

MINUTES

OKLAHOMA STATE BOARD OF PHARMACY

2920 N Lincoln Ave., Suite A
Oklahoma City, OK 73105

March 29, 2023

Call to order:

President Willeford called the March 29, 2023 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: Jason Willeford, President
Randy Curry, Member
Shonda Lassiter, Member
Mark St. Cyr, Member
Justin Wilson, Member

Board of Pharmacy: Marty Hendrick, Executive Director
Gary LaRue, Deputy Director
Melissa Jones, Sr. Compliance Officer
Keevie Ridener, Compliance Officer
Marjan Fardadfar, Compliance Officer
Darrell Switzer, Compliance Officer
Kim Hibbard, Compliance Officer
Jennifer Musgrove, Compliance Officer
Rhonda Jenkins, Executive Secretary
Kristen Johnson, Programs Director
John Settle, Assistant Attorney General
Joe Ashbaker, Assistant Attorney General

Guests Nancy Williams, SWOSU College of Pharmacy
Vince Dennis, OU College of Pharmacy
Lauren Paul, CVS
Sarah Clark, Walgreens
Michael Stumpe, Walgreens
Burl Beasley, EGID, HealthChoice

Approval of minutes and claims:

A motion was made by Dr. Mark St. Cyr and seconded by Dr. Justin Wilson to approve the February 1, 2023 and the February 21, 2023 minutes. Motion passed on roll call vote.

A motion was made by Dr. Justin Wilson and seconded by Dr. Randy Curry to approve expense claims #7657 - #7718, #H0479956-#H0479961, #H0481351-#H0481356, and any expense claims of the Executive Director. Motion passed on roll call vote.

Resolution for Board Member, Kyle Whitehead, D.Ph.:

President Willeford reported that Board Member, Dr. Kyle Whitehead, D.Ph. passed away on March 1, 2023. President Willeford read a Resolution that had been prepared for Dr. Whitehead. He then asked the Board to adopt the resolution.

A motion was made by Dr. Justin Wilson and seconded by Dr. Mark St. Cyr to adopt the resolution for Board Member, Dr. Kyle Whitehead. Motion passed on roll call vote.

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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. Randy Curry to approve the cancellation list of those that did not renew within the renewal time-period. Motion passed on roll call vote.

Board reviews approved Continuing Education (CE) programs:

The Board reviewed the 1st quarter list of CE programs that had been submitted and approved by the CE Committee on March 10, 2023.

A motion was made by Dr. Justin Wilson and seconded by Dr. Shonda Lassiter to accept the approved list of CE programs that had been submitted. Motion passed on roll call vote.

Presentation of “Years of Service” pins:

President Willeford presented Compliance Officer (CO), Marjan Fardadfar with a 5 years of service pin, Sr. Compliance Officer, Melissa Jones with a 10 years of service pin and Shakayla Gordon, Customer Assistant Representative with a 15 years of service pin. President Willeford congratulated all three on their service with the State of Oklahoma and thanked them for the work they do for the Board.

Board sets future Board meeting(s):

The Board set Wednesday July 19, 2023 as a scheduled Board meeting. The next scheduled Board meeting is Wednesday June 7, 2023.

Board holds discussion on lawsuit with the Physicians’ Assistant Association:

President Willeford called on Director Hendrick for direction on the lawsuit with the Physicians’ Assistant Association. Assistant Attorney General John Settle stated that information had been received recently stating that the Supreme Court had issued a ruling on the case and that the lawsuit had been dismissed.

P-4 Students:

The Board welcomed the students from 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:

Travel:

Director Hendrick reported that he along with Compliance Officer, Kim Hibbard and Board Member Randy Curry attended the APhA Annual Conference in Phoenix, AZ earlier in March. CO Kim Hibbard and Dr. Curry reported on the different meetings they attended. They stated that the meeting was well attended and that there was a lot of conversation on the New England Compounding case.

Director Hendrick reminded the Board that the NABP Annual Conference will be held in Nashville, TN in May, the Maltagon meeting will be held in Knoxville, TN on October 15th – 18th and the NABP District 6 meeting will be held October 22nd- 25th in Jackson Hole, WY.

Director Hendrick reported that he will also be attending a meeting in Chicago and stated that he will be speaking on law.

New Board Member:

Director Hendrick reported that the Governor has appointed Greg Huenergardt as the newest Board member effective July 1, 2023. He noted that Dr. Huenergardt would be replacing Dr. Justin Wilson.

Building Information:

Dr. Hendrick reported that as of today everything is going well with the rebuild. He noted that Lingo is still completing work on a few small projects around the building. Dr. Hendrick reported that the back sidewalk under the covered patio had been covered with epoxy to help with the cosmetics of the sidewalk.

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Evaluation for Executive Director:

Dr. Hendrick stated that Business Manager, MaryAnn Terral would be sending out his evaluation to each Board member and that he thought it should be completed before the June meeting. He noted that Dr. Mark St. Cyr has agreed to take the responsibility to gather the information and present it to the Board.

Legislation:

Director Hendrick stated that the legislative session has begun and that he is watching and closely monitoring legislation that might have an impact on the Board of Pharmacy. He noted that at this time, there were no concerns.

Director Hendrick also reported that the Board rules are progressing through the process. He noted that there has been a lot of discussion with Committees and lots of comments about them at the Capital.

Kevin Rich, Director of Oklahoma Pharmacist Helping Pharmacist (OPHP) request to appear before the Board:

The Board was called to order by President Willeford to hear the presentation of Kevin Rich. Mr. Rich presented the Board with 2023-2024 fiscal year contract between OPHP and the Oklahoma Board of Pharmacy. Dr. Rich stated that he is requesting a \$25,000 increase to the sum of the original contract. He explained that with the increase in cost due to inflation, it has sometimes become a financial hardship for participants to comply with Board Orders and that he would like to be able to offer more scholarships for those that are in need. He reported that none of the funds he is requesting will go toward payroll increases, only for educational and scholarship purposes.

After a discussion, a motion was made by Dr. Mark St. Cyr and seconded by Dr. Justin Wilson to approve the 2023-2024 fiscal year contract with an increase to \$93,000 per year. Motion passed on roll call vote.

OSBP vs. Katherine Kroener, DPh #14268, Case No. 1324 – request probation be lifted:

The Board was called to order by President Willeford to hear the request of Katherine Kroener. Ms. Kroener was present. OPHP Director, Kevin Rich testified on behalf of Ms. Kroener.

After a discussion with Mr. Rich and Ms. Kroener, a motion was made by Dr. Justin Wilson and seconded by Dr. Shonda Lassiter that based on the recommendation of OPHP, the request of Katherine Kroener be approved. Motion passed on roll call vote.

OSBP vs. Misty Fuller, DPh #17992, Case No. 1653:

The Board was called to order by President Willeford to hear the case of Misty Fuller. Ms. Fuller was present with Counsel, C. Craig Cole. At this time, President Willeford swore in Executive Director, Marty Hendrick for any questions.

Chief Assistant Attorney General, John Settle presented the Board with the Complaint for review. Ms. Fuller was charged with multiple violations of state and federal regulations and rules including; A registrant shall hold the health and safety of his patrons as his first consideration and will not divulge the nature of the patrons' problems or ailments or any confidence entrusted to him in his licensed capacity except in response to legal requirements or in the best interests of the patron.

Mr. Settle then presented the Board with an Agreed Order. If the Board accepts the Agreed Order, Ms. Fuller would agree to pay a \$500 fine on Count 3.

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

OSBP vs. Dedra A. Putchaven, DPh #11464, Case No. 1658:

The Board was called to order by President Willeford to hear the case of Dedra Putchaven. Ms. Putchaven was present with her husband, Greg and chose to appear without Counsel. At this time, President Willeford swore in OPHP Director, Kevin Rich

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for any questions and reminded Director Hendrick that if the Board has any questions for him, that he is still under Oath.

Chief Assistant Attorney General, John Settle presented the Board with the Complaint for review. Ms. Putschaven was charged with violating the rules of professional conduct by violating any voluntary or Board ordered rehabilitation program for the impaired contract, e.g. OPHP contract.

Mr. Settle then presented the Board with an Agreed Order. If the Board accepts the Agreed Order, Ms. Putschaven would agree to the following: Ms. Putschaven's pharmacist license would be placed on indefinite suspension. She may petition the Board to request suspension be lifted after showing she has been determined "Fit for Duty".

A motion was made by Dr. Justin Wilson and seconded by Dr. Shonda Lassiter to accept the Agreed Order. Motion passed on roll call vote.

OSBP vs Kendra Rios, Technician #27873, Case No. 1660:

The Board was called to order by President Willeford to hear the case of Kendra Rios. Ms. Rios was not present. Registration Secretary, Rhonda Jenkins and Compliance Officer (CO) Darrell Switzer were sworn in by President Willeford. Ms. Jenkins testified that Ms. Rios had been properly notified of the time and date of the hearing. CO Darrell Switzer testified for the Board. Assistant Attorney General, John Settle prosecuted for the Board.

Mr. Settle presented the Board with the Complaint for review. CO Darrell Switzer received a phone call from the DPh of the pharmacy where Ms. Rios was employed. The DPh wanted to discuss a possible diversion by a technician. A review of video surveillance showed Ms. Rios removing a bottle of Alprazolam from the cabinet and placing it in her pants pocket before quickly transferring the bottle into her purse. In a voluntary written statement, Ms. Rios admitted to taking Controlled Dangerous Substances (CDS) while working in the pharmacy.

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

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

OSBP vs. David Campbell, DPh #12885, Case No. 1656:

OSBP vs. Allen Community Pharmacy, #23-7981, Case No. 1657:

The Board was called to order by President Willeford to hear the case of David Campbell and Allen Community Pharmacy. Pharmacy owner and Pharmacist in Charge (PIC) David Campbell was present with Counsel, Elizabeth Sharrock. At this time, President Willeford swore in Sr. Compliance Officer, Melissa Jones and Technician, Casey Janda for questions. Executive Director, Marty Hendrick also testified and was reminded that he had been previously sworn in and was still under oath.

Chief Assistant Attorney General, John Settle presented the Board with the Complaint for review. In Case No. 1656, Mr. Campbell 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 into other than legitimate medical, scientific or industrial channels as provided by federal, state or local laws or rules.

In Case No. 1657, Allen Community Pharmacy was charged with multiple violations of state and federal regulations and rules including: failing to have the establishment of policies and procedures for safekeeping of pharmaceuticals that satisfy Board requirements including security provisions when the pharmacy is closed.

After hearing the evidence presented, a motion was made by Dr. Justin Wilson and seconded by Dr. Shonda Lassiter to go into Executive Session. Motion passed on roll call vote.

A motion was made by Dr. Mark St. Cyr and seconded by Dr. Randy Curry to return from Executive Session. Motion passed on roll call vote.

On Case No. 1656, a motion was made by Dr. Justin Wilson and seconded by Dr. Mark St. Cyr, with a recommendation that the Board find the defendant Dr. David Campbell guilty of Counts 1-4 and 6 stated in the Complaint and that we incorporate as

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findings of fact, paragraphs 1-16 of the Complaint and Conclusions of Law, Counts 1-4 and 6 in the Complaint. Motion passed on roll call vote.

On Case No. 1657, a motion was made by Dr. Justin Wilson and seconded by Dr. Mark St. Cyr, with a recommendation that the Board find the defendant Allen Community Pharmacy guilty of Counts 1-3 as stated in the Complaint and we incorporate as findings of fact, paragraphs 1-16 of the Complaint and Conclusions of Law, Counts 1-3 in the Complaint. Motion passed on roll call vote.

The Board then heard testimony and a recommendation from Director Hendrick. After hearing the evidence presented, a motion was made by Dr. Justin Wilson and seconded by Dr. Shonda Lassiter to go into Executive Session. Motion passed on roll call vote.

A motion was made by Dr. Mark St. Cyr and seconded by Dr. Randy Curry to return from Executive Session. Motion passed on roll call vote.

On Case No. 1656, a motion was made by Dr. Shonda Lassiter and seconded Dr. Randy Curry, with a recommendation that the Board order the Defendant fine of \$15,000 to be paid within 6 months of the final date of this order and that the Defendant is to make a good faith effort to sell his pharmacy within 6 months of the date of this Order. If the pharmacy is not sold within 6 months, the pharmacy license will be revoked. The Defendant cannot serve as Pharmacist in Charge (PIC) for 10 years. The Defendant will complete 15 hours of live CE in addition to the normal annual C.E. requirements for 5 years. Motion passed on roll call vote.

On Case No. 1657, a motion was made by Dr. Shonda Lassiter and seconded by Dr. Randy Curry, with a recommendation that the Board order Allen Community Pharmacy to pay a fine of \$9,000.00 to be paid within 6 months of the final date of this Order. The Defendant is to make a good faith effort to sell the pharmacy within 6 months of this Order. If the Pharmacy is not sold within 6 months, the pharmacy license will be revoked. Motion passed on roll call vote.

A motion was made by Dr. Justin Wilson and seconded by Dr. Mark St. Cyr to allow the Executive Director to sign the Final Orders that are to submitted to the Attorney Generals office for review. Motion passed on roll call vote.

President Willeford 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 Willeford adjourned the Board meeting at 3:32 p.m.

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