

## MINUTES

### OKLAHOMA STATE BOARD OF PHARMACY

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

**February 26, 2020**

**Call to order:**

President Adams called the February 26, 2020 meeting of the Oklahoma State Board of Pharmacy (OSBP) to order at 8:30 am with a roll call vote. All members were present.

**Those present were:**

**Board Members:**

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

**Board of Pharmacy:**

Marty Hendrick, Executive Director  
Gary LaRue, Deputy Director  
Melissa Reichert, Compliance Officer  
Keevie Ridener, Compliance Officer  
Marjan Fardadfar, Compliance Officer  
Kim Hibbard, Compliance Officer  
Darrell Switzer, Compliance Officer  
John Settle, Assistant Attorney General  
Rhonda Jenkins, Executive Secretary

**Guests**

Shannon Griggs, Wal-Mart  
Robin Janaway, Wal-Mart  
Lacy McConnell, Wal-Mart/Sams  
Derek Dennis, Walgreens  
Michelle Thomas, Walgreens  
Lorri Walmsley, Walgreens  
John Rocchio, CVS Health  
Mary Staples, NACDS  
Jill Shadid, OU College of Pharmacy  
Nancy Williams, SWOSU College of Pharmacy  
Randy Curry, SWOSU College of Pharmacy  
Na'Dra Robertson, South College  
Debra Billingsley, OPhA  
David Smith, DPh  
Ashley Wheeler, KJRH  
Erin Conrad, KJRH  
Chase Horn, KFOR  
Chris McBee, KFOR  
Shelley Seeberg, UFCW  
Taylor Vann, Intern  
Ngan-Dinh Nguyen, Intern

**President Adams administers Oath of Office to Kyle Whitehead:**

President Adams conducted the first order of business by administering the Oath of Office to Kyle Whitehead. Dr. Whitehead was re-appointed by Governor Stitt to serve a second term as a member of the Board.

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**Approval of minutes and claims:**

A motion was made by Dr. Jim Spoon and seconded by Dr. Justin Wilson to approve the January 15, 2020 minutes. Motion passed on roll call vote.

A motion was made by Dr. Kyle Whitehead and seconded by Jason Willeford to approve the expense claims #6799-#6830, #H0420230-#H0420235 and the January and February payroll. Motion passed on roll call vote.

A motion was made by Dr. Jim Spoon and seconded by Dr. Mark St. Cyr to approve the January 2020 leave report of the Executive Director. Motion passed on roll call vote.

**Cancellation of Pharmacist, Pharmacies, Facilities, and Technicians:**

After a review of the cancellation list previously viewed, a motion was made by Dr. Justin Wilson and seconded by Dr. Mark St.Cyr to approve the cancellation list of those that did not renew within the renewal time period. Motion passed on roll call vote.

**Board discusses standing CE policy to accept CE from other Medical Boards:**

Director Hendrick explained that during a recent CE Audit it was determined that many of the dual license holders use their medical CE to renew their pharmacist license. He noted that the CE Committee had met and discussed whether or not there should be a standing policy to accept the CE from other "medical" Boards. The CE Committee recommended to the Board to accept approved CE from the Medicine, Dentistry and Veterinary Boards.

A motion was made by Dr. Jim Spoon and seconded by Dr. Justin Wilson to accept the recommendation of the CE Committee. Motion passed on roll call vote with Dr. Mark St.Cyr voting "No".

**Board discusses the "Do No Harm CE":**

Director Hendrick reported to the Board that the CE entitled "Do No Harm: Putting Safer Pain Management Guidelines into Practices Online Enduring Material" that the Board contributed to has now been completed and is ready to go on the website for pharmacist to take free of charge.

The Board discussed different topics of the program and felt that at this point the program did not need to be made mandatory. They stated that they would like to take it before it is posted on the website.

**Board discusses the State Auditor and Inspector report:**

Director Hendrick reported to the Board that the agency had recently undergone an audit that was conducted by the State Auditor. He reviewed the findings with the Board and stated that overall the report looked good. Director Hendrick discussed with the Board some things that might possibly need to be changed in the future.

**Board sets future Board meeting(s):**

The Board set Wednesday July 15, 2020 as a scheduled Board meeting. The next two scheduled Board meeting dates are Wednesday March 25, 2020 and Wednesday May 20, 2020.

**Board welcomes P-4 Students:**

The Board welcomed the 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.

**Executive Director gives Agency report:**

**Building Update:**

Director Hendrick reported that Attorney Erin Moore, will update the Board during the March meeting. He stated that currently arbitration is scheduled for April 15, 2020. He also noted that the building has developed more leaks in the front entry along with several leaks in the Deputy Director's office.

**Executive Order:**

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Director Hendrick reported that the Governor has put into effect Executive Order 2020-03. He explained that this order directs any agency that proposes new regulatory restriction through the rule making policy to identify 2 existing regulatory restrictions to be revoked. He stated that the goal is to reduce regulatory restrictions to 25% below the regulatory baseline.

**New Assigned Compliance Office Map:**

Director Hendrick reported that a new map for inspection areas for compliance officers is now available on the website. He noted that the inspection areas have changed somewhat and that the division of the state should help with driving time for the inspectors.

**Legislative Update:**

Director Hendrick gave the Board a brief update on the issues at the Capital. Below are the topics that were discussed:

- **HB 3862 – Optometry Scope of Practice** - The language in this bill allows Optometrist to dispense medications.
- **HB 3791 – Substitution of Biologics**- This bill allows for substitution for biologic products. (The Oklahoma Board of Pharmacy will provide a link to the FDA website for the purpose of recognized biologic substitutes).
- **SB 1502 – Technician Ratio and Supportive Personnel** – This bill addresses the technician ratio for pharmacies. The ratio stays the same for retail pharmacies without compounding but changes for hospitals and compounding pharmacies.
- **SB 1891 – Universal Occupational License Recognition Act** – Anyone licensed in another state can be licensed in Oklahoma for the same discipline.
- **HB 2931 – Uniform Controlled Dangerous Substance Act** – This bill is for correcting some of the E-Rx problems encountered and to provide more exemptions.
- **SB 940 – Canadian Drug Imports** – There are multiple bills on this topic but all share the same basic idea of using Canadian drugs in the US as a way to control the cost of medications.

**Upcoming Travel:**

Director Hendrick stated that there are several Mission Critical trips coming up in the spring. He stated that APhA will be having its annual meeting March 20<sup>th</sup> - March 23<sup>rd</sup> in Harbor, MD and that he and Compliance Officer, Marjan Fardadfar will be attending. He reported that in May, NABP will have their annual meeting in Baltimore, MD May 14<sup>th</sup> – May 16<sup>th</sup>. The meeting for Unify along with the Oklahoma Pharmacist Association Annual Meeting will be held June 12<sup>th</sup> - June 14<sup>th</sup> in Tulsa, OK.

Director Hendrick also reported that Dr. Greg Adams attended the NABP Interactive meeting in Chicago, IL in January. Dr. Adams gave a brief review of the meeting.

**Possible Committee Creation:**

Director Hendrick reported that in light of recent events, the OSBP staff is exploring the possible need for a committee to review rules regarding “adequate staffing”.

**Dat Nguyen, D.Ph. of Your Rx Pharmacy appears before the Board to request suspension on his license be lifted:**

The Board was called to order by President Adams to hear the request of Dat Nguyen. Mr. Nguyen had a case on June 12, 2019 to which he failed to appear. At that time, the Board suspended his pharmacist license and stated that he may petition the

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Board to appear and request that the suspension be lifted. Mr. Nguyen's request was that the suspension on his license be lifted so that he could renew his Texas license. He stated that if it is granted, he would then cancel his Oklahoma license.

After a brief discussion, a motion was made by Dr. Justin Wilson and seconded by Jason Willeford to lift the suspension on Mr. Nguyen's license in order for him to be allowed to renew his Texas license. His Oklahoma license would be cancelled and if he chose to reinstate he would have to appear before the Board. Motion passed on roll call vote.

**Marius Maree of OptumRx appears before the Board to request Board approval of a pilot program to review prescriptions that will be filled by other OptumRx locations:**

The Board was called to order to hear the request of OptumRx. Pharmacist in Charge (PIC) Marius Maree, was present along with Joe Edwards DPh., Tam Bui, D.Ph. and Karen Peterson, D.Ph. OptumRx is asking that they be allowed to take faxed or verbal orders and input them. These orders would then be pulled to another facility out of state to be filled.

After a brief discussion, the Board thanked representatives from OptumRx for their presentation. The Board chose to table their decision until more information could be reviewed and to verify that approving a pilot program wouldn't break a statute.

**OSBP vs. Shelly Decker, Technician #25478, Case No. 1581:**

The Board was called to order by President Adams to hear the case of Shelly Decker. Ms. Decker was not present. Registration Secretary, Rhonda Jenkins testified that Ms. Decker had been properly notified. Compliance Office, Melissa Reichert testified for the Board. Assistant Attorney General, John Settle prosecuted for the Board.

Mr. Settle presented the Board with the Complaint for review. Compliance Officer, Melissa Reichert received a call from the PIC of Wal-Mart where Ms. Decker was employed stating that Ms. Decker had been terminated for theft. In a written voluntary statement, Ms. Decker admitted to taking approximately \$1500.00 from the pharmacy tills. It was determined that she would take it out of the register and pocket it or she would take it as she was transporting the register tills from the pharmacy to the accounting office.

Motion was made by Dr. Jim Spoon and seconded by Dr. Mark St. Cyr that based on the clear and convincing evidence presented, Ms. Decker be found guilty as charged. Motion passed on roll call vote.

Motion was made by Dr. Jim Spoon and seconded by Dr. Mark St. Cyr that the technician permit of Shelly Decker be revoked. Motion passed on roll call vote.

**OSBP vs. Jennifer Bierd, Technician #6068, Case No. 1580:**

The Board was called to order by President Adams to hear the case of Jennifer Bierd. Ms. Bierd was not present. Registration Secretary, Rhonda Jenkins testified that Ms. Bierd had been properly notified. Compliance Office, Melissa Reichert testified for the Board. Assistant Attorney General, John Settle prosecuted for the Board.

Mr. Settle presented the Board with the Complaint for review. Harrison Discount Pharmacy received a call from a credit card processing company stating that a credit card refund had exceeded \$1000.00 and it was issued to an account that didn't have any purchases on record at the store. The agent stated that there were multiple refunds issued to the same credit card account over an extended period of time. Ms. Bierd sent the PIC a text stating that she was responsible for the illegal credit card funds and that she estimated the total to be about \$13,000.00. Ms. Bierd was terminated for embezzlement of money through credit card processing.

Motion was made by Dr. Justin Wilson and seconded by Jason Willeford that based on the clear and convincing evidence presented, Ms. Bierd be found guilty as charged. Motion passed on roll call vote.

Motion was made by Dr. Justin Wilson and seconded by Jason Willeford that the technician permit of Jennifer Bierd be revoked. Motion passed on roll call vote.

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**OSBP vs. Cindy Riggs, Technician #12633, Case No. 1582:**

The Board was called to order by President Adams to hear the case of Cindy Riggs. Ms. Riggs was not present. Registration Secretary, Rhonda Jenkins testified that Ms. Riggs had been properly notified. Deputy Director, Gary LaRue testified for the Board. Assistant Attorney General, John Settle prosecuted for the Board.

Mr. Settle presented the Board with the Complaint for review. The Board received notification from Family Discount Pharmacy that Ms. Riggs in no longer employed due to criminal charges that were filed against her in 2017. Ms. Riggs was charged with Child Neglect and Maintaining Place for Keeping/Selling Controlled Dangerous Substance (CDS). These charges are both felony charges.

Motion was made by Dr. Mark St. Cyr and seconded by Dr. Jim Spoon that based on the clear and convincing evidence presented, Ms. Riggs be found guilty as charged. Motion passed on roll call vote.

Motion was made by Dr. Mark St. Cyr and seconded by Dr. Justin Wilson that the technician permit of Cindy Riggs be revoked. Motion passed on roll call vote.

**OSBP vs Richard Dandridge, D.Ph. #12894, Case No. 1584:**

The Board was called to order by President Adams to hear the case of Richard Dandridge. Mr. Dandridge was not present. Registration Secretary, Rhonda Jenkins testified that Mr. Dandridge had been properly notified. Deputy Director, Gary LaRue testified for the Board. Assistant Attorney General, John Settle prosecuted for the Board.

Assistant Attorney General, John Settle presented the Board with the Complaint for review. Mr. Dandridge was charged with multiple violations of state and federal regulations and rules including violating rules of professional conduct which may also be called unprofessional conduct.

Motion was made by Dr. Jim Spoon and seconded by Dr. Mark St. Cyr that based on the clear and convincing evidence presented, Mr. Dandridge by found guilty as charged. Motion passed on roll call vote.

Motion was made by Dr. Jim Spoon and seconded by Dr. Mark St. Cyr that the pharmacist license of Richard Dandridge be revoked. Motion passed on roll call vote.

**OSBP vs James Sutterfield, D.Ph. #9810, Case No. 1577:**

The Board was called to order by President Adams to hear the case of James Sutterfield. Mr. Sutterfield was present with Attorney Brent Buyse. Deputy Director, Gary LaRue and Compliance Officer, Keevie Ridener were present for any questions of the Board.

Assistant Attorney General, John Settle presented the Board with the Complaint for review. Mr. Sutterfield was charged with multiple violations of state and federal regulations and rules including violating rules of professional conduct; the misfilling of a prescription that departs from the standards of care ordinarily exercised by a pharmacist with proof of actual injury not having to be established. After review of the Complaint Mr. Settle presented the Board with a Motion to Associate Counsel. Mr. Buyse, the attorney for Mr. Sutterfield, is not a licensed attorney in Oklahoma and therefore would require that the Board vote to allow him to proceed as Counsel Oklahoma for Mr. Sutterfield.

A motion was made by Dr. Jim Spoon and seconded by Dr. Kyle Whitehead to approve the request of Mr. Buyse to proceed as Counsel for Mr. Sutterfield. Motion passed on roll call vote.

Mr. Settle then presented the Board with an Agreed Order. If the Board accepts the Agreed Order, Mr. Sutterfield would agree to the following: Mr. Sutterfield neither admits nor denies guilt on Counts 1 through 39. His license would be indefinitely suspended and immediately stayed. Mr. Sutterfield would refrain from the dispensing or participating in the dispensing of any prescription drug and from conducting any patient immunizations. His immunization certificate is revoked. Mr. Sutterfield agrees to attend a one day (8 hour) law seminar in addition to the required fifteen (15) hours of CE during the calendar years of 2020 and 2021 for a total of twenty three (23) hours of CE each year. All hours of required CE in 2020 and 2021 shall be live. Mr. Sutterfield agrees to pay a fine of \$23,400.00.

Motion was made by Dr. Jim Spoon and seconded by Dr. Kyle Whitehead to accept the Agreed Order. Motion passed on roll call vote with Jason Willeford voting "No".

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**Board breaks for lunch**

**Board reviews and approves 2020 Draft Rule Revisions; Title 535, Chapters 10 and 15 as presented for Public Comment:**

Office Manager MaryAnn Terral presented the Board with Title 535, Chapters 10 and 15 public comments that were received. The Board heard and reviewed public concerns that were recognized. After discussion, the Board chose to withdrawal Part 5. Handling Hazardous Drugs in a Pharmacy at this time and will re-evaluate at a later date.

A motion was made by Dr. Justin Wilson and seconded by Dr. Jim Spoon to approve Chapter 10 and Chapter 15 proposed rules as presented and modified. Motion passed on roll call vote.

**President Adams 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 Adams adjourned the Board meeting at 2:39p.m.

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