

MINUTES

OKLAHOMA STATE BOARD OF PHARMACY

3812 N Santa Fe, Suite 300
Oklahoma City, OK 73118

September 14, 2022

Call to order:

President Willeford called the September 14, 2022 meeting of the Oklahoma State Board of Pharmacy (OSBP) to order at 8:32 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, President

Member Kyle Whitehead was unable to attend this meeting

Board of Pharmacy: Marty Hendrick, Executive Director
Gary LaRue, Deputy Director
Melissa Jones, Senior 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
Kristen Johnson, Programs Director

Guests Nancy Williams, SWOSU College of Pharmacy
Vince Dennis, OU College of Pharmacy
Renee Flood, CVS
Cheryl Bryant, CVS
Kaydee Judd, Walgreens
Dylan Hancin, Walgreens
Sarah Clark, Walgreens
Cara Harbour, Walgreens
Dylan Hancin, Walgreens
Shannon Griggs, Wal-Mart
Amber Mathias-Hodges, Wal-Mart
Burl Beasley, HealthChoice
Robin Murphy, ODOC
Tina Dyer, SSM Health
Jeremy Bowles, J & M Drug
Laura Stewart, Intern
Michael Caro, Intern
Donna Curry, Guest
Heather Bayless, Guest

President Willeford administers Oath of Office to Randy Curry:

President Willeford conducted the first order of business by administering the Oath of Office to Randy Curry. Dr. Curry was appointed by Governor Stitt to replace Board Member, Jim Spoon.

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Approval of minutes and claims:

A motion was made by Dr. Mark St. Cyr and seconded by Dr. Justin Wilson to approve the June 22, 2022 minutes. Motion passed on roll call vote.

A motion was made by Dr. Justin Wilson and seconded by Dr. Mark St. Cyr to approve expense claims #7460-#7536, #H0469064-#H0469067, #H0470563-#H0470562, #H0472688- #H0472690, the July and August payroll, the June, July and August 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. 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 sets future Board meeting(s):

The Board set Wednesday January 18, 2022 as a “regular” scheduled Board meeting. The next Board meeting date is set for Wednesday November 16, 2022.

Presentation of “Years of Service” pin:

President Willeford presented Compliance Officer Keevie Ridener with a 5 year service pin. President Willeford congratulated Dr. Ridener on her service with the State of Oklahoma and thanked her for the hard work she does for the Board.

Board discusses and names two replacements for the CE Committee:

Director Hendrick reported that there were two open seats on the CE Committee due to the resignation of Phil Woodward and Barbara Poe. Dr. Hendrick stated that both Dr. Woodward and Dr. Poe have been a part of the committee for several years and will be greatly missed.

Dr. Hendrick stated that an email had been sent out to licensed pharmacist requesting that anyone interested in being a part of the CE Committee should submit an email stating why they would be interested in serving on the committee. He noted that he had received several emails showing interest and had narrowed it down to Chris Isbell of Roland, OK and Rebecca Segrest of Edmond, OK.

A motion was made by Dr. Mark St. Cyr and seconded by Dr. Justin Wilson to accept the recommendation of Dr. Hendrick to appoint Dr. Chris Isbell and Dr. Rebecca Segrest as replacement members of the CE Committee. 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:

Building Information:

Director Hendrick reported that work is continuing on the Board office located on Lincoln Blvd. He stated that Lingo has been making great progress and after visiting the building, it is looking great, and that the staff is looking forward to moving back in November. He noted that they will have a more detailed report later during the meeting.

Current Committees:

Director Hendrick reported that the Temperature Task Force had their first meeting on August 31st and that a lot had been accomplished. He noted that a second meeting will be held on October 26th. He stated that the hope is to clean up previous rules but to be careful not to overregulate the shipping of medications while still protecting the citizens of Oklahoma.

Deputy Director, Gary LaRue gave a brief description of the progress of

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the Tech Immunization Committee. He noted that the committee has finished with their meetings. He discussed with the Board some of the rules that the committee had written and would submit to the Board for approval.

DME:

Director Hendrick reported that the staff has finished some of the work needed to begin licensing DME's. He noted that the law will go into effect on November 1, 2022 and then licensing will begin at that time. He stated that staff will continue to work on rules and provide them for approval to the Board once they are complete.

Travel:

Director Hendrick reported that he and Deputy Director Gary LaRue, Senior Compliance Officer, Melissa Jones, Compliance Officer (CO) Darrell Switzer, CO Marjan Fardadard will be traveling to New Orleans for MALTAGON on September 18th through September 21st. He stated that he is looking forward to having a good meeting with a good turnout.

NABP District 6, 7 & 8 meeting:

Director Hendrick reported that the Board held the NABP District 6, 7 & 8 meeting in Oklahoma City on August 28th through the 30th at the Omni Hotel. He stated that he thought the meeting was a success and that from his understanding, it was the largest attendance to date and all of the rooms at the Omni were sold out. He noted that we were able to raise \$57,500 in donations and close to \$45,000 in registrations. He stated that this meeting is proof that we, as a board can host a great meeting and that Oklahoma City can be a great venue. Dr. Hendrick gave a special thank you to the staff for all of their help in making the meeting a success and to the Board for their support and attendance at the meeting.

Representatives from Lingo appear before the Board:

The Board was called to order to hear the presentation from Lingo. Director Hendrick introduced JP Craig, Integration Director and Brett Moore, Project Manager. At this time, Director Hendrick turned the presentation over to JP Craig for a detailed project update. 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. Dr. Hendrick had asked about the possibility of getting new carpet while the building was empty. Mr. Moore stated that it would be possible however that would push the move-in date back a couple of weeks. The Board suggested that the staff look at the different carpet choices and determine if the chosen carpet would be available in a timely manner.

A motion was made by Dr. Justin Wilson and seconded by Dr. Mark St. Cyr to authorize Dr. Hendrick to make the decision on the carpet as long as the price was within the budget. Motion passed on roll call vote.

After the presentation, President Willeford thanked Lingo for their dedication and hard work to keep the project on the projected timeline.

Yogesh Gala, DPh., of Specialty Technician Certification Board (STCB) appears before the Board for a presentation of a new technician course:

The Board was called to order for a presentation by Yogesh Gala, DPh of Specialty Technician Certification Board (STCB). Mr. Gala presented the Board with a new technician certification program that he had developed with the hope to help the profession of pharmacy. He noted that the course is designed to be for technicians who are working in the "specialty pharmacy" area.

After a brief discussion with Mr. Gala, the Board felt that this program would be more for the pharmacies might use to train their technicians and not something that the Board would require as training. President Willeford thanked Mr. Gala for the presentation and for his time.

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OSBP vs. New Spring Pharmacy, #11-8986, Case No. 1640:

The Board was called to order by President Willeford to hear the case of New Spring Pharmacy. Representatives for the Respondent New Spring Pharmacy were not present. John Settle, Chief Assistant Attorney General prosecuted the case for the Board and Deputy Attorney General Niki Batt served as the Board's Legal Advisor.

Mr. Settle presented the Board with the Complaint for review. New Spring Pharmacy was charged in seven separate counts with multiple violations of state and federal regulations and rules including: No pharmacist, pharmacist-in-charge or other person shall permit the practice of pharmacy except by a licensed pharmacist or assistant pharmacist.

Registration Secretary Rhonda Jenkins, Compliance Officer Keevie Ridener and Executive Director Marty Hendrick were present to provide testimony and respond to questions of the Board. The President swore-in the witnesses.

Registration Secretary Rhonda Jenkins testified that New Spring Pharmacy had been notified of the hearing date and time pursuant to the statutes of the Oklahoma Pharmacy Act and the Board's rules. Further, the Board recognized it had granted the request of New Spring Pharmacy co-owner Kyle Rackley to continue the case during the June 22, 2022, Board meeting, at which Mr. Rackley was present. Compliance Officer Keevie Ridener and Executive Director Marty Hendrick testified, and exhibits were admitted.

After a discussion by the Board, a motion was made by Dr. Justin Wilson and seconded by Dr. Mark St. Cyr that, based on the clear and convincing evidence presented, New Spring Pharmacy be found guilty of each count charged. Motion passed on a roll call vote.

A motion was then made by Dr. Justin Wilson and seconded by Dr. Mark St. Cyr to revoke the pharmacy license of New Spring Pharmacy and to fine the Respondent \$3000.00 per count for a total fine of \$21,000.00, which fine is due immediately. Motion passed on a roll call vote.

OSBP vs. Gregory Diel, DPh #10671, Case No. 1649:

The Board was called to order by President Willeford to hear the case of Gregory Diel. Mr. Diel was present and chose to appear without Counsel. Compliance Officer, Keevie Ridener was present for any questions of the Board. Oklahoma Pharmacist Helping Pharmacist (OPHP) Director Kevin Rich was present to testify on behalf of Mr. Diel.

Mr. Settle presented the Board with the Complaint for review. Mr. Diel was charged with multiple violations of state and federal regulations and rules including; registrants will conduct themselves at all times in a manner that will entitle them to the respect and confidence of the community in which they practice.

Mr. Settle then presented the Board with an Agreed Order. If the Board accepts the Agreed Order, Mr. Diel would agree to the following: Mr. Diel admits to guilt on two (2) counts, Count 3 is dismissed. Mr. Diel's license to practice pharmacy is indefinitely suspended. Mr. Diel agrees to pay \$2500.00 per count for a total of \$5,000.00. Mr. Diel agrees to complete a substance use disorder conference or seminar approved by OPHP before December 31, 2024. After July 27, 2027, Mr. Diel may appear before the Board to request his suspension be lifted. He must present the Board with a "Fit for Duty" and have must have signed and be compliant with a new 10-year Recovery Monitoring Agreement" with OPHP.

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

OSBP vs. OKCity Rx LLC, #1-8770, Case No. 1652:

The Board was called to order by President Willeford to hear the case of OKCity Rx, LLC., Respondent. Representatives for the Respondent pharmacy were not present. John Settle, Chief Assistant Attorney General prosecuted the case for the Board and Deputy Attorney General Niki Batt served as the Board's Legal Advisor.

Mr. Settle presented the Board with the Complaint for review. The Respondent pharmacy was charged in 281,918 separate counts with multiple violations of state and federal regulations and rules including: No pharmacist, pharmacist-in-charge or other

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person shall permit the practice of pharmacy except by a licensed pharmacist or assistant pharmacist.

Registration Secretary Rhonda Jenkins, Compliance Officer Marjan Fardadfar and Executive Director Marty Hendrick were present to provide testimony and respond to questions of the Board. The President swore-in the witnesses.

Registration Secretary Rhonda Jenkins testified that Respondent had been notified of the hearing date and time pursuant to the statutes of the Oklahoma Pharmacy Act and the Board's rules. Compliance Officer Marjan Fardadfar and Executive Director Marty Hendrick testified, and exhibits were admitted. Mr. Settle moved to amend a scrivener's error of Counts 140,587 through Count 141,331 of the Complaint which incorrectly referred to OAC § 353.24(A)4 rather than using the correct cite of Title 59 O.S. § 353.24(A)4 Additional Unlawful Acts Enumerated. A motion was made by Dr. Justin Wilson and seconded by Dr. Mark St. Cyr to allow the amendment of the Complaint to correct the scrivener's error and insert Title 59 O.S. in place of OAC at the beginning of the statute cite for COUNT 140,587 through COUNT 141,331. Motion passed on roll call vote.

After a discussion by the Board, a motion was made by Dr. Justin Wilson and seconded by Dr. Mark St. Cyr that, based on the clear and convincing evidence presented, OKCity Rx, LLC., be found guilty of each count charged. Motion passed on a roll call vote.

A motion was then made by Dr. Justin Wilson and seconded by Dr. Shonda Lassiter that on the recommendation of Dr. Marty Hendrick, to revoke the pharmacy license of OKCity Rx, LLC., and to fine the Respondent \$100.00 per count for a total fine of \$28,191,800.00, which fine is due immediately. Motion passed on a roll call vote.

OSBP vs. Shane Kelly, DPh #12844, Case No. 1650:

The Board was called to order by President Willeford to hear the case of Shane Kelly. Mr. Kelly was present and chose to appear without Counsel. Compliance Officer, Darrell Switzer was present for any questions of the Board.

Mr. Settle presented the Board with the Complaint for review. Mr. Kelly was charged with multiple violations of state and federal regulations and rules including; the pharmacy and pharmacist shall ensure that the prescription drug or medication order has been issued for a legitimate medical purpose by an authorized prescriber.

Mr. Settle then presented the Board with an Agreed Order. If the Board accepts the Agreed Order, Mr. Kelly would agree to the following: Mr. Kelly admits guilt all three (3) counts. Mr. Kelly agrees to attend a one-day (8 hour) law seminar in addition to the required fifteen (15) hours of CE during the calendar years of 2022 or 2023 for a total of twenty three (23) hours of CE each year. All hours of required CE in 2023 shall be live. Mr. Kelly agrees to pay a fine of \$1000.00 per count for a total of \$3000.00 which is due on September 14, 2022.

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. Melissa McCoy, DPh #16690, Case No. 1615 - requesting suspension be lifted:

The Board was called to order to hear the request of Melissa McCoy. Ms. McCoy was present. OPHP Director Kevin Rich was present for any questions of the Board.

After a brief discussion with Ms. McCoy and Mr. Rich on her progress with OPHP, a motion was made by Dr. Justin Wilson and seconded by Dr. Shonda Lassiter to grant the request of Ms. McCoy to lift the suspension of her license. Motion passed on roll call vote.

OSBP vs. Catherine Mattea Tate, DPh #14362, Case No. 1126 - requesting probation be lifted:

The Board was called to order to hear the request of Catherine Mattea Tate. Ms. Tate was present. OPHP Director Kevin Rich was present for any questions of the Board.

After a lengthy discussion with Ms. Tate and Mr. Rich on her progress with OPHP, a motion was made by Dr. Justin Wilson that Ms. Tate be required to work 6 months under the direct supervision of a pharmacist. Motion failed.

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A motion was made by Dr. Shonda Lassiter and seconded by Dr. Justin Wilson that the request of Ms. Tate be denied. Ms. Tate may request to appear before the Board at a later date but prior to doing so, she must have worked one year under the direct supervision of another pharmacist. Motion passed on roll call vote with Dr. Mark St. Cyr voting "no".

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

Motion was made by Dr. Mark St. Cyr and seconded by Dr. Justin Wilson to go into Executive Session to discuss the yearly evaluation and possible salary adjustment of the Executive Director. Motion passed on roll call vote. President Willeford asked that Office Manager MaryAnn Terral join them.

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.

Motion was made by Dr. Mark St. Cyr and seconded by Dr. Justin Wilson to set the salary of the Executive Director at \$174,974.00 per year effective July 1, 2022. Motion passed on roll call vote.

President Willeford stated that he would meet with Dr. Hendrick at a later date to review his evaluation.

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 3:02 p.m.

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