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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

F I N A L M I N U T E S

MEETING OF:

STATE BOARD OF PHARMACY

TIME: 9:03 A.M.

PENNSYLVANIA DEPARTMENT OF STATE
Board Room B
One Penn Center
2601 North Third Street
Harrisburg, Pennsylvania 17110

April 10, 2018

1 State Board of Pharmacy

2
3 April 10, 2018

4
5 BOARD MEMBERS:

6
7 Janet Getzey Hart, R.Ph., Chairperson
8 Ian J. Harlow, Commissioner of Professional and
9 Occupational Affairs - Absent
10 Robert B. Frankil, R.Ph., Vice Chairperson
11 Terry Talbott, R.Ph., Secretary
12 Gayle A. Cotchen, Pharm.D., R.Ph.
13 Patrick M. Greene, Esquire, Office of Attorney
14 General
15 Mark J. Zilner, R.Ph.
16 Kishor S. Mehta, Public Member
17
18

19 BUREAU PERSONNEL:

20
21 Kerry E. Maloney, Esquire, Board Counsel
22 Ray Michalowski, Esquire, Board Prosecution Liaison
23 Keith E. Bashore, Esquire, Board Prosecutor
24 Julia Feld-Caralle, Esquire, Board Prosecutor
25 Monty Batson, Esquire, Board Prosecutor
26 Melanie Zimmerman, R.Ph., Executive Secretary
27
28

29 ALSO PRESENT:

30
31 Carl Harting, CVS Health
32 Pat Epple, Pennsylvania Pharmacists Association
33 Brian Adelsberger, ACME Sav-on Pharmacy
34 John Loxterman, Enclara Pharmacia
35 Peter McGarvey, Central Admixture Pharmacy Services
36 Jenna McCarthy, Malady & Wooten
37 Kathie Simpson, RN, Executive Director, Secundum Artem
38 Reaching Pharmacists with Help and PA Nurse Peer
39 Assistance Program
40 Steve Sheaffer, Pharm.D., Pennsylvania Society of
41 Health-System Pharmacists
42 Christine Roussel, Pennsylvania Society of
43 Health-System Pharmacists, Doylestown Hospital
44 David Lothrop Bartlett Jr., Pharm.D., R.Ph., Cardinal
45 Health
46 Sally Bartlett, wife of David Bartlett, Respondent
47 Kerry Baeder, Student, Doylestown Hospital
48 Margaret Slothower, Children's Health Insurance
49 Program
50 Angel Elwell, Children's Health Insurance Program

State Board of Pharmacy

April 10, 2018

ALSO PRESENT: (Continued)

- Christine Renfer, CVS Health
- Andrew Harvan, Pennsylvania Medical Society
- Rhonda Thomas, Pennsylvania Society of Health-System
Pharmacists, Lehigh Valley Hospital
- Janine Barnaby, Lehigh Valley Hospital
- Brett M. Woodburn, Esquire
- Elio Gould, University of Florida
- Robert Shuttly
- Elizabeth Snader

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1 ***

2 State Board of Pharmacy

3 April 10, 2018

4 ***

5 The regularly scheduled meeting of the State
6 Board of Pharmacy was held on Tuesday, April 10, 2018.

7 Janet Getzey Hart, R.Ph., Chairperson, called the
8 meeting to order at 9:03 a.m. The Pledge of
9 Allegiance was recited.

10 ***

11 Introduction of Board Members/Audience

12 [Chairperson Hart requested the introduction of Board,
13 Board staff, and audience members in attendance. She
14 also requested that all cell phones and pagers be
15 turned off. A quorum was noted to be present.]

16 ***

17 Evacuation Announcement

18 [Melanie Zimmerman, R.Ph., Executive Secretary,
19 reviewed the emergency evacuation procedures for One
20 Penn Center.

21 Kishor S. Mehta, Public Member, noted he would be
22 moving to Florida and suggested that the Board find
23 another public member.]

24 ***

25 Approval of Agenda

1 MR. MALONEY:

2 I'm looking for a motion to amend the
3 agenda to add the Pacifico provisional
4 denial appeal as well as the discussion
5 of the naloxone exceptions to the
6 regulations.

7 MS. TALBOTT:

8 I'll make the motion to add those and
9 approve the agenda.

10 CHAIRPERSON HART:

11 Second?

12 MR. MEHTA:

13 Second.

14 CHAIRPERSON HART:

15 All in favor? Opposed?

16 [The motion carried unanimously.]

17 ***

18 Approval of Minutes of the February 27, 2018 meeting

19 CHAIRPERSON HART:

20 The next portion of the meeting will be
21 the approval of the minutes that were
22 attached. Any changes to the minutes or
23 motion to approve?

24 DR. COTCHEN:

25 I move that we approve as written.

1 MR. MEHTA:

2 Second.

3 CHAIRPERSON HART:

4 Any additional discussion? All in favor?

5 Opposed?

6 [The motion to approve the 2/27/18 meeting minutes
7 carried unanimously.]

8 ***

9 Report of Prosecutorial Division

10 [Julia Feld-Caralle, Esquire, Board Prosecutor,

11 presented the Consent Agreement for File No. 17-54-

12 06285.]

13 ***

14 [Keith E. Bashore, Esquire, Board Prosecutor,

15 presented the Consent Agreements for File No. 16-54-

16 12679 and File No. 17-54-05743.]

17 ***

18 [Patrick M. Greene, Esquire, Office of Attorney

19 General, and Terry Talbott, R.Ph., Secretary, exited

20 the meeting at 9:13 a.m. for recusal purposes.]

21 ***

22 [Keith E. Bashore, Esquire, Board Prosecutor,

23 presented the Consent Agreement for File No. 17-54-

24 09707.]

25 ***

1 [Patrick M. Greene, Esquire, Office of Attorney
2 General, and Terry Talbott, R.Ph., Secretary,
3 reentered the meeting at 9:17 a.m.]

4

5 [Keith E. Bashore, Esquire, Board Prosecutor,
6 presented the Consent Agreement for File No. 17-54-
7 10866.]

8

9 Appointment - Children's Health Insurance Program
10 (CHIP) Provider Enrollment Presentation
11 [Children's Health Insurance Program representative
12 Peggy Slothower introduced herself as well as Angel
13 Elwell.

14 Ms. Slothower discussed the recent mandate by the
15 federal government, which as part of the Affordable
16 Care Act. The Act requires all providers who render,
17 order, refer, prescribe or bill for items for services
18 to CHIP enrollees to be enrolled with the Department
19 of Human Services by December 31, 2017, in order to
20 obtain a Provider Reimbursement and Operations
21 Management Information System (PROMIS) ID.

22 Ms. Slothower discussed the screening
23 requirements consistent with provisions set forth in
24 the ACA. She encouraged those not currently enrolled
25 to enroll as soon as possible in order to continue

1 receiving payment for services rendered.

2 Ms. Slothower explained that providers who do not
3 want to become a Medical Assistance (MA) provider can
4 be a CHIP-only provider.

5 Ms. Slothower explained different procedures for
6 enrollment, including an IRS-generated document for
7 providers using a federal employee identification
8 number (FEIN) as well as information for those
9 completing an electronic application.

10 Ms. Slothower explained that institutional
11 providers are subject to a fee of \$560 and provided
12 examples of those types of providers. She discussed
13 requirements for electronic options as well as paper
14 applications. She referred Board members to the
15 website information and telephone number provided in
16 the handout.

17 Ms. Slothower discussed the enrollment process
18 for those providers enrolling after the deadline.
19 CHIP representatives answered questions from Board
20 members regarding those pharmacies not currently
21 enrolled.]

22

23 Report of Prosecutorial Division (Continued)

24 [Ray Michalowski, Esquire, Board Prosecution Liaison,
25 discussed a recent meeting with the Department of

1 Health regarding Prescription Drug Monitoring Program
2 (PDMP) issues.

3 Mr. Michalowski noted changes to the Achieving
4 Better Care by Monitoring All Prescriptions Program
5 (ABC-MAP) Act effective January 1, 2017, including the
6 requirement for all entities licensed to dispense or
7 prescribe a controlled substance to register for the
8 PDMP. He suggested that an FAQs article be placed in
9 the newsletter.

10 Mr. Michalowski discussed several enforcement
11 provisions within the ABC-MAP Act itself. He stated
12 the Department of Health is seeking action against
13 individuals for inappropriate access to the PDMP.

14 Mr. Michalowski answered questions from Board
15 members regarding veterinarians' National Provider
16 Identifier (NPI number) and the aggressive marketing
17 of low-potency cannabis oils. Mr. Michalowski will
18 contact the Drug Enforcement Administration (DEA) with
19 regard to its position on the substance.

20 Ms. Christine Roussel from the Pennsylvania
21 Society of Health-System Pharmacists explained the
22 fundamental components of medical marijuana. Ms.
23 Roussel agreed to draft a newsletter article regarding
24 the matter. She also provided additional information
25 with regard to where cannabis extracts fall within the

1 New Drug Code 7350.

2 Mr. Michalowski suggested adding a link from the
3 PDMP page to the Board's website. He also discussed
4 accidental, intentional, and reckless negligence
5 regarding PDMP laws and confidentiality. He reviewed
6 ways to access PDMPs and the available patient
7 protected information.]

8 ***

9 Report of Board Counsel

10 [Kerry E. Maloney, Esquire, Board Counsel, addressed
11 the Governor's emergency proclamation on the opioid
12 crisis. He reviewed the principle on the declaration
13 that would allow pharmacies to partner with drug
14 treatment facilities, as well as prisons and jails, to
15 provide naloxone to inmates or patients upon their
16 discharge or release.

17 Mr. Maloney discussed two potential impediments
18 including the third-party delivery prohibition and the
19 requirement for a PDR, noting that after many meetings
20 on the proclamation those two sections would be waived
21 for naloxone only.

22 Mr. Maloney requested that the Board members
23 review the annex and preamble referencing those
24 changes for naloxone only. He stated the Governor's
25 Office and Office of Attorney General approved

1 submission of the changes as final omitted.

2 Mr. Maloney discussed a pending lawsuit by a
3 pharmacist claiming the Board violated her
4 Constitutional rights and misused the power of the
5 government. The Office of Attorney General filed a
6 motion to dismiss and the pharmacist filed an amended
7 lawsuit.

8 Mr. Maloney discussed the appeal of the Board's
9 order denying early release from the Disciplinary
10 Monitoring Unit (DMU) in the case of Michael Kinney.

11 Mr. Maloney noted his attendance at a recent
12 presentation in State College by the Department of
13 Health with regard to Pandemic Flu Preparedness and
14 the importance of immunizations and lifesaving
15 medications. He further noted the Department of
16 Health will be requesting pharmacies to sign a
17 memorandum of understanding (MOU) to provide
18 medications.

19 Dr. Sheaffer clarified that the memorandum of
20 understanding was specific for community pharmacies to
21 be able to access an emergent pandemic flu vaccine.
22 He noted four regional conferences working with Pat
23 Epple of the Pennsylvania Pharmacists Association
24 (PPA) to spread the information. Dr. Sheaffer noted
25 that one of the requirements of the MOU was that

1 administration information be uploaded in the state's
2 vaccine information system.

3 Mr. Maloney agreed to attend the American Society
4 for Pharmacy Law Seminar to be held in early
5 November.]

6 DR. COTCHEN:

7 I move that we send Kerry to that ASPL
8 Conference in November 2018.

9 MS. TALBOTT:

10 Second.

11 CHAIRPERSON HART:

12 Any discussion? All in favor?

13 [The motion carried unanimously.]

14 ***

15 [The Board recessed from 10:07 a.m. until 10:18 a.m.]

16 ***

17 [A Formal Hearing was held from 10:18 a.m. until
18 10:42 a.m. In the Matter of the Application for a
19 Licensure of David L. Bartlett, R.Ph.; File No. 18-54-
20 00025, Docket No. 0015-54-18.]

21 ***

22 Report of Board Counsel (Continued)

23 Kerry E. Maloney, Esquire, Board Counsel, corrected a
24 statement regarding Michael Kinney's appeal and
25 indicated that the case had not been quashed but was

1 ongoing. Another applicant's, Deric Perkin's, appeal
2 was quashed.

3 Mr. Maloney reviewed regulations regarding
4 naloxone for at-risk individuals upon their discharge
5 or release from prison or drug treatment facilities.
6 He discussed two potential impediments, including the
7 prohibition against third-party deliveries and the
8 requirement for a prospective drug review.

9 As previously discussed, Mr. Maloney suggested
10 that the Board submit the regulation as final omitted,
11 which would bypass all of the proposed rulemaking
12 requirements and get to final regulation a lot
13 quicker.]

14 MR. FRANKIL:

15 I would like to make a motion to adopt
16 this with the regulation submitted as
17 final omitted to speed it through.

18 DR. COTCHEN:

19 I second that motion.

20 CHAIRPERSON HART:

21 Any discussion? Call for a vote. All in
22 favor? Opposed?

23 [The motion carried unanimously.]

24 ***

25 [Mr. Frankil noted his recent attendance at a

1 presentation by Dr. Jeffrey Hom at the Jefferson
2 College of Pharmacy related to accessing naloxone. He
3 suggested that the Board try to promote, educate and
4 inform on this topic.

5 Mr. Maloney explained that upon the official
6 discharge from a facility, a Medicaid number is
7 provided to an individual and Medicaid at that point
8 would pay for the naloxone. He invited Board members
9 to comment on the matter.

10 It was noted that within the past week
11 Independent Blue Cross and Aetna made a decision to
12 cover naloxone with no copay in the southeast. It was
13 further noted that the U.S. Surgeon General announced
14 the importance of having naloxone available to all.]

15 ***

16 Report of Commissioner - No Report

17 ***

18 Report of Board Chairperson

19 [Chairperson Hart discussed her participation on the
20 Medical Marijuana Advisory Board and that a final
21 report of recommendations would be made, including
22 additional disease states for which it may be used and
23 keeping a medical physician or doctor of osteopathic
24 medicine as the only professionals who can prescribe
25 medical marijuana.

1 ***

2 New Business

3 [Melanie Zimmerman, R.Ph., Executive Secretary, noted
4 a request from the pharmacy at Lehigh Valley Hospital
5 - Bangor to permit its temporary closure due to
6 flooding. The matter would be discussed further
7 during Executive Session.

8 Ms. Zimmerman also noted a request from
9 StateReporting.com to consider its services with
10 regard to CE tracking. It was noted that this type of
11 service is already available through the National
12 Association of Boards of Pharmacy's CPE Monitor.]

13 ***

14 [A Formal Hearing was held from 10:59 a.m. until
15 11:42 a.m. In the Matter of the Petition for
16 Reinstatement of the License of Robert M. Shutty,
17 R.Ph.; File No. 18-54-01079.]

18 ***

19 [Pursuant to Section 708(a)(5) of the Sunshine Act, at
20 11:42 a.m., the Board entered into Executive Session
21 with Kerry Maloney, Esquire, Board Counsel, to receive
22 legal advice and engage in quasi-judicial
23 deliberations. It was noted a work session would be
24 held after the Board Meeting for discussion related to
25 the proposed regulations. The Board returned to open

1 session at 12:27 p.m.]

2 ***

3 MOTIONS

4 CHAIRPERSON HART:

5 The Board of Pharmacy met in Executive
6 Session to discuss and review Consent
7 Orders and other legal documents. Are
8 there any motions regarding these
9 discussion?

10 DR. COTCHEN:

11 Madam Chairperson, I move that we approve
12 the Consent Agreement for File No.
13 17-54-06285.

14 MR. MEHTA:

15 Second.

16 CHAIRPERSON HART:

17 Any discussion? Call for a vote.

18

19 Frankil, aye; Talbott, aye; Cotchen, aye;
20 Hart, aye; Mehta, aye; Zilner, aye; and
21 Greene, aye.

22 [The motion carried unanimously. The Respondent's
23 name is Curexa.]

24 ***

25 DR. COTCHEN:

1 I move that we approve the VRP Consent
2 Agreement for File No. 18-54-01841.

3 MR. MEHTA:

4 Second.

5 CHAIRPERSON HART:

6 Any discussion? Call for a vote.

7

8 Frankil, aye; Talbott, aye; Cotchen, aye;
9 Hart, aye; Mehta, aye; Zilner, aye; and
10 Greene, aye.

11 [The motion carried unanimously.]

12 ***

13 DR. COTCHEN:

14 I move that we approve the Consent
15 Agreement for File No. 16-54-12679.

16 MR. MEHTA:

17 Second.

18 CHAIRPERSON HART:

19 Any discussion? Call for a vote.

20

21 Frankil, aye; Talbott, aye; Cotchen, aye;
22 Hart, aye; Mehta, aye; Zilner, aye; and
23 Greene, aye.

24 [The motion carried unanimously. The Respondent's
25 name is Keyur D. Modi, R.Ph.]

1

2 DR. COTCHEN:

3

I move that we approve the Consent
Agreement for File No. 17-54-05743.

4

5 MR. MEHTA:

6

Second.

7 CHAIRPERSON HART:

8

Any discussion? Call for a vote.

9

10 Frankil, aye; Talbott, aye; Cotchen, aye;
11 Hart, aye; Mehta, aye; Zilner, aye; and
12 Greene, aye.

13 [The motion carried unanimously. The Respondent's
14 name is Soleo Health.]

15

16 DR. COTCHEN:

17

I move that we approve the Consent
Agreement for File No. 17-54-09707.

18

19 MR. MEHTA:

20

Second.

21 CHAIRPERSON HART:

22

Any discussion? Call for a vote.

23

24 Frankil, aye; Talbott, recused; Cotchen,
25 aye; Hart, aye; Mehta, aye; Zilner, aye;

1 MR. MEHTA:

2 Second.

3 CHAIRPERSON HART:

4 Any discussion? Call for a vote.

5

6 Frankil, aye; Talbott, aye; Cotchen, aye;

7 Hart, aye; Mehta, aye; Zilner, aye; and

8 Greene, aye.

9 [The motion carried unanimously.]

10

11 DR. COTCHEN:

12 I move that we direct Board Counsel to

13 draft an Adjudication and Order with

14 terms consistent with those discussed

15 during Executive Session for David L.

16 Bartlett, R.Ph., File No. 18-54-00025.

17 MR. MEHTA:

18 Second.

19 CHAIRPERSON HART:

20 Any discussion? Call for a vote.

21

22 Frankil, aye; Talbott, aye; Cotchen, aye;

23 Hart, aye; Mehta, aye; Zilner, aye; and

24 Greene, aye.

25 [The motion carried unanimously.]

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DR. COTCHEN:

I move that we direct Board Counsel to draft an Adjudication and Order with terms consistent with those discussed during Executive Session for Robert M. Shutty, R.Ph., File No. 18-54-01079.

MR. MEHTA:

Second.

CHAIRPERSON HART:

Any discussion? Call for a vote.

Frankil, aye; Talbott, aye; Cotchen, aye; Hart, aye; Mehta, aye; Zilner, aye; and Greene, aye.

[The motion carried unanimously.]

DR. COTCHEN:

I move that we Deem Facts Admitted and direct Counsel to draft an Adjudication and Order consistent with Executive Session in the case of Jeffrey T. Dinh, R.Ph., File No. 14-54-01387.

MR. MEHTA:

Second.

1 CHAIRPERSON HART:

2 Any discussion? Call for a vote.

3

4 Frankil, aye; Talbott, aye; Cotchen, aye;
5 Hart, aye; Mehta, aye; Zilner, aye; and
6 Greene, aye.

7 [The motion carried unanimously.]

8

9 DR. COTCHEN:

10 I move that we Deem Facts Admitted and
11 direct Counsel to write an Adjudication
12 and Order consistent with Executive
13 Session discussion regarding John Edward
14 Daskal, R.Ph., File No. 15-54-14329.

15 MR. MEHTA:

16 Second.

17 CHAIRPERSON HART:

18 Any discussion? Call for a vote.

19

20 Frankil, aye; Talbott, aye; Cotchen, aye;
21 Hart, aye; Mehta, aye; Zilner, aye; and
22 Greene, aye.

23 [The motion carried unanimously.]

24

25 DR. COTCHEN:

1 I move that we approve the temporary
2 closure due to flood for Lehigh Valley
3 Hospital - Bangor.

4 MR. MEHTA:

5 Second.

6 CHAIRPERSON HART:

7 Any discussion? Call for a vote.

8

9 Frankil, aye; Talbott, aye; Cotchen, aye;
10 Hart, aye; Mehta, aye; Zilner, aye; and
11 Greene, aye.

12 [The motion carried unanimously. The Board noted that
13 the pharmacy should be operational by the end of May
14 2018 and an inspection should be conducted.]

15

16 DR. COTCHEN:

17 I move that we grant nonresident
18 application approval and approve the
19 Adjudication and Order as presented by
20 Board Counsel in the matter of the
21 applications submitted by Pacifico
22 National Inc., d/b/a AmEx Pharmacy for
23 both the retail and the compounding
24 operations.

25 MS. TALBOTT:

1 Second.

2 CHAIRPERSON HART:

3 Any discussion? Call for a vote.

4

5 Frankil, aye; Talbott, aye; Cotchen, aye;

6 Hart, aye; Mehta, aye; Zilner, aye; and

7 Greene, aye.

8 [The motion carried unanimously.]

9

10 Adjournment

11 DR. COTCHEN:

12 I move that we conclude the meeting and

13 move to the regulatory session.

14 MR. MEHTA:

15 Second.

16 CHAIRPERSON HART:

17 Adjourned. Thank you.

18 [The motion carried unanimously.]

19

20 [There being no further business, the State Board of

21 Pharmacy Meeting adjourned at 12:35 p.m.]

22

23 [A regulation work session was held at the conclusion

24 of the meeting.]

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CERTIFICATE

I hereby certify that the foregoing summary minutes of the State Board of Pharmacy meeting, was reduced to writing by me or under my supervision, and that the minutes accurately summarize the substance of the State Board of Pharmacy meeting.



Adam Beck,
Minute Clerk
Sargent's Court Reporting
Service, Inc.

STATE BOARD OF PHARMACY
REFERENCE INDEX

April 10, 2018

	TIME	AGENDA
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8	9:03	Official Call to Order
9		
10	9:03	Pledge of Allegiance
11		
12	9:04	Introduction of Board, Board Staff and
13		Audience Members
14		
15	9:08	Evacuation Announcement
16		
17	9:09	Approval of Agenda/Minutes
18		
19	9:10	Report of Prosecutorial Division
20		
21	9:18	Appointment - CHIP Enrollment
22		Presentation
23		
24	9:40	Report of Prosecutorial Division (Cont.)
25		
26	9:55	Report of Board Counsel
27		
28	10:07	Recess
29	10:18	Return to Open Session
30		
31	10:18	Formal Hearing - David Lothrop
32	10:42	Bartlett Jr.
33		
34	10:45	Report of Board Counsel (Continued)
35		
36	10:53	Report of Board Chairperson
37		
38	10:54	Report of Executive Secretary
39		
40	10:56	New Business
41		
42	10:59	Formal Hearing - Robert M. Shutty, R.Ph.
43	11:42	
44		
45	11:42	Executive Session
46	12:27	Return to Open Session
47		
48	12:27	Motions
49		
50	12:35	Adjournment