

MINUTES

OKLAHOMA STATE BOARD OF PHARMACY

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

January 19, 2022

Call to order:

President Wilson called the January 19, 2022 meeting of the Oklahoma State Board of Pharmacy (OSBP) to order at 8:30 am with a roll call vote. 5 of 6 Board 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
Member Kyle Whitehead 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
Darrell Switzer, Compliance Officer
John Settle, Assistant Attorney General
Rhonda Jenkins, Executive Secretary

Guests Nancy Williams, SWOSU College of Pharmacy
Jay Kinnard, OU COP Pharmacies
Vince Dennis, OU COP
Rick Fernandez, Walgreens
Ryan Walker, Walgreens
Kaydee Judd, Walgreens
Megan King, Walgreens
Shannon Griggs, Wal-Mart
Shawn Francis, CVS
Lucas Coody, AlignRx
Robin Murphy, ODOC
David Smith, D.Ph., Guest
Erik Bowen, D.Ph., Guest
Bled Tanoe, D.Ph., Guest

Approval of minutes and claims:

Prior to a motion to approve the minutes, President Wilson noted that there needed to be a change to the September 23, 2020 minutes pertaining to the Board going into Executive Session to discuss the Employee Pay For Performance. The 2020 minutes reflected that the Board went into Executive Session. After reviewing the recording it was determined that the Board did not go into Executive Session.

A motion was made by Dr. Jim Spoon and seconded by Jason Willeford to approve the change to the September 23, 2020 minutes. Motion passed on roll call vote.

A motion was made by Dr. Greg Adams and seconded by Jason Willeford to approve the November 3, 2021 minutes. Motion passed on roll call vote.

A motion was made by Jason Willeford and seconded by Dr. Jim Spoon to approve expense claims #7265-#7318, #H0457824- #H0457829, #H0459415-

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#H0459420, the November and December payroll, the November and December 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. Mark St. Cyr 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.

Board discusses and names a replacement for the CE Committee:

Director Hendrick reported that Chairman Dr. Loyd Allen, had notified him that he would need to resign as chairman and member of the CE committee due to health issues. Dr. Allen had been a part of the CE Committee since the early 70's. Dr. Hendrick expressed to Dr. Allen that he would be greatly missed.

CE Committee Member, Dr. Brooke Gildon presented the Board with a letter of recommendation stating that Dr. Katherine O'Neal had shown interest as being a replacement member.

A motion was made by Dr. Jim Spoon and seconded by Dr. Mark St. Cyr to accept the recommendation of Dr. Gilden and to appoint Dr. Katherine O'Neal as the replacement member of the CE Committee. Motion passed on roll call vote.

Board reviews approved Continuing Education (CE) programs:

The Board reviewed the 4th quarter list of CE programs that had been submitted and approved by the CE Committee on December 10, 2021. Dr. Mark St. Cyr asked that before approving the 3 programs for the Society of Cannabis that they receive more information and to make sure that they are vetted.

A motion was made by Dr. Mark St. Cyr and seconded by Dr. Jim Spoon to accept the approved list of CE programs that had been submitted with the exception of the 3 Society of Cannabis programs presented until more information is provided. Motion passed on roll call vote.

Board reviews designation of Mission Critical Memberships:

After a review of the list of Board designated Mission Critical Memberships, a motion was made by Dr. Jim Spoon and seconded by Jason Willeford to approve the list of Mission Critical Memberships. Motion passed on roll call vote.

Board reviews designation of Mission Critical Out of State Travel:

After a review of the list of Board designated Mission Critical Out-of-State Travel, a motion was made by Dr. Jim Spoon and seconded by Dr. Greg Adams to approve the list of Mission Critical Out-of-State Travel. Motion passed on roll call vote.

Board sets future Board meeting(s):

The Board set Wednesday June 22, 2022 as the next scheduled Board meeting. The next Board meeting date is set for Wednesday March 30, 2022.

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:

Building Information:

Director Hendrick reported that the Lingo team will be here for the meeting today to provide a formal introduction and update on the current status of the Oklahoma State Board of Pharmacy building. Dr. Hendrick stated that he has set a moveout date of March 1, 2022. He stated that we will be relocating to 3812 N Santa Fe during the restoration along with the Dental Board and Veterinary

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Board and we are hoping to return within a year. He noted that during the restoration, the Board meetings will be held at the Santa Fe location.

OPhA Election:

Director Hendrick reported that the names from the OPhA election to select the next two board members had been submitted to Governor Stitt on January 10th. He stated that he had provided his office with general information on the candidates for the selection process and that he would notify the Board once the selections have been made.

Travel:

Director Hendrick reported that he traveled to Chicago on November 18th and 19th to participate in the NABP task force for Workplace Safety and Well-Being. He stated that the group examined, reviewed and made recommendations on this matter with the full report set to be released in the spring of 2022.

Director Hendrick noted that upcoming travel includes the APhA Annual Meeting that will be held in San Antonio, TX in March and the NABP Annual Meeting which will be held in Phoenix, AZ May 17th through the 21st. Dr. Mark St. Cyr stated that he would attend this meeting. President Wilson stated that he may be available to attend.

NABP District 6, 7 and 8 Meeting:

Director Hendrick reported that the NABP District 6, 7 and 8 meeting will be held in Oklahoma City August 28th through 30th. He reported that he has started organizing the meeting which will be held at the newly constructed OMNI hotel in downtown Oklahoma City. He stated that he would like to form a small committee to help assist with the planning of this event. He noted that this meeting will showcase our state and more importantly the Board of Pharmacy and he is hopeful that we will have full participation for the meeting to help it run smoothly but also to show how active and engaged we are as a Board. President Wilson and Dr. Mark Sr. Cyr volunteered to help with planning the 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.

Representatives from Lingo appear before the Board:

The Board was called to order to hear the presentation from Lingo. Director Hendrick introduced Brett Moore, Project Manager and JP Craig, Integration Director. At this time, Director Hendrick turned the presentation over to JP Craig for a project update with a more detailed explanation and timeline. Mr. Craig went over the projections and the timeline with the Board and answered any questions they may have had. He stated that they expect the building to be completed by November 22, 2022.

Director Hendrick asked the Board if they would allow the sub-committee which consisted of Dr. Mark St. Cyr, Dr. Justin Wilson, and Director Hendrick to make any decisions that pertain to the reconstruction of the building.

A motion was made by Dr. Greg Adams and seconded by Dr. Jim Spoon to allow the sub-committee to review, approve and accept bid documents and the Guaranteed Max Price (GMP). Motion passed on roll call vote.

Lauren Willis, DPh appears before the Board to ask for reinstatement of her pharmacist license:

The Board was called to order by President Wilson to hear the request of Lauren Willis. Ms. Willis was present. Oklahoma Pharmacist Helping Pharmacist (OPHP)

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Director, Kevin Rich was present for questions.

After a discussion with Ms. Willis, it was determined that she had been licensed in Arkansas but had voluntarily surrendered that license. Ms. Willis has entered into the Arkansas Pharmacy Support Group. Due to her license being surrendered in Arkansas, the Board denied renewal of her Oklahoma license until her Arkansas license was returned to good standing. At that point she could ask for reinstatement of her Oklahoma license. According to the Arkansas Board of Pharmacy website, Ms. Willis' license is now active with a Consent Order in place. The Board asked Dr. Rich if it was possible for OPHP to work with the Arkansas group which he confirmed was possible.

A motion was made by Dr. Jim Spoon and seconded by Jason Willeford to approve the reinstatement request with the condition that Ms. Willis remain compliant with her Arkansas Board of Pharmacy Order and verification of such will need to be by Board staff. Motion passed on roll call vote.

Bled Tanoe, DPh request to appear before the Board:

The Board was called to order by President Wilson to hear the presentation of Bled Tanoe. Ms. Tanoe presented the Board with several issues over staffing shortages in retail pharmacy. She asked that the Board review the Inadequate Staffing Report (ISR) and make changes that would be more confidential for the pharmacist submitting them to the Board.

After a lengthy discussion, a motion was made by Dr. Greg Adams and seconded by Jason Willeford to allow staff and the Executive Director to review the ISR form and to edit and amend it as they see fit. Motion passed on roll call vote.

The Board members agreed with Ms. Tanoe and thanked her for her endeavors in trying to find a solution to the problem.

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 not present. Registration Secretary, Rhonda Jenkins testified that Ms. Balderas 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. According to the witness statement of the Pharmacist in Charge (PIC), the PIC observed Ms. Balderas standing behind an OTC shelf with an opened stock bottle of Alprazolam 2mg tablets. She was observed with a handful of tablets in hand and had arranged several loose tablets on the OTC shelf in what was believed to be an attempt to prepare for stealing. Ms. Balderas was questioned about the tablets and stated that she was filling a prescription however she could not provide the specific prescription at the time. In a written statement Ms. Balderas admitted that she began stealing drugs due to peer pressure which later became a routine. She stated that she would pour tablets in her hand and then place the tablets in her smock pocket. Per CVS Policy and Procedures, bag checks were conducted however her back pocket was never checked during the process. Ms. Balderas was terminated due to employee pilferage.

A motion was made by Dr. Greg Adams and seconded by Dr. Mark St. Cyr that based on the clear and convincing evidence presented, Ms. Balderas be found guilty as charged. Motion passed on roll call vote.

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

OSBP vs Shelley Davidson, Technician #26939, Case No. 1630:

The Board was called to order by President Wilson to hear the case of Shelley Davidson. Ms. Davidson was not present, but it had been determined that she 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 received notification that Ms. Davidson had been terminated due to intentional violation of policy on immunization administration. The pharmacy manager of Walgreens received a call from a Walmart pharmacist who stated he had just given a COVID shot to a patient who informed him that he had received a COVID card from Walgreens indicating his first shot was received but the technician did not give him a shot. The

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patient told him that when he asked the technician about his side effects that she said she didn't believe in the shots, pulled her mask down and said she would sign the COVID card without giving him the shot. The patient scheduled the second shot but became scared of getting in trouble, so he went elsewhere to get the shot series. The Walgreens manager reported that there was also a second incident.

Mr. Settle then presented the Board with an Agreed Order that had been signed by Ms. Davidson. By signing the Agreed Order, Ms. Davidson 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. Kelly Duncan, D.Ph. #12946, Case No. 1631:

The Board was called to order by President Wilson to hear the case of Kelly Duncan. Ms. Duncan was present and chose to appear without Council. Compliance Officer, Kim Hibbard was present for any questions of the Board.

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

Mr. Settle then presented the Board with an Agreed Order. If the Board accepts the Agreed Order, Ms. Duncan would agree to the following: Ms. Duncan admits to guilt on all six (6) Counts. She would agree to pay \$1000.00 on Counts 1 and 2 and \$250.00 on Counts 3 through 6 for a total of \$3000.00 which is due on January 19, 2022. Ms. Duncan would agree to attend 15 hours of live CE during the years of 2022 & 2023.

A motion was made by Dr. Jim Spoon and seconded by Jason Willeford 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 a Board Order or Agreed Order.

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 agrees to guilt on seven (7) counts. Her pharmacist license is indefinitely suspended. She may request the suspension be stayed after September 3, 2022. She agrees to remain compliant with all terms of her ten (10) year Recovery Monitoring Agreement with Oklahoma Pharmacists Helping Pharmacists (OPHP); She must 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, 2024 & 2025 must be live. Ms. Patterson agrees to pay a fine of \$500.00 per Count for a total of \$3500.00.

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. Billy Blalock, D.Ph. #15758, Case No. 1633:

The Board was called to order by President Wilson to hear the case of Billy Blalock. Mr. Blalock was present along with Council Doug Rice. Compliance Officer, Darrell Switzer was present for any questions of the Board.

Mr. Settle presented the Board with the Complaint for review. Mr. Blalock was charged with multiple violations of state and federal regulations and rules including violations of professional conduct; failure to establish and maintain effective controls to prevent prescription errors.

Mr. Settle then presented the Board with an Agreed Order. If the Board accepts the Agreed Order, Mr. Blalock would agree to the following: Mr. Blalock admits to guilt on all four (4) Counts. He would agree to pay \$1000.00 on Counts 1, 2 and 4 for a total

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of \$3000.00. Count 3 is dismissed. Mr. Blalock would agree to attend 15 hours of live CE during the years of 2022 & 2023.

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

OSBP vs. Laura Felder, D.Ph. #13373, Case No. 1634:

The Board was called to order by President Wilson to hear the case of Laura Felder. Ms. Felder was present along with Attorney Elizabeth Sharrock. Compliance Officer, Darrell Switzer was present for any questions of the Board.

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

Mr. Settle then presented the Board with an Agreed Order. If the Board accepts the Agreed Order, Ms. Felder would agree to the following: Ms. Felder admits to guilt on all three (3) Counts. She would agree to pay \$1000.00 on each Count for a total of \$3000.00. Ms. Felder 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. Jim Spoon and seconded by Jason Willeford to accept the Agreed Order. Motion passed on roll call vote.

Board discusses Pay for Performance 2024 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.

Motion was made by Dr. Greg Adams and seconded by Dr. Mark St. Cyr to approve the Pay for Performance 2024 Plan as in years passed. Motion passed on roll call vote.

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

The Board was called to order to review and approve the 2022 Draft Rule Revisions. Business Manager MaryAnn Terral presented the Board with Title 535, Chapters 10, 15, 20 and 25 public comments that were received. The Board reviewed the rule changes and the comments presented.

After a discussion, a motion was made by Dr. Jim Spoon and seconded by Dr. Greg Adams to approve the rules with amendments. Motion passed on roll call vote.

President Wilson adjourned the Board meeting:

A motion was made by Dr. Mark St. Cyr and seconded by Jason Willeford to adjourn the Board meeting. Motion passed on roll call vote. President Wilson adjourned the Board meeting at 2:00 p.m.

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