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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: 9:01 A.M.

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

February 27, 2018

State Board of Pharmacy

February 27, 2018

BOARD MEMBERS:

Janet Getzey Hart, R.Ph., Chairperson
Ian J. Harlow, Commissioner of Professional and
Occupational Affairs - Absent
Robert Frankil, R.Ph., Vice Chairperson - Absent
Terry Talbott, R.Ph., Secretary
Gayle Cotchen, Pharm.D., R.Ph.
Patrick M. Greene, Esquire, Office of Attorney
General
Kishor S. Mehta, Public Member - Absent
Mark Zilner, R.Ph.

BUREAU PERSONNEL:

Kerry E. Maloney, Esquire, Board Counsel
Ray Michalowski, Esquire, Board Prosecution Liaison
Keith E. Bashore, Esquire, Board Prosecutor
Monty J. Batson, Esquire, Board Prosecutor
Julia Feld-Caralle, Esquire, Board Prosecutor
Melanie Zimmerman, R.Ph., Executive Secretary
Katelin Lambert, Director of Operations, Bureau of
Professional and Occupational Affairs

ALSO PRESENT:

Kathie Simpson, RN, Executive Director, Secundum Artem
Reaching Pharmacists with Help and PA Nurse Peer
Assistance Program
Christine Roussel, Pennsylvania Society of
Health-System Pharmacists, Doylestown Hospital
Sherin Abu, University of the Sciences
Jenna McCarthy, Malady & Wooten
John Loxterman, Enclara Pharmacia
Jeenu Philip, Walgreens
Pat Epple, Pennsylvania Pharmacists Association
Charles J. Hartwell, Esquire, Dethlefs-Pykosh Law
Group, LLC
Laura Churns, Albertsons Companies
Elio Gould, University of Florida
Kathleen Dion, PCP/ACME Sav-on Pharmacy
Denise Siedlecki, PCP/ACME Sav-on Pharmacy

State Board of Pharmacy

February 27, 2018

ALSO PRESENT: (Continued)

- Saliya Gafarov, ACME Sav-on Pharmacy
- Bethany Abrahams, ACME Sav-on Pharmacy
- Andrew Harvan, Pennsylvania Medical Society
- Steve Sheaffer, Pennsylvania Society of Health-System Pharmacists
- Seema Zehra Kazmi, Pharm.D.
- Christine Renfer, CVS Health
- Greg Smith, Central Admixture Pharmacy Services
- Kimberly A. Mattis, Director, Bureau of Finance and Operations
- Kimberly Adams Chief of Division of Fiscal Management, Bureau of Finance and Operations
- Julie Snader, Finance and Operations Manager, Division of Fiscal Management, Bureau of Finance and Operations

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1 ***

2 State Board of Pharmacy

3 February 27, 2018

4 ***

5 The regularly scheduled meeting of the State
6 Board of Pharmacy was held on Tuesday, February 27,
7 2018.

8 Janet Getzey Hart, R.Ph., Chairperson, called the
9 meeting to order at 9:01 a.m. The Pledge of
10 Allegiance was recited.

11 ***

12 Introduction of Board Members/Audience

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

17 ***

18 Evacuation Announcement

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

22 ***

23 Approval of Agenda

24 CHAIRPERSON HART:

25 We need to approve the agenda.

1 MS. TALBOTT:

2 I move to approve the agenda.

3 DR. COTCHEN:

4 Second.

5 CHAIRPERSON HART:

6 Any discussion? Call for a vote. All in
7 favor?

8 [The motion carried unanimously.]

9 ***

10 Approval of Minutes of the October 3, 2017 meeting and
11 November 28, 2017 meeting

12 CHAIRPERSON HART:

13 We have minutes for October and November
14 to approve. Have Board members had time
15 to review the minutes? Any recommended
16 changes?

17 [The Board discussed corrections to the minutes.]

18 MS. TALBOTT:

19 I make a motion to approve both sets of
20 minutes with Gayle's amendments or typo
21 corrections, which I am sure are
22 accurate.

23 DR. COTCHEN:

24 Second.

25 CHAIRPERSON HART:

1 Call for discussion? Call for a vote.

2 All in favor? Opposed?

3 [The motion carried unanimously.]

4 ***

5 Report of Prosecutorial Division

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

7 presented the Consent Agreements for File No. 17-54-

8 07940, File No. 15-54-13340, and File No. 16-54-09895

9 and 16-54-08114.

10 Patrick M. Greene, Esquire, recused from the

11 discussion on File No. 15-54-13340.]

12 ***

13 [Monty J. Batson, Esquire, Board Prosecutor, presented

14 the Consent Agreement for File No. 14-54-01997.]

15 ***

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

17 presented the following Consent Agreements: File No.

18 17-54-04210, File No. 17-54-05737, 17-54-09508, File

19 No. 17-54-09707, and File No. 17-54-12960.

20 Patrick M. Greene, Esquire, and Terry Talbott,

21 R.Ph., recused from the discussion on File No. 17-54-

22 09707.]

23 ***

24 Appointment - Pharmacy Budget Review

25 [Kimberly A. Mattis, Director, Bureau of Finance and

26

1 Operations, Julie Snader, Finance and Operations
2 Manager, Division of Fiscal Management, Bureau of
3 Finance and Operations, and Kimberly Adams, Chief of
4 Fiscal Management.

5 Ms. Snader provided information on the Board's
6 licensee population, which was at 38,269 for Fiscal
7 Year 2017-2018. This number reflects renewable
8 license types and does not include pharmacy interns.

9 Ms. Snader attributed approximately 96 percent of
10 the revenue to renewals and applications. She
11 referred to Fiscal Years 2015-2016 and 2016-2017,
12 noting the biennial total. Ms. Snader reviewed
13 expenses for Fiscal Year 2015-2016, Fiscal Year 2016-
14 2017, and Fiscal Year 2017-2018, along with the
15 budgeted amount and expenses. Ms. Snader stated the
16 expenses are incurred from direct charges, timesheet
17 charges, and license-based charges.

18 Ms. Snader reviewed revenue and expenses of
19 previous years and the anticipated balance at the end
20 of Fiscal Year 2017-2018. She also noted a positive
21 balance throughout the coming years.

22 Ms. Snader addressed Board member expenses for
23 Fiscal Year 2015-2016 and Fiscal Year 2016-2017 and
24 the budgeted amount for Fiscal Year 2017-2018, also
25 noting the expenses to date for Fiscal Year 2017-

1 2018.]

2

3 Report of Board Counsel

4 [Kerry Maloney, Esquire, Board Counsel, noted final
5 and proposed Adjudications and Orders for discussion
6 in Executive Session.

7 He also noted Act 6 of 2018 and Act 8 of 2018.

8 Mr. Maloney discussed Governor Wolf's opioid
9 proclamation that includes drug treatment facilities
10 and prisons partnering with organizations to make
11 naloxone more available. Mr. Maloney reviewed the
12 Board's regulations. He noted that Ms. Zimmerman
13 suggested waiving the requirements for prospective
14 drug reviews and patient profiles. It has also been
15 suggested to the Governor to waive the regulation that
16 prohibits delivering to third parties on a routine
17 basis, which is at Governor Wolf's Policy Office.

18 Mr. Maloney also mentioned the 5 percent rule
19 that could be waived if a pharmacy wants to sell
20 naloxone to a prison or drug treatment facility for
21 "office use."

22 Mr. Maloney suggested the Board continue to
23 review the regulations for adjustments. He also noted
24 that the 90-day emergency opioid proclamation can be
25 extended.

1 Counsel Maloney noted the Commonwealth order
2 dismissing the petition for review by Deric Perkins.

3 Mr. Maloney requested to attend the Department of
4 Health Public Health Preparedness Meeting on March 29,
5 2018, in State College.

6 Mr. Maloney stated the Department of Health
7 requested a Pharmacy Board representative participate
8 in a workgroup to explore the extended use of ketamine
9 beyond veterinary use and anesthetic use.

10 Mr. Maloney reported on the status of regulations
11 and suggested scheduling a regulations workgroup for
12 after the meeting in April regarding the compounding
13 and general revisions.]

14 DR. COTCHEN:

15 Is it appropriate at this time for me to
16 make a motion for you to go to that
17 Department of Health meeting?

18 MR. MALONEY:

19 Sure.

20 DR. COTCHEN:

21 So moved.

22 MS. TALBOTT:

23 Second.

24 CHAIRPERSON HART:

25 Any discussion? Call for a vote. All in

1 favor? Opposed?

2 [The motion carried unanimously.]

3 ***

4 MS. TALBOTT:

5 I make the motion that if Gayle can put
6 it in her schedule and is interested that
7 she be the person to represent us (for
8 the ketamine workgroup) and that Bob
9 Frankil be the alternate.

10 CHAIRPERSON HART:

11 Do I have a second?

12 MR. ZILNER:

13 Second.

14 CHAIRPERSON HART:

15 Any discussion? All in favor? Opposed?

16 [The motion carried unanimously.]

17 ***

18 Report of Board Chairperson

19 [Chairperson Hart informed the Board of her active
20 participation in the Medical Marijuana Advisory Board.
21 She noted recommendations are to be released in May
22 regarding altering laws. Ms. Hart explained that
23 individuals are permitted three dispensary locations
24 under one license.

25 Ms. Simpson questioned the criteria regarding

1 substance abuse disorders managed with medical
2 marijuana. Mr. Maloney explained that each case will
3 be reviewed on its own merits and how the
4 prosecutorial division charges the licensee. He
5 mentioned that Pennsylvania's Medical Marijuana Act
6 was careful not to label it a prescription and called
7 it a certificate instead.]

8

9 Report of Probable Cause Screening Committee - No
10 Report

11

12 Report of Prosecutorial Division (Continued)
13 [Ray Michalowski, Esquire, Board Prosecution Liaison,
14 discussed nonresidents and pharmacies reciprocal
15 licensure disciplinary actions. He addressed
16 balancing enforcement and deterrence, as well as
17 establishing prosecutorial guidelines.

18 Mr. Michalowski will be attending the
19 Prescription Drug Monitoring Program (PDMP) with the
20 Department of Health regarding overprescribing.

21 Mr. Michalowski informed the Board that
22 prosecution was looking to hire a pharmacist expert
23 for advice or review of PDMP cases.]

24

25 Report of Executive Secretary

1 [Melanie Zimmerman, R.Ph., requested suggestions or
2 articles for the newsletter to be published in July.]

3 ***

4 Applications

5 [Melanie Zimmerman, R.Ph., noted applications for
6 discussion in Executive Session.]

7 ***

8 New Business

9 [Melanie Zimmerman, R.Ph., asked whether there were
10 any proposed amendments to the National Association of
11 Boards of Pharmacy's Constitution (NABP) or Bylaws, as
12 well as any nominations for the NABP Recognition
13 Resolution. There were none.

14 Ms. Zimmerman noted the Annual NABP Meeting, May
15 5-8, 2018, in Denver, CO.]

16 DR. COTCHEN:

17 I will motion that Janet be our delegate
18 and that Terry be our alternate at the
19 NABP Meeting in Denver, May 5-8 of this
20 year.

21 MR. ZILNER:

22 Second.

23 CHAIRPERSON HART:

24 Any discussion? Call for a vote. All in
25 favor, aye? Opposed?

1 [The motion carried unanimously.]

2

3 [Melanie Zimmerman, R.Ph., stated Stacy Smilek
4 suggested the Board form a committee to address
5 working conditions for pharmacists. Chairperson Hart
6 welcomed Ms. Smilek to attend the next regulation work
7 session and participate in developing the general
8 revisions.]

9 Ms. Zimmerman also noted a request from Vivi
10 Raven who would like to offer a Pennsylvania
11 Multistate Pharmacy Jurisprudence Examination (MPJE)
12 Review Course. Chairperson Hart voiced credentialing
13 concerns and requested a resume and background
14 information from Ms. Raven.

15 Ms. Zimmerman noted the proposed 2019 Board
16 meeting dates and the Board discussed modifications to
17 the dates before approving them.

18 Ms. Zimmerman informed the Board that, due to a
19 limited time frame to name someone, Chairman Hart
20 named Richard Smiga as the MPJE Test Question Writer
21 for this year. The Board was asked to place this
22 decision on record.]

23 MS. TALBOTT:

24 I move that we utilize Rich Smiga as our
25 test question writer for the MPJE.

1 DR. COTCHEN:

2 Second.

3 CHAIRPERSON HART:

4 Any discussion? Call for a vote. All in
5 favor? Opposed?

6 [The motion carried unanimously.]

7 ***

8 [Pursuant to Section 708(a)(5) of the Sunshine Act, at
9 10:04 a.m., the Board entered into Executive Session
10 with Kerry Maloney, Esquire, Board Counsel, to receive
11 legal advice and engage in quasi-judicial
12 deliberations. The Board returned to open session at
13 10:49 a.m. Kaitlin Lambert entered the meeting at
14 this time.]

15 ***

16 MOTIONS

17 DR. COTCHEN:

18 Madam Chairwoman, I move that we approve
19 the Consent Agreement for File No. 15-54-
20 13340, Correna Ann Pfeiffer, R.Ph.

21 MS. TALBOTT:

22 Second.

23 CHAIRPERSON HART:

24 Any discussion? Call for a vote.

25

1 Greene, recused; Zilner, aye; Lambert,
2 aye; Hart, aye; Cotchen, aye; Talbott,
3 aye.

4 [The motion carried. Mr. Greene recused from
5 deliberations and voting on the motion.]

6 ***

7 DR. COTCHEN:

8 I move that we approve final Adjudication
9 and Order in the matter of Michael
10 Ludwikowski, R.Ph., File No. 17-54-09714.

11 MS. TALBOTT:

12 Second.

13 CHAIRPERSON HART:

14 Any discussion? Call for a vote.

15

16 Talbott, aye; Cotchen, aye; Hart, aye;
17 Lambert, aye; Zilner, aye; Greene,
18 recused.

19 [The motion carried. Mr. Greene recused from
20 deliberations and voting on the motion.]

21 ***

22 DR. COTCHEN:

23 I move that we adopt the proposed
24 Adjudication and Order in the matter of
25 Alex Grinberg, R.Ph., File No. 16-54-

1 01258.

2 MS. TALBOTT:

3 Second.

4 CHAIRPERSON HART:

5 Any discussion? Call for a vote.

6

7 Talbott, aye; Cotchen, aye; Hart, aye;

8 Lambert, aye; Zilner, aye; Greene,

9 recused.

10 [The motion carried. Mr. Greene recused from
11 deliberations and voting on the motion.]

12 ***

13 DR. COTCHEN:

14 I move that we adopt the proposed
15 Adjudication and Order in the matter of
16 John A. Giacobello, R.Ph., File No. 16-
17 54-14837.

18 MS. TALBOTT:

19 Second.

20 CHAIRPERSON HART:

21 Any discussion? Call for a vote.

22

23 Greene, aye; Zilner, aye; Lambert, aye;

24 Hart, recused; Cotchen, aye; Talbott,

25 aye.

1 [The motion carried. Ms. Hart recused from
2 deliberations and voting on the motion.]

3 ***

4 DR. COTCHEN:

5 I move that we adopt the proposed
6 Adjudication and Order in the matter of
7 Charles E. Nuhfer, R.Ph., File No. 17-54-
8 05285.

9 MS. TALBOTT:

10 Second.

11 CHAIRPERSON HART:

12 Call for a discussion? Call for a vote.

13

14 Talbott, aye; Cotchen, aye; Hart, aye;
15 Lambert, aye; Zilner, aye; Greene,
16 recused.

17 [The motion carried. Mr. Greene recused from
18 deliberations and voting on the motion.]

19 ***

20 DR. COTCHEN:

21 I move that we provisionally deny the
22 Application of NaphCare, Inc., which is a
23 Nonresident Pharmacy Application.

24 MS. TALBOTT:

25 Second.

1 CHAIRPERSON HART:

2 Call for a discussion? Call for a vote.

3

4 Talbott, aye; Cotchen, aye; Hart, aye;
5 Lambert, aye; Zilner, recused; Greene,
6 aye.

7 [The motion carried. Mr. Zilner recused from
8 deliberations and voting on the motion. Kaitlin
9 Lambert exited the meeting at this time.]

10 ***

11 DR. COTCHEN:

12 I motion that we approve the Consent
13 Agreement for File Nos. 17-54-11302 and
14 17-54-13479.

15 MS. TALBOTT:

16 Second.

17 CHAIRPERSON HART:

18 Any discussion? Call for a vote.

19

20 Talbott, aye; Cotchen, aye; Hart, aye;
21 Zilner, aye; Greene, aye.

22 [The motion carried unanimously.]

23 ***

24 DR. COTCHEN:

25 I move that we approve the Consent

1 Agreement for File No. 17-54-07940.

2 MS. TALBOTT:

3 Second.

4 CHAIRPERSON HART:

5 Call for a discussion? Call for a vote.

6

7 Talbott, aye; Cotchen, aye; Hart, aye;

8 Zilner, aye; Greene, aye.

9 [The motion carried unanimously. The Respondent's
10 name is Israel O. Ogunleye, R.Ph.]

11 ***

12 DR. COTCHEN:

13 I motion that we approve the Consent
14 Agreement for File Nos. 16-54-09895 and
15 16-54-08114.

16 MS. TALBOTT:

17 Second.

18 CHAIRPERSON HART:

19 Any discussion? Call for a vote.

20

21 Talbott, aye; Cotchen, aye; Hart, aye;

22 Zilner, aye; Greene, aye.

23 [The motion carried unanimously. The Respondent's
24 name is Philly Metro Pharmacy.]

25 ***

1 DR. COTCHEN:

2 I motion that we approve the Consent
3 Agreement for File No. 17-54-04210.

4 MS. TALBOTT:

5 Second.

6 CHAIRPERSON HART:

7 Any discussion? Call for a vote.

8

9 Greene, aye, Zilner, aye; Hart, aye;
10 Cotchen, aye; Talbott, aye.

11 [The motion carried unanimously. The Respondent's
12 name is John F. Johnston, R.Ph.]

13

14 DR. COTCHEN:

15 I motion that we approve the Consent
16 Agreement at File No. 14-54-01997.

17 MS. TALBOTT:

18 Second.

19 CHAIRPERSON HART:

20 Any discussion? Call for a vote.

21

22 Talbott, aye; Cotchen, aye; Hart, aye;
23 Zilner, aye; Greene, aye.

24 [The motion carried unanimously. The Respondent's
25 name is James E. Demers, R.Ph.]

1

2 DR. COTCHEN:

3

I move that we approve the Consent

4

Agreement at File No. 17-54-05737.

5 MS. TALBOTT:

6

Second.

7 CHAIRPERSON HART:

8

Call for a vote.

9

10

Talbott, aye; Cotchen, aye; Hart, aye;

11

Zilner, aye; Greene, aye.

12

[The motion carried unanimously. The Respondent's

13

name is VASCO Rx.]

14

15 DR. COTCHEN:

16

I motion that we approve the Consent

17

Agreement at File No. 17-54-09508.

18 MS. TALBOTT:

19

Second.

20 CHAIRPERSON HART:

21

Any discussion? Call for a vote.

22

23

Talbott, aye; Cotchen, aye; Hart, aye;

24

Zilner, aye; Greene, aye.

25

[The motion carried unanimously. The Respondent's

1 name is Briovarx Infusion Services 305, LLC.]

2 ***

3 DR. COTCHEN:

4 I move that we approve the Consent
5 Agreement at File No. 17-54-12960.

6 MS. TALBOTT:

7 Second.

8 CHAIRPERSON HART:

9 Any discussion? Call for a vote.

10

11 Talbott, aye; Cotchen, aye; Hart, aye;
12 Zilner, aye; Greene, aye.

13 [The motion carried unanimously. The Respondent's
14 name is Kenneth F. Evancic, R.Ph.]

15 ***

16 MR. MALONEY:

17 Just for the record, Item No. 12, File
18 No. 17-54-09707 has to be tabled for lack
19 of quorum, so we will transfer that to
20 the agenda for the next meeting.

21 ***

22 DR. COTCHEN:

23 I move that we approve the final
24 Adjudication and Order for Donna M.
25 Mastropietro, File No. 17-54-07013.

1 MS. TALBOTT:

2 Second.

3 CHAIRPERSON HART:

4 Any discussion? Call for a vote.

5

6 Talbott, aye; Cotchen, aye; Hart, aye;

7 Zilner, aye; Greene, aye.

8 [The motion carried unanimously.]

9

10 DR. COTCHEN:

11 I move that we adopt the proposed
12 Adjudication and Order for Jay C. Patel,
13 R.Ph., File No. 17-54-02634.

14 MS. TALBOTT:

15 Second.

16 CHAIRPERSON HART:

17 Any discussion? Call for a vote.

18

19 Talbott, aye; Cotchen, aye; Hart, aye;

20 Zilner, aye; Greene, aye.

21 [The motion carried unanimously.]

22

23 DR. COTCHEN:

24 I move that we provisionally deny the
25 application submitted by Drug Depot,

1 Incorporated, doing business as APS
2 Pharmacy, which is a Nonresident Pharmacy
3 Application.

4 MS. TALBOTT:

5 Second.

6 CHAIRPERSON HART:

7 Any discussion? Call for a vote.

8

9 Talbott, aye; Cotchen, aye; Hart, aye;
10 Zilner, aye; Greene, aye.

11 [The motion carried unanimously.]

12 ***

13 DR. COTCHEN:

14 I move that we approve the Nontraditional
15 Internship Application submitted by
16 Joseph Weidman and that we do so for 500
17 hours upon completion.

18 MS. TALBOTT:

19 Second.

20 CHAIRPERSON HART:

21 Any discussion? Call for a vote.

22

23 Talbott, aye; Cotchen, aye; Hart, aye;
24 Zilner, aye; Greene, aye.

25 [The motion carried unanimously.]

1 ***

2 DR. COTCHEN:

3 I move that we provisionally deny the
4 applications submitted by Pacifico
5 National, Inc., dba Amex Pharmacy. Both
6 of these are Nonresident Pharmacy
7 Applications. The first one is at
8 PS27532 and the second is PH16954.

9 MS. TALBOTT:

10 Second.

11 CHAIRPERSON HART:

12 Any discussion? Call for a vote.

13

14 Talbott, aye; Cotchen, aye; Hart, aye;
15 Zilner, aye; Greene, aye.

16 [The motion carried unanimously.]

17 ***

18 Adjournment

19 MS. TALBOTT:

20 I move to adjourn, Madam Chairwoman.

21 DR. COTCHEN:

22 Second.

23 CHAIRPERSON HART:

24 Adjourned. Thank you.

25 [The motion carried unanimously.]

[There being no further business, the State Board of
Pharmacy Meeting adjourned at 11:01 a.m.]

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

February 27, 2018

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TIME	AGENDA
9:01	Official Call to Order
9:02	Pledge of Allegiance
9:02	Introduction of Board and Audience Members
9:03	Evacuation Announcement
9:04	Approval of Agenda/Minutes
9:07	Report of Prosecutorial Division
9:24	Appointment - Budget Review Presentation
9:33	Report of Board Counsel
9:44	Report of Board Chairperson
9:54	Report of Executive Secretary
9:55	New Business
10:04	Executive Session
10:49	Return to Open Session
10:50	Motions
11:01	Adjournment