

MINUTES

OKLAHOMA STATE BOARD OF PHARMACY

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

July 15, 2009

Call to order:

President Gourley called the July 15, 2009 meeting of the Oklahoma State Board of Pharmacy (OSBP) to order at 8:15 a.m.

Those present were:

Board Members*:

Dorothy Gourley, President
Jim Spoon, Vice-President
Diana Hampton, Member
Gordon Richards, Member

*Bill Osborn was unable to attend
*John Lassiter joined the Board at 9:00 a.m.

Board of Pharmacy:

John A. Foust, Executive Director
Gary LaRue, Compliance Officer
Cindy Hamilton, Compliance Officer
Betty Beil, Compliance Officer
Terry Bratt, Inspector
Rhonda Jenkins, Registration Secretary

Guests:

Amanda Wenzel, Target
Jennilee Craig, Target Intern
Hunter Hogan, Homeland
Terry Cothran, Prescription Solutions
James Kirk, CVS
Vanessa England, CVS Intern
Courtney Sexton, CVS Technician
Becca Baugher, Cardinal Health
Melissa Gloden, Cardinal Health
Shannon Griggs, Wal-Mart
Ryan Walker, Walgreens
Laura Petty, Walgreens
Jason Hines, Attorney Generals Officer
Brian Wagoner, Intern
Jerry George, Intern
Mark McCullough, Intern

Approval of minutes and claims:

Motion was made by Gordon Richards and seconded by Jim Spoon to approve the June 17th, 2009 Board meeting minutes as circulated. Motion passed on roll call vote.

Motion was made by Diana Hampton and seconded by Gordon Richards to approve claims #2389-#2414, #H0136208-#H0136213 and June 2009 payroll. Motion passed on roll call vote. There were no expenses accrued for the Executive Director.

Cancellation of Pharmacists, Pharmacies, Facilities and Technicians:

After a review of the cancellation lists presented, a motion was made by Jim Spoon and seconded by Diana Hampton to cancel the licenses of those that did not renew within the renewal time. Motion passed on roll call vote.

Discussion and approval of ACPE:

Motion was made by Gordon Richards and seconded by Diana Hampton to approve the list of Pharmacy Schools that are accredited by the American Council of Pharmaceutical Education. Motion passed on roll call vote.

Duplicate certificate request approved:

Motion was made by Jim Spoon and seconded Diana Hampton to approve the duplicate certificate request for Paula M. Miller, D.Ph. #13849. Motion passed on roll call vote.

Board discusses flavorings as a compound:

The Board held a brief discussion on whether the addition of flavoring agents to a prescription should be considered a compound. The Board directed the Executive Director to write a new Board policy with language allowing the addition of flavoring agents to a prescription, with a maximum of 5% of the total volume. The policy will be presented at the next Board meeting.

Board discusses complaint on Tribal pharmacy:

The Board discussed the complaint that the Board had received concerning a tribal pharmacy.

Dr. Hampton asked the Executive Director to prepare a letter for her to send to the Director of Indian Health Service in Washington, D.C.

Executive Director gives Agency report:

Vending Machines: News media reports of a vending machine being used to dispense prescription drugs, including controlled drugs, were discussed. The Executive Director stated that the Board had received several telephone calls regarding the issue, and would request additional information from the wholesale company providing the machine, and the clinic where the machine was located. A report will be made at a future Board meeting.

OSBP vs. Naomi Goldberg, Technician #10213 – Case No. 925:

The Board was called to order to hear the case of Naomi Goldberg. Ms. Goldberg was not present but had signed and returned an Agreed Order accepting revocation of her technician permit. Assistant Attorney General, Brinda White presented the complaint to the Board and then presented the Agreed Order.

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

OSBP vs. Christopher Nash, Technician #10010 – Case No. 929:

President Gourley called the Board to order to hear the case of Christopher Nash. Mr. Nash was not present but it was determined that he had been properly notified. Assistant Attorney General, Brinda White prosecuted the case for the Board. Compliance Officer, Gary LaRue and CVS Regional Loss Prevention Manager, David Welsh testified for the Board.

Mr. Nash had been terminated for failure to cooperate with an investigation and for forged scripts.

Motion was made by Jim Spoon and seconded by John Lassiter that based on the clear and convincing evidence presented, Mr. Nash be found guilty on all counts. Motion passed on roll call vote.

Motion was made by Jim Spoon and seconded by John Lassiter to revoke the technician permit of Christopher Nash. Motion passed on roll call vote.

OSBP vs. Ahmed Ahmed, Technician #12201 – Case No. 931:

President Gourley called the Board to order to hear the case of Ahmed Ahmed. Mr. Ahmed was not present but had signed and returned an Agreed Order admitting guilt and accepting revocation of his technician permit. Assistant Attorney General, Brinda White presented the complaint to the Board and then presented the Agreed Order.

Motion was made by Jim Spoon and seconded by Diana Hampton to accept the Agreed Order. Motion passed on roll call vote.

OSBP vs. Adam Burnett, Technician #9580 – Case No. 930:

The Board was called to order to hear the case of Adam Burnett. Mr. Burnett was not present but had signed and returned an Agreed Order admitting guilt and accepting revocation of his technician permit. Assistant Attorney General, Brinda White presented the complaint to the Board and then presented the Agreed Order.

Motion was made by Diana Hampton and seconded by John Lassiter to accept the Agreed Order. Motion passed on roll call vote.

OSBP vs. Tammy Allen, Technician #10512 – Case No. 932:

President Gourley called the Board to order to hear the case of Tammy Allen. Ms. Allen was not present but it was determined that she had been properly notified. Assistant Attorney General, Brinda White prosecuted the case for the Board. Compliance Officer, Betty Beil and Wal-Mart Pharmacist in Charge (PIC) Carla Pilkington testified for the Board.

Ms. Allen had been terminated for filling prescriptions for a controlled dangerous drug (CDS) without the authorization of a practitioner and taking the scripts without paying for them.

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

Motion was made by Diana Hampton and seconded by Gordon Richards to revoke the technician permit of Tammy Allen. Motion passed on roll call vote

Board interviews Reciprocity, Score Transfer and NAPLEX applicants:

The Board interviewed 4 Reciprocity, 4 Score Transfer and 3 NAPLEX applicants. All were accepted upon passing the Oklahoma Law and the NAPLEX if necessary.

Reciprocity:

Christa L. Gerber MS
Sarah Jane Kiefer TN
Richard Arthur Lee MO
Chonta S. Veal..... TX

Score Transfer:

Ameenah Campbell TX
Ashley Davis VA
Ericka Renee Tracy TN
Ashley Anne Vaughan TX

NAPLEX:

Ashley Garcia
MyHang Nguyen
John Teel

Brenan Fulkerson of MedImmune appears before the Board:

Brenan Fulkerson and Scott Brown of MedImmune appeared before the Board to ask that they be granted an extension to continue to ship a prescription drug for pediatric patients directly to physicians or other authorized providers for administration.

Motion was made by John Lassiter and seconded by Jim Spoon to grant their request to extend their shipping for 1 year. Each year MedImmune must report to the Board the number of prescriptions shipped into the state, and request extension of the exemption on a yearly basis. Motion passed on roll call vote.

OSBP vs. Jerry Helm, D.Ph. #9370 – Case No. 649 – Request for Probation:

The Board was called to order by President Gourley to hear the request of Jerry Helm. Mr. Helm was present with his attorney, Jim Mathews. Mr. Helm was requesting that his license be placed on probation.

Kevin Rich of OPHP testified on Mr. Helm's behalf. He stated that Mr. Helm has had an

OPHP contract since 2006 and that he had obtained a "Fit for Duty" from Valley Hope. After some questions to Mr. Helm by the Board, a motion was made by Jim Spoon and seconded by Gordon Richards that the request of Jerry Helm be granted. Mr. Helm is to continue with his OPHP contract. He is to work a total of 320 hours under the direct supervision of a pharmacist. The supervising pharmacist is to send the Board a report after every 160 hours has been worked for a total of 2 reports. If the reports are good, then the Executive Director may approve licensure status. Motion passed on roll call vote.

OSBP vs. Jeffrey Yanchick, D.Ph. #11290 – Case No. 745 – Request for Probation:

President Gourley called the Board to order to hear the request of Jeffrey Yanchick. Mr. Yanchick was present with Vicky Kerlin who is his facilitator. Mr. Yanchick was requesting that his license be placed on probation.

Kevin Rich of OPHP testified on Mr. Yanchick's behalf. He stated that Mr. Yanchick had completed an assessment at Valley Hope and that he was ready to return to work. He had also gone to Paul Meadow for additional treatment and had been compliant with his OPHP contract since attending Paul Meadow. The Board asked Mr. Yanchick about how well he had been doing. Mr. Yanchick and Ms. Kerlin testified.

Motion was made by Jim Spoon and seconded by John Lassiter that the request of Jeffrey Yanchick be granted. Mr. Yanchick must work a total of 160 hours under the direct supervision of a pharmacist. After completion of hours, the supervising pharmacist is to send the Board a report form of these hours. Mr. Yanchick must also attend 1 live law seminar in addition to the required continuing education. Motion passed on roll call vote.

OSBP vs. Carl Aven, D.Ph. #9706 – Case No. 922:

The Board was called to order to hear the case of Carl Aven. Mr. Aven was present with his Attorney Stan Ward and Mr. Ward's Intern, Steve Jaussi.

Assistant Attorney General, Brinda White presented the Board with an Agreed Order. If the Board accepts the Agreed Order, Mr. Aven will agree to the following. Mr. Aven's license will be suspended and placed on probation for five years until June 17, 2014. He will be required to continue with his OPHP contract until July 15, 2010. He is to inform all employers that he is under contract. Eight (8) hours of the required fifteen (15) hours of continuing education must be live. Mr. Aven also agrees to develop a process for the final review of scripts to insure their accuracy.

The Board asked questions of Mr. Aven. OPHP representative, Kevin Rich testified that Mr. Aven has been compliant with his OPHP contract. Mr. Ward presented information from different doctors and stated that Mr. Aven had attended intensive out patient treatment. He also presented information from Dennis W. Rawlings, Ph.D that stated that Mr. Aven continue working as a pharmacist.

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

OSBP vs. Walgreens No. 7821, #2-4734 and Colte Utley, D.Ph. #14012 – Case No.928:

President Gourley called the Board to order to hear the case of Walgreens and Colte Utley. Mr. Utley was present with Attorney Larry Derryberry and Walgreens District Manager, Ryan Walker. Mr. Utley had received two warning notices within a one year period. Assistant Attorney General, Brinda White presented the Board with an Agreed Order. Ms. White recommended and the Board concurred that Walgreen's be removed from the complaint due to Walgreen's contention that they did not receive adequate information about the warning notices.

If the Board accepts the Agreed Order, Mr. Utley would agree to the following. Mr. Utley would agree to guilt on one count. He would pay a fine as set by the Board in the Agreed Order. Mr. Utley is required to watch an error prevention video and attend a one day law seminar in the year 2009. This is in addition to the required 15 hours of continuing education.

Motion was made by Jim Spoon and seconded by Diana Hampton to accept the Agreed Order and to exempt Walgreens from the original charge. Motion passed on roll call vote.

Board recessed for lunch

President Gourley called the Board back into session at 1:30 p.m.

OSBP vs. Don Gepner, D.Ph. #11246 – Case No. 934:

The Board was called to order to hear the case of Don Gepner. Mr. Gepner was present and chose to appear without Counsel. Assistant Attorney General, Brinda White prosecuted for the Board. Compliance Officer Cindy Hamilton and technician Mark Todd testified for the Board. Mr. Gepner had allowed a non-licensed person do technician duties in the pharmacy. He had also filled prescriptions for individuals that had not seen a physician. After questions of the witnesses by Ms. White, Mr. Gepner asked each witness questions of his own. Mr. Gepner also testified on his own behalf.

Motion was made by Diana Hampton and seconded by Jim Spoon to go into Executive Session. Motion passed on roll call vote. Mr. Richards recused himself.

Motion was made by Diana Hampton and seconded by Jim Spoon to return from Executive Session. Motion passed on roll call vote.

Motion was made by Diana Hampton and seconded by Jim Spoon that based on the clear and convincing evidence presented, Mr. Gepner be found guilty on all counts. Motion passed on roll call vote.

Motion was made by Diana Hampton and seconded by John Lassiter that the license of Don Gepner be placed on probation for 1 year. If anything happens within that year he is to reappear before the Board. He is to attend a live law seminar in addition to the required 15 hours of continuing education and he would pay a fine as set by the Board. Motion passed on roll call vote.

Re-organization of the Board:

President Gourley opened the floor for re-organization of the Board with elections of new officers. A motion was made by John Lassiter and seconded by Diana Hampton nominating Jim Spoon as President and Bill Osborn as Vice-President for the 2009 & 2010 year. Motion passed on roll call vote.

President Gourley was congratulated for a job well done as President for the last year.

President Gourley adjourned the Board at 2:20 p.m.