

MINUTES

OKLAHOMA STATE BOARD OF PHARMACY

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

May 6, 2008

Board meets with NAPLEX applicants at the Ronald J. Norick Downtown Library:

The Board members met with the Senior pharmacy students prior to them taking the Oklahoma Pharmacy Law Exam. All Board members were present and were introduced by Mr. Potter.

Each Board member made a presentation, congratulating them and advising them about things that have caused pharmacists to get into trouble as seen in past cases. They also offered advice from their experiences in the profession.

Call to order:

The Board returned to the Board office at 2:30 p.m. where President Hampton called the May 6, 2008 meeting of the Oklahoma State Board of Pharmacy (OSBP) to order.

Those present were:

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

Board of Pharmacy: Bryan Potter, Executive Director
Cindy Hamilton, Compliance Officer

*Staff members Betty Beil, Terry Bratt and Gary LaRue were helping give the law exam

Approval of minutes and claims:

Motion was made by Bill Osborn and seconded by Jim Spoon to approve the minutes from the March 26, 2008 and the April 2, 2008 meeting. Motion passed on roll call vote.

Motion was made by Bill Osborn and seconded by John Lassiter to approve claims #1900-#1932, H86817-H86821, H91405-H91409, April 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 of pharmacies, pharmacists, technicians and facilities, a motion was made by Bill Osborn and seconded by Gordon Richards 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 Bill Osborn and seconded by Gordon Richards to approve the duplicate certificate request for John P. Kim, D.Ph. #11830. Motion passed on roll call vote.

Board discusses performance pay lump-sum plan for FY-09:

The Board discussed a lump sum performance pay plan for FY-09. A motion was made by Bill

Osborn and seconded by John Lassiter to approve to budget an amount of \$49, 212.52 for the performance pay plan for FY09. Motion passed on roll call vote.

Board discusses refund procedures:

The Board reviewed the refund policy of other Oklahoma State agencies and surrounding State Boards. All stated that that they do not return the fees when applications are denied.

Motion was made by Bill Osborn and seconded by Jim Spoon that the fees would not be returned to the applicants if their application is denied. The individual may appeal to the Board. Motion passed on roll call vote.

Board discusses possible changes of Executive Director position notice:

A discussion was held regarding the announcement of hiring a new Director. The staff was concerned that the \$70,000 plus was not an adequate salary to interest quality applicants. Motion was made by Gordon Richards and seconded by John Lassiter to change the amount to \$90,000 plus on the website notice. Motion passed on roll call vote.

Board discusses e-mail from Darcy Strong concerning Vicura Software:

Board member, Bill Osborn discussed his conversation with Darcy Strong regarding Vicura Software by OmniCare subsidiary that had asked for approval for nursing homes to use. Most pharmacies have SureScript adaptable software. He indicated that he had been in touch with SureScripts and would receive information that evening about their nursing home software. Mr. Osborn asked that the Board continue this discussion on Wednesday, after he has received the information from SureScripts.

Tulsa Board meeting discussed:

The June 18, 2008 Board meeting will be held in Tulsa, Oklahoma at the Schusterman Center and will start at 9:30 a.m.

The Board also set the next two meetings for July 16, 2008 and August 20, 2008.

Resolution adopted by the Board:

The Board unanimously approved a Resolution for George E. Kirk, Jr. and asked the staff to send a copy to the family.

The following resolution was adopted by the Board:

WHEREAS, THE MEMBERS OF THE OKLAHOMA BOARD OF PHARMACY ARE SADDENED BY THE DEATH OF THE FORMER BOARD MEMBER, GEORGE E. KIRK, JR.;

WHEREAS, GEORGE E. KIRK, JR. MADE SIGNIFICANT CONTRIBUTIONS TO THE BOARD, THE STATE OF OKLAHOMA AND THE PROFESSION OF PHARMACY;

NOW THEREFORE, BE IT RESOLVED, THAT THE BOARD FORMALLY ACKNOWLEDGE THE LEADERSHIP AND CONTRIBUTIONS MADE BY GEORGE E. KIRK, JR.;

BE IT FURTHER RESOLVED, THAT THE BOARD EXTENDS THEIR SINCERE SYMPATHIES TO THE FAMILY;

ADOPTED AND RECORDED THIS DAY, WEDNESDAY MAY 7, 2008.

President Hampton recessed the Board until the following morning, May 7, at 8:00 a.m.

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

May 7, 2008

Call to order:

President Hampton called the May 7, 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
Gordon Richards, Member
Jim Spoon, Member
John Lassiter, Member
Bill Osborn, Member

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

Guests: Laura Petty, Walgreens
Derek Dennis, Walgreens
Kay Vaughan, CVS
Von Davis, Target
Terry Cothran, Prescription Solutions
Becca Baugher, Cardinal
Gayle Reams, Platt College
Diane Copeland, Platt College
Joseph Brinkmeyer, Platt College
Patricia Hawkins, Platt College
Chowy Khamvongsa, Platt College
Jessica L. Dockrey, Platt College
Abbie Tubbs, Platt College
Michelle Smith, Platt College

OSBP vs. Gracie Morgan, Technician #71 - Case No. 863:

The Board was called to order to hear the case of Gracie Morgan. Mr. Lassiter was recused for this case. Ms. Morgan was not present but it was determined that she had been properly notified. Assistant Attorney General, Brinda White prosecuted for the Board.

A signed Agreed Order was presented to the Board from Ms. Morgan admitting guilt to the charges of taking CDS from the pharmacy and accepting revocation of her technician permit.

Motion was made by Bill Osborn and seconded by Gordon Richards to accept the Agreed Order. Motion passed on roll call vote.

Board interviews Reciprocity applicants:

The Board met with seven (7) Reciprocity candidates. All were accepted upon passing the

Reciprocities:

Jennifer Meredith Biltoft..... CO
Martha Theresa Garcia-Stout..... NE
Charlotte Kimberly Helmig..... TX
Jeffrey Arthur Helmig..... TX
Michael Eugene Inman..... KS
Larry John Pesko..... OH
Leanne Marie Showman..... PA

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

The Board was called to order to hear the case of Sharon Goodell. Mr. Spoon was recused for this case. Ms. Goodell was present with Council Greg Denney. Brinda White, Assistant Attorney General, prosecuted the case. Compliance Officers, Betty Beil and Cindy Hamilton testified for the Board. Also testifying for the Board were Sharon Hays, D.Ph. and PIC of the pharmacy where Ms. Goodell worked as a technician and Gerald Thies, the accountant for the pharmacy.

Evidence was presented to the Board including a video of transactions at the register and a signed admission by Ms. Goodell indicating that she had taken money from the pharmacy. Ms. Goodell testified and her Council spoke on her behalf.

After hearing testimony presented, the Board went into Executive Session. Upon returning from Executive Session, the Board was called to order by Dr. Hampton.

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

Motion was made by Dorothy Gourley and seconded by John Lassiter to revoke the technician permit of Sharon Goodell. Motion passed on roll call vote.

OSBP vs. Mark Stowers, D.Ph. #11918 – Case No. 631 – Request for suspension to be lifted and reinstatement:

President Hampton called the Board to order to hear the request from Mark Stowers to have his pharmacist license placed on probation.

After testimony by Mr. Stowers and OPHP Representative, Kevin Rich, a motion was made by Bill Osborn and seconded by Gordon Richards to place Mr. Stowers license on probation for 5 years until May 7, 2013. Mr. Stowers is to continue his contract with OPHP for 5 years. After completing a verification of “Fit for Duty” by OPHP, Mr. Stowers will be issued a Graduate Intern License and must work 1500 hours of internship at 40 hours a week. Once the hours are completed and recommendation is given by OPHP, Mr. Stowers will be allowed to work as a D.Ph. on probation. Motion passed on roll call vote.

OSBP vs. Mark McCullough, D.Ph. #10336 – Case No. 494A – Request for probation:

The Board was called to order by President Hampton to hear the request of Mark McCullough to have his pharmacist license placed on probation.

After testimony by Mr. McCullough and OPHP Representative, Kevin Rich, a motion was made by Jim Spoon and seconded by John Lassiter that Mr. McCullough would have to obtain a “Fit for Duty” verification by OPHP. He would then be placed on probation for 5 years and would have to maintain his OPHP contract for the 5 years. The probation would allow him to get a Graduate Intern license and work 1500 hours of internship at 40 hours per week. After completing the 1500 hours and complying with the OPHP contract, he would be allowed to work as a pharmacist on probation for the remainder of the 5 years. Motion passed on roll call vote.

OSBP vs. Pet-Med Express, #99-193 – Case No. 864:

President Hampton called the Board to order to hear the case of Pet-Med Express. No one was present to represent the Respondent. It was determined that the non-resident pharmacy had

been properly notified on April 19, 2008. Brinda White, Assistant Attorney General prosecuted the case. Those testifying for the Board were Compliance Officer, Cindy Hamilton, Veterinarian Board Assistant Attorney General, James Barwick, and Cathy Kirkpatrick, Director of the Veterinarian Board.

After an investigation of complaints that the pharmacy was selling prescription drugs for animals in Oklahoma without a vet-patient relationship, the attorney for the Veterinarian Board wrote the respondent a letter asking them to "Cease & Desist." The Respondent replied that the Vet Board had no authority over them because they were licensed as a pharmacy by the Oklahoma Board of Pharmacy and were in compliance with the pharmacy laws.

An undercover buy was made purchasing a prescription for a dog. The name of the dog's vet was given on a questionnaire. The vet was faxed a request for approval to fill the prescription by the Respondent and the Vet denied the approval. The Respondent filled the prescription anyway and also filled a refill. A complaint was filed with the Board and the information was furnished.

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

Motion was made by John Lassiter and seconded by Bill Osborn that Pet-Med Express be fined \$1000.00 on each count for a total of \$8,000.00. Motion passed on roll call vote.

Motion was made by Dorothy Gourley and seconded by Bill Osborn to revoke the license of Pet-Med Express Non-Resident Pharmacy #99-193. Motion passed on roll call vote.

OSBP vs. Lawrence L. Lofstrom, D.Ph. #9588 – Case No. 655 – Request for probation and suspension be lifted:

The Board was called to order to hear the request of Lawrence Lofstrom. Mr. Lofstrom is requesting that his suspension and probation be lifted. Kevin Rich testified that Mr. Lofstrom had been in compliance for the past 5 years and would recommend his request be granted.

Motion was made by Jim Spoon and seconded by Gordon Richards to lift the suspension and probation from the license of Mr. Lofstrom after completion of OPHP's transition period. OPHP is to notify the Board when the transition is completed and then the suspension and probation would be removed. Motion passed on roll call vote.

OSBP vs. Heath Branscum, D.Ph. #12336 – Case No. 861 – Request for probation:

President Hampton called the Board to order to hear the request for probation from Heath Branscum. Mr. Branscum was to obtain a "Fit for Duty" exemption before being allowed to be placed on probation. OPHP representative, Kevin Rich testified the Mr. Branscum had been declared fit for duty.

Motion was made by Bill Osborn and seconded by Jim Spoon that Mr. Branscum's pharmacist license be placed on probation. Motion passed on roll call vote.

Aaron Shaw appears before Board:

The Board was called to order to hear the request of Aaron Shaw. Mr. Shaw had made application for a technician permit but was denied. Mr. Potter presented his application and showed that he had not disclosed all of his arrest records on his application. The Board allowed Mr. Shaw to give his explanation of why he had not listed all of the information.

Motion was made by Jim Spoon and seconded by Gordon Richards to allow Mr. Shaw to apply for a technician permit. Motion passed on roll call vote.

Board has a working lunch:

The Board had lunch brought in and continued with the discussion of OmniCare's request by Darcy Strong to implement eMar software in nursing homes. Mr. Osborn had been in touch with Ms. Strong asking why they had not used the pharmacy software by SureScripts since nearly 90% of pharmacies have capability to use this software. The Vicura software would allow e-prescriptions only to be sent to OmniCare's pharmacies. In the original discussion, the software was to be sold to the homes and was expensive. It would now appear that the software is leased to the homes.

Mr. Osborn was asked to get more information from Ms. Strong and look at it again at the June

meeting. Mr. Potter was asked to check with the Health Department regarding rules on this issue.

Board discusses NABP Proposed Resolution:

The Board reviewed the proposed Resolution which would be presented at the upcoming NABP Annual meeting in Baltimore.

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

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

OSBP vs. Sherry Ross, D.Ph. #9815 – Case No. 862:

The case of Sherry Ross was continued until the next available meeting.

Board holds a discussion on Gary Nichols litigation with Attorney:

The Board went into Executive Session to discuss the Gary Nichols litigation with Assistant Attorney General, Richard Mann.

The Board learned from Assistant Attorney General, Brinda White that the Oklahoma Supreme Court had dismissed the appeal by Gary Nichols which means that the case had been upheld and the Board can collect the fines and implement the revocation of his pharmacist license. Mr. Nichols has one more pharmacy that he is required to sell.

President Hampton adjourned the meeting at 3:30 p.m.