

MINUTES

OKLAHOMA STATE BOARD OF PHARMACY

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

March 6, 2018

Call to order:

President Whitehead called the March 6, 2018 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
Stephen Dudley, Member
Jim Spoon, Member
Justin Wilson, Member

Board of Pharmacy:

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

Guests

Shannon Griggs, Wal-Mart
Matthew Green, Wal-Mart
Lacy McConnell, Wal-Mart
Amber Mathias-Hodges, Wal-Mart
Derek Dennis, Walgreens
John Johnson, Omnicare
Jill Shadid, OU College of Pharmacy
Terry Cothran, OU College of Pharmacy
Nancy Williams, SWOSU College of Pharmacy
Travis Tate, HealthChoice
Debra Billingsley, OPhA
Erika Plyushko, Intern

Approval of minutes and claims:

A motion was made by Dr. Jim Spoon and seconded by Dr. Justin Wilson to approve the January 17, 2018 minutes. Motion passed on roll call vote.

A motion was made by Dr. Greg Adams and seconded by Dr. Mark St. Cyr to approve expense claims #6123-#6169, #H0374768, #H0375528-#H0375533, #H0376574, #H0378141-#H0378146, January and February payroll, the expenses of the Executive Director, and the January and February 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 lists presented, a motion was made by Dr. Justin Wilson and seconded by Stephen Dudley to approve the cancellation list of those that did not renew within the renewal time period. Motion passed on roll call vote.

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Presentation of “Years of Service” pin:

President Whitehead presented a 5 year service pin to Compliance Officer, Melissa Reichert. President Whitehead congratulated Ms. Reichert for her service with the State of Oklahoma and the work she does for the Board.

Board reviews request from Virgil Van Dusen:

The Board reviewed a request from Virgil Van Dusen of Southwestern Oklahoma State University College of Pharmacy. Dr. Van Dusen will be presenting a 5 hour ACPE approved CE program titled “Pharmacy Law Update and Medication Errors” and would like to have it approved as a Board approved CE program for those registrants who are required to obtain additional law CE hours as part of a mandated penalty.

After a brief discussion, a motion was made by Dr. Jim Spoon and seconded by Stephen Dudley to approve this program as a Board approved 5 hour law CE. It was noted that the Board requires an 8 hour CE program but that the individual could use this program as 5 of the 8 hours required. Motion passed on roll call vote.

Board sets future Board meetings:

The Board scheduled Wednesday August 8, 2018 as a Board meeting.

Executive Director gives Agency report:

Building Report:

Executive Director, Chelsea Church, reported that the building committee met with Terracon on Monday the 5th to discuss the status of their findings. The forensic testing should begin soon. She also stated that the mylar security film was applied last month on the glass entry area and all office doors. Paperwork for the limited building access system and other security measures has been filed and installation should begin soon.

Spring Critical Mission Meetings:

Director Church reminded the Board of some spring critical mission meetings that will be coming up that she and some Board members will be attending. APHA will be March 16-19, 2018 in Nashville, TN; OSHP Annual Meeting will be April 13, 2018 in Oklahoma City; NABP Meeting will be May 5-8, 2018 in Denver, CO and the ASHP Annual Meeting will be June 2-6, 2018 in Denver, CO. Dr. Justin Wilson and Stephen Dudley will be attending the NABP meeting in Denver, CO.

MHSAS-OSBP Opioid Continuing Education:

Director Church stated that the Board will be hosting a continuing education conference titled “The Opioid Epidemic: What Pharmacists Need to Know”. She noted that we are receiving some funding from Mental Health and Substance Abuse Services (MHSAS) to provide a 6-hour CE conference in both Oklahoma City and Tulsa. The speakers include Dr. Jason Beaman, a physician and faculty member of OSU-Tulsa Medical School to discuss the pathophysiology of addiction and treatment options; Andrea Hamor Edmondson from MHSAS to discuss Naloxone and the outreach programs; Burl Beasley, a pharmacist from Oklahoma Health Care Authority to discuss how the OK Medicaid program is fighting the opioid epidemic in Oklahoma; and Dr. Church to discuss the Board’s perspective of addiction and diversion. The Tulsa conference is scheduled for Friday, March 9, 2018 at the Schusterman Center with 230 registered and the OKC conference is scheduled for March 30th at the Moore Norman Technology Center in Moore with 270 registered.

OK Commission on Opioid Abuse:

Director Church reported that the recommendations and rule/statutory changes were finalized at the last meeting held on January 11, 2018. She stated

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that Attorney General Hunter and the committee held a press conference on January 23rd stating the recommendations. The main recommendation was to have mandatory e-prescribing of CDS medications. Another mandate would be at least a one-hour CE requirement for prescribers and pharmacists about addiction/diversion. After the press conference, the Board intern and the Director attended the committee dinner and public talk that was given by the author of Dreamland, Sam Quinones. The dinner was held at the OK History Center.

Employee Recognition Dinner:

Director Church noted that the staff and some of the Board members attended an employee recognition dinner on March 5th at Charleston's.

Strategic Planning Retreat:

Director Church noted that she is still working on a venue and facilitator for the strategic planning retreat and that it may need to be postponed until the summer due to the Legislative session.

TALKOM:

Director Church stated that she is planning to have the TALKOM meeting the last week of April or possibly the first week of May and asked for any ideas for topics or speakers for a training session.

Staff Changes:

Director Church announced that Brittany Parrott has been hired as the Board's new Program Director. She stated that she previously worked for the Board of Dentistry.

Legislative Update:

Director Church asked Board lobbyist, Jimmy Durant, to provide an update on the pending issues with legislation.

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 applicants:

The Board was called to order to interview eleven (11) Reciprocity and one (1) Score Transfer applicants. All applicants had taken and passed the Oklahoma Multi-State Jurisprudence Exam.

Reciprocities:

Noel Boehm	PA	Angela Hise	OH
Mark DeClerk	AR	Tyler Kiles	TX
Rachel Gainsbrugh	FL	Susan Morrison	MS
Katherine Gardner	FL	Kellee Richardson	KS
Charlene Gravgaard	SC	Andrea Thomas	VA
Ryan Grealis	NJ		

Score Transfer:

Saskia Crocker CO

OSBP vs. Levi Sanders, Technician #23316, Case No. 1501:

The Board was called to order by President Whitehead to hear the case of Levi Sanders. Mr. Sanders was not present but it was determined that he had been properly notified.

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Assistant Attorney General Brinda White presented the Board with the Complaint for review. Walgreens received a hotline complaint alleging that the pharmacy manager was suspected of sharing his prescription pills with a technician and his roommate. The

hotline caller reported that Mr. Sanders and the pharmacist took smoke breaks together throughout the day and on at least one occasion they came back to the pharmacy smelling like marijuana. The store manager contacted Asset Protection and informed him that two technicians and a pharmacist had come to him to report similar concerns. During an interview with Asset Protection, Mr. Sanders admitted to smoking marijuana in the parking lot with the pharmacist. Mr. Sanders stated that on several occasions, the pharmacist would give him Vyvanse from his own prescription. Mr. Sanders also admitted to consuming food and drink items without paying for them and multiple packs of cigarettes. Mr. Sanders was terminated from Walgreens for theft of non-pharmacy merchandise.

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

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

OSBP vs. Tiffany Tusia, Technician #8729, Case No. 1502:

The case of Tiffany Tusia was continued until the April 18, 2018 meeting.

OSBP vs. Amanda Baze, Technician #19342, Case No. 1503:

The Board was called to order by President Whitehead to hear the case of Amanda Baze. Ms. Baze was not present. Registration Secretary, Rhonda Jenkins, testified that she had been properly notified. Wal-Mart Asset Protection Manager, Tina Kay, testified for the Board.

Assistant Attorney General Brinda White presented the Board with the Complaint for review. Asset Protection Manager, Tina Kay, was notified that another associate had observed Ms. Baze pick up a can of Red Bull and proceed to the pharmacy without paying for it. Ms. Kay reviewed the surveillance and observed Ms. Baze pick up the can and proceed past registers without paying for the item. Review of the pharmacy register receipts showed no sales for a can of Red Bull. After further review of the surveillance, it showed that the same thing had happened on two other occasions. During an interview, Ms. Baze admitted verbally and in a voluntary written statement to the theft of 3 cans of Red Bull. Ms. Baze was terminated from Wal-Mart for embezzlement.

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

Motion was made by Dr. Justin Wilson and seconded by Dr. Greg Adams that the technician permit of Amanda Baze be revoked. Motion passed on roll call vote.

OSBP vs. Carolyn Davis, Technician #19095, Case No. 1507:

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

Assistant Attorney General Brinda White presented the Board with the Complaint for review. Ms. Davis was sent to Canadian, Texas to pick up items for Medic Pharmacy of Buffalo, OK. While at Canadian, she filled out an inventory transfer sheet for non-pharmaceutical merchandise. The merchandise was brought to Medic of Buffalo, OK and left in the storage room. The merchandise was not checked into the store's inventory. The Pharmacist in Charge (PIC) interviewed Ms. Davis. Ms. Davis admitted both verbally and in a written voluntary statement to stealing merchandise from the Canadian store. Ms. Davis was terminated for theft.

Ms. White then presented the Board with an Agreed Order that had been signed by Ms. Davis. By signing the Agreed Order, Ms. Davis admits to guilt on all counts and

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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 hears request from NAPLEX applicant, Jeremy Benson:

The Board was called to order by President Whitehead to hear the request of Jeremy Benson. Mr. Benson had taken and failed the NAPLEX 3 times and was requesting that the Board allow him a 4th attempt.

After a brief discussion with Mr. Benson, a motion was made by Dr. Jim Spoon and seconded by Stephen Dudley to allow Mr. Benson to take the NAPLEX the maximum amount of times if necessary. Motion passed on roll call vote.

OSBP vs. Blanchard Drug & Gifts, #47-3971, Case No. 1516:

The Board was called to order by President Whitehead to hear the case of Blanchard Drug & Gifts. PIC and owner, Lisa Standridge, was present along with her attorney.

Assistant Attorney General Brinda White presented the Board with the Complaint for review. Blanchard Drug & Gifts was charged with multiple violations of state and federal regulations and rules including misfilling a prescription in a manner that departs from the standards of care ordinarily exercised by a registrant with proof of actual injury not having to be established. At this time, Stephen Dudley recused himself from the case.

Ms. White then presented the Board with an Agreed Order. If the Board accepts the Agreed Order, Blanchard Drug & Gifts would agree to the following: Blanchard Drug & Gifts neither admits nor denies guilt on all six (6) counts. **The pharmacy would agree to probation of its license for three (3) years until March 6, 2021.** The pharmacy agrees to pay a fine of \$2000.00 per count for a total fine of \$12,000.00 which is due March 6, 2018. All of the part-time employees shall have documented training on the software used by Blanchard Drug & Gifts prior to working for them. The pharmacy shall implement and enforce a policy that every refusal to refill a script shall be reviewed by a pharmacist before this refusal is communicated to the patient.

Motion was made by Dr. Jim Spoon and by Dr. Greg Adams to accept the Agreed Order. Motion passed on roll call vote.

OSBP vs. Armando Burchett-Zuniga, D.Ph. #12719, Case No. 1517:

The Board was called to order by President Whitehead to hear the case of Armando Burchett-Zuniga. Mr. Burchett-Zuniga was present and chose to appear without Counsel.

Assistant Attorney General Brinda White presented the Board with the Complaint for review. Mr. Burchett-Zuniga was charged with multiple violations of state and federal regulations and rules including misfilling a prescription in a manner that departs from the standards of care ordinarily exercised by a pharmacist with proof of actual injury not having to be established. At this time, Stephen Dudley recused himself from the case.

Ms. White then presented the Board with an Agreed Order. If the Board accepts the Agreed Order, Mr. Burchett-Zuniga would agree to the following: Mr. Burchett-Zuniga neither admits nor denies guilt on all four (4) counts. **He would agree to a one (1) year probation of his license until March 6, 2019.** Mr. Burchett-Zuniga would agree to pay a fine of \$1250.00 per count for a total fine of \$5,000.00 which shall be paid by August 6, 2018. Mr. Burchett-Zuniga shall have documented training on the retail software used by a pharmacy prior to working at that pharmacy as the only pharmacist. Mr. Burchett-Zuniga would agree to attend a one-day (8 hour) law seminar in addition to the required fifteen (15) hours of CE during the calendar years of 2018 and 2019 for a total of twenty-three (23) hours of CE during these calendar years. All 15 hours of required CE that Mr. Burchett-Zuniga must have to renew his license shall be live during the calendar years of 2018 and 2019.

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.

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OSBP vs. Jerry Williams, D.Ph. #11793, Case No. 1500:

The Board was called to order by President Whitehead to hear the case of Jerry Williams. Mr. Williams was present with his attorney.

Assistant Attorney General Brinda White presented the Board with the Complaint

for review. Mr. Williams was charged with multiple violations of state and federal regulations and rules including dispensing outdated prescription drugs.

Ms. White then presented the Board with an Agreed Order. If the Board accepts the Agreed Order, Mr. Williams would agree to the following: Mr. Williams neither admits nor denies guilt on all five (5) counts. Mr. Williams would agree to pay a fine of \$500.00 per count on Counts 1 and 2 for a total fine of \$1000.00 which is due on March 6, 2018. Mr. Williams would agree to attend a one-day (8 hour) law seminar in addition to the required fifteen (15) hours of CE during the calendar year of 2018 for a total of twenty-three (23) hours of CE during this calendar year. 12 of the 15 hours of required CE that Mr. Williams must have to renew his license shall be live during the calendar year of 2018 with the exception of the 3 hours of CE which he has already completed for 2018.

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. Gary Young, D.Ph. #8360, Case No. 1511:

The Board was called to order by President Whitehead to hear the case of Gary Young. Mr. Young was not present. Registration Secretary, Rhonda Jenkins, testified that he had been properly notified. Compliance Officer, Melissa Reichert, and Oklahoma Pharmacist Helping Pharmacist Director (OPHP), Kevin Rich, both testified for the Board.

Assistant Attorney General Brinda White presented the Board with the Complaint for review. Mr. Young was charged with multiple violations of state and federal regulations and rules including making or filing a report or record that the registrant knows or should have known to be false, intentionally or negligently failing to file a report or record required by federal, state or local laws or rules, willfully impeding or obstructing such filing, or inducing another person to violate this rule.

Motion was made by Dr. Jim Spoon and seconded by Stephen Dudley that based on the evidence presented, Mr. Young be found guilty as charged. Motion passed on roll call vote.

Motion was made by Dr. Justin Wilson and seconded by Dr. Jim Spoon that Mr. Young's license be placed on indefinite suspension and he be fined \$2,000.00 per count for a total of \$12,000.00. The fine will become due upon the filing of any request by Mr. Young with the Board to ask that his license be placed on probation. Motion passed on roll call vote with Stephen Dudley voting "No".

OSBP vs. William David Roberson, D.Ph. #16092, Case No. 1504:

The Board was called to order by President Whitehead to hear the case of William David Roberson. Mr. Roberson was present and chose to appear without Counsel.

Assistant Attorney General Brinda White presented the Board with the Complaint for review. Mr. Roberson was charged with multiple violations of state and federal regulations and rules including knowingly or intentionally possessing a controlled dangerous substance which was not obtained directly or pursuant to a valid prescription or order from a practitioner, while acting in the course of his professional practice.

Ms. White then presented the Board with an Agreed Order. If the Board accepts the Agreed Order, Mr. Roberson would agree to the following: Mr. Roberson neither admits nor denies guilt on all five (5) counts. Mr. Roberson's license would be suspended for ten (10) years until March 6, 2028. The suspension is stayed and would be placed on probation for ten (10) years until March 6, 2028. Mr. Roberson would agree to enter into and abide by a ten-year contract with OPHP. He is to notify all future employers that he has entered into a contract with OPHP. Mr. Roberson would agree to

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attend a one-day (8 hour) law seminar in addition to the required fifteen (15) hours of CE during the calendar years of 2018 and 2019 for a total of twenty-three (23) hours of CE during these calendar years. All 15 hours of required CE that Mr. Roberson must have to renew his license shall be live during the calendar years of 2018 and 2019.

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. Pejman Yazdani, D.Ph. #16521, Case No. 1505:

The Board was called to order by President Whitehead to hear the case of Pejman Yazdani. Mr. Yazdani was not present. Registration Secretary, Rhonda

Jenkins, testified that he had been properly notified. Compliance Officer, Melissa Reichert, and Walgreens Asset Protection Manager, Mike Shaeffer, both testified for the Board.

Assistant Attorney General Brinda White presented the Board with the Complaint for review. Mr. Yazdani was charged with multiple violations of state and federal regulations and rules including failing to make the health and safety of patients the registrant's first consideration.

Motion was made by Dr. Jim Spoon and seconded by Stephen Dudley that based on the evidence presented, Mr. Yazdani be found guilty as charged. Motion passed on roll call vote.

Motion was made by Dr. Jim Spoon and seconded by Dr. Justin Wilson that Mr. Yazdani's license be placed on indefinite suspension and he be fined \$3,000.00 per count for a total of \$27, 000.00. The fine will become due upon the filing of any request by Mr. Yazdani with the Board to ask that his license be placed on probation. Motion passed on roll call vote with Stephen Dudley voting "No".

OSBP vs. Abdul-Rahman Al-Jarrah, D.Ph. #16780, Case No. 1508:

The Board was called to order by President Whitehead to hear the case of Abdul-Rahman Al-Jarrah. Mr. Al-Jarrah was present and chose to appear without Counsel.

Assistant Attorney General Brinda White presented the Board with the Complaint for review. Mr. Al-Jarrah was charged with multiple violations of state and federal regulations and rules including abusing alcohol or habit forming drugs, or using an illegal controlled dangerous substance (CDS) drug, or testing positive for such illegal substance or its metabolite.

Ms. White then presented the Board with an Agreed Order. If the Board accepts the Agreed Order, Mr. Al-Jarrah would agree to the following: Mr. Al-Jarrah neither admits nor denies guilt on all four (4) counts. Mr. Al-Jarrah's license would be suspended for ten (10) years until March 6, 2028. He may petition the Board and request that the suspension be stayed and that his license be placed on probation upon proof of the following: a fit for duty evaluation, a finding that Mr. Al-Jarrah is fit for duty by an OPHP approved provider; and a recommendation by OPHP that Mr. Al-Jarrah be placed on probation. Probation may be granted at the Board's discretion upon a showing that he has been found fit-for-duty and that resuming to practice would not put the public at risk. Mr. Al-Jarrah would agree to enter into and abide by a ten-year contract with OPHP. He is to notify all future employers that he has entered into a contract with OPHP. Mr. Al-Jarrah would agree to attend a one-day (8 hour) law seminar in addition to the required fifteen (15) hours of CE during the calendar years of 2018 and 2019 for a total of twenty-three (23) hours of CE during these calendar years. All 15 hours of required CE that Mr. Roberson must have to renew his license shall be live during the calendar years of 2018 and 2019.

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. David Branscum, D.Ph. #17352, Case No. 1514:

The case of David Branscum was continued until the April 18, 2018 meeting.

OSBP vs. Shane Branden Leu, D.Ph. #12317, Case No. 1508:

The Board was called to order by President Whitehead to hear the case of Shane

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Branden Leu. Mr. Leu was present with his wife and his father. Mr. Leu chose to appear without Counsel.

Assistant Attorney General Brinda White presented the Board with the Complaint for review. Mr. Leu was charged with multiple violations of state and federal regulations and rules including abusing alcohol or habit forming drugs, or using an illegal controlled dangerous substance (CDS) drug, or testing positive for such illegal substance or its metabolite.

Ms. White then presented the Board with an Agreed Order. If the Board accepts the Agreed Order, Mr. Leu would agree to the following: Mr. Leu admits to guilt on all six (6) counts. His license would be suspended indefinitely. Mr. Leu would agree to enter into and abide by a lifetime contract with OPHP. He is to notify all future employers that he has entered into a contract with OPHP. Mr. Leu may petition the

Board and request that the suspension be stayed and that his license be placed on probation upon proof of the following: successful completion of three (3) years of his OPHP contract; a fit for duty evaluation, a finding that he is fit for duty by an OPHP approved provider; and a recommendation by OPHP that he be placed on probation. Probation may be granted at the Board's discretion. If OPHP finds Mr. Leu non-compliant in any way with his OPHP contract, this non-compliance restarts the running of the three (3) year period that Mr. Leu must successfully complete before he can petition the Board and request probation.

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. Dr. Justin Wilson and Dr. Greg Adams voted "No"

Board breaks for lunch

Board reviews and approves 2018 Draft Rule Revisions; Title 535, Chapters 1, 10, 15, 20 and 25 as presented for Public Comment:

Office Manager MaryAnn Terral presented the Board with Title 535, Chapters 1, 10, 15, 20 and 25 public comments that were received. At this time, Dr. Justin Wilson and Dr. Mark St.Cyr had to leave the meeting. The Board heard and reviewed public concerns that were recognized including presentations concerning Subchapter 19 New Automation Rules.

After a discussion, a motion was made by Dr. Greg Adams and seconded by Dr. Jim Spoon to approve Chapter 1, Chapter 10, Chapter 15, Chapter 20 and Chapter 25 proposed rules as revised including Subchapter 19. Motion passed on roll call vote.

President Whitehead adjourned the Board meeting:

A motion was made by Stephen Dudley and seconded by Dr. Jim Spoon to adjourn the Board meeting. Motion passed on roll call vote. President Whitehead adjourned the Board meeting at 3:15 p.m.