

# MINUTES

## OKLAHOMA STATE BOARD OF PHARMACY

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

**April 22, 2015**

### **Call to order:**

President Adams called the April 22, 2015 meeting of the Oklahoma State Board of Pharmacy (OSBP) to order at 8:35 a.m. with a roll call vote. All members were present.

### **Those present were:**

#### Board Members:

Greg Adams, President  
Jim Spoon, Vice-President  
Dorothy Gourley, Member  
Justin Wilson, Member  
Kyle Whitehead, Member  
Stephen Dudley, Member

#### Board of Pharmacy:

John A. Foust, Executive Director  
Cindy Hamilton, Compliance Officer  
Gary LaRue, Compliance Officer  
Chelsea Church, Compliance Officer  
Marty Hendrick, Compliance Officer  
Betty Beil, Compliance Officer  
Brinda White, Assistant Attorney General  
Rhonda Jenkins, Executive Secretary

#### Guests:

Chukwuemezie Chimezie, Walgreens  
Derek Dennis, Walgreens  
Ryan Walker, Walgreens  
Russel Carr, Walgreens  
Laura Petty, Walgreens  
Shannon Griggs, Wal-Mart  
Angela Marion, Wal-Mart  
Robyn Janaway, Wal-Mart  
Mark St. Cyr, OU Medical Center  
Mark Fain, Hunters Specialty Pharmacy  
Jill Shadid, OU College of Pharmacy  
Terry Cothran, OU College of Pharmacy  
Nancy T. Williams, SWOSU College of Pharmacy  
Edna Patatanian, SWOSU College of Pharmacy  
Travis Tate, HealthChoice  
Brantley Underwood, Intern  
Ferrin Amrine, Intern  
Shawn Coy, Guest  
Eric Frikken, Guest

### **Approval of minutes and claims:**

Motion was made by Dr. Jim Spoon and seconded by Stephen Dudley to approve the February 25, 2015 minutes. Motion passed on roll call vote.

Motion was made by Stephen Dudley and seconded by Dr. Justin Wilson to approve expense claims #5136-5186, #H0305696-#H0305700, #H0307390-#H0307394, March and April 2015 payroll, expenses of the Executive Director and the February and March 2015 leave report of the Executive Director. Motion passed on roll call vote.

**Cancellation of Pharmacists, Pharmacies, Facilities, and Technicians:**

After a review of the cancellation lists presented, a motion was made by Stephen Dudley and seconded by Dr. Dorothy Gourley to approve the cancellation lists 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 in March 2015.

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

**Board reviews letter from Berrye Smith, D.Ph. #9023:**

The Board was presented with a letter from Dr. Berrye Smith. Dr. Smith requested that the Board consider asking for a task force to review the causes and possible solutions which could be put in place to address the increasing number of pharmacy robberies and burglaries. The Board encouraged all pharmacists to work with their local law enforcement, and contact the Oklahoma State Bureau of Investigations (OSBI) in these matters. The Board requested that the Director send a letter to the director of OSBI to encourage interagency cooperation in this matter and to consider a task force to review the issues.

**Board sets future Board meeting:**

The Board will set future meeting dates at the June 17, 2015 meeting.

**Executive Director gives Agency report:**

**SB787 Report:**

The Director reported that SB787 had been passed by the legislature. He noted that SB787 had received outstanding support from physician and hospital groups and associations.

**Building report:**

The Director reported that the landscaping was essentially complete. DCS did their walk through and noted a few items which needed attention. The Director stated that the plans call for additional jonquils or daffodils to be planted this fall.

The covered walkway project is complete. The flagstone water splash landscaping looks good and blends in well with the rest of the flagstone around the flagpoles and the artwork. The walkway looks very good and has the appearance of being part of the original construction. Diversified Construction and Krittenbrink Architecture did an awesome job. DCS has signed off on the project.

**ISMP Conference:**

The Director noted that Dr. Carmen Catizone, the Director of NABP may be attending the OKC ISMP Continuing Education Seminar that the Board is hosting in June. The Director stated that he spoke with Dr. Catizone at a meeting, and Dr. Catizone said he would like to meet with past Executive Director Dr. Bryan Potter to tour the new building, and possibly give a short presentation during lunch at the OKC conference. The Board has reserved the Jim Thorpe Oklahoma Sports Museum Events Center in Oklahoma City for the June 23<sup>rd</sup> conference, and reserved the Renaissance Hotel in Tulsa for the June 24<sup>th</sup> conference. Dr. Donna Horn, ISMP Vice-President, will be the main speaker for the three hour ACPE-Approved presentations. She will present the conference one day in OKC and the next day in

Tulsa. Dr. Horn is also a past president of NABP and has worked with ISMP for many years. She was one of the presenters at the very popular OSBP-ISMP Safety Conference held last June. The Director stated that he hoped by having the conference held at two locations, that the attendance will double. The results will be reviewed before the next conference is scheduled. DEA has scheduled a conference for Oklahoma registrants on the Saturday and Sunday after our ISMP conference. OSBP staff presentations are included in the DEA conference program.

**P-4 Students:**

The Director noted that there are 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.

**NABP Executive Committee:**

The Director stated that he had been informed that there were no other nominations submitted for the District 6 representative to the NABP Executive Committee. He stated that a candidate must receive at least 26 votes at the annual meeting to be elected to the NABP Executive Committee. The Director noted that he had been asked to give a presentation on continuing education versus continuing professional development or continuing competency at the NABP annual meeting.

**DEA Meeting:**

The Director and Lyle Kelsey, Director of the Oklahoma Board of Medical Licensure and Supervision attended a DEA meeting in March in Washington DC. Electronic prescribing of controlled drugs was the topic of the two-day conference. All expenses for the meeting were paid by DEA. The Director noted that it was interesting that much of the meeting involved the same concerns that were addressed at the OSBP Electronic Prescribing Seminar that Dr. Dorothy Gourley hosted with some of the large hospital systems.

**FDA Meeting:**

The Director and Compliance Officer Gary LaRue attended a meeting at FDA Headquarters at the White Oak Campus in Silver Springs, MD. The meeting included all 50 states' Boards and was on compounding pharmacy issues. Dr. Gary LaRue gave a report on the meeting. Dr. LaRue noted how important it is for the Board to have representation at these national meetings to assure that Oklahoma has the chance to comment on the issues and help develop the national policies which govern the practice of Pharmacy.

**New Compliance Officer:**

The Director noted that our new compliance officer, Dr. Marty Hendrick began work in early March. He is based in the Tulsa area.

**Board interviews Reciprocity applicants:**

The Board was called to order to interview twelve (12) Reciprocity applicants. All applicants had taken and passed the Oklahoma Multi-State Jurisprudence Exam.

Michelle Bauer ..... NJ	Martin Farrell ..... PA	Darin Henley .....MO
Adam Beam ..... TX	Gail Feder.....AZ	Sarah Siefert.....AL
Lauren Bode ..... TN	Richard Gaffin, II ....AZ	Leanne Teufel.....AR
Abanti De ..... KY	Gregory Gaiser..... FL	Rhetta York.....TX

**OSBP vs. Tra'Shad Owens, Technician #19403 – Case No. 1318:**

The Board was called to order by President Adams to hear the case of Tra'Shad Owens. Mr. Owens was not present. Registration Secretary, Rhonda Jenkins testified that he had been properly notified. Compliance Officer, Betty Beil and Jory Withers, Walgreens Loss Prevention testified for the Board. Assistant Attorney General, Brinda White prosecuted for the Board.

Ms. White presented the Board with the Complaint for review. Mr. Owens admitted in a voluntary written statement to stealing Alprazolam tablets from the pharmacy to sell in order to pay his bills. Mr. Owens was also charged with a misdemeanor for reckless driving and failed to declare this on his original pharmacy technician application or on his renewal under the charges section.

Motion was made by Stephen Dudley and seconded by Dr. Justin Wilson that based on the clear and convincing evidence presented, Mr. Owens be found guilty on all five (5) counts. Motion passed on roll call vote.

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

**OSBP vs. Shanda Twitty, Technician #8544 – Case No. 1326:**

The Board was called to order by President Adams to hear the case of Shanda Twitty. Ms. Twitty was not present but it had been determined that she had been properly notified.

Assistant Attorney General Brinda White presented the Board with the Complaint for review. It was noted on video surveillance that Ms. Twitty had accessed the Pyxis CDS cabinet and removed a bottle of Oxycodone/APAP 10/325mg. There was not a prescription to be filled. It was also noted that she retrieved a bottle of Ibuprofen 800mg from the employee prescription area, counted them out and put them in a prescription vial. Computer records indicated that she had reprinted, without justification, a prescription label for Ibuprofen which had been previously filled on June 1, 2014. Ms. Twitty was interviewed and her employment was terminated from Norman Regional Hospital Pharmacy for theft.

Ms. White then presented the Board with an Agreed Order that had been signed by Ms. Twitty. By signing the Agreed Order, Ms. Twitty neither admits nor denies guilt on all five (5) 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. Justun Bell, Technician #19620 – Case No. 1322:**

The Board was called to order by President Adams to hear the case of Justun Bell. Mr. Bell was not present but it had been determined that he had been properly notified.

Assistant Attorney General Brinda White presented the Board with the Complaint for review. Mr. Bell was requested by the pharmacy supervisor to give her what he had concealed in his pocket. He removed a full bottle of Promethazine with Codeine Syrup from his pocket and gave it to the supervisor. Mr. Bell was then escorted from the pharmacy and his employment was terminated from Walgreens pharmacy for theft.

Ms. White then presented the Board with an Agreed Order that had been signed by Mr. Bell. By signing the Agreed Order, Mr. Bell admits to guilt on all three (3) counts and accepts revocation of his technician permit.

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

**OSBP vs. Leslie Caldwell, Technician #6511 – Case No. 1327:**

The Board was called to order by President Adams to hear the case of Leslie Caldwell. Ms. Caldwell was not present. Registration Secretary, Rhonda Jenkins testified that she had been properly notified. Compliance Officer, Marty Hendrick and Melissa Blundell, D.Ph. testified for the Board. Assistant Attorney General, Brinda White prosecuted for the Board.

Ms. White presented the Board with the Complaint for review. Ms. Caldwell reinstated her technician permit in September 2014. During a random background check it was determined that Ms. Caldwell had been arrested multiple times in the past 2 years. Ms. Caldwell had checked "no" on the charges and conviction section of her reinstatement.

Motion was made by Dr. Justin Wilson and seconded by Stephen Dudley that based on the clear and convincing evidence presented, Ms. Caldwell be found guilty on all three (3) counts. Motion passed on roll call vote.

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

**OSBP vs. Betty Mansfield, Technician #16804 – Case No. 1330:**

The Board was called to order by President Adams to hear the case of Betty Mansfield. Ms. Mansfield was not present but it had been determined that she had been properly notified.

Assistant Attorney General Brinda White presented the Board with the Complaint for review. It was noted on video surveillance that Ms. Mansfield had been acting in a suspicious way. After an inventory showed a shortage of Tramadol 50 mg, Ms. Mansfield was confronted and she voluntarily admitted to stealing the tablets. Ms. Mansfield was terminated from Boomer Solutions for theft of controlled dangerous substance (CDS).

Ms. White then presented the Board with an Agreed Order that had been signed by Ms. Mansfield. By signing the Agreed Order, Ms. Mansfield admits to guilt on all four (4) counts and accepts revocation of her technician permit.

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

**OSBP vs. Chad Hartman, Technician #18920 – Case No. 1329:**

The Board was called to order by President Adams to hear the case of Chad Hartman. Mr. Hartman was not present but it had been determined that he had been properly notified.

Assistant Attorney General Brinda White presented the Board with the Complaint for review. An employee had observed Mr. Hartman reaching into his pocket and saw a pill fall to the floor. The pill was identified as Oxycodone 30mg. An audit was conducted. It was determined that Mr. Hartman had committed theft of CDS.

Ms. White then presented the Board with an Agreed Order that had been signed by Mr. Hartman. By signing the Agreed Order, Mr. Hartman neither admits nor denies guilt on all four (4) counts and accepts revocation of his 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. Susan Reynolds, Technician #17890 – Case No. 1331:**

The Board was called to order by President Adams to hear the case of Susan Reynolds. Ms. Reynolds was not present but it had been determined that she had been properly notified.

Assistant Attorney General Brinda White presented the Board with the Complaint for review. After a review of the Prescription Monitoring Program (PMP) by Ms. Reynolds physician, it was determined that she had been forging CDS prescriptions for herself, billing to insurance and picking them up. Ms. Reynolds was terminated from Wal-Mart for theft of CDS.

Ms. White then presented the Board with an Agreed Order that had been signed by Ms. Reynolds. By signing the Agreed Order, Ms. Reynolds admits to guilt on all five (5) counts and accepts revocation of her technician permit.

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

**OSBP vs. Teresa Hamilton, Technician #9484 – Case No. 1328:**

The Board was called to order by President Adams to hear the case of Teresa Hamilton. Ms. Hamilton was present and chose to appear without Counsel.

Assistant Attorney General Brinda White presented the Board with the Complaint for review. Ms. Hamilton had completed her renewal application online and had answered “no” to the charges and conviction section. Ms. Hamilton failed to disclose to the Board that criminal charges had been filed against her.

Ms. White then presented the Board with an Agreed Order that had been signed by Ms. Hamilton. If the Board accepts the Agreed Order, Ms. Hamilton would agree to the following. She admits to guilt on all five (5) counts. Ms. Hamilton would be placed on probation for one (1) year until

April 22, 2016. She shall attend a one-day (8 hour) law seminar during the calendar year 2015. She must notify all future employers that she is on probation until April 22, 2016.

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

**OSBP vs Jyme Kay Wilson, D.Ph. #13212 – Case No. 1308 – Request for Probation:**

The Board was called to order to hear the request of Jyme Kay Wilson. Ms. Wilson was present along with her husband, Brett Wilson and Counsel Libby Scott. OPHP Director, Kevin Rich testified for Ms. Wilson.

After a review and discussion with Ms. Wilson, a motion was made by Dr. Jim Spoon and seconded by Stephen Dudley to grant the request for probation. Motion passed on roll call vote.

**OSBP vs Billy Wilson, D.Ph. #9893 – Case No. 1298 – Request for Probation:**

The Board was called to order to hear the request of Billy Wilson. Mr. Wilson was present along with his sister Melinda Wilson. OPHP Director, Kevin Rich testified for Mr. Wilson.

After a review and lengthy discussion with Mr. Wilson of his past pharmacy history, a motion was made by Dr. Justin Wilson and seconded by Dr. Kyle Whitehead to grant probation. Mr. Wilson must do weekly drug testing for the first 6 months and enter into a lifetime contract with OPHP. Motion passed on roll call vote with Dr. Dorothy Gourley voting “No”.

**OSBP vs Vivien L. Grose, D.Ph. #11361 – Case No. 1178 – Request for Probation to be lifted and approval for a Preceptor permit:**

The Board was called to order to hear the request of Vivien L. Grose. Ms. Grose was present.

After a review and lengthy discussion with Ms. Grose, a motion was made by Dr. Dorothy Gourley and seconded by Stephen Dudley to deny the request for probation and preceptor permit at this time and that Ms. Grose will need to complete her five year probation term. Motion passed on roll call vote.

**OSBP vs Zach Curry, D.Ph. #14832 – Case No. 1321 – Request for Probation:**

The Board was called to order to hear the request of Zach Curry. Mr. Curry was present. OPHP Director, Kevin Rich testified for Mr. Curry.

After a review and discussion with Mr. Curry, a motion was made by Dr. Jim Spoon and seconded by Dr. Justin Wilson to grant the request for probation. Motion passed on roll call vote.

**Mickey Phan, D/Ph. of Variety Care Pharmacy appear before the Board to ask for approval of a pilot program:**

The Board was called to order to hear the request of Mickey Phan, D.Ph. with Variety Care Pharmacy (VCP). He is asking that the Board allow prescriptions to be filled and delivered offsite for patient pickup.

Motion was made by Dr. Jim Spoon and seconded by Stephen Dudley to grant a pilot program for one year for limited medications. At the end of the one year program, VCP must file a report with the Executive Director for Board consideration to extend the pilot program. Motion passed on roll call vote.

**Representatives from Fresenius Medical Care appear before the Board to ask for approval of a pilot program:**

The Board was called to order to hear the request of Fresenius Medical Care. Wendy Schrag, Cathleen O'Keefe and Mark Atalla, D.Ph. were represented Fresenius Medical Care Pharmacy (FMCP).

Motion was made by Dr. Jim Spoon and seconded by Dr. Justin Wilson to grant a pilot program for one year for the specific end-stage renal disease (ESRD) medications paid for under “Medicare non-part D” and ESRD medications for patients who have brittle addresses or medications are temperature sensitive. At the end of the one year program, FMCP must file a report with the Executive Director for Board consideration to extend the pilot program. Motion passed on roll call

vote with Dr. Dorothy Gourley and Stephen Dudley voting “No”.

### **Board breaks for lunch**

#### **OSBP vs. Sue Ann Rogers, D.Ph. #10308 – Case No. 1333:**

The Board was called to order by President Adams to hear the case of Dr. Sue Ann Rogers. Dr. Rogers was present along with her husband, Randy Rogers who are the owners of Camp Pharmacy. Ms. Rogers chose to appear without Counsel.

Assistant Attorney General, Brinda White presented the Board with the Complaint for review. Ms. Rogers was charged with multiple violations of state and federal regulations and rules including compounding drugs that are commercially available in the marketplace or that are essentially copies of commercially available FDA-approved drug products when patient therapy is not compromised.

Ms. White then presented the Board with an Agreed Order. If the Board accepts the Agreed Order Ms. Rogers would agree to the following: Ms. Rogers would agree to guilt on Counts 1-54. Her license would be suspended for five (5) years and is placed on probation for five (5) years until April 22, 2020. Ms. Rogers would agree to pay a fine of \$1,314.81 per count for a total fine of \$71,000.00 which is due on April 22, 2015. Ms. Rogers shall attend a one-day (8 hour) law seminar in addition to the required fifteen (15) hours of CE during the calendar years of 2015 and 2016 for a total of twenty three (23) hours of CE. All 15 hours of required CE shall be live during the probation period. Ms. Rogers understands that if she compounds anything more complicated than mixing two (2) creams or liquids together, she shall attend compounding training and submit this to the Board for approval prior to resuming compounding.

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

#### **OSBP vs. Camp Pharmacy, #12-5726 – Case No. 1334:**

The Board was called to order by President Adams to hear the case of Camp Pharmacy. Randy Rogers was present as the representative and owner of Camp Pharmacy along with his wife, Sue Ann Rogers. Mr. Rogers chose to appear without Counsel.

Assistant Attorney General, Brinda White presented the Board with the Complaint for review. The Respondent was charged with multiple violations of state and federal regulation and rules including failing to establish and maintain effective controls against the diversion of prescription drugs.

Ms. White then presented the Board with an Agreed Order. If the Board accepts the Agreed Order, the Respondent would agree to the following: The Respondent would admit to guilt on Counts 55-106. The Respondents pharmacy license is suspended for five (5) years and is placed on probation for five (5) years until April 22, 2020. The Respondent would agree to pay a fine of \$1,365.38 per count for a total of \$71,000.00 which is due April 22, 2015.

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

#### **OSBP vs. Medco Health Solutions of Columbus North, LTD, dba Medco Health Solutions of Dublin, #99-633 – Case No. 1310**

#### **OSBP vs. Medco Health Solutions of Columbus West, LLC, dba Medco Health, #99-631 – Case No. 1311**

#### **OSBP vs. Medco Health Solutions of Hidden River, LC, dba Medco Health, #99-625 – Case No. 1312**

#### **OSBP vs. Medco Health Solutions of Indiana, LLC, #99-1429 – Case No. 1313**

#### **OSBP vs. Medco Health Solutions of Las Vegas, LLC, #99-629 – Case No. 1314**

#### **OSBP vs. Medco Health Solutions of Texas, LLC, dba Medco Health Solutions of Irving, #99-637 – Case No. 1315**

**OSBP vs. Medco Health Solutions of Willingboro, LLC, dba Medco Health, #99-627 – Case No. 1316**

The Board was called to order by President Adams to hear the consolidated cases against seven Medco Health Solutions Pharmacies. Phil Wickizer of Express Scripts was present as the Representative for Medco Health Solutions along with Counsel, Larry Derryberry and Doug Rice.

Assistant Attorney General, Brinda White presented the Board with the Complaint for review. The Respondents had failed to apply for a new license due to changes of name or ownership.

Ms. White then presented the Board with seven Agreed Orders. If the Board accepts the Agreed Orders, six of the seven Respondent pharmacies would agree to the following: Each Respondent neither admits nor denies guilt on Counts 1-4 and 9-12. Each Respondent is fined \$3,000.00 per count on Counts 1-4 and 9-12 for a total fine of \$24,000.00 which is due on May 22, 2015. The remaining Respondent would agree to the following: Respondent neither admits nor denies guilt on Counts 1 and 3. Respondent is fined \$3,000.00 on Counts 1 and 3 for a total of \$6,000.00 which is due May 22, 2015.

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

**Adoption of Permanent Rule Amendments:**

The Board was called to order by President Adams to review the proposed rules for Chapter 10. The staff had filed the wrong original chapter rules with the proposed amended Chapter 10 filing for legislative review. Since it had been beyond 10 days from the initial Board approval, the Board had to re-adopt these rules to correct the error. The rules still must be reviewed by the legislature and approved by the Governor.

Motion was made by Dr. Justin Wilson and seconded by Stephen Dudley to approve Chapter 10 rules as presented. Motion passed on roll call vote.

**President Adams adjourned the Board meeting:**

Motion was made by Stephen Dudley and seconded by Dr. Jim Spoon to adjourn the Board meeting. Motion passed on roll call vote. President Adams adjourned the Board meeting at 2:45 p.m.