

MINUTES

OKLAHOMA STATE BOARD OF PHARMACY

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

January 15, 2020

Call to order:

President Adams called the January 15, 2020 meeting of the Oklahoma State Board of Pharmacy (OSBP) to order at 8:30 am with a roll call vote. 5 of the 6 members were present.

Those present were:

Board Members: Greg Adams, President
 Jim Spoon, Vice-President
 Justin Wilson, Member
 Mark St. Cyr, Member
 Jason Willeford, Member
 Kyle Whitehead was unable to attend this meeting

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
 Derek Dennis, Walgreens
 Ryan Walker, Walgreens
 Nika Hakim, Walgreens
 Brandy Lander, CVS/Pharmacy
 Scott Hughes, Hillcrest Medical Center
 Becca Segrest, Cardinal Health
 Robin Murphy, Dept. of Corrections
 Heidi Robbin, Paragon Healthcare
 Terry Cothran, OK Health Care Authority
 Jill Shadid, OU College of Pharmacy
 Nancy Williams, SWOSU College of Pharmacy
 Debra Billingsley, OPhA
 Greg Clyde, Clyde Pharmacy
 Ryan Cauley, Much Shelist
 David Smith, DPh.
 Shana Hollopeter, DPh.
 Kayley Jordan, Intern
 Ahmed Jallad, Guest

Approval of minutes and claims:

A motion was made by Dr. Jim Spoon and seconded by Dr. Justin Wilson to approve the November 20, 2019 minutes with corrections. Motion passed on roll call vote.

A motion was made by Dr. Jim Spoon and seconded by Dr. Mark St. Cyr to approve the expense claims #6760-#6798, #H0416111-#H0416119, #H0417850 –

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#H0417855, December payroll, and the November and December 2019 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 Jason Willeford to approve the cancellation list 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 4th quarter list of CE programs that had been submitted and approved by the CE Committee on December 13, 2019.

Motion was made by Dr. Jim Spoon 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.

Resolution adopted by the Board:

Due to the passing of Dr. Bryan H. Potter, the Board unanimously approved a Resolution for Dr. Potter. Dr. Potter served as Executive Director for the Board of Pharmacy from 1989-2008.

Board discusses the NABP Annual Meeting:

The Board reviewed dates for the NABP Annual Meeting which will be held May 14-16, 2020 in Baltimore, Maryland. It was determined that Dr. Mark St.Cyr and Executive Director, Marty Hendrick will be attending.

Board reviews designation of Mission Critical Memberships:

After a review of the updated list of Board designated Mission Critical Memberships, a motion was made by Dr. Jim Spoon and seconded by Dr. Mark St. Cyr to approve the list of Mission Critical Memberships. Motion passed on roll call vote.

Board reviews designation of Mission Critical Out of State Travel:

After a review of the updated list of Board designated Mission Critical Out –of-State Travel, a motion was made by Dr. Justin Wilson and seconded by Dr. Jim Spoon to approve the list of Mission Critical Out-of-State Travel. Motion passed on roll call vote.

Board sets future Board meeting(s):

The Board set Wednesday May 20, 2020 as a scheduled Board meeting. The next two previously scheduled Board meeting dates are Wednesday February 26, 2020 and Wednesday March 25, 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:

Travel:

Director Hendrick reported that Dr. Mark St. Cyr attended the ASHP Midyear meeting that was held in December of 2019 in Las Vegas, NV. Dr. St. Cyr gave a brief report on the program topics.

Legislation:

Director Hendrick reported that most pharmacists welcomed in the new electronic prescription statute along with the statute pertaining to the limitation on Schedule II opioid prescriptions. He stated that he and the staff have been working hard with the Oklahoma Bureau of Narcotics and Dangerous Drugs (OBNDD) to make sure that patient safety is the main priority

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License renewal applications:

Director Hendrick noted that the staff has revamped the license renewal applications for both the pharmacies and facilities. He reported that the pharmacy application will now require out of state pharmacies to provide additional information including: the type of pharmacy, the current description of operations, the policies and procedures for: a) storage of medications, b) shipping medications and c) temperature excursions and a list of any excursions on shipped medications for the last five (5) years. On the facility renewal, a section was added for the applicant to add a list of prescription items sold in or shipped to Oklahoma and staff is now verifying that all contract manufacturers both domestic and foreign are licensed in the state. He stated that we are currently working on the new application licenses and will have them updated very soon.

Illinois Collaborative Pharmaceutical Task Force and National Consensus Conference:

Director Hendrick discussed information that he had received information that had been gathered by a task force appointed by the government leaders in Illinois. They focused in on many aspects of pharmacy as it relates to work conditions and patient safety. He stated that the topics included whistleblower protection, pharmacy tech on duty, prescription limit and pharmacy tech hours. Along with Illinois, many different collaborations have formed to tackle this issue. He reported that he received a report that was conducted by NABP, APhA and many other associations and their 50 recommendations for the well-being of pharmacy professionals.

Changes in Board Staff:

Director Hendrick reported that Compliance Officer Jeremy Davis resigned his position with the Oklahoma Board Pharmacy effective January 17, 2020. He stated that we wish him luck on his new endeavors.

Director Hendrick introduced new Compliance Officer, Darrell Switzer who started with the Board on December 28, 2019. Dr. Switzer will have the western part of the state as his territory.

Building Report:

Director Hendrick reported the mediation for the building is set on April 15, 2020.

New Business:

There was no new business presented for the Board to discuss.

David Smith, D.Ph. appears before the Board to propose a possible rule change:

The Board was called to order by President Adams to hear the request of David Smith, DPh. Mr. Smith had previously presented the Board with survey results regarding adequate staffing in community pharmacy as it relates to patient safety: He was now proposing a possible rule change that he felt would be a compromise regarding the staffing issues.

After a discussion with the Board, President Adams thanked Mr. Smith for his time and his concern. The Board agreed that the topic would need to be tabled at this time.

OSBP vs. Cambria Ore, Technician #13905, Case No. 1575:

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

Assistant Attorney General, John Settle presented the Board with the Complaint for review. The Board received notification from CVS Corporate Office of potential loss of CDS and that this potential loss was attributed to employee pilferage. The Controlled Dangerous Substance (CDS) involved was Tramadol ER 100mg and Tramadol ER 300mg. Ms. Ore admitted verbally and in writing that she had a drug problem and had stolen anywhere from 30-45 Tramadol tablets over the past 3 months.

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

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

OSBP vs. Robin Prescott, Technician #18941, Case No. 1576:

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

Mr. Settle presented the Board with the Complaint for review. After finding a discrepancy of missing tablets, the Pharmacist in Charge (PIC) where Ms. Prescott was employed began an investigation. The PIC ran reports and reviewed surveillance footage. It was determined that Ms. Prescott had accessed the CII safe where the medication was stored and could be seen reaching into the bin and removing a medication from the safe but then reaches into the bin containing the Oxycontin and removed the bag with her left hand. She then places the bag back in the bin with the other medication she was touching and leaves the area after shutting the cabinet. The PIC met with Ms. Prescott and a representative from Human Resources to discuss the incident. Ms. Prescott did not admit to taking the medication but said she did not believe that the PIC was telling an untruth and said she was sorry. Ms. Prescott was terminated for theft of CDS.

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

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

OSBP vs Katy Manley, D.Ph. #16132, Case No. 1578:

The Board was called to order by President Adams to hear the case of Katy Manley. Ms. Manley was present and chose to appear without Council. Oklahoma Pharmacist Helping Pharmacist (OPHP) Director, Kevin Rich was present to testify on Ms. Manley's behalf. Compliance Officer, Kim Hibbard was present to answer any questions of the Board.

Assistant Attorney General, John Settle presented the Board with the Complaint for review. Ms. Manley was charged with multiple violations of state and federal regulations and rules including knowingly or intentionally possessing a controlled dangerous substance unless such substance was obtained directly or pursuant to a valid prescription or order from a practitioner while acting in the course of his or her professional practice.

Mr. Settle then presented the Board with an Agreed Order. If the Board accepts the Agreed Order, Ms. Manley would agree to the following: Ms. Manley neither admits nor denies guilt on Counts 1 through 27. Ms. Manley 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. Ms. Manley's license is suspended for ten (10) years. Ms. Manley has been determined "Fit for Duty" and has entered into a ten (10) year "Recovery Monitoring Agreement" with OPHP. Her suspension is immediately stayed on the specific condition that during the entire ten (10) year term of suspension, Ms. Manley remain compliant with all terms of the Agreements with OPHP.

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

OSBP vs Jill Ann Lambert Welch, D.Ph. #11594, Case No. 1579:

The case of Jill Ann Lambert Welch was continued until the next meeting.

OSBP vs American First Pharmacies, Inc., #99-8126, Case No. 1572:

The Board was called to order by President Adams to hear the case of American First Pharmacies, Inc. Representatives from American First Pharmacies, Inc were not

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present. Deputy Director, Gary LaRue was present for any questions of the Board.

Assistant Attorney General, John Settle presented the Board with the Complaint for review. The pharmacy was charged with multiple violations of state and federal regulations and rules including furnishing, by the applicant or registrant of fictitious, false, misleading, or fraudulent material in any application (original, new or renewal) or failing to provide information relevant to the application.

A motion was made by Dr. Jim Spoon and seconded by Dr. Justin Wilson that based on the clear and convincing evidence presented, American First Pharmacies, Inc be found guilty as charged. Motion passed on roll call vote.

A motion was made by Dr. Jim Spoon and seconded by Jason Willeford that the pharmacy license of American First Pharmacies, Inc be revoked. They are to immediately refrain from shipping prescription drugs or substances into the State of Oklahoma. A fine of \$3,000.00 is imposed for Counts 1 through 7 for a total of \$21,000 which is immediately stayed. If the pharmacy begins shipping into Oklahoma or submits an application for the reinstatement of the license, the fine will become due and payable immediately. Motion passed on roll call vote.

OSBP vs Rxcompoundstore.com, LLC, #99-8305, Case No. 1573:

The Board was called to order by President Adams to hear the case of Rxcompoundstore.com, LLC. Representatives from Rxcompoundstore.com were not present.

Assistant Attorney General, John Settle presented the Board with the Complaint for review. The pharmacy was charged with multiple violations of state and federal regulations and rules including violating registrant conduct; Registrant shall conduct business in conformity with all federal, state and municipal laws at all times.

Mr. Settle then presented the Board with an Agreed Order. If the Board accepts the Agreed Order, Rxcompoundingstore.com, LLC would agree to the following: Rxcompoundingstore.com, LLC neither admits nor denies guilt regarding each of Counts 1 through 27. They would agree to pay a fine of \$200.00 per count for Counts 1, 26 and 27 and would agree to \$400.00 per Count 2 through 25 for a total of \$10,200.00 to be made in monthly installments until paid in full. Rxcompoundingstore.com is prohibited from shipping any prescription drugs or compounded products to any person located within Oklahoma until the ownership of the pharmacy employs an Oklahoma licensed pharmacist as a PIC regarding their patients/clients located within the State of Oklahoma.

A motion was made by Dr. Justin Wilson to continue the case and require the respondent to appear for questions. President Adams asked for a second which was not presented, therefore the motion did not pass.

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

OSBP vs SinfoniaRx, Inc., #99-8494, Case No. 1574:

The Board was called to order by President Adams to hear the case of SinfoniaRx. Rose Welch was present as the representative for the respondent.

Assistant Attorney General, John Settle presented the Board with the Complaint for review. The pharmacy was charged with multiple violations of state and federal regulations and rules including violating registrant conduct; registrants shall conduct business in conformity with all federal, state and municipal laws at all times.

Mr. Settle then presented the Board with an Agreed Order. If the Board accepts the Agreed Order, SinfoniaRx, Inc would agree to the following: SinfoniaRx, Inc neither admits nor denies guilt on Counts 1 and 2. Count 3 is dismissed. They would agree to pay a fine of \$3000.00 on Count 1 and \$2,000.00 on Count 2 for a total of \$5,000.00 which is due on January 15, 2020. SinfoniaRx, Inc. is prohibited from providing any pharmacist or pharmacy related services to any person located within the State of Oklahoma until the ownership of the pharmacy employs an Oklahoma licensed pharmacist as a PIC regarding their patients/clients located within the State of Oklahoma.

A motion was made by Dr. Mark St.Cyr and seconded by Jason Willeford to accept the Agreed Order. Motion passed on roll call vote.

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Board breaks for lunch

Board reviews and approves 2020 Draft Rule Revisions: Title 535, Chapters 10 and 15:

Business Manager MaryAnn Terral presented the Board with Title 535, Chapters 10 and 15 for review. Chapters 10 and 15 were approved at the previous meeting except for the Automation Rules in Chapter 15, Subchapter 19. Ms. Terral went through the possible change/addition in the language to the Automation Rule.

After a discussion, a motion was made by Dr. Justin Wilson and seconded by Jason Willeford to approve the proposed language for the Automation Rules in Title 535, Chapters 15 Subchapter 19 as presented. Motion passed on roll call vote.

President Adams adjourned the Board meeting:

A motion was made by Dr. Mark St. Cyr and seconded by Dr. Jim Spoon to adjourn the Board meeting. Motion passed on roll call vote. President Adams adjourned the Board meeting at 1:48p.m.

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