

MINUTES

OKLAHOMA STATE BOARD OF PHARMACY

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

December 3, 2015

Call to order:

President Spoon called the December 3, 2015 meeting of the Oklahoma State Board of Pharmacy (OSBP) to order at 8:32 a.m. with a roll call vote. 5 out of 6 members were present.

Those present were:

Board Members: Jim Spoon, President
Justin Wilson, Vice-President
Greg Adams, Member
Mark St.Cyr, Member
Kyle Whitehead, Member

*Stephen Dudley was unable to attend the meeting

Board of Pharmacy: John A. Foust, Executive Director
Cindy Hamilton, Chief Compliance Officer
Gary LaRue, Senior Compliance Officer
Betty Beil, Senior Compliance Officer
Melissa Reichert, Compliance Officer
Marty Hendrick, Compliance Officer
Brinda White, Assistant Attorney General
Rhonda Jenkins, Executive Secretary

Guests: Derek Dennis, Walgreens
Lynn Stover, Walgreens
Dave Suey, Walgreens
Shannon Griggs, Wal-Mart
Robin Janaway, Wal-Mart
Scott Miller, Wal-Mart
Matthew Green, Wal-Mart
Scott Kash, Wal-Mart
Nancy T. Williams, SWOSU College of Pharmacy
Crystal Weatherly, Wal-Mart
Terry Cothran, OU College of Pharmacy
Jill Shadid, OU College of Pharmacy
Debra Billingsley, OPhA
Travis Tate, HealthChoice
Rich Palombo, Express Scripts
Mark Fain, Specialty Pharmacy
Becca Segrest, CardinalHealth
Cody Abbott, PharmCare
Donavan Fuller, Sam's Club
Kichang Lee, Intern
Helen Vu, Intern
Donald Ghogomu, Guest
Rosa Torres, Guest
Emmanuel Torres, Guest

Approval of minutes and claims:

Motion was made by Dr. Justin Wilson and seconded by Dr. Kyle Whitehead to approve the October 21, 2015 minutes. Motion passed on roll call vote.

Motion was made by Dr. Greg Adams, and seconded by Dr. Justin Wilson to approve expense claims #5396-#5435, #H0321791-#H0321795, #H0324332-#H0324336, November 2015 payroll, expenses of the Executive Director and the October and November 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 Dr. Mark St.Cyr and seconded by Dr. Justin Wilson to approve the cancellation lists of those that did not renew within the renewal time period. Motion passed on roll call vote.

Board discusses request of ACHC Inspection Services (AIS) to be accepted for Board inspections:

The Board discussed a request from AIS. They are requesting that the Board accept their inspection services for non-resident pharmacies that ship products into Oklahoma as an approved inspection report that a non-resident pharmacy must submit with their annual renewal.

Motion was made by Dr. Greg Adams and seconded by Dr. Justin Wilson to approve their request and accept their inspection in lieu of State Board inspections for Oklahoma licensed non-resident pharmacies. Motion passed on roll call vote.

Board sets future Board meeting:

The Board set a Board meeting date for Wednesday, April 6, 2016.

Executive Director gives Agency report:

Building report:

The Director reported that plans for the south covered pedestrian walkway and parking project will be reviewed with Mark Krittenbrink during the afternoon session, with a request for authorization to proceed as the Board desires.

NABP meeting report:

Compliance Officer, Marty Hendrick reported on the compliance officer portion of the National Association of Boards of Pharmacy (NABP) Compliance Officer's Forum that he and Brinda White attended. Ms. White reported on the NABP Legal Counsel Forum section of the meeting. Travel expenses and lodging for the Forums were provided by NABP.

ISMP Safety Conference 2016:

The Director noted that he has not yet received a reply to his letter to the ISMP President about his participation in a Safety Conference next year. The Director will explore other presenters for the Safety Conference.

Budget Update:

Office Manager, Mary Ann Terral updated the Board with some of the mandatory changes in the agency budget that have been required by the Governor's Executive Order regarding state budget shortfalls.

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.

Board interviews Reciprocity and NAPLEX applicants:

The Board was called to order to interview thirty-two (32) Reciprocity applicants and one (1) NAPLEX applicant. All applicants had taken and passed the Oklahoma Multi-State Jurisprudence Exam.

Reciprocity:

Mahlet AklileMD	James Labella RI	Anne Salisbury..... CT
Kathryn Cartwright TN	Jessica Lampe IN	Jeannie Saylor TX
Tamie Chamy..... FL	Gary Lupini MI	Gregory Sites..... KS
Ashley Dick TN	Erica Mack TN	Sheeba Thomas TX
Laura DickinsonAL	Melvin McCue NY	Bincy Varghese..... NY
Vincent Dimaggio OH	David Navarro OH	Thanh Wang OR
Jessica Emrich..... MO	Shanna Nyberg OH	Margie White..... IA
Jan Erickson UT	Hee-Joo Park WA	Bradley Wooldridge TN
Kimberly Haddock..... TX	Alice Petrutiu NV	Erica Yelton FL
Lisa Haidinyak..... WI	Rachel Phillips TX	Douglas Zimmerman..... KS
Eddie Khoriaty..... FL	Carrie Renehan CO	

NAPLEX:

Joyceline Ghogomu

OSBP vs. Lauren Sims, Technician #14040 – Case No. 1367:

The Board was called to order by President Spoon to hear the case of Lauren Sims. Ms. Sims 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. The Oklahoma Bureau of Narcotics and Dangerous Drugs (OBNDD) received information that a pharmacy technician who was later identified as Ms. Sims was filling forged prescriptions once or twice a week for an unknown male patient. She would meet the unknown male in the parking lot and receive some of the pills in return for filling the forged prescriptions. Ms. Sims submitted her resignation from Wal-Mart Pharmacy.

Ms. White then presented the Board with an Agreed Order that had been signed by Ms. Sims. By signing the Agreed Order, Ms. Sims neither admits nor denies guilt on all four (4) counts and accepts revocation of her technician permit.

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. Angela Barnett, Technician #10024 – Case No. 1360:

The Board was called to order by President Spoon to hear the case of Angela Barnett. Ms. Barnett was present and chose to appear without Counsel.

Assistant Attorney General, Brinda White presented the Board with the Complaint for review. Ms. Barnett was a licensed technician for Halo Rx and was also the pharmacy operations manager for the pharmacy. Ms. Barnett was charged with multiple violations of state and federal regulations and rules including impersonating a pharmacist while working as a technician.

Ms. White then presented the Board with an Agreed Order that had been signed by Ms. Barnett. By signing the Agreed Order, Ms. Barnett admits to guilt of all ten (10) counts and accepts revocation of her technician permit.

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

OSBP vs Charles Matt Hearon, D.Ph. #13801 – Case No. 1374:

The Board was called to order by President Spoon to hear the case of Charles Hearon. Mr. Hearon was present along with his supervisor, Marius Maree. Mr. Hearon chose to appear without Counsel. At this time, Dr. Mark St. Cyr recused himself from the case.

Assistant Attorney General, Brinda White presented the Board with the Complaint for review. Mr. Hearon was charged with multiple violations of state and federal regulations and rules, including

possessing dangerous drugs without a valid prescription.

Ms. White then presented the Board with an Agreed Order. If the Board accepts the Agreed Order, Mr. Hearon would agree to the following: Mr. Hearon admits to guilt on all five (5) counts. Mr. Hearon agrees to pay a fine of \$400.00 per count for a total of \$2000.00. The fine is due December 3, 2015. Mr. Hearon will attend a one-day (8 hour) law seminar in addition to the required fifteen (15) hours of CE during the calendar years of 2016 and 2017 for a total of twenty-three (23) hours of CE during these calendar years. All 15 hours of required CE shall be live during his five year probation period.

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 Halo Pharmacy, #23-5328 – Case No. 1361:

The Board was called to order by President Spoon to hear the case of Halo Pharmacy. Attorney John Lee served as the representative for the pharmacy.

Assistant Attorney General, Brinda White presented the Board with the Complaint for review. The Respondent was charged with multiple violations of state and federal regulations and rules including failing to ensure that all tasks performed by pharmacy technicians are performed under the immediate and direct supervision of a pharmacist who is currently licensed by the Board.

Ms. White then presented the Board with an Agreed Order. If the Board accepts the Agreed Order, Halo Pharmacy would agree to the following: The Respondent admits to guilt on all eleven (11) counts. The Respondent's license is suspended for five (5) years. The suspension is immediately stayed and the license is placed on probation for five (5) years until December 3, 2020. The Respondent would agree to pay a fine of \$3000.00 per count on Counts 1-11 for a total of \$33,000.00. The fine is due on December 3, 2015. The owner must not override the management authority of the Pharmacist in Charge (PIC) with regard to compliance with state and federal laws.

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

OSBP vs Diamond Pharmacy, #99-483 – Case No. 1368:

The Board was called to order by President Spoon to hear the case of Diamond Pharmacy. There were no representatives from Diamond Pharmacy present but it was determined that they had been properly notified.

Assistant Attorney General, Brinda White presented the Board with the Complaint for review. The Respondent was charged with multiple violations of state and federal regulations and rules including failing to have a pharmacy manager who is responsible for all aspects of the operation related to the practice of pharmacy including supervision of all employees as they relate to the practice of pharmacy; establishment of policies and procedures for safekeeping of pharmaceuticals that satisfy Board requirements including security provisions when the pharmacy is closed; proper record keeping system for the purchase, sale, delivery, possession, storage, and safekeeping of drugs; proper display of all licenses; annual controlled drug inventory and maintenance of prescription files.

Ms. White then presented the Board with an Agreed Order. If the Board accepts the Agreed Order, Diamond Pharmacy would agree to the following: The Respondent admits to guilt on Counts I-V. Respondent neither admits nor denies guilt on Counts VI-VIII. The Respondent's license is placed on probation for five (5) years until December 3, 2020. The Respondent would agree to pay a fine of \$2000.00 per count on Counts I-V for a total of \$10,000.00. The fine is due on January 3, 2016.

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 Chris Kaiser, D.Ph. #12026 – Case No. 1369:

The Board was called to order by President Spoon to hear the case of Chris Kaiser. Mr. Kaiser was present and chose to appear without Counsel.

Assistant Attorney General, Brinda White presented the Board with the Complaint for review. Mr. Kaiser was charged with multiple violations of state and federal regulations and rules, including making or filing a report or record that he knew or should have known to be false, intentionally or

negligently failing to file a report or record required by federal, state or local laws or rules, willfully impeding or obstructing such filing, or inducing another person to so.

Ms. White then presented the Board with an Agreed Order. If the Board accepts the Agreed Order, Mr. Kaiser would agree to the following: Mr. Kaiser admits to guilt on all ten (10) counts. Mr. Kaiser agrees to pay a fine of \$1000.00 per count on Counts I, III, IV, VI and VII for a total of \$5000.00. The fine is due on December 3, 2015. Mr. Kaiser will agree to attend a one-day (8 hour) law seminar in addition to the required fifteen (15) hours of CE during the calendar year of 2016 for a total of twenty-three (23) hours of CE. All 15 hours of required CE shall be live during 2016.

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 American Home Medical Services, Inc. dba: Medi-Serv, #2-D-667 – Case No. 1375:

The Board was called to order by President Spoon to hear the case of Medi-Serv. Pharmacy owner, David Daniel was present as representative for the facility and 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 regulations and rules including failing to conform to all applicable federal, state or local laws and regulations.

Ms. White then presented the Board with an Agreed Order. If the Board accepts the Agreed Order, Medi-Serve would agree to the following: The Respondent admits guilt on all twenty-seven (27) counts. The Respondent's pharmacy license is placed on probation for five (5) years until December 3, 2020. The Respondent agrees to pay a fine of \$500.00 per count for a total of \$13,500.00. \$1000.00 of the fine is due on December 3, 2015 with the remainder of the fine to be paid at the rate of \$1041.66 each month until it is paid in full. The Respondent shall not transfill oxygen at its Tulsa location until all state and federal requirements have been met and the location has been inspected by the Board of Pharmacy and has been approved for transfilling.

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

OSBP vs Prescription Compounding Pharmacy, #2-5915 – Case No. 1370:

The Board was called to order by President Spoon to hear the case of Prescription Compounding Pharmacy. Pharmacy owner Caleb Meachum, D.Ph. was present as representative for the pharmacy and 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 regulations and rules which include compounding a drug product that is commercially available in the marketplace or that is essentially a copy of an available FDA-approved drug product when patient therapy is not compromised.

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 admits guilt on all nine (9) counts. The Respondent's pharmacy license is placed on probation for two (2) years until December 3, 2017. The Respondent agrees to pay a fine of \$444.45 per count for a total of \$4000.00. The fine is due on December 3, 2015.

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

OSBP vs Trisha Henson, D.Ph. #15523 – Case No. 1371:

The Board was called to order by President Spoon to hear the case of Trisha Henson. Ms. Henson was present and chose to appear without Counsel.

Assistant Attorney General, Brinda White presented the Board with the Complaint for review. Ms. Henson was charged with multiple violations of state and federal regulations and rules, which included compounding a drug product that is commercially available in the marketplace or that is essentially a copy of an available FDA-approved drug product when patient therapy is not compromised.

Ms. White then presented the Board with an Agreed Order. If the Board accepts the Agreed

Order, Ms. Henson would agree to the following: Ms. Henson admits to guilt on all nine (9) counts. Ms. Henson's license would be on probation for two (2) years until December 3, 2017. Ms. Henson would agree to pay a fine of \$222.23 per count for a total fine of \$2,000.00. The fine is due on December 3, 2015. Ms. Henson will agree to attend a one-day (8 hour) law seminar in addition to the required fifteen (15) hours of CE during the calendar year of 2016 and 2017 for a total of twenty-three (23) hours of CE for each of these years. All 15 hours of required CE shall be live during her two (2) years of probation.

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

OSBP vs The Apothecary Shoppe, #2-6500 – Case No. 1376:

The case of The Apothecary Shoppe was continued until the next meeting.

OSBP vs David Johnson D.Ph. #13429 – Case No. 1377:

The Board was called to order by President Spoon to hear the case of David Johnson. Mr. Johnson was present and chose to appear without Counsel.

Assistant Attorney General, Brinda White presented the Board with the Complaint for review. Mr. Johnson was charged with multiple violations of state and federal regulations and rules, including failing to supervise all employees as they relate to the practice of pharmacy.

Ms. White then presented the Board with an Agreed Order. If the Board accepts the Agreed Order, Mr. Johnson would agree to the following: Mr. Johnson neither admits nor denies guilt on Counts 4, 5, 1885, 1890 and 1891. He admits guilt on the remainder of the counts. Mr. Johnson's license is placed on probation for five (5) years until December 3, 2020. Mr. Johnson would agree to pay a fine of \$100.00 per count on Counts 8-57 for a total fine of \$5,000.00. The fine is due on December 3, 2015. Mr. Johnson will agree to attend a one-day (8 hour) law seminar in addition to the required fifteen (15) hours of CE during the calendar year of 2016 and 2017 for a total of twenty-three (23) hours of CE during each of these calendar years. All 15 hours of required CE shall be live during his five (5) years of probation. Mr. Johnson agrees to provide documentation of recently completed training in compounding under USP <797> guidelines. Mr. Johnson shall attend and provide the Board with proof of biannual training under USP <797> guidelines for five (5) years until December 3, 2020 if he is working in a site that produces sterile products.

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

Kevin Rich D.Ph., Director of Oklahoma Pharmacists Helping Pharmacists (OPHP) gives Annual report:

Dr. Kevin Rich presented the Board with an annual report from OPHP. He spoke on the leadership of the organization, and some of the issues and solutions that the organization has experienced. Dr. Rich also spoke on the support, involvement and outreach opportunities that individuals have available to them.

The Board thanked Dr. Rich for his presentation, and commended him his excellent work with the organization and the help OPHP provides to the profession.

Karla Mansour, D.Ph. request to appear before the Board for reinstatement of her license:

The Board was called to order by President Spoon to hear the request of Karla Mansour. Ms. Mansour was present and was requesting that she be allowed to reinstate her pharmacist license. OPHP Director, Kevin Rich testified that in August 2013 Ms. Mansour had a contract with OPHP but in December 2013, because of a medical issue she could not attend the required meetings. In December 2014 her contract with OPHP was suspended. She now has a new contract.

After a brief discussion with Ms. Mansour, a motion was made by Dr. Greg Adams and seconded by Dr. Mark St.Cyr to deny the request of Ms. Mansour until a "Fit for Duty" can be obtained and that OPHP is certain that she is ready to work safely in a pharmacy. Ms. Mansour is to continue her contract with OPHP. Motion passed on roll call vote.

David Branscum request to appear before the Board to request approval to take the NAPLEX:

The Board was called to order to hear the request of David Branscum. Mr Branscum was present with a friend Greg Albert and his father Glen Branscum. Mr. Branscum presented the Board with a letter as to why he is requesting to be allowed to take the NAPLEX.

After a brief discussion, a motion was made by Dr. Greg Adams and seconded by Dr. Justin Wilson to continue his request until the January meeting, with the recommendation that Mr. David Branscum obtain a "Fit for Duty" for the Board to consider at his return to the Board for reconsideration. Motion passed on roll call vote.

Mark T. Hartman, with EXELA request to appear before the Board:

The Board was called to order by President Spoon to hear the request of Mark Hartman. Mr. Hartman, Chief Commercial Officer and Phanesh Koneru, President and CEO of EXELA were both present. The EXELA representatives reviewed their company profile, FDA licensing and operations. They are not a compounding pharmacy. They are asking for approval for a license as an outsourcing facility at a separate address to provide compounded drugs listed on the FDA drug shortage list to hospitals for administration. A brief discussion was held with Mr. Hartman regarding the license. They will employ an Oklahoma licensed pharmacist-in-charge for their outsourcing facility as required.

Motion was made by Dr. Greg Adams and seconded by Dr. Mark St. Cyr to issue EXELA an outsourcing facility license using a separate facility address. Motion passed on roll call vote.

Cameron Rogers, D.Ph. of Senior Care Pharmacy request to appear before the Board as a follow up on a pilot program and to ask for an extension of the program:

Cameron Rogers, D.Ph. appeared before the Board along with David DeVenau to present a follow-up report on error rate data from their previously approved pilot program for packaging.

Motion was made by Dr. Greg Adams and seconded by Dr. Kyle Whitehead to approve the request for a 1 year extension with the same reporting requirements. Motion passed on roll call vote.

Kent Abbott, D.Ph. of Pharmcare request to appear before the Board:

Kent Abbott, D.Ph. appeared before the Board to ask for approval to (Part 1) remotely input prescription orders, and (Part 2) use physician approved therapeutic drug interchanges and to act on a physician's prior written approval protocol without further physician approval or contact.

Dr. Abbott explained that the software computer system was proprietary and was used only by the pharmacies involved in his business. Oklahoma licensed pharmacists at one Oklahoma resident licensed pharmacy location would input prescription data into the computer system and then the prescription would be filled at another Oklahoma licensed pharmacy for pickup or delivery to the patient.

Part 1: Motion was made by Dr. Justin Wilson and seconded by Dr. Mark St. Cyr to grant a pilot program for inputting prescription information and data from one pharmacy to another under common ownership and control and utilizing the same proprietary software. Dr. Abbott is to report back to the Board in one year with information on the utilization rate and any problems or issues of the remote entry program. Motion passed on roll call vote.

Part 2: The Board determined that there was not a need for any type of pilot program for this request because the current regulations and rules already in place allow written agreements between physicians and pharmacists that, if approved by and under the authority of a physician, allow this practice. The Board noted that there must be a very specific written protocol agreement involving each specific interchange approved and signed by each physician involved.

Representatives from Krittenbrink Architecture appear before the Board to discuss Phase III of the building project:

Mark Krittenbrink presented artist's conceptions of a pedestrian covered walkway on the south side of the Pharmacy building and a canopy area in the parking lot. The architect said that the projects would take about six months to complete after construction begins. The pedestrian walkway canopy will provide a safe walkway and address some serious issues of rainwater penetration on the south wall exit doors of the building due to wind-blown rain. Discussion held regarding the individual

projects reviewed the importance of the pedestrian walkway, and less interest in the parking canopy.

Motion was made by Dr. Greg Adams and seconded by Dr. Kyle Whitehead to approve only the pedestrian canopy with a budget of up to \$330,000.00. Motion passed on roll call vote.

2016 Rule Revisions Chapter 10, 15, 20 & 25:

Office Manager, Mary Ann Terral presented the Board with a review of possible rule clean-up language that might be considered by the Board at a future meeting.

President Spoon adjourned the Board meeting:

Motion was made by Dr. Justin Wilson and seconded by Dr. Greg Adams to adjourn the Board meeting. Motion passed on roll call vote. President Spoon adjourned the Board meeting at 4:20 p.m.