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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: 9:00 A.M.

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

August 28, 2018

1    State Board of Pharmacy

2  
3    August 28, 2018

4  
5 BOARD MEMBERS:

6  
7 Janet Getzey Hart, R.Ph., Chairperson  
8 Katelin Lambert, Deputy Commissioner, Bureau of  
9     Professional and Occupational Affairs, present on  
10    behalf of Ian J. Harlow, Commissioner of  
11    Professional and Occupational Affairs  
12 Robert B. Frankil, R.Ph., Vice Chairman  
13 Theresa M. Talbott, R.Ph., Secretary  
14 Gayle A. Cotchen, Pharm.D./MBA, R.Ph.  
15 Patrick M. Greene, Esquire, Office of Attorney  
16     General  
17 Mark J. Zilner, R.Ph. - Absent  
18  
19

20 BUREAU PERSONNEL:

21  
22 Kerry E. Maloney, Esquire, Board Counsel  
23 Ray Michalowski, Esquire, Board Prosecution Liaison  
24 Keith E. Bashore, Esquire, Board Prosecutor  
25 Julia Feld-Caralle, Esquire, Board Prosecutor  
26 Heather J. McCarthy, Esquire, Board Senior Prosecutor  
27 Andrea L. Costello, Esquire, Board Prosecutor  
28 Melanie Zimmerman, R.Ph., Executive Secretary  
29 Devon Kenefick, Intern, Office of Chief Counsel,  
30     Department of State  
31  
32

33 ALSO PRESENT:

34 Carl Harting, CVS Health  
35 John Long, CVS Health  
36 Jeffrey J. Mesaros, CVS Health  
37 Kathie Simpson, RN, Executive Director, Secundum Artem  
38     Reaching Pharmacists with Help and PA Nurse Peer  
39     Assistance Program  
40 Jim Reed, Walgreens  
41 Andrew C. Harvan, Esquire, Pennsylvania Medical  
42     Society  
43 Jonathan Borowski, Penn State University Health  
44     Services  
45 Charles Hartwell, Esquire, Dethlefs-Pykosh Law Group  
46 John Sisto, Express Scripts, Incorporated  
47 Robert Grobinski, Cardinal Health  
48 Greg Smith, Central Admixture Pharmacy  
49 Judy Kutchman, AllianceRx Walgreens Prime  
50 Jenna McCarthy

1 \*\*\*

2 State Board of Pharmacy

3 August 28, 2018

4 \*\*\*

5 The regularly scheduled meeting of the State  
6 Board of Pharmacy was held on Tuesday, August 28,  
7 2018. Janet Getzey Hart, R.Ph., Chairperson, called  
8 the meeting to order at 9 a.m.

9 The Pledge of Allegiance was recited.

10 \*\*\*

11 Introduction of Board Members, Board Staff, and  
12 Audience

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

18 \*\*\*

19 Evacuation Announcement

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

23 \*\*\*

24 Approval of Agenda

25 CHAIRPERSON HART:

1                   The first item is the approval of the  
2                   agenda.

3 MS. TALBOTT:

4                   I'll make the motion that we approve the  
5                   agenda as written.

6 DR. COTCHEN:

7                   I second that.

8 CHAIRPERSON HART:

9                   Any discussion? All in favor? Opposed?

10                  [The motion carried unanimously.]

11    \*\*\*

12 Approval of Minutes of the June 28, 2018 meeting

13 CHAIRPERSON HART:

14                   The next item on the agenda is the  
15                   approval of the minutes. I think  
16                   everyone was given those ahead of time.

17                   Were there any changes to the  
18                   minutes, or can we have a motion to  
19                   approve?

20 DR. COTCHEN:

21                   I move that we approve the minutes as  
22                   presented.

23 MS. TALBOTT:

24                   Second.

25 CHAIRPERSON HART:

1 Any discussion? Call for a vote. All in  
2 favor, aye? 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. 13-54-  
8 05310 and File No. 17-54-07015.]

9 \*\*\*

10 [Keith E. Bashore, Esquire, Board Prosecutor presented  
11 the Consent Agreement for File No. 18-54-03896.]

12 \*\*\*

13 [Ray Michalowski, Esquire, Board Prosecution Liaison,  
14 announced a restructuring of the Legal Office and  
15 introduced Heather McCarthy, Esquire, Senior  
16 Prosecutor as the new Pharmacy Board Prosecution  
17 Liaison. John Karl Geschwindt, Esquire, Board  
18 Prosecutor, will be a new prosecutor for the Board.]

19 \*\*\*

20 Report of Board Counsel

21 [Kerry E. Maloney, Esquire, Board Counsel, discussed  
22 organizing a regulatory work session for the October  
23 meeting. He noted a waiver request to waive the  
24 requirement that pharmacies only use their registered  
25 name. He suggested the use of a temporary waiver, as

1 a permanent waiver would require amending the  
2 regulations.

3       There was discussion regarding the use a  
4 different name or adding doing business as (DBA) on  
5 the actual label, which would permit multiple names  
6 based upon a contractual agreement and be consistent  
7 with a regular pharmacy practice.

8       There also was a discussion related to offering  
9 patients or members the ability to receive specific  
10 materials related to specific health benefit plans.  
11 There would be a contractual agreement for  
12 accountability, which could be tracked the same as  
13 Board discipline.

14       Mr. Michalowski addressed concerns with the  
15 disciplinary process as a result of the inability to  
16 appropriately trace the pharmacy or the bottle label  
17 having insufficient information. It was noted that  
18 there should be an accountability and traceability  
19 from the bottle back to the registered pharmacy.

20       Language changes and the ability of a registered  
21 pharmacy to register additional names for the Board to  
22 track was discussed.

23       Mr. Michalowski reviewed the inspection process  
24 wherein the inspectors pull certain bottles to assure  
25 that only approved labels are being used. Discussion

1 continued related to the language in the current  
2 regulations on the matter.

3 Mr. Maloney noted matters for discussion during  
4 Executive Session. He stated Senate Bill 780 includes  
5 telehealth, telemedicine, and telepharmacy provisions.

6 Mr. Maloney stated the Board will review at its  
7 next meeting the Compounding and General Revisions  
8 regulations with Immunizations up next. He will  
9 update the Board on any movement of its regulations.  
10 He noted that a priority tag will be placed on  
11 Compounding. Naloxone was submitted as final  
12 omitted.]

13

\*\*\*

14 Report of Board Chairperson

15 [Chairperson Hart noted that the Board had conducted a  
16 review of Multistate Pharmacy Jurisprudence  
17 Examination (MPJE) questions for inclusion on the  
18 exam.]

19

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20 Report of Probable Cause Screening Committee

21 [It was noted that the Probable Cause Screening  
22 Committee signed an immediate suspension order and a  
23 medical examination order.]

24

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25 Report of Deputy Commissioner

1 [Katelin Lambert, Deputy Commissioner, on behalf of  
2 Ian J. Harlow, Commissioner of Professional and  
3 Occupational Affairs, provided an update on pharmacy  
4 renewals. All pharmacists received an email  
5 containing a registration code for the Pennsylvania  
6 Licensing System (PALS).

7 Ms. Lambert stated legacy user IDs and passwords  
8 can be used. Renewal reminders will be sent to  
9 licensees during the renewal period. She also noted  
10 reminders for saved applications. Ms. Lambert  
11 referred to a self-service page for help and a support  
12 page for assistance with renewals that allows the  
13 submission of help desk tickets.

14 Ms. Zimmerman discussed referring all questions  
15 regarding the Prescription Drug Monitoring Program  
16 (PDMP) to the PDMP. She reviewed the difference  
17 between a renewal and an initial application. She  
18 stated an initial application requires license  
19 verifications for licenses that are held or were held,  
20 but that a license verification is not required with  
21 renewals.

22 Ms. Simpson stated the PA Nurse Peer Assistance  
23 Program has been inundated with questions, including  
24 being licensed in another state. She questioned  
25 whether a copy of an applicant's current license in



1 another state should be provided. She also questioned  
2 whether individuals under a Voluntary Recovery Program  
3 agreement due to substance use are required to provide  
4 details, like having contacted Secundum Artem Reaching  
5 Pharmacists with Help Pharmacy Peer Assistance Program  
6 (SARPH) and the Professional Health Monitoring  
7 Programs (PHMP). Ms. Zimmerman noted the requirement  
8 to provide detailed information when a licensee must  
9 answer "Yes" to a legal question. However, uploaded  
10 unnecessary information will slow the processing of a  
11 renewal.

12 Ms. Simpson wanted to clarify a confusion  
13 regarding documentation needed for criminal charges  
14 issued by the Disciplinary Monitoring Unit (DMU) since  
15 the last renewal and whether or not all documentation  
16 should be resent. Ms. Zimmerman stated the file  
17 number would suffice. If there are criminal charges  
18 or a conviction that has already been addressed by the  
19 Board, the individual should include a statement that  
20 the file number contains all of the necessary  
21 information.

22 Ms. Simpson requested clarification regarding  
23 required documentation for driving under the influence  
24 (DUI). Ms. Zimmerman stated documents do not need to  
25 be certified but licensees should provide complete

1 information.

2 Ms. Simpson suggested posting the guidelines for  
3 renewal on the SARPH website.

4 It was noted that docket numbers will no longer  
5 be used on new cases.

6 Mr. Michalowski discussed Act 6 regarding the  
7 reporting of criminal matters, as well as registering  
8 with PA's PDMP.

9 Mr. Michalowski addresses the receipt of medical  
10 marijuana complaints which are related more to the  
11 physician than to the dispensaries and completely  
12 unrelated to pharmacies. Chairperson Hart noted  
13 concerns with dealing with a pharmacist with a medical  
14 marijuana card, which is a Schedule I controlled  
15 substance under federal law. Mr. Michalowski  
16 explained that Pennsylvania treats the individual the  
17 same as somebody on an opioid pain killer or a  
18 benzodiazepine for anxiety attacks. Hospitals have  
19 trained individuals to determine impairment.

20 There was a discussion regarding the National  
21 Association of Boards of Pharmacy (NABP) authorizing  
22 students for licensure exams. Ms. Zimmerman added  
23 that the Board did not enter into a contract with  
24 NABP, and that the Board's office staff were able to  
25 complete the task given the intern hours waiver. The

1 staff is working on test results posted on August 6,  
2 2018.

3 Ms. Zimmerman stated the information technology  
4 (IT) department is developing a program to automate  
5 the issuance of licenses. She noted that older  
6 applications converted to PALS need a final review  
7 because of the old material. She also noted that  
8 intern hours were previously required before  
9 authorization for the exams, and once the Board waived  
10 that requirement for Pharm.D. graduates of ACPE-  
11 accredited schools of pharmacy, the applicants could  
12 be authorized for the exams without a complete  
13 application review (until a later date).

14 Ms. Zimmerman explained that processing times are  
15 still extended due to staff vacancies and untrained  
16 new employees. She stated that deadlines are being  
17 met where required with 30 days to evaluate a remodel  
18 application and 90 days for proposed pharmacy/change  
19 in location applications.

20 Mr. Maloney stated that the application process  
21 was streamlined for pharmacy (business) applications  
22 in PALS, which also gives the applicant more  
23 responsibility to read the regulations and create a  
24 checklist for compliance. He also stated the Board's  
25 oversight will still be included through the

1 inspection.

2 Ms. Lambert stated the Bureau of Enforcement and  
3 Investigation (BEI) is testing and finalizing their  
4 work and integrating the inspection information into  
5 PALS.

6 Chairperson Hart suggested seeing a change  
7 regarding corporate level responsibilities for  
8 pharmacists in charge of stores that cannot receive  
9 emails from an outside source due to security  
10 concerns.

11 There was a discussion related to the delays in  
12 issuing pharmacy interns who have criminal charges an  
13 authorization to test. Ms. Zimmerman stated NABP does  
14 not authorize individuals to take the exams. The  
15 Board must provide the authorization. She noted that  
16 students who are Pharm.D. graduates of an ACPE-  
17 accredited school no longer must earn intern hours  
18 outside of school and would be authorize based on  
19 their educational documents alone.

20 Ms. Zimmerman next reviewed the authorization to  
21 test process. Each individual must be registered on  
22 NABP's website to take an exam in order for the Board  
23 to authorize the individual to take the exam.]

24 \*\*\*

25 Report of Executive Secretary - No Report

1 \*\*\*  
2 [The Board expressed its appreciation to Ms. Zimmerman  
3 for the extra hours she put in regarding licensing  
4 issues.]

5 \*\*\*  
6 Applications  
7 [Melanie Zimmerman, R.Ph., Executive Secretary,  
8 referred to applications for discussion during  
9 Executive Session.]

10 \*\*\*  
11 New Business  
12 [Melanie Zimmerman, R.Ph., Executive Secretary, stated  
13 NABP requested the Board name a member to attend the  
14 Interactive Member Forum, November 28-29, 2018.]

15 MS. TALBOTT:

16 I make a motion that we send Robert Brian  
17 Frankil to the NABP Interactive Member  
18 Forum.

19 DR. COTCHEN:

20 I second that motion.

21 CHAIRPERSON HART:

22 Any discussion? All in favor? Opposed?

23 [The motion carried unanimously.]

24 \*\*\*

25 New Business (Continued)

1 [Melanie Zimmerman, R.Ph., Executive Secretary, noted  
2 a letter from Diane Wordinger regarding hesitancy when  
3 prescribing opioids

4 The Board discussed pharmacy benefit manager  
5 issues, guidelines for prescribing and dispensing  
6 which are not laws/regulations and alternatives to  
7 treating pain other than with opioids, such as dry  
8 needling, acupuncture, and marijuana.]

9

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10 [Pursuant to Section 708(a)(5) of the Sunshine Act, at  
11 10:18 a.m., the Board entered into Executive Session  
12 with Kerry E. Maloney, Esquire, Board Counsel, to  
13 receive legal advice and engage in quasi-judicial  
14 deliberations. The Board returned to open session at  
15 11:38 a.m.]

16

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17 MOTIONS

18 MR. MALONEY:

19 The item on the agenda for the vote is  
20 the CVS Waiver Request. In accordance  
21 with discussions in Executive Session,  
22 I'm looking for a motion to grant in part  
23 and deny in part the waiver request.

24 The granting of the waiver would be  
25 that the Pharmacy Board would waive the

1 regulation to the extent that it would  
2 remain consistent with the following:  
3 Pharmacy may not display, advertise, or  
4 use any name other than the name in which  
5 it is registered unless the pharmacy has  
6 a legal or contractual right to use an  
7 affiliated name; however, the pharmacy  
8 label shall contain the pharmacy's name  
9 as registered with the Board or a  
10 derivation of its name as approved by the  
11 Board and in accordance with the section  
12 on the label requirements.

13 To the extent that the waiver is any  
14 broader than what was just read, that is  
15 denied by the Board. After this motion,  
16 if it passes, then I'll draft an actual  
17 order to make that clear.

18 Does any voting Board member have any  
19 question on the wording?

20 DR. COTCHEN:

21 So moved.

22 MR. FRANKIL:

23 Second.

24 CHAIRPERSON HART:

25 Call for a vote.

1

2

Frankil, aye; Greene, aye; Lambert, aye;

3

Hart, aye; Cotchen, aye; and Talbott,

4

recuse.

5

[The motion carried. Terry Talbott recused herself

6

from deliberations and voting on the motion.]

7

\*\*\*

8

DR. COTCHEN:

9

I move that we approve the Consent

10

Agreements for the six VRP files, which

11

numbers are File No. 18-54-02974, File

12

No. 18-54-03740, File No. 18-54-004155,

13

File No. 18-54-004644, File No. 18-54-

14

004712, and File No. 18-54-005533.

15

MS. TALBOTT:

16

Second.

17

CHAIRPERSON HART:

18

Any discussion? Call for a vote.

19

20

Frankil, aye; Greene, aye; Lambert, aye;

21

Hart, aye; Cotchen, aye; and Talbott,

22

aye.

23

[The motion carried unanimously.]

24

\*\*\*

25

DR. COTCHEN:



1 I move that we approve the Consent  
2 Agreement for File No. 17-54-07015.

3 MS. TALBOTT:

4 Second.

5 CHAIRPERSON HART:

6 Any discussion? Call for a vote.

7

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

11 [The motion carried unanimously. The pharmacist's  
12 name is Jeffrey Tyson Lipman, R.Ph.]

13 \*\*\*

14 DR. COTCHEN:

15 I move that we approve the Consent  
16 Agreement for File No. 13-54-05310.

17 MS. TALBOTT:

18 Second.

19 CHAIRPERSON HART:

20 Any discussion? Call for a vote.

21

22 Frankil, aye; Greene, aye; Lambert, aye;  
23 Hart, aye; Cotchen, aye; and Talbott,  
24 aye.

25 [The motion carried unanimously. The pharmacy's name

1 is Med-Fast Pharmacy Institutional.]

2 \*\*\*

3 DR. COTCHEN:

4 I move that we approve the Consent  
5 Agreement for File No. 18-54-03896.

6 MS. TALBOTT:

7 Second.

8 CHAIRPERSON HART:

9 Any discussion? Call for a vote.

10

11 Frankil, aye; Greene, aye; Lambert, aye;  
12 Hart, aye; Cotchen, aye; and Talbott,  
13 aye.

14 [The motion carried unanimously. The pharmacist's  
15 name is Ryan A. Stout.]

16 \*\*\*

17 DR. COTCHEN:

18 I move that we approve the final  
19 Adjudication and Order for File No. 18-  
20 54-001801, Anthony J. Labashousky, R.Ph.

21 MS. TALBOTT:

22 Second.

23 CHAIRPERSON HART:

24 Any discussion? Call for a vote.

25

1 Frankil, aye; Greene, aye; Lambert, aye;  
2 Hart, aye; Cotchen, aye; and Talbott,  
3 aye.

4 [The motion carried unanimously.]

5 \*\*\*

6 DR. COTCHEN:

7 I move that we approve the final  
8 Adjudication and Order for File No. 18-  
9 54-00106, Cape Drugs.

10 MS. TALBOTT:

11 Second.

12 CHAIRPERSON HART:

13 Any discussion? Call for a vote.

14

15 Frankil, aye; Greene, aye; Lambert, aye;  
16 Hart, aye; Cotchen, aye; and Talbott,  
17 aye.

18 [The motion carried unanimously.]

19 \*\*\*

20 DR. COTCHEN:

21 I move that we grant the petition for  
22 reinstatement submitted by Eric V. Fox,  
23 R.Ph., File No. 18-54-03078.

24 MS. TALBOTT:

25 Second.

1 CHAIRPERSON HART:

2 Any discussion? Call for a vote.

3

4 Frankil, recuse; Greene, aye; Lambert,  
5 aye; Hart, aye; Cotchen, aye; and  
6 Talbott, aye.

7 [The motion carried. Robert Frankil recused himself  
8 from deliberations and voting on the motion.]

9

\*\*\*

10 DR. COTCHEN:

11 I move that we provisionally deny the  
12 Application Appeal submitted by Min Qiang  
13 Chen.

14 MS. TALBOTT:

15 Second.

16 CHAIRPERSON HART:

17 Any discussion? Call for a vote.

18

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

22 [The motion carried unanimously.]

23

\*\*\*

24 DR. COTCHEN:

25 I move that we deny the Request for

1 Reduced Intern Hours submitted by Hussein  
2 Albu Mohammed and Viviane Farah.

3 MS. TALBOTT:

4 Second.

5 CHAIRPERSON HART:

6 Any discussion? Call for a vote.

7

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

11 [The motion carried unanimously.]

12 \*\*\*

13 DR. COTCHEN:

14 I move that we provisionally deny the  
15 Nonresident Pharmacy Application  
16 submitted by College Pharmacy.

17 MS. TALBOTT:

18 Second.

19 CHAIRPERSON HART:

20 Any discussion? Call for a vote.

21

22 Frankil, aye; Greene, aye; Lambert, aye;  
23 Hart, aye; Cotchen, aye; and Talbott,  
24 aye.

25 [The motion carried unanimously.]

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DR. COTCHEN:

I move that we adjourn.

MS. TALBOTT:

Second.

CHAIRPERSON HART:

All in favor?

[The motion carried unanimously.]

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[There being no further business, the State Board of  
Pharmacy Meeting adjourned at 11:46 a.m.]

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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

August 28, 2018

	TIME	AGENDA
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5		
6		
7	TIME	AGENDA
8		
9	9:00	Official Call to Order
10		
11	9:00	Pledge of Allegiance
12		
13	9:01	Introduction of Board Members, Board
14		Staff, and Audience Members
15		
16	9:04	Approval of Agenda
17		
18	9:04	Approval of Minutes
19		
20	9:05	Report of Prosecutorial Division
21		
22	9:13	Report of Board Counsel
23		
24	9:28	Report of Committees
25		
26	9:29	Report of Deputy Commissioner
27		
28	10:14	New Business
29		
30	10:18	Executive Session
31	11:38	Return to Open Session
32		
33	11:38	Motions
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35	11:46	Adjournment
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