

MINUTES

OKLAHOMA STATE BOARD OF PHARMACY

4545 N Lincoln Boulevard, Suite 112
Oklahoma City, OK 73105-3488

April 02, 2008

Call to order:

President Hampton called the April 2, 2008 meeting of the Oklahoma State Board of Pharmacy (OSBP) to order at 8:00 a.m.

Those present were:

Board Members: Diana Hampton, President
Dorothy Gourley, Vice-President
Jim Spoon, Member
Gordon Richards, Member
John Lassiter, Member
Bill Osborn, Member

Board of Pharmacy: Bryan Potter, Executive Director
Gary LaRue, Compliance Officer
Cindy Hamilton, Compliance Officer
Betty Beil, Compliance Officer
Terry Bratt, Inspector

Guests: Laura Petty, Walgreens
John Rodden, Wal-Mart
Kelli Evans, Wal-Mart
James Kirk, CVS
Dana Smith, Target
Rebecca Johnson, Allergy Laboratories
Kim Spitz, OPHP
Kevin Rich, OPHP
Marcus Whitt, OPHP
Lindsey Bennett, Intern
Brooke Dusenberry, Intern

Approval of minutes and claims:

Motion was made by Bill Osborn and seconded by Dorothy Gourley to approve the February 20, 2008 minutes. Motion passed on roll call vote.

Motion was made by Jim Spoon and seconded by Dorothy Gourley to approve claims #1849-#11899, H83372-H83376, H86817-H86821, February and March payroll and any accrued expenses of the Executive Director. Motion passed on roll call vote.

Cancellation of Pharmacies, Pharmacists, Technicians, and Facilities:

After a review of the cancellation lists presented, a motion was made by Bill Osborn and seconded by John Lassiter to cancel the license of those that did not renew within the renewal time period. Motion passed on roll call vote.

Duplicate certificate request approved:

Motion was made by Dorothy Gourley and seconded by Gordon Richards to

approve the duplicate certificate request for Robert Martin Hoskins, D.Ph. #11743. Motion passed on roll call vote.

Board discusses direct processing of NAPLEX applications:

The Board held a brief discussion on processing NAPLEX application directly through NABP. Motion was made by Bill Osborn and seconded by Dorothy Gourley to start the process with NABP. Motion passed on roll call vote.

Board makes Emergency Declaration regarding Manufacturer rules and then approves Manufacturer rules:

Mary Ann Terral presented a copy of the Manufacturers rules with changes required since passing the Pedigree rules for Wholesalers. There were references in the Manufacturer rules back to the Wholesale rules that had been changed and did not match.

A motion was made by Bill Osborn and seconded by John Lassiter for an Emergency Declaration. Motion passed on roll call vote.

EMERGENCY DECLARATION

Background:

Changes in Title 59 O.S. 353.18 by SB-640 effective 6/07/2005 and HB-1347 effective 11/01/2005 required the Board to write rules regarding Wholesaler / Pedigree rules. These rules were revised and promulgated. In revising the wholesale rules, staff failed to note that the existing Manufacturer rules included references to wholesale rules and would be changed as well.

The Legislature did not intend, nor did the Board intend, that the new rules for Wholesalers be applied to Manufacturers. For these reasons the Manufacturer rules need to be modified to include the rules intended for manufacturers while eliminating references to the new wholesaler rules. This will simplify the manufacturer rules by including rules for manufacturers in one chapter.

Finding of Emergency:

A compelling public interest exists to the preservation of public health safety and welfare. Applying the new Wholesaler rules to manufacturers would disrupt manufacturers and manufacturer's distribution of prescription drugs and is unintended. There is inadequate time to allow notice for permanent rulemaking to occur and to get the rules to the legislature before the April 1 deadline, therefore these manufacture rules need to be changed by emergency.

The Board then reviewed and approved the changes in the manufacturer rules. The staff was asked to pursue the Emergency Rules process.

Board considers processing cost and refund policy:

Mary Ann Terral reviewed for the Board consideration the processing cost and refund policy for the new online application process that the Board intends to implement. The Board asked the staff to check with other State Boards and then they would review this information at the May meeting.

OSBP vs. Sharon Goodell, Technician #1478 – Case No. 847:

The case of Sharon Goodell was continued until the next meeting.

OSBP vs. Diane Keeton Marion, Technician #4853 – Case No. 859:

The Board was called to order to hear the case of Diane Marion. Ms. Marion was present and chose to appear without Counsel. Assistant Attorney General, Brinda White, prosecuted for the Board. Compliance Officer, Gary LaRue and store manager, Ben Fantasia testified for the Board.

Ms. Marion had stolen merchandise from Mark's Drug and had been convicted and fined by Municipal Court. She had also taken or purchased a bottle of Pseudoephedrine product and had not recorded the purchase in the narcotic book.

After testimony had been presented by Compliance Officer Gary LaRue, Ben Fantasia and the Respondent, the Respondent requested a continuance.

After a brief discussion, a motion was made by Dorothy Gourley and seconded by John Lassiter that because there had been adequate time to ask for a continuance, the continuance request was denied. Motion passed on roll call vote.

After Assistant Attorney General, Brinda White and Ms. Marion made their final statements, the Board went into Executive Session. The Board was called into order and back into session by President Hampton.

Motion was made by Jim Spoon and seconded by Gordon Richards that based on the clear and convincing evidence presented, Ms. Marion be found guilty on all counts. Motion passed on roll call vote.

Motion was made by Dorothy Gourley and seconded by Gordon Richards that the technician permit of Diane Marion be revoked. Motion passed on roll call vote.

OSBP vs. Adam Klapacz, Technician #10267 – Case No. 857:

President Hampton called the Board to order to hear the case of Adam Klapacz. Mr. Klapacz was present and chose to appear without Counsel. Brinda White, Assistant Attorney General, prosecuted for the Board. Those testifying for the Board were Compliance Officer, Betty Beil and Kelli Evans, Loss Prevention Associate for Wal-Mart.

Mr. Klapacz had been terminated for theft of merchandise. Mr. Klapacz had gone to work for another pharmacy and had not notified the Board of his new employment.

Motion was made by Bill Osborn and seconded by John Lassiter that based on the clear and convincing evidence presented, Mr. Klapacz be found guilty as charged. Motion passed on roll call vote.

Motion was made by Dorothy Gourley and seconded by Bill Osborn that the technician permit of Adam Klapacz be revoked. Motion passed on roll call vote.

Monte Cary appears before Board to request reinstatement of D.Ph. license:

The Board was called to order to hear the reinstatement request of Monte Cary. Mr. Potter gave an overview of past cases involving Monte Cary. Mr. Potter also presented information regarding several incidents regarding violation of the law including the fact that he had had his Florida D.O. license revoked.

After reviewing the information presented, a motion was made by Jim Spoon and seconded by Dorothy Gourley to not allow the reinstatement of Monte Cary's pharmacist license.

Board discusses Gary Nichols litigation:

The Board went into Executive Session with Assistant Attorney General, Brinda White and Assistant Attorney General, Richard Mann to discuss litigation in the case of Gary Nichols vs. State Board of Pharmacy.

Board interviews Reciprocity applicants:

The Board met with 2 Reciprocity candidates. Both were accepted upon passing the Oklahoma Law.

Michael E. BellAL
JoLaine Reiersen DraugalisMI

OSBP vs. Michael S. Russell, D.Ph. #8257 – Case No. 793 – Request for probation:

The Board was called to order to hear the probation request of Michael Russell. Mr. Russell and OPHP representative Kevin Rich testified.

Motion was made by Jim Spoon and seconded by Gordon Richards to place Mr. Russell’s license on probation for the remainder of the suspension, providing that he continues with his contract with OPHP. Motion passed on roll call vote.

OSBP vs. Heath Nolen Branscum, D.Ph. #12336 – Case No. 861:

President Hampton called the Board to order to hear the case of Heath Branscum. Mr. Branscum was present but chose to appear without Counsel.

An Agreed Order was presented to the Board for their approval. Mr. Branscum would agree to guilt on all counts. His license would be placed on suspension for 10 years until April 2, 2018. He must enter into and abide by a contract with OPHP. He is to be fined \$400.00 and he must attend a one-day law seminar in 2008 in addition to the required CE. Mr. Branscum may request that the suspension be stayed and that his license be placed on probation at the May Board meeting providing that OPHP has completed a “Fit for Duty” evaluation indicating that Mr. Branscum’s returning to practice would not put the public at risk.

Motion was made by Bill Osborn and seconded by John Lassiter that the Board accept the Agreed Order. Motion passed on roll call vote.

Board has a working lunch:

President Hampton declared a working lunch and the staff brought in Panera Bread for the Board. The Board had received three Agreed Orders from technicians agreeing to the charges and accepting revocation of their permit. The cases are listed below.....

OSBP vs. Vanessa Vasquez, Technician #10881 – Case No. 850:

Motion was made by Bill Osborn and seconded by John Lassiter to accept the Agreed Order of Vanessa Vasquez. Motion passed on roll call vote.

OSBP vs. Laci English, Technician #10264 – Case No. 854:

Motion was made by Bill Osborn and seconded by Dorothy Gourley to accept the Agreed Order of Laci English. Motion passed on roll call vote.

OSBP vs. Paige Thomas, Technician #11437 – Case No. 858:

Motion was made by John Lassiter and seconded by Gordon Richards to accept the Agreed Order of Paige Thomas. Motion passed on roll call vote.

OSBP vs. Ashley Blanton, Technician #9381 – Case No. 856:

The Board was called to order to hear the case of Ashley Blanton. Ms. Blanton was not present but it had been determined that she had been properly notified. Brinda White, Assistant Attorney General prosecuted for the Board. Compliance Officer, Betty Beil testified.

Ms. Blanton had admitted to Walgreens Loss Prevention Supervisor that she had written bad checks and had stolen CDS tablets. She signed a statement admitting this.

She was arrested by the police and charged in District Court with one felony count of larceny of CDS. Ms. Blanton entered a guilty plea and was fined \$761.00 and received a deferred sentence until February 2010.

Motion was made by Gordon Richards and seconded by John Lassiter that based on the clear and convincing evidence presented, Ms. Blanton be found guilty on all counts. Motion passed on roll call vote.

Motion was made by Gordon Richards and seconded by John Lassiter that the pharmacy technician permit of Ashley Blanton be revoked. Motion passed on roll call vote.

OSBP vs. Gregory L. Myers, D.Ph. #9977 – Case No. 852:

The case of Gregory Myers was continued until the next meeting.

Miscellaneous discussion items:

The Board set the Law Exam date for the graduating students for May 6, 2008 at 1:30 p.m.

The Board discussed who would represent the Board of Pharmacy at the NABP Annual meeting in May. It was determined that Dorothy Gourley, Gordon Richards and Bryan Potter would be attending the meeting.

President Hampton adjourned the meeting at approximately 2:30 p.m.