

MINUTES

OKLAHOMA STATE BOARD OF PHARMACY

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

November 3, 2021

Call to order:

President Wilson called the November 3, 2021 meeting of the Oklahoma State Board of Pharmacy (OSBP) to order at 8:33 am with a roll call vote. All members were present.

Those present were:

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

Board of Pharmacy: Marty Hendrick, Executive Director
Gary LaRue, Deputy Director
Melissa Jones, Compliance Officer
Keevie Ridener, Compliance Officer
Marjan Fardadfar, Compliance Officer
Darrell Switzer, Compliance Officer
John Settle, Assistant Attorney General
Rhonda Jenkins, Executive Secretary

Guests Jill Shadid, OU College of Pharmacy
Nancy Williams, SWOSU College of Pharmacy
Randy Curry, SWOSU College of Pharmacy
Debra Billingsley, OPhA
Ryan Walker, Walgreens
Lorri Walmsley, Walgreens
Jessica Adams, Cardinal Health
Robin Murphy, ODOC
Darla Jurgensen, Pharmcare
Anh Thy Nguyen, Intern
Niagra Rankin, Intern
Sarai Gonzalez, Guest

Approval of minutes and claims:

A motion was made by Dr. Greg Adams and seconded by Dr. Kyle Whitehead to approve the September 22, 2021 minutes. Motion passed on roll call vote.

A motion was made by Jason Willeford and seconded by Dr. Greg Adams to approve expense claims #7226-#7264, #H0454735- #H0454740, #H0456198-#H0456203, the October payroll, the September and October leave reports of the Executive Director and any expense claims 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. Greg Adams and seconded by Dr. Mark St. Cyr to approve the cancellation list of those that did not renew within the renewal time-period. Motion passed on roll call vote.

ATTEST _____

Board sets future Board meeting(s):

The Board set Wednesday March 30, 2022 as the next scheduled Board meeting. The next Board meeting date is set for Wednesday January 19, 2022.

Board discusses the Appropriation & Budget Subcommittee on Select Agencies request and the nomination of delegates for response:

Director Hendrick reported that he had received a letter from Representative Sean Roberts who is also the Chairman of the Appropriation & Budget Subcommittee on Select Agencies. He noted that the committee was asking for a comprehensive report of all policies, procedures, activities, and budgets since 2016. Dr. Hendrick asked the Board how they would like to proceed.

Motion was made by Dr. Kyle Whitehead and seconded by Dr. Mark St. Cyr to delegate Director Hendrick and any staff necessary to gather the information and present as necessary. Motion passed on roll call vote.

Board discusses the acceptance and interpretation of live CE:

Director Hendrick reported to the Board that there have been some questions on the interpretation if a Webinar would be accepted as live CE where the participant is able to interact with the speaker and other participants.

After reviewing the CE rules, a motion was made by Dr. Mark St. Cyr and seconded by Dr. Greg Adams to accept the interpretation. Motion passed on roll call vote.

Board approves request from OU for a unique training area site:

Director Hendrick stated that he received a request from OU College of Pharmacy for approval of a unique training area for Fusion Wellness allowing students to work in collaboration with practitioners in a family practice setting.

A motion was made by Dr. Greg Adams and seconded by Dr. Jim Spoon to approve the training area request. Motion passed on roll call vote.

Board discusses SB779:

Director Hendrick reported on SB779. This bill requires the Pharmacy Board to regulate manufactures and wholesale distributors that would provide drugs used in the abortion process.

After a brief discussion, Director Hendrick stated that he, along with Deputy Director Gary LaRue and Office Manager, Mary Ann Terral would work together for possible language for rules.

Board discusses SB392:

Director Hendrick reported on SB392. This bill addresses the payment and/or reimbursement of pharmacy and/or pharmacist services. After a brief discussion with the Board, a motion was made by Dr. Kyle Whitehead and seconded by Jason Willeford to explore options for a Committee Task Force. Motion passed on roll call vote.

P-4 Students:

The Board welcomed the 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.

Executive Director gives Agency report:

MOU:

Director Hendrick reported that the FDA was recently sued in a move to prevent the implementation of the MOU. He stated that The United States District Court for the District of Columbia ruled that prior to implementing the MOU, the Food and Drug Administration must prepare an economic impact analysis pursuant to the Regulatory Flexibility Act. At this time, the MOU has been put on hold indefinitely.

ATTEST _____

Travel:

Director Hendrick stated that October was a very busy month for travel. He noted that he attended the NCPA annual Convention in Charlotte, North Carolina October 8th through the 12th. He reported that the conference covered numerous topics but found that the medical billing portion to be the most interesting. He also noted that he, Deputy Director Gary LaRue and Compliance Officers, Keevie Ridener and Melissa Jones attended the MALTAGON conference that was held October 17th through the 20th in Gulf Shores, Alabama. He reported that the conference was filled with many interesting topics and that he provided insight on what our Board/State has done on understaffing conditions.

He noted that future Board travel includes The Opioid Prevention Summit which will be held in Rogers, Arkansas on November 16th and that the Workplace Conditions Taskforce will be in Chicago, Illinois on November 18th and 19th.

E-Kit Taskforce:

Director Hendrick reported that the E-Kit Taskforce met on October 14th. He stated that the meeting demonstrated how we, as a profession, are all willing to come together to improve our rules and ultimately patient safety. He noted that later during the meeting, those rule recommendations will be provided for review and possible adoption.

Building Committee:

Director Hendrick reported that the Building Committee met by phone in October and narrowed the candidate list down to three construction firms. He stated that the next meeting will be scheduled for November 8th where each of the three candidates will have an hour to provide a presentation and answer questions with the hope to make a selection at this meeting.

COVID-19:

Director Hendrick announced that the Board building is currently open and that he is monitoring the pandemic and will update the status if needed to provide a safe work environment for the employees. He noted that the Compliance Officers are conducting normal inspections but have gone back to avoiding most hospitals and other fragile sites.

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

The Board was called to order by President Wilson 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 original nominees selected for this term were Bill Moore and Melanie Maxwell, however Bill Moore did not feel that he would be able to fulfill his commitment and resigned from the Committee. Ms. Billingsley provided the Board with the possible replacement nominee of Greg Huenergardt.

Motion was made by Dr. Jim Spoon and seconded by Dr. Mark St. Cyr to approve Greg Huenergardt as the replacement nominee to The Pharmacy Choice Commission. Motion passed on roll call vote.

Esther Amaka, DPh request to appear before the Board:

The Board was called to order by President Wilson to hear the request of Esther Amaka. Ms. Amaka's request was that she be allowed to move her pharmacist license from inactive status to active status. Ms. Amaka was a no show however the Board chose to continue with the request.

After a discussion with Deputy Director Gary LaRue, a motion was made by Dr. Mark St. Cyr and seconded by Dr. Greg Adams to deny the request. Motion passed on roll call vote.

A motion was made by Dr. Mark St. Cyr and seconded by Jason Willeford to include all of the documents provided in the minutes. Motion passed on roll call vote.

ATTEST _____

Heriberto Martinez, Jr., DPh to appear before the Board for approval of his reciprocity application:

The Board was called to order by President Wilson to hear the request of Heriberto Martinez, Jr. Mr. Martinez had submitted an application for reciprocity to Oklahoma but has had Board action on his license in several states due to impairment. Mr. Martinez had submitted several documents to the Board about each Board action and documents concerning his treatment status. Mr. Martinez also stated that he had been in contact with Oklahoma Pharmacists Helping Pharmacists (OPHP)

After a brief discussion, a motion was made by Dr. Greg Adams and seconded by Jason Willeford to approve his reciprocity application for Oklahoma. Motion passed on roll call vote.

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

Kevin Rich, Director of Oklahoma Pharmacists Helping Pharmacist 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.

OSBP vs Malinda Williamson, Technician #13911, Case No. 1624:

The Board was called to order by President Wilson to hear the case of Malinda Williamson. Ms. Williamson was not present, but it had been determined that she had been properly notified. Compliance Officer, Melissa Jones 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, Melissa Jones received a complaint on Ms. Williamson from an Oklahoma Bureau of Narcotics (OBN) agent. The complaint stated that OBN had received information that Ms. Williamson had been selling CDS and claimed she had been stealing them from the pharmacy. Compliance Officer Jones went to the pharmacy for an inspection and to investigate the complaint. An audit of 21 CDS drugs was performed with several shortages being discovered. CO Jones interviewed Ms. Williamson however Ms. Williamson denied any wrongdoing and stated that she had never stolen from the pharmacy. The next morning CO Jones received a phone call from the Pharmacist in Charge (PIC) who stated that Ms. Williamson had come into work and confessed that she had been stealing from the pharmacy. In a voluntary written statement, Ms. Williamson stated that she had stolen CDS for her own personal use.

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

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

OSBP vs. Jeffrey Yanchick, D.Ph. #11290, Case No. 1625:

The Board was called to order by President Wilson to hear the case of Jeffrey Yanchick. Mr. Yanchick was present and chose to appear without Council. Compliance Officer, Melissa Jones was present for any questions of the Board.

Mr. Settle presented the Board with the Complaint for review. Mr. Yanchick 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 controlled dangerous drugs.

Mr. Settle then presented the Board with an Agreed Order. If the Board accepts the Agreed Order, Mr. Yanchick would agree to the following: Mr. Yanchick admits to guilt on Counts 1 through 4. Mr. Yanchick will attend an 8-hour law seminar in addition to the required 15 hours of CE during the years of 2022 & 2023. All CE for the years 2022 & 2023 must be live. He would also agree to conducting a random inventory verification of 10 drugs at least monthly for the remainder of 2021 and for the years of 2022 and 2023 with a report being sent to the Board staff. Mr. Yanchick agrees to pay

ATTEST _____

a fine of \$3000.00 in six equal monthly installments of \$500.00 beginning with the first installment on November 3, 2021.

A 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. Austen Patterson, D.Ph. #14355, Case No. 1626:

The Board was called to order by President Wilson to hear the case of Austen Patterson. Ms. Patterson was present and chose to appear without Council. Compliance Officer, Keevie Ridener and OPHP Director Kevin Rich was present for any questions of the Board.

Mr. Settle presented the Board with the Complaint for review. Ms. Patterson was charged with multiple violations of state and federal regulations and rules including violations of registrant conduct; abuse of alcohol or drugs, the use of an illegal CDS or testing positive for such substances.

Mr. Settle then presented the Board with an Agreed Order. If the Board accepts the Agreed Order, Ms. Patterson would agree to the following: Ms. Patterson's license is indefinitely suspended. She may request the suspension be stayed after complying with the following: She 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. Patterson must provide evidence that she has been determined "Fit for Duty" by a Board approved evaluator. All CE required for the years of 2022 & 2023 must be live.

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

OSBP vs Alma Balderas, Technician #18214, Case No. 1629:

The Board was called to order by President Wilson to hear the case of Alma Balderas. Ms. Balderas was present with her Attorney, Blayne Armendariz. Mr. Armendariz asked the Board for a continuance until the next meeting in order to give him time to review the case.

A motion was made by Dr. Jim Spoon and seconded by Dr. Kyle Whitehead to allow the continuance until the next meeting. Motion passed on roll call vote.

OSBP vs. Laila Sharkar, D.Ph. #18082, Case No. 1627:

The Board was called to order by President Wilson to hear the case of Laila Sharkar. Ms. Sharkar was present and chose to appear without Council. Compliance Officer, Marjan Fardadfar was present for any questions of the Board.

Mr. Settle presented the Board with the Complaint for review. Ms. Sharkar 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 then presented the Board with an Agreed Order. If the Board accepts the Agreed Order, Ms. Sharkar would agree to the following: Ms. Sharkar admits to guilt on all five (5) Counts. She would agree to pay \$500.00 on each Count for a total of \$2500.00. Ms. Sharkar would agree to attend 15 hours of live CE to include a one-day (8 hour) law seminar during the years of 2022 & 2023.

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

OSBP vs. J. Ryan Stevens, D.Ph. #14813, Case No. 1628:

The Board was called to order by President Wilson to hear the case of J. Ryan Stevens. Mr. Stevens was present and chose to appear without Council. Compliance Officer, Marjan Fardadfar was present for any questions of the Board.

Mr. Settle presented the Board with the Complaint for review. Mr. Stevens 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 then presented the Board with an Agreed Order. If the Board accepts the Agreed Order, Mr. Stevens would agree to the following: Mr. Stevens admits to guilt

ATTEST _____

on all six (6) Counts. He would agree to pay \$500.00 on each Count for a total of \$3000.00. Mr. Stevens would agree to attend 15 hours of live CE to include a one-day (8 hour) law seminar during the years of 2022 & 2023.

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

Board holds discussion on language to permit Work at Home:

The Board was called to order by President Wilson to hear the request from Walgreens. They are requesting that the Board look at some possible language that would permit Work at Home. After a discussion the Board had some questions for Lorrie Walmsley, the Director of Pharmacy Affairs for Walgreens. Ms. Walmsley stated that this request was more on a broad scale for others as well and that it would also be helpful for the citizens of Oklahoma. She stated that equipment would be provided to the employee for Work at Home. She noted that it could take care of some of the staffing issues by scheduling employees differently such as split shifts instead of full 8 hours shifts.

After a discussion, the Board stated that they would like to see a survey of states that have these types of rules and how they feel it has helped the situation. They also stated that the Board would have to work with the legislature to change the technician law regarding the 2-1 ratio. The Board agreed to continue the conversation once more information has been submitted.

Jonathan Gleason, CEO of Cimarron Memorial Hospital appears before the Board:

The Board was called to order to hear the request of Jonathan Gleason, CEO of Cimarron Memorial Hospital. Mr. Gleason's hospital is in a very rural area in the panhandle of Oklahoma which is known as "no mans land". There is only one operating pharmacy in the area and the owners are wanting to sell the pharmacy and retire if they can find a buyer willing to come to the panhandle of Oklahoma. If the pharmacy cannot find a buyer, it could potentially close which would make it difficult for patients to get their prescriptions and it could also cause issues with the hospital. Mr. Gleason stated that the hospital may be looking at purchasing the pharmacy however there is an issue with the remote location and finding a pharmacist to work. Mr. Gleason's request is that the Board consider the option of tele-pharmacy for rural areas so that the patients in the area can continue to receive care.

After a discussion with Mr. Gleason, the Board asked that he gather information from surrounding states and bring it back to the Board for further discussion. Mr. Gleason stated that he could reach out to Cardinal, as they have all of the regulations from different states.

Board reviews and approves 2022 Draft Rule Revisions: Title 535, Chapters 10, 15, 20 and 25

President Wilson temporarily left the meeting and Vice President Jason Willeford took over as President. At this time, the Board was called to order to review the 2022 Draft Rule Revisions. Pharmacists, Cody Abbott and Tanner Corsini were present. Both were a part of the EKit Committee that reviewed and suggested possible changes to the EKit rules and were available for any questions the Board may have on the changes.

After a brief discussion on the EKit rules, a motion was made by Dr. Mark St. Cyr and seconded by Dr. Greg Adams to move forward with the EKit rules as written with modifications. Motion passed on roll call vote with Dr. Kyle Whitehead voting "No".

At this time, Dr. Greg Adams left the meeting and President Wilson returned and took back over as President. Business Manager MaryAnn Terral presented the Board with the remaining rules revisions in Title 535, Chapters 10, 15, 20 and 25 to review. Ms. Terral went through each revision and/or addition with the Board with an explanation of each change or addition.

After a discussion, a motion was made by Dr. Jim Spoon and seconded by Dr. Kyle Whitehead to approve Title 535, Chapters 10, 15, 20 and 25 and move forward with modifications. Motion passed on roll call vote.

ATTEST _____

President Wilson adjourned the Board meeting:

A motion was made by Dr. Mark St. Cyr and seconded by Dr. Jim Spoon to adjourn the Board meeting. Motion passed on roll call vote. President Wilson adjourned the Board meeting at 2:15 p.m.

ATTEST _____