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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: 10:31 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

May 2, 2023

State Board of Pharmacy
May 2, 2023

BOARD MEMBERS:

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

BUREAU PERSONNEL:

Carole Clarke Smith, Esquire, Senior Board Counsel
Ariel O'Malley, Esquire, Board Counsel
Ray J. Michalowski, Esquire, Senior Board Prosecutor
Alice R. Glasser, Esquire, Board Prosecution Liaison
Glenn P. Masser, Esquire, Board Prosecutor
Caroline A. Bailey, Esquire, Board Prosecutor
Ashley P. Murphy, Esquire, Board Prosecutor
Nicole L. VanOrder, Esquire, Board Prosecutor
Melanie Zimmerman, R.Ph., Board Administrator
Marc Farrell, Esquire, Regulatory Counsel,
Office of Chief Counsel, Department of State
Andrew LaFratte, MPA, Executive Policy Specialist,
Department of State
Jessica Zukoski, Senior Legal Analyst, Department of
State
Michael Foerster, Hearing Examiner, Department of
State

ALSO PRESENT:

Timothy Black, R.Ph., Pharmacy Inspector, Bureau of
Enforcement and Investigation, Department of State
Catherine Lutz, Pharmacy Inspector, Bureau of
Enforcement and Investigation, Department of State
Larry Jones, Executive Director, Pennsylvania
Society of Health-System Pharmacists

State Board of Pharmacy
May 2, 2023

ALSO PRESENT: (cont.)

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7 Jim Reed, Health Outcomes Supervisor/Strategic
8 Partnerships Leader, Walgreens
9 Charlotte Harris, Pharmacy Intern, Duquesne University
10 Sarah Everingham, MJ, CCEP, CPhT, Cardinal Health
11 Jacquelyn Sassaman, Pentec Health
12 Judy Kutchman, AllianceRx Walgreens Prime
13 Steven Zahn, Pharmacy Inspector, Bureau of
14 Enforcement and Investigation, Department of State
15 Dylan Sleyo
16 Joseph Brett
17 Laura Lenert
18 Matt
19 Andy Tang
20 Mary Tran, Pharm.D., Executive Fellow, Pennsylvania
21 Pharmacists Association
22 Jennifer Raibley, Division Pharmacy Manager, ACME
23 Markets
24 Stacey Smilek, Director of Pharmacy, Wills Eye
25 Hospital
26 Christine Renfer, Pharm.D., Director of Professional
27 Practices & Pharmacist in Charge, CVS/Caremark
28 Pharmacy
29 Nicole Kruczek RPh, MPBA, Lead Director, Pharmacy
30 Operations, CVS Health
31 Leigh Shirley, Director of Pharmacy Operations, Giant
32 Food Stores
33 Kimberly Mehta, Pharm.D., MPH, Director of Medication
34 Safety and Regulatory, Allegheny Health Network
35 Christopher Miller, Pharm.D., Giant Eagle
36 Nicole Fidler, Associate, Malady & Wooten
37 Patrick Lavella, R.Ph., President, Pennsylvania
38 Pharmacist Association
39 Valerie Pentland, PharmD, ConnectiveRx
40 Kristofer Rivers, Clinical Supervisor, UPMC Pinnacle
41 Robin Becker, Assistant Director, Pharmacy Operations
42 at Thomas Jefferson University Hospitals
43 Laura Romeo, Pharmacist-in-Charge at ConnectiveRx,
44 Careform Pharmacy
45 Grace Sesi, Executive Director, Regulatory Affairs at
46 CVS Health/Chairperson, Michigan Board of Pharmacy
47 Victoria Elliott, RPh, MBA, CAE, CEO, Pennsylvania
48 Pharmacists Association
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State Board of Pharmacy
May 2, 2023

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ALSO PRESENT: (cont.)

Charles (Chachi) Angelo, Director of External
Affairs, ePennie
Scott Yeager, Outreach Manager, Pennie
Derek Richmond
Jeffrey Dietrich
Gianna
Phone 0911

1 ***

2 State Board of Pharmacy

3 May 2, 2023

4 ***

5 [Pursuant to Section 708(a)(5) of the Sunshine Act,
6 at 9:00 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
14 Board of Pharmacy was held on Tuesday, May 2, 2023.
15 Theresa M. Talbott, R.Ph., Chairperson, called the
16 meeting to order at 10:31 a.m.

17 ***

18 Pledge of Allegiance

19 [The Pledge of Allegiance was recited.]

20 ***

21 [Theresa M. Talbott, R.Ph., Chairperson, asked
22 everybody to turn off their cell phones. She also
23 noted that the meeting was being recorded, and those
24 who continued to participate were giving their
25 consent to be recorded.]

1

2 Evacuation Announcement

3 [Melanie Zimmerman, R.Ph., Board Administrator,
4 reviewed the emergency evacuation procedures for One
5 Penn Center.]

6

7 Introduction of the Board Members/Staff/Audience

8 [Theresa M. Talbott, R.Ph., Chairperson, requested an
9 introduction of Board members, Board staff and the
10 audience.]

11

12 Approval of Agenda

13 CHAIRPERSON TALBOTT:

14 We have two changes. Our 11 a.m.
15 appointment has canceled and Consent
16 Agreements 11, 12, 13, and 14 have been
17 withdrawn.

18 I would entertain a motion to
19 approve the agenda as amended.

20 DR. ROUSSEL:

21 I make a motion to approve the agenda as
22 amended.

23 MR. SLAGLE:

24 Second.

25 CHAIRPERSON TALBOTT:

1 Any other discussion? Call for a vote.

2

3 Esterbrook, aye; Claggett, aye; Talbott,
4 aye; Roussel, aye; Greene, aye; Slagle,
5 aye.

6 [The motion carried unanimously.]

7

8 Approval of Minutes

9 CHAIRPERSON TALBOTT:

10 Approval of minutes from March 21.

11 Do I have a motion to accept the
12 minutes?

13 DR. ROUSSEL:

14 I make a motion to approve the minutes
15 from March 21, 2023.

16 CHAIRPERSON HART:

17 Do I have a second?

18 MR. SLAGLE:

19 I'll second that.

20 CHAIRPERSON TALBOTT:

21 Any discussion? Hearing none. Call the
22 vote.

23

24 Esterbrook, aye; Claggett, abstain;

25 Talbott, aye; Roussel, aye; Greene, aye;

1 Slagle, aye.

2 [The motion carried. Arion Claggett abstained from
3 voting on the motion.]

4 ***

5 Report of Board Prosecution

6 [Caroline A. Bailey, Esquire, Board Prosecutor,
7 presented the Consent Agreements for Case No. 19-54-
8 017836, Case Nos. 22-54-005324 & 22-54-005326, and
9 Case Nos. 22-54-011259 & 22-54-017129.]

10 ***

11 [Theresa M. Talbott, R.Ph., Chairperson, exited the
12 meeting at 10:42 a.m. for recusal purposes.]

13 ***

14 [Glenn P. Masser, Esquire, Board Prosecutor,
15 presented the Consent Agreement for Case No. 22-54-
16 007567.]

17 ***

18 [Theresa M. Talbott, R.Ph., Chairperson, reentered
19 the meeting at 10:44 a.m.]

20 ***

21 [Glenn P. Masser, Esquire, Board Prosecutor,
22 presented the Consent Agreement for Case No. 22-54-
23 014878.]

24 ***

25 [Alice R. Glasser, Esquire, Board Prosecution

1 Liaison, presented the Consent Agreements for Case
2 No. 21-54-019152 and Case Nos. 22-54-004725 & 22-54-
3 004726.]

4 ***

5 [Ray J. Michalowski, Esquire, Senior Board
6 Prosecutor, informed Board members that the withdrawn
7 cases at items 11 through 14 would be prepared and on
8 the agenda for the next meeting.]

9 ***

10 Report of Board Counsel - Regulatory Report
11 [Ariel E. O'Malley, Esquire, Board Counsel, noted no
12 regulatory changes since the last meeting. She
13 stated there would be a general revisions work
14 session toward the end of the meeting to review the
15 annex for general revisions. She mentioned the Board
16 would probably be making a motion for an exposure
17 draft at the next meeting.]

18 ***

19 Report of Board Counsel - Legislative Report
20 [Ariel E. O'Malley, Esquire, Board Counsel, referred
21 to Senate Bill 81 regarding emergency medical
22 services (EMS) and their ability to dispense
23 naloxone. She noted it has been amended and removes
24 the insurance provision and believed it is with the
25 Appropriations Committee.]

1 Ms. O'Malley stated the House Bill 758 was
2 introduced and would require the Pennsylvania Human
3 Relations Commission to develop and pharmacists
4 complete online training every 2 years to understand
5 and mitigate social bias, which could be considered
6 toward continuing education.

7 Ms. O'Malley stated House Bill 817 and House Bill
8 818 go together. She noted House Bill 817 would
9 amend the Pharmacy Act to require the Board to
10 educate pharmacies as to how they could modify Drug
11 Enforcement Administration (DEA) registration to
12 receive and destroy mail back packages and to
13 install, manage, and maintain collection receptacles.

14
15 Ms. O'Malley noted it would also require the
16 Board to recommend pharmacies to modify their
17 registration and was introduced and referred to the
18 Committee on Health on April 3, 2023.

19 Ms. O'Malley stated House Bill 818 would provide
20 \$2 million to the Department of State to administer
21 that educational program and support the Board's
22 efforts to provide that educational program.]

23 ***
24 Report of Board Counsel - Matters for Deliberation
25 [Ariel E. O'Malley, Esquire, Board Counsel, referred

1 to item 18, noting it is a case where there has been
2 an order to show cause and an answer filed. She
3 noted the Board deliberated in Executive Session but
4 would not be delegating that, so there would not be a
5 vote later in the meeting. She mentioned there would
6 be a motion and a vote for item 19 during the
7 meeting.]

8

9 Report of Board Counsel - Miscellaneous Items

10 [Ariel E. O'Malley, Esquire, Board Counsel, stated
11 item 21 would also be a vote later during the
12 meeting. She referred to the DEA training for the
13 Board's information, noting training is due June 27.

14

15 Ms. O'Malley also provided Recusal Guidelines for
16 the Board's information.

17 Dr. Roussel asked Mr. Michalowski to explain the
18 relationship between the Food and Drug
19 Administration's (FDA) Section 503B compounding
20 facility action and the Board of Pharmacy. She noted
21 there is a memorandum of understanding (MOU) from the
22 FDA requesting boards inform the FDA within a certain
23 period of time of an ongoing investigation. She
24 mentioned that many states cannot sign the MOU
25 because they usually cannot discuss investigations

1 until they are closed and requested more information.

2

3 Dr. Roussel also asked whether communication
4 would be provided to the Board if the FDA opens an
5 investigation on a 503B pharmacy in the state of
6 Pennsylvania.

7 Mr. Michalowski explained that the MOU has not
8 been signed in Pennsylvania and not been raised by
9 the FDA in 6 months to a year. He noted they have an
10 investigative MOU with the FDA that is related to all
11 sorts of cases. He mentioned that there used to be a
12 meeting with the FDA yearly, along with the
13 Department of Health. He reported other states have
14 adopted language dealing with 503B and 503A regarding
15 pharmacies and outsourcing facilities but
16 Pennsylvania has not.

17 Mr. Michalowski explained that the FDA notified
18 them of a 503B investigation or inspection in the
19 past and also invited the pharmacy inspector in that
20 region. He stated staff from the National
21 Association of Boards of Pharmacy (NABP) Verified
22 Pharmacy Program (VPP) did that as well, noting their
23 inspectors would co-inspect at the same time. He
24 mentioned that those meetings are not held any longer
25 due to the lack of staff in the Philadelphia office

1 and have not reinstated the regular annual check
2 with prosecution.

3 Mr. Michalowski informed Board members that they
4 receive occasional information but not as often as
5 before. He mentioned that the FDA has been involved
6 in a case where prosecution found an unexpected
7 compounding facility in the pharmacy that was never
8 on the pharmacy blueprint. He noted prosecution does
9 reach out but communication is not what it had been
10 in the past.

11 Mr. Michalowski stated 503A and 503B were very
12 hot in the news and very controversial at the time
13 but the industry has settled in more at this point.
14 He noted checking the website where they maintain all
15 of their inspections, especially if they receive a
16 complaint related to compounding to see if there has
17 been a recent inspection or warning letter. He
18 mentioned that they are not informing prosecution of
19 them consistently or there are not as many.]

20 ***

21 Report of Board Chairperson

22 [Theresa M. Talbott, R.Ph., Chairperson, informed
23 Board members that she provided a continuing
24 education (CE) Board update at the Duquesne
25 University Alumni Association Meeting on April 15.

1 She noted everyone gasped when they saw the slide of
2 the regulatory process but understand the Board is
3 not at fault for the lengthy process.

4 Chair Talbott mentioned that she would be
5 attending the National Association of Boards of
6 Pharmacy Meeting next week in Nashville, along with
7 other Board Members. She noted they would not be
8 discussing any Board business at that time but would
9 be raising the Pennsylvania flag proudly.]

10 ***

11 Report of Acting Commissioner - No Report

12 ***

13 Report of Board Administrator

14 [Theresa M. Talbott, R.Ph., Chairperson, asked
15 whether they were still utilizing a schedule of
16 roughly 60 days until they release the applications
17 for pharmacy and nonresident pharmacy renewals.

18 Ms. Zimmerman explained that the goal is 60 days
19 before the expiration date, which should be around
20 July 1.]

21 ***

22 Discussion Items

23 [Theresa M. Talbott, R.Ph., Chairperson, noted the
24 Board reviewed the NABP District 2 Well-Being Index
25 and the proposed amendments to NABP Constitution and

1 Bylaws and would be voting on those proposed
2 amendments at the NABP Annual Meeting next week.

3 Dr. Roussel also mentioned the proposal that
4 someone appointed to a task force or committee
5 through NABP but would timeout of their appointment
6 for the prospective board of pharmacy for the state
7 they are representing would be allowed to continue to
8 serve for that task force until the end of their term
9 appointment to the task force.

10 Chair Talbott noted that motions would be made
11 concerning the three licenses at items 26 through 28
12 later in the meeting.]

13 ***

14 FYI Items

15 [Theresa M. Talbott, R.Ph., Chairperson, announced
16 the Food and Drug Administration is having a virtual
17 public meeting May 10-11 on opioid use disorder
18 treatment and is free to the public. She mentioned
19 that the information could be found on the FDA's
20 website. She encouraged everyone to keep an eye on
21 NABP's website for comments on DEA's proposed
22 regulations regarding telemedicine.

23 Chair Talbott noted prior discussion regarding
24 volunteering for NABP's 2023-2024 committees and task
25 forces.]

1 ***

2 MOTIONS

3 CHAIRPERSON TALBOTT:

4 The Board of Pharmacy met in Executive
5 Session earlier today to conduct quasi-
6 judicial deliberations and receive
7 guidance from Ariel.

8 Are there any motions that came from
9 that session?

10 MR. GREENE:

11 At agenda item 4, I make a motion that we
12 approve the Consent Agreement at Case No.
13 19-54-017836.

14 DR. ROUSSEL:

15 I second the motion.

16 CHAIRPERSON TALBOTT:

17 Any discussion? Call the vote.

18
19 Slagle, aye; Greene, aye; Roussel, aye;
20 Talbott, aye; Esterbrook, aye; Claggett,
21 abstain.

22 [The motion carried. Arion Claggett abstained from
23 voting on the motion. The Respondent's name is
24 EdPharma LLC.]

25 ***

1 MR. GREENE:

2 At agenda item 5, I make a motion that we
3 approve the Consent Agreement at Case
4 Nos. 22-54-005324 & 22-54-005326.

5 DR. ROUSSEL:

6 Second.

7 CHAIRPERSON TALBOTT:

8 Any discussion? Call the vote.

9

10 Slagle, aye; Greene, aye; Roussel, aye;
11 Talbott, aye; Claggett, abstain;
12 Esterbrook, aye.

13 [The motion carried. Arion Claggett abstained from
14 voting on the motion. The Respondents are Patient
15 Care Pharmacy & Alex N. Luong, R.Ph.]

16

17 MR. GREENE:

18 At agenda item 6, I make a motion that we
19 approve the Consent Agreement at Case
20 Nos. 22-54-011259 & 22-54-017129.

21 DR. ROUSSEL:

22 I second that motion.

23 CHAIRPERSON TALBOTT:

24 Any discussion? Call the vote.

25

1 Slagle, aye; Greene, aye; Roussel, aye;
2 Talbott, aye; Claggett, abstain;
3 Esterbrook, aye.

4 [The motion carried. Arion Claggett abstained from
5 voting on the motion. The Respondents are Lebanon
6 Shops Pharmacy & Thomas Clark Riley, R.Ph.]

7 ***

8 MR. GREENE:

9 At agenda item 7, I make a motion that we
10 reject as too lenient the Consent
11 Agreement at Case No. 22-54-007567.

12 DR. ROUSSEL:

13 Second.

14 CHAIRPERSON TALBOTT:

15 Any discussion? Call the vote.

16
17 Slagle, aye; Greene, aye; Roussel, aye;
18 Talbott, recuse; Claggett, abstain;
19 Esterbrook, aye.

20 [The motion carried. Theresa Talbott recused herself
21 from deliberations and voting on the motion. Arion
22 Claggett abstained from voting on the motion.]

23 ***

24 MR. GREENE:

25 At agenda item 8, I make a motion that we

1 approve the Consent Agreement at Case No.
2 22-54-014878.

3 DR. ROUSSEL:

4 Second.

5 CHAIRPERSON TALBOTT:

6 Any discussion? Call the vote.

7

8 Slagle, aye; Greene, aye; Roussel, aye;

9 Talbott, aye; Claggett, abstain;

10 Esterbrook, aye.

11 [The motion carried. Arion Claggett abstained from
12 voting on the motion. The Respondent's name is Joan
13 M. Sullivan.]

14

15 MR. GREENE:

16 At agenda item 9, I make a motion that we
17 approve the Consent Agreement at Case No.
18 21-54-019152.

19 DR. ROUSSEL:

20 Second.

21 CHAIRPERSON TALBOTT:

22 Any discussion? Call the vote.

23

24 Slagle, aye; Greene, aye; Roussel, aye;

25 Talbott, aye; Claggett, aye; Esterbrook,

1 aye.

2 [The motion carried unanimously. The Respondent's
3 name is Archway Apothecary.]

4 ***

5 MR. GREENE:

6 At agenda item 10, I make a motion that
7 we approve the Consent Agreement at Case
8 Nos. 22-54-004725 & 22-54-004726.

9 DR. ROUSSEL:

10 Second.

11 CHAIRPERSON TALBOTT:

12 Any discussion? Call the vote.

13

14 Slagle, aye; Greene, aye; Roussel, aye;
15 Talbott, aye; Claggett, aye; Esterbrook,
16 aye.

17 [The motion carried unanimously. The Respondents are
18 Kevin Hennessy & The Compounding Pharmacist.]

19 ***

20 MR. GREENE:

21 At agenda item 19 in the matter of Nola
22 Mini Market, LLC, I make a motion that we
23 delegate the matter to a hearing examiner
24 for a hearing.

25 DR. ROUSSEL:

1 I second the motion.

2 CHAIRPERSON TALBOTT:

3 Any discussion? Call the vote.

4

5 Slagle, aye; Greene, aye; Roussel, aye;
6 Talbott, aye; Claggett, aye; Esterbrook,
7 aye.

8 [The motion carried unanimously.]

9

10 MR. GREENE:

11 At agenda item 20 in the matter of BPOA
12 v. Central Admixture Pharmacy Services,
13 Inc., I make a motion that we approve the
14 Proposed Adjudication and Order.

15 DR. ROUSSEL:

16 Second.

17 CHAIRPERSON TALBOTT:

18 Any discussion? Call the vote.

19

20 Slagle, aye; Greene, aye; Roussel, aye;
21 Talbott, aye; Claggett, aye; Esterbrook,
22 aye.

23 [The motion carried unanimously.]

24

25 MR. GREENE:

1 At agenda item 21, I make a motion that
2 we approve the general Order of
3 Delegation.

4 DR. ROUSSEL:

5 Second.

6 CHAIRPERSON TALBOTT:

7 Any discussion? Call the vote.

8

9 Slagle, aye; Greene, aye; Roussel, aye;
10 Talbott, aye; Claggett, aye; Esterbrook,
11 aye.

12 [The motion carried unanimously.]

13

14 MR. GREENE:

15 At agenda item 26, I make a motion that
16 we deny the Application of Renee Allison.

17 DR. ROUSSEL:

18 Second.

19 CHAIRPERSON TALBOTT:

20 Any discussion? Call the vote.

21

22 Esterbrook, aye; Claggett, aye; Talbott,
23 aye; Roussel, aye; Greene, aye; Slagle,
24 aye.

1 [The motion carried unanimously.]

2

3 MR. GREENE:

4

At agenda item 27, I make a motion that
5 we deny the Application of Kazim Oyenuga.

6 DR. ROUSSEL:

7

Second.

8 CHAIRPERSON TALBOTT:

9

Any discussion? Call the vote.

10

11

Esterbrook, aye; Claggett, aye; Talbott,
12 aye; Roussel, aye; Greene, aye; Slagle,
13 aye.

14

[The motion carried unanimously.]

15

16 MR. GREENE:

17

At agenda item 28, I make a motion that
18 we provisionally deny the Nonresident
19 Pharmacy Application of Musely
20 Compounding Pharmacy LLC.

21 DR. ROUSSEL:

22

Second.

23 CHAIRPERSON TALBOTT:

24

Any discussion? Call the vote.

25

1 that Pennie helps reduce the cost of monthly payments
2 through tax credits and cost-sharing reductions.

3 Mr. Angelo stated Pennie helps individuals and
4 families who do not have coverage through their
5 employer, the uninsured, and Medicaid population. He
6 explained that they operate a no wrong door policy
7 for everyone to receive the right coverage. He noted
8 the third open enrollment ended in mid-January with
9 over 371,000 customers enrolled with about 90 percent
10 eligible for tax credits.

11 Mr. Angelo addressed financial assistance, where
12 the advanced premium tax credit is an immediate tax
13 credit and cost-sharing reductions help with copays,
14 deductibles, and coinsurance. He mentioned that the
15 American Rescue Plan and the Inflation Reduction Act
16 increased the amount of financial savings someone
17 could receive.

18 Mr. Angelo noted that plans are available in
19 bronze, silver, and gold starting at zero cost for
20 those who qualify. He reported that early retirees
21 around age 55 to 64 and are 36 percent of Pennie
22 customers because they are not working but are not
23 available for Medicare.

24 Mr. Angelo addressed the enrollment period
25 starting November 1 to January 15, along with a

1 special enrollment period that runs throughout the
2 year for a qualifying life event. He noted a special
3 enrollment period opens automatically for someone
4 whose income falls below or at 150 percent of the
5 federal poverty level.

6 Mr. Angelo discussed a new program in
7 collaboration with the Department of Revenue called
8 the Path to Pennie that helps connect uninsured
9 Pennsylvania tax filers with information about Pennie
10 and then Pennie provides an estimate of how much
11 financial assistance could be applied to a health
12 plan.

13 Mr. Angelo addressed changes to Medicaid, noting
14 it to be a big initiative from the Department of
15 Human Services (DHS), Pennie, Children's Health
16 Insurance Program (CHIP), and state government as a
17 whole. He explained that the Medicaid continuous
18 coverage requirement during the public health
19 emergency did not allow anyone to be disenrolled even
20 if their income changed.

21 Mr. Angelo stated the continuous coverage
22 requirement was uncoupled from the public health
23 emergency in December 2022, where those receiving
24 Medicare would be required to fill out a renewal
25 packet for proper redetermination. He mentioned that

1 DHS started determining eligibility in April, noting
2 that no one would lose coverage without proper
3 notification and chance to renew.

4 Mr. Angelo expressed the importance of everyone
5 being aware of Pennie and that coverage is more
6 affordable than ever. He mentioned that there are
7 several links to access some of the cobranded
8 materials from DHS, Pennie, managed care
9 organizations (MCOs), and qualified health plan (QHP)
10 insurers.

11 Mr. Angelo stated Pennie made health insurance
12 purchasing easier by providing customer service with
13 Pennie-certified assistors and Pennie-certified
14 brokers in every county, along with having countless
15 tools that are available at pennie.com. He
16 encouraged everyone in the pharmacy profession to
17 provide information about pennie.com or COMPASS to
18 those without health insurance and he provided links
19 to web sites.

20 Mr. Angelo offered to have someone from the
21 Pennie team to provide virtual or in-person Pennie
22 education sessions. He mentioned that DHS and Pennie
23 began advertising in hopes of getting the word out.

24 Mr. Angelo addressed policy changes for
25 individuals being transitioned over to Pennie from

1 Medical Assistance, which now includes a 120-day
2 special enrollment period for loss of Medicaid,
3 Medical Assistance, or CHIP but encouraged
4 individuals to enroll within 60 days to avoid a gap
5 in coverage.

6 Chair Talbott commented that Pennie is one of the
7 best seen across the country and thanked Mr. Angelo
8 and his team for their work. She encouraged all of
9 the pharmacy associations to get the information out
10 to members.

11 Scott Yeager, Outreach Manager, Pennie, provided
12 contact information in the chat feature of the Teams
13 meeting and offered to answer any additional
14 questions.

15 Patrick Lavella, R.Ph., President, Pennsylvania
16 Pharmacists Association, commented that the pharmacy
17 profession would like to help patients, but they are
18 eliminated from some of those plans, noting less than
19 40 pharmacies in the state have been accepted into
20 that marketplace plan with one of their payers and
21 asked Mr. Angelo for his contact information because
22 the Pennsylvania Insurance Department referred him to
23 Pennie.

24 Chair Talbott again thanked Mr. Angelo and Mr.
25 Yeager for the work they do for their patients.]

1
2 Regulatory Work Session

3 [Theresa M. Talbott, R.Ph., Chairperson, informed
4 everyone that the Board would be reviewing the first
5 15 pages of the 35-page general revisions packet.
6 She noted the definition of long-term care facility
7 under § 27.1 to now include hospice, assisted living,
8 personal care home, correctional facility, and
9 juvenile detention facility.

10 Chair Talbott noted pharmacist manager was
11 changed to pharmacist in charge throughout the
12 regulations. She stated § 27.11(b) clarified
13 pharmacy relationships, noting the requirement was
14 waived 4 years ago to allow a pharmacy that has a
15 legal or contractual right to use an affiliated name.

16 Chair Talbott addressed § 27.11(d) regarding a
17 change in the name of a pharmacy, where they are
18 required to submit a name change on a form within 30
19 days and would have to satisfy requirements if there
20 is a change in ownership. The Board is waiting on
21 information from Delaware, and Chair Talbott
22 suggested leaving it as is for now.

23 Chair Talbott addressed § 27.11(g) regarding the
24 pharmacist in charge, noting it used to be within 15
25 days and then a pharmacy could apply for another 30-

1 day waiver to replace the pharmacist manager. She
2 noted the pharmacist manager replacement requirement
3 must be done within 30 days of the change and then if
4 a new pharmacist cannot be found, a request for an
5 additional 15 days may be placed. She mentioned the
6 clarification, where a pharmacist in charge does not
7 leave the position but would be away from the
8 pharmacy for more than 30 days that the pharmacy must
9 change the pharmacist in charge.

10 Chair Talbott referred to delegation of duties
11 under § 27.12(b)(1), noting it was cleaned up to
12 reflect the technician bill, where direct and
13 immediate personal supervision to pharmacy interns
14 means the supervisor pharmacist has reviewed the
15 order prior to being dispensed, has verified the
16 final product, and is immediately available on the
17 premises through in person or real time electronic
18 means, can direct the work of interns and
19 technicians, and respond to questions and problems.

20 Chair Talbott mentioned that the "comma" was
21 replaced with "and" under § 27.12(c) for pharmacy
22 interns and the same for technicians under (d). She
23 noted pharmacists in charge under § 27.12(d)(4) shall
24 create and maintain a written protocol for each
25 technician employed by the pharmacy, protocol shall

1 specify each duty which the technician may perform,
2 and the pharmacist in charge and the technician shall
3 sign and date it.

4 Chair Talbott stated remote data entry was lifted
5 out of the tech bill and placed at Board Regulation
6 Section 27.12(e).

7 Chair Talbott noted § 27.14(c)(2) spells out
8 prescription files in electronic or hard copy format.
9 -The new § 27.14(c)(4) specifies an electronic or
10 hard copy reference library is acceptable as long as
11 there is immediate access.

12 Chair Talbott referred to Standards of Practice
13 under § 27.18(d) regarding the container, where they
14 are adding registered name (or derivation thereof as
15 approved by the Board) and, if applicable, the DEA
16 number of the pharmacy. She noted the change in
17 language to "prescription number" because they are
18 not called serial numbers anymore and the date that
19 either it was originally filled and/or the date the
20 prescription was most recently filled, where one or
21 the other is acceptable. She noted it would also
22 have the trade or brand name using abbreviations if
23 necessary and then the name of the manufacturer if
24 the drug is generic using abbreviations if necessary.

25 Chair Talbott addressed § 27.18(h), if a

1 prescriber dies, the prescription could be refilled
2 for up to 90 days from when the prescriber died but
3 pharmacists cannot refill controlled substance
4 prescriptions. She noted the word active would be
5 added to § 27.18(h)(3) to read "Active - On
6 probation."

7 Chair Talbott addressed prescriptions for
8 Schedule II, where prescriptions for Schedule II may
9 be partially filled because of the Controlled
10 Substances Act relating to partially filled
11 prescriptions or other applicable state and federal
12 laws in case they change something. She stated
13 Schedule III and IV may not be refilled more than
14 five times; and prescriptions for III, IV, and V may
15 be partially filled as authorized by the federal
16 Controlled Substances Act or other applicable federal
17 and state law.

18 Chair Talbott mentioned prior discussion
19 regarding the addition of (u) under Standards of
20 Practice. She mentioned that options A, B, and C are
21 available but preferred option (B), if you violate
22 any other applicable federal law or law of the
23 commonwealth including, but not limited to, the
24 federal Controlled Substances Act, the Controlled
25 Substance, Drug, Device, and Cosmetic Act, or the

1 rules and regulations promulgated thereunder; and a
2 violation of such constitutes a violation of this
3 chapter and the act.

4 Chair Talbott referred to option A, which is what
5 the regulation currently has and reads, a violation
6 by a pharmacist of the federal Controlled Substances
7 Act, the Controlled Substance, Drug, Device, and
8 Cosmetic Act, or the rules and regulations
9 promulgated thereunder constitutes a violation of
10 this chapter and the act. She mentioned the addition
11 of pharmacists and pharmacies shall comply with any
12 other applicable federal laws and/or laws of this
13 commonwealth and or regulations, and a violation of
14 such constitutes a violation of this chapter and the
15 act.

16 Chair Talbott stated option B splits that last
17 sentence, where pharmacists and pharmacies shall
18 comply with any other applicable federal laws and
19 laws of the commonwealth and/or regulations
20 including, but not limited to, and then it keeps the
21 federal citations and a violation of such constitutes
22 a violation of this chapter and the act.

23 Chair Talbott mentioned they could just add a
24 section (V) to read, a violation by a pharmacist or
25 pharmacy of any other applicable federal laws and/or

1 laws of this commonwealth and/or regulation shall
2 constitute a violation of this chapter and of the
3 act.

4 Ms. O'Malley reminded Board members of prior
5 discussion at the last meeting to add language so
6 prosecution would have the ability to more cleanly
7 and clearly charge this in their orders to show cause
8 and in consent agreements.

9 Mr. Michalowski stated the legislation is making
10 standalone bills instead of incorporating things into
11 the Pharmacy Act for opiate prescribing, Achieving
12 Better Care by Monitoring All Prescriptions Program
13 (ABC-MAP), and the one discussed today because they
14 often go into the Drug Act and do not go into the
15 Pharmacy Act and become nebulous.

16 Mr. Michalowski suggested changing the language
17 in option B from "any other" to "all," which is also
18 the option prosecution favored as well.

19 Chair Talbott noted the Board chose option B,
20 where pharmacist and pharmacies shall comply with all
21 other applicable federal laws and/or laws of the
22 commonwealth and/or regulations.

23 Chair Talbott referred to prospective drug review
24 and patient counseling under § 27.19, where nursing
25 home was changed to long-term care facility. She

1 also referred to offer to counsel under § 27.19(d),
2 where they are cleaning up how the offer was made to
3 counsel to read, pharmacist or designee shall make
4 the offer to counsel in person if a patient or
5 caregiver is in the pharmacy and opening it up to
6 read, written offer to counsel must include the
7 telephone of the pharmacy or other means of
8 communicating.

9 Chair Talbott noted an intern may only counsel
10 under the direction of a pharmacist under the intern
11 section. She also noted if a patient or caregiver
12 indicates that they want counseling, then the
13 pharmacist shall do it in person.

14 Chair Talbott addressed facsimile machines under
15 § 27.20, where a pharmacist may fill and dispense a
16 valid prescription for a Schedule III, IV, or V
17 received on a facsimile machine. She noted the DEA
18 changed what constitutes a valid prescription, and if
19 they change it again, the Board would not have to go
20 back and change it.

21 Chair Talbott addressed a change in pharmacy
22 internship under § 27.26, which will codify the
23 waiver from 2018, so that an intern may earn the 1500
24 hours in an internship program sponsored or approved
25 by an Accreditation Council for Pharmacy Education

1 (ACPE) ACPE-accredited pharmacy degree program.

2 Chair Talbott addressed biennial renewal under
3 § 27.31 to remove language referring to the form
4 being mailed to the holder and replacing it with a
5 form being provided by the Board in advance of the
6 renewal period or completion of an online electronic
7 form and payment of a fee. She noted licenses must
8 renew every 2 years and attest to continuing
9 education requirements.

10 Chair Talbott noted compliance could be proved
11 under § 27.32(a) continuing education by attesting to
12 completion and submitting a form provided to the
13 pharmacist by the Board. Pharmacists can demonstrate
14 compliance with subsection (a) by submitting a CPE
15 monitor or activity record from the pharmacist NABP's
16 profile. She noted the word "certificates" would be
17 changed to "records."

18 Chair Talbott addressed graduates of foreign
19 schools and noncitizens under § 27.52, where ACPE was
20 changed to Accreditation Council for Pharmacy
21 Education throughout.

22 Ms. O'Malley noted that graduates of pharmacy
23 schools which are not ACPE-accredited must achieve
24 Foreign Graduate Pharmacy Examination Committee
25 certification before applying for a pharmacy intern

1 registration or a pharmacist license and provide such
2 documentation to the Board.

3 Ms. Zimmerman explained that the Board requires
4 information to come directly from NABP and suggested
5 rephrasing the language because it is not the
6 applicant providing the information. She further
7 explained that information is pulled directly from
8 NABP's website. The Board agreed to remove "and
9 provide such documentation to the Board."

10 Mr. Michalowski referred to § 27.32(b) under
11 continuing education and suggested changing the word
12 "prove" in the first sentence to "shall demonstrate
13 compliance" to be consistent.

14 Ms. O'Malley addressed electronically transmitted
15 prescriptions under § 27.201 and prior discussion
16 whether or not to put Act 96 under a separate
17 regulation.

18 Chair Talbott noted electronically transmitted
19 prescription means communication of a prescription or
20 refill by electronic means on a secure network and
21 the term does not include a prescription refill
22 authorization transmitted orally by phone or by fax
23 and brings them into federal law compliance. It also
24 has to be electronically encrypted or transmitted in
25 full compliance with the Health Insurance Portability

1 Accountability Act (HIPAA) security standards. She
2 noted it is valid prescription provided transmission
3 complies with this chapter and other requirements of
4 federal state laws or regulations.

5 Chair Talbott addressed computerized
6 recordkeeping systems under § 27.202, where they need
7 to have traceability and who is responsible for
8 information entered into the pharmacy system by a
9 pharmacist or intern or tech under the supervision of
10 the pharmacist.

11 Chair Talbott stated the Board would be voting on
12 the regulations on June 27 as an exposure draft and
13 then the regulations would be sent out for
14 distribution sometime before the fall.]

15 ***

16 Adjournment

17 CHAIRPERSON TALBOTT:

18 I entertain a motion to adjourn.

19 MR. ESTERBROOK:

20 Motion to adjourn.

21 CHAIRPERSON TALBOTT:

22 Second?

23 DR. ROUSSEL:

24 Second.

25 CHAIRPERSON TALBOTT:

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All in favor?

[The motion carried unanimously.]

[There being no further business, the State Board of Pharmacy Meeting adjourned at 12:10 p.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.



Derek Richmond,
Minute Clerk
Sargent's Court Reporting
Service, Inc.

STATE BOARD OF PHARMACY
REFERENCE INDEX

May 2, 2023

	TIME	AGENDA
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5		
6		
7	TIME	AGENDA
8		
9	9:00	Executive Session
10		
11	10:30	Return to Open Session
12		
13	10:31	Official Call to Order
14		
15	10:31	Pledge of Allegiance
16		
17	10:32	Introduction of Board Members/Board
18		Staff/Audience
19		
20	10:35	Approval of Agenda
21		
22	10:35	Approval of Minutes
23		
24	10:36	Report of Board Prosecution
25		
26	10:48	Report of Board Counsel
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28	10:55	Report of Board Chairperson
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30	10:56	Report of Board Administrator
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32	10:57	Discussion Items
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34	10:58	FYI Items
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36	10:59	Motions
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38	11:06	Recess
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40	11:15	Return to Open Session
41		
42	11:15	Appointment - Pennsylvania Department of
43		Insurance Presentation
44		
45	11:32	Regulatory Work Session
46		
47	12:10	Adjournment
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