

## MINUTES

### OKLAHOMA STATE BOARD OF PHARMACY

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

**June 17, 2020**

#### **Call to order:**

President Adams called the June 17, 2020 meeting of the Oklahoma State Board of Pharmacy (OSBP) to order at 8:35 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  
Derek Dennis, Walgreens  
Jill Shadid, OU College of Pharmacy  
Nancy Williams, SWOSU College of Pharmacy  
Debra Billingsley, OPhA  
Robin Murphy, OK Dept. of Corrections

#### **President Adams administers Oath of Office to Mark St. Cyr:**

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

#### **Approval of minutes and claims:**

A motion was made by Dr. Justin Wilson and seconded by Jason Willeford to approve the February 26, 2020 minutes. Motion passed on roll call vote.

A motion was made by Dr. Mark St. Cyr and seconded by Dr. Justin Wilson to approve the expense claims #6831-#6900, #H0422158-#H0422360, H0427617-#H0427622, the March, April and May payroll and the February, March, April and May leave of the Executive Director and any expenses 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. Kyle Whitehead to approve the cancellation list of those that did not renew within the renewal time period. Motion passed on roll call vote.

ATTEST \_\_\_\_\_

**Board discuss representation at the ASHP Meeting 2020:**

The Board discussed the upcoming ASHP 2020 Meeting and who would attend to represent the Board of Pharmacy. Because of the COVID-19 pandemic, there is the possibility that the meeting will not take place.

After a brief discussion, the Board determined that Dr. Mark St. Cyr would attend as the Board representative and Dr. Justin Wilson would be the alternate.

**Board discusses the “Do No Harm CE”:**

A discussion was held by the Board on their thoughts of the “Do No Harm CE”. At the February meeting, the Board requested that before the program is posted on the website, they be allowed to take it so they could give their feedback. The Board feels that there was a lot of repetition and they did not agree with the contents of the program. They stated that they did not feel that it was something that they wanted to make mandatory but would agree to place it on the website for anyone that wanted to take it or needed CE.

The Board stated that for the rule making possibility, they would like to look at the general approach for specific topics and adjust topics as necessary.

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

The Board set Wednesday September 23, 2020 as a scheduled Board meeting. The next scheduled Board meeting date is Wednesday July 15, 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:**

**Building Update:**

Director Hendrick reported that Attorney Erin Moore, will update the Board regarding the current developments on the building later in the day.

**Legislative Update:**

Director Hendrick reported that HB3862-Optometry Scope of Practice passed in both the House and the Senate along with being signed by Governor Stitt. He stated that the language in this bill allows for Optometrist to dispense medications.

**Travel:**

Director Hendrick stated that travel has currently been suspended for state employees. He reported that he had recently attended the NABP Annual Meeting which was held in a virtual format. He stated that the meeting consisted of two business sessions and elections which were all conducted in one day. Director Hendrick reported that this was the first time that he had ever attended this meeting and that he found it to be very informative even in the virtual setting.

Director Hendrick also reported that NABP Executive Director, Carmen Catizone retired after serving as Executive Director/Secretary for 35 years. Mr. Catizone is being replaced by Lemrey “Al” Carter who recently left Walgreens to accept the position.

**COVID-19:**

Dr. Hendrick reported that in accordance with state and federal guidelines, the office staff along with the compliance officers began working from home the end of March. He reported that during this time, office staff would come to the office one day a week to process applications along with other duties that could not be completed at home. The office staff returned back on May 4<sup>th</sup> and the compliance officers have returned doing in person inspections. He stated that he felt the process was successful in keeping applications and renewals on schedule and that the waiver system that was implemented became a very valuable tool in evaluating and taking steps to maintain patient safety for the

ATTEST \_\_\_\_\_

citizens of Oklahoma. He reported that he has begun to review the system and has been able to start putting together a more direct system that utilizes knowledge gained by this pandemic.

**Year in Review:**

Dr. Hendrick noted that he had just celebrated his one year anniversary and reviewed the following accomplishments during that year.

1. The promotion of Gary LaRue to Deputy Director.
2. Hired a new compliance officer for Western Oklahoma (Darrell Switzer)
3. Covid-19 - created a waiver system to streamline response time to pandemic problems
4. Covid-19 – preparation to close and reopen a state agency
5. Evaluation of application and renewal process
6. Work with both State Senators and Representatives
7. Coverage of unique cases by both newspaper and television
8. Collaboration with other State Board of Pharmacy

**OSBP vs Colby Meece, Intern 9643, Case No. 1586:**

The Board was called to order by President Adams to hear the case of Colby Meece. Mr. Meece was present and chose to appear without Counsel. Oklahoma Pharmacist Helping Pharmacist Director (OPHP) Kevin Rich was present to testify on Mr. Meece's behalf. Executive Director, Marty Hendrick was also available to answer any questions of the Board.

Assistant Attorney General, John Settle presented the Board with the Complaint for review. Mr. Meece was a student at The University of Oklahoma College of Pharmacy (OUHSC). While on a rotation, the preceptor noted several behaviors that concerned her such as being late, making personal calls on learning time, downloading personal information on work computers, lacking professional boundaries with patients and taking multiple breaks throughout the day. The preceptor became concerned when she came across a drug shortage of Oxycodone 15mg. The preceptor immediately put in place that everyone would back count, initial and write the quantity on the bottle of medicine and that the pharmacist would be double checking the count towards the end of the day. Mr. Meece counted a Morphine Sulfate 30mg ER and wrote that there were 42 in the stock bottle when in fact there were only 40 upon back count by the pharmacist. Mr. Meece proceeded to rush out the door before he could be asked about the discrepancy. While reviewing video from another rotation site that Mr. Meece attended, it was determined that there were multiple incidents of diversions by the Respondent throughout his two days at the pharmacy. Representatives of OUHSC met with Mr. Meece where he admitted to the theft and stated that he was going to call OPHP. Mr. Meece was notified that he would no longer be a student at the OUHSC. Mr. Meece has entered into a contract with OPHP.

Mr. Settle then presented the Board with an Agreed Order. If the Board accepts the Agreed Order, Mr. Meece would agree to the following: Mr. Meece's intern license is suspended for one (1) year beginning March 3, 2020. He can reappear before the Board after March 4, 2021 to request reinstatement of his intern license pending re-acceptance into pharmacy school. Mr. Meece has entered into a ten (10) year contract with OPHP and must remain compliant with the terms of his agreement. He must notify the administration of any pharmacy school he is admitted in to that he has entered into a contract with OPHP.

Motion was made by Dr. Jim Spoon and seconded by Jason Willeford to accept the Agreed Order. Motion passed on roll call.

**OSBP vs. Complete Pharmaceuticals, #99-6155, Case No. 1592:**

The Board was called to order by President Adams to hear the case of Complete Pharmaceuticals. Assistant Attorney General, John Settle presented the Board with a letter from pharmacy owner and PIC, Gregory Gaiser requesting that due to COVID-19 and his age, the Board accept his Agreed Order and exempt him from appearing in person before the Board.

A motion was made by Dr. Jim Spoon and seconded by Dr. Mark St.Cyr to accept his exemption request. Motion passed on roll call vote

ATTEST \_\_\_\_\_

Assistant Attorney General, John Settle then presented the Board with the Complaint for review. Complete Pharmaceuticals was charged with multiple violations of state and federal regulations and rules including it being unlawful for any person, including, but not limited to, Internet, website or online pharmacies to sell at retail or to offer for sale, dangerous drugs, medicines, chemicals or poisons for the treatment of disease, excluding agricultural chemicals and drugs, or to accept prescriptions for the same without first procuring a license from the State Board of Pharmacy.

Mr. Settle then presented the Board with an Agreed Order. If the Board accepts the Agreed Order, Complete Pharmaceuticals will agree to the following: Respondent admits to guilt on Counts 1 through 22. They agree to pay a fine of \$1,000.00 per Count for Counts 1 through 22 for a total of \$22,000.00 which is to be paid in full before June 17, 2021.

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

**OSBP vs. Gregory G. Gaiser, D.Ph. #16036, Case No. 1591:**

The Board was called to order by President Adams to hear the case of Gregory G. Gaiser. Assistant Attorney General, John Settle presented the Board with a letter from Gregory Gaiser requesting that due to COVID-19 and his age, the Board accept his Agreed Order and exempt him from appearing in person before the Board.

A motion was made by Dr. Jim Spoon and seconded by Dr. Kyle Whitehead to accept his exemption request. Motion passed on roll call vote

Assistant Attorney General, John Settle presented the Board with the Complaint for review. Mr. Gaiser was charged with multiple violations of state and federal regulations and rules including the pharmacy manager and/or pharmacy owner being responsible for compliance with Oklahoma laws and regulations pertaining to the provisions of receiving, dispensing and/or delivering of prescriptions or prescription medications and devices to Oklahoma residents.

Mr. Settle then presented the Board with an Agreed Order. If the Board accepts the Agreed Order, Mr. Gaiser will agree to the following: Mr. Gaiser admits to guilt on Counts 1 through 21. He would agree to pay a fine of \$500.00 per Count for Counts 1 through 21 for a total of \$10,000.00 which is to be paid in full before June 17, 2021.

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

**OSBP vs Diamond Pharmacy Services, #99-483, Case 1368 – request probation be lifted:**

The Board was called to order by President Adams to hear the request of Diamond Pharmacy Services. Chief Counsel Gerald O'Brien was present along with Brad Howard and Kurt Taylor as representatives for Diamond Pharmacy Services.

Representatives were present to request that the 5-year probation placed on the license of Diamond Pharmacy Services on December 3, 2015 be lifted. After a brief discussion, it was determined that the Respondent has complied with all of the requirements and directives of the Board's previous December 3, 2015 Agreed Order.

A motion was made by Dr. Justin Wilson and seconded by Jason Willeford to lift the probation as requested. Motion passed on roll call vote with Dr. Mark St. Cyr voting "No".

**OSBP vs. Gary Young, D.Ph. #8360, Case No. 1511 – request suspension be lifted:**

The Board was called to order by President Adams to hear the request of D.Ph. Gary Young. Mr. Young was present. OPHP Director Kevin Rich was present on Mr. Young's behalf.

Mr. Young's request was to have his indefinite suspension lifted on his license that was previously established in a Final Order on March 6, 2018. Mr. Young was required to pay a \$12,000.00 fine which has not been paid as of June 17, 2020. Mr. Rich testified the Mr. Young had entered into a ten (10) year contract with OPHP and that he has done well and had a "Fit for Duty".

After a discussion with Mr. Young, a motion was made by Dr. Jim Spoon and seconded by Jason Willeford to lift the suspension of the license and place on

ATTEST \_\_\_\_\_

probation. Before his license will be placed on probation, the first \$1000.00 payment of the \$12,000.00 fine must be paid. Mr. Young will have one (1) year from the beginning date of employment to pay the remainder of the fine. If the fine is not paid within 12 months, the license status will automatically revert back to suspension. Mr. Young must work 160 hours with a preceptor. The preceptor must send a report at the middle and at the end of the 160 hours. Mr. Young may petition the Board after one (1) year to lift probation as long as the fine is paid and he is compliant with his OPHP contract. Motion passed 3-2 on roll call vote with Dr. Justin Wilson and Dr. Kyle Whitehead voting "no".

**Board meets with Board Attorney's, Erin Moore and Lauren Ray to discuss building issues:**

The Board was called to order by President Adams to discuss building issues with Assistant Attorney General, Erin Moore. Ms. Moore was present with Assistant Attorney General, Lauren Ray.

Motion was made by Dr. Justin Wilson and seconded by Dr. Mark St. Cyr to go into Executive Session to discuss the building issues. Motion passed on roll call vote. President Adams invited Executive Director, Mary Hendick to attend the meeting.

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

**OSBP vs. Angela Williams, Technician #8658, Case No. 1585:**

The Board was called to order by President Adams to hear the case of Angela Williams. Ms. Williams 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. Compliance Officer Kim Hibbard was informed by the PIC of Omnicare of Tulsa that on two occasions, the pharmacy had run out of Methylprednisolone 4mg dose packs within a short period of time. The PIC pulled a report detailing how many of the dose packs had been dispensed since the last two orders had been received and discovered that none had been dispensed to any patients. After reviewing video footage, it was discovered that Ms. Williams had gone to the shelf where the medication was kept and had taken the missing Methylprednisolone 4mg dose packs off of the shelf and concealed them. Ms. Williams was interviewed in person and admitted to diverting more than the Methylprednisolone. Ms. Williams was terminated for theft.

Mr. Settle then presented the Board with an Agreed Order that had been signed by Ms. Williams. By signing the Agreed Order, Ms. Williams admits to guilt on all counts and accepts revocation of her 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. Alondra Maldonado, Technician #18262, Case No. 1587:**

The Board was called to order by President Adams to hear the case of Alondra Maldonado. Ms. Maldonado was not present. Registration Secretary, Rhonda Jenkins testified that Ms. Maldonado had been properly notified. Compliance Officer, Marjan Fardadfar testified for the Board. Assistant Attorney General, John Settle prosecuted for the Board.

Mr. Settle presented the Board with the Complaint for review. Witnesses were sworn in by the Board President. Testimony was then taken, and evidence presented was admitted. The Board received notification from Walgreens Pharmacy that Ms. Maldonado has been terminated due to employee pilferage. The pharmacy was experiencing negative adjustments for Hydrocodone-Acetaminophen. Surveillance footage showed Ms. Maldonado filling Hydrocodone-Acetaminophen 10/325mg tablets into two different vials. One vial remained unlabeled and placed aside while the second vial was labeled and placed into a tote for pharmacist final verification. Ms. Maldonado placed the first vial into a tote covered with a prescription leaflet. She was then observed walking out of the video's visual field and returned without the first vial in her hand. Another video showed what appears to be Ms. Maldonado filling a vial with pills

ATTEST \_\_\_\_\_

and emptying the same vial into her hand. She then walked out of the videos sight. In a voluntary statement, Ms. Maldonado admits to stealing Hydrocodone-Acetaminophen 10-325mg tablets.

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

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

**OSBP vs. Jamie Watson, Technician #19120, Case No. 1588:**

The Board was called to order by President Adams to hear the case of Jamie Watson. Ms. Watson 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 the PIC at Limestone Pharmacy that Ms. Watson had been terminated for theft of a controlled substance. Compliance Officer Kim Hibbard discussed the incident with the PIC and discovered that a few months before, a white tablet had been found by the office door but since Ms. Watson has had a prescription for both Diazepam and Lorazepam in the past it was believed that she had dropped one of her tablets from her prescription. The PIC stated that over the course of a few months she noticed that Ms. Watson had gotten very slow at her job for no apparent legitimate reason. The PIC decided to do a spot count of her Diazepam 10mg tablets and noticed the shortage. After reviewing video, it was determined that Ms. Watson had gone down an aisle taking a bottle from the shelf and then returning to the counter about 20 seconds later without a bottle but with her hand closed up in a fist. Ms. Watson signed a formal letter acknowledging that she had been seen on video taking the medication and that the letter served as her termination letter.

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

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

**OSBP vs. Jerusha Sterrett, Technician #25115, Case No. 1589:**

The Board was called to order by President Adams to hear the case of Jerusha Sterrett. Ms. Sterrett 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 notice from Erika Arevalo, Wal-Mart Corporate Compliance Analyst that Ms. Sterrett had been fired from Wal-Mart for theft of merchandise. Ms. Sterrett had participated in under ringing merchandise for herself; not scanning all the items at the self-checkout registers. There were no prescription medications involved. During an interview, Ms. Sterrett admitted to under ringing merchandise on multiple occasions and provided a written statement of guilt.

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

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. Jennifer Mason, Technician #3634, Case No. 1590:**

The Board was called to order by President Adams to hear the case of Jennifer Mason. Ms. Mason was not present but it had been determined that she had been properly notified. Board Member, Dr. Jim Spoon recused from the hearing.

Assistant Attorney General John Settle presented the Board with the Complaint for review. Compliance Officer, Kim Hibbard received a phone call from the PIC of TRB Drugry notifying her of the termination of Jennifer Mason for suspicion of theft of controlled dangerous substances (CDS) and excessive absences/tardiness in addition

ATTEST \_\_\_\_\_

to increasingly erratic behavior. After several different instances, the PIC began an inventory of some of the CDS. It was determined that an entire stock bottle of generic Fioricet was missing. When the invoice was pulled, it was determined that Ms. Mason had been the one to sign for the bottle but instead of adding it to the inventory, a quantity was subtracted from the inventory. It was also discovered that a single item of generic Soma was ordered, received and checked in by the Respondent but the bottle of medication was missing. A discussion was held with Ms. Mason about her tardiness, her behavior and she was questioned about the missing medication. Ms. Mason denied knowing what happened to the missing medication.

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

**Board discusses the Fiscal Year 2021 Legal Services Contract between OSBP and the Office of the Attorney General:**

President Adams called the Board to order to discuss the Legal Services Contract between the Board of Pharmacy and the Office of the Attorney General.

A motion was made by Dr. Justin Wilson and seconded by Dr. Jim Spoon to go into Executive Session. Motion passed on roll call vote. President Adams asked that Director Hendrick attend the Executive Session.

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

A motion was made by Dr. Justin Wilson and seconded by Dr. Mark St. Cyr to continue with the Legal Services Contract for the 2021 year. Motion passed on roll call vote.

**John Rocchio, Senior Director of CVS Health Regulatory Affairs appears before the Board:**

The Board was called to order to hear the presentation of John Rocchio of CVS. Mr. Rocchio had submitted a waiver requesting that due to the COVID-19 pandemic and restrictions with travel, he be allowed to appear before the Board remotely which was granted by Executive Director, Marty Hendrick.

Mr. Rocchio presented the Board with a "Workload Sharing" request. In his presentation, he stated that the purpose of the request was the hope in sharing prescription processing tasks with other CVS pharmacies in order to level the workload for pharmacist. He noted that leveling the balance of prescription volume between pharmacies would facilitate an increase in patient caretime making pharmacist available at the higher volume pharmacies. He noted that the workload sharing algorithm would identify pharmacies with reduced workload and shift processing from saturated CVS pharmacy locations within the state. He stated that a thorough policy and procedure document would be maintained by all pharmacies involved via the company intranet.

After a discussion with Mr. Rocchio, a motion was made by Dr. Jim Spoon and seconded by Dr. Mark St. Cyr to approve their request as a pilot program with Mr. Rocchio reporting back to the Board within 6 month with the effectiveness. Motion passed on a 3-2 roll call vote with Dr. Kyle Whitehead and Jason Willeford voting "no".

**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 3:00p.m.

ATTEST \_\_\_\_\_