

MINUTES

OKLAHOMA STATE BOARD OF PHARMACY

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

August 30, 2017

Call to order:

President Wilson called the August 30, 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:

Chelsea Church, Executive Director
Cindy Fain, Chief Compliance Officer
Betty Beil, Senior Compliance Officer
Brinda White, Assistant Attorney General
Rhonda Jenkins, Executive Secretary

Guests:

Shannon Griggs, Wal-Mart
Derek Dennis, Walgreens
Ryan Walker, Walgreens
Lorri Walmsley, Walgreens
Heather White, Walgreens
Rahi Bigdely, CVS
Adam Alonzo, CVS
Michael Schradd, CVS
Jill Shadid, OU College of Pharmacy
Nancy Williams, SWOSU College of Pharmacy
Becca Segrest, Cardinal Health
Debra Billingsley, OPHA
Travis Tate, HealthChoice
Mary Staples, NACDS
Aaron Ritchie, Hillcrest Medical Center
April Carpenter, OAG

President Wilson administers Oath of Office to Dr. James O. Spoon:

President Wilson conducted the first order of business by administering the Oath of Office to Dr. James Spoon. Dr. Spoon was re-appointed by Governor Fallin to succeed himself. His appointment is subject to Senate confirmation.

Re-Organization of the Board:

President Wilson opened the floor for re-organization of the officers of the Board. Motion was made by Dr. Greg Adams and seconded by Dr. Jim Spoon to elect Dr. Kyle Whitehead as President

and Dr. Mark St. Cyr as Vice-President. Motion passed on roll call vote. At that point, Dr. Whitehead presided as President.

Approval of minutes and claims:

A motion was made by Stephen Dudley and seconded by Dr. Greg Adams to approve the June 28, 2017 minutes. Motion passed on roll call vote.

A motion was made by Stephen Dudley and seconded by Dr. Greg Adams to approve July and August payroll, expenses of the Executive Director and the June and July 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. Justin Wilson and seconded by Dr. Mark St. Cyr to approve the cancellation lists of those that did not renew within the renewal time period. Motion passed on roll call vote.

Executive Director gives Agency report:

Building Report:

Executive Director Chelsea Church reported that Dr. Justin Wilson and Dr. Mark St. Cyr have agreed to be on the “building advisory” team. She stated that she would be updating them on building issues that may arise in between board meetings. She noted that during the August 22nd storm, the building had significant leakage on the southeast side of the Vet Board wing and in office 107 on the Board’s side. On August 17th, office 107 had another small leak. Dr. Church stated that she and Paul Haley, the state architect, had met on several occasions to discuss the building failures. The leaking situation is complex and may involve several of the outer layers of the building. The stone tiles on the building are also failing. It is still unclear as to whether it is a product flaw, design flaw or an installation error. There have been several meetings with the architect and the construction company to discuss the issues but no one wants to take responsibility. Dr. Church reported that the Board has hired Terracon to review the architect’s original building plans and specs and that they will provide a report with their interpretation of each company’s extent of fault. Dr. Church stated that she had \$1.3 million dollars moved into a building requisition fund. This shifts the money out of our revolving fund and enables us to reserve it for impending repairs and potential legal costs.

New Compliance Officer Positions:

Director Church stated that there have been 32 applicants for the two open positions for compliance officer. She noted that the plan is to conduct interviews the week of Labor Day and to hopefully have positions filled by the end of September.

OK Commission on Opioid Abuse:

Director Church reported that Chief Compliance Officer, Cindy Fain has been chosen as the pharmacist member of the nine person task force formed by Attorney General Mike Hunter. This task force has been formed to combat opioid addiction in Oklahoma. Dr. Fain gave a brief report on the meeting that she attended on August 29, 2017.

OPhA District Meeting:

Director Church stated that the OPhA District meetings have been scheduled and that the Board staff will be presenting CE at four of the ten meetings around the state. Those meetings sites are: Enid, Lawton, Tulsa and Oklahoma City.

USP 800 CE:

The Director reported that there are about 260 pharmacists that have RSVP’d for the 3-Hour CE program on September 22, 2017 at the Jim Thorpe Museum. She noted that Dr. Mark St. Cyr will give the opening and closing comments for the Board.

Rules Committee Meetings:

The Director reported that the USP 800 committee, the Retail RMOP committee and the Comingling/Packaging/Automation committee have each met a least one time and are making progress on promulgating rules for Board review and approval.

Preceptor Conference:

The Director noted that the OU/SWOSU Annual Preceptor Conference was held on August 15-16, 2017 in the Moore-Norman and Broken Arrow area. She stated that she presented the Board update and law review for the Oklahoma City area and that Chief Compliance Officer Cindy Fain presented in the Tulsa area.

50 Year Pharmacists reception:

The Director noted that the Board hosted a 50 year reception on August 22nd for pharmacists that have been licensed for 50 years or more. She stated that there were 8 honorees and their family members at the reception. She also stated the Dr. Greg Adams and Dr. Justin Wilson presented the 50 year certificates.

Tri-Regulatory Symposium:

The Director noted that Chief Compliance Officer Cindy Fain attended the Tri-Regulatory Symposium that was held July 25 & 26, 2017. Dr. Fain gave a brief report

Legislative Update:

Director Church asked the Board lobbyist Jimmy Durant to report on issues at the Capital.

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 discusses Designating NASCSA as a “Mission Critical” membership:

The Director presented the Board with the possibility of adding National Association of State Controlled Substances Authority (NASCSA) to the list of “Mission Critical” memberships. The Director feels that this membership would help in the growth and knowledge of the inspectors.

Motion was made by Dr. Justin Wilson and seconded by Dr. Greg Adams to approve the request to add NASCSA to the “Mission Critical” membership list. Motion passed on roll call vote.

Board discusses the Executive Director having a Purchasing Card (P-Card):

The Director requested that the Board allow her to have a P-Card for those occasions where the Agency Travel Agent may not be available to make travel arrangements or hotel reservations.

Motion was made by Dr. Jim Spoon and seconded by Stephen Dudley to grant the Executive Director a p-card with a cycle limit of \$5,000 and a \$1,000 single transaction limit. Motion passed on roll call vote.

Board interviews Reciprocity, Score Transfer and NAPLEX applicants:

The Board was called to order to interview sixteen (16) Reciprocity applicants, two (2) Score Transfer applicants and eight (8) NAPLEX applicants. All applicants had taken and passed the Oklahoma Multi-State Jurisprudence Exam and the NAPLEX if necessary.

Reciprocity:

Eric Adkins	NV	David Petrillo	MA
Edgardo Alvira.....	MO	Kathleen Reidelbach.....	FL
Nisreen Ayoub.....	NJ	Kristen Riddle.....	AR

William Briganti PA
Tamara Criswell AR
Margarette Kettering..... FL
Joseph Mauro AZ
Amanda Moore..... KS

Joni Sane SC
Siwhabya Shakhamoori MI
Terry Smith NH
Ngoc Tran KS
Megan Zepplin WI

Score Transfer:

Nicole Correll..... TX
Mona Kamali TX

NAPLEX:

John Bomkamp
Michael Chiu
Jaclyn Coffey
Praicy Matthew
Danielle Pearson
Kallee Pfeiffer
Aaron Ritchie
Paul Wallace

OSBP vs. Deborah Lauren Whitten, Technician #14756 – Case No. 1473:

The Board was called to order by President Whitehead to hear the case of Deborah Lauren Whitten. Ms. Whitten 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. It was determined that after the 2017 annual inventory, counts appeared to be off on Butalbital/Acetaminophen/Caffeine 50/300/40 and Fioricet with Codeine 50/300/40/30. The pharmacy manager was instructed to begin daily counts on these two medications. The daily counts showed continuing losses. Ms. Whitten was interviewed by the Asset Protection Manager. In a voluntary written statement, Ms. Whitten admitted to stealing the medications for her own personal use. Ms. Whitten was terminated for theft.

Ms. White then presented the Board with an Agreed Order that had been signed by Ms. Whitten. By signing the Agreed Order, Ms. Whitten 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. Christopher James Hennan, Technician #9752 – Case No. 1474:

The Board was called to order by President Whitehead to hear the case of Christopher James Hennan. Mr. Hennan 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. While working in the hazardous sterile compounding room Mr. Hennan fell. He stated that his shoe covers caused him to slip. He was told to go to Employee Health to be checked. Due to the “slip, trip, fall” requirement of OSHA, a drug screen was conducted. Mr. Hennan was sent home pending the results of the drug screen and the hospital’s investigation. Due to the results of the drug screen and the investigation, it was determined that Mr. Hennan had violated the alcohol free workplace policy and was terminated for testing positive for Marijuana.

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

Motion was made by Dr. Justin Wilson and seconded by Dr. Mark St. Cyr to accept the Agreed Order. Motion passed on roll call vote.

OSBP vs. Stacy Russell, Technician #12624 – Case No. 1465:

The Board was called to order by President Whitehead to hear the case of Stacy Russell. Ms. Russell 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) notified the Board that Ms. Russell had diverted around 10,000 Oxycodone. Because Ms. Russell had been acting strangely, when she left to go to lunch, the PIC looked in her purse and found two full pill bottles there. Ms. Russell had left her purse in a cabinet in the pharmacy in violation of the pharmacy policies. When Ms. Russell returned from lunch she was confronted by the PIC and then terminated. The PIC completed a statement for the police department stating that Ms. Russell had been adjusting and editing inventory in the computer system

to cover the theft of the pills. Compliance Officer, Marty Hendrick along with agents from OBN and DEA interviewed Ms. Russell in the presence of her attorney. She stated that she did not steal the pills and that she was planning to quit at the time she was terminated. She also stated that another technician had access to the PIC's password and did the C2 narcotic ordering and that he had friends with drug problems. Ms. Russell confirmed that she did not have anything to do with the theft of the Oxycodone but that she did overfill her guy friend's prescription twice.

Ms. White then presented the Board with an Agreed Order that had been signed by Ms. Russell. By signing the Agreed Order, Ms. Russell neither admits nor denies guilt on all counts but accepts revocation of her technician permit.

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

OSBP vs. Kenneth Wayne Bailes, II, D.Ph. #15148 – Case No. 1476:

The Board was called to order by President Whitehead to hear the case of Kenneth Wayne Bailes, II. Mr. Bailes was present and chose to appear without Counsel.

Assistant Attorney General Brinda White presented the Board with the Complaint for review. Mr. Bailes was charged with multiple violations of state and federal regulations and rules including knowingly or intentionally possessing a controlled dangerous substance which was not obtained directly, or pursuant to a valid prescription or order from a practitioner, while acting in the course of his professional practice.

Ms. White then presented the Board with an Agreed Order. If the Board accepts the Agreed Order, Mr. Bailes would agree to the following: Mr. Bailes admits to guilt on all five (5) counts. His pharmacist license is suspended for one (1) year until August 30, 2018. Mr. Bailes must continue his contract with Oklahoma Pharmacists Helping Pharmacists (OPHP). After August 30, 2018 Mr. Bailes may petition the Board and request that the suspension be stayed and that he be placed on probation. Probation may be granted at the Board's discretion upon showing compliance with OPHP and that his resumed practice would not put the public at risk. Mr. Bailes agrees to obtain a fit-for-duty evaluation from an approved OPHP provider and be found to be fit-for-duty before returning to work. Mr. Bailes would agree to attend a one-day (8 hour) law seminar in addition to the required fifteen (15) hours of CE during the calendar years of 2017 and 2018 for a total of twenty-three (23) hours of CE during these calendar years. All 15 hours of required CE that Mr. Bailes must have to renew his license shall be live during the calendar years of 2017.

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

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

The Board was called to order by President Whitehead 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 \$1900.00 per count for a total fine of \$7600.00 which is due August 30, 2017.

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

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

The Board was called to order by President Whitehead 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 \$225.00 per count for a total fine of \$900.00 which is due August 30, 2017.

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

OSBP vs. Wellston Clinic Pharmacy #31-5799 – Case No. 1471:

The Board was called to order by President Whitehead to hear the case of Wellston Clinic Pharmacy. Katherine Dossey, Owner and PIC was present with Attorney Marvel Lewis.

Assistant Attorney General Brinda White presented the Board with the Complaint for review. Wellston Clinic Pharmacy was charged with multiple violations of state and federal regulations and rules including failing to establish and maintain effective controls against the diversion of drugs for any other purpose than legitimate medical, scientific or industrial uses as provided by state, and federal, and local law.

Ms. White then presented the Board with an Agreed Order. If the Board accepts the Agreed Order, Wellston Clinic Pharmacy would agree to the following: Wellston Clinic Pharmacy admits to guilt on all one hundred forty-nine (149) counts. The pharmacy is placed on probation for four years from October 1, 2017 until October 1, 2021. During the time of probation, the pharmacy's PIC shall work inside the pharmacy no fewer than twenty-four (24) hours per week. The pharmacy agrees to pay a fine of \$100.00 per count for a total fine of \$14,900.00 which is due August 30, 2017. Respondents must do a perpetual inventory on all CDS and must conduct actual on-hand counts of Oxycodone-containing products, Hydrocodone-containing products, Adderall, Alprazolam, and Carisoprodol every two weeks for one year. Only a pharmacist shall have access to and order CII's. This process shall start immediately to change the Controlled Substance Ordering System (CSOS) certification. This change shall be completed within six (6) months; by February 28, 2018. All users shall have individual passwords.

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. Katherine Sisney Dossey, D.Ph. #10322 – Case No. 1472:

The Board was called to order by President Whitehead to hear the case of Katherine Sisney Dossey. Ms. Dossey was present with Attorney Marvel Lewis.

Assistant Attorney General Brinda White presented the Board with the Complaint for review. Ms. Dossey was charged with multiple violations of state and federal regulations and rules including failing to establish and maintain effective controls against the diversion of drugs for any other purpose than legitimate medical, scientific or industrial uses as provided by state, and federal, and local law.

Ms. White then presented the Board with an Agreed Order. If the Board accepts the Agreed Order, Ms. Dossey would agree to the following: Ms. Dossey admits to guilt on all one hundred forty-nine (149) counts. Ms. Dossey's pharmacist license is suspended for thirty (30) days beginning October 1, 2017 until October 30, 2017. Beginning October 31, 2017 Ms. Dossey's license will be placed on probation for four years until October 31, 2021. Ms. Dossey shall not work as PIC from October 1, 2017 until October 1, 2018. Ms. Dossey would agree to attend a one-day (8 hour) law seminar in addition to the required fifteen (15) hours of CE during the calendar years of 2017, 2018, 2019, 2020 and 2021 for a total of twenty-three (23) hours of CE during these calendar years. All 15 hours of required CE that Ms. Dossey must have to renew her license shall be live during the calendar years of 2017, 2018, 2019, 2020, and 2021. Respondents must do a perpetual inventory on all CDS and must conduct actual on-hand counts of Oxycodone-containing products, Hydrocodone-containing products, Adderall, Alprazolam, and Carisoprodol every two weeks for one year. Only a pharmacist shall have access to and order CII's. This process shall start immediately to change the

CSOS certification. This change shall be completed within six (6) months; by February 28, 2018. All users shall have individual passwords.

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

Board holds discussion on the employment, hiring and appointment of Chelsea Church as Executive Director:

Motion was made by Stephen Dudley and seconded by Dr. Greg Adams to go into Executive Session. Motion passed on roll call vote.

Motion was made by Dr. Justin Wilson and seconded by Dr. Jim Spoon to return from Executive Session. Motion passed on roll call vote.

Motion was made by Dr. Greg Adams and seconded by Stephen Dudley that the appointment of Dr. Church as Executive Director shall also include the Chief Pharmacist Inspector duties which include planning, conducting and overseeing investigations, audits, and inspections; supervision of compliance officers and pharmacist inspectors; and other law enforcement duties as necessary to carry out the provisions of the Oklahoma Pharmacy Act. Motion passed unanimously on roll call vote.

President Whitehead adjourned the Board meeting:

A motion was made by Dr. Justin Wilson and seconded by Dr. Greg Adams to adjourn the Board meeting. Motion passed on roll call vote. President Whitehead adjourned the Board meeting at 12:52 p.m.