

INDIANA BOARD OF PHARMACY
Indiana Government Center South
402 West Washington Street, Room W064
Indianapolis, IN 46204

Minutes of May 9, 2022

Mark Smosna, R.Ph., President, called the meeting to order at 8:36 a.m. and declared a quorum in accordance with IC 25-26-13-3(d), pursuant to public notice posted at the principal office for the Board, 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:

Mark Smosna, R.Ph., President
Mark Bunton, R.Ph., Vice President
Jason Jablonski, R.Ph., Member
Winnie Landis, R.Ph., Member
Steve Anderson, R.Ph., Member
Matt Balla, R.Ph., Member

PLA Staff Present:

Alyssa Servies, MPH, JD
Christine Cowdin

Advisory Counsel:

Kurt Miller, J.D.

The Board voted to amend the agenda by adding the personal appearance of Braxton Frazier and adopt the amended agenda.

Balla/Bunton, 6-0-0
Motion carries

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

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

Full Board Appearances

Mark Smosna, President on the Passing of Tom Wilson

Bruner Farm Animal Hospital – Purdue – Remote Location App

Wilson Gwin – Director of Pharmacy appeared regarding this matter.

Mr. Gwin explained that they would like to be granted a remote location CSR license for a portion of the new animal hospital opening at Purdue that will not be connected to the main pharmacy.

They will be using a 2 tower Omnicell cabinet. Only doctor's and nurses will have access to controlled substances. Students will have access only to non-controlleds. Pharmacist or a pharmacy technician will transport drugs/fill cabinet.

After discussion, the Board moved to APPROVE their request for a remote location.

Landis/Bunton. 6-0-0
Motion carries

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

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

Personal Appearances

The following did not show for their scheduled personal appearance:

India Brumfield, Tech/Tech in Training – Initial App – Positive Response
Juan Rodriguez, Tech/Tech in Training – Initial App – Positive Response
Lashae Butler, Tech/Tech in Training – Initial App – Positive Response
Melissa Edwards, Tech/Tech in Training – Initial App – Positive Response
Shelby Schleter, License 67032650A – Renewal – Positive Response

The following personal appearance was CONTINUED:

Brianne Wozniak, Tech/Tech in Training – Initial App – Positive Response

Braxton Frazier, Tech/Tech in Training – Initial App – Positive Response

Braxton Frazier appeared in person and was not represented by counsel regarding a positive response on his tech/tech in training application.

Let the record reflect that Mark Bunton explained he works for CVS as does Braxton Frazier. Mark feels he can be fair and impartial in this matter. Braxton was fine with Mark participating.

At the April 11, 2022 Board meeting the Board voted to TABLE his application until his diversion program was completed.

At the time of this meeting the diversion program has still not been completed.

After discussion, the Board moved to APAPROVE Mr. Frazier's application ON PROBATION with terms and conditions.

Anderson/Balla, 5-0-1
Motion carries

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

Cinzia Benfatto, R.Ph., - NAPLEX Repeat Exam App:

Cinzia Benfatto appeared before the Board via phone due and discussed his/her studying habits with the Board.

After discussion, the Board moved to APPROVE Cinzia Benfatto's NAPLEX repeat exam application.

Bunton/Landis, 6-0-0
Motion carries

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

Ebony Singleton, Tech/Tech in Training – Initial App – Positive Response

Ebony Singleton appeared on behalf of this matter and was not represented by counsel.

Ebony explained to the Board that in September 2020 she had a run in with the law, she was taking a weight loss supplement, was at a friend's house had a drink, got tired while driving home so she pulled over withy her hazards on and fell asleep. A concerned citizen called 911, was charged with an OWI, took a plea agreement, participated win 20 hours of substance abuse treatment, one year probation that was discharged 2.21.2022. She currently has \$700.50 outstanding court fees.

After discussion, the Board moved to TABLE Ebony Singleton's application until she completes an addictionology report and sets up a payment plan with the court. She must return for another appearance once complete.

Landis/Anderson 6-0-0
Motion carries

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

The following board members objected: none

The following board members abstained: none

Kyle Benjamin, 67033546A - Renewal – Positive Response:

Kyle Benjamin appeared in person and was not represented by counsel regarding a positive response on his renewal application.

In June 2020, he inadvertently discharged a firearm into his leg. He was in the community area of an apartment complex. Called 911 due to injury, went to ER. No charges were filed for quite some time. Original charges were felony 6, criminal recklessness. He turned himself in once he was notified charges had been filed. On December 9, 2021 charges converted to misdemeanor after he completed one year probation.

After discussion, the Board moved to APPROVE Mr. Benjamin's renewal application.

Landis/Anderson, 6-0-0
Motion carries

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

The following board members objected: none

The following board members abstained: none

Mallori Humphrey, Tech/Tech in Training Initial App – Positive Response:

Ms. Humphrey appeared in person and was not represented by counsel regarding a positive response on her tech/tech in training application.

She explained that in 2010 she took a plea bargain for a handgun charge, she received 1 day of probation. She still has outstanding court fees.

After discussion, the Board moved to APPROVE Ms. Humphrey's tech/tech in training application AFTER SHE PROVIDES PROOF OF PAYMENT OF COURT COSTS.

Landis/Anderson, 6-0-0
Motion carries

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

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

Constance Glidewell Marks, Tech/Tech in Training Initial App – Positive Response – LPN license on Probation:

Ms. Glidewell Marks appeared in person and was not represented by counsel regarding a positive response on her tech/tech in training application.

In 2017 or 2018 while working as an LPN, Ms. Glidewell Marks was a unit manager, she removed liquid morphine from a locked waste bin, administered it to patients in pain. "Morally I did what was right, but legally it was wrong".

LPN license is currently on probation.

Ms. Glidewell Marks states that she currently works at Walmart, pharmacist asked if she would be interested in becoming a pharmacy technician.

After discussion, Ms. Glidewell Marks WITHDREW her application.

After further discussion, the Board moved to APPROVE the WITHDRAWAL of Ms. Glidewell Marks' application.

CONSENSUS
Motion carries

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

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

ADMINISTRATIVE HEARINGS

The following hearing(s) were continued:

- Alexandra Bilbrey, R.Ph., License No. 26022253A, Cause No. 2015 IBP 0051
- CVS Pharmacy #1138, License No. 60005923A/B, Cause No. 2022 IBP 0026
- CVS Pharmacy #6555, License No. 60004587A/B, Cause No. 2022 IBP 0027

CVS Pharmacy #6913, License NO. 60004768A, Cause No. 2021 IBP 0042

Respondent did not appear in person and was not represented by counsel, regarding a Proposed Settlement Agreement scheduled before the Board. The State of Indiana was represented by Amy Osborne, Deputy Attorney General and the court reporter sworn in for this matter was Margie Addington, with Accurate Reporting Services.

Let the record reflect that Mark Bunton and Winnie Landis explained they work for CVS. Both Winnie and Mark feel they can be fair and impartial in this matter. OAG was fine with them 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 ACCEPT the Proposed Settlement Agreement.

Jablonski/Anderson, 6-0-0
Motion carries

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

The following board members objected: none

The following board members abstained: none

Walgreens #07926, License No. 60005834A, Cause No. 2020 IBP 0022

Respondent appeared in person and was represented by counsel, Roxanne Hilton, regarding a Proposed 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.

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

Balla /Anderson, 5-0-0
Motion carries

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

The following board members objected: none

The following board members abstained: none

Carson Blair, Tech in Training License No. 99106019A, Cause No. 2022 IBP 0020

Respondent did not appear in person and was not represented by counsel regarding a Summary Suspension Extension scheduled before the Board. The State of Indiana was represented by Carah Rochester, Deputy Attorney General and the court reporter sworn in for this matter was Margie Addington.

Ms. Blair informed the Board that the criminal charges are still pending in this matter.

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 an additional Ninety (90) days.

Bunton/Balla, 6-0-0

Motion carries

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

The following board members objected: none

The following board members abstained: none

Natasha Renee Perkins, Ph.T., License No. 67029299A, Cause No. 2021 IBP 0040

Respondent did not appear in person and was not represented by counsel regarding a Summary Suspension Extension scheduled before the Board. The State of Indiana was represented by Natalie Stidd, Deputy Attorney General and the court reporter sworn in for this matter was Margie Addington.

Ms. Stidd informed the Board that the case been referred to the AUSA and DEA.

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 an additional Ninety (90) days.

Anderson/Landis, 6-0-0

Motion carries

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

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

Kristina Finck, Tech in Training License No. 99081987A, Cause No. 2017 IBP 0066

Respondent appeared in person and was not represented by counsel regarding a request to Withdraw Probation scheduled before the Board. The State of Indiana was represented by Autumn Murphy, Deputy Attorney General and the court reporter sworn in for this matter was Margie Addington, with Accurate Reporting Services.

Ms. Finck stated that when she applied in 2017 probation on license was based on guilty plea in Sept 2017, that case has now been expunged.

Petitioner's Exhibits

1 – Expungement Order

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.

Bunton/Jablonski, 6-0-0
Motion carries

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

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

Rebecca Marshall, RPh, License No. 26013065A, Cause No. 2019 IBP 0066

Respondent appeared in person and was represented by counsel, Stephanie Eckerle, regarding a request to Withdraw Probation 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.

Counsel states that Ms. Marshall has met all the terms of her probation. DAG states that it is Respondent's burden to prove of satisfaction of probationary terms.

Petitioner's Exhibits

A/1 – 2.20.2020 Order

B/2 – Quarterly Reports for Rebecca Marshall

C/3 - Quarterly Reports submitted by Steven Johnson

D/4 – 10.19.2021 Passing Inspection

E/5 – CE Reports

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.

Landis/Balla, 5-0-1
Motion carries

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

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

Steven C. Marchino, M.D., License No. 01052937B, Cause No. 2022 IBP 0029

Respondent appeared in person and was represented by counsel, Katie Jackson, regarding an Order to Show Cause to Reinstate CSR scheduled before the Board. The State of Indiana was represented by Autumn Murphy, Deputy Attorney General and the court reporter sworn in for this matter was Margie Addington with Accurate Reporting Services.

The medical board granted permission for him to request reinstatement of his CSR.

Respondent's Exhibits

A/1 –Order

B/2 – IPRP compliance letter

Sobriety Dates: 8.21.2018 (opiates) and 4.30.2021 (alcohol).

Currently works for Department of Corrections works 3-4 12-hour shifts per week., has a job opportunity with Davies Community Hospital.

After having considered the evidence presented, and taking official, judicial notice of the pleadings, evidence, and orders in this matter the Board moved APPROVE the Respondent's CSR on INDEFINITE PROBATION with terms and conditions and to run concurrent with his medical board probation order.

Anderson/Balla, 6-0-0
Motion carries

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

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

Bailey Moore, PhT, License No. 67025253A, Cause No. 2022 IBP 0001

Respondent did not appear in person and was not represented by counsel regarding an Administrative Complaint scheduled before the Board. The State of Indiana was represented in this matter by Amy Osborne, and the court reporter sworn in for this matter was Margie Addington, with Accurate Reporting Services.

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 NOTICE of PROPOSED DEFAULT.

Anderson/Bunton, 6/0/0
Motion carries

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

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

Nicholas Brown, Ph.T, License No. 67034928A, Cause No. 2022 IBP 0030

Respondent did not appear in person and was not represented by counsel regarding a 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 Service.

Rodney Crawford, Case analyst was sworn in as a witness.

Richard Koomler, Kroger pharmacy practice coordinator asked to investigate Kroger pharmacy in Plymouth, Mr. Brown was interviewed and arrested at the store.

Mr. Crawford testified that Mr. Brown was charged with theft, class A misdemeanor in Marshall County for the theft of:

- Buprenorphine-Naloxone 9-2mg SL tablet – 181 tablets
- Tramadol HCL 90mg Tablet – 299 tablets
- Oxycodone-Acetaminophen 10-3256mg tablet – 90 tablets

Richard Koomler, Kroger pharmacy practice coordinator asked to investigate Kroger pharmacy in Plymouth

States Exhibits:

A/1 – Kroger employment records

B/2 – Certified criminal records for Marshall County

C/3 – Kosciusko County records

D/4 – DEA 106 completed by Kroger
E/5 – Affidavit of Heather Young, Loss Prevention

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

Landis/Bunton, 6-0-0
Motion carries

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

New Life Center, License No. 61100116B, Cause No. 2017 IBP 0077

Respondent did not appear in person and was not represented by counsel regarding a Notice of Proposed Default 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

After having considered the evidence presented, and taking official, judicial notice of the pleadings, evidence, and orders in this matter the Board moved to hold New Life Center IN DEFAULT.

Anderson/Winnie, 6-0-0
Motion carries

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

The Board agreed to hear witness testimony.

Zaneta Nunnally, Compliance director for PLA, was sworn in as a witness.
Timothy Thomas, PLA compliance officer, was sworn in as a witness.

Ms. Nunnally testified regarding two failed inspections from 2020 and 2022. In addition, Ms. Nunnally confirmed that Respondent once again operated for two or more months without the required CSR license.

After having considered the evidence presented, and taking official, judicial notice of the pleadings, evidence, and orders in this matter the Board moved to CONTINUE the INDEFINITE PROBATION on the Respondent's license for an additional four (4) years with terms and conditions and a FINE of \$1,000.

Anderson/Landis, 6-0-0
Motion carries

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

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

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

Respondent did not appear in person and was not represented by counsel regarding an Summary Suspension Extension and Notice of Proposed Default 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.

Let the record reflect that Mark Smosna explained that he is knew the Respondent when she was with Walgreens but feels he can be fair and impartial in this matter. Mr. Ridlen was fine with Mr. Smosna participating.

Evan Wire, investigator for the Attorney General's Office was sworn in as a witness.

Ms. Scales plead guilty received four (4) years of criminal probation and was ordered to undergo a substance abuse evaluation.

States Exhibits:

- A/1 – Scales Voluntary statement
- B/2 – Chronological Case Summary
- C/3 – Charging Documents
- D/4 – Probable Cause Affidavit
- E/5 – Plea Agreement
- F/6 – Sentencing Order

After having considered the evidence presented, and taking official, judicial notice of the pleadings, evidence, and orders in this matter the Board moved to REVOKE the license of Sarah Scales.

Jablonski/Bunton, 6-0-0
Motion carries

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

DISCUSSION

Reports:

- Director's Report presented by Alyssa Servies
- INSPECT Report – Presented by Kara Slusser – Prescriber authentication goes live July 1st for added security.
- Compliance Report – presented by Zaneta Nunnally
- Attorney General Report – presented by Ryan Eldridge

There being no further business the Board ADJOURNED.