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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: 10:36 A.M.

Held at

PENNSYLVANIA DEPARTMENT OF STATE

2601 North Third Street

One Penn Center, Board Room C

Harrisburg, Pennsylvania 17110

as well as

VIA MICROSOFT TEAMS

November 1, 2022

State Board of Pharmacy
November 1, 2022

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BOARD MEMBERS:

- Janet Getzey Hart, R.Ph., Chairperson
- Arion R. Claggett, Acting Commissioner, Bureau of Professional and Occupational Affairs
- Christine Roussel, Pharm.D., BCOP, BCSCP, Vice Chairperson
- Patrick M. Greene, Esquire, Office of Attorney General, Secretary
- John R. Slagle, R.Ph.
- Terry M. Talbott, R.Ph.

BUREAU PERSONNEL:

- Carole Clarke Smith, Esquire, Senior Board Counsel
- Ariel O'Malley, Esquire, Board Counsel
- Carolyn DeLaurentis, Deputy Chief Counsel, Prosecution Division
- Ray Michalowski, Esquire, Senior Board Prosecution Liaison
- Glenn P. Masser, Esquire, Board Prosecutor
- Alice Glasser, Esquire, Board Prosecutor
- Ashley Murphy, Esquire, Board Prosecutor
- Caroline A. Bailey, Esquire, Board Prosecutor
- Melanie Zimmerman, R.Ph., Board Administrator
- Marc Farrell, Deputy Policy Director, Department of State
- Nicole VanOrder, Esquire, Prosecuting Attorney
- Jane Michetti, Legal Intern

ALSO PRESENT:

- Mary Tran, Pharm.D., Executive Fellow, Pennsylvania Pharmacists Association
- Larry Jones, Executive Director, Pennsylvania Society of Health-System Pharmacists
- Victoria Elliott, R.Ph., MBA, CAE, CEO, Pennsylvania Pharmacists Association
- Timothy Black, R.Ph., Pharmacy Inspector, Bureau of Enforcement and Investigation, Department of State
- Jacquelyn Sassaman, Pentec Health
- Jenna McCarthy, Associate, Malady & Wooten
- Judy Kutchman, AllianceRx Walgreens Prime

State Board of Pharmacy
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ALSO PRESENT: (cont.)

- Kimberly Mehta, Pharm.D., MPH, Director of Medication Safety and Regulatory, Allegheny Health Network
- Nicole Sidle, Republican Executive Director, House Professional Licensure Committee
- Jeffrey Dietrich, Pharmacy Manager, Cardinal Health
- William Johnson
- David Klinger, System Director, Operations & Compliance, Geisinger Health System
- Christopher Miller, Pharm.D., Giant Eagle
- Cheryl McChesney, Pharm.D., Genoa Healthcare
- Laura Romeo, Pharmacist-in-Charge at ConnectiveRx, Careform Pharmacy
- Christina Swiger, Pharmacy Intern
- Derek Richmond
- Catherine Lutz, Pharmacy Inspector, Bureau of Enforcement and Investigation, Department of State
- Domenique Aguirre
- Alexis Jeschonnek
- Vinay Arora
- Charlotte Harris
- Eric Esterbrook, R.Ph.
- Joshua Finger
- Jennifer Raibley
- Matt Roesch,
- Alicia Palombo
- Misha Patel
- Raymond Vellky
- Jennifer Smeltz
- Jessica Zukoski

1 ***

2 State Board of Pharmacy

3 November 1, 2022

4 ***

5 [Pursuant to Section 708(a)(5) of the Sunshine Act,
6 at 9:30 a.m., the Board entered into Executive
7 Session with Ariel E. O'Malley, Esquire, Board
8 Counsel, for the purpose of conducting quasi-judicial
9 deliberations and to receive the advice of Board
10 Counsel. The Board returned to open session at 10:30
11 a.m.]

12 ***

13 The regularly scheduled meeting of the State Board of
14 Pharmacy was held on Tuesday, November 1, 2022.
15 Janet Getzey Hart, R.Ph., Chairperson, called the
16 meeting to order at 10:36 a.m.

17 ***

18 Pledge of Allegiance

19 [The Pledge of Allegiance was recited.]

20 ***

21 Introduction of the Board Members/Audience

22 [Janet Getzey Hart, R.Ph., Chairperson, requested an
23 introduction of Board members, Board staff and the
24 audience.]

25 ***

1 [Ariel E. O'Malley, Esquire, Board Counsel,
2 reminded everyone that the meeting was being
3 recorded, and those who continued to participate were
4 giving their consent to be recorded.]

5 ***

6 Approval of Agenda

7 CHAIRPERSON HART:

8 At this point, I would seek a motion to
9 approve the agenda as posted and
10 distributed.

11 DR. ROUSSEL:

12 I'd like to make a motion to approve the
13 agenda.

14 MS. TALBOTT:

15 Second.

16 CHAIRPERSON HART:

17 Any discussion? Call for a vote.

18

19 Roussel, aye; Hart, aye; Claggett, aye;

20 Slagle, aye; Greene, aye; Talbott, aye.

21 [The motion carried unanimously.]

22 ***

23 Approval of Minutes

24 [Janet Getzey Hart, R.Ph., Chairperson, noted the
25 approval of minutes would be postponed until the next

1 agenda.]

2

3 [Janet Getzey Hart, R.Ph., Chairperson, noted the
4 Board of Pharmacy met in Executive Session to receive
5 legal advice and engage in quasi-judicial
6 deliberations.]

7

8 Evacuation Announcement

9 [Melanie Zimmerman, R.Ph., Board Administrator,
10 reviewed the emergency evacuation procedures for One
11 Penn Center.]

12

13 Report of Board Prosecution

14 [Caroline A. Bailey, Esquire, Board Prosecutor,
15 presented the Consent Agreements for Case Nos. 22-54-
16 005324 & 22-54-005326 and Case Nos. 20-54-007700, 20-
17 54-007701 & 20-54-007702.]

18

19 [Alice Glasser, Esquire, Board Prosecutor, presented
20 the Consent Agreement for Case No. 21-54-018999.]

21

22 [Glenn P. Masser, Esquire, Board Prosecutor,
23 presented the Consent Agreements for Case No. 22-54-
24 007280 and Case Nos. 21-54-014350 & 21-54-014351.]

25

1 Report of Board Counsel

2 [Ariel E. O'Malley, Esquire, Board Counsel, referred
3 to the pharmacy technician annex that the Board has
4 been working on at their workgroup sessions for
5 several months. She stated the biggest change and
6 addition would be regarding the fees.

7 Ms. O'Malley addressed the fee reports, noting
8 the application fee for pharmacy technician
9 registration at \$135. She noted the trainee
10 registration could not be more than half of what the
11 pharmacy technician registration could be in the act.
12 She noted that took it down to \$67.50 and would go
13 toward their technician registration if they become a
14 pharmacy technician while their training registration
15 is still in place.

16 Ms. O'Malley mentioned that \$135 was not the fee
17 the Board wanted or had seen in other states. She
18 noted requesting to look at all of the applications
19 and application fees, noting the request is in place
20 and is hoping to be able to reevaluate other
21 applications and bring that down for pharmacy
22 technicians.

23 Ms. O'Malley noted the Board expressed the
24 starting salaries for pharmacy technicians is \$15 an
25 hour and the math does not work out and is not fair

1 or justifiable. She noted that math is not going to
2 work with the Regulatory Analysis Form (RAF) with the
3 regulatory package either. She noted the need to
4 look at all of the application fees and have a
5 discussion with the Bureau of Finance and Operations
6 (BFO).

7 Ms. O'Malley commented that the Board has not had
8 a fee increase in a while and some of the other fees
9 may go up after all of the application fees are
10 reviewed. She informed Board members that she would
11 be doing another regulatory package and would be able
12 to bring the pharmacy technician down and do another
13 fee package in conjunction with this package to
14 reevaluate all of the fees. She noted that she would
15 need to do an entire fee regulation along with the
16 pharmacy technician package.

17 Dr. Roussel informed Ms. O'Malley of questions
18 around the pharmacy technician education requirements
19 and believed there are more questions as to what is
20 in there right now and wording issues.

21 Ms. O'Malley informed Board members that it is
22 better to address any questions or alterations of the
23 language as much of that as possible now before it
24 goes in as proposed.

25 Larry Jones, Executive Director, Pennsylvania

1 Society of Health-System Pharmacists, questioned the
2 reserved section on page 4, Section 27.12(d)(2)(v).

3

4 Ms. Talbott explained that the section was taken
5 out because they capture that in Section
6 27.12(d)(2)(vii) - assist the pharmacist in the
7 compounding of drug products.

8 Mr. Jones referred to Section 27.12a(a)(7), where
9 it talks about compounding and dispensing. He stated
10 the technician does not choose products and asked why
11 the section is in the technician regulation.

12 Ms. O'Malley stated the legislation decided it
13 was going to have disciplinary sections in the act
14 that apply to the pharmacy technician and cross-
15 referenced them, so they were copied and pasted into
16 there. She offered to remove the specific language
17 if it does not apply to pharmacy technicians.

18 Ms. O'Malley further explained that when the
19 General Assembly wrote the language, they cross-
20 referenced in the disciplinary section what applied
21 to the pharmacy technicians and trainees but did not
22 specifically put the language in the act, so it was
23 copied and pasted into the regulations so pharmacy
24 technicians would know.

25 Ms. Talbott agreed the last sentence that starts

1 with "this restrictive clause" could be taken out but
2 not all of Section 27.12a(a)(7).

3 Mr. Jones referred to Section 27.702(b)(2),
4 noting the American Society for Health-System
5 Pharmacists (ASHP) and the Accreditation Council for
6 Pharmacy Education (ACPE) are not separate programs.

7 He mentioned that ASHP utilized ACPE for the
8 programs.

9 Ms. Talbott asked whether it would be appropriate
10 to have it read: ... a program that holds current
11 accreditation from ACPE (and strike ASHP because
12 every program that ASHP uses is already accredited by
13 ACPE).

14 Ms. O'Malley confirmed the Board wanted to remove
15 ASHP, where it would now only read, any program
16 accredited by ACPE.

17 Mr. Jones referred to Section 27.702(b)(3),
18 noting PTCB is not a recognized training program and
19 is a certificate program and approves other training
20 programs, of which there are 3,500.

21 Ms. Talbott read the paragraph: Nationally
22 recognized pharmacy technician training programs
23 including, but not limited to, those recognized by
24 the Pharmacy Technician Certification Board (PTCB)
25 and National Healthcareer Association for admission

1 to their respective certification exams. She stated
2 they are not saying PTCB and the National
3 Healthcareer Association are training programs and
4 are just saying those training programs that are
5 nationally recognized and these two organizations as
6 examples of organizations that would recognize a
7 training program.

8 Mr. Jones asked whether schools licensed by the
9 State Board of Private Licensed Schools are approved
10 by the ACPE pharmacy standards because when the Board
11 licenses pharmacists, the pharmacist applicants have
12 to have graduated from an accredited school of
13 pharmacy. He asked who is validating the
14 Pennsylvania State Board Private Licensed Schools
15 pharmacy content.

16 Ms. Talbott explained that they would fall in the
17 bucket of employers, and their program would have to
18 file everything that was under § 27.702(a). She noted
19 Mr. Jones is saying that ACPE does not do it, but she
20 thinks they would have to put them under that because
21 they were saying they train people to take the PTCB
22 exam. She noted their state-approved programs do not
23 issue a state certificate.

24 Dr. Roussel referred to the language in Section
25 27.702(b)(3), where it says PTCB-approved training

1 program to allow them to sit for the certificate and
2 asked whether just being allowed to sit for the
3 certificate would qualify as opposed to the
4 certificate.

5 Dr. Roussel noted that each of the training
6 programs approved by PTCB is reasonable but if
7 someone actually certified by PTCB would count as
8 well. She asked whether it should be tweaked or is
9 acceptable.

10 Theresa Talbott believes somebody would meet that
11 section if they had their PTCB certificate.

12 Dr. Roussel expressed concern regarding the
13 language, where if someone has the certificate, then
14 it just waives the training but does not say that.

15 Victoria Elliott, R.Ph., MBA, CAE, CEO,
16 Pennsylvania Pharmacists Association, requested more
17 information regarding who would be making sure the
18 organizations that have been approved still meet all
19 of the criteria.

20 Ms. Zimmerman commented that it would likely be
21 an education verification form, where the applicant
22 is going to have to apply for the registration and
23 forward the education verification form to the
24 training provider. The training provider would have
25 to verify that standards were met.

1 Mr. Jones commented that he does not see
2 competency listed anywhere nor the one caveat that
3 says topics should be covered to be sure the employee
4 can function in the job that is there, noting there
5 are others than what is listed in Section 27.702(a).

6 There was discussion regarding amending Section
7 27.702(c) and adding Section 27.702(d) to address
8 competency. Ms. Zimmerman suggested amending Section
9 27.702(a) to require a minimum level of testing of
10 competency.

11 The Board was in agreement to make this change. Mr.
12 Jones requested information regarding the technician
13 and employer responsibilities when a new technician
14 is hired.

15 Ms. Talbott explained that the onus would be on
16 the employer to develop the pharmacy technician
17 protocol and confirm the validation when an inspector
18 would come in that someone is nationally certified
19 and was provided any training that meets the act.

20 Ms. O'Malley informed Board members that she
21 would do an exposure draft with the changes if they
22 are fine with the revisions.]

23 MS. O'MALLEY:

24 You need to make a motion to send out an
25 exposure draft.

1 MS. TALBOTT:

2 I make a motion that we send out an
3 exposure draft for the pharmacy tech reg.

4 DR. ROUSSEL:

5 I second that.

6 CHAIRPERSON HART:

7 Call for a vote.

8

9 Roussel, aye; Hart, aye; Claggett, aye;
10 Slagle, aye; Greene, aye; Talbott, aye.

11 [The motion carried unanimously.]

12

13 [Ariel E. O'Malley, Esquire, Board Counsel, informed
14 Board members she is also working on getting the
15 proposal to final-omitted for Act 80 regarding the
16 ability to administer COVID vaccinations down to age
17 5.]

18

19 Report of Board Chairperson

20 [Janet Getzey Hart, R.Ph., Chairperson, informed
21 everyone that she attended the National Association
22 of Boards of Pharmacy (NABP)/American Association of
23 Colleges of Pharmacy (AACP) District 1 and District 2
24 Meeting in Rhode Island, along with Dr. Roussel and
25 Ms. Talbott.

1 Chairperson Hart noted discussion regarding the
2 Multistate Pharmacy Jurisprudence Examination (MPJE)
3 and whether it should be eliminated. She stated ACPE
4 was in favor of eliminating it and some states allow
5 students to take it up to 12 times. She also
6 mentioned there would possibly be a task force to
7 have everybody at the table for further discussion.

8 Chairperson Hart noted the 2025 National
9 Association of Boards of Pharmacy/AACP District 1 and
10 District 2 Meeting will be held in Delaware. She
11 noted there are no pharmacy schools in Delaware and
12 the American Association of Colleges of Pharmacy
13 offered to work with the Delaware Board of Pharmacy
14 as far as some of the pharmacy schools in
15 Pennsylvania helping to host the meeting.

16 Chairperson Hart noted the National Association
17 of Boards of Pharmacy/AACP District 1 and District 2
18 Meeting will be held in Atlantic City, NJ, September
19 20-22, 2023.

20 Chairperson Hart also noted some proposed
21 resolutions from District 1 regarding point-of-care
22 testing. District 2 did not vote on these and the
23 District 1 drafted resolution will be and these voted
24 on at the next NABP Annual Meeting.

25 Chairperson Hart addressed her attendance at the

1 Tri-Regulator Symposium, which brings together the
2 nursing boards, medical boards, and pharmacy boards
3 in a collaborative atmosphere. She addressed a major
4 topic concerning telehealth and how telehealth is
5 going to continue. She noted mental health is a hot
6 topic with telehealth and there are perhaps going to
7 be some changes at a national level.

8 Chairperson Hart commented that there were a lot
9 of good speakers from the Food and Drug
10 Administration and different organizations and there
11 is a potential for smaller groups to be meeting more
12 often than every two years.

13 Chairperson Hart addressed other NABP activity,
14 including a leadership and executive officer forum
15 held in Chicago concerning what other boards are
16 doing. She reported COVID, remote work and
17 technicians immunizing was the big topic that came
18 out of that.]

19

20 Report of Acting Commissioner

21 [Arion R. Claggett, Acting Commissioner, Bureau of
22 Professional and Occupational Affairs, provided an
23 update regarding new Board Member Eric Esterbrook,
24 noting paperwork has not yet been received for
25 processing, and he has not been sworn in.

1 Ms. Talbott thanked Acting Commissioner Claggett
2 for shepherding that process.]

3 ***

4 Report of Board Administrator

5 [Melanie Zimmerman, R.Ph., Board Administrator,
6 addressed renewals. She informed Board members that
7 the renewal period ended yesterday, but the system
8 allows collection of any child abuse continuing
9 education (CE) for another week. She explained that
10 somebody who submitted an application by yesterday
11 and if their child abuse CE comes in within the next
12 seven days, the licensee would still have their
13 license renewal processed.

14 Ms. Zimmerman reported about 7.6 percent of
15 authorizations to administer did not renew and 6
16 percent of pharmacists did not renew. She noted
17 traditionally losing about 1,000 pharmacists every
18 renewal period and 6 percent is about 1,500, which is
19 more than normal.

20 Dr. Roussel thanked Ms. Zimmerman and Acting
21 Commissioner Claggett for extending the renewal
22 period.]

23 ***

24 Report of Board Members

25 [Christine Roussel, Pharm.D., BCOP, BCSCP, Vice

1 Chairperson, noted she would be attending and logging
2 into the FDA Intergovernmental Work Group on
3 Compounding meeting.

4 Dr. Roussel noted the United States Pharmacopeia
5 (USP) should be updating the revised edition of the
6 proposed USP 797 and 795 for sterile and nonsterile
7 compounding today.]

8 ***

9 MOTIONS

10 CHAIRPERSON HART:

11 The Board of Pharmacy met in Executive
12 Session to discuss and review consent
13 orders and other legal documents.

14 Are there any motions regarding
15 these discussions?

16 MR. GREENE:

17 At agenda item 1, I make a motion that we
18 reject as too lenient the Consent
19 Agreement at Case Nos. 22-54-005324 and
20 22-54-005326.

21 DR. ROUSSEL:

22 Second.

23 CHAIRPERSON HART:

24 Any discussion? No discussion. Call for
25 a vote.

1

2

Roussel, aye; Hart, aye; Claggett, aye;

3

Slagle, aye; Greene, aye; Talbott, aye.

4

[The motion carried unanimously.]

5

6

MR. GREENE:

7

At agenda item 2, I make a motion that we

8

reject as drafted the Consent Agreement

9

at Case Nos. 20-54-007700, 20-54-007701,

10

and 20-54-007702.

11

DR. ROUSSEL:

12

Second.

13

CHAIRPERSON HART:

14

Any discussion? No discussion. Call for

15

a vote.

16

17

Roussel, aye; Hart, aye; Claggett, aye;

18

Slagle, aye; Greene, aye; Talbott, aye.

19

[The motion carried unanimously.]

20

21

MR. GREENE:

22

At agenda item 3, I make a motion that we

23

approve the Consent Agreement at Case No.

24

21-54-018999.

25

DR. ROUSSEL:

1 I second the motion to accept.

2 CHAIRPERSON HART:

3 Any discussion? Call for a vote.

4

5 Roussel, aye; Hart, aye; Claggett, aye;

6 Slagle, aye; Greene, aye; Talbott, aye.

7 [The motion carried unanimously. The Respondent's
8 name is Mitchell Spivack, R.Ph.]

9

10 MR. GREENE:

11 At agenda item 4, I make a motion that we
12 approve the Consent Agreement at Case No.
13 22-54-007280.

14 DR. ROUSSEL:

15 Second.

16 CHAIRPERSON HART:

17 Any discussion? Call for a vote.

18

19 Roussel, aye; Hart, aye; Claggett, aye;

20 Slagle, aye; Greene, aye; Talbott, aye.

21 [The motion carried unanimously. The Respondent's
22 name is Angela Frances D'Alessandro.]

23

24 MR. GREENE:

25 At agenda item 5, I make a motion that we

1 approve the Consent Agreement at Case
2 Nos. 21-54-014350 & 21-54-014351.

3 DR. ROUSSEL:

4 Second.

5 CHAIRPERSON HART:

6 Any discussion? Call for a vote.

7

8 Roussel, aye; Hart, aye; Claggett, aye;
9 Slagle, aye; Greene, aye; Talbott,
10 recuse.

11 [The motion carried. Terry Talbott recused herself
12 from deliberations and voting on the motion. The
13 Respondents are Pennsylvania CVS Pharmacy, LLC
14 t/d/b/a CVS Pharmacy #2951 and Lily Moy-Maldonado.]

15

16 MR. GREENE:

17 At agenda item 7, in the Matter of the
18 Petition for Reinstatement of Peter
19 Grujich, I make a motion that we direct
20 Board Counsel to draft an Adjudication
21 and Order consistent with discussions in
22 Executive Session.

23 DR. ROUSSEL:

24 Second.

25 CHAIRPERSON HART:

1 Any discussion? Call for a vote.

2

3 Roussel, aye; Hart, aye; Claggett, aye;

4 Slagle, aye; Greene, aye; Talbott, aye.

5 [The motion carried unanimously.]

6

7 Discussion Item

8 MR. GREENE:

9 At agenda item 9, I make a motion that we
10 grant the Applicant, Sabah Daoud's
11 Request for an Extension for the
12 Authorization to Test.

13 DR. ROUSSEL:

14 Second.

15 CHAIRPERSON HART:

16 Any discussion? Call for a vote.

17

18 Roussel, aye; Hart, aye; Claggett, aye;

19 Slagle, aye; Greene, aye; Talbott, aye.

20 [The motion carried unanimously. The extension was
21 granted to 12/31/2022 based on applicant's special
22 circumstances.]

23

24 Adjournment

25 MS. TALBOTT:

1 I make a motion that we adjourn.

2 DR. ROUSSEL:

3 I second the motion.

4 CHAIRPERSON HART:

5 Meeting adjourned.

6 ***

7 [There being no further business, the State Board of
8 Pharmacy Meeting adjourned at 11:40 a.m.]

9 ***

10

11 CERTIFICATE

12

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

18

19

20



21

Derek Richmond,

22

Minute Clerk

23

Sargent's Court Reporting

24

Service, Inc.

25

STATE BOARD OF PHARMACY
REFERENCE INDEX

November 1, 2022

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TIME	AGENDA
9:30	Executive Session
10:30	Return to Open Session
10:36	Official Call to Order
10:36	Pledge of Allegiance
10:37	Introduction of Board Members/Staff/Audience
10:41	Approval of Agenda
10:43	Report of Board Prosecution
10:54	Report of Board Counsel
11:25	Report of Board Chairperson
11:31	Report of Acting Commissioner
11:32	Report of Board Administrator
11:33	Report of Board Members
11:35	Motions
11:40	Adjournment