

MINUTES

OKLAHOMA STATE BOARD OF PHARMACY

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

October 4, 2017

Call to order:

President Whitehead called the October 4, 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:

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

Board of Pharmacy:

Chelsea Church, Executive Director
Cindy Fain, Chief Compliance Officer
Gary LaRue, Senior Compliance Officer
Melissa Reichert, Compliance Officer
Keevie Ridener, Compliance Officer
Jeremy Davis, Compliance Officer
Brinda White, Assistant Attorney General
Rhonda Jenkins, Executive Secretary

Guests:

Shannon Griggs, Wal-Mart
Robyn Janaway, Wal-Mart
Derek Dennis, Walgreens
Ryan Walker, Walgreens
Rahi Bigdely, CVS
John Rocchio, CVS
Jill Shadid, OU College of Pharmacy
Terry Cothran, OU College of Pharmacy
Nancy Williams, SWOSU College of Pharmacy
Debra Billingsley, OPHA
Travis Tate, HealthChoice
Darla Jurgensen, Pharmcare
Christa Gerber, CL Gerber, Inc.
Max Burchett-Zuniga, OK City Urban Indian Clinic
Burl Beasley, OK Health Care Authority
Rian Andresen, OBN
Courtney Chedester, Intern
Sharon Patch, Guest

Approval of minutes and claims:

A motion was made by Stephen Dudley and seconded by Dr. Justin Wilson to approve the August 30, 2017 minutes. Motion passed on roll call vote.

A motion was made by Stephen Dudley and seconded by Dr. Justin Wilson to approve expense claims #5959-#6030, #H0361371, #H0362081-#H0362086, #H0363243, #H0364045-

#H0364050, #H0265153, #H0366117-#H0366122, #H0367027, #H0368248-#H0368253, September payroll and the expenses of the Executive Director. Motion passed on roll call vote.

A motion was made by Dr. Jim Spoon and seconded by Stephen Dudley to approve the August and September 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. Greg Adams to approve the cancellation lists of those that did not renew within the renewal time period. Motion passed on roll call vote.

Board sets future Board meetings:

The Board set the next two Board meeting dates for Wednesday, February 28, 2018 and Wednesday, April 18, 2018. The next regular scheduled meeting is set for Wednesday, January 17, 2018.

Board reviews approved Continuing Education (CE) programs:

The Board reviewed the 3rd quarter list of CE programs that had been submitted and approved by the CE Committee on September 29, 2017.

Motion was made by Dr. Justin Wilson and seconded by Dr. Mark St. Cyr to accept the approved list of CE programs that had been submitted. Motion passed on roll call vote.

Executive Director gives Agency report:

Building Report:

Executive Director Chelsea Church, reported that she hopes to have the review from Terracon on Krittenbrink's original building plans and specs by Friday October 6th. Once the report has been received, she and State Architect Paul Haley will meet to discuss the options. She stated that we continue to have leaking issues with heavy rains.

New Compliance Officer Positions:

Director Church stated that there were 11 candidates interviewed for the compliance officer positions and that they were all really good. She stated that 2 new compliance officers have been hired and are from the Tulsa area. The Director then introduced Jeremy Davis and Keevie Ridener and stated that they officially started in September.

OK Commission on Opioid Abuse:

Director Church reported that she will be replacing Chief Compliance Officer Cindy Fain as the pharmacist member of the nine person task force that was formed by Attorney General Mike Hunter to combat opioid addiction in Oklahoma.

OPhA District Meeting and OSBP Law CE:

Director Church stated that Chief Compliance Officer Cindy Fain presented the Board of Pharmacy CE at Enid on September 14th and Lawton on September 28th. She noted that we had 5 people attend in Enid and 8 attend in Lawton. The Director stated that Compliance Officer Melissa Reichert will present the Tulsa CE on October 5th and that she plans to present to Oklahoma City on October 26th.

OSBP USP 800 CE Luncheon:

The Director reported that we had a record number of 298 pharmacists attend the 3-hour CE program on September 22, 2017 that was presented by Heath Crosby. The staff has received positive feedback on the program. The Director stated that she would like to continue to sponsor educational opportunities for pharmacists in the future. She noted that we did not provide ACPE-accredited CE but that did not seem to hinder the participation.

Rules Committee Meetings:

The Director reported that the USP 800 Committee, the Retail RMOP Committee, and the Comingling/Packaging/Automation Committee have each met numerous times and are making progress on promulgating rules for Board review and approval.

FDA Intergovernmental State Compounding Meeting:

The Director stated that she attended the meeting at the FDA campus on September 26th & 27th. She noted that all 50 states had representation at the meeting and that the networking opportunity was great.

Legislative Update:

Director Church asked the Board lobbyist Jimmy Durant to provide an update on the upcoming issues with the special session. There will be an interim study on medical marijuana next month by Representative J.P. Jordan. She stated that she had been asked to present what the Board of Pharmacy does and how it fits for us to regulate the medical marijuana instead of the Department of Health.

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 NAPLEX applicants:

The Board was called to order to interview nine (9) Reciprocity applicants and one (1) NAPLEX applicant. All applicants had taken and passed the Oklahoma Multi-State Jurisprudence Exam and the NAPLEX if necessary.

Reciprocity:

Jennifer Almon	TN	Sonya Giess.....	KS
Nickolaus Banda	AZ	Daniel Hom	NY
Ruth Cooper	TX	Briana Moe.....	HI
Angelee Dean	UT	Benjamin Schneider.....	MO
Andrew Evanich	PA		

NAPLEX:

Kristen Rowe

OSBP vs. Fallon Ward, Technician #9934 – Case No. 1478:

The Board was called to order by President Whitehead to hear the case of Fallon Ward. Ms. Ward 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. Compliance Officer, Melissa Reichert, was notified about a potential diversion occurring at Pruetts Food-Pharmacy #9. The Pharmacist in Charge (PIC) had reported that random narcotic counts were off anywhere from 1-2 tablets and up to 10-12 tablets. The PIC had been told by another technician that she had seen Ms. Ward put two pills from the out of date narcotic area in her pocket. Compliance Officer, Melissa Reichert, interviewed Ms. Ward about the possible diversion. Ms. Ward originally stated that she had not stolen anything from the pharmacy. After a few minutes she confessed to taking one tablet of a pain medication from the out-of-date section of the pharmacy. She stated that this was the only thing she had ever taken illegally from the pharmacy. She refused to sign a voluntary statement the day of the interview and requested additional time to consider signing a voluntary statement. After the interview, Ms. Ward told the PIC what she had told Compliance Officer Reichert. The PIC told Ms. Ward that it would be best if she gathered her belongings and ended her employment effective immediately. Ms. Ward then met Compliance Officer Reichert to sign a voluntary statement.

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

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

OSBP vs. Nathan David Forest, Intern #8987 – Case No. 1475:

The Board was called to order by President Whitehead to hear the case of Nathan David Forest. Mr. Forest was present with Counsel.

Assistant Attorney General, Brinda White presented the Board with the Complaint for review. Mr. Forest was non-compliant with his self-referred contract with Oklahoma Pharmacists Helping Pharmacists (OPHP). The OPHP Board discussed his case and recommended to Southwestern Oklahoma State University (SWOSU) that Mr. Forest be suspended from his rotation for the next semester until the issue could be resolved. This action requires that his intern license be voided.

Ms. White then presented the Board with an Agreed Order. If the Board accepts the Agreed Order, Mr. Forest would agree to the following: Mr. Forest would admit to guilt on all three (3) counts. His intern license is suspended for one (1) year until October 4, 2018. Mr. Forest shall enter into and abide by a ten-year contract with OPHP and shall obtain a fit-for-duty evaluation from an OPHP approved provider. After October 4, 2018, Mr. Forest 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 for at least one year with his OPHP contract and that he has been found fit-for-duty and that resumed practice would not put the public at risk.

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

OSBP vs. Dallas Nimsey, D.Ph. #13774 – Case No. 916 – Request for Probation to be lifted:

The Board was called to order by President Whitehead to hear the request of Dallas Nimsey. Mr. Nimsey was present with his brother Shane Nimsey. OPHP Director Kevin Rich testified on his behalf.

After a brief discussion with both Mr. Nimsey and Mr. Rich on his progress, a motion was made by Dr. Justin Wilson and seconded by Stephen Dudley to grant the request of Mr. Nimsey that his probation be lifted. Motion passed on roll call vote.

Retail Remote Medication Order Processing (RMOP) Chairman Steve Pryor appears before the Board for presentation of RMOP rules:

The Board was called to order to hear a report from the RMOP Chairman, Steve Pryor. Dr. Pryor reported that on a vote of 18-2, the committee agreed to present the proposed regulations for consideration. He explained some of the steps taken in the committee's decision-making process. Main points: A Retail RMOP pharmacy must be licensed in Oklahoma and have an Oklahoma-licensed PIC. If the pharmacy is a non-resident RMOP, staff pharmacists must be licensed and in good-standing with the residing state of practice. If policy and procedures are in place, an Oklahoma-licensed pharmacist may perform the RMOP duties from their home if they reside in Oklahoma.

The Retail RMOP pharmacy may utilize auxiliary personnel for data entry under the direct supervision of a pharmacist. The pharmacist must approve the data entry before submitting to the dispensing pharmacy. The verifying pharmacy must have access to the original prescription, drug order, or electronic data. Patients must be notified that data processing may be outsourced to another pharmacy and provide the address and other information to the patient.

The intent of allowing a Retail RMOP pharmacy to process orders is to improve patient care by freeing up time for a pharmacist to counsel or provide immunizations. The ultimate goal is patient safety.

Motion was made by Dr. Greg Adams and seconded by Dr. Mark St. Cyr to accept the report under advisement for review and to come back with questions as needed. Motion passed on roll call vote.

OSBP vs. 23RD Street Pharmacy, LLC, #1-6693 – Case No. 1469:

The Board was called to order by President Whitehead to hear the case of 23rd Street Pharmacy, LLC. Thao Nguyen Thi Phan, Owner and PIC was present with her husband Mickey Phan, DPh and part owner and was also represented by Counsel.

Assistant Attorney General Brinda White presented the Board with the Complaint for review.

23rd Street Pharmacy was charged with multiple violations of state and federal regulations and rules including selling, offering for sale or bartering or buying any professional samples except through a program pursuant to the Utilization of Unused Prescription Medications Act.

Ms. White then presented the Board with a Final Order. If the Board accepts the Final Order, 23rd St. Pharmacy would agree to the following: 23rd St. Pharmacy neither admits nor denies guilt on all one-hundred forty-eight (148) counts. The pharmacy is placed on probation for five (5) years until October 4, 2022. The pharmacy agrees to pay a fine of \$1804.00 per count for a total fine of \$267,000.00. The pharmacy shall pay \$10,000.00 per month beginning on November 1, 2017 with full payment being made on or before January 1, 2020.

Motion was made by Dr. Justin Wilson and seconded by Dr. Jim Spoon to accept the Final Order. Motion passed on roll call vote.

OSBP vs. Thao Nguyen Thi Phan, D.Ph. #13346 – Case No. 1470:

The Board was called to order by President Whitehead to hear the case of Thao Nguyen Thi Phan. Ms. Phan was present with her husband, Mickey Phan, D.Ph. and was also represented by Counsel.

Assistant Attorney General, Brinda White presented the Board with the Complaint for review. Ms. Phan was charged with multiple violations of state and federal regulations and rules including selling, offering for sale or bartering or buying any professional samples except through a program pursuant to the Utilization of Unused Prescription Medications Act.

Ms. White then presented the Board with a Final Order. If the Board accepts the Final Order, Ms. Phan would agree to the following: Ms. Phan neither admits nor denies guilt on all one-hundred fifty four (154) counts. Ms. Phan's license is suspended for one year from November 1, 2017 until November 1, 2018. After November 1, 2018 Ms. Phan's suspension is lifted and her license is placed on probation for five (5) years until November 1, 2023.

Motion was made by Dr. Justin Wilson and seconded by Dr. Jim Spoon to accept the Final Order. Motion passed on roll call vote.

Board holds discussion on the resignation of the Chief Compliance Officer:

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

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

President Whitehead adjourned the Board meeting:

A motion was made by Dr. Justin Wilson and seconded by Dr. Mark St. Cyr to adjourn the Board meeting. Motion passed on roll call vote. President Whitehead adjourned the Board meeting at 12:22 p.m.