

## INDIANA BOARD OF PHARMACY

Met THROUGH VIDEO and AUDIO CONFERENCING  
<https://IndianaEnhanced.Webex.com/join/PLAWebex>  
(240) 454-0887 and entering meeting room # 610 915 440

### MINUTES OF JANUARY 11, 2021

Steve Anderson, R.Ph., Vice President, called the meeting to order at 8:02 a.m. and declared a quorum in accordance with IC 25-26-13-3(d), pursuant to public notice posted online at the board's website and on the state calendar at least forty-eight (48) hours before the time of the meeting.

Members Present by Telephone: Matt Balla, R.Ph., President  
Mark Smosna, R.Ph., Member  
Mark Bunton, R.Ph., Member  
Winnie Landis, R.Ph., Member  
Steve Anderson, R.Ph., Vice President  
Jason Jablonski, R.Ph., Member (left 3p.m.)

Staff Present by Telephone: Laura Turner, J.D., Board Director  
Professional Licensing Agency  
Jody Edens, Assistant Director  
Professional Licensing Agency  
Nicole Schuster, J.D.,  
Deputy Attorney General,  
Office of the Attorney General

The Board voted by roll call to adopt the agenda.

Landis/Bunton, 6/0/0  
Motion carries

The following board members voted aye by roll call:  
Steve Anderson, Winnie Landis, Mark Smosna, Mark Bunton, Jason Jablonski, Matt Balla  
The following board members objected: none  
The following board members abstained: none

### ELECTION OF OFFICERS

The following were voted into office for a one (1) year term beginning February 1, 2020

- Steve Anderson, R.Ph., President
- Mark Smosna, R.Ph., Vice President

Landis/Bunton, 6/0/0  
Motion carries

The following board members voted aye:  
Steve Anderson, Mark Smosna, Matt Balla, Winnie Landis, Mark Bunton, Jason Jablonski  
The following board members voted nay: none  
The following board members abstained: none

### **FULL BOARD APPEARANCES**

#### **Mallory Master-Uich, MBA – Memorial Hospital of South Bend – Oral PCA Presentation:**

No one appeared regarding this matter.

#### **Midwest Hemp Testing Services – Analytical Laboratory CSR Application:**

Dan Silva appeared regarding this application.

Dan explained to the Board that Midwest Hemp will be taking plants from other growers and then analyze them. If the results do not come in within the parameters set by the State, then they destroy it. He indicated everything is destroyed.

They have it set up to do the actual destruction on site.

After discussion, the Board moved to APPROVE the application pending a successful inspection.

Anderson/Smosna, 6/0/0  
Motion carries

The following board members voted aye:  
Steve Anderson, Mark Smosna, Matt Balla, Winnie Landis, Mark Bunton, Jason Jablonski

The following board members voted nay: none  
The following board members abstained: none

### **PERSONAL APPEARANCES**

The following personal appearance(s) did not appear:

- Courtney Avant, Technician Application

**Kenneth Pettengill, R.Ph., Initial Application – Positive Response:**

Kenneth Pettengill appeared telephonically before the Board and was not represented by counsel regarding a positive response on his initial application.

In 2007 he was arrested for possession of Marijuana and Cocaine.

He reported himself to the Florida Board, where he was required to enter the FL PAP program. His license was placed on Probation.

He completed both the five (5) year monitoring contract and five (5) year probation.

His sobriety date was in 2009.

He is licensed in twenty-four (24) other states and all licenses are active and in good standing. No other action on any licenses.

After discussion, the Board voted by roll call to APPROVE Mr. Pettengill's initial application.

Bunton/Smosna, 6/0/0  
Motion carries

The following board members voted aye by roll call:

Steve Anderson, Winnie Landis, Matt Balla, Jason Jablonski, Mark Bunton, Mark Smosna

The following board members objected: none

The following board members abstained: none

**Kasidy Montgomery – Technician Application – Positive Response**

Kasidy Montgomery appeared telephonically before the Board and was not represented by counsel regarding a positive response on her initial application.

Let the record reflect that Winnie Landis and Mark Bunton explained that they are both employed by CVS and do not have knowledge of this applicant. Ms. Montgomery was fine with both participating.

She was recently charged with possession of Marijuana and Paraphernalia, a criminal misdemeanor.

She is employed with CVS, and they are aware of the issue.

She entered a one (1) year diversion agreement with the courts. Her diversion agreement will be until December 26, 2021.

After discussion, the Board voted by roll call to APPROVE Ms. Montgomery's initial application on INDEFINITE PROBATION with terms and conditions.

Anderson/Smosna, 6/0/0  
Motion carries

The following board members voted aye by roll call:  
Steve Anderson, Winnie Landis, Matt Balla, Jason Jablonski, Mark Bunton, Mark Smosna  
The following board members objected: none  
The following board members abstained: none

**Kelly Spain – Technician Application – Positive Response:**

Kelly Spain appeared telephonically before the Board and was not represented by counsel regarding a positive response on her initial application.

Ms. Spain reported to the Board the following:

- 2009 she received a minor consumption at college – she paid a fine and completed community service
- March 14, 2015, she was charged with possession of a controlled substance – Zanax. She was sentenced to twelve (12) months confinement, which was then suspended, and she was placed on court probation
- June 2018, she received a DUI and possession of Marijuana. She plead guilty to the DUI and the possession charge was dismissed. She received sixty (60) days in the County Jail, which was then suspended, and she was placed on court probation until March 30, 2020.

All charges have been lowered to Misdemeanors.

After discussion, the Board moved to TABLE Ms. Spain's application and requested she contact IPRP for an addictionology evaluation.

Anderson/Smosna, 6/0/0  
Motion carries

The following board members voted aye by roll call:  
Steve Anderson, Winnie Landis, Matt Balla, Jason Jablonski, Mark Bunton, Mark Smosna  
The following board members objected: none  
The following board members abstained: none

**ADMINISTRATIVE HEARINGS**

The following hearing(s) were continued:

**Satyanarayana Raju, D.O., Pending CSR, Cause No. 2020 IBP 0057**

**Morganne Drake, Ph.T., License No. 67024034A, Cause No. 2020 IBP 0045**

Respondent did not appear telephonically and was not represented by counsel regarding a Summary Suspension Extension scheduled before the Board. The State of Indiana was represented by Nick Hart, Deputy Attorney General and the court reporter sworn in for this matter was Margie Addington, with Accurate Reporting Services also appeared telephonically.

Let the record reflect that Winnie Landis and Mark Bunton explained that they are both employed by CVS and do not have knowledge of this applicant. Mr. Hart was fine with both participating.

A proposed settlement agreement between the Respondent and the Attorney General's Office was presented to the Board. The proposed settlement agreement included EXTENDED SUMMARY SUSPENSION for Ninety (90) days.

After reviewing the proposed settlement agreement and taking official, judicial notice of the pleadings, evidence and orders in this matter, the Board moved to APPROVE the Settlement Agreement.

Smosna/Jablonski, 6/0/0  
Motion carries

The following board members voted aye by roll call:  
Steve Anderson, Winnie Landis, Mark Smosna, Jason Jablonski, Mark Bunton, Matt Balla  
The following board members objected: none  
The following board members abstained: none

**Sarah Scales, Ph.T., License No. 67028010A, Cause No. 2020 IBP 0048**

Respondent appeared telephonically and was not represented by counsel regarding a Summary Suspension Extension scheduled before the Board. The State of Indiana was represented by Nick Hart, Deputy Attorney General and the court reporter sworn in for this matter was Margie Addington, with Accurate Reporting Services also appeared telephonically.

Let the record reflect that Mark Smosna explained that the store she was at was in his territory, but he does not have knowledge of this applicant. Both Ms. Scales and Mr. Hart were fine with him participating.

June 12, 2020, she signed an admission that she diverted controlled substances while employed at Walgreens. Her criminal case is still pending.

After having considered the evidence presented and taking official, judicial notice of the pleadings, evidence and orders in this matter, the Board moved to EXTEND the SUMMARY SUSPENSION for Ninety (90) days.

Landis/Bunton, 6/0/0  
Motion carries

The following board members voted aye by roll call:  
Steve Anderson, Winnie Landis, Mark Smosna, Jason Jablonski, Mark Bunton, Matt Balla  
The following board members objected: none  
The following board members abstained: none

**Salem Apothecary, License No. 60003161A, Cause No. 2019 IBP 0028**

Respondent appeared telephonically and was represented by counsel, Stephanie Eckerle regarding a Petition to Reinstate scheduled before the Board. The State of Indiana was represented by Ryan Eldridge, Deputy Attorney General and the court reporter sworn in for this matter was Margie Addington, with Accurate Reporting Services also appeared telephonically.

Let the record reflect that Steve Anderson recused himself from this matter and left the meeting.

Kim Russell, Compliance Officer and Steven Johnson, R.Ph. were both sworn in as witnesses.

Rebecca Marshall, owner, and pharmacist in charge appeared on behalf of Salem Apothecary.

Salem Apothecary failed their first routine inspection and passed the second one.

They have hired a new pharmacist in charge, Steve Johnson and have now employed Katherine Fisher and the front-end manager of the store.

Mr. Johnson stated he had recently retired and was asked to assist Ms. Marshall to get things back in order and on the right track in the pharmacy.

Respondent Exhibits:

- 1 – November 5, 2020 inspection report
- 2 – December 8, 2020 inspection report
- 3 – Copy of Mr. Johnson's license
- 4 – Copy of Medical Arts Pharmacy license

States Exhibit:

- A – Detailed copy of the November 5, 2020 inspection report

After having considered the evidence presented, testimony of the witnesses and taking official, judicial notice of the pleadings, evidence and orders in this matter, the Board moved to REINSTATE the Pharmacy License of Salem Apothecary on INDEFINITE PROBATION with terms and conditions.

Landis/Smosna, 5/0/0  
Motion carries

The following board members voted aye by roll call:  
Winnie Landis, Mark Smosna, Matt Balla, Mark Bunton, Jason Jablonski  
The following board members objected: none  
The following board members abstained: none

**Tonya Johnson, Ph.T., License No. 67016382A, Cause No. 2017 IBP 0084**

Respondent did not appear telephonically and was not represented by counsel regarding a Petition to Reinstate scheduled before the Board. The State of Indiana was represented by April Keaton, Deputy Attorney General and the court reporter sworn in for this matter was Margie Addington, with Accurate Reporting Services also appeared telephonically.

Let the record reflect that Winnie Landis and Mark Bunton explained that they are both employed by CVS and do not have knowledge of this applicant. Ms. Keaton was fine with both participating.

After having considered the evidence presented and taking official, judicial notice of the pleadings, evidence and orders in this matter, the Board moved issue a NOTICE OF PROPOSED DISMISSAL.

Landis/Smosna, 6/0/0  
Motion carries

The following board members voted aye by roll call:  
Steve Anderson, Winnie Landis, Mark Smosna, Jason Jablonski, Mark Bunton, Matt Balla  
The following board members objected: none  
The following board members abstained: none

**Hicham Riba, D.D.S., License Pending, Cause No. 2020 IBP 0058**

Respondent appeared telephonically and was represented by counsel, Alan Rhine regarding a CSR Application/Order to Show Cause scheduled before the Board. The State of Indiana was represented by April Keaton, Deputy Attorney General and the court reporter sworn in for this matter was Margie Addington, with Accurate Reporting Services also appeared telephonically.

Mr. Rhine indicated he is only licensed to practice in the state of Illinois. After discussion, Dr. Riba indicated he will continue with the hearing without Mr. Rhine as counsel.

Alan Rhine, J.D. was sworn in as a witness.

Dr. Riba explained that he is currently licensed in both Tennessee and Illinois. His Illinois controlled substance registration is currently on probation. He is currently working on obtaining a hearing in Illinois to have the probation lifted as he has met all their

requirements.

His DEA in Illinois is on a MOA for three (3) years with conditions.

Back in 2006 because Dr. Riba said he didn't know the difference between deep sedation and conscience sedation a five (5) year old girl crashed after he put her under. He called 911 and the patient was taken to the hospital and passed away a few days later.

He also indicated that he didn't discuss the sedation with the family to get any family history of issues with sedation. He later found out their son had severe issues with sedation while in the hospital.

The Illinois Board acted on his CSR stating he shouldn't have used deep sedation on the patient, which goes beyond his scope of practice. They suspended his dental license, revoked his dental sedation permit. His CSR had been expired since 1997. He renewed it in 2019 and it was renewed on probation.

Right after his suspension in Illinois, he applied to a Tennessee dental license and was issued a limited license to serve in an unserved area. He practiced in TN until he was able to practice again in Illinois.

Mr. Rhine testified to the dates of the incident and dates of actions taken in Illinois.

The Indiana Dental Board issued his license free and clear.

After having considered the evidence presented, testimony of the witnesses and taking official, judicial notice of the pleadings, evidence and orders in this matter, the Board moved to APPROVE Dr. Riba's CSR on INDEFINITE PROBATION with terms and conditions.

Landis/Smosna, 6/0/0  
Motion carries

The following board members voted aye by roll call:

Steve Anderson, Winnie Landis, Mark Smosna, Jason Jablonski, Mark Bunton Matt Balla

The following board members objected: none

The following board members abstained: none

**Kevin Ziegler, M.D., License Pending, Cause No. 2020 IBP 0059**

Respondent appeared telephonically and was not represented by counsel regarding a CSR Application/Order to Show Cause scheduled before the Board. The State of Indiana was represented by Ryan Eldridge, Deputy Attorney General and the court reporter sworn in for this matter was Margie Addington, with Accurate Reporting Services also appeared telephonically.

Dr. Ziegler informed the Board that he had action taken on his Kentucky license back in



March 2010 for drug diversion. He entered the KY PAP program and was successfully discharged from it in 2015. He continues to do two (2) AA meetings per week and attends Caduceus meetings.

His sobriety date is September 3, 2009.

He completed an in-service of ninety (90) days in Atlanta, GA.

He is still with St. Elizabeth's Hospital, and they have recently purchased a hospital in Indiana, and they need to staff it.

His Indiana medical license was issued recently without restrictions.

After having considered the evidence presented and taking official, judicial notice of the pleadings, evidence and orders in this matter, the Board moved to APPROVE Dr. Ziegler's CSR application.

Smosna/Landis, 5/0/0  
Motion carries

The following board members voted aye by roll call:  
Steve Anderson, Winnie Landis, Mark Smosna, Mark Bunton, Matt Balla  
The following board members objected: none  
The following board members abstained: none

**CVS #6463, License No. 60004756A, Cause No. 2020 IBP 0011**

Respondent did not appear telephonically and was not represented by counsel regarding a Final Hearing/Complaint scheduled before the Board. The State of Indiana was represented by Ryan Eldridge, Deputy Attorney General and the court reporter sworn in for this matter was Margie Addington, with Accurate Reporting Services also appeared telephonically.

Let the record reflect that Winnie Landis and Mark Bunton explained that they are both employed by CVS and do not have knowledge of this applicant. Mr. Eldridge was fine with both participating.

A proposed settlement agreement between the Respondent, their counsel and the Attorney General's Office was presented to the Board. The proposed settlement agreement included a LETTER OF REPRIMAND and a FINE of \$1,000.

After reviewing the proposed settlement agreement and taking official, judicial notice of the pleadings, evidence and orders in this matter, the Board moved to APPROVE the Settlement Agreement.

Balla/Smosna, 5/0/0  
Motion carries

The following board members voted aye by roll call:  
Steve Anderson, Winnie Landis, Mark Smosna, Mark Bunton, Matt Balla  
The following board members objected: none  
The following board members abstained: none

**Sheldon's Express Pharmacy #6, License No. 60006386A, Cause No. 2020 IBP 0034**

Respondent appeared telephonically and was not represented by counsel regarding a Final Hearing/Settlement Agreement scheduled before the Board. The State of Indiana was represented by Ryan Eldridge, Deputy Attorney General and the court reporter sworn in for this matter was Margie Addington, with Accurate Reporting Services also appeared telephonically.

Jack Downey, R.Ph., District Manager appeared on behalf of the pharmacy.

A settlement agreement between the Respondent, their counsel and the Attorney General's Office was presented to the Board. The settlement agreement included INDEFINITE PROBATION with terms and conditions.

After reviewing the proposed settlement agreement and taking official, judicial notice of the pleadings, evidence and orders in this matter, the Board moved to APPROVE the Settlement Agreement.

Smosna/Bunton, 5/0/0  
Motion carries

The following board members voted aye by roll call:  
Steve Anderson, Winnie Landis, Mark Smosna, Mark Bunton, Matt Balla  
The following board members objected: none  
The following board members abstained: none

**Paraleshia Washington, Ph.T., License No. 67031864A, Cause No. 2020 IBP 0030**

Respondent did not appear telephonically and was not represented by counsel regarding a Complaint/Final Hearing scheduled before the Board. The State of Indiana was represented by April Keaton, Deputy Attorney General and the court reporter sworn in for this matter was Margie Addington, with Accurate Reporting Services also appeared telephonically.

After having considered the evidence presented and taking official, judicial notice of the pleadings, evidence and orders in this matter, the Board moved to issue a NOTICE OF PROPOSED DEFAULT.


Landis/Smosna, 5/0/0  
Motion carries

There being no further business the Board adjourned at 4:24 p.m.



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Matt Balla, R.Ph., President



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Steve Anderson, R.Ph., Vice President

The following board members voted aye by roll call:  
Steve Anderson, Winnie Landis, Mark Smosna, Mark Bunton, Matt Balla  
The following board members objected: none  
The following board members abstained: none

## DISUCSSION

### E-Prescribing Waivers:

Participating Members Mark Smosna, R.Ph., Jason Jablonski, R.Ph., Winnie Landis, R.Ph., Steve Anderson, R.Ph., Mark Bunton, R.Ph., Matt Balla, R.Ph.

The Board members reviewed the first round of e-prescribing waivers so that staff could have a better idea of what the Board is looking for on the waivers.

After review and discussion, the Board moved to ALLOW staff to do the review and approval of the e-prescribing waiver applications.

Landis/Balla, 6/0/0  
Motion carries

The following board members voted aye by roll call:  
Steve Anderson, Mark Smosna, Jason Jablonski, Mark Bunton, Winnie Landis, Matt Balla  
The following board members objected: none  
The following board members abstained: none

### Remote Dispensing Facility Apps/10 Mile Rule:

Participating Members Mark Smosna, R.Ph., Jason Jablonski, R.Ph., Winnie Landis, R.Ph., Steve Anderson, R.Ph., Mark Bunton, R.Ph., Matt Balla, R.Ph.

Let the record reflect that Steve Anderson recused himself from this matter and left the meeting.

The Board members discussed the code for the ten (10) mile rule IC 25-26-13.5-6c section B and requested Kurt Miller, Board Advisor to obtain an AG opinion on it.