

MINUTES

**UTAH
BOARD OF PHARMACY
MEETING**

April 22, 2014

**Heber M. Wells Bldg
474, 4th floor – 8:30 A.M.
Salt Lake City, UT 84114**

CONVENED: 8:35 A.M.

ADJOURNED: 4:05 P.M.

**Bureau Manager:
Board Secretary:**

Richard Oborn
Lee Avery

Board Members Present:

David Young, Chairperson
Derek Garn, R.Ph.
Kelly Lundberg, Ph.D.
Andrea Kemper, Pharm D.
Greg Jones, R.Ph.
Carl "Trip" Hoffman, Pharm D.
Jan Bird, CPhT.

DOPL Staff Present:

Ray Walker, Division Enforcement Counsel
David Furlong, Chief Investigator
Ashleigh Nye, DOPL Investigator
Travis Drebing, DOPL Inspector
Whitney Beckstead, DOPL Investigator
Lynn Hooper, DOPL Investigator
Morgyn Broadhead, DOPL Investigator

Guests:

Roger B. Fitzpatrick, Midtown
Blake W. Corrath, Roseman Univ.
Chris Cardoza, U of U Pharmacy
Emily Buxton, U of U Pharmacy
Kavish Choudhary, U of U Hosp.
Sandeep Kushan, U of U Hosp.
David Cheney, Associated Food Stores
Greg Jensen, Target
Erin Gellis, U of U
Dean Jolley, Jolley's Compounding
George Hamblin
Dean Moncur, Omnicare, SLC
Jamie Nagle, Orbit Irrigation
Linda Sandberg, Assoc. Foods
Brandon Cressall, Harmons

Betty Yamashita, Intermountain
Beth Young, U of U College of Pharmacy
Joe Tooley, G35 Benefits
Donelle Perez
Jonathan Starr, Walgreens
Dave Davis, UFIA/URMA
Bill Stilling
Jacob Corsi, IPS
Kort Delost, Medicine Shopp
Garrett Crane, SOS Drug Co.
Scott Williams, Grantsville
Donna Milavetz, Orbit Irrigation

ADMINISTRATIVE BUSINESS:

Minutes:

The Board reviewed the minutes dated March 25, 2014. Ms. Bird made a motion to accept the minutes with changes. The motion was seconded by Dr. Lundberg and carried unanimously.

DISCUSSION ITEMS:

1. Investigation report

Mr. Furlong reviewed the pharmacy investigation report for March 2014. Mr. Furlong noted that the DOPL investigators had a booth at the Utah Pharmacy Association Annual Meeting in St. George. They discussed the new changes to the statutes and answered numerous questions. They handed out the new Board of Pharmacy Newsletter with the new legislative updates and other information. Mr. Furlong also reviewed recent actions taken by the Division against licensees.

2 Compounding Task Force report

Mr. Hoffman reviewed the Compounding Task Force report with the Board. The SOP guidelines for 795/797 are now posted on the DOPL website. Mr. Hoffman noted that there is a lot of confusion in what goes into the simple compound category. The Task Force invited stake holders with concerns to meet and discuss their concerns and what they wanted to do under a simple compound. The Board discussed the possibility of establishing in the Pharmacy Practice Act/Rule a separate standard for simple compound while keeping the same standards of 795/797. Mr. Young and Mr. Oborn will inquire what guidelines NABP is using regarding simple compounding. The Board recommended adding the word "simple" to 614a, and then establishing the definition after more

feedback is obtained. Mr. Hoffman stated that the next committee meeting is May 20, 2014 and to contact him for details.

3. Enforcement of Utah Code 58-37f-203 (2)(e) requiring entering and transmitting of ID number to CSD

Mr. Jones reviewed Utah Code 58-37f-203 (2)(e) with the Board. Subsection (e) requires that a pharmacy verify positive identification of the individual receiving the prescription including the type of identification and any identifying numbers on the identification. There is a question of whether the information gathered should be for the patient, for the individual picking up the medication from the pharmacy (if different than the patient), or both. The Board tabled this discussion to the May 27, 2014 Board meeting. Mr. Oborn will do additional research for further discussion at the May Board meeting.

4. Proposed rule amendments related to bills that passed during 2014 Legislative Session

- a. SB 55: Dispensing medical practitioners and clinics
- b. SB 55: Acceptable methods of drug delivery, definition of "patient's agent"
- c. SB 77: Pharmacy technician trainee license
- d. SB 77: Pharmacy selling drugs to practitioners for office use
- e. HB 114: Mail-order wholesale drug amendments

Mr. Oborn reviewed the following handouts regarding proposed amendments related to bills that passed during the 2014 Legislative Session. The Board needs to work on the following items related to SB 55; however, item #3 is the priority.

1. Defining practice as dispensing medical practitioner.
2. Naming of cosmetic drugs dispensed by dispensing medical practitioner beyond those that are already in the statutes/rule.
3. Establish standards for dispensing medical practitioner and clinic pharmacy including: labeling; record keeping; inventory; patient counseling; purchasing and distributing; operating; compounding; treatment; quality of care and storage requirements.

4a – S.B. 55, Dispensing medical practitioners and clinics

The Board reviewed R156-17b-310, current exemption from licensure, dispensing of cosmetic, injectable weight loss or cancer treatment drugs.

Mr. Walker noted that the Board may want to re-evaluate these standards to determine how much is necessary for the public safety when a licensee operates in a limited arena. The Board discussed setting up a task force, with Mr. Young, Board chairperson, as the chairperson on the task force to evaluate these standards and make recommendations regarding possible changes and rule amendments. Mr.

Oborn will work with the DOPL managers over the physicians and nursing Boards for recommendations of individuals interested in participating in the task force.

4b. – S.B. 55: Acceptable methods of drug delivery, definition of "patient's agent"

The Board reviewed proposed language in paragraph 9 for a rule change for acceptable methods of drug delivery.

(9) A pharmacy may only deliver a prescription drug to a patient or patient's agent;

(a) in person at the pharmacy; or

(b) via the USPS, a licensed common carrier, or supportive personnel, if the pharmacy takes reasonable precautions to ensure the prescription drug is:

(i) delivered to the patient or the patient's agent; or

(ii) returned to the pharmacy.

Dr. Lundberg made a motion to approve the language. The motion was seconded by Ms. Kemp and carried unanimously.

Further discussion to clarify the definition of a patient's agent led the Board to support the following definition of patient's agent:

Patient's agent means an:

(a) an individual authorized by the patient involved in the patient's care as determined by the pharmacy; or

(b) if requested by the patient or the individual authorized by the patient, one of the following facilities:

(i) office of a licensed prescribing practitioner in the State of Utah;

(ii) facility where the patient resides; or

(iii) hospital, office, clinic or other medical facility that provides health care services.

Dr. Lundberg made a motion to approve the amendment. The motion was seconded by Ms. Kemper and carried unanimously.

b. SB 77: Pharmacy technician trainee license

Mr. Oborn advised the Board that the new pharmacy technician trainee license requirement will be effective

July 1, 2014. The Division will start issuing licenses to new applicants at that time. Mr. Oborn stated that the Division would like the Board's feedback regarding the trainees practicing under the exemption. Mr. Oborn noted that the trainee license expires and is not renewable. It may not be extended without approval from the Board and Division. If the trainee does not complete the requirements before the license expires, then the trainee will need to apply for another license. Background checks cannot be obtained until the age 18.

Two options the Division is considering regarding the current trainees working under the exemption are:

1. Division sends all trainees an email and letter and inform them they need to be licensed and not require them to submit an application, fee or background check. Make the license the same 2 year expiration date.
2. Division sends a letter to the trainee to have them submit application, fee and background check.

When an individual obtains their trainee license, they are required to obtain a background check.

When the individual submits an application for a pharmacy technician, they are required to submit fingerprint cards for a background check.

4d S.B. 77, pharmacy selling drugs to practitioners for office use.

Mr. Oborn noted that this bill allows the Division to establish in rule the guidelines regarding a pharmacy selling drugs to practitioners for office use. Although the bill allowed a pharmacy to repackage or compound a prescription drug for sale to a practitioner if the drug does not include a compounding drug or includes a compounding drug and is not a controlled substance, allowing a pharmacy to sell a compounded drug to medical practitioner may violate federal law. The practitioner administers the drug to a patient in the practitioner's office or facility and does not dispense the drug to the patient. The Board recommended that the Division wait to draft detailed language until after

further clarification from the federal government is obtained.

5. Pharmacy technician program requirement as defined in R156-17b-303a (3)

Out of order on the agenda:

Mr. Young noted that currently there is only one school with the ASHP, the acceptable accreditation for pharmacy technician training program under the current rule. The current rule also provides that an individual may complete the NPTA Online Program. The current rule states the training programs must be accredited by January 1, 2016. Because it takes approximately 2 years to get a program accredited, Mr. Oborn requested that the Board support the Division in amending the rule to extend the deadline until December 31, 2016. This will allow programs the additional time needed to complete the accreditation process. This applies to the on the job training and technician training programs. Some programs will choose to seek ASHP accreditation, and some will not. The Board discussed amending the language to include students who attend a program that is in candidate status.

Mr. Jones made a motion to change the amend the current rule to:

1. Add Pharmacy Technicians University as an acceptable program;
2. Extend the deadline for schools to qualify for ASHP accreditation until December 31, 2016;
3. Add language addressing programs in ASHP candidate status.
4. Remove the law and rule exam as a license requirement.

The motion was seconded by Mr. Garn and carried unanimously. Mr. Oborn will develop language for the Board to review at the May 27 Board meeting.

6. Reconciliation of inventory requirements in R156-17b-605 (2)(d) and CFR 1304.11

The Board reviewed the reconciliation of inventory requirements in R156-17b-605 (2)(d) and CFR 1304.11. Mr. Oborn noted that in subsection (2)(d), the word "written" should be added so it mirrors federal requirements.

Dr. Lundberg made a motion to approve adding the word "written" as proposed. The motion was seconded by Ms. Bird and carried unanimously.

Mr. Oborn noted that the law/rule exam requirement has been a true/false, open book exam and has been removed from the application and the exam requirements. NABP does not provide state specific law exam. The Division would need to contract with a vendor to provide this for the Utah candidates. At a later time, the Division and Board may invest resources in creating the Utah jurisprudence exam and requirements. Mr. Oborn will contact other states to see how or if they provide a state specific jurisprudence exam.

7. Other proposed rule amendments

none

8. Upcoming MPJE Review and NABP Annual Meeting

Mr. Oborn and Mr. Young are attending the upcoming MPJE review and the NABP annual meeting and will report back to the Board in May 2014.

Mr. Young noted that the MPJE law review is May 6, Room 474, 8:30 A.M. to 12:00 P.M. Because the Board will be drafting new MPJE test questions, this is an informal closed meeting. Board business will not be discussed at the meeting.

APPOINTMENTS:

Connie Call, compliance report

At 1:11 P.M. Mr. Jones made a motion to close the Board meeting to discuss the character, professional competence, or physical or mental health of an individual. The motion was seconded by Ms. Bird and carried unanimously. There was no recording made. There were no written notes. The Board meeting opened at 1:46 P.M.

Kyle Rootsart, telephone probation interview

Mr. Rootsart met with the Board. His interview was conducted via telephone. Mr. Garn conducted the interview. Mr. Rootsart stated he continues to work at the retail pharmacies in California. He is doing diabetes and weight loss online classes with their clients. He noted that the online classes are working very well with their clients. Mr. Rootsart stated that the California Board of Pharmacy wants to put his California license on probation and does not want to give him credit for his probation time in Utah. He wanted to know how this would mirror his probation in Utah and if he had to submit additional reports. Mr.

Oborn stated it would depend on the terms of his stipulation in California. Mr. Oborn stated he would be willing to talk to the California Board and confirm that Mr. Rootsart has been in compliance with his stipulation in Utah. The Board asked to see Mr. Rootsart in a year as long as he remains in compliance with his stipulation. **Mr. Rootsart is in compliance with his stipulation.**

Kirtland Wray, probation interview

Mr. Wray met with the Board for his probation interview. His interview was conducted via telephone. Ms. Kemper conducted the interview. Mr. Wray stated he has a new job working at Omnicare. He started training January 20th and consulting early in February. Mr. Wray stated his new supervisor submitted the form indicating he read his stipulation. The Board advised Mr. Wray that he needs to submit a practice plan outlining what he is doing for Omnicare. He needs to have his new supervisor submit supervisor reports. These are due January 1, April 1, July 1, and October 1. The Board encouraged Mr. Wray to review his stipulation again. Ms. Call will send him an email with the forms attached and directions on how to find them on the DOPL website. Mr. Wray stated he is working at a nursing home where they review patient charts. He reviews the patient medications. He looks for conflicts and checks the labs. Mr. Wray stated he is not around medications and he is enjoying his new job. The Board asked Mr. Wray to get his supervisor report to Ms. Call by Monday, April 28. The Board noted that because he worked in this type of a setting the Division and Board are in agreement he will not need supervision. As long as he is in compliance with his stipulation, he will not need to meet with the Board. **Mr. Wray is in compliance with his stipulation.**

Parkway Pharmacy/Larry Kearns, probation interview

Mr. Kearns met with the Board for the Parkway Pharmacy probation interview. Mr. Garn conducted the interview. Mr. Kearns stated that things are going well. He will be leaving the pharmacy and retiring in December 2014. He will make sure his replacement is aware of the pharmacy's license being on probation and the new PIC needs to do to stay in compliance with the stipulation. Mr. Kearns stated that the medications are being ordered by the nursing staff in

the clinics. The Board noted that the inspection was good with no problems. The Board advised Mr. Kearns that if Parkway Pharmacy is in compliance, then the PIC would not need to meet with the Board for a year. The Board noted that the Board wants to meet with the new PIC at least once to establish a relationship. The Board encouraged Mr. Kearns to stay in compliance with the stipulation and once another inspection is completed and there are no problems, then he could submit a formal request for early termination. This would need to be submitted after September 2014. **Parkway Pharmacy is in compliance with the stipulation.**

Skyline Pharmacy/David Blackham, telephone interview

Interview conducted out of order on the agenda: Mr. Blackham met with the Board for the Skyline Pharmacy probation. His interview was conducted via telephone. Ms. Bird conducted the interview. Mr. Blackburn stated they stopped compounding. They do not even do simple compounding now and refer clients to other pharmacies. Mr. Blackham stated that they started doing the perpetual inventory and this is working well. The Board noted that he can sell up to 5% of his sales to physicians and other pharmacies. The Board noted that Skyline Pharmacy's probation term is 3/28/13 to 3/28/16 and the pharmacy needs to have another inspection before the pharmacy's probation can be terminated. The Board advised Mr. Blackburn that as long as the pharmacy stays in compliance with their stipulation, he will not need to meet with the Board for a year. **Skyline Pharmacy is in compliance with the stipulation.**

SOS Drug/Garrett Crane, probation interview

Mr. Crane met with the Board for the SOS Drug probation interview. Mr. Jones conducted the interview. Mr. Crane stated that things are going well. They are keeping busy and are in the process of hiring another full time pharmacist. Mr. Ruble is his supervisor. He visited the pharmacy towards the end of March. His feedback has been very helpful. The Board noted that in his report he walked through each requirement in the stipulation order, and noted compliance. Mr. Crane stated the computer is now set to time out every sixty seconds. Mr. Crane stated he received a letter for payment of his fine. He paid this fine in person when he met with the Board in January

2014. Ms. Call will check with Ms. Inglesby to make sure the fee is credited to him. Dr. Lundberg motioned to approve Jim Ruble for his supervisor. The motion was seconded by Mr. Jones and carried unanimously. The Board noted that the next supervisor report is due July 1. As long as SOS Drug is in compliance with the stipulation, Mr. Crane will not need to meet with the Board for a year. **SOS Drug is in compliance with the stipulation and order.**

Scott Williams, probation interview

Mr. Williams met with the Board for his probation interview. Mr. Jones conducted the interview. Mr. Williams stated he is keeping busy with pharmacy issues. He is keeping abreast of pharmacy issues, laws and changes. The Board noted that his supervisor reports are positive and are still due quarterly. The Board advised Mr. Williams that as long as he stays in compliance with his stipulation and there are no issues with his supervisor reports the Board will see him in a year. **Mr. Williams is in compliance with his stipulation.**

Sheryl Ledet, probation interview

Interview conducted out of order on the agenda:
Ms. Ledet met with the Board for her probation interview. Dr. Lundberg conducted the interview. Ms. Ledet stated that things are going well. She is working 30 hours a week and has been doing a lot of traveling. She is getting both homes in Arizona sold. Her friend is aware of her history of addiction to narcotics; however, he is not aware of her license being on probation. Ms. Ledet stated he has been very supportive and knows she attends meetings. She attends support meetings both in person and on line. She is also a sponsor. She continues seeing her physician every 4 to 6 weeks. He has been extremely supportive and he supports the end of her probation. Ms. Ledet noted that the women she is sponsoring are his patients. Ms. Ledet stated that the more active she is in others recovery, the less likely she is to relapse. The Board reviewed Ms. Ledet's request to terminate her probation and noted that she has provided 9 UAs, with 5 diluted and 1 positive for alcohol. The Board advised Ms. Ledet that the hair follicle test she completed in March does not test for alcohol. The Board advised Ms. Ledet that she needs to provide a longer track record of negative UAs before the Board

would consider releasing her from probation. She will not have to meet with the Board as long as she does not have additional missed check-ins or missed UAs and her UAs are negative. **Ms. Ledet is in compliance with her stipulation.**

Cliff Holt, telephone probation interview

Interview conducted out of order on the agenda:

Mr. Holt met with the Board for his probation interview. Mr. Holt's interview was conducted via telephone. Mr. Young conducted the interview. The Board noted that it has been a year since Mr. Holt last met with the Board. The Board reviewed his SOPs and noted his hard work on them. Mr. Holt stated that he continues to look for a supervisor since Ms. Call advised him that the Board rejected his proposed supervisor. They recently had an armed robbery that has caused them to search for additional security and safety. The Board noted that his annual inventory is due May 1, 2014. The Board encouraged him to find a supervisor who would be able to provide an objective look to their daily operations. The Board stated he should look for someone that he does not have a close relationship with and suggested he contact the Utah Pharmacy Association for a list of names. The Board reminded Mr. Holt to make sure his PICs at Hurricane and Gunnison know about the stipulations and their responsibility in meeting with the Board and being in compliance with the signed stipulations. The Board advised Mr. Holt that he needs to submit the application regarding the name change to the parent pharmacy. A branch pharmacy cannot work without the parent company. Mr. Oborn asked Mr. Holt to send him an email regarding Mr. Holt's technician training program. The Board advised Mr. Holt that as long as he is in compliance with his stipulation he would not meet with the Board for a year. **Mr. Holt is in compliance with his stipulation.**

Discussion items for future Board meetings:

1. Enforcement of Utah Code 58-37f-203 (2)(e) requiring entering and transmitting of ID number to CSD, tabled to May 27, 2014.

2. Mr. Oborn will work with the DOPL managers over the physicians and nursing Boards for recommendations of individuals interested in

participating in this new task force.

3. Mr. Oborn will contact other states to see how or if they provide a state specific jurisprudence exam

NEXT SCHEDULED MEETING:

May 27, 2014

2014 Board Meetings:

2014 Board meetings tentatively scheduled:

June 24, July 22, August 26, September 23, October 28, November 18 (changed from 25), December 16 (changed from 23).

ADJOURN:

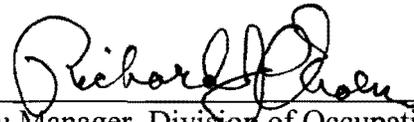
Motion to adjourn at 4:05 P.M.

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 occurred.

5-27-14
Date Approved

(ss) 
Chairperson, Utah Board of Pharmacy

5/27/14
Date Approved

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