

MINUTES

OKLAHOMA STATE BOARD OF PHARMACY

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

September 26, 2018

Call to order:

President St. Cyr called the September 26, 2018 meeting of the Oklahoma State Board of Pharmacy (OSBP) to order at 8:30 am with a roll call vote. All members were present.

Those present were:

Board Members:

Mark St.Cyr, President
Stephen Dudley, Vice-President
Greg Adams, Member
Jim Spoon, Member
Kyle Whitehead, Member
Justin Wilson, Member

Board of Pharmacy:

Dorothy Gourley, Director
Betty Beil, Senior Compliance Officer
Gary LaRue, Senior Compliance Officer
Jeremy Davis, Compliance Officer
Marjan Fardadfar, Compliance Officer
Melissa Reichert, Compliance Officer
Keevie Ridener, Compliance Officer
John Settle, Assistant Attorney General
Rhonda Jenkins, Executive Secretary

Guests

Robyn Janaway, Wal-Mart
Shannon Griggs, Wal-Mart
Ryan Walker, Walgreens
Derek Dennis, Walgreens
Kaili Meadows, Walgreens
Jill Shadid, OU College of Pharmacy
Nancy Williams, SWOSU College of Pharmacy
Travis Tate, HealthChoice
Jeremy Bymaster, Hillcrest Medical Center
Keith Madison, Mercy Hospital
Amber Mathias-Hodges, Integris
Debra Billingsley, OPhA
Jenny Longley, Pro Reporters
Alan Mason, Guest

President St.Cyr administers Oath of Office to Dr. James O. Spoon and Dr. Justin Wilson:

President St.Cyr conducted the first order of business by administering the Oath of Office to Dr. James Spoon and Dr. Justin Wilson. Both were re-appointed by Governor Fallin to succeed themselves.

Approval of minutes and claims:

A motion was made by Stephen Dudley and seconded by Dr. Justin Wilson to approve the August 8, 2018 minutes. Motion passed on roll call vote.

A motion was made by Dr. Jim Spoon and seconded by Dr. Greg Adams to approve the expense claims #6326-#6354, #H0388580-#H0388584, August and

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September payroll, and the August 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 list 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.

A motion was made by Dr. Justin Wilson and seconded by Stephen Dudley that the Board receive the cancellation list prior to the meeting for review. Motion passed on roll call vote.

Board sets future Board meetings:

The Board chose to wait until the November meeting to schedule more dates for 2019.

Board welcomes 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.

Legislative Update:

Executive Director, Dorothy Gourley asked the Board lobbyist, Jimmy Durant to report on issues at the Capital. Below are some of the topics discussed:

1. Future legislation
2. Elections are November 6th and 75% of legislators have 4 years or less experience so it will be a new learning curve on how the process works.
3. FTE limit needs to be addressed – 10 limit is not enough.
4. Building issues need to be addressed.
5. Interim Studies - Medicaid/Rural Health/Allied Health.
6. Joint Commission on Marijuana legislation
 - A) Special session. Some want it (House) some do not (Senate and House Leadership)
 - B) Explained the definition of “care giver”

Executive Director gives Agency report:

Interim Executive Director Orientation:

Executive Director, Dorothy Gourley reported to the Board that her first week was spent getting access to a computer, email, badge-access to the building, getting a car, and the completion of all the paperwork required as a new employee. She stated that Compliance Officer Gary LaRue worked in the office a couple of days to assist with orientation and that the staff has been very helpful to integrate her to the team. She also noted that she is still waiting on a laptop and phone to be issued.

Building Report:

Executive Director, Dorothy Gourley reported that she had been contacting Erin Moore, the Assistant Attorney General that is helping us with the building issues. She stated the Ms. Moore told her that all of the paperwork has been completed in order for Terracon to do another assessment of the building. She also stated that Ms. Moore has been in contact with Terracon and expects something to happen in the next 2-3 weeks. Ms. Moore has sent a copy of the case filed in District Court asking for all costs recoverable by law to repair the building.

Board Committees:

Director Gourley reported that Eric Winegardner, Chairman of the USP 800 Committee, sent her the revised version of the <USP800> proposed rules. She stated that at the November 2017 Board meeting, the committee was given direction to revise the <USP800> regulations and re-submit to the Board. She noted that Mr. Winegardner will make a presentation in the afternoon.

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Director Gourley also stated that she had reviewed the minutes from the technician committee to determine where they were on the regulation and that she had spoken to Darin Smith, Chairman, of the Hospital Sub-Committee Technician Committee, in regards to finishing the work of this committee. She stated that this committee resumed in September.

It was also noted that plans to begin the search for a permanent Executive Director have been discussed with Board President, Mark St. Cyr and that a search committee has been formed.

Meetings:

Director Gourley noted that the previous Director wanted all of the Compliance Officers to attend MALTAGON and the NABP District meeting. Both were held in Kansas City, MO. They had agree to carpool for the drive. Since the meeting was within driving distance, the commitment was still honored. All of the compliance officers will attend MALTAGON but only 3 will stay for the NABP District Meeting. She stated that both she and Board President, Mark St. Cyr will attend both meetings.

The Director reminded the Board of 2 upcoming meetings; NCPA Annual Convention on October 6-9th in Boston, MA and the NABP Interactive Member Forum on November 28-29th at the NABP office in Mt. Prospect, IL. NABP will pay expenses for one Board member with the deadline to identify that Board member being September 28th.

It was noted that Board President, Mark St. Cyr attended a reception honoring past Executive Director, Bryan Potter to celebrate his induction into the Elk City Leadership Hall of Fame. Past Board Members, Gordon Richards and Jack Coffey also attended.

Non-Resident Pharmacy and Facility Licenses:

Director Gourley stated that the reviewing process of new and renewal application is somewhat difficult. She stated that she and the staff are working on some procedures that may make the process easier and less time consuming including making changes to the applications.

Delinquent Fines and Law Seminar Attendance:

The Director reported the she had been given a report of outstanding and/or delinquent fines totaling almost \$185,000. She stated that she had asked Registration Secretary, Rhonda Jenkins to send a request for payment letter to those who either have not paid anything on their fine or have stopped paying after setting up a payment plan. We will report back to the Board for action after giving them 30 days to respond. The Director noted that Rhonda will also send reminder letters to those that were required to attend a law seminar and have not done so.

Board discusses Search Committee for Executive Director:

The Board was called to order by President St.Cyr to discuss the plan for the search of an Executive Director. President St.Cyr discussed with the Board that the Committee's job will be to review applications, interview candidates, and make a recommendation to the Board for naming a new Executive Director. The proposed timeline will be approximately 6 months.

Board interviews Reciprocity and Score Transfer applicants:

The Board was called to order to interview eight (8) Reciprocity applicants. All applicants had taken and passed the Oklahoma Multi-State Jurisprudence Exam.

Reciprocities:

Victor Bakhoun	NJ	Chiu Lok	TX
Eleanor Bituin	FL	Amy Schroeder	SD
Samuel Eskenazi	RI	Veasna Ting	WA
Kristopher Kannett	AR	Neil Welch	MA

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OSBP vs. Maria Epp, Technician #4246, Case No. 1532:

The Board was called to order by President St.Cyr to hear the case of Maria Epp. Ms. Epp was not present but it was 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 R & S Drug that the Alprazolam ER 2mg did not match the perpetual inventory from the day before as well as the Alprazolam ER 3mg tablets with employee pilferage as the potential cause. Review of the video surveillance indicated Ms. Epp stealing Alprazolam ER 3mg tablets. After an interview, Ms. Epp admitted to stealing Alprazolam ER and Butalbital. Ms. Epp was terminated from employment for theft of CDS.

Mr. Settle then presented the Board with an Agreed Order that had been signed by Ms. Epp. By signing the Agreed Order, Ms. Epp 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. Barujah Sharrieff, Technician #23930, Case No. 1539:

The Board was called to order by President St.Cyr to hear the case of Barujah Sharrieff. Ms. Sharrieff was not present. Registration Secretary Rhonda Jenkins, testified that she had been properly notified. Compliance Officer, Keevie Ridener testified for the Board.

Assistant Attorney General John Settle presented the Board with the Complaint for review. The Board had received notification that Ms. Sharrieff had been terminated from Walgreens for theft of Controlled Dangerous Substance (CDS). It had been reported to the Walgreens Asset Protection Manager, that there had been some suspicious behavior by Ms. Sharrieff as she was filling a script for Oxycodone. After the prescription had been filled, the Pharmacy Manager noticed that the stock bottle was missing 2 tablets. Ms. Sharrieff was interviewed and in a voluntary written statement admitted to stealing CDS.

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

Motion was made by Dr. Justin Wilson and seconded by Stephen Dudley that the technician permit of Barujah Sharrieff be revoked. Motion passed on roll call vote.

OSBP vs. Britt Bowman, Technician #18351, Case No. 1540:

The Board was called to order by President St.Cyr to hear the case of Britt Bowman. Mr. Bowman was not present. Registration Secretary Rhonda Jenkins, testified that he had been properly notified. Senior Compliance Officer, Betty Beil testified for the Board.

Assistant Attorney General John Settle presented the Board with the Complaint for review. Mr. Bowman noted on his 2017-2018 and 2018-2019 technician permit renewals that he had been arrested and was currently awaiting trial that is not related to pharmacy and that he had not been convicted. Mr. Bowman voluntarily resigned from Walgreen in July 2018. Mr. Bowman was sentenced to 25 years in the Department of Corrections for an issue not related to pharmacy.

Motion was made by Dr. Jim Spoon and seconded by Dr. Greg Adams that based on the clear and convincing evidence presented, Mr. Bowman be found guilty as charged. Motion passed on roll call vote.

Motion was made by Dr. Jim Spoon and seconded by Stephen Dudley that the technician permit of Britt Bowman be revoked. Motion passed on roll call vote.

OSBP vs. Sheila White, Technician #12722, Case No. 1541:

The Board was called to order by President St.Cyr to hear the case of Sheila White. Ms. White was not present but it was determined that she had been properly notified.

Assistant Attorney General John Settle presented the Board with the Complaint for review. The Pharmacy Manager (PM) of Morton Health received a phone call from a

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patient claiming that two prescriptions which had been refilled in May were missing tablets. The PM checked in the computer system and did not find any prescription refills for this patient during the month of May. After talking to the technicians on duty, it was determined that the patient had picked up her prescription. The PM then ran a report that listed all voided transactions and found several for May 25th. The PM ran the voided transaction lists for April and May and found approximately sixty (60) voids each month. The PM notified the HR Director about possible embezzlement by Ms. White. An investigation began and determined that Ms. White was voiding prescription dispensing sale transactions and then pocketing the funds. In an effort to conceal the theft, Ms. White would access the pharmacy inventory system and adjust the counts and would access the prescription management system at times and alter the original prescription by changing the number of refills remaining. Documentation indicated that Ms. White had been doing this for the majority of her ten (10) year tenure. During an interview, Ms. White was informed that she was being terminated for theft and altering original prescription information. Ms. White admitted to taking money from the cash register.

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

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

OSBP vs. Stephenie Gillan, Technician #22986, Case No. 1542:

The Board was called to order by President St. Cyr to hear the case of Stephenie Gillan. Ms. Gillan was not present. Registration Secretary Rhonda Jenkins, testified that she had been properly notified. Senior Compliance Officer, Betty Beil testified for the Board along with Gary Smyth, Global Investigator, Ashley Dixon, Wal-Mart Assistant Manager and Becky Berry, Market Asset Protection Manager

Assistant Attorney General John Settle presented the Board with the Complaint for review. On June 20, 2018, Wal-Mart PM received a phone call from a patient inquiring about her daughter's Methylphenidate prescription. She stated that she had been in earlier and was told by staff that "we didn't have it and it would be a couple of days." The PM researched the prescription and found that it had been received and filled on June 7, 2008 and sold on June 15, 2018. The PM then reviewed surveillance for June 15th and observed Ms. Gillan select a prescription hanging bag and complete a transaction as zero pay. Ms. Gillan also signed as the customer without inputting a driver's license. She placed the prescription bag underneath the register that she was using. An investigation was then started by Gary Smyth. Mr. Smyth was advised that a previous investigation revealed an unexplained inventory shortage of 828 Tramadol 50mg tablets. Mr. Smyth had the PM conduct a drug assessment which identified an inventory shortage of 951 Tramadol 50mg tablets. Ms. Gillan was interviewed and admitted both verbally and in writing to the theft of Tramadol. Ms. Gillan was terminated from Wal-Mart for theft of CDS.

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

Motion was made by Dr. Justin Wilson and seconded by Stephen Dudley that the technician permit of Stephenie Gillan be revoked. Motion passed on roll call vote.

OSBP vs. ASPCares #1-7722, Case No. 1530:

The Board was called to order by President St. Cyr to hear the case of ASPCares. Lonna Heggelund, COO and Amy Pannell, Executive Assistant were present as representatives for ASPCares along with Attorney Christian Autry.

Assistant Attorney General, John Settle presented the Board with the Complaint for review. ASPCares was charged with multiple violations of state and federal regulations and rules including a pharmacist being responsible for control and distribution of all drugs and having a licensed pharmacist as the Pharmacist in Charge. (PIC).

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Mr. Settle then presented the Board with an Agreed Order. If the Board accepts the Agreed Order, ASPCares would agree to the following: ASPCares neither admits nor denies guilt on all five (5) counts. The pharmacy would agree to unsupervised probation for two (2) years beginning September 26, 2018. They would agree to pay a fine of \$2000.00 per count for a total of \$10,000.00 which is due September 26, 2018.

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

OSBP vs. Wal-Mart Pharmacy No. 10-0576, #2-3761, Case No. 1535:

The Board was called to order by President St.Cyr to hear the case of Wal-Mart Pharmacy No. 10-0576. Shelley Tustison of Wal-Mart was present as the representative for Wal-Mart Pharmacy No. 10-0576.

Assistant Attorney General, John Settle presented the Board with the Complaint for review. Wal-Mart Pharmacy was charged with multiple violations of state and federal regulations and rules including establishing and maintaining effective controls against diversion of prescription drugs.

Mr. Settle then presented the Board with an Agreed Order. If the Board accepts the Agreed Order, Wal-Mart Pharmacy would agree to the following: Wal-Mart Pharmacy neither admits nor denies guilt on all seven (7) counts. The pharmacy would agree to pay a fine of \$500.00 per count for a total of \$3500.00 which is due September 26, 2018.

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

Representatives from Qualgen appear before the Board to ask that their 5-year probation be lifted and to approve a new facility license request involving Shaun Riney:

The Board was called to order by President St.Cyr to hear the request of Qualgen. Representatives present were; Shaun Riney, CEO, DPh Kevin Roady, PIC, Charles Riney, Investor, Jonathan Ash, Senior Consultant, Jenny Longley, Court Reporter and Attorneys Greg Frogge and Vani Singhal. The Board Legal Advisor was Assistant Attorney General, Martha Kulmacz. Those present for the Board of Pharmacy were Executive Director, Dorothy Gourley, Senior Compliance Officer, Gary LaRue and Compliance Officer, Marjan Fardadfar.

Qualgen CEO, Shaun Riney had requested to appear before the Board to request that the 5 year probation placed on the license of Qualgen on June 15, 2016 be lifted. Mr. Riney stated that with Qualgen being listed as being on probation, it is preventing them from licensing in any other state. The Board staff feels that the FDA inspections and findings on the report does not satisfy the requirements to remedy all the observations that were noted by the FDA on Form 483 nor have they met all of the other requirements required in the June 15, 2016 Agreed Order.

After a lengthy question and answer session, a motion was made by Stephen Dudley and seconded by Dr. Jim Spoon that based on the testimony and evidence presented, the request to lift probation be denied. Motion failed on roll call vote with Dr. Greg Adams, Dr. Justin Wilson and Dr. Kyle Whitehead voting "No".

A motion was made by Dr. Justin Wilson and seconded by Dr. Kyle Whitehead to accept the request to lift probation. Motion passed on roll call vote with Dr. Jim Spoon and Stephen Dudley voting "No"

The Board was called back to order to hear the second portion of Mr. Riney's original request. Mr. Riney was asking that an application for a new facility license for a new location be approved by the Board. Senior Compliance Officer, Gary LaRue explained how the application process works.

After a brief discussion, a motion was made by Dr. Greg Adams and seconded by Dr. Justin Wilson to approve the new facility license contingent on the staff verifying that their intentions would be legal under FDA or other regulatory agencies that are applicable. Motion passed on roll call vote.

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Eric Winegardner, Chairman of the <USP800> Committee appears before the Board:

The Board was called to order by President St.Cyr to hear the presentation from Eric Winegardner, Chairman of the <USP800> Committee. Mr. Winegardner was present with committee members, Dr. Lloyd Allen and Debra Billingsley.

The <USP800> Committee began meeting in April of 2017 to begin the process of writing rules that would be presented to the Board for approval. Mr. Winegardner stated that he had appeared before the Board in November of 2017 with recommendations from the committee and was directed by the Board to return to the committee for further input. The committee met again in January and March 2018 and now have a consensus to present the recommendations to the Board.

After a brief discussion, a motion was made by Dr. Justin Wilson and seconded by Stephen Dudley to accept the report from the committee and move forward. Motion passed on roll call vote.

Dr. Wilson asked Debra Billingsley to look at the possible changes in the wording.

President St.Cyr adjourned the Board meeting:

A motion was made by Dr. Justin Wilson and seconded by Dr. Kyle Whitehead to adjourn the Board meeting. Motion passed on roll call vote. President St. Cyr adjourned the Board meeting at 4:18 p.m.

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