



400 NE 50th Street
Oklahoma City, OK 73105

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Mark Lewandowski, Chair
Melanie Maxwell, Member, Co-Chair
Rose Thomas-Bendel, Commission Member

Anthony J. “A.J.” Ferate, Commission Member
Gena Perry, Commission Member
Teah Corley, Commission Member
Colby Brewster, Commission Member

**SPECIAL MEETING OF THE
PHARMACY CHOICE COMMISSION**
Thursday, August 24, 2023, at 10:00 A.M.

MINUTES

A special meeting of the Patient’s Right to Pharmacy Choice Commission (“Commission”) was held on August 24, 2023, at 10:00 a.m. 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, Commissioner Gena Perry, Commissioner Teah Corley, Commissioner Colby Brewster, and Commissioner Rose Thomas-Bendel. Commissioner Melanie Maxwell arrived at 10:22 a.m.

Call to Order

Call to order at 10:02 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: Commissioner Teah Corley motioned to approve the Minutes from the July 27, 2023 Commission Meeting as presented.

Second: Commissioner Gena Perry seconded the motion.

Those Voting Aye: Chairman Lewandowski, Commissioner Thomas-Bendel, Commissioner Colby Brewster, Commissioner Perry, Commissioner Corley.

Those Voting Nay: None

THE MOTION CARRIED: Motion approved.

Announcement and Introduction of New Appointee and Re-Appointment to the Patient’s Right to Pharmacy Choice Commission

Ashley Scott, Director of PBM Compliance, introduced new Commission member Colby Brewster. Colby Brewster replaces Commissioner Greg Huenergardt. Commissioner Huenergardt stepped down from his position on the Commission in May 2023 when he was appointed to the Oklahoma Pharmacy Board. Chairman Lewandowski and Commissioner Teah Corley were reappointed by Insurance Commissioner Glen Mulready.



PATIENT’S RIGHT TO PHARMACY CHOICE COMMISSION

Insurance Commissioner, Glen Mulready

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Announcement and Discussion of Requesting an Attorney General’s Opinion on Patient’s Right to Pharmacy Choice Commission

Ashley Scott, Director of PBM Compliance, informed the Commission that a request for an Attorney General’s Opinion has been submitted to the Oklahoma Attorney General Gentner Drummond’s office. This request is to help clarify the role the Patient’s Right to Pharmacy Choice Commission and how they will serve moving forward after the transition of PBM enforcement moves from the Oklahoma Insurance Department to the Oklahoma Attorney General on November 1, 2023. Director Scott was unaware of a timeline to receive the opinion. However, once she receives it, she will provide a copy to all Commission members.

Presentation and Discussion of PCMA v. Mulready, 10th Circuit’s Decision

Molly Clinkscales, Managing Counsel, PBM Compliance and Enforcement, presented the issue before the Court, that the Patient’s Right to Pharmacy Choice Act is preempted by ERISA and Medicare Part D. The Western District in Oklahoma ruled in favor of the Commissioner and found that the ERISA claims did not, in fact, preempt the Act and ruled partially in favor of Mulready that Medicare Part D did not preempt the Act. The decision of the Western District was appealed to the 10th Circuit. She provided a synopsis of the Court’s August 15, 2023, decision. ERISA preempts 36 O.S. §§ 6961 (A)–(B), § 6962(B)(5)–(4), and 6963(E) and Medicare Part D preempts 36 O.S. § 6961(A)–(B). She stated that the Insurance Commissioner will continue work with the Oklahoma Attorney General on the transition of enforcement from one agency to the other and both the Insurance Commissioner and the Oklahoma Attorney General intend to appeal the 10th Circuit decision. Molly will provide a synopsis of the decision.

Hearing: 22-0443-DIS, State v. Prime Therapeutics, L.L.C.

Ryan Leonard appeared on behalf of Prime Therapeutics, L.L.C. He presented his motion and requested approval of Prime Therapeutics, L.L.C.’s Motion for Admission Pro Hac Vice of Mark Bina. The State did not object to the motion. Liz Stevens, attorney for the Commission, noted the motion did not include a Certificate of Compliance for Mr. Bina. Mr. Leonard responded that he believed it was attached to the Motion. However, after further review, he noted it was omitted by accident. The Commission discussed its options. Ms. Stevens presented two options on how the Commission could proceed.

ACTION:

- Motion:* Commissioner Gena Perry motioned to grant Respondent’s motion temporarily for ten (10) days pending proof of compliance with 5 O.S. Art. II, SEC 5(B)(2). If Respondent complies within time allowed, the motion will be approved.
- Second:* Commissioner Teah Corley seconded the motion.
- Those Voting Aye:* Chairman Lewandowski, Commissioner Thomas-Bendel, Commissioner Brewster, Commissioner Perry, Commissioner Corley.
- Those Voting Nay:* None
- Those Abstaining:* Chairman Maxwell
- THE MOTION CARRIED:* Motion approved.



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Colby Brewster, Commission Member

Adjournment

ACTION:

Motion: Chairman Teah Corley motioned to adjourn the meeting.

Second: Commissioner Gena Perry seconded the motion.

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

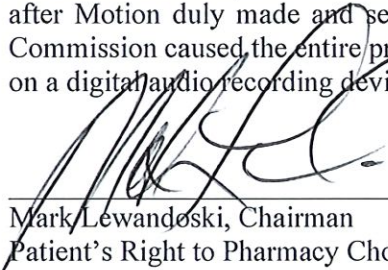
Those Voting Nay: None

THE MOTION CARRIED: Motion approved.

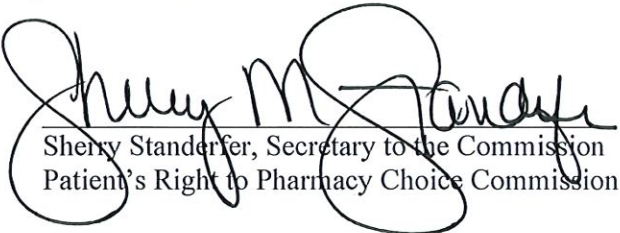
Adjournment at 10:25 a.m.

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

