

MINUTES

OKLAHOMA STATE BOARD OF PHARMACY

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

July 15, 2020

Call to order:

President Adams called the July 15, 2020 meeting of the Oklahoma State Board of Pharmacy (OSBP) to order at 8:34 am with a roll call vote. 5 of 6 members were present.

Those present were:

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

Jason Willeford 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
 Niki Batt, Assistant Attorney General, Board Advisor
 John Settle, Assistant Attorney General
 Rhonda Jenkins, Executive Secretary

Guests Derek Dennis, Walgreens
 Jeff Sinko, Legal Council for CVS
 Brian Convery, Senior Vice President for CVS
 Jill Shadid, OU College of Pharmacy
 Vince Dennis, OU College of Pharmacy
 Nancy Williams, SWOSU College of Pharmacy
 Robin Murphy, OK Dept. of Corrections
 Tanner Stephens, Intern for CVS
 David Smith, DPh. for CVS
 Justin Feese, DPh. for CVS
 Kunhoo Park, Intern
 Jennie Nguyen, Intern
 Candace Krag, Technician
 Collin Yarger, Technician

Approval of minutes and claims:

A motion was made by Dr. Kyle Whitehead and seconded by Dr. Mark St. Cry to approve the June 17, 2020 minutes. Motion passed on roll call vote.

President Adams stated that there are no expense claims or leave reports to approve due to staff being on vacation. They will be reviewed and approved at the next meeting.

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. Kyle Whitehead to approve the cancellation list

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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 on June 19, 2020.

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

Presentation of “Years of Service” pin:

President Adams presented a 20 year service pin to Deputy Director Gary LaRue. President Adams congratulated him on his service with the State of Oklahoma and thanked him for the work that he does for the Board.

Board sets future Board meeting(s):

The Board set Wednesday August 12, 2020 as a scheduled Board meeting to follow up with the mediation on the building. The next scheduled Board meeting date is set for Wednesday September 23, 2020.

P-4 Students:

Due to the COVID-19 pandemic and the social distancing requirements set by the Governor, the P-4 students were not allowed to attend this meeting.

Executive Director gives Agency report:

Activity at the Capital:

Director Hendrick reported that two of Governor Stitt’s Cabinet had recently resigned. He stated that Secretary of Health Jerome Loughridge and Secretary of Science and Innovation Kayse Shrum both stepped down to return to their careers. He also reported that Kevin Corbett, CEO of the Oklahoma Health Care Authority replaced Jerome Loughridge and Elizabeth Pollard, Executive Chair of Applied Silver replaced Kayse Shrum.

Do No Harm CE:

Director Hendrick reported that the Do No Harm CE has been posted on the website under the Risk Assessment CE. He stated that there is no cost for the CE and it provides up to 3.5 hours.

Virtual Travel:

Director Hendrick stated that the Compliance Officers will be participating in the FDA’s Compounding Quality Center of Excellence Virtual Conference September 21st and 22nd. He stated that the theme for the conference is “Working Together for Patient Safety” and will focus on outsourcing facilities.

Executive Order 2020-03:

Director Hendrick reported that per Executive Order 2020-03, all state agencies have been directed to undertake a critical review of administrative rules to identify any costly, ineffective, duplicative, and outdated regulations and issue a report. He stated that the staff has been working hard to review the law book and find possible regulations that can be removed. So far there have been approximately 20 identified.

MPJE/NAPLEX Testing:

Director Hendrick noted that he had been working with NABP to help track the number of days from application submission to exam administration on both the MPJE and the NAPLEX. Currently for the month of June, the number of days for the NAPLEX was 47 days and for the MPJE was 48 days. The number of days for 2019 was 41 for the NAPLEX and 40 for the MPJE. He stated that

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testing centers are open in Tulsa and Oklahoma City and are working to administer these test in a timely manner.

COVID-19:

Director Hendrick reported that during the COVID-19 pandemic, the building has remained closed to the general public but staff and compliance officers are working in the office and inspecting. He noted that the Compliance Officers are taking precautions while doing inspections. He also noted that there have not been any complaints on the status of the building and that it will remain closed to the general public until it is deemed safe to fully reopen.

Board of Veterinary Medical Examiners Director, Cathy Kirkpatrick appeared before the Board to discuss possible building expansion:

The Board was called to order by President Adams to discuss the possibility of expanding the building where the Veterinary and Dental Boards office. Veterinary Board Director, Cathy Kirkpatrick appeared and explained that both agencies are starting to outgrow the area they office in and would be willing to put in \$1,000,000.00 each for the expansion of the southeast side of the building.

After a discussion, the Board thanked Ms. Kirkpatrick and stated that they would think about that possibility and would discuss it more.

Board discusses building issues:

The Board was called to order by President Adams to discuss building issues. A motion was made by Dr. Jim Spoon and seconded by Dr. Kyle Whitehead to go into Executive Session. Motion passed on roll call vote.

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

OSBP vs Lisa Morris, Technician #1355, Case No. 1597:

The Board was called to order by President Adams to hear the case of Lisa Morris. Ms. Morris was not present. Registration Secretary, Rhonda Jenkins testified that Ms. Morris had been properly notified. Compliance Officer, Kim Hibbard 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, Kim Hibbard received a call from the owner of Inola Drug where Ms. Morris was employed stating that Ms. Morris had been terminated for changing a copay at point of sale without authorization and potential theft. In a signed statement of resignation, Ms. Morris' signature is present below a statement explaining that she changed a copay amount on a prescription without authorization from management. The statement goes on to say that Ms. Morris understands that by her taking this action, she knowingly committed insurance fraud along with violating Inola Drug policy. Ms. Morris is asked if she remembers anything unusual about the particular transaction mentioned above to which she denies changing the copay in question.

Motion was made by Dr. Jim Spoon and seconded by Dr. Mark St. Cyr that based on the clear and convincing evidence presented, Ms. Morris 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 Lisa Morris be revoked. Motion passed on roll call vote.

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

The Board was called to order by President Adams to hear the case of Jill Welch. Ms. Welch was present and chose to appear without Counsel. Compliance Officer, Kim Hibbard testified for the Board. Oklahoma Pharmacist Helping Pharmacist (OPHP) Director, Kevin Rich and Oklahoma Board of Pharmacy Director, Marty Hendrick both testified on Ms. Welch's behalf.

Assistant Attorney General, John Settle presented the Board with the Complaint for review. Ms. Welch was charged with multiple violations of state and federal regulations and rules including it being unlawful for any person knowingly or

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intentionally to possess a controlled dangerous substance unless such substance was obtained directly, or pursuant to a valid prescription or order from a practitioner.

Mr. Settle then presented the Board with an Agreed Order. If the Board accepts the Agreed Order, Ms. Welch will agree to the following: She neither admits nor denies guilt regarding Counts 1 through Counts 22. Ms. Welch's pharmacist license would be suspended for ten (10) years. Respondent has received a "Fit for Duty" from Oklahoma Pharmacist Helping Pharmacist (OPHP) therefore the suspension is immediately stayed. Respondent agrees to attend an 8 hour law seminar in addition to the required fifteen (15) hours of CE during the calendar years of 2021 and 2022 for a total of 23 hours during each calendar year. All hours during the years of 2021 and 2022 shall be live.

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

OSBP vs. Jeffrey Terry, D.Ph. #14550, Case No. 1596:

The Board was called to order by President Adams to hear the case of Jeffrey Terry. Mr. Terry was not present. Registration Secretary, Rhonda Jenkins testified that Mr. Terry had been properly notified. Compliance Office, Marjan Fardadard 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. Terry was charged with multiple violations of state and federal regulations and rules including submitting fraudulent billing or reports to a third party payor of prescription drugs.

Motion was made by Dr. Justin Wilson and seconded by Dr. Kyle Whitehead that based on the clear and convincing evidence presented, Mr. Terry be found guilty as charged. Motion passed on roll call vote.

A motion was made by Dr. Justin Wilson and seconded by Dr. Kyle Whitehead to revoke the pharmacist license of Jeffrey Terry. Motion passed on roll call vote.

OSBP vs CVS/Pharmacy No. 2324, #2-5549, Case No. 1568:

The Board was called to order by President Adams to hear the case of CVS/Pharmacy No. 2324. Regional Director of CVS Health Shea Hudson was present along with Counsel, Erika Gee.

Assistant Attorney General, John Settle presented the Board with the Complaint for review. CVS/Pharmacy was charged with multiple violations of state and federal regulations and rules including violating 535:15-3-16(a) adequate staffing to safely fill prescriptions is the responsibility of the pharmacy, the pharmacy manager and the pharmacist. If conditions exist that could cause prescriptions to be filled in an unsafe manner they shall take action to correct the problem.

Mr. Settle then presented the Board with an Agreed Order. If the Board accepts the Agreed Order, CVS/Pharmacy 02324 will agree to the following: The Respondent neither admits nor denies guilt on all counts. Respondent agrees to pay a fine of \$75,000.00 which is due immediately. Respondent is placed on probation for two (2) years until July 15, 2022. Respondent has agreed to take the following actions: **1)** Within 30 days of this Order, a memorandum to all Oklahoma CVS pharmacist describing their rights and responsibilities. This memo shall focus on: 1) the circumstances in which a pharmacist is required by Board rule to document the existence of conditions that could cause prescriptions to be filled in an unsafe manner due to inadequate staffing and 2) the form and manner to be used to report these conditions. The memo will also make clear that no pharmacist will ever be retaliated against for compliance with this rule. **2)** Within 60 days of this Order, the Respondent pharmacy will conduct an internal Quality Assurance analysis of the medication error involved to determine whether the failure to follow established policies or procedures contributed to the error, determine whether any additional policies or procedures would have prevented the error from occurring and determine whether any additional training or education of staff at CVS #2324 would prevent other medication errors of this type. CVS will advise all Oklahoma CVS pharmacists of the findings of the QA analysis and will implement any changes warranted by this QA analysis as soon as practicable in all Oklahoma CVS pharmacies. The Oklahoma State Board of Pharmacy (OSBP) strongly

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recommends that Respondent pharmacy's corporate management consider implementing the following management recommendations in all Oklahoma CVS pharmacies: **1)** Increase the number of OSBP permitted technicians working together during a shift; institute pharmacy staffing policies that require and allow each pharmacist to take at least one 30 minute lunch break during each assigned shift. **2)** Non-OSBP permitted support staff in training to become OSBP permitted technicians should be trained in pharmacies designated as a "Training Pharmacy" prior to being placed into a permanent assignment. **3)** It is strongly recommended an OSBP permitted district pharmacy technician leader be on duty during all training. **4)** All hours worked by a pharmacy technician in training should not count towards assigned technician hours allotted to any training pharmacy. **5)** All training pharmacies should be provided additional hours to support training of new hires. This should include both pharmacist and pharmacy technician hours. **6)** A pharmacy technician in training should not work at his/her assigned pharmacy until all training is complete. **7)** Pharmacy technician training should not be considered complete until the "Training Pharmacy" and each permanent assigned pharmacy evaluate the new-hire as proficient in performing safely and efficiently all tasks allowed an OSBP permitted pharmacy technician. **8)** In determining each pharmacy staffing needs, all controlled substance (C2-C5) prescriptions should be counted toward the total prescription volume. **9)** In determining each pharmacy staffing needs, all vaccines should be weighed much more heavily when compared to total prescription volume. **10)** All Patient Care Queue calls should be outsourced to a corporate or independent "Call Center" so no pharmacist involved in filling prescriptions is required to make such calls during a pharmacy shift. **11)** All "wait time" measurements should be removed from consideration for the purposes of any employee bonuses or compensation decisions.

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 CVS/Pharmacy No. 10491, #9-6762, Case No. 1593:

The Board was called to order by President Adams to hear the case of CVS/Pharmacy No. 02324. Regional Director of CVS Health Shea Hudson was present along with Counsel, Erika Gee.

Assistant Attorney General, John Settle presented the Board with the Complaint for review. CVS/Pharmacy was charged with multiple violations of state and federal regulations and rules including violating 535:15-3-16(a) adequate staffing to safely fill prescriptions is the responsibility of the pharmacy, the pharmacy manager and the pharmacist. If conditions exist that could cause prescriptions to be filled in an unsafe manner they shall take action to correct the problem.

Mr. Settle then presented the Board with an Agreed Order. If the Board accepts the Agreed Order, CVS/Pharmacy 10491 will agree to the following: The Respondent neither admits nor denies guilt on all counts. Respondent agrees to pay a fine of \$18,814.29 which is due immediately. Oklahoma State Board of Pharmacy (OSBP) strongly recommends that Respondent pharmacy's corporate management consider implementing the following management recommendations in all Oklahoma CVS pharmacies: **1)** Increase the number of OSBP permitted technicians working together during a shift; institute pharmacy staffing policies that require and allow each pharmacist to take at least one 30 minute lunch break during each assigned shift. **2)** Non-OSBP permitted support staff in training to become OSBP permitted technicians should be trained in pharmacies designated as a "Training Pharmacy" prior to being placed into a permanent assignment. **3)** It is strongly recommended an OSBP permitted district pharmacy technician leader be on duty during all training. **4)** All hours worked by a pharmacy technician in training should not count towards assigned technician hours allotted to any training pharmacy. **5)** All training pharmacies should be provided additional hours to support training of new hires. This should include both pharmacist and pharmacy technician hours. **6)** A pharmacy technician in training should not work at his/her assigned pharmacy until all training is complete. **7)** Pharmacy technician training should not be considered complete until the "Training Pharmacy" and each permanent assigned pharmacy evaluate the new-hire as proficient in performing safely and efficiently all tasks allowed an OSBP permitted pharmacy technician. **8)** In

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determining each pharmacy staffing needs, all controlled substance (C2-C5) prescriptions should be counted toward the total prescription volume. **9)** In determining each pharmacy staffing needs, all vaccines should be weighed much more heavily when compared to total prescription volume. **10)** All Patient Care Queue calls should be outsourced to a corporate or independent "Call Center" so no pharmacist involved in filling prescriptions is required to make such calls during a pharmacy shift. **11)** All "wait time" measurements should be removed from consideration for the purposes of any employee bonuses or compensation decisions.

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

OSBP vs CVS/Pharmacy No. 06021, #7-5385, Case No. 1594:

The Board was called to order by President Adams to hear the case of CVS/Pharmacy No. 06021. Regional Director of CVS Health Shea Hudson was present along with Counsel, Erika Gee.

Assistant Attorney General, John Settle presented the Board with the Complaint for review. CVS/Pharmacy was charged with multiple violations of state and federal regulations and rules including violating 535:15-3-16(a) adequate staffing to safely fill prescriptions is the responsibility of the pharmacy, the pharmacy manager and the pharmacist. If conditions exist that could cause prescriptions to be filled in an unsafe manner they shall take action to correct the problem.

Mr. Settle then presented the Board with an Agreed Order. If the Board accepts the Agreed Order, CVS/Pharmacy 06021 will agree to the following: The Respondent neither admits nor denies guilt on all counts. Respondent agrees to pay a fine of \$16,236.99 which is due immediately. Oklahoma State Board of Pharmacy (OSBP) strongly recommends that Respondent pharmacy's corporate management consider implementing the following management recommendations in all Oklahoma CVS pharmacies: **1)** Increase the number of OSBP permitted technicians working together during a shift; institute pharmacy staffing policies that require and allow each pharmacist to take at least one 30 minute lunch break during each assigned shift. **2)** Non-OSBP permitted support staff in training to become OSBP permitted technicians should be trained in pharmacies designated as a "Training Pharmacy" prior to being placed into a permanent assignment. **3)** It is strongly recommended an OSBP permitted district pharmacy technician leader be on duty during all training. **4)** All hours worked by a pharmacy technician in training should not count towards assigned technician hours allotted to any training pharmacy. **5)** All training pharmacies should be provided additional hours to support training of new hires. This should include both pharmacist and pharmacy technician hours. **6)** A pharmacy technician in training should not work at his/her assigned pharmacy until all training is complete. **7)** Pharmacy technician training should not be considered complete until the "Training Pharmacy" and each permanent assigned pharmacy evaluate the new-hire as proficient in performing safely and efficiently all tasks allowed an OSBP permitted pharmacy technician. **8)** In determining each pharmacy staffing needs, all controlled substance (C2-C5) prescriptions should be counted toward the total prescription volume. **9)** In determining each pharmacy staffing needs, all vaccines should be weighed much more heavily when compared to total prescription volume. **10)** All Patient Care Queue calls should be outsourced to a corporate or independent "Call Center" so no pharmacist involved in filling prescriptions is required to make such calls during a pharmacy shift. **11)** All "wait time" measurements should be removed from consideration for the purposes of any employee bonuses or compensation decisions.

Motion was made by Dr. Jim Spoon and seconded by Dr. Kyle Whitehead to accept the Agreed Order. Motion passed on 3-1 roll call vote with Dr. Mark St. Cyr voting "No".

OSBP vs CVS/Pharmacy No. 06109, #1-5390, Case No. 1595:

The Board was called to order by President Adams to hear the case of CVS/Pharmacy No. 06109. Regional Director of CVS Health Shea Hudson was present along with Counsel, Erika Gee.

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Assistant Attorney General, John Settle presented the Board with the Complaint for review. CVS/Pharmacy was charged with multiple violations of state and federal regulations and rules including violating 535:15-3-16(a) adequate staffing to safely fill prescriptions is the responsibility of the pharmacy, the pharmacy manager and the pharmacist. If conditions exist that could cause prescriptions to be filled in an unsafe manner they shall take action to correct the problem.

Mr. Settle then presented the Board with an Agreed Order. If the Board accepts the Agreed Order, CVS/Pharmacy 06109 will agree to the following: The Respondent neither admits nor denies guilt on all counts. Respondent agrees to pay a fine of \$14,948.344 which is due immediately. Oklahoma State Board of Pharmacy (OSBP) strongly recommends that Respondent pharmacy's corporate management consider implementing the following management recommendations in all Oklahoma CVS pharmacies: **1)** Increase the number of OSBP permitted technicians working together during a shift; institute pharmacy staffing policies that require and allow each pharmacist to take at least one 30 minute lunch break during each assigned shift. **2)** Non-OSBP permitted support staff in training to become OSBP permitted technicians should be trained in pharmacies designated as a "Training Pharmacy" prior to being placed into a permanent assignment. **3)** It is strongly recommended an OSBP permitted district pharmacy technician leader be on duty during all training. **4)** All hours worked by a pharmacy technician in training should not count towards assigned technician hours allotted to any training pharmacy. **5)** All training pharmacies should be provided additional hours to support training of new hires. This should include both pharmacist and pharmacy technician hours. **6)** A pharmacy technician in training should not work at his/her assigned pharmacy until all training is complete. **7)** Pharmacy technician training should not be considered complete until the "Training Pharmacy" and each permanent assigned pharmacy evaluate the new-hire as proficient in performing safely and efficiently all tasks allowed an OSBP permitted pharmacy technician. **8)** In determining each pharmacy staffing needs, all controlled substance (C2-C5) prescriptions should be counted toward the total prescription volume. **9)** In determining each pharmacy staffing needs, all vaccines should be weighed much more heavily when compared to total prescription volume. **10)** All Patient Care Queue calls should be outsourced to a corporate or independent "Call Center" so no pharmacist involved in filling prescriptions is required to make such calls during a pharmacy shift. **11)** All "wait time" measurements should be removed from consideration for the purposes of any employee bonuses or compensation decisions.

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

Representatives from Unity Clinic at the Health Science Center appear to discuss the possibility of "Integrating a Pharmacy on a Mobile Clinic".

President Adams called the Board to order to hear the request of Unity Clinic. Presenting to the Board were, Danial Gebreili, 4th year medical student, Ishak Hussain, 2nd year medical student and Gold Xiong, 4th year intern.

The goal of Unity Clinic is to create a standardized clinic model that would allow all students to participate in a meaningful manner with the hope of incorporating the Unity Clinic within OU-HSC infrastructure permanently and eventually add a mobile unit to the clinic to serve the underserved within the State of Oklahoma.

After a discussion, the Board stated that what they were asking would require a rule change and that could not be done until the spring of 2021. President Adams thanked them for the presentation.

Natalie Williams of Brief Media appears before the Board:

President Adams called the Board to order to hear the request of Natalie Williams. Ms. Williams is asking that the Board look at adding a Veterinary Drug Reference book to the recommended library for pharmacies. The Board stated that there are a limited number of pharmacies filling for animals. They also stated that they would have to look at possibly changing statutes and rules and that would not happen until the spring of 2021. The Board asked Dr. Hendrick to review and possibly discuss at future dates.

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Re-Organization of the Board:

President Adams opened the floor for re-organization of the officers of the Board.

A motion was made by Dr. Kyle Whitehead and seconded by Dr. Mark St. Cyr to elect Dr. Jim Spoon as President and Dr. Justin Wilson as Vice President. Motion passed on roll call vote. At that point, Dr. Jim Spoon took over as President of the Board.

President Spoon adjourned the Board meeting:

A motion was made by Dr. Kyle Whitehead and seconded by Dr. Mark St. Cyr to adjourn the Board meeting. Motion passed on roll call vote. President Spoon adjourned the Board meeting at 12:31 p.m.

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