

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 MAY 10, 2021

Steve Anderson, R.Ph., President, called the meeting to order at 8:01 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: Steve Anderson, R.Ph., President
Mark Smosna, R.Ph., Vice President
Mark Bunton, R.Ph., Member
Winnie Landis, R.Ph., Member
Matt Balla, R.Ph., Member

Member(s) Out: Jason Jablonski, R.Ph., Member

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

The Board voted by roll call to adopt the agenda as amended.

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

FULL BOARD APPEARANCES

Kara Slusser, INSPECT Director – Discussion on accessing INSPECT:

Participating Members: Steve Anderson, Mark Smosna, Matt Balla, Mark Bunton, Winnie Landis

Ms. Slusser informed the Board about the April 27th announcement from HHS regarding new X-waiver regulations.

The information below is from the U.S. Department of Health and Human Services, details the recent changes to the X-waiver process. In addition, there is also a free webinar, hosted by Get Waivered and California Bridge, that will help providers with completion of the Notice of Intent process, as well as answer any questions about the waiver process and administering buprenorphine.

Some of the information is as follows:

“The Guidance on New X-Waiver Requirements:

- ON APRIL 27, 2021, THE US DEPARTMENT OF HEALTH AND HUMAN SERVICES ISSUED NEW PRACTICE GUIDELINES REGARDING THE WAIVER PROCESS FOR MEDICAL PROVIDERS WISHING TO PRESCRIBE BUPENORPHINE TO PATIENTS WITH OPIOID USE DISORDER.

NEW CHANGES TO GUIDELINES

- UP TO 30 PATIENTS CAN BE TREATED WITHOUT COMPLETING X-WAIVER TRAINING
- UP TO 100 PATIENTS CAN BE TREATED ONCE THE CONTROLLED SUBSTANCE ACT (X-WAIVER) TRAINING IS COMPLETED.
- REFERRING TO OR PROVIDING PSYCHOSOCIAL SERVICES IS NOT REQUIRED. PROVIDERS SHOULD STILL FOLLOW BEST PRACTICE CARE MODELS WHEN DECIDING REFERRALS TO PSYCHOSOCIAL SUPPORT SERVICES

EVEN IF YOU DO NOT COMPLETE THE TRAINING, YOU MUST COMPLETE A NOTICE OF INTENT (NOI) WITH SAMSHA TO PRESCRIBE BUPRENORPHINE

These changes apply to physicians, Advanced Practice Registered Nurses (APRNs), Physician Assistants, and other providers eligible to prescribe medications

The impact of these changes for emergency medicine providers is still being sought. At this time, emergency medicine providers can still follow the "three-day rule" of administering buprenorphine to patients in the ED. For more information on prescribing practices please follow the American College of Emergency Physicians here: <https://bit.ly/3enzrSU> “

Pfeiffer Prescription Services – Non Resident Change of Ownership – Positive Response:

Hari Kumar appeared on behalf of Pfeiffer Prescription Services.

He indicated to the Board that Kenneth Behr, R.Ph., PIC has had action taken upon his license.

On November 4, 2005, Mr. Behr entered a consent order with Illinois. The consent order was based upon sister state pharmacist license discipline.

He received a felony conviction in the State of Michigan for attempted embezzlement in 2020 and voluntarily surrendered his pharmacist license. He received a misdemeanor conviction in Indiana in 2003 for attempted theft and voluntarily surrendered his pharmacist's license. His Indiana license shows revoked in 2003. His Texas license was revoked due to non-appearance for his board hearing.

The Illinois consent order was for a thirty (30) day suspension followed by indefinite probation for three (3) years. His probation was lifted in 2009.

After discussion the Board moved by roll call to APPROVE Pfeiffer's application.

Landis/Smosna, 5/0/0
Motion carries

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

Valparaiso Health Center of St. Mary Medical Center – Remote Dispensing Facility Application:

A representative appeared on behalf of Valparaiso Health Center.

He indicated that they would be using an Omnicell machine for the medications.

The Board at that time informed him he submitted the wrong application, that he needs to submit a Remote Location Application. He stated he would get Ms. Edens the appropriate application and requirements.

The facility will be doing minor procedures and colonoscopies.

A technician would have access to the machine. Hospital staff will bring supplies to the Omnicell machine.

After discussion, the Board moved by roll call to APPROVE them for a Remote Location Application.

Smosna/Landis, 5/0/0
Motion carries

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

Theracom, LLC/Jack McGuire, R.Ph., PIC – Non Resident Change of Ownership Application – Positive Response:

Jack McGuire, R.Ph., PIC appeared on behalf of this matter.

The staff employed with Theracom has had some issues in the past. They are as follows:

- Four (4) pharmacists were fined by the Kentucky Board for not having enough continuing education credits after they renewed their license.
- Stephen Blanford, R.Ph. – in 2003 was disciplined by the Kentucky Board following an inspection and inventory of controlled substances showed missing medication. Mr. Blanford was the PIC at Medical Towers Pharmacy when this happened.
- Joe Eiler, R.Ph. – in 2016, during a non-sterile compounding inspection at Commons Community Pharmacy where Mr. Eiler was PIC, it was found that legend drugs and prepared prescriptions medications were in a newly constructed section of the pharmacy that had not been inspected or approved by the Board.
- Matthew Weaver, R.Ph. – in 2016, Mr. Weaver called in a fraudulent prescription for himself to a Walgreens.

After discussion, the Board moved by roll call to APPROVE Theracom, LLC's application.

Smosna/Landis, 5/0/0
Motion carries

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

Genoa Healthcare, LLC – Remote Dispensing Facility & CSR Application:

Frank Gordon appeared on behalf of this matter.

The remote dispensing facility is in a physician's clinic and will only serve the patients of the clinic.

Mr. Gordon indicated that one of the questions on the application was answered incorrectly. They have had two (2) citations in the past.

After discussion, the Board moved by roll call to APPROVE Genoa's application.

Bunton/Smosna, 5/0/0
Motion carries

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

PERSONAL APPEARANCES

The following personal appearance(s) did not appear:

- Eugene Adjei – MPJE Repeat Exam Application
- Andrea Hayden – Technician Application – Positive Response

Charlotte Thomas, R.Ph. – Repeat MPJE Application:

Charlotte Thomas did not appear telephonically before the Board to discuss his/her studying habits with the Board.

This is the second (2nd) time Ms. Thomas has failed to appear.

After discussion, the Board voted by roll call to DENY Ms. Thomas' MPJE repeat exam application.

Landis/Smosna, 5/0/0
Motion carries

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

Tyler Kroeger – Technician/Tech in Training Application: - Positive Response:

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

He entered a diversion program with the courts after he was arrested for excessive speeding. He completed all requirements, and the issue has been closed.

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

Smosna/Landis, 5/0/0
Motion carries

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

Cherise Lee – Technician/Tech in Training Application – Positive Response:

Cherise Lee 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. Lee was fine with both participating.

She has many arrest records. She indicated that most were misdemeanors and that none of them were for drug related charges.

According to the documentation she still owes court fees/fines.

After discussion, the Board moved by roll call to TABLE this matter for Ms. Lee to get proof she has paid all her court costs/fees.

Smosna/Landis, 5/0/0
Motion carries

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

Benjamin Wheeler – Technician/Tech in Training Application – Positive Response:

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

He informed the Board that he went to court on May 3rd and it is still pending as they offered a pleas agreement. He is scheduled to reappear on August 30, 2021.

After discussion, the Board moved by roll call to TABLE this matter until Mr. Wheeler's criminal case is completed.

Landis/Bunton, 4/0/0
Motion carries

The following board members voted aye by roll call:

Winnie Landis, Mark Smosna, Matt Balla, Mark Bunton
The following board members objected: none
The following board members abstained: none

ADMINISTRATIVE HEARINGS

The following administrative hearing(s) was/were continued:

Lindsay N. Cherry, Ph.T., License No. 67031198A, Cause No. 2016 IBP 0075

Lovie Hunn, Ph.T., License No. 67034784A, Cause No. 2019 IBP 073

Shari Hicks, Ph.T., License No. 67008012A, Cause No. 2021 IBP 0011

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 explained that she and Mark Bunton are both employed by CVS and do not have knowledge of this respondent. Mr. Hart was fine with both participating.

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.

Landis/Balla, 4/0/0
Motion carries

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

Susan Northrop, R.Ph., License No. 26016401A, Cause No. 2021 IBP 0009

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 Ryan Eldridge, Deputy Attorney General and the court reporter sworn in for this matter was Margie Addington, with Accurate Reporting Services also appeared telephonically.

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/Landis, 4/0/0
Motion carries

The following board members voted aye by roll call:
Steve Anderson, Winnie Landis, Mark Smosna, 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 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 Aaron Ridlen, Deputy Attorney General and the court reporter sworn in for this matter was Margie Addington, with Accurate Reporting Services also appeared telephonically.

Mr. Ridlen requested the Board to take notice of previously submitted exhibits A and B.

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/Smosna, 4/0/0
Motion carries

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

Sandra Hayes, R.Ph., License No. 26018300A, Cause No. 2011 IBP 0013

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 April Keaton, Deputy Attorney General and the court reporter sworn in for this matter was Margie Addington, with Accurate Reporting Services also appeared telephonically.

Tye Dominguez, Tracy Traut, Wendy Anne O'Day, and Tamara Jones were all sworn in as witnesses in this matter.

Let the record reflect that Mark Smosna explained that they were both employed by Walgreens, but he does not have knowledge of this Respondent. Both parties were fine with him participating.

Ms. Hayes stated that her sobriety date is April 9, 2019, and that she is a recovering alcoholic and addict. She attends AA meeting weekly, and Tamara Jones is her sponsor.

Her license has been on indefinite suspension since June of 2013.

Ms. Jones testified that she has been Sandra's sponsor since April 2019, and she has worked hard to rectify errors she made in the past. She speaks with her about three (3) to five (5) times a week. She feels Sandra is doing well with her recovery.

Wendy testified that she has been in the AA program for thirty-eight (38) years, and she can tell that Sandra is serious about and really wants to maintain her recovery.

Tye testified that Sandra signed an RMA with IPRP in July 2020 and it will run until 2023. She has had seven (7) drug screens, and all were negative. She is in full compliance with her contract.

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 Respondent's license on INDEFINITE PROBATION with terms and conditions.

Landis/Smosna, 4/0/0
Motion carries

The following board members voted aye by roll call:
Steve Anderson, Winnie Landis, Mark Smosna, Matt Balla

The following board members objected: none
The following board members abstained: none

Emmanuel Evangelista Embuscado, R.Ph., License No. 26024174A, Cause No. 2020 IBP 0026

Respondent appeared telephonically and was not represented by counsel regarding a Petition to Withdraw Probation scheduled before the Board. The State of Indiana was not represented in this matter and the court reporter sworn in for this matter was Margie Addington, with Accurate Reporting Services also appeared telephonically.

Zaneta Nunnally, Compliance Director was sworn in as a witness for the Respondent.

Ms. Nunnally testified that Mr. Embuscado was compliant with all the terms of his probation order.

His criminal probation ended on March 7, 2021, and he has completed his IPRP contract.

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 WITHDRAW the Order of Probation.

Smosna/Landis, 4/0/0
Motion carries

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

David Ringel, D.O., License No. 02002578B, Cause No. 2018 IBP 0073

Respondent appeared telephonically and was not represented by counsel regarding a Petition to Withdraw Probation/OTSC for CSR scheduled before the Board. The State of Indiana was not represented in this matter and the court reporter sworn in for this matter was Margie Addington, with Accurate Reporting Services also appeared telephonically.

Dr. Ringel's medical license was previously placed on Probation by the Medical Board. The Medical Board withdrew the probation from his license in January 2021.

After completing 2,080 hours of community services, the court released Dr. Ringel from his criminal probation early.

He has completed all the terms of probation on his CSR.

After having considered the evidence presented, and taking official, judicial notice of the pleadings, evidence and orders in this matter, the Board moved to WITHDRAW the Order of Probation.

Smosna/Landis, 4/0/0
Motion carries

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

Erin Holliday, Ph.T., License No. 67025772A, Cause No. 2021 IBP 0008

Respondent appeared telephonically and was not represented by counsel regarding a Complaint/Final Hearing scheduled before the Board. The State of Indiana was represented by Nick Hart, Deputy Attorney General in this matter 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 explained that she is employed by CVS and does not have knowledge of this applicant. Both parties were fine with her participating.

Kathryn Daggett, Case Analyst with the AG's Office was sworn in as a witness.

Ms. Holiday was terminated from CVS for diverting medication, which she also failed to report on her license renewal application.

Ms. Daggett indicated that the Respondent was caught on camera giving medications to a co-worker that she was prescribed.

Ms. Holliday informed the Board that she did give her medications to a co-worker that she wasn't using any longer at the end of her shift. She also indicated that she had paid for this medication.

States Exhibits:

A – Respondent's employment file

B – Respondent's IPLA file

After having considered the evidence presented, testimony of the witness, and taking official, judicial notice of the pleadings, evidence and orders in this matter, the Board moved to issue a LETTER of REPRIMAND and a FINE of \$100.00.

Smosna/no second; Mr. Smosna withdrew his motion.

After further discussion, the Board moved to issue a FINE of \$50.00 for the renewal fraud and dismissed the diversion charge.

Balla/Landis, 4/0/0

Motion carries

The following board members voted aye by roll call:
Steve Anderson, Winnie Landis, Mark Smosna, Matt Balla

The following board members objected: none

The following board members abstained: none

Lam Vo, R.Ph., License No. 26024967A, Cause No. 2020 IBP 0055

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 Ryan Eldridge, Deputy Attorney General in this matter and the court reporter sworn in for this matter was Margie Addington, with Accurate Reporting Services also appeared telephonically.

A proposed settlement agreement between the Respondent and the Attorney General's Office was presented to the Board. The proposed settlement agreement included

INDEFINITE PROBATION, not less than one (1) year 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/Balla, 4/0/0
Motion carries

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

Tonya Reed, Ph.T., License No. 67014442A, Cause No. 2021 IBP 0023

Respondent did not appear in person and was not represented by counsel regarding a Petition for Summary Suspension 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.

Brittany Snow, Case Analyst with the Attorney Generals Office and Ashley Painter, Asset Protection with CVS was sworn in as witnesses.

Ms. Snow testified that the Respondent admitted to her employer, Walgreens, that she diverted the medications for self-use.

States Exhibits:

- A – Respondent employment records
- B – Court records from Johnson County

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 place the Respondent's license on SUMMARY SUSPENSION for ninety (90) days.

Landis/Balla, 4/0/0
Motion carries

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

Dalisa Leavelle-Tubbs, Ph.T., License No. 67029976A, Cause No. 2021 IBP 0007

Respondent appear in person and was not represented by counsel regarding an Appeal of

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

Committee Meetings:


The Technician Immunization committee met last week to work on emergency rules which must be completed by July 1, 2021. The Board must pass the emergency rule no later than the June 14, 2021, meeting. This allows Technicians to give the Flu and Covid-19 immunizations.

White Bagging:

HB1405 – contains the make up of a committee to make recommendation for the beginning of a bill on white bagging.

The Board indicated that the Insurance Institute of Indiana and the Hospital Association should both come in and present their side.

There being no further business the Board adjourned at 4:08 p.m.



Steve Anderson, R.Ph., President

Mark Smosna, R.Ph., Vice President

Licensure Denial scheduled before the Board. The State of Indiana was not represented regarding this matter and the court reporter sworn in for this matter was Margie Addington, with Accurate Reporting Services also appeared telephonically.

The Respondent informed the Board that she still must complete two (2) hours of community service to complete her court probation. She indicated she will have them completed in December 2021.

She was charged with assault by bodily fluids and battery on a public safety officer.

After having considered the evidence presented, and taking official, judicial notice of the pleadings, evidence and orders in this matter, the Board moved to OVERTURN their APPLICATION DENIAL and to place the Respondent's license on INDEFINITE PROBATION until completion of court probation with terms and conditions.

Landis/Balla, 4/0/0
Motion carries

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

DISCUSSION

Discussion – does the law permit a prescription to be filled in one location and dispensed in another:

Kurt Miller, J.D, Board's Advisory Counsel from the Attorney General's Office explained to the Board, that after reviewing relevant statutory authority and administrative rules, his answer is as follows: Not including controlled substances, generally speaking prescriptions may not be filled at one location and dispensed in another location, unless the pharmacy meets the requirements of the remote dispensing statute IC 25-26-13.5 and the emergency remote dispensing rule, LAS #18-325(E).

Mariam Habib, R.Ph., request for an extension of time to take the NAPLEX exam:

Ms. Habib submitted a written request to the Board asking for a six (6) month extension of time in which to take the NAPLEX examination. She stated she needs more time for studying.

After discussion, the Board moved to APPROVE Ms. Habib a six (6) month extension of time.

Landis/Smosna, 4/0/0
Motion carries