

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 FEBRUARY 28, 2022

Mark Smosna, R.Ph., President, called the meeting to order at 9:02 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 Telephonically: Mark Smosna, R.Ph., President
Mark Bunton, R.Ph., Vice President
Winnie Landis, R.Ph., Member
Steve Anderson, R.Ph., Member

Members Absent: Jason Jablonski, R.Ph., Member
Matt Balla, R.Ph., Member

Staff Present Telephonically: 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.

Anderson/Landis, 4/0/0
Motion carries

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

ADMINISTRATIVE HEARINGS

Indiana Pain Centers – Evansville, LLC, License No. 61101885B, Cause No. 2022 IBP 0012

Respondent appeared telephonically and was represented by counsel, Clay Havill and Katie Boren regarding a Summary Suspension scheduled before the Board. The State of Indiana was represented by Ryan Eldridge, Deputy Attorney General, and Autumn Murphy, Deputy Attorney General and the court reporter sworn in for this matter was Lindy Meyer, with Accurate Reporting Services also appeared telephonically.

The Respondent's counsel requested a continuance of this matter as they only received a two (2) day notice of the hearing.

Mr. Eldridge objected stating that according to IC 25-2-9-10(C)(b) you can not delay an emergency suspension procedure. Reasonable attempt is required, not reasonable notice.

After discussion, the Board moved to DENY the continuance request.

Anderson/Landis, 4/0/0
Motion carries

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

The following were sworn in as witnesses for this matter: Ron Hinderliter, Kimberly Russell, Dr. Mansoor Khan, and Kristi LaVanchy

Ms. Russell testified that she witnessed invoices that were not signed and dated. She found seven (7) bottles of fentanyl in a locked cabinet that were expired. She indicated it was document that nineteen (19) expired fentanyl were dispensed to patients for surgery. The narcotic logs show the surgery was completed with the expired fentanyl. Respondent's counsel acknowledged that this did happen. Facts were stipulated to.

There were fourteen (14) expired sterile compounded products in the controlled substance safe. The inventory was not completed.

Dr. Khan wrote seventy-five (75) prescriptions to Butler in KY for surgery center use, which is against the law.

Their DEA expired November 30, 2021. A nurse continued to issue prescriptions with Dr. Khan's license being expired. The person in control of the controlled substances must have an active license.

Kim indicated their documentation was very poor. The controlled substances were confiscated by law enforcement due to the expired license.

Dr. Khan was surprised to find his license & CSR were expired.

Ms. LaVanchy, office manager testified that she didn't know the 222 forms had changed and that only the RN's can get into the safe with compounding medications. She indicated that all expired medications are all together on the bottom shelf in the safe. She also indicated it was just the one (1) invoice for Butler that didn't have the 222 form.

She also indicated that she stopped all prescriptions on February 11, 2022 when she found out the licenses were expired.

Dr. Khan testified that he immediately changed the policy when he found out the expired medications has been used. He stated that they keep the expired medications separately.

Ms. Russell testified that no expired medications have been given to patients since 2020.

States Exhibits:

- A – 10/2020 Inspection report
- B – Narcotic logs
- C – Pictures taken from 10/2020
- D – 11/2021 Inspection report
- E – Pictures taken from 11/2021
- F – 2/2022 Inspection report
- G, H & I – pictures taken from 2/2022

Respondents Exhibits:

- 1 – Controlled Substance Log
- 2 – Copy of prescriptions written by Dr. Khan
- 3 – Revised policies
- 4 – copy of email
- 5 – more revised policies
- 9 – Letter to Evan Wire

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 by roll call to DENY the Summary Suspension. The Board further moved to request a new inspection for the March Board meeting and for the Attorney General to file an administrative complaint in this matter.

Anderson/Bunton, 4/0/0
Motion carries

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

There being no further business the Board adjourned at 12:45 p.m.