

MINUTES

OKLAHOMA STATE BOARD OF PHARMACY

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

May 19, 2021

Call to order:

President Spoon called the May 19, 2021 meeting of the Oklahoma State Board of Pharmacy (OSBP) to order at 8:32 am with a roll call vote. All members were present.

Those present were:

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

Board of Pharmacy: Marty Hendrick, Executive Director
Gary LaRue, Deputy Director
Melissa Jones, 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 Robin Murphy, Department of Corrections
Jill Shadid, OU College of Pharmacy
Nancy Williams, SWOSU College of Pharmacy
Debra Billingsley, OPhA
Terry Cothran, Oklahoma Healthcare Authority
Burl Beasley, Oklahoma Healthcare Authority
Chris Turpin, AST Little Axe Health Center Pharmacy
Megan Raney, AST Little Axe Health Center Pharmacy
Jack Taylor, AST Little Axe Health Center Pharmacy
Whitney Burch, Oklahoma City Urban Indian Clinic
Mary Surovec, DEA
Liz Stephens, Assistant Attorney General

Approval of minutes and claims:

A motion was made by Dr. Mark St. Cyr and seconded by Dr. Greg Adams to approve the March 10, 2021 minutes. Motion passed on roll call vote.

A motion was made by Dr. Kyle Whitehead and seconded by Dr. Mark St. Cyr to approve expense claims #7086-7129, #H0443829-#H0443834, #H0446002-#H0446007, the March-May payroll and the March and April 2021 leave reports 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. Greg Adams 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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Board sets future Board meeting(s):

The Board set Wednesday September 22, 2021 as a scheduled Board meeting. The next Board meeting date is set for Wednesday July 28, 2021.

P-4 Students:

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

Executive Director gives Agency report:

Building Update:

Director Hendrick reported that talks have continued with GH2 on repairs and design of the building. He stated that once the emergency declaration has been approved the process of finding a construction company can begin along with putting all the pieces together to make sure the building is repaired correctly.

MOU:

Director Hendrick reported that NABP has requested that FDA delay the signing of the MOU until October 2022. They have stated that many states would not be able to comply with the October 2021 date. Director Hendrick noted that currently FDA has not responded to the request but stated that he would continue to monitor and update as information becomes available.

Legislation:

Director Hendrick reported on the progress of several bills in both the House and Senate. Below are some of the bills in progress:

1. **SB779** – updated to take the Oklahoma Board of Pharmacy out of the certification of physicians. The bill is currently in the senate and will still have to return to the house for a final vote.
2. **HB2649** – deals with the licensing of DME. Is currently in appropriations on the senate side and looks to be hibernating. Possibly passed next year with some modifications.
3. **HB2123** – has passed and was signed by Governor Stitt. This bill/act requires the Board of Pharmacy to appoint two members of OPhA who are in good standing to the Pharmacy Choice Commission for a term of two years. The names for the appointment will be provided by OPhA.

Travel:

Director Hendrick stated that he attended the APhA virtual conference on March 12th-15th. He noted that the highlight of the event was the presentation by Dan Schneider from the Netflix documentary “The Pharmacist”. He stated that the documentary follows the opioid crisis and more specifically the rise of OxyContin.

Director Hendrick also stated that he attended the virtual NABP Annual Conference on May 13th-14th. He reported that the conference provided a great platform to network and catch up on how states are handling Covid-19. He noted that a lot of discussion covered modifying rules during the pandemic and if the changes needed to become permanent.

Director Hendrick noted that the NABP District 6, 7 & 8 will be held in person August 29th-September 1st in Carefree Arizona. He stated that he plans to attend and would like a Board member to also attend if possible.

Director Hendrick also noted that he received confirmation that OPhA will be holding their annual meeting on August 7th in OKC. He stated that he would be attending along with some of the staff.

COVID-19:

Director Hendrick reported that the Board offices and building have remained closed to the public. He noted that the Compliance Officers are out

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doing normal inspections and are beginning to expand back to doing hospital inspections.

Secretary Winchester:

Director Hendrick reported that he will be meeting with Cabinet Secretary Winchester on May 18th at the Board office and that an update of the visit will be presented at the next Board meeting.

Declaration of Emergency for Building:

The Board was called to order by President Spoon to discuss the Declaration of Emergency. Director Hendrick stated that to start the correction process on the building, a Declaration of Emergency must be signed by the Board President and sent to the Director of Construction and Properties.

A motion was made by Dr. Mark St. Cyr and seconded by Dr. Justin Wilson to declare an emergency pursuant to Statute 63 as reflected in the letter to be signed by President Spoon. Motion passed on roll call vote.

Oklahoma Pharmacist Association (OPhA) Director, Debra Billingsley appears before the Board:

The Board was called to order by President Spoon to discuss the OPhA election process. Ms. Billingsley reported that each district adopts their own way of nominating and that those nominated names are sent to OPhA. She stated that she would like to have the ballot with the list of names sent out to pharmacist no later than January 1st each year. From there, they would have 30 days to vote and then the top ten names would be sent to the Governors office hopefully by the first of the legislative session. The names must be submitted to the Governors office no later than May 1st of each year. She stated that to do this, may require some Bylaw changes of the OPhA Board. Ms. Billingsley stated that she would keep the Board advised on the process as it proceeds.

Appointment to The Pharmacy Choice Commission:

The Board was called to order to discuss the appointment(s) to The Pharmacy Choice Commission. Those nominated will serve a two-year term and must be a member of OPhA in good standing. The two nominees selected for this term will be Bill Moore and Melanie Maxwell.

Motion was made by Dr. Justin Wilson and seconded by Dr. Greg Adams to approve the appointment of two OPhA members to The Pharmacy Choice Commission. Motion passed on roll call vote with Dr. Mark St. Cyr voting "No".

OSBP vs Ashley Tilschner, Technician #16970, Case No. 1617:

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

Mr. Settle presented the Board with the Complaint for review. The Board of Pharmacy office received notification that Ms. Tilschner had been terminated due to impairment while on duty.

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

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

OSBP vs Ella Marie Sisk, Technician #25759, Case No. 1618:

The Board was called to order by President Spoon to hear the case of Ella Marie Sisk. Ms. Sisk was not present, but it had been determined that she had been properly notified. Compliance Officer, Darrell Switzer testified for the Board. Assistant Attorney General John Settle prosecuted for the Board.

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Mr. Settle presented the Board with the Complaint for review. Compliance Officer Darrell Switzer received a voice mail from the Pharmacist in Charge (PIC) at Heritage Pharmacy stating that she had filed a report with the police departments concerning the theft of Controlled Dangerous Substances (CDS). The PIC stated to CO Switzer that they keep a very tight control of their inventory especially their CDS inventory. The PIC stated that over the past couple of months they would occasionally be a tablet or two short with some of the opioids. She talked to her staff about the importance of proper counting of CDS and keeping the inventory correct however the discrepancies continued. The PIC reviewed video but was unable to find any evidence of theft. A text was sent to all employees letting them know that counts were still off and that she knew pills were being taken from the pharmacy. The PIC received a return text from Ms. Sisk stating that she needed to talk to her. Ms. Sisk admitted to taking the pills for a few months. Ms. Sisk's employment was terminated, and a police report was filed.

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

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

OSBP vs Carla Brooks, Technician #16287, Case No. 1614:

The Board was called to order by President Spoon to hear the case of Carla Brooks. Ms. Brooks was not present, but it had been determined that she 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 three separate Initial Notification of Controlled Substance or PSE/E Listed Chemical Theft or Potentially Significant Loss reports from two different CVS locations. After reviewing the reports, CO Hibbard realized that CDS pilferage had occurred. CO Hibbard reached out to the CVS District Lead (DL) who informed CO Hibbard that they had begun an investigation into the pilferage. CO Hibbard was informed that Ms. Brooks had been initially interviewed and had admitted to pilfering Tylenol #4 over four to five years for her own personal use. She stated that she had taken less than 100 tablets total. She also admitted to taking Norco 10/325 #50 tablets, Percocet 10/325 #100 tablets and Oxycodone 20mg #3 tablets from the previous PIC and that she did not have a valid prescription for any of the medications.

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

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

OSBP vs. Melissa McCoy, D.Ph. #16690, Case No. 1615:

The Board was called to order by President Spoon to hear the case of Melissa McCoy. Ms. McCoy was present and chose to appear without Counsel. Compliance Officer, Kim Hibbard and OPHP Director Kevin Rich, both testified for the Board. Assistant Attorney General, John Settle prosecuted for the Board.

Mr. Settle presented the Board with the Complaint for review. Ms. McCoy was charged with multiple violations of state and federal regulations and rules including it being unlawful for any person knowingly or 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. McCoy would agree to the following: Ms. McCoy's license is indefinitely suspended, and she will immediately refrain from practicing in the State of Oklahoma. Ms. McCoy may petition the Board and request that the suspension be stayed after complying with the following: Ms. McCoy must enter into a ten (10) year Recovery Monitoring Agreement with Oklahoma Pharmacists Helping Pharmacists (OPHP); She must remain compliant with all terms of her OPHP contract and notify all future employers that she has entered into a contract with OPHP. Ms. McCoy must provide evidence that she has been determined "Fit for Duty" by a Board approved evaluator. Ms. McCoy agrees to attend an 8-hour law seminar in addition to the

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required 15 hours of CE during the years of 2022 & 2023. All CE for the years 2022 & 2023 must be live.

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. Kathy Dossey, D.Ph. #10322, Case No. 1613:

The Board was called to order by President Spoon to hear the case of Kathy Dossey. Ms. Dossey was present with Attorney, Marvel Lewis. Assistant Attorney General, John Settle prosecuted for the Board.

Mr. Settle presented the Board with the Complaint for review. On January 27, 2021, Ms. Dossey was found guilty of and sentenced for her criminal actions in the United States District Court for the Western District of Oklahoma. Ms. Dossey signed a Plea Agreement in this case. She was sentenced to probation for a term of 54 month and was ordered to pay restitution. The Plea Agreement contained Obligations of Defendant that required her to permanently surrender her Oklahoma pharmacy license within 5 business days after the date of her guilty plea and that she not re-apply for a pharmacy license in the State of Oklahoma. As of this date, the Board had not received Ms. Dossey's pharmacy license. The Board received a letter from Ms. Dossey on November 27, 2019 stating that the letter was to serve as her voluntary permanent resignation as a registered pharmacist in the State of Oklahoma and that the Board immediately cancel her certificate of registration as a pharmacist. There is no Oklahoma statute or rule that allows the Board to accept the surrender of a pharmacy license.

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

Motion was made by Dr. Greg Adams and seconded by Dr. Kyle Whitehead that the pharmacy license of Ms. Dossey be revoked. Motion passed on roll call vote.

OSBP vs. SpringCreek Pharmacy, #1-8736, Case No. 1620:

The Board was called to order by President Spoon to hear the case of SpringCreek Pharmacy. Attorney Stacey Chubbuck was present as the representative for SpringCreek Pharmacy. Compliance Officer Keevie Ridener testified for the Board. Assistant Attorney General, John Settle prosecuted for the Board.

Mr. Settle presented the Board with the Complaint for review. The pharmacy was charged with multiple violations of state and federal regulations and rules including a licensed pharmacist being present and on duty during all business hours.

Mr. Settle presented the Board with an Agreed Order. If the Board accepts the Agreed Order, SpringCreek Pharmacy would accept revocation of their pharmacy license.

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

OSBP vs. Adora Ughamadu, D.Ph. #11953, Case No. 1619:

The Board was called to order by President Spoon to hear the case of Adora Ughamadu. Ms. Ughamadu was present and chose to appear without Counsel. Compliance Officer Keevie Ridener testified for the Board. Assistant Attorney General, John Settle prosecuted for the Board.

Mr. Settle presented the Board with the Complaint for review. Ms. Ughamadu was charged with multiple violations of state and federal regulations and rules including failure to establish and maintain effective controls to prevent prescription errors or misfills.

Mr. Settle presented the Board with an Agreed Order. If the Board accepts the Agreed Order, Ms. Ughamadu will agree to the following: Ms. Ughamadu admits guilt on all 8 counts. She would agree to attend an 8-hour law seminar in addition to the required 15 hours of CE during the years of 2022 & 2023 with all CE for the years 2022 & 2023 being live. Ms. Ughamadu would agree to pay a total fine of \$1500.00.

Motion was made by Dr. Justin Wilson and seconded by Dr. Kyle Whitehead to accept the Agreed Order with the modification of no fine imposed. Motion passed on roll call vote.

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OSBP vs Kimberly Stuart, Technician #26757, Case No. 1616:

The Board was called to order by President Spoon to hear the case of Kimberly Stuart. Ms. Stuart was not present. Attorney Stacey Chubbuck was present as the representative for Ms. Stuart. Compliance Officer, Keevie Ridener testified for the Board. Assistant Attorney General John Settle prosecuted for the Board.

Mr. Settle presented the Board with the Complaint for review. The Board received communication and documentation that Humana Insurance Company had terminated their contract with SpringCreek Pharmacy for fraudulent billing among other things. Ms. Stuart was 10% owner of the pharmacy and had been working in the pharmacy processing, labeling, and shipping prescriptions without a pharmacist present or a final verification of the prescriptions.

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

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.

Board breaks for lunch

OSBP vs. Abdul-Rahman Al-Jarrah, D.Ph. #16780, Case No. 1508 – Requesting suspension be lifted:

The Board was called to order to hear the request of Abdul-Rahman Al-Jarrah. Mr. Al-Jarrah was present. OPHP Director Kevin Rich testified on his behalf.

After a brief discussion with Mr. Al-Jarrah and Mr. Rich on his progress, a motion was made by Dr. Kyle Whitehead and seconded by Dr. Mark St. Cyr to grant his request lifting the suspension of his license. Motion passed on roll call vote.

OSBP vs. Tyler Wellhausen, D.Ph. #14102, Case No. 1603:

The Board was called to order by President Spoon to hear the case of Tyler Wellhausen. Mr. Wellhausen was present with his wife Haley and Attorney, Sam Talley. Compliance Officer Melissa Jones testified for the Board. Assistant Attorney General, John Settle prosecuted for the Board. Assistant Attorney General Thomas Snyder was present as the Board Advisor. At this time Board Member Justin Wilson recused himself from the case.

Mr. Talley presented the Board with a Request for Dismissal of Complaint. Mr. Settle then presented the Board with an Objection to Respondent's Request to Dismiss. A brief discussion was held between the two parties as to the reasoning for the request.

Motion was made by Dr. Mark St. Cyr and seconded by Dr. Greg Adams to deny the request for dismissal. Motion passed on roll call vote.

Mr. Settle then presented the Board with the Complaint for review. Mr. Wellhausen was charged with multiple violations of state and federal regulations and rules including failure to establish and maintain effective controls against the diversion of prescription drugs and/or CDS.

Mr. Settle presented the Board with an Agreed Order. If the Board accepts the Agreed Order, Mr. Wellhausen would agree to the following: Mr. Wellhausen neither admits nor denies guilt on all six counts. He would agree to pay a fine of \$1180.00 which is due May 19, 2021. For a period of one year, until May 19, 2022, he shall submit to any drug or urinalysis testing requested by the Board at his cost. Testing and timing will be conducted and monitored by OPHP. Mr. Wellhausen shall not act as Pharmacist in Charge (PIC) for three years. After May 19, 2023, he may request, by filing a written petition, that the Board lift the PIC restriction. Mr. Wellhausen must attend an 8-hour law seminar in addition to the required 15 hours of CE during the years of 2022, 2023 and 2024. All CE for the years 2022, 2023 and 2024 must be live and at least two (2) hours shall include drug diversion prevention training during each of those years.

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

Board discusses Pay for Performance 2023 Plan:

Director Hendrick stated that he is requesting that the Board consider the possibility of awarding Pay for Performance (PPM) for Board employees excluding the Executive Director.

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Motion was made by Dr. Mark St. Cyr and seconded by Dr. Greg Adams to approve the Pay for Performance 2023 Plan as in years passed. Motion passed on roll call vote.

President Spoon adjourned the Board meeting:

A motion was made by Dr. Mark St. Cyr and seconded by Dr. Greg Adams to adjourn the Board meeting. Motion passed on roll call vote. President Spoon adjourned the Board meeting at 2:23 p.m.

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