

MINUTES

OKLAHOMA STATE BOARD OF PHARMACY

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

June 14, 2006

Call to order:

President Osborn called the June 14, 2006 meeting of the Oklahoma State Board of Pharmacy (OSBP) to order at 8:30 a.m.

Those present were:

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

*Jim Spoon was unable to attend this meeting

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

Guests: Shauna Peterson, Walgreens
Rick Irby, Wal-Mart
John Rodden, Wal-Mart
Group of Interns from Wal-Mart

Approval of minutes and claims:

Motion was made by Gordon Richards and seconded by John Lassiter to approve the May 23rd & 24th, 2006 minutes as amended. Motion passed on roll call vote.

Motion was made by John Lassiter and seconded by Dorothy Gourley to approve claims ##1138-#1157 and #H0017058-#H0017062. Motion passed on roll call vote.

Cancellation of Pharmacists, Technicians, and Facilities:

After a review of the cancellation list of pharmacists, technicians and facilities, a motion was made by Gordon Richards and seconded by Diana Hampton 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 Diana Hampton and seconded by Gordon Richards to approve the duplicate certificate request for Sheri Leigh Wahrmund, D.Ph. #13470. Motion passed on roll call vote.

Board has a discussion on Travel P-Card:

A discussion was held regarding travel expenses and explaining of the Travel P-Card. It was decided that having the individuals seek the best price online and be reimbursed would be the Board policy.

Board discusses pharmacy application request from Walgreen's Health Initiatives, Inc:

The application from Walgreen's Health Initiatives pharmacy license request was delayed until the Board could tour the operation.

Board discusses upcoming meetings:

The Board held a discussion of upcoming meetings. OPHA will be held June 22-25. Dorothy Gourley, John Lassiter, Bill Osborn and Gordon Richards will be attending.

Midwest Pharmacy Conference will be held July 26-28. John Lassiter, Gordon Richards and Bill Osborn will be attending.

MALTAGON will be held September 10-13. Dorothy Gourley, John Lassiter and Bill Osborn will be attending.

NABP District VI will be held October 25-28. Representatives for this meeting have not been decided.

Board discusses new Legislation and HB 2485:

HB 2485 was discussed and an interim study will be held regarding the limiting sales of Dextromethorphan. A member of this committee will be the Executive Director of the Oklahoma Board of Pharmacy or his designee.

Motion was made by John Lassiter and seconded by Dorothy Gourley to ask Phil Woodward of OPHA to serve as the Pharmacy Board representative for this committee. Motion passed on roll call vote.

Board interviews 3 Reciprocity and 2 NAPLEX applicants:

The Board met with 3 Reciprocity and 2 NAPLEX candidates. All were accepted upon passing the Oklahoma Law.

Reciprocity:

Sidney Michael O’Grady.....TX
Jennifer Hill PoolerTN
Melinda Monk RandleAR

NAPLEX:

Kimberly D. Woodhull
Kristen D. Wudyka

OSBP vs. Demitria Rice, Technician #7296 – Case No. 790:

The Board was called to order to hear the case of Demitria Rice. Ms. Rice chose to appear without Counsel. Assistant Attorney General, Brinda White, prosecuted for the Board. Compliance Officer, Gary LaRue testified for the Board and explained some of the exhibits that were presented. Ms. Rice had stolen drugs including approximately 100 pints of generic Phenergan with Codeine. Ms. Rice admitted to guilt and indicated that she was sorry for what she had done.

Motion was made by John Lassiter and seconded by Diane Hampton to find Ms. Rice guilty on all counts based on the clear and convincing evidence presented. Motion passed on roll call vote.

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

OSBP vs. Kadarien Williams, Technician #9272 – Case No. 789:

President Osborn called the Board to order to hear the case of Kadarien Williams. Ms. Williams chose to appear without Counsel. Brinda White, Assistant Attorney General, prosecuted for the Board. Compliance Officer, Gary LaRue, testified for the Board and explained the exhibits that were presented. Ms. Williams had admitted to taking drugs and money from her employer. She admitted to stealing 2 pints of generic Phenergan with Codeine and falsifying refunds and keeping the money.

Motion was made by John Lassiter and seconded by Diana Hampton that based on the clear and convincing evidence presented and the admission of guilt by Ms. Williams, that she be found guilty on all counts. Motion passed on roll call vote.

Motion was made by John Lassiter and seconded by Dorothy Gourley that Ms. Williams technician permit be revoked. Motion passed on roll call vote.

OSBP vs. Kristi Rachelle Bostwick, D.Ph. #12715 – Case No. 744 – Requesting probation:

President Osborn called the Board to order to hear the probation request of Kristi Bostwick. Ms. Bostwick was present with Counsel, Garvin Isaacs. Gloria Rex of Compass Vision testified on Ms. Bostwick’s behalf. Ms. Bostwick’s final order allowed her to appear before the Board after June 6, 2006 to request probation. President Osborn swore in Ms. Bostwick and Ms. Rex for testimony. President Osborn asked Ms. Bostwick to explain what had happened in the past year with regard to her rehabilitation. She explained that her treatment, her attendance of her 12 step meetings and working with OPHP was a positive for her. Gloria Rex testified that Ms. Bostwick had been in compliance with

her contract and OPHP wanted to recommend that she be placed on probation.

Motion was made by John Lassiter and seconded by Diana Hampton that Ms. Bostwick be placed on probation for the remainder of her suspension. Motion passed on roll call vote.

OSBP vs. Michael Jordan, D.Ph. #10013 – Case No. 770 – Determine compliance with OPHP contract:

The Board was called to order by President Osborn to hear a report from OPHP on Michael Jordan. Mr. Jordan was present with his AA Sponsor and Gloria Rex, a representative for OPHP. Mr. Jordan had been given 60 days to become compliant with his OPHP contract. He did not work during this period of time. Gloria Rex testified that Mr. Jordan had become compliant with his OPHP contract and OPHP recommended that he be allowed to return to work after a "Return to Work" evaluation was completed with satisfactory results.

Motion was made by Gordon Richards and seconded by Dorothy Gourley to allow Mr. Jordan to proceed with the evaluation and to go back to work upon satisfactory results with continued compliance with his OPHP contract. OPHP is to notify the Board of Pharmacy when Mr. Jordan is allowed to return to work. Motion passed on roll call vote.

At this time, Mr. Richards had to leave the meeting and return to Shawnee.

Board has a working lunch:

The Board chose to have a working lunch. During lunch, the Board discussed a request for a pharmacy license from Walgreen's Health Initiatives, Inc. It was determined that the Board could better make the decision after looking at the facility. An appointment was made to tour the facility at 3:00 that afternoon.

OSBP vs. Gary Nichols, D.Ph. #12862, Moore Clinic Pharmacy, Inc., Lakehurst Pharmacy, L.L.C., Williams Pharmacy (7-4543), Allen Community Pharmacy (23-4707), Central Pharmacy (17-4718), Newt's Discount Pharmacy (32-3288), Clinic Pharmacy (7-4911), Lakehurst Pharmacy 91-4903) – Case No. 774 – Consideration of Respondents' application for re-hearing:

President Osborn called the meeting to order to hear a request by Gary Nichols et al thru Attorney R. Robyn Assaf for a rehearing, reopening or reconsideration of Case No. 774. The case had been heard on May 24, 2006 and a final Order signed on June 1, 2006. Present for the Respondents were Attorneys Robert Morgan, John Coyle, III, and Robyn Assaf.

Assistant Attorney General, John Crittenden advised the Board and Assistant Attorney General, Brinda White, was the prosecuting Attorney. Board members present were, Bill Osborn, Dorothy Gourley, Diana Hampton and John Lassiter with Bill Osborn presiding. President Osborn allocated 5 minutes for a brief overview of what was being presented and why by Robyn Assaf, the Respondents attorney and a brief response to the overview and the motion for rehearing by Assistant Attorney General, Brinda White.

Ms. Assaf stated that her client wanted a rehearing because he was not allowed time to present witnesses and testimony to the Board, that the Board had not allowed a requested continuance, that the Board had not produced records that were requested by subpoena and that one charge was made regarding a statute that was not in existence when the violation occurred.

Assistant Attorney General, Brinda White, stated that neither the Respondent nor his Attorney had presented a motion to dismiss to the Board, and was attached as an exhibit to the Petition; and that no motion to continue the hearing on May 24, 2006 was made; that there had not been a subpoena presented to the Board for documents by the Respondent and that there was not a charge presented on a statute that was not in existence. Summation: Gary Nichols had his day in Court. When asked by Assistant Attorney General, John Crittenden, whether he had moved to continue the hearing, Attorney Coyle said that he had not.

It was agreed that the Board would admit the exhibits for proof, only for consideration of rehearing. The Board then went into Executive Session to review the presentations.

The Board came out of Executive Session. A motion was made by John Lassiter and seconded Dorothy Gourley that all of the documents considered by the Board be admitted as proof only. Motion passed on roll call vote.

Dr. Hampton was recognized by President Osborn. She then reviewed for those present the Statute that covered the Administrative Procedures Act requirements for grounds for a rehearing. The grounds for such action shall be either:

1. Newly discovered or newly available evidence, relevant to the issue.

2. Need for additional evidence adequately to develop the facts essential to proper decision;
3. Probable error committed by the agency in the proceeding or in its decision such as would be grounds for reversal on judicial review of the final agency order.
4. Need for further consideration of the issues and the evidence in the public interest; or
5. A showing that issues not previously considered ought to be examined in order properly to dispose of the matter.

Having reviewed the information, which was presented, looking for proof of any of the requirements that would require a rehearing and finding none, a motion was made by Diana Hampton and seconded by Dorothy Gourley that the Board deny the Petition for Rehearing. Motion passed on roll call vote.

Board takes tour of Walgreen's Call Center:

The Board recessed to make a tour of the Walgreen Call Center. Board members present were Bill Osborn, Dorothy Gourley, Diana Hampton, John Lassiter and Executive Director, Bryan Potter. The specialty drug area is the section that they want to license because of the pharmacist counseling patients from that point. They have a certain number of drugs that have been selected and plan to counsel the patients that are taking those medications. There may be occasions where the original prescription is sent electronically to this location. It would be for medications that a patient was taking, the refills have been used and a new prescription is required. The prescription would be entered into the Walgreen system and list the pharmacy where the patient would have the prescription filled.

Upon returning to the office, the meeting was opened by President Osborn. A motion was made by Dorothy Gourley and seconded by John Lassiter to direct the Staff to issue a pharmacy license that, upon agreement with Walgreens, would be a "provisional/trial" for one year with the specialty drug formulary now being used. Walgreens would report progress on the specialty pharmacy and request approval of any changes in the program. The Board would review the progress report prior to renewal of the pharmacy license. Motion passed on roll call vote.

The Board directed staff to consider the possibility of writing rules for licensing different types of pharmacies to include "Clinical Only" pharmacies.

President Osborn adjourned the meeting at 4:45 p.m.