



PATIENT'S RIGHT TO PHARMACY CHOICE COMMISSION

Insurance Commissioner, Glen Mulready

400 NE 50th 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, April 20, 2023, at 10:00 a.m.

MINUTES

A regular meeting of the Patient's Right to Pharmacy Choice Commission ("Commission") was held on April 20, 2023, at 10:00 am at the Oklahoma Insurance Department ("Department"), 400 NE 50th Street, Oklahoma City, Oklahoma. The agenda was posted on the Oklahoma Insurance Department's website and in a prominent public view by the front doors of the Department 24 hours in advance in accordance with 25 O.S. § 311. The meeting notice was sent to the office of the Oklahoma Secretary of State, also pursuant to 25 O.S. § 311.

Members present were Chairman Mark Lewandowski, Melanie Maxwell, Gregory Huenergardt, Gena Perry, Teah Corley, and Rose Thomas-Bendel.

Call to Order

Call to order 10:01 a.m. by Chairman Lewandowski, Commission's Chair.

Roll Call

After the roll call was taken, Commissioner Chairman Lewandowski announced the presence of a Quorum.

Minutes

ACTION:

Motion: Chairman Gregory Huenergardt motioned to approve the Minutes.

Second: Teah Corley seconded the motion.

Those Voting Aye: Chairman Lewandowski, Commissioner Huenergardt, Commissioner Maxwell, Commissioner Thomas-Bendel, Commissioner Perry, Commissioner Corley.

Those Voting Nay: None

THE MOTION CARRIED: Motion approved.

Presentation and possible discussion of Legislative and Attorney General Announcements and updates.

Ashley Scott, Director of PBM Compliance, presented information regarding three bills, House Bill 1843, 2853, and 2108 pending with the Oklahoma Legislature.

- *House Bill 1843*, bill moving certain regulatory responsibilities regarding the Commission from the Department to the Oklahoma Attorney General's office continues to move through the process.
- *House Bill 2853*, bill regarding rebate passthroughs with a percentage of point-of-sale fees going back to the consumer
- *House Bill 2108*, bill regarding updates to the Open Meetings Act.



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Rose Thomas-Bendel, Member	

AG Opinion 2023-1 was also discussed. Ms. Scott informed the Commission of the four (4) main points of the opinion as follows:

- A settlement agreement between a PBM and the Department is not a final order.
- A settlement agreement between a PBM and the Department is subject to the Open Records Act.
- A settlement agreement between a PBM and the Department is not confidential and protected from release pursuant to 36 O.S. § 6967.
- The Department and the PBM cannot agree to keep a settlement agreement confidential.
- Co-Chairman Melanie Maxwell inquired as to how the agreement not being considered a final order will impact future actions with the PBM for the same violation. Molly Clinkscales, Managing Counsel of the PBM Compliance Division answered her questions.

Review and possible discussion of 2023 First Quarter Report

Ashley Scott, Director of PBM Compliance, presented the First Quarter Report. She made clear that the information on this report was focused on what was resolved throughout the time of January 2023-March 2023. The PBM Compliance Team is making its way through the backlog of complaints. She asked for any suggestions regarding the report. Teah Corley and Gena Perry asked for a snapshot of period over period. Ms. Scott agreed to investigate providing that information.

Announcement and possible discussion of 22-0637-DIS, State of Oklahoma v. Caremark, LLC.

Ashley Scott, Director of PBM Compliance, and Molly Clinkscales, Managing Counsel for PBM Compliance presented information regarding the date and time of a hearing scheduled for 22-0637-DIS. The hearing is scheduled for May 25, 2023, at 9:30 am before Judge Miller at the office of the Insurance Commissioner. It was stated that the hearing is open to the public, so if the Commission members would like to attend, they are welcomed.

Presentation and possible discussion of the Administrative Procedures Act (APA).

Liz Stephens, Attorney for the Patient's Right to Pharmacy Choice Commission, presented information regarding the APA. Specifically, she discussed the three different type of actions the Commission Members may see.

- Scheduling Conferences and Motions for Continuances
- Consent Orders
- Hearings

She also informed the Commission that the rules of evidence are more laxed for administrative hearings and that the Commission can take judicial notice of information/documents that are specialized knowledge.

Case Number 22-0625-DIS, State of Oklahoma v. Costco Health Solutions

Molly Clinkscales, Managing Counsel for PBM Compliance presented a Scheduling Order for the Commission's consideration and approval. Ross Plourde appeared on behalf of the Respondent, Costco Health Solutions.

ACTION:

<i>Motion:</i>	Chairman Gena Perry motioned to approve the Scheduling Order.
<i>Second:</i>	Commissioner Maxwell seconded the motion.
<i>Those Voting Aye:</i>	Chairman Lewandowski, Commissioner Huenergardt, Commissioner Maxwell, Commissioner Thomas-Bendel, Commissioner Perry, Commissioner Corley.



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Teah Corley, Commission Member

Those Voting Nay: None
THE MOTION CARRIED: Motion approved.

New Business

No new business was presented.

Adjournment

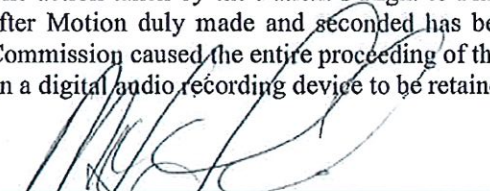
ACTION:

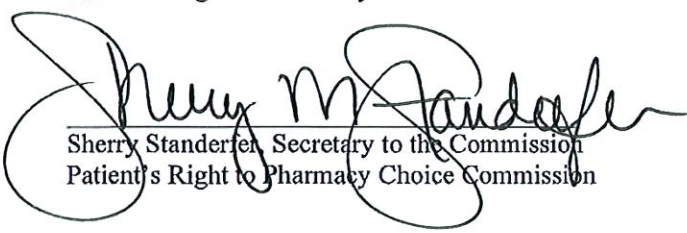
Motion: Chairman Maxwell motioned to adjourn the meeting.
Second: Commissioner Perry seconded the motion.
Those Voting Aye: Chairman Lewandowski, Commissioner Huenergardt, Commissioner Maxwell, Commissioner Thomas-Bendel, Commissioner Perry, Commissioner Corley.
Those Voting Nay: None
THE MOTION CARRIED: Motion approved.

Adjournment at 10:24 a.m.

Official Minutes.

The action taken by the Patient's Right to Pharmacy Choice Commission on the items for consideration after Motion duly made and seconded has been noted, herein, and made a part of these minutes. The Commission caused the entire proceeding of the meeting, excepting any executive sessions, to be recorded on a digital audio recording device to be retained as a record in the office of the Commission.


Mark Lewandowski, Chairman
Patient's Right to Pharmacy Choice Commission


Sherry Standerfer, Secretary to the Commission
Patient's Right to Pharmacy Choice Commission