat that expired within 7 week of being opened - this happen 27 times- PM stated that the computer system did not note 7 week expiration date - it took remedial measures to correct the problem. - **Recommendation:** Consent Order of Reprimand; Accepted by permit 2/28/2019

RPh. Felipe Pena, License #18976, was subject of a prehearing conference held February 18, 2019, heard by Mr. Minton, Mr. Pena waived his right to present. Mr. Minton heard allegations that while practicing in Texas he dispensed controlled substance prescription that he should have reasonably know were invalid on 54 occasions; his Texas license was actively suspended for 14 days with a 5-year probation with conditions including not serving as pharmacist manager and passing the MPJE within 1 year of order. Pena did not pass the MPJE and was actively suspended; **Recommendation:** NC License suspended until pass the MPJE and is reinstated by TX Board; at conclusion of active suspension with by under stayed suspension until Nov. 15, 2021 with conditions including not serving as pharmacist manager or have ownership interest in a pharmacy inside or outside North Carolina.

Marley Drug Inc., Permit #08320; RPh. Robert Clevenger, License #08076; and RPh. David Marley, License #12343, were subjects of a prehearing conference held February 18, 2019, heard by Mr. Minton, regarding shipping medications into states where they were not permitted; and not reporting discipline out-of-state discipline on their permit and licensure renewal; **Recommendation:** 1 month suspension stayed 2 years with conditions for the permit; Accepted by Pharmacist Manager Holler 3/7/2019; Suspension for 1 year and 1 week; 1 week being active suspension and 1 year suspension stayed 1 year with conditions including not serving as pharmacist manager for 1 year from the date of order for RPh. Robert Clevenger; and Suspension for 1 year and 2 weeks; 2 weeks being active suspension and 1 year suspension stayed 1 year with conditions including not serving as pharmacist manager for 1 year from the date of order for RPh. David Marley.

A copy of the consent order can be found elsewhere in the minutes and is incorporated by reference herein.

### **Reciprocity Candidates**

Name	License Type	License #	Application Type	Application Complete
Alice Youngjoo Han	Pharmacist	28527	Reciprocity	2/27/2019
Amanda Larragoity	Pharmacist	28379	Reciprocity	3/13/2019
Carsten Michael Lachell	Pharmacist	28545	Reciprocity	3/6/2019
Charles Bonanno	Pharmacist	28525	Reciprocity	2/27/2019
Danielle Venancio Glenn	Pharmacist	28541	Reciprocity	3/6/2019
Deborah Franchi	Pharmacist	28538	Reciprocity	3/6/2019
Gina Suh	Pharmacist	28529	Reciprocity	2/27/2019
John C Gidney	Pharmacist	28539	Reciprocity	3/6/2019
John Elwin Keeling	Pharmacist	28543	Reciprocity	3/6/2019

Johnny Jay Horace	Pharmacist	28554	Reciprocity	3/13/2019
Kelly Ann McGrane	Pharmacist	28547	Reciprocity	3/6/2019
Kennedy Opoku Donkor	Pharmacist	28537	Reciprocity	3/6/2019
Kristine Elizabeth Oaks	Pharmacist	28549	Reciprocity	3/6/2019
Lee Samuel Waller	Pharmacist	28530	Reciprocity	2/27/2019
Lisa Ann Barr	Pharmacist	28553	Reciprocity	3/13/2019
Megan Elise Gilchrist	Pharmacist	28540	Reciprocity	3/6/2019
Mitesh S Patel	Pharmacist	28528	Reciprocity	2/27/2019
Nishith Joshi	Pharmacist	28542	Reciprocity	3/6/2019
Parrish Gage Atkinson	Pharmacist	28536	Reciprocity	3/6/2019
Sarah Kim Waller	Pharmacist	28531	Reciprocity	2/27/2019
Sun Lee	Pharmacist	28546	Reciprocity	3/6/2019
Tanveer Khawaja	Pharmacist	28544	Reciprocity	3/6/2019
Thomas Paul Moscatelli, JR	Pharmacist	28548	Reciprocity	3/6/2019
Vicki Wan Hua Yang	Pharmacist	28532	Reciprocity	2/27/2019
Wallace R Evans	Pharmacist	28526	Reciprocity	2/27/2019
			Total	25

### **CPP Candidates**

- Rebecca Miller Brady, CPP Approval Number 700184, Approval Date 03/06/2019
- Shen-Li Chen, CPP Approval Number 700185, Approval Date 03/06/2019
- Jennifer LaPreze, CPP Approval Number 700186, Approval Date 03/06/2019

### **Increase in Pharmacists to Technician Ratio**

- Wal-Mart Stores East, LP #09218, Mayodan NC, Katherine Shelton, PM (1:4)
- Wal-Mart Stores East, LP #01968, Reidsville NC, Johnna Phillips, PM (1:4)
- Wal-Mart Stores East, LP #12072, Winston Salem, Brian Knoske, PM (1:3)
- Wal-Mart Stores East, LP #13159, King NC, Selena Kennaday, PM (1:4)

### **Closed Session**

There were no closed session items.

The Board adjourned the meeting at 11:42am on a motion from Mr. Mixon, seconded by Dr. Duggins with no dissenting votes.

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Dr. Andrew Bowman, President

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Robert Graves, Vice-President

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Gene Minton

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William A. Mixon

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Dr. Keith Vance

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Ashley Duggins