

MINUTES

OKLAHOMA STATE BOARD OF PHARMACY

2920 N Lincoln Boulevard, Suite A
Oklahoma City, OK 73105

June 28, 2017

Call to order:

President Wilson called the June 28, 2017 meeting of the Oklahoma State Board of Pharmacy (OSBP) to order at 8:30 a.m. with a roll call vote. All members were present.

Those present were:

Board Members: Justin Wilson, President
Kyle Whitehead, Vice-President
Greg Adams, Member
Mark St.Cyr, Member
Jim Spoon, Member
Stephen Dudley, Member

Board of Pharmacy: Cindy Fain, Chief Compliance Officer and Interim Executive Director
Gary LaRue, Senior Compliance Officer
Betty Beil, Senior Compliance Officer
Chelsea Church, Compliance Officer
Melissa Reichert, Compliance Officer
Marty Hendrick, Compliance Officer
Brinda White, Assistant Attorney General
Rhonda Jenkins, Executive Secretary

Guests: Robyn Janaway, Wal-Mart
Shannon Griggs, Wal-Mart
Amber Mathias-Hodges, Wal-Mart
Terry Cothran, OU College of Pharmacy
Nancy Williams, SWOSU College of Pharmacy
Victoria Felder, Norman Regional Health Systems
Derek Dennis, Walgreens
Diane Feightner, Walgreens
Becca Segrest, Cardinal
Debra Billingsley, OPHA
Travis Tate, HealthChoice

Approval of minutes and claims:

A motion was made by Dr. Kyle Whitehead and seconded by Dr. Mark St. Cyr to approve the May 3, 2017 minutes. Motion passed on roll call vote.

A motion was made by Dr. Kyle Whitehead and seconded by Dr. Mark St. Cyr to approve expense claims #5912-#5958, #H0359868-#H0359873, #H0360264, May and June payroll, expenses of the Executive Director and the May 2017 leave report of the Executive Director. Motion passed on roll call vote.

Cancellation of Pharmacists, Pharmacies, Facilities, and Technicians:

After a review of the cancellation lists presented, a motion was made by Dr. Mark St. Cyr and seconded by Dr. Jim Spoon to approve the cancellation lists of those that did not renew within the renewal time period. Motion passed on roll call vote.

Board reviews approved Continuing Education (CE) programs:

The Board reviewed the 2nd quarter list of CE programs that had been submitted and approved by the CE Committee in June 2017.

Motion was made by Dr. Jim Spoon and seconded by Dr. Greg Adams to accept the approved list of CE programs that had been submitted. Motion passed on roll call vote.

Board discusses building access keys:

The Board discussed the possibility of each member having key card access to the interior door on the Board of Pharmacy side. Office Manager, Mary Ann Terral discussed with the Board some of the concerns about the security of the building, liability and policies. The Board and staff agreed to allow access during business hours to those members that are interested.

Executive Director gives Agency report:

Building Report:

Executive Director Cindy Fain had Office Manager Mary Ann Terral give a report on the results of the testing that was done. She stated that Terracon had come and tested the windows in the Board room and in the NW corner office with high pressure. The window contractor came back and reinstalled the two windows prior to testing. Despite the repairs, the diverters were still installed incorrectly and there was leaking in the NW corner office and a few issues with the Board room window. Break metal and flashing may also be an issue. The builder also related that the building wrap is a vapor, but not a moisture barrier. Terracon also observed several areas with adhesive and cohesive failures on other windows, doors, and siding but did not include their visual findings in the report since they were not officially tested.

Ms. Terral also stated that no one is taking the responsibility and that it may become a shared responsibility. The Board feels that it may be time to get the Board attorney involved. Ms Terral also stated that Terracon wants to do more extensive testing which will cost the Board extra money. The Board agreed to allow Terracon to do the test if it will determine what the problem is.

The Director reported that the staff ordered new computers and laptops for the entire office. She stated that the current computers are 4-5 years old. The computers should be installed the first part of July.

OPhA Annual Meeting:

President Justin Wilson reported that he attended the OPhA Annual Meeting that was held in Kansas City, MO June 23-25, 2017. He explained that this is a consolidated meeting of PBA Health, Pharmacy Providers of Oklahoma (PPOK) and Oklahoma Pharmacist Association (OPhA). He stated that both the Board and OPHP had an informational booth set up.

NABP Annual Meeting:

Board Member Stephen Dudley reported that he attended the NABP Annual Meeting that was held in Orlando, FL May 19-24, 2017. He stated that former Executive Director John Foust was awarded the prestigious Lester Hosto award and that John's daughter was present to accept it for him. Mr. Dudley noted that the topics were very instructive and that he felt the USP 800 topic to be the most valuable. He noted that the Board had a booth and that he and former Board member Dorothy Gourley gave out several "Road to Nowhere II" videos.

Annual CE on USP 800:

The Director reported that the Board has scheduled Heith Crosby to present a free 3-hour Continuing Education (CE) session on the topic of USP 800 on Friday afternoon, September 22, 2017 at the Jim Thorpe Museum. The Board will provide a free lunch with the CE presentation beginning at 1:00 p.m.

Committee Meetings:

The Director reported that there were 79 volunteers for the USP 800 committee and about 35 volunteers for the Retail RMOP and Comingling/Automation committees. She stated that she worked with the chairmen of the committees and narrowed them down to 30 volunteers on each committee. She noted that the dates have been set and are as follows:

June 29, 2017 - Retail RMOP - Chairman Steve Pryor

July 6, 2017 - USP 800 - Chairman Eric Winegardner

July 13, 2017 - Comingling Packaging/Automation - Chairman Rodney Skinner

The Director noted that all meetings are scheduled from 9:00 a.m. to 12:00 p.m. and that currently there are both Board members and staff serving on all of the committees with only one Board member serving on the Comingling committee.

Preceptor Conference:

The Director noted that the OU/SWOSU Annual Preceptor Conference will be held August 15-16, 2017 in the Moore-Norman and Broken Arrow area. Compliance Officer Chelsea Church will report at the August 15th meeting and Dr. Fain will report at the August 16th meeting.

50 Year Pharmacists reception:

The Director noted that the Board will host a 50 Year Reception for Oklahoma pharmacists that have been licensed for 50 years in Oklahoma. The reception is tentatively scheduled for Tuesday, August 22, 2017 and will take place in the John A. Foust Board Room at the Board of Pharmacy building. The time will be announced at a later date.

National Association of State Controlled Substance Authorities (NASCSA):

The Director stated that NASCSA is having a state conference in San Antonio, TX on October 16-20, 2017. The agenda is diverse and informative and the Director noted that she would like to see all of the compliance officers attend this meeting. She stated that she felt that it would be very beneficial for the new compliance officer(s) to also attend.

A motion was made by Dr. Mark St. Cyr and seconded by Dr. Kyle Whitehead to allow the compliance officers to attend this meeting. Motion passed on roll call vote.

Tri-Regulatory Symposium:

The Director noted that she will be attending the Tri-Regulatory Symposium which will be held July 25 & 26, 2017. She stated that this meeting has been approved as a mission critical meeting.

Board discusses Pay for Performance 2018 Plan:

The Director stated that she is requesting that the Board consider the possibility of awarding Pay for Performance (PPM) for Board employees excluding the Executive Director. She then asked Office Manager Mary Ann Terral to explain the process. Ms. Terral stated that if the Board approves the request, it would still have to be approved by Cabinet Secretary Dr. Terry Cline and by the Office of Personnel Management (OPM). She explained that the Board must approve the request before the new fiscal year begins (July 1, 2017). She also explained that if it is approved by the Cabinet Secretary and OPM, the Board and the Director still determine whether to award the PPM.

Motion was made by Stephen Dudley and seconded by Dr. Kyle Whitehead to approve the Pay for Performance 2018 Plan. Motion passed on roll call vote.

P-4 Students:

The Director noted that there are students from both the University of Oklahoma and Southwestern Oklahoma State University Colleges of Pharmacy attending the Board meeting. All students will attend a Board meeting during their final year of college.

Board interviews Reciprocity and Score Transfer applicants:

The Board was called to order to interview twenty (20) Reciprocity applicants and one (1) Score Transfer applicant. All applicants had taken and passed the Oklahoma Multi-State Jurisprudence Exam.

Reciprocity:

Stephanie Bryant CO	Kristy Hurley..... NE	Samie Sabet-Sarvestani TX
Kristin Dwyer..... IA	Rhonda Johnson AR	Jacob Salmon TX
Alan Frydrychowski..... NY	Andrew Kim..... IL	Cody Steele MO
Jennifer Gass..... TX	Dana Korpan..... NM	James Tudor..... KY
William Graybeal..... VA	Kevin Maza OR	Stephen Webb..... TN
Gina Hanson..... SD	Amanda Moore KS	Ronnie Widdison..... UT
LuGina Harper NM	Anh Pham TX	

Score Transfer:

Byron Magedanz..... KY

OSBP vs. Debra Ann Mumford, Technician #21829 – Case No. 1463:

The Board was called to order by President Wilson to hear the case of Debra Ann Mumford. Ms. Mumford was not present but it was determined that she had been properly notified.

Assistant Attorney General Brinda White presented the Board with the Complaint for review. The Pharmacist in Charge (PIC) was asked by Asset Protection to begin weekly counts for noted negative adjustments on some controlled dangerous substances (CDS). Negative adjustments continued and he began daily counts for Hydrocodone 10/325 and Hydrocodone 7.5/325. The manager and the PIC then reviewed video and observed suspicious behavior by Ms. Mumford. She appeared to keep her hand closed after pouring double counted pills into a vial and then later putting her closed hand in her pocket. Ms. Mumford was interviewed and in a voluntary written statement admitted to stealing CDS for her own personal use. Ms. Mumford was terminated for theft of CDS.

Ms. White then presented the Board with an Agreed Order that had been signed by Ms. Mumford. By signing the Agreed Order, Ms. Mumford admits to guilt on all counts and accepts revocation of her technician permit.

Motion was made by Dr. Jim Spoon and seconded by Stephen Dudley to accept the Agreed Order. Motion passed on roll call vote.

OSBP vs. Lisa Prager, Technician #11559 – Case No. 1464:

The Board was called to order by President Wilson to hear the case of Lisa Prager. Ms. Prager was not present but it was determined that she had been properly notified.

Assistant Attorney General Brinda White presented the Board with the Complaint for review. Employees began a CDS perpetual inventory as part of their Diversion Prevention policy and procedure. The D.Ph. noticed that her perpetual inventory was off on Hydrocodone 10/325mg. She began an investigation and interviewed the respondent who admitted to taking the bottle of medication. Ms. Prager was terminated for theft of CDS.

Ms. White then presented the Board with an Agreed Order that had been signed by Ms. Prager. By signing the Agreed Order, Ms. Prager admits to guilt on all counts and accepts revocation of her technician permit.

Motion was made by Stephen Dudley and seconded by Dr. Greg Adams to accept the Agreed Order. Motion passed on roll call vote.

OSBP vs. Distinguish Pharmaceuticals, LLC d/b/a Distinguished Pharmacy #99-7653 – Case No. 1468:

The Board was called to order by President Wilson to hear the case of Distinguished Pharmacy. Representatives from Distinguished Pharmacy were not present. Registration Secretary, Rhonda Jenkins testified that Distinguished Pharmacy had been properly notified.

Assistant Attorney General, Brinda White presented the Board with the Complaint for review. Distinguished Pharmacy was charged with multiple violations of state and federal regulations and

rules including failing to have a pharmacist-in-charge (PIC) who is licensed by the Board.

Motion was made by Dr. Jim Spoon and seconded by Dr. Kyle Whitehead that based on the clear and convincing evidence presented, Distinguished Pharmacy be found guilty on all counts as charged. Motion passed on roll call vote.

Motion was made by Dr. Jim Spoon and seconded by Stephen Dudley that the pharmacy license held by Distinguished Pharmacy be revoked. Motion passed on roll call vote.

OSBP vs. Marley Drug, Inc. #99-7152 – Case No. 1466:

The Board was called to order by President Wilson to hear the case of Marley Drug, Inc. Representatives from Marley Drug were not present but it was determined that they had been properly notified.

Assistant Attorney General Brinda White presented the Board with the Complaint for review. Marley Drug was charged with multiple violations of state and federal regulations and rules including failing as a non-resident pharmacy, to make application and receive an annual non-resident pharmacy license at the fee set by the Board.

Ms. White then presented the Board with an Agreed Order. If the Board accepts the Agreed Order, Marley Drug would agree to the following: Marley Drug admits to guilt on all four (4) counts. The pharmacy agrees to pay a fine of \$375.00 per count for a total fine of \$1500.00 which is due June 28, 2017.

Motion was made by Stephen Dudley and seconded by Dr. Jim Spoon to accept the Agreed Order. Motion failed with Dr. Greg Adams, Dr. Kyle Whitehead and Dr. Jim Spoon voting “No”.

OSBP vs. Robert Brent Clevenger, D.Ph. #17326 – Case No. 1467:

The Board was called to order by President Wilson to hear the case of Robert Clevenger. Mr. Clevenger was not present but it was determined that he had been properly notified.

Assistant Attorney General Brinda White presented the Board with the Complaint for review. Mr. Clevenger was charged with multiple violations of state and federal regulations and rules including selling at retail, or offering for sale, dangerous drugs, medicines, chemicals or poisons for the treatment of disease, excluding agricultural chemicals and drugs or accepting prescriptions for the same, without first procuring a license from the Board.

Ms. White then presented the Board with an Agreed Order. If the Board accepts the Agreed Order, Mr. Clevenger would agree to the following: Mr. Clevenger admits to guilt on all four (4) counts. Mr. Clevenger agrees to pay a fine of \$187.50 per count for a total fine of \$750.00 which is due June 28, 2017.

Motion was made by Stephen Dudley and seconded by Dr. Jim Spoon to accept the Agreed Order. Motion failed with Dr. Greg Adams, Dr. Kyle Whitehead and Dr. Jim Spoon voting “No”.

Gurpreet Kaur appears before the Board:

The Board was called to order by President Wilson to hear the request of Gurpreet Kaur. Ms. Kaur was present. Virgil Van Dusen, Law Professor at Southwestern Oklahoma State University College of Pharmacy (SWOSU) testified for the Board. Ms Kaur is a reciprocity applicant that had taken and failed the Oklahoma Multi-State Jurisprudence exam (MPJE) twice. On her third attempt, Ms. Kaur had contacted Dr. Van Dusen requesting his help with specific questions that were on previous test. Dr. Van Dusen became concerned that Ms. Kaur may have violated the non-disclosure agreement with the National Association of Board of Pharmacy (NABP). Dr. Fain contacted NABP for instruction. NABP declared that Ms. Kaur did violate the non-disclosure agreement and her third test score was invalidated.

After a discussion with Ms. Kaur, a motion was made by Dr. Jim Spoon and seconded by Stephen Dudley to allow Ms. Kaur to retake the MPJE. She would need to complete an education program over ethics to be approved by Dr. Fain within the next 12 months. Ms. Kaur would need to complete the program before her license would be issued. Motion passed on roll call vote.

Board reviews applications for Executive Director position and considers the recommendation of the Search Committee and the Hiring of the Executive Director:

A motion was made by Dr. Greg Adams and seconded Stephen Dudley to go into Executive

Session to discuss the candidate application for the Executive Director position. Motion passed on roll call vote.

A motion was made by Stephen Dudley and seconded by Dr. Mark St. Cyr to return from Executive Session. Motion passed on roll call vote.

A motion was made by Dr. Greg Adams and seconded by Stephen Dudley that based on the recommendation of the Executive Director Search Committee, the Board would offer the position to Candidate A paying \$130,000.00 per year contingent on passing a background check. The deadline to accept or deny would be July 5, 2017 with a start date of July 15, 2017. After Candidate A accepts the position, the background check will need to be completed. Motion passed on roll call vote.

President Wilson adjourned the Board meeting:

A motion was made by Dr. Greg Adams and seconded by Dr. Mark St. Cyr to adjourn the Board meeting. Motion passed on roll call vote. President Wilson adjourned the Board meeting at 12:30 p.m.