

## MINUTES

### OKLAHOMA STATE BOARD OF PHARMACY

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

**November 18, 2020**

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

President Spoon called the November 18, 2020 meeting of the Oklahoma State Board of Pharmacy (OSBP) to order at 8:30 am with a roll call vote. 5 of 6 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  
\*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  
John Settle, Assistant Attorney General  
Rhonda Jenkins, Executive Secretary

Guests Derek Dennis, Walgreens  
Jennie Nguyen, Walgreens  
Robin Murphy, OK Dept. of Corrections  
Gold Xiong, Chickasaw Nation  
Jill Shadid, OU College of Pharmacy  
Edna Patatanian, SWOSU College of Pharmacy  
Debra Billingsley, OPhA  
Whitney Dovel, Intern  
Steven Huynh, Intern

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

A motion was made by Dr. Justin Wilson and seconded by Dr. Mark St. Cyr to approve the September 23, 2020 minutes. Motion passed on roll call vote.

A motion was made by Dr. Kyle Whitehead and seconded by Dr. Justin Wilson to approve expense claims #6976-7011, #H0433742-#H0433747, #H0435860-#H0435865, the October payroll and the September and October 2020 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. Kyle Whitehead to approve the cancellation list of those that did not renew within the renewal time period. Motion passed on roll call vote.

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

The Board set Wednesday January 13, 2021 as a "regular" scheduled meeting and Wednesday March 10, 2021 as the next "special" scheduled meeting.

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**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 the mediation for the building is scheduled for December 17<sup>th</sup> and 18<sup>th</sup>. He stated that Board Member, Mark St. Cyr, Assistant Attorney General, John Settle and Assistant Attorney General, Erin Moore will join him in attending the mediation.

**Staff Update:**

Director Hendrick welcomed Kristin Johnson to her new position as Programs Director. He stated the Ms. Johnson comes from Agency Business Services where she served as a Procurement Specialist for the last 6 years. He noted that Kristen will be replacing Brittany Parrott who has accepted a new challenge with the City of Del City. He thanked Ms. Parrott for all she has done and wished her the best with her new endeavor.

**Charles Edward McFall:**

Director Hendrick reported the passing of former Board member Charles "Ed" McFall. He stated that Dr. McFall passed away on October 30, 2020 in Oklahoma City due to complications from Covid-19.

Director Hendrick noted that the accomplishments and dedication Dr. McFall gave to the profession of pharmacy will be sadly missed by all.

**Travel:**

Director Hendrick stated that due to Covid-19 out of state travel is still prohibited at this time. He reported that NABP held its 95<sup>th</sup> Annual District 6 meeting virtually on October 13, 2020 which he attended. He stated that there were a number of topics discussed including pharmacy staffing and state planning in relation to COVID-19. He reported that the Oklahoma Board was complimented several times on the many accomplishments and innovations that they have had over the past year. He also noted that he has been elected to serve as the incoming Secretary/Treasurer for District 6.

Board Member, Justin Wilson attended the NCPA Virtual Conference that was also held in October 2020. Dr. Wilson gave a brief report on topics that were discussed.

Compliance Officer, Darrell Switzer gave a brief report on the virtual FDA conference he attended which discussed FDA's final MOU on interstate distributions of compounded drug products.

**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 and avoiding fragile locations. He also noted that there have not been any complaints on the status of the building other than when the office was without power for two weeks. He stated that once the power was restored, the staff worked diligently to get operations back to normal.

**OSBP vs. Michelle Brown, Technician #7512, Case No. 1605:**

The Board was called to order by President Spoon to hear the case of Michelle Brown. Ms. Brown 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 of Pharmacy office received a formal letter stating the Ms. Brown had been terminated for actions of adding unauthorized refills to a family member's

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prescription. Compliance Officer Keevie Ridener reached out to the physician for verification of the refill authorization. The physician stated that she had not authorized the refills and would never authorize that many refills at a time on a medication.

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 to 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 Crystal Davis, Technician #25333, Case No. 1604:**

The Board was called to order by President Spoon to hear the case of Crystal Davis. Ms. Davis 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 of Pharmacy office received notification of the employment termination of Ms. Davis due to employee pilferage. After a loss was discovered, the Pharmacist in Charge (PIC) began a daily inventory and discovered 117 tablets of Phentermine 37.5mg were unaccounted for. Ms. Davis was interviewed and voluntarily signed an employee statement admitting to stealing the Phentermine and Lomaira for her own personal use.

Mr. Settle 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 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.

**OSBP vs Dallas Gibson, Technician #26065, Case No. 1607:**

The Board was called to order by President Spoon to hear the case of Dallas Gibson. Ms. Gibson 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. While on a routine inspection, Compliance Officer Darrell Switzer was notified by the PIC of several inconsistencies in their annual controlled dangerous substances (CDS) inventory. Because of these apparent losses, the PIC required that the employees take a random drug test. The results of Ms. Gibson indicated that she had tested positive for amphetamines to which Ms. Gibson did not have a legal prescription for. As a result of the positive drug screen, Ms. Gibson was terminated.

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

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

**OSBP vs Bianca Shelby, Technician #24635, Case No. 1608:**

The Board was called to order by President Spoon to hear the case of Bianca Shelby. Ms. Shelby was not present. Registration Secretary, Rhonda Jenkins testified that Ms. Shelby had been properly notified. 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 of Pharmacy office received notification that Ms. Shelby had been terminated for theft of cash from the pharmacy. Asset Protection was asked to look into approximately \$500 missing from a register in the pharmacy. Upon viewing the video footage, it was determined that while Ms. Shelby counted her drawer, she began separating the one-hundred dollar bills from the coupons. She would shuffle everything until the bills were underneath the stack in her hand and put the receipts and other papers to the side. She was then observed cupping all the bills from the hundred dollar section of the tray in her hand and put the money inside a small purse that had been placed under the money tray. She then took the purse and put it in her pocket and left the office. Right

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after the incident, Ms. Shelby called in sick claiming to be COVID positive. She was told to stay off for at least 2 weeks. Ms. Shelby never returned to work and was therefore terminated.

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

Motion was made by Dr. Mark St. Cyr and seconded by Dr. Greg Adams that the technician permit of Bianca Shelby be revoked. Motion passed on roll call vote.

**OSBP vs. IWO Pharmacy & Wellness, #99-8690, Case No. 1606:**

The Board was called to order by President Spoon to hear the case of IWO Pharmacy & Wellness. Representatives from IWO Pharmacy & Wellness were not present. Director Mary Hendrick and Deputy Director, Gary LaRue were present for any questions of the Board.

Assistant Attorney General, John Settle presented the Board with a “request for continuance” letter that was received in the late afternoon the day before the Board meeting. Mr. Settle explained to the Board the option of continuing the case until the next meeting or to hear the case now.

A motion was made by Dr. Justin Wilson and seconded by Dr. Mark St. Cyr to continue with the case. Motion passed on roll call vote.

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 the regulation of the sale of drugs and chemicals – license- penalty; being unlawful for any person to sell without first procuring a license from the State Board of Pharmacy.

A motion was made by Dr. Justin Wilson and seconded by Dr. Kyle Whitehead that based on the clear and convincing evidence presented, IWO Pharmacy & Wellness be found guilty as charged. Motion passed on roll call vote.

A motion was made by Dr. Justin Wilson and seconded by Dr. Greg Adams that the pharmacy license of IWO Pharmacy & Wellness be placed on indefinite suspension and will immediately refrain from shipping prescription drugs or substance into the State of Oklahoma. Respondent is fined \$1,000.00 per count for Counts 1 through 105 for a total of \$105,000.00 which is immediately due and payable. IWO Pharmacy & Wellness representatives may appear before the Board to request the Board lift the Indefinite Suspension of its Oklahoma State pharmacy license. Motion passed on roll call vote.

**OSBP vs. Stacie M. Miller, D.Ph. #13125, Case No. 1266 – request to be a Pharmacist in Charge (PIC):**

The Board was called to order by President Spoon to hear the request of Stacie Miller. Ms. Miller was present. Pharmacy Board Deputy Director, Gary LaRue and Compliance Officer, Kim Hibbard were present for any questions of the Board.

After a discussion with Ms. Miller, a motion was made by Dr. Greg Adams and seconded by Dr. Justin Wilson that the request of Stacie Miller be approved. Motion passed on roll call vote.

**OSBP vs. Eric Sean Chandler, D.Ph. #15347, Case No. 1288 – request for reinstatement of license:**

The Board was called to order by President Spoon to hear the request of Eric Chandler. Mr. Chandler was present. Oklahoma Pharmacist Helping Pharmacist (OPHP) Director, Kevin Rich testified on behalf of Mr. Chandler.

After a discussion with Mr. Rich and Mr. Chandler, a motion was made by Dr. Kyle Whitehead and seconded by Dr. Justin Wilson to approve the request to fully reinstate the license of Dr. Chandler with the stipulation that he work with a pharmacist for 40 hours. After the 40 hours, the supervising pharmacist must send in an evaluation with a recommendation the Mr. Chandler be allowed to work unsupervised. After a roll call vote, motion failed with Dr. Mark St. Cyr, Dr. Justin Wilson and Dr. Kyle Whitehead voting “No”.

A motion was made by Dr. Justin Wilson and seconded by Dr. Mark St. Cyr to approve the request to fully reinstate the license of Dr. Chandler with the stipulation that he work with a pharmacist for 40 hours. After the 40 hours, the supervising pharmacist must send in an evaluation with a recommendation that Mr. Chandler be allowed to work unsupervised. Dr. Wilson added that Mr. Chandler may not act as PIC for one year. Motion passed on roll call vote.

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**Kevin Rich of Oklahoma Pharmacists Helping Pharmacists (OPHP) gives Annual report:**

Kevin Rich D.Ph. presented the Board with an annual report from OPHP. He spoke on the leadership of the organization, and some of the issues and solutions that the organization has experienced. Mr. Rich also spoke on the support, involvement, and outreach opportunities that individuals have available to them.

The Board thanked Dr. Rich for his presentation, and commended him for his excellent work with the organization and the help OPHP provides to the profession.

**NAPLEX applicant Robert Flowers appears before the Board to request to retake the NAPLEX:**

The Board was called to order by President Spoon to hear the request of Robert Flowers. Mr. Flowers had taken and failed the NAPLEX 3 times and was requesting that the Board allow him another opportunity. Mr. Flowers explained to the Board that he has ordered study materials and that he has reached out to classmates for help.

A motion was made by Dr. Justin Wilson and seconded by Dr. Mark St. Cyr to grant Mr. Flowers permission to re-take the NAPLEX. Motion passed on roll call vote.

**Terry Furrow, PIC of One Point Patient Care, LLC appears before Board to request permission to operate under a shared services model between pharmacies:**

The Board was called to order to hear the request of Terry Furrow of One Point Patient Care, LLC. Mr. Furrow explained his request to the Board in that he is asking that the pharmacies be allowed to perform under shared services. He explained that the calls would come to the Oklahoma City pharmacy and from that point the staff would look at the location of the patient. They would then look to see where the closest pharmacy to the patient would be and send the prescription to that pharmacy for fill and pick up. He noted that CDS prescriptions would be involved.

After a lengthy discussion on the transfer of CDS prescriptions and the E-Script rules, it was determined that Mr. Furrow would need to return to the Board at a future meeting with a request for approval for a specific pilot program.

**Board discusses yearly evaluation and possible salary adjustment of the Executive Director:**

Motion was made by Dr. Greg Adams and seconded by Dr. Mark St. Cyr to go into Executive Session to discuss the yearly evaluation and possible salary adjustment of the Executive Director. Motion passed on roll call vote.

Motion was made by Dr. Mark St. Cyr and seconded by Dr. Greg Adams to return from Executive Session. Motion passed on roll call vote.

Motion was made by Dr. Greg Adams and seconded by Dr. Mark St. Cyr to set the salary of the Executive Director at \$156,000.00 per year effective July 1, 2020. Motion passed on roll call vote.

**Board reviews and approves 2021 Draft Rule Revisions: Title 535, Chapters 10, 15, 20 and 25**

Business Manager MaryAnn Terral presented the Board with Title 535, Chapters 10, 15, 20 and 25 for review. Ms. Terral went through each revisions and/or addition with the Board with an explanation of each change or addition.

After a discussion, a motion was made by Dr. Justin Wilson and seconded by Dr. Kyle Whitehead to approve Title 535, Chapters 10, 15, 20 and 25 and move forward with changes for rule making intent. Motion passed on roll call vote.

**President Spoon 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 Spoon adjourned the Board meeting at 2:33 p.m.

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