

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 SEPTEMBER 13, 2021

Steve Anderson, R.Ph., President, called the meeting to order at 10:10 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
Jason Jablonski, R.Ph., Member
Matt Balla, 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.

Smosna/Landis, 6/0/0
Motion carries

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

PERSONAL APPEARANCES

The following personal appearance(s) did not appear:

- **Southea Phon-Xue, R.Ph., MPJE repeat exam application**

Zunaid Ali, R.Ph., Initial Pharmacist Application – Positive Response:

Zunaid Ali 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 recused herself from this matter and left the meeting.

Zunaid informed the board that he received two (2) DUI's in May and October of 2016 and two (2) days after his release in October he was caught with Marijuana.

He was originally licensed in Texas, and he signed a contract with the Texas Impaired Pharmacist program.

He indicated his sobriety date is July 4, 2017. He goes to at least two (2) and up to four (4) AA meeting a week and still does urine drug tests about every 2 weeks. His Texas license is on probation, but it does not include specific terms.

He has signed a contract with IPRP.

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

Bunton/Balla, 5/0/0
Motion carries

The following board members voted aye by roll call:
Steve Anderson, Matt Balla, Mark Smosna, Mark Bunton, Jason Jablonski

The following board members objected: none

The following board members abstained: none

ADMINISTRATIVE HEARINGS

The following hearing(s) were continued:

Jacqueline Swinford, Ph.T., License No. 67003797A, Cause No. 2021 IBP 0046

Respondent did not appear telephonically and was not represented by counsel regarding a Petition for Summary Suspension 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 were both employed by CVS, but they do not have knowledge of this Respondent. Mr. Hart was fine with both participating.

Brittany Snow, Case Analyst with the Attorney General's Office was sworn in as a witness

Ms. Snow informed the Board that she participated in the investigation of Ms. Swinford and that in her employment records with CVS Ms. Swinford admitted she diverted medications from CVS. CVS has terminated her employment.

States Exhibits:

A – Employment records

B – Criminal records

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

Smosna/Balla, 5/0/1, with Ms. Landis abstaining
Motion carries

The following board members voted aye by roll call:
Steve Anderson, Mark Smosna, Jason Jablonski, Mark Bunton, Matt Balla

The following board members objected: None

The following board members abstained: Winnie Landis

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

The Respondent was arrested and charged with two (2) counts dealing drugs. Her criminal case is still pending at this time, but she has entered a guilty plea with the courts.

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.

Smosna/Bunton, 6/0/0
Motion carries

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

The following board members objected: None

The following board members abstained: none

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 Aaron Ridlen, 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 respondent. Mr. Ridlen 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 an EXTENSION of 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.

Jablonski/Smosna, 6/0/0
Motion carries

The following board members voted aye by roll call:

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

The following board members objected: None

The following board members abstained: none

Brent Losier, R.Ph., License No. 26018627A, Cause No. 2017 IBP 0057

Respondent did not appear telephonically and was represented by Derek Peterson, 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, with Accurate Reporting Services also appeared telephonically.

Mr. Peterson entered an objection to the hearing script section that states "The parties in this matter are hereby notified that the Board will take official, judicial notice of the pleadings, evidence, and orders in this matter"

The Board president sustained the objection and indicated they will consider and vote on each item objected to.

Ms. Stidd requested to make a record in that Mr. Peterson was employed with the Office of the Attorney General as Deputy Director over Medical Licensing. Mr. Peterson responded that he was never part of this case as it is with the Medicare Fraud Control Unit and they are separate from the Medical Licensing section. He also stated he has not seen the MFCU's file on Mr. Losier. Ms. Stidd indicated she was good with Mr. Peterson

participating since he indicates he has never reviewed the file.

Mr. Peterson submitted a combined motion to Dismiss and Vacate the hearing. Ms. Stidd informed the Board that the Court of Appeal decision for Elmer indicates “revoke” license.

The Board discussed Mr. Peterson’s motion to dismiss and vacate 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 DENY Mr. Peterson’s motion to dismiss and vacate.

Landis/Jablonski, 4/2/0, with Mr. Balla and Anderson objecting

The following board members voted aye by roll call:

Mark Smosna, Mark Bunton, Jason Jablonski, Winnie Landis

The following board members objected: Steve Anderson, Matt Balla

The following board members abstained: none

Mr. Peterson again objects to the Board taking judicial notice of the pleadings, evidence, and orders in this matter. Mr. Anderson sustained the objection.

Mr. Peterson again objects and requests that this matter be dismissed. Ms. Stidd stated that the Board has already denied his request to dismiss, and the Board should take notice of the denial. Mr. Anderson stated this request has already been reviewed and denied.

Mr. Peterson stated that he needs to request a transcript of this matter and will seek attorney fees from Professional Licensing Agency on this matter in reference to IC 25-21-5-27.5.

Ms. Stidd stated that this is a hearing just on the Summary Suspension Extension on Mr. Losier’s license and notice has been met.

Mr. Peterson informed the board that they needed to have a prehearing order to limit time in this matter.

Mr. Anderson indicated to both parties that the Board is moving forward with this matter.

Ms. Still requests to readmit States exhibit A, which was submitted at Mr. Losier’s previous hearing. States exhibit A is a copy of Mr. Lozier’s indictment. Mr. Peterson objected to the readmittance of exhibit A. Mr. Anderson overruled and accepted exhibit A as evidence.

Ms. Still requested the Board to take notice of the violations listed in the inditement and specifically the nine (9) counts of illegal distribution of controlled substances.

Mr. Peterson moved for a directive verdict.

After discussion, the Board moved to DENY Mr. Peterson's request for a directive verdict.

Bunton/Landis, 5/1/0, with Matt Balla abstaining
Motion carries

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

Mr. Miller, Board's counsel reminded the Board that they need to consider the following: -
- Does Mr. Losier continue to represent a threat to the public health and safety if allowed to continue to practice. The evidence that was previously submitted can be taken into consideration by the Board.

The Board discussed the matter and determined that the charges directly relate to his practice as a pharmacist.

States Exhibit:
A – Copy of Inditement

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, 5/1/0 with Matt Balla objecting
Motion carries

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

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

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

Ms. Stidd informed the Board that this case is currently with the DEA. Ms. Perkins' license is active.

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.

Jablonski/Bunton, 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

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.

Ms. Scales technician license is active. Mr. Ridlen reminded the Board that Ms. Scales not only diverted controlled substances while at work, but she also took the medication while working.

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, 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

Kelly Franks, R.Ph., License No. 26019542A, Cause No. 2021 IBP 0027

Respondent did not appear telephonically and was represented by Jennifer Strange, counsel regarding a Proposed Settlement Agreement/Complaint scheduled before the Board. The State of Indiana was represented by Patricia Gibson, Deputy Attorney General 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, her counsel and the Attorney General's Office was presented to the Board. The proposed settlement agreement included VOLUNTARY RETIREMENT of her license due to health issues with terms and conditions should she want to return to practice.

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

Landis/Smosna, 6/0/0
Motion carries

The following board members voted aye by roll call:

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

The following board members objected: None

The following board members abstained: none

Heather McCullah, Ph.T., License No. 67029730A, Cause No. 2020 IBP 0029

Respondent did not appear telephonically and was not represented by counsel regarding an Amended Proposed Settlement Agreement scheduled before the Board. The State of Indiana was represented by Patricia Gibson, 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 respondent. Ms. Gibson was fine with both participating.

An amended proposed settlement agreement between the Respondent and the Attorney General's Office was presented to the Board. The proposed settlement agreement included a LETTER of REPRIMAND.

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/Jablonski, 6/0/0
Motion carries

The following board members voted aye by roll call:

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

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 appeared 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 respondent. Ms. Keaton and Ms. Johnson were fine with both participating.

Back in 2018 the Respondent admitted she intentionally created the appearance that a prescription was missing to gain recognition from her supervisor when she then would solve the issue of the missing prescription.

She was then terminated from CVS.

She has terms that she must meet to reinstate her license. She must cause a letter to be submitted from her employer indicating Respondent's since of ethics and professional responsibility, and she must show proof of completing six (6) hours of continuing education in pharmacy technician law and ethics. At this time, she has not submitted either.

After further discussion, and having considered the evidence presented and taking official, judicial notice of the pleadings, evidence and orders in this matter, the Board moved to DENY the Respondent's request to Reinstate.

Landis/Jablonski, 6/0/09
Motion carries

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

Jennifer Galligan, R.Ph., License No. 26022213A, Cause No. 2020 IBP 0038

Respondent appeared telephonically and was not represented by counsel regarding a Petition to Withdraw Probation 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, Clinical Case Manager with IPRP and Zanetta Nunnally, Compliance Director with IPLA were sworn in as witnesses.

Mr. Dominguez testified that the Respondent has successfully completed her IPRP contract.

Ms. Nunnally testified that Ms. Galligan has been compliant with the terms of her probation.

Respondents Exhibits:
A – Court documents

- B – Letter from IPRP
- C – UDS screen report
- D – Probation statement

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 from the Respondent’s license.

Smosna/Landis, 6/0/0
Motion carries

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

Angel Hawkins, Ph.T., License No. 67033786A, Cause No. 2020 IBP 0056

Respondent appeared telephonically and was not represented by counsel regarding a Petition to Withdraw Probation scheduled before the Board. The State of Indiana was represented by Evan Wire, Certified Legal Intern and Tim Weber, Deputy Attorney General and the court reporter sworn in for this matter was Margie Addington, with Accurate Reporting Services also appeared telephonically.

Zaneta Nunnally, Compliance Director with IPLA was sworn in as a witness.

Ms. Nunnally testified that she has met all the terms of her probation except for her employer signing a copy of the order and returning it to the Board.

Ms. Hawkins informed the Board that the last time she consumed an alcoholic beverage was when she finished her court requirements. She does not feel she has an issue with alcohol.

- Respondents Exhibit:
- A – Court documents
 - B – Employer letter

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 from the Respondent’s license.

Jablonski/Bunton, 6/0/0
Motion carries

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

The following board members abstained: none

Lovie T. Hunn, Ph.T., License No. 67034784A, Cause No. 2019 IBP 0073

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

This matter was scheduled on the Respondent's motion and since she has not appeared Ms. Gibson requested the Board to deny her request to reinstate.

After having considered the evidence presented and taking official, judicial notice of the pleadings, evidence and orders in this matter, the Board moved to DENY the Respondent's request to Withdraw the Order of Probation.

Smosna/Landis, 6/0/0
Motion carries

The following board members voted aye by roll call:

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

The following board members objected: None

The following board members abstained: none

Rayann Noble, Ph.T. License No. 67032718A, Cause No. 2021 IBP 0002

Respondent appeared telephonically and was not represented by counsel regarding a Petition to Withdraw Probation scheduled before the Board. The State of Indiana was represented by Evan Wire, Certified Legal Intern and Tim Weber, 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 respondent. Both parties were fine with Ms. Landis and Mr. Bunton participating.

Zaneta Nunnally, Compliance Director with IPLA was sworn in as a witness.

Ms. Nunnally testified that the Respondent is compliant with the Board's probation order.

Ms. Noble testified that she drinks a couple of times a month and does not feel she has a drinking issue. She also indicated she will be moving to Tennessee.

Respondent Exhibits:

A – Proof of completion of court probation

B – Chronological Case Summary

C – Court 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 WITHDRAW the Order of Probation from the Respondent's license.

Jablonski/Smosna, 6/0/0
Motion carries

The following board members voted aye by roll call:

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

The following board members objected: None

The following board members abstained: none

Jose Louis Agusti, M.D., License No. 01061624B, Cause No. 2019 IBP 0023

Respondent appeared telephonically and was not represented by counsel regarding a Petition to Withdraw Probation scheduled before the Board. The State of Indiana was represented by Rebecca Hammond, Certified Legal Intern and Ryan Eldridge, Deputy Attorney General 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.

Ms. Nunnally testified that the Respondent is compliant with the terms of the Board's probation order, and she does not have any concerns regarding his writing of controlled substances.

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 from the Respondent's license.

Smosna/Balla, 6/0/0
Motion carries

The following board members voted aye by roll call:

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

The following board members objected: None

The following board members abstained: none

Jeffrey A. Berman, M.D., License Pending, Cause No. 2021 IBP 0039

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

Dr. Berman explained that back between 1996 and 1998 he was addicted to opioids. His senior colleagues intervened, and he got the help he needed. He currently sits on the New Jersey Physician Assistant Board and works with Homeland Security in New Jersey. His employer does random drug screens, and he has not had any issues.

He will be working with an opioid treatment program in Indiana. All his licenses have been free and clear for the past twenty (20) years.

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. Berman's CSR Application.

Landis/Smosna, 6/0/0
Motion carries

The following board members voted aye by roll call:

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

The following board members objected: None

The following board members abstained: none

Atiman Damodaran, M.D., License No. 01028450B, Cause No. 2015 IBP 0035

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

Scott Nolan, Diversion Investigator with DEA was sworn in as a witness.

Dr. Damodaran surrendered his federal DEA for cause in 2014 and again in 2021.

After he surrendered his DEA in 2014 surrender, his CSR was placed on suspension based upon the surrender. In 2018 the Board reinstated his CSR on indefinite probation, granting him only schedules three (III) through five (V).

In April 2021, he again surrendered his DEA as he violated the 2018 MOA with the DEA. His CSR was again placed on suspension based upon the surrender. He requested to have his CSR reinstated in July 2021 and after a hearing, the Board denied his request to reinstate.

Agent Nolan testified that in 2014 Dr. Damodaran had numerous violations such as writing prescriptions out of his scope of practice, possession of controlled substances that he should not have had access to. In 2021 Dr. Damodaran violated the following terms of his MOA with DEA:

- Term 1 – shall abide by all federal, state, and local laws and regulations relating to

- controlled substances.
- Term 7 – shall maintain a typewritten or clearly legible log(s) of all controlled substances prescribed and that/those log(s) shall include the date issued, name, and address of patient; and the name, quantity, form, and medical purpose of the controlled substances prescribed by Dr. Damodaran.
 - Term 11 – shall notify the DEA Merrillville (Indiana) Resident Office:
 - Prior to attempting to transfer his DEA Certificate of Registration to another address;
 - Prior to submitting an application for a new registration within the State of Indiana;
 - Prior to submitting an application for a new registration in any other state;
 - Whenever he obtains and/or changes employment, whether such changes are voluntary or caused by termination and/or resignation.
 - Term 13 – shall provide a copy of his MOA to any prospective, current, and future employer during the term of this agreement.

Agent Nolan informed the Board that he has concerns regarding Dr. Damodaran's ability to prescribe. He has violated two (2) MOAs with the DEA. He has not been able to follow the minimum terms of the MOA. Dr. Damodaran tried to convince Agent Nolan in an email to go ahead and give him his DEA back and then he will not need to appear before the Board.

Respondents Exhibits:

- A – Copy of CSR
- B – Copy of DEA
- C – MOU with DEA
- D – January 18, 2018 Board Order
- E – DEA Copies

States Exhibits:

- 1 – Copy of 2014 MOU with DEA
- 2 – Copy of 2019 MOU with DEA
- 3 – Copy of DEA 6 form – report of investigation (exhibits 4,5, & 6 were not submitted)
- 7 – Copy of email from Respondent to Agent Nolan

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 DENY Dr. Damodaran's request to reinstate.

Landis/Balla, 6/0/0
Motion carries

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

Lauren Kasha Smith, APRN, License Pending, Cause No. 2021 IBP 0038

Respondent did not appear telephonically and was not represented by counsel regarding an OTSC/CSR Application scheduled before the Board. The State of Indiana was not represented, and the court reporter sworn in for this matter was Heather Orbaugh, with Accurate Reporting Services also appeared telephonically.

Let the record reflect that Matt Balla explained that he is employed by Ascension and does not have knowledge of this respondent. Ms. Smith was fine with Mr. Balla participating.

Ms. Smith informed the Board that back in July 2014 she was arrested for possession of Marijuana and a syringe. Her nursing license was then issued on indefinite probation, and she entered the ISNAP program in 2017.

Her criminal record was expunged in March 2018, and she successfully completed the ISNAP program. Following a hearing, the probation was lifted from her nursing license.

Her sobriety date is July 29, 2014.

Respondents Exhibits:

- 1 – Letter to the Nursing Board
- 2 – Letters from her Employer and letters of support

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 Ms. Smith's CSR application.

Smosna/Landis, 6/0/0
Motion carries

The following board members voted aye by roll call:

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

The following board members objected: None

The following board members abstained: none

Gary Dale Thompson, M.D., License No. 01042057B, Cause No. 2021 IBP 0043

Respondent appeared telephonically and was not represented by counsel regarding an OTSC/Reinstatement of CSR 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 Heather Orbaugh, with Accurate Reporting Services also appeared telephonically.

On June 21, 2021, Dr. Thompson met with the DEA and surrendered his DEA for cause. He was terminated from St. Francis clinic for writing prescriptions to colleagues as a

professional courtesy. He did not check the colleagues into the clinic, did not do a physical exam and did not document the visit. He indicated that he did take the colleagues history.

He stated that he has continued to work part-time at an urgent care clinic without 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 APPROVE Dr. Thompson's CSR reinstatement.

Landis/Smosna, 5/1/0, with Jason Jablonski objecting
Motion carries

The following board members voted aye by roll call:
Steve Anderson, Mark Smosna, Mark Bunton, Matt Balla, Winnie Landis
The following board members objected: Jason Jablonski
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 Heather Orbaugh, 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 an EXTENSION of 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/Balla, 6/0/0
Motion carries

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

A second (2nd) proposed settlement agreement between the Respondent and the Attorney General's Office was presented to the Board. The proposed settlement agreement included REVOCATION of the Respondent's license.

After reviewing the second (2nd) 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, 6/0/0
Motion carries

The following board members voted aye by roll call:
Steve Anderson, Mark Smosna, Mark Bunton, Matt Balla, Winnie Landis, Jason Jablonski
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 telephonically and was not represented by counsel regarding a Summary Suspension Extension and 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 Heather Orbaugh, 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.

Balla/Landis, 6/0/0
Motion carries

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

The Board further moved to EXTEND the SUMMARY SUSPENSION for NINETY (90) days.

Landis/Smosna, 6/0/0
Motion carries

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

Mark Roy, R.Ph., License No. 26026566A, Cause No. 2021 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 Amy Osborn, Deputy Attorney General, and the court reporter sworn in for

this matter was Heather Orbaugh, 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 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.

Landis/Jablonski, 6/0/0
Motion carries

The following board members voted aye by roll call:

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

The following board members objected: none

The following board members abstained: none

Pinnacle Medical Supply, No License, Cause No, 2021 IBP 0026

Respondent did not appear telephonically and was not represented by counsel regarding a Default Hearing scheduled before the Board. The State of Indiana was represented by Amy Osborn, Deputy Attorney General, and the court reporter sworn in for this matter was Heather Orbaugh, 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 hold the Respondent in DEFAULT.

Balla/Jablonski, 6/0/0
Motion carries

The following board members voted aye by roll call:

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

The following board members objected: none

The following board members abstained: none

State's Exhibits:

A – Invoice from Pinnacle

B – Email to Darren Covington

Jody Edens, Assistant Board Director was sworn in as a witness for the State.

Ms. Edens testified that she spoke with Brian Obert, R.Ph., Operations Manager for Rehabilitation Hospital of Indiana. He received an invoice from Pinnacle for items that were not order or received by the Hospital. He did some research on the invoice and

found that Pinnacle Medical Supply was a fitness center located in Florida.

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 order to CEASE AND DESIST.

Smosna/Balla, 6/0/0
Motion carries

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

Christopher Wagner, Ph.T., License No. 67009920A, Cause No., 2020 IBP 0002

Respondent did not appear telephonically and was not represented by counsel regarding a Default Hearing 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 Heather Orbaugh, with Accurate Reporting Services also appeared telephonically.

Let the record reflect that Mark Smosna worked with Mr. Wagner when he was with Walgreens but feels he can be fair in this matter. Mr. Eldridge was fine with Mr. Smosna participating 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 hold the Respondent in DEFAULT.

Smosna/Jablonski, 6/0/0
Motion carries

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

Rebecca Hammond, Investigator with the Attorney General's Office was frown in as a witness.

States Exhibit's:

- A – Employment Records
- B – Video from October 2019
- C – Video from November 2019
- D – DEA 106 Form

The Board watched both video's and listened to Ms. Hammond's testimony regarding her

investigation as a case analyst in this matter.

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 place the Respondent's license on INDEFINITE SUSPENSION for not less than SIX (6) years.

Bunton/Balla, 5/1/0, with Ms. Landis objecting
Motion carries

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

DISCUSSION

Darren Covington, Executive Vice President, IPA and Veronica Vernon, PharmD, IPA Legislative & Regulatory Council Co-Chair:

HB 1468 – Various health matters:

Controlled Substance Prescriptions

- Delays electronic prescribing of controlled substances mandate until after December 31, 2021
- Starting January 1, 2022, prescribers may issue controlled substance prescriptions in written, faxed, or oral format if the pharmacy or prescriber cannot receive or process E-scripts
- Created situations in which a waiver is **NOT** needed to be issued with a written, faxed, or oral prescription for a controlled substance
- Authorizes transfer of unfilled CII's if not otherwise prohibited by federal law or the authorization on the prescription
- ****No electronic system can currently transfer CII's****

Pharmacy Staffing and Supervision

- Pharmacist on duty is responsible for the activities of a pharmacy intern - Not the PIC
- Pharmacist to intern, technician, or technician in training ratio increased - **1:8** No more than 3 of the 8 may be technicians in training.
- Exception to "immediate and personal supervision" of pharmacy technicians - **May work remotely for non-dispensing job responsibilities**. Data entry, insurance processing, or other responsibilities that do not require the technician to be physically present at the pharmacy
- The board will hold the pharmacy permit holder responsible for staffing deficiencies of the pharmacy. Instead of disciplining or holding the qualifying pharmacist

responsible if they do not have the authority to make staffing decisions for the pharmacy

Remote Dispensing Facilities

- **DOES NOT** have to be located at least 10 miles from an existing retail pharmacy if they exclusively serve patients of:
 - A community mental health center
 - A healthcare facility or a physician clinic
- Must retain recordings of facility surveillance for at least **30 days**
 - Excludes recordings of patient communications
- Video monitor to communicate with consumers **NO LONGER** needs to be at least 12 inches wide or be high definition

Prescribing

- If a pharmacist prescribes FDA approved devices or supplies:
 - **No longer** need to provide patient with a written advance beneficiary notice (ABN)
 - Pharmacy **DOES NOT** need to keep a copy of the patient's ABN on file for 7 years

PBM's

- A "health plan" that is subject to PBM regulations now includes **ANY** other plan or program that provides payment, reimbursement, or indemnification to a covered individual for the cost of prescription drugs

Immunizations

- Pharmacist or pharmacy intern may administer COVID-19 immunizations
- Pharmacy intern can administer an immunization under the direct supervision of a registered nurse
- A technician may administer an influenza or COVID-19 immunization
- The board of pharmacy must approve all programs that provide training to technicians to administer COVID-19 immunizations

Patient Care Under Protocols

- Medical records of the patient **NO LONGER** have to be available to both the patient's physician and the pharmacist
- Patient **DOES NOT** have to be seen by a physician prior to a pharmacist performing a procedure under a CPA
- A physician's authorization of a therapeutic substitution is only valid for the duration of the prescription or drug order
- If allowed by protocol, a pharmacist may only make a substitution during this duration
- A pharmacist **CANNOT** substitute a therapeutic alternative for a drug unless the substitution is authorized by the attending physician under a valid CPA
- PA or APRN may refer a patient to a pharmacist under a protocol

They also discussed HB 1405.

The Board thanked Mr. Covington and Ms. Vernon for their report.

Electronic Meeting Policy:

Ms. Turner informed the Board that the electronic meeting policy was in share point for them to review. It is as follows:

INDIANA BOARD OF PHARMACY

BOARD MEMBER PARTICIPATION BY ELECTRONIC MEANS

Pursuant to Indiana Code § 5-14-1.5-3.6, the Indiana Board of Pharmacy (hereafter, the "Board") adopts the following Policy regarding electronic participation by Board Members during a Board meeting. This Policy was adopted by the Board at its meeting of September 13, 2021, with an effective date of September 13, 2021.

PREAMBLE

This Policy is promulgated and disseminated with the following intent:

Institute Board Member access to and participation in orderly proceedings, especially where there are occurrences that pose impediments to physical attendance;

Follow Ind. Code § 5-14-1.5-3.6, and any amendments thereto, in a manner consistent with the requirements of Indiana's Open Door Law;

Aid in the recruitment of Board Members on a statewide basis whose ability to participate electronically in some meetings would further enhance the attainment and maintenance of balanced geographical representation; and

Encourage Board Members to physically attend meetings whenever possible, particularly when adjudications are scheduled.

ELECTRONIC MEETING POLICY PROVISIONS

1. At least 3 Board Members must be physically present at the designated meeting site for the Board meeting and 4 must vote to constitute a quorum.
2. A Board Member is required to obtain prior authorization to participate in the Board meeting electronically.
3. A Board member wishing to attend a meeting via electronic means shall notify the Board President and the Board Director in a reasonable amount of time prior to the Board's meeting unless the request is due to emergency circumstances or inclement weather. Notification should be via email to both the Board President and the Board Director.
4. If multiple Board Members request electronic participation for a Board meeting, and there is the possibility the Board may not have the required number of Board Members physically

present at the designated Board meeting site, the Board President shall determine which Board Member or Members may attend the Board meeting via electronic means pursuant to this Policy.

5. A Board Member participating in a meeting via electronic means may do so by telephone, computer, video conferencing, or any other method of communication that allows for simultaneous communication of the Board Members at the designated meeting site, and the public.
6. The Board Member's participation must be capable of being recorded by the public present at the designated meeting site.
7. A Board Member participating in a meeting electronically is not required to do so in a setting that is open to the public.
8. Any Board meeting with a Board Member attending electronically must take all votes by roll call vote.
9. A Board Member participating in a meeting electronically must confirm in writing the votes cast by the member during the meeting within a five (5) business days after the date of the meeting.
10. Nothing in this Policy affects the Board's right to exclude the public from an executive session in which a Board Member participates by electronic communication.
11. Notwithstanding this Policy, the Board is not required to be physically present at a meeting if the governor has declared a disaster emergency or local disaster emergency, as specified in Ind. Code 5-14-1.5-3.7.
12. The Board Director is delegated by this Board to supervise and coordinate electronic participation pursuant to this Policy.

A motion was made and seconded to accept this Policy at a full Board meeting on September 13, 2021. The motion carried by a vote of [INSERT VOTE] and this Policy is hereby adopted by this Board.

The Board indicated they would review the policy and vote on it next month.

Zaneta Nunnally, Compliance Director – Compliance Report:

Ms. Nunnally informed the Board of the following:

- They completed 183 inspections for the month of August which consisted of:
 - 79 Pharmacies
 - 21 Home Medical Equipment
 - 1 Remote Dispensing Facility
 - 82 Controlled Substance Registrations

There were 24 deficiencies identified in the inspections.

Zero robberies for the month of August.

The Board thanked Ms. Nunnally for her report.

There being no further business the Board adjourned at 8:57 p.m.