



400 NE 50<sup>th</sup> Street  
Oklahoma City, OK 73105    405.521.2828  
oid.ok.gov

Mark Lewandowski, Chair  
Gregory S. Huenergardt, Member  
Melanie Maxwell, Member, Co-Chair

Rose Thomas-Bendel, Member  
Anthony J. “A.J.” Ferate, Member  
Gena Perry, Commission Member  
Teah Corley, Commission Member

## REGULAR MEETING OF THE PHARMACY CHOICE COMMISSION

Thursday, October 20, 2022 at 10:00 a.m.  
Oklahoma Insurance Department  
400 NE 50<sup>th</sup> Street  
Oklahoma City, Oklahoma

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### MINUTES

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**OPEN MEETING ACT:** A Regular Commission meeting of the Patient’s Right to Pharmacy Choice Commission (“Commission”) was held, October 20, 2022 around 10:00 am. The meeting location was live in the Public Conference Room of the Oklahoma Insurance Department (“OID”), at the address above and the public were welcome to attend publicly or to join remotely via a teleconference line that was available for the public to utilize during the business portion of the meeting by dialing CONFERENCE LINE: +1-866-846-9071 with Access Code: 65715. Mark Lewandowski, Chair, presided over the meeting.

Advance notice of this Commission meeting was transmitted to the Oklahoma Secretary of State on December 14, 2021 and posted on the OID website on October 19, 2022 at 8:44 a.m. The agenda was posted in a prominent public view by the front doors of the Department located at 400 NE 50th Street Oklahoma City, Oklahoma on October 19, 2022 at 7:53 a.m.

**MEMBERS PRESENT** were Chairman Mark Lewandowski, Anthony J., “AJ” Ferate, Gregory Huenergardt, Gena Perry, and Teah Corley.

**MEMBERS ABSENT** were Co-Chair Melanie Maxwell and Rose Thomas-Bendel.

Staff present to support the Commission: Kelli Price, Dilan Lyda, Ashley Scott, Sherry Standerfer, Liz Stevens, Glenn Disher, Tracy Keeley, Sarah Smith-Drozdo.

**CALL TO ORDER.....Commission’s Chairman Lewandowski**  
Call to order 10:00 a.m. by Chairman Lewandowski, Commission’s Chair.

**ROLL CALL .....Commission’s Chairman Lewandowski**  
After the roll call was taken, Commissioner Chairman Lewandowski announced the presence of a Quorum.

A. INTRODUCTION OF NEW COMMISSION MEMBERS.....Gena Perry and Teah Corley.

25 O.S. § 307 (B) *Executive sessions of public bodies will be permitted only for the purpose of:*  
4. *Confidential communications between a public body and its attorney concerning a pending investigation, claim, or action if the public body, with the advice of its attorney, determines that disclosure will seriously impair the ability of the public body to process the claim or conduct a pending investigation, litigation, or proceeding in the public interest;*  
7. *Discussing any matter where disclosure of information would violate confidentiality requirements of state or federal law;*  
8. *Engaging in deliberations or rendering a final or intermediate decision in an individual proceeding pursuant to Article II of the Administrative Procedures Act;*



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- B. INTRODUCTION OF NEWLY APPOINTED COUNSEL FOR THE PHARMACY CHOICE COMMISSION.....Liz Stevens
  - a. Overview of the role and duties of Counsel for the Pharmacy Choice Commission was presented by Liz Stevens
- C. Discussion of scheduling Pharmacy Choice Commission regular meeting dates for 2023:
  - a. The Commission discussed and approved scheduling regular meeting dates on the 3<sup>rd</sup> Thursday of each month in 2023 when there is business for discussion.
- D. MINUTES: The minutes of the August 18, 2022 Pharmacy Choice Commission meeting were considered for approval.

*Motion:* Motion made to approve August 2022 minutes.  
*Second:* Second motion.  
*Those Voting Aye:* Unanimous.

**THE MOTION CARRIED: MINUTES APPROVED.**

- E. Discussion and approval to enter into Executive Session pursuant to 25 O.S. §307(B)(7) for discussion of the dismissal of Case Number 22-0122-DIS, State of Oklahoma v. Prime Therapeutics L.L.C., where disclosure of information would violate confidentiality requirements of state law.
  - a. The Commission entered Executive Session for discussion of the dismissal of Case Number 22-0122-DIS, State of Oklahoma v. Prime Therapeutics L.L.C. at 10:48 A.M.
  - b. The Commission voted to exit Executive Session for discussion of the dismissal of Case Number 22-0122-DIS, State of Oklahoma v. Prime Therapeutics L.L.C. at 11:50 A.M.
- F. Kelli Price led a review of the Amended 2022 - 2<sup>nd</sup> Quarterly Report and 2022 - 3<sup>rd</sup> Quarterly Report to the Pharmacy Choice Commission:
  - a. Discussion on the addition of a licensing section to include active/ expired licenses and renewals proposed by Mark Lewandowski.
  - b. Gena Perry inquired about the representation of fines and penalties that are on oid.ok.gov website.
  - c. Mark asked about any visible trends seen in transaction fees. Kelli Price responded there has been a downward trend in the complaints/ violations.
  - d. Teah Corley asked if the respondents in the complaint cases are recorded and kept record of. Kelli Price stated they were recorded and if needed could be provided.
- G. Public Comment:
  - a. No questions or comments from Commission members, OID, and audience members.

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## H. ADJOURNMENT OF BUSINESS MEETING

*Motion:* Chairman Lewandowski motioned to adjourn the Business portion of the Commission meeting at 11:52 a.m.

*Second:* Second motion.

*Those Voting Aye:* Unanimous.

**THE MOTION CARRIED:** THE BUSINESS PORTION OF THE MEETING WAS ADJOURNED.

## I. HEARINGS.....Commission’s Chair, Chairman Mark Lewandowski

The hearings before the Commission were conducted pursuant to the authority and jurisdiction of the Oklahoma Insurance Code, Title 36 O.S. §§ 101 et seq., Title 36 O.S. §§ 307, Title 59 O.S. § 356-360, and the Patient’s Right to Pharmacy Choice Act, Title 36 O.S. §§ 6958-6968, the Oklahoma Insurance Department’s Permanent Rules, OAC Title 365, and the Administrative Procedures Act Title 75 O.S. §§ 250 et seq.

THE FOLLOWING MATTERS WERE PRESENTED FOR CONSIDERATION AND ACTION BY THE COMMISSION:

### 1. Case Number 22-0419-DIS, State of Oklahoma v. CVS Caremark, L.L.C

This matter is set for a Scheduling Conference regarding Statement of Charges, Notice of Hearing, and Order to Show Cause filed by the State on August 31, 2022. Dilan Lyda and Kelli Price appeared for the State of Oklahoma, Oklahoma Insurance Department. Angela Ables appeared for Respondent.

*Motion:* Motion made to schedule Hearing on the Merits (“Trial”) at the February 2023 scheduled regular meeting of the Pharmacy Choice Commission.

*Second:* Second motion

*Those Voting Aye:* Unanimous

**THE MOTION CARRIED:** Hearing will be set for February 16, 2023, in regard to Case No. 22-0419-DIS.

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## 2. State of Oklahoma v. Express Scripts, Case No. 21-0568-DIS

Respondent filed its Unopposed Motion for Continuance of Hearing on October 18, 2022.

Dilan Lyda and Kelli Price appeared for the State of Oklahoma, Oklahoma Insurance Department. Elizabeth Scott and Alison Howard appeared for Respondent.

*Motion:* AJ moved to schedule a hearing on the merits until at least February 16, 2023, but if another hearing is in place, allow the Hearing on the Merits to be moved to March 2023, with notification to be made at the January 2023 meeting.

*Second:* Second motion.

*Those Voting Aye:* Motion Granted.

## J. ADJOURNMENT

*Motion:* Chairman Lewandowski motioned to adjourn the Commission meeting.

*Second:* Second motion.

*Those Voting Aye:* Unanimous.

THE MOTION CARRIED: THE MEETING WAS ADJOURNED.

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