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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
VIA TELECONFERENCE**

TIME: 10:31 A.M.

PENNSYLVANIA DEPARTMENT OF STATE

August 18, 2020

1 State Board of Pharmacy
2 August 18, 2020

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5 BOARD MEMBERS:
6

7 Terry M. Talbott, R.Ph., Chairperson
8 K. Kalonji Johnson, Commissioner, Bureau of
9 Professional and Occupational Affairs
10 Robert B. Frankil, R.Ph., Vice Chairman
11 Janet Getzey Hart, R.Ph., Secretary
12 Patrick M. Greene, Esquire, Office of Attorney
13 General
14 Thomas P. Carey, Ed.D. - Absent
15 John R. Slagle, R.Ph.
16 Christine Roussel, Pharm.D., BCOP
17
18

19 BUREAU PERSONNEL:
20

21 Juan A. Ruiz, Esquire, Board Counsel
22 Ray Michalowski, Esquire, Senior Board Prosecution
23 Liaison
24 Glenn P. Masser, Esquire, Board Prosecutor
25 Carolyn DeLaurentis, Deputy Chief Counsel, Prosecution
26 Division
27 Carole Clarke Smith, Esquire, Senior Counsel in Charge
28 Melanie Zimmerman, R.Ph., Executive Secretary
29 Theodore Stauffer, Executive
30 Secretary, Bureau of Professional and Occupational
31 Affairs
32
33

34 ALSO PRESENT:
35

36 Andrew LaFratte, MPA, Policy Office, Department of
37 State
38 Marc Farrell, Deputy Policy Director, Department of
39 State
40 Steven Zahn, Pharmacy Inspector, Bureau of Enforcement
41 and Investigation, Department of State
42 Catherine Lutz, Pharmacy Inspector, Bureau of
43 Enforcement and Investigation, Department of State
44 Larry Jones, Executive Director, Pennsylvania
45 Society of Health-System Pharmacists
46 Alicia Palombo, Pharm.D., Pharmacy Regulatory Affairs
47 Advisor at CVS Health
48 Andrew Felter, Manager of Pharmacy Compliance and
49 Regulatory Relations, Wegmans Food Markets
50 Christopher N. Skey, Esquire, Quarles & Brady, LLP

State Board of Pharmacy
August 18, 2020

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ALSO PRESENT: (Continued)

- Jenna L. McCarthy, Malady & Wooten
- James Reed, Area Healthcare Supervisor, Walgreens
- Christine Renfer, CVS Health
- David Klinger, System Director, Operations
& Compliance, Geisinger Health System
- Heather Coy, AllianceRx Walgreens Prime
- Jen Smeltz, Executive Director, Consumer Protection
and Professional Licensure Committee
- John Sisto, Express Scripts, Inc.
- Lauren Paul, Pharm.D., CVS Health
- Steve L. Sheaffer, Pharm.D., FASHP, Pennsylvania
Society of Health-System Pharmacists
- Mary Vukas, Pharmacy Manager, ACME Sav-on Pharmacy
- Frank Trollo, Central Admixture Pharmacy Services
- John Loxterman, Enclara Pharmacia
- Judy Kutchman, AllianceRx Walgreens Prime
- Nicole Sidle, Majority Committee Executive Director,
House Professional Licensure Committee
- Christopher Miller, Pharm.D., Giant Eagle
- Patricia A. Epple, CEO, Pennsylvania Pharmacists
Association

1 ***

2 State Board of Pharmacy

3 August 18, 2020

4 ***

5 [Pursuant to Section 708(a)(5) of the Sunshine Act, at
6 9:00 a.m., the Board entered into Executive Session
7 with Juan A. Ruiz, Esquire, Board Counsel, to receive
8 legal advice and engage in quasi-judicial
9 deliberations. The Board returned to open session at
10 10:30 a.m.]

11 ***

12 The regularly scheduled meeting of the State
13 Board of Pharmacy was held on Tuesday, August 18,
14 2020. Terry M. Talbott, R.Ph., Chairperson, called
15 the meeting to order at 10:31 a.m.

16 K. Kalonji Johnson, Commissioner, Bureau of
17 Professional and Occupational Affairs, was present
18 during Executive Session and exited prior to the
19 commencement of the public session of the virtual
20 teleconference.

21 ***

22 Introduction of the Board Members

23 [Chairperson Talbott requested Board members introduce
24 themselves.]

25 ***

1 [Juan A. Ruiz, Esquire, Board Counsel, announced the
2 Board meeting was being recorded, and those
3 participating by phone or WebEx are consenting to
4 being recorded.]

5 ***

6 Introduction of Audience

7 [Chairperson Talbott provided an introduction of Board
8 staff and audience members.]

9 ***

10 Approval of Agenda

11 CHAIRPERSON TALBOTT:

12 Do I have a motion to amend the agenda
13 regarding an item Melanie wanted to add
14 concerning the executive officer forum
15 and member forum?

16 Could I have a motion to add that to
17 the agenda?

18 MR. FRANKIL:

19 So moved.

20 CHAIRPERSON TALBOTT:

21 Do I have a second?

22 MR. GREENE:

23 Second.

24 CHAIRPERSON TALBOTT:

25 All in favor of the amendments to the

1 agenda? Any opposed?

2 CHAIRPERSON TALBOTT:

3 I will entertain a motion to approve the
4 agenda as amended.

5 MR. FRANKIL:

6 Motion to approve.

7 CHAIRPERSON TALBOTT:

8 Second?

9 MS. HART:

10 Second.

11 CHAIRPERSON TALBOTT:

12 Any discussion? All in favor, say aye.

13 [The motion carried unanimously.]

14 ***

15 Approval of minutes of the June 16, 2020 meeting

16 CHAIRPERSON TALBOTT:

17 The next order of business is the
18 approval of the minutes from the June 16
19 meeting.

20 Does anyone have any amendments to
21 those minutes? Hearing none. I will
22 entertain a motion to accept those as
23 presented.

24 MR. FRANKIL:

25 So moved.

1 CHAIRPERSON TALBOTT:

2 Christine, do you want to second?

3 DR. ROUSSEL:

4 Second.

5 CHAIRPERSON TALBOTT:

6 Any discussion? All in favor? Any
7 opposed?

8 [The motion carried unanimously.]

9 ***

10 Report of Prosecutorial Division

11 [Glenn P. Masser, Esquire, Board Prosecutor, presented
12 the Consent Agreements for Case No. 20-54-001305 and
13 Case No. 20-54-003461.]

14 ***

15 [Ray Michalowski, Esquire, Senior Board Prosecution
16 Liaison, presented the VRP Consent Agreements for Case
17 No. 20-54-000067, Case No. 20-54-006407, and Case No.
18 20-54-004715.

19 Mr. Michalowski thanked Erik Omlor and the staff
20 at the Professional Health Monitoring Programs (PHMP)
21 for their fabulous job with COVID-19 issues in keeping
22 things moving at the voluntary recovery program (VRP)
23 and disciplinary monitoring unit (DMU).

24 Mr. Michalowski addressed inspections, noting
25 that well over 700-800 complaints were submitted to

1 the agency for different licensing boards and
2 commissions regarding licensees who the complainants
3 believed were violating federal, state, or other
4 standards of practice relating to protecting the
5 public and each other from the spread of COVID-19.

6 Mr. Michalowski informed the Board of a number of
7 cases investigated on behalf of the Pharmacy Board
8 with the vast majority concerning masking issues. He
9 mentioned complaints regarding reusing pens, which was
10 remedied very quickly.

11 Mr. Michalowski stated most of the mask
12 complaints were not with individuals taking care of
13 patients or other customers at the checkout counter
14 but with individuals working away from the public
15 where medications were being prepared for dispensing.

16 He noted receiving an equal number of complaints from
17 consumers and employees of the pharmacy concerning
18 lack of masks and social distancing.

19 Mr. Michalowski explained that investigators are
20 following the current Centers for Disease Control and
21 Prevention (CDC) guidelines and call for universal
22 face coverings and masks in the pharmacy.

23 Mr. Michalowski stated the pharmacies not
24 following the guidelines receive a failed inspection.
25 He mentioned not charging for the first failed

1 inspection because of something minor, where the
2 inspectors can conduct a re-inspection and confirm the
3 minor violations have been remediated.

4 Mr. Michalowski commented that the only
5 alternative would be to refer those individuals to the
6 Department of Health to issue citations and implement
7 civil penalties for violations of the Governor's and
8 Physician General/Secretary of Health's orders. He
9 mentioned having the inspections done in-house, kept
10 it under the control of the Pharmacy Board, rather
11 than referring the less egregious cases to the
12 Department of Health.

13 Mr. Frankil noted receiving several phone calls
14 and emails from pharmacy owners who failed inspections
15 because of the masking issue and requested further
16 explanation on how someone could fail something that
17 does not have to do with pharmacy regulations.

18 Mr. Michalowski explained that cleanliness and
19 sanitary standards on the inspection form had expanded
20 since the pandemic and state of emergency.

21 Mr. Michalowski noted being aware of the concern
22 from individuals having a failed inspection on their
23 record. He stated there had not been a single person
24 who had not corrected the issue by the next visit. He
25 commented that the agency was trying to avoid

1 prosecution but also noted the importance of the
2 inspection and the inspectors doing their job.

3 Mr. Michalowski suggested the Board send out a
4 blast email of CDC guidelines specific to pharmacies.
5 He mentioned an alternative to a failed inspection,
6 where the violation could be noted and the inspectors
7 would return in 30 days, where a repeat violation
8 would then become a failed inspection. He commented
9 that the violations could be documented and enforced
10 but not create more difficulties for the industry.

11 Chairperson Talbott would like Mr. Michalowski to
12 have the inspectors place a notation on the inspection
13 report with follow-up in 30 days rather than creating
14 a failing inspection report and would like the agency
15 to find a way to make that happen. She suggested Mr.
16 Ruiz and Mr. Michalowski work together to develop
17 verbiage to be sent to pharmacies regarding CDC
18 guidelines via an email blast.

19 Mr. Michalowski mentioned other Boards were
20 sending letters with a warning stating it believed
21 there was a violation of the law, which sounds harsher
22 than having a notation on an inspection.]

23 ***

24 MOTIONS

25 MR. GREENE:

1 On agenda Item No. 2, I make a motion
2 that we approve the Consent Agreement at
3 Case No. 20-54-001305.

4 CHAIRPERSON TALBOTT:

5 Do I have a second?

6 MS. HART:

7 Second.

8 CHAIRPERSON TALBOTT:

9 Any additional discussion? Call the
10 vote.

11

12 Frankil, aye; Greene, aye; Slagle, aye;
13 Talbott, recuse; Roussel, aye; Hart, aye.

14 [The motion carried. Chairperson Talbott recused
15 herself from deliberations and voting on the motion.

16 The Respondent is CVS Pharmacy 4216.]

17

18 MR. GREENE:

19 On agenda Item No. 3, I make a motion
20 that we approve the Consent Agreement at
21 Case No. 20-54-003461.

22 MS. HART:

23 Second.

24 CHAIRPERSON TALBOTT:

25 I have a motion and a second. Any

1 discussion? Call the vote.

2

3 Frankil, aye; Greene, aye; Slagle, aye;

4 Talbott, aye; Roussel, aye; Hart, aye.

5 [The motion carried unanimously. The Respondent's

6 name is Melissa Jo Callis, R.Ph.]

7

8 MR. GREENE:

9 On agenda Item Nos. 4, 5, and 6, I move
10 that we approve the following VRP Consent
11 Agreements at Case No. 20-54-000067, Case
12 No. 20-54-006407, and Case No. 20-54-
13 004715.

14 MS. HART:

15 Second.

16 CHAIRPERSON TALBOTT:

17 A motion and a second. Do we have any
18 discussion? Call the vote.

19

20 Frankil, aye; Greene, aye; Slagle, aye;

21 Talbott, aye; Roussel, aye; Hart, aye.

22 [The motion carried unanimously.]

23

24 Report of Board Counsel

25 [Juan A. Ruiz, Esquire, Board Counsel, noted Recusal

1 Guidelines. He mentioned the addition of two new
2 Board members, Dr. Roussel and Mr. Slagle. He advised
3 everyone to review the guidelines and offered his
4 assistance regarding any recusal questions or
5 concerns.

6 Mr. Ruiz noted an application for stay of the
7 June 22, 2020 final adjudication and order in the
8 matter of Norman Steinberg, R.Ph., File No. 16-54-
9 001184.]

10 ***

11 CHAIRPERSON TALBOTT:

12 We discussed this at length in Executive
13 Session. Do we have a motion on this
14 matter?

15 MR. GREENE:

16 I make a motion that we deny the
17 respondent, Norman Steinberg's
18 Application for Stay at File No. 16-54-
19 01184.

20 CHAIRPERSON TALBOTT:

21 Do we have a second?

22 MS. HART:

23 Second.

24 CHAIRPERSON TALBOTT:

25 Any further discussion? Call the vote.

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Greene aye; Frankil, aye; Slagle, aye;
Talbott, aye; Roussel, aye; Hart, aye.

[The motion carried unanimously.]

[Juan A. Ruiz, Esquire, Board Counsel, informed the Board that the intern immunization package had been forwarded to acting senior regulatory counsel, who should soon be forwarding that to the Office of General Counsel (OGC).]

Chairperson Talbott questioned whether pharmacy interns would be helping with immunizations during flu season.

Mr. Ruiz commented that regulations will not totally be in place but should have something in place to get the authorizations done in a faster way.]

Report of Board Chairperson

[Terry M. Talbott, R.Ph., Chairperson, thanked Mr. Ruiz, Commissioner Johnson, and Ms. Zimmerman for all of their hard work in enabling the Board to continue to function during the pandemic. She noted also being thankful to have Mr. Slagle and Dr. Roussel on the Board.]

Chairperson Talbott thanked Board Members who

1 helped with the 2800 questions for the Multistate
2 Pharmacy Jurisprudence Exam (MPJE) review.

3 Chairperson Talbott requested everyone spread the
4 word that people can renew. She informed everyone
5 that notifications will go out in the mail for those
6 who do not have an email address on file. She
7 commended Board staff and the Bureau, noting it only
8 took two weeks to receive a hard copy of her renewed
9 license.

10 Chairperson Talbott mentioned she and Ms. Hart
11 will be attending the virtual National Association of
12 Boards of Pharmacy (NABP) District I and II Meeting on
13 September 8, 2020, hosted by the Maryland Board of
14 Pharmacy.]

15 ***

16 MS. HART:

17 I make a motion for Melanie to attend
18 District 1 & 2.

19 DR. ROUSSEL:

20 I second the motion.

21 CHAIRPERSON TALBOTT:

22 All in favor, say aye.

23

24 Greene aye; Frankil, aye; Slagle, aye;

25 Talbott, aye; Roussel, aye; Hart, aye.

1 [The motion carried unanimously.]

2 ***

3 Report of Probable Cause Screening Committee

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

5 General, noted reviewing and signing an order on one

6 Petition for a Physical and Mental Examination.]

7 ***

8 Report of Commissioner - No Report

9 ***

10 Report of Executive Secretary

11 [Melanie Zimmerman, R.Ph., Executive Secretary,

12 informed the Board the pharmacist and authorization to

13 administer renewal was available but mentioned an

14 issue with not having child abuse continuing education

15 on file for pharmacists. She stated the provider was

16 contractually required to electronically submit the

17 information to the Board office, but some providers

18 are submitting the information only to NABP's CPE

19 Monitor.

20 Ms. Zimmerman cautioned against uploading

21 information to a renewal application because it

22 creates a problem and prevents the system from moving

23 forward with the application if an upload was not

24 required. She also noted that the system provides no

25 warning to staff that the application needs modified

1 if a licensee uploads unnecessary information.

2 Ms. Zimmerman noted motions need to be made on
3 applications discussed during Executive Session.]

4 ***

5 MR. GREENE:

6 At agenda Item No. 9, I make a motion
7 that we grant applicant Rudrani Toutam's
8 Request for Reduced Intern Hours as a
9 Graduate of a Foreign Pharmacy School,
10 for a reduction of 500 hours requiring
11 the applicant to document 1000 intern
12 hours.

13 CHAIRPERSON TALBOTT:

14 Do I have a second?

15 MS. HART:

16 Second.

17 CHAIRPERSON TALBOTT:

18 Any further discussion? Call the vote.

19

20 Frankil, aye; Greene aye; Slagle, aye;

21 Talbott, aye; Roussel, aye; Hart, aye.

22 [The motion carried unanimously.]

23 ***

24 MR. GREENE:

25 At agenda Item No. 10, I make a motion

1 that we approve the Application of Botros
2 Hanna - Requesting Individual Approval as
3 a Graduate of a Foreign Pharmacy School.

4 CHAIRPERSON TALBOTT:

5 Do I have a second?

6 MS. HART:

7 Second.

8 CHAIRPERSON TALBOTT:

9 Any discussion? Call the vote.

10

11 Frankil, aye; Greene aye; Slagle, aye;

12 Talbott, aye; Roussel, aye; Hart, aye.

13 [The motion carried unanimously.]

14

15 New Business

16 MS. HART:

17 I make a motion to send Christine to the
18 FDA compound meeting and John as an
19 alternate.

20 CHAIRPERSON TALBOTT:

21 I have a motion. Do I have a second?

22 MR. FRANKIL:

23 Second.

24 CHAIRPERSON TALBOTT:

25 All in favor, signify by saying aye.

1 Opposed?

2 [The motion carried unanimously.]

3 ***

4 MS. HART:

5 I make a motion for Christine and John to
6 attend the (NABP) Member Forum on January
7 27 as scheduled.

8 I make the motion for Melanie to
9 attend the (NABP) Executive Officers
10 forum on September 30. All virtual
11 meetings.

12 CHAIRPERSON TALBOTT:

13 Do I have a second?

14 MR. FRANKIL:

15 Second.

16 CHAIRPERSON TALBOTT:

17 Any discussion? All in favor, say aye.

18 Any opposed?

19 [The motion carried unanimously.]

20 ***

21 [Melanie Zimmerman, R.Ph., Executive Secretary,
22 addressed the request by Raymond Cherry to permanently
23 amend Board regulation Section 27.12. She stated Mr.
24 Cherry did not provide sufficient information to
25 understand his exact circumstances, and she will

1 provide a response, noting the Board will take his
2 request under advisement.

3 Chairperson Talbott addressed the extended
4 pharmacist and authorization renewal which goes to
5 12/29/2020 and 2022 continuing education requirements.

6 She noted discussion in Executive Session concerning
7 confusion among licensees and questioned what other
8 boards are doing, wondering whether to push the renewal
9 period out or if individuals who renew in the normal
10 time period before October 1 could start counting
11 continuing education (CE) from October 1 to December
12 29.

13 Mr. Ruiz commented that a statement could read
14 that the Board was interested in allowing those who
15 renew by the normal deadline of September 30 to start
16 earning their continuing education for the next
17 renewal period starting October 1, and anyone who does
18 not renew by the September 30 deadline and takes
19 advantage of the renewal extension will not be able to
20 start earning continuing education until December 30
21 for the next renewal period.

22 Chairperson Talbott cautioned against spreading
23 that news until Mr. Ruiz had something official and
24 posts that on the website. She mentioned putting
25 something out to the stakeholders who normally get the

1 agenda and suggested Ms. Zimmerman send an e-mail to
2 the PA pharmacy associations for dissemination.]

3 ***

4 [K. Kalonji Johnson, Commissioner, Bureau of
5 Professional and Occupational Affairs, joined the
6 teleconference at 11:20 a.m.]

7 ***

8 [K. Kalonji Johnson, Commissioner, Bureau of
9 Professional and Occupational Affairs, addressed
10 renewal periods, suggesting anyone who was concerned
11 about their CE not counting in the appropriate renewal
12 period should treat the renewal cycle as if it was not
13 extended and they should renew by the normal
14 expiration date. He mentioned only 1% of individuals
15 had renewed.

16 Chairperson Talbott noted the importance of
17 informing individuals the renewal portal was open.
18 She also wanted licensees to be aware that if they can
19 count CEs from October 1 on to do that but not double
20 dip. She explained that individuals cannot get CEs
21 from October to December and count them for their
22 license renewal this year and in 2022.

23 Commissioner Johnson stated individuals should
24 submit their renewal now if they completed their CE
25 for the current cycle.

1 Ms. Zimmerman commented that people's records are
2 showing the renewal notice had been sent out but she
3 had not received a renewal email herself. Some of the
4 Board Members confirmed that they also had not
5 received a renewal e-mail notice.

6 Commissioner Johnson will investigate as to why
7 the Bureau was under the presumption the renewal
8 notice went out but was not received by licensees.

9 Chairperson Talbot requested Mr. Ruiz and
10 Commissioner Johnson work together on verbiage to be
11 posted on the website.

12 Chairperson Talbott suggested Melanie use the
13 verbiage that was put on the website and send it to
14 stakeholders for those people to send that out also.]

15 ***

16 Report of Commissioner

17 [K. Kalonji Johnson, Commissioner, Bureau of
18 Professional and Occupational Affairs, thanked the
19 Board for their patience and flexibility during the
20 pandemic. He noted the Bureau's thoughts and prayers
21 are with everyone battling this pandemic. He thanked
22 Mr. Ruiz, Ms. Zimmerman, and program staff for
23 continuing to work under trying conditions. He also
24 thanked stakeholders and public members.

25 Commissioner Johnson believed virtual meetings

1 were a benefit by helping to inform and educate an
2 audience that could not be reached historically.]

3 ***

4 Next Meeting Dates

5 [Terry M. Talbott, R.Ph., Chairperson, noted the next
6 scheduled meeting date is October 13, 2020.

7 Commissioner Johnson stated the Board should
8 continue to prepare for virtual meetings till the end
9 of the year but commented that alterations could be
10 made to the current procedures if that changes.]

11 ***

12 Adjournment

13 CHAIRPERSON TALBOTT:

14 I entertain a motion to adjourn.

15 MR. FRANKIL:

16 I make a motion to adjourn.

17 CHAIRPERSON TALBOTT:

18 Second?

19 MS. HART:

20 Second.

21 CHAIRPERSON TALBOTT:

22 All in favor?

23 [The motion carried unanimously.]

24 ***

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

1 Pharmacy Meeting adjourned at 11:29 a.m.]

2 ***

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4

5 CERTIFICATE

6

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

12

13

14


Derek Richmond,

15

Minute Clerk

16

Sargent's Court Reporting

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Service, Inc.

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STATE BOARD OF PHARMACY
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TIME	AGENDA
9:00	Executive Session
10:30	Return to Open Session
10:31	Official Call to Order
10:31	Introduction of Board Members
10:33	Introduction of Board Staff and Audience
10:39	Approval of Agenda and Minutes
10:39	Report of Prosecutorial Division
11:01	Motions
11:05	Report of Board Counsel
11:09	Report of Board Chairperson
11:11	Probable Cause Screening Committee
11:12	Report of Executive Secretary
11:14	New Business
11:25	Report of Commissioner
11:26	Next Meeting Date
11:29	Adjournment