

**MINUTES**

**UTAH  
BOARD OF PHARMACY  
MEETING**

**May 28, 2013**

**Room 401 (fourth floor) – 8:30 A.M.  
Heber Wells Building  
Salt Lake City, UT 84111**

**CONVENED: 8:35 A.M.**

**ADJOURNED: 4:55 P.M.**

**Bureau Manager:  
Board Secretary:**

Richard J. Oborn  
Lee Avery

**Board Members Present:**

David Young, Pharm D., Chair  
Jan Bird, CPhT, pharmacy technician  
Derek Garn, R.Ph.  
Andrea Kemper, Pharm D  
Greg Jones, R.Ph.  
Carl “Trip” Hoffman, Pharm D

**Board Members Excused**

Kelly Lundberg, Ph.D.

**DOPL Staff Present:**

Ray Walker, Division Enforcement Counsel  
Jake Corsi, DOPL Investigator  
Ashleigh Nye, DOPL Investigator  
Brittany Butsch, DOPL Investigator  
Lynn Hooper, DOPL Investigator

**Guests:**

Kelly Fritz  
Adam Jones  
Preston Rhodes  
Greg Jensen  
Jonathan Newbold  
Andrea Plante  
Lisa Angelos  
Betty Yamastshita  
Nancy Ajwani  
Dustia Ingraham  
Page Patterson  
Diana Kastendreck  
David Cheney  
Anthony Pham  
Carolyn Kowalchik

James Aaron  
Dianne Blackham

### **TOPICS FOR DISCUSSION**

Minutes:

### **APPOINTMENTS:**

1. Proposal to amend statute to allow for a drug recycling/donation program

### **DECISIONS AND RECOMMENDATIONS**

Ms. Kemper made a motion to approve the minutes dated April 23, 2013, with corrections. The motion was seconded by Mr. Hoffman and carried unanimously.

Ms. Yen Nguyen met with the Board and reviewed a proposal to amend statute to allow for a drug recycling/donation program in Utah. Currently there are about 38 States who have adopted this kind of program to allow for recycling/donation of certain drugs that may be used for low income people. Each state has established their own regulations and requirements. The Utah Board will possibly establish specific protocols under the rule. Mr. Young noted that NABP reviewed this issue at the national meeting. Ms. Nguyen stated that her intent today is to get the Board's feeling regarding this proposal. The Board advised Ms. Nguyen that the Board would like to see model language from NABP and expressed concern regarding the Board and DOPL being responsible to determine who is eligible. Mr. Young will send the Board copies of his notes.

2. Report from Board chair regarding NABP Annual Conference

Mr. Young reviewed the NABP Annual Conference agenda topics with the Board. Mr. Young noted that NABP is creating an e-profile for pharmacies across the country. This will house anytime an action is taken against a license and be available for all states to review. NABP is also developing a center for pharmacy accreditation (CPPA).

3. Report from Division representative regarding compounding training

Ms. Butsch and Ms. Leigh advised the Board that they attended the compounding training in Colorado. Ms. Butsch stated the training was very good. There was a lot of information given as well as hands on training.

4. Report from Compounding Task Force

The Board reviewed the report from the Compounding Task Force. The Task Force noted that it is essential for all licensed pharmacy professionals who are practicing compounding to understand the United

States Pharmacopeia (USP) General chapters 795 and 797, conduct a USP gap analysis and complete the DOPL/Board of Pharmacy compounding self-inspection report. Pharmacies that conduct sterile and non-sterile compounding should review their standard operating procedures (SOP) and refer to the compounding.com website for templates to compare. In the future, the task force may provide guidelines for creating SOPs. The Task Force is considering creating a voluntary, peer-reviewed inspection program.

5. Consideration of proposals for approval of pharmacy technician programs

Ms. Kemper and Ms. Bird reviewed the following tech in training programs and made the following recommendations:

1. Central Utah Clinic needs to include the following: Met all criteria except a section on OTC products as part of the curriculum. This is very important and when they submit documentation showing this is part of their curriculum, then the program is approved.

2. Senior RX care meets all criteria for a pharmacy technician program.

The Board noted that these will be the last two programs reviewed because the Utah statutes changed during the 2013 legislation. The Board will create rules to define what needs to be done in a training program.

6. Proposed rule amendments prompted by S.B. 14 and S.B. 194

Mr. Oborn updated the Board regarding proposed amendments discussed at the last meeting.

- a. Update regarding proposed amendments discussed at last meeting
- b. Proposed amendment to Utah Admin. Code R156-37 exempting university researchers from controlled substance handler license
- c. Establishment of pharmacy technician program criteria

Mr. Oborn requested input from the Board regarding a proposal to amend Utah Admin. Code R156-37 to exempt university researchers from needing the controlled substance handler license. S.B. 14 exempted this group from pharmacy and pharmacist licensure, but controlled substance licensure. The university researchers would still need to hold a DEA controlled substance registration. Board members expressed support for this proposal. Mr. Oborn indicated that we would draft language to be reviewed by the Board at a future meeting.

The Board discussed the need to establish pharmacy technician program criteria in the rule. Jan Bird will work with Andrea Kemper to prepare a rough draft of criteria and the Board will review it at a future meeting.

7. Other proposed rule amendments
  - a. Proposed amendment to requirements relating to pharmacy changes in location or address outlined in R156-17b-618
  - b. Proposed amendment to fine range for violations of disciplinary orders as established in R156-17b-402 (58)
  - c. Central fill/central order processing
  - d. License requirements for mail order pharmacies
  - e. Other amendments

Mr. Oborn discussed a proposal to only require new pharmacy license application when a pharmacy changes their physical address, not when they change the location of the pharmacy within the same physical address. If the pharmacy is changing locations within the facility, then they only need a new inspection and the Division would attach a fee for this. The current rule requires a new application in cases of new address or location. The Board expressed support for this proposal to amend requirements relating to pharmacy changes in location or address. Mr. Oborn indicated that he would prepare language to be reviewed at a future Board meeting.

Mr. Oborn advised the Board that the current fine range for violations of disciplinary orders is \$500 to \$2,000. The Board expressed support for decreasing the range to begin at \$100. Mr. Oborn will prepare language for the Board to review.

The Board indicated that they would like to discuss items 7c and 7d at a future Board meeting.

Mr. Oborn noted that there will be other long term rule changes discussed at future board meetings.

**APPOINTMENTS:** 10:30 P.M. – 12:20 P.M.  
10:30 A.M. - Compliance report from Connie Call

**1. James Ammon** - He submitted his employer report late for the month of April. He was told at the last Board meeting that he had to submit monthly employer reports until he completes his thinking errors course. He submitted a new practice plan for the Board's approval. He also has a special request pertaining to the thinking errors course he would like the Board to consider. He is requesting approval to attend Sandy Counseling Services to complete his thinking errors course because the other course conflicts with his work schedule. In addition he is requesting his probation be terminated. *Non-*

***Compliant.***

**2. Parkway Pharmacy/Larry Kearns** – Initial interview. He met with compliance staff on April 23, 2013.

**3. Sheryl Ledet** - She had three dilutes and one abnormal with a creatinine of 17.0 in the past quarter. She did submit all required documents. CSD is okay as she submitted her prescriptions for the past quarter.

***Non-Compliant***

**4. Kyle Rootsaert** – Informal Hearing

**5. Dewayne Bruce Keysor** - INITIAL INTERVIEW: He met immediately prior to the Board meeting to discuss his Order.

**6. Kevin Whipple** - He never activated his Affinity account as required. Compliance attempted to contact him on April 25, 2013 but he did not return the call. On May 14, 2013, Compliance left a phone message and an email to contact them regarding what he is going to do relate to his license. He was asked if he wanted to surrender his license or is he going to come into compliance. He indicated that he wanted to be suspended for six months. Compliance spoke with Rich and Kevin is going to prepare a proposal for what he would like the Board to consider. Mr. Oborn is willing to have him surrender his license for two years to get back on his feet or suspend his license for six months.) ***Non-Compliant***

**7. Tiffany Whiting** - INITIAL INTERVIEW: She failed to contact compliance staff to review her Order. Compliance sent Ms. Whiting a non-compliant letter on April 17, 2013 notifying her that she needed to contact compliance to review her Order and get the forms she needed. As a result of this email, Compliance received an email from Ms. Whiting dated 4/22/13 apologizing for not being proactive in her compliance. Compliance staff replied to her email stating she needed to meet with me or the Board would consider suspending or revoking her license.

Compliance has attempted to contact her by telephone on April 25, 2013 and May 13, 2013 but she never returned the calls. On May 14, 2013 Compliance staff sent her an email and left her another phone message to contact them to review her Order. She never responded. ***Non-Compliant***

**Discussion:**

The Board discussed recommending that Ms. Whiting's license be suspended. The Board would specify a timeframe for the suspension and then file an agency action to revoke her license.

**8. Skyline Pharmacy/David Blackham - INITIAL INTERVIEW:** Met with compliance staff on April 24, 2013. He submitted his practice plan and a letter identifying the concerns and how he has resolved them. He would like to discuss the amount of the fine and was wondering if the Board would either reduce it or dismiss it. He also submitted a request to extend the time to complete his CEs.

**9. Jensen Drugs -** He paid his fine. Not required to do anything as this time except make sure he is compliant with all statutes and administrative rules. It is my understanding Mr. Clifford Holt has purchased Jensen Drugs and the Board and Division need to determine what the next step is. ***Compliant***

**10. Cliff Holt - INITIAL INTERVIEW:** Reviewed Order with compliance staff May 15, 2013.

**11. Hurricane Family Pharmacy - INITIAL INTERVIEW:** Reviewed Order with compliance staff May 15, 2013. Mr. Holt, the owner, hired a new PIC J.R. Bell.

**Discussion:**

The Board wants to see J.R. Bell in the future because he is the PIC for the pharmacy. They can either meet with him personally or via phone call. For the initial interview, the Board always meets physically with probationers.

Ms. Call advised the Board that Mr. Holt is an owner of the pharmacy and is no longer a PIC. Ms. Courtney Hardy will be the new PIC for Jensen Drugs.

11:00 A.M. - James Ammon, probationer

Mr. Ammon met with the Board. Ms. Kemper conducted the interview. Mr. Ammon stated he will resend the email to Ms. Call regarding the reports not received. The Board noted that his June report was received. This was completed by a new supervisor. Mr. Ammon stated things are going well. He requested he be issued a non-disciplinary license because of his employment. Mr. Ammon submitted a thinking errors program for the Board's consideration. The Board reviewed and approved the new practice plan submitted. The Board discussed under what conditions non-disciplinary licenses are issued and advised Mr. Ammon that after he completes at least half of his probation and he is consistently in compliance with his probation he may request his probation be terminated early. The Board noted that he is less than a year into a five year probation and he has not yet been in compliance with his stipulation. Once he submits documentation showing he submitted the documentation on time and the Board will change the non-compliance to compliance.

Ms. Kemper motioned to approve the following: the new practice plan and the Sandy Counseling thinking errors course. Ms. Kemper also motioned that the essay must be submitted within 30 days of completing the course and that a certificate showing he completed the course must be submitted. After completion of the thinking errors course, the Board will consider moving his supervisor reports to quarterly. The Board denies his request for a non-disciplinary license. The motion was seconded by Ms. Bird and carried unanimously.

The Board asked to see Mr. Ammon on November 19, 2013 unless there is a specific request or he is not in compliance with the Board. The Board will consider a phone interview if he remains in compliance. **Mr. Ammon is in compliance with the Board.**

11:30 A.M. - Parkway Pharmacy/Larry Kearns  
PIC, new probationer

Mr. Kearns met with the Board regarding the Parkway Pharmacy probation. The Board introduced itself. Mr. Garn conducted the interview. Mr. Kearns

reviewed the violations that placed Parkway Pharmacy license on probation. Mr. Kearns expressed concerns regarding the charges and feels they were brought about unfairly. Mr. Oborn advised him that he had the opportunity to dispute the charges in a formal hearing; however, he chose to admit to the violation and sign the stipulation. There were multiple examples of unprofessional conduct. The Board advised Mr. Kearns that the Board is here to help him through the probation. A probationer may request the probation be terminated early once the probationer has completed at least half of the probation time and is consistently in compliance with the Board. The Board advised him to review S.B. 194 review the statutes and rules on the DOPL website to stay current with the changes. He will also find the changes on the Utah Legislature website. The Board noted that the pharmacy will be inspected two times a year and he will need to meet with the Board biannually. He will come and meet with the Board in October or November 2013. **Parkway Pharmacy/Larry Kearns, PIC is in compliance with the stipulation.**

12:00 P.M. - Sheryl Ledet, probationer

Ms. Ledet met with the Board. Ms. Kemper did her interview. The Board expressed concern regarding the personal difficulties Ms. Ledet has recently gone through. The Board noted that her reports have all been positive and good. Ms. Ledet stated she is coping with the stresses. The Board noted that even though she has been consistently in compliance with her probation, she has had a couple of recent dilutes and the Board is concerned. Ms. Ledet stated that in February she started having health problems including leg swelling. She was advised by her physician to stay hydrated due to these issues. She has returned to work and her employer has been very helpful. Ms. Ledet stated she is getting support where she can, i.e. having someone do her yard and house work. Ms. Ledet noted she has completed 6 of the 7 years of probation. Ms. Call will consult with the testing vendor to see if there is something that can be done to help her stop testing dilute. Ms. Ledet stated that when she submitted her paperwork, she knew it was going to be late. She has not been able to submit her paperwork because of her family and health issues. The Board noted that her paperwork is not due until July. The



Board asked to see Ms. Ledet August or September.  
**Ms. Ledet is not in compliance with her stipulation because she has not attended the meetings and is showing diluted UAs.**

**APPOINTMENTS: 1:20 P.M. – 5:00 P.M.**

1:20 P.M. - Kyle Rootsart, informal  
adjudicative proceeding

Mr. Oborn reviewed the notice of agency action regarding Mr. Kyle Rootsart. The Board talked with Mr. Rootsart's attorney, Mr. Bill Stilling, regarding the Division's Notice of Agency Action. Mr. Garn motioned to table this review until the next Board meeting. The Board would like to know if Mr. Rootsart advised the California and Illinois Board regarding the actions taken against his license in Utah, when he advised them, and if he has been working in the profession. The Board also requested that Mr. Rootsart appear in person before the Board at the next meeting in June. The motion was seconded by Ms. Bird and carried unanimously.

1:50 P.M. – Dewayne Keysor, new probationer

Mr. Keysor met with the Board. Ms. Bird motioned to close the Board meeting to discuss the character, professional competence, or physical or mental health of an individual at 2:16 P.M., seconded by Mr. Garn. The motion carried unanimously. There were no written notes. There was no recording made. The Board meeting opened at 2:38 P.M. The Board encouraged him to review his stipulation very carefully and to complete all requirements. He may contact Ms. Call with any questions. Once his suspension is lifted he will then meet with the Board and start submitting his reports. Mr. Keysor is currently not in compliance with his stipulation because he failed to contact Ms. Call before the Board meeting.

2:20 P.M. – Kevin Whipple, probationer

Mr. Whipple met with the Board. Ms. Bird conducted the interview. Mr. Whipple stated things are going okay. Mr. Whipple stated he thought he wanted to surrender his license and did not follow through with signing up with Affinity or contact Ms. Call. Mr. Whipple stated he is considering having his license suspended. After further discussion with the Board Mr. Whipple stated he would like to suspend his license for one year. The Board advised Mr. Whipple he needs to keep the Board advised of his progress by

keeping in contact with Ms. Call. Ms. Bird motioned to suspend Mr. Whipple's license for no less than six months and no longer than one year. During that period, he needs to complete his fitness for duty evaluation. The motion was amended to suspend for not less than three months and no more than one year. The motion was seconded by Mr. Garn. The motion was carried unanimously.

2:40 P.M. - Tiffany Whiting, new probationer

Ms. Whiting failed to keep her appointment with the Board. Ms. Call reported to the Board that Ms. Whiting stated that she wants to surrender her license.

3:10 P.M. - Jenny Pace, applicant for pharmacy technician license, telephonic, confirmed 5/22

Ms. Pace met with the Board via telephone when the Board reviewed her application for pharmacy technician. Mr. Oborn advised the Board that the Division needs the Board's recommendation to issue the pharmacy technician license, issue the pharmacy technician license with restrictions or deny her application.

Ms. Pace stated that when she goes back before the court, she will enter into a plea in abeyance and the charges will be dismissed as long as she stays in compliance with her probation.

Mr. Garn motioned to issue her license with the recommendation that her probation with the Board will mirror her court probation. She will need to submit supervisor reports once she starts working in the profession. Complete a thinking errors course prior to the Board removing her probation with the Board. The motion was seconded by Ms. Bird. Amendment to the motion is for her to submit an essay and a narrative regarding her charges before the MOU is issued. The motion carried unanimously. Mr. Oborn will include a practice plan approved by the Board after she is employed in the field.

3:30 P.M. - Skyline Pharmacy/David Blackham PIC, new probationer, confirmed 5/22

Mr. Blackham met with the Board. Mr. Blackham is a pharmacist with Skyline Pharmacy. Ms. Bird conducted the interview. Mr. Blackham reviewed the charges that placed Skyline Pharmacy license and his pharmacist license on probation with the Board. Mr. Blackham stated he studied his stipulation and is very familiar with it. He gave the Board a practice plan, a

compounding record and a prescription packet for review. Mr. Blackham stated they made several adjustments to ensure that he and the pharmacy is in compliance in all areas. The Board advised Mr. Blackham that sanctions taken against licensees are public. Utah statutes do not allow them to be private. To protect the public we needed to take public action. Ms. Bird motioned to approve the practice plan as written. The motion was seconded by Mr. Garn and carried unanimously. Board noted his CE extension was approved and asked to see him after the next inspection. **Mr. Blackham is in compliance with his stipulation.**

4:00 P.M. – Jensen Drugs/Courtney Hardy  
PIC, probationer

Mr. Hardy met with the Board. Mr. Garn conducted the interview. Mr. Hardy stated he has not reviewed the old stipulation; however, he has reviewed the new stipulation. Mr. Oborn noted that the new one will mirror the old stipulation. Mr. Oborn stated that the license has not been issued yet. Mr. Hardy needs to sign the stipulation and surrender of license form. As long as Mr. Hardy and Jensen Drug are in compliance with their stipulation, the Board may consider a telephone interview. The Division will soon issue Gunnison Family Pharmacy a license and that license will replace the Jensen Drug license. The next meeting with the Board will be in October or November.

4:20 P.M. – Hurricane Family Pharmacy/Cliff  
Holt PIC, new probationer

Mr. Holt met with the Board. Mr. Young conducted the interview. Mr. Holt reviewed the violations that brought him before the Board. Mr. Holt submitted CEs for 6 hours to Ms. Call. These CE are accredited. The Board approved the CEs once Mr. Holt submits the completion certificates to Ms. Call. Mr. Holt stated the store fine was paid in full and he will have his personal fine paid in full by June 2013. He knows that each pharmacy must have one PIC and that PIC cannot be a PIC for other pharmacies. Mr. Holt stated Richard Jon Bell is the PIC for the store and he will do Mr. Holt's quarterly evaluations. The Board noted that Mr. Holt's probation is for 5 years and Hurricane Family Pharmacy's probation is 3 years. Mr. Young

motioned to have the inventory submitted May 1, every year until probation is terminated. The motion was seconded by Mr. Garn and carried unanimously. The Board will consider a telephone interview as long as the probationer is in compliance with their stipulation. The Board will meet with Mr. Holt on November 19, 2013. Mr. Holt is in compliance with his stipulation.

**ADJOURN:**

The Board meeting adjourned 4:55 P.M.

**NEXT SCHEDULED MEETING:**

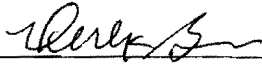
June 25, 2013

**2013 Board meetings tentatively scheduled**

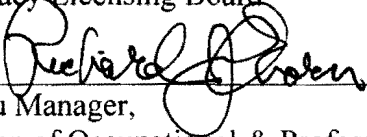
July 30, August 27 (no probation interviews), September 24, October 22, November 19, December 17.

*Note: These minutes are not intended to be a verbatim transcript but are intended to record the significant features of the business conducted in this meeting. Discussed items are not necessarily shown in the chronological order they were discussed.*

6/25/13  
Date Approved

(ss)   
Chairperson  
Pharmacy Licensing Board

6/25/13  
Date Approved

(ss)   
Bureau Manager,  
Division of Occupational & Professional Licensing