

MINUTES

OKLAHOMA STATE BOARD OF PHARMACY

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

November 20, 2008

Call to order:

President Dorothy Gourley called the November 20, 2008 meeting of the Oklahoma State Board of Pharmacy (OSBP) to order at 8:20 a.m.

Those present were:

Board members: Dorothy Gourley, President
James O. Spoon, Vice-President
Gordon Richards, Jr., Member
William Earl Osborn, Member
John Lassiter, Member

*Dr. Diana Hampton was unable to attend this meeting

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

Guests: Laura Petty, Walgreens
Derek Dennis, Walgreens
Dave Suey, Walgreens
Walter Setmeyer, Walgreens
Travis Swaner, Walgreens
Von Davis, Target
James Kirk, CVS
Terry Cothran, Prescription Solutions
David J. Pizarro, Platt College
Samantha Kitsmiller, Platt College
Holly Lathanm, Platt College
David Shaw, Intern

Approval of minutes and claims:

Motion was made by John Lassiter and seconded by Gordon Richards to approve the October 22, 2008 minutes. Motion passed on roll call vote.

Motion was made by Bill Osborn and seconded by John Lassiter to approve expense claims #2118-#2157, #H113264-#H113268, the November payroll and the expenses of the Executive Director. Motion passed on roll call vote.

Cancellation of Pharmacists, Pharmacies, Technicians and Facilities:

The Board reviewed the cancellation list of pharmacists, pharmacies, facilities and technicians that did not renew within the renewal time period.

Motion was made by Bill Osborn and seconded by Jim Spoon to approve the cancellation lists

presented. Motion passed on roll call vote.

Duplicate certificate request approved:

A duplicate certificate request for Audra Yvonne Brasiola, D.Ph. #13308 was presented to the Board for their approval. Motion was made by Bill Osborn and seconded by John Lassiter to approve the request. Motion passed on roll call vote.

Board makes emergency declaration regarding Foreign Pharmacy Graduates:

Motion was made by Jim Spoon and seconded by Gordon Richards to declare an emergency regarding Foreign Pharmacy Graduates. Motion passed on roll call vote.

Board review, consider and possibly adopt Foreign Pharmacy Graduate emergency rule revision pertaining to licensure applicant requirements:

The Board reviewed changes needed in the Foreign Pharmacy Graduate rules which would bring the requirements for reciprocity of a Foreign Graduate to be the same as other reciprocity candidates.

Motion was made by Jim Spoon and seconded by Gordon Richards to approve these rule changes and start the emergency process for these rule changes. Motion passed on roll call vote.

Board makes emergency declaration regarding Wholesaler rules:

A review of the Wholesaler Pedigree rules that are scheduled to be effective January 1, 2009 and the information that possible federal legislation and other states delaying implementation of their rules so that technology can catch up.

Motion was made by Jim Spoon and seconded by John Lassiter to declare an emergency regarding the Wholesaler Pedigree rules. Motion passed on roll call vote.

Board to review, consider and possibly adopt wholesaler pedigree recordkeeping requirement emergency rule revision due to unexpected delays in FDA and California wholesale pedigree rules and due to consideration of the problems Florida experienced in implementing pedigree rules:

Motion was made by Jim Spoon and seconded by John Lassiter to submit the rule change of the date of January 1, 2009 to January 1, 2011 for implementation date of the Wholesaler Pedigree rules. Motion passed on roll call vote.

Board sets date for January meeting:

President Gourley asked the Board to set a date for the January Board meeting. The Board agreed to set January 21, 2009 as the date for the next Board meeting.

Board discusses employee recognition dinner:

Mr. Potter discussed the employee recognition program and stated that a dinner would be held in December.

OSBP vs. Russell Alexander, Technician #11453 – Case No. 891:

President Gourley called the Board to order to hear the case of Russell Alexander. Mr. Alexander was not present but had sent in a signed Agreed Order admitting guilt and agreeing to revocation of his technician permit. He had performed duties that a technician was not allowed to perform.

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

OSBP vs. Lamenia Charles, Technician #11630 – Case No. 892:

The Board was called to order to hear the case of Lamenia Charles. Ms. Charles was not present but it had been determined that she had been properly notified. Assistant Attorney General,

Brinda White was prosecutor for the Board. Compliance Officer, Gary LaRue and Travis Swaner, Loss Prevention for Walgreens testified for the Board.

Ms. Charles had stolen a large quantity of CDS and then sold them. She had been fired and turned over to the police. It was discovered that she was serving a deferred sentence for embezzlement.

Motion was made by Bill Osborn and seconded by John Lassiter that based on the clear and convincing evidence presented and the testimony that was given, that Ms. Charles be found guilty on all counts. Motion passed on roll call vote.

Motion was made by Bill Osborn and seconded by John Lassiter that the technician permit of Lamenia Charles be revoked. Motion passed on roll call vote.

OSBP vs. Chantel Carroll, Technician #12418 – Case No. 893:

President Gourley called the Board to order to hear the case of Chantel Carroll. Ms. Carroll was not present but it was determined that she had been properly notified. Brinda White, Assistant Attorney General presented the case for the Board. Compliance Officer, Betty Beil testified for the Board.

Ms. Carroll had admitted to taking at least 5000 Hydrocodone tablets. Ms. Carroll had an accomplice who would come thru the drive through and she would give them a sack containing 500-1000 tablets.

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

Motion was made by Jim Spoon and seconded by Bill Osborn that the technician permit of Chantel Carroll be revoked. Motion passed on roll call vote.

OSBP vs. Shelly Vaughn, Technician #9471 – Case No. 894:

The Board was called to order to hear the case of Shelly Vaughn. Ms. Vaughn was present along with her sister. Ms. Vaughn chose to appear without Counsel. Assistant Attorney General, Brinda White prosecuted for the Board. Compliance Officer, Gary LaRue testified for the Board.

It was shown that Ms. Vaughn had falsified her application for renewal of her technician permit. She had admitted to a DUI in 2007 but failed to mention her arrest a month before the application was filled out. She had been arrested while in the company of a friend in a motel room who purchased Meth from an undercover policeman. Ms. Vaughn testified that her attorney had advised her not to put this information on the form.

Motion was made by Jim Spoon and seconded by John Lassiter that based on the clear and convincing evidence presented, that Ms. Vaughn be found guilty on all 5 counts. Motion passed on roll call vote.

Motion was made by Jim Spoon and seconded by John Lassiter that the technician permit of Shelly Vaughn be revoked. Motion passed on roll call vote.

Board meets with 1 Score Transfer candidate:

After a short break, President Gourley called the Board to order to interview 1 Score Transfers applicant. This applicant was accepted upon passing the Oklahoma Jurisprudence Exam.

Score Transfer:

Lindsey Kaye ScottAR

OSBP vs. Valerie Grober, D.Ph. 9961 – Case No. 699 – Request for probation to be lifted:

The Board was called to order to hear the request of Valerie Grober. Ms. Grober was present along with her husband and Marc Whitt of OPHP. Ms. Grober had completed almost 5 years with an OPHP contract and had finished the closing process with OPHP, She had also completed a “Fit for Duty” evaluation. She requested that the suspension and probation on her pharmacist license be removed.

After answering questions from the Board and hearing statements from Mr. Grober and Marc Whitt, a motion was made by Jim Spoon and seconded by Bill Osborn to remove the suspension and probation from Ms. Grober's pharmacist license. Motion passed on roll call vote.

OSBP vs. Mary Thacker, D.Ph., #10221 – Case No. 659 – Request for Preceptor license:

The Board was called to order to hear the request of Mary Thacker. Ms. Thacker's pharmacist license is on probation and her request was to be able to receive a preceptor's license. She had been on probation for over 2 years and compliant with her OPHP contract.

Motion was made by Jim Spoon and seconded by Gordon Richards to approve Ms. Thacker's request for a preceptor's license. Motion passed on roll call vote.

OSBP vs. Genevieve Earley, D.Ph. #11243 – Case No. 771:

President Gourley called the Board to order to hear the request of Genevieve Early. Ms. Early and Marc Whitt of OPHP testified. It was shown that she had been compliant with her OPHP contract for over 2 years and was requesting probation. Ms. Early had completed a "Fit for Duty" evaluation. OPHP supported her request.

Motion was made by John Lassiter and seconded by Jim Spoon that Ms. Early be allowed to work as an Intern for a period of 1000 hours to be completed in 1 year or less. Upon successful completion of the required hours, she would be eligible to re-instate her pharmacist license and would be placed on probation. Motion passed on roll call vote.

Board discusses possible action regarding changes to the Oklahoma Pharmacy Act:

President Gourley asked the Board to review the changes to the Oklahoma Pharmacy Act. MaryAnn Terral was present to lead the discussion. Brinda White, Assistant Attorney General had helped with the drafting of the new language and was also present for comments. Most changes were to clean up language. The Board was about half way thru the changes when it became time to recess and go to lunch. The staff and Board closed the office to go to a working lunch at 11:45 a.m. and returned at 1:45 p.m.

The Board returned from lunch and began reviewing the possible changes. There were several suggested changes that were made and Mr. Potter indicated that there would be an opportunity to make changes prior to and during committee hearings.

OSBP vs. Kevin Black, D.Ph #9717 and Black Drug, #30-4476 – Case. No. 890:

President Gourley called the Board to order to hear the case of Kevin Black and Black Drug. Mr. Black was present with his wife and his attorney, Thayla Bohn. Assistant Attorney General, Brinda White prosecuted the case and presented the Board with an Agreed Order.

Mr. Black was charged with 5 counts including not attempting to resolve a possible prescription error, not notifying the prescriber of possible overutilization or therapeutic duplication, not properly counseling a patient, not reporting the filling of schedule drugs to OBN and failing to conduct himself in a professional manner. Mr. Black plead guilty to Count IV, not submitting proper reports to OBN and plead Nolo Contendere to the other four counts. Black Drug admitted guilt on Count IV as well.

The Agreed Order that was presented to the Board would require Mr. Black's pharmacist license to be suspended for 2 years and placed on probation immediately. He would be fined \$4,500 and Black Drug would be fined \$1,000.

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

OSBP vs. Desiree D. Hallock, Technician #9374 – Case No. 896:

The Board was called to order to hear the case of Desiree Hallock. Ms Hallock was not present but it was determined that she had been properly notified. Ms. Hallock sent in a signed

Agreed Order agreeing to guilt on all counts and agreeing to revocation of her permit.

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

OSBP vs. Daniel Hallock, Technician #7997 – Case No. 895:

President Gourley called the Board to order to hear the case of Daniel Hallock. Mr. Hallock was not present but it was determined that he had been properly notified. Mr. Hallock sent in a signed Agreed Order agreeing to guilt on all counts and agreeing to revocation of his permit.

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

OSBP vs. H & G Medical & Infusion, #9-4296 and Kenneth D. Sherrell, D.Ph. #9560 – Case No. 897:

The Board was called to order to hear the case of H & G Medical & Infusion and Kenneth D. Sherrell. Mr. Sherrell was present with his wife and his financial counselor and chose to appear without Counsel. Assistant Attorney General, Brinda White prosecuted for the Board. Compliance Officer, Betty Beil testified for the Board.

Mr. Sherrell was PIC of the pharmacy and was present only one or two days a week. He used relief pharmacists in his absence. He had two technicians that worked with these pharmacists and they were allowed to do tasks that a technician cannot do, i.e. take prescriptions over the phone and compound without supervision or review. Mr. Sherrell had not removed out of date drugs from the pharmacy after having been asked to do so during the previous inspection. He had received 3 warning notices in 2008. A relief pharmacist had released 20 CII prescriptions without being signed by a physician. Evidence and testimony were documented and presented to the Board.

Mr. Sherrell had indicated that he had been trying to run pharmacies in Kansas as well as the H & G Pharmacy. He indicated that the technicians knew what they were supposed to do. The ownership of H & G Medical and Infusion was shown to be owned by Mr. Sherrell and Douglas Baggett, also a licensed pharmacist.

Motion was made by Gordon Richards and seconded by Jim Spoon that based on the clear and convincing evidence presented, Mr. Sherrell and H & G Medical & Infusion be found guilty on all counts. Motion passed on roll call vote.

Motion was made by Bill Osborn and seconded by John Lassiter that Mr. Sherrell be fined \$100.00 per count for a total of \$500.00. He is to be placed on probation for a period of 1 year until November 20, 2009. The owners of H & G Medical & Infusion were fined \$3000.00 and required to attend a one-day pharmacy law seminar in 2008 and 2009 in addition to the required CE. The pharmacy is placed on probation for 1 year until November 20, 2009. Motion passed on roll call vote.

Board discusses Gary Nichols case with Attorney:

Motion was made for the Board to go into Executive Session to discuss the Gary Nichols case. Upon returning to regular session, President Gourley adjourned the meeting at 5:30 p.m.

Board adjourned at 5:30 p.m.