

MINUTES

UTAH BOARD OF PHARMACY MEETING

June 24, 2014

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

CONVENED: 8:35 A.M.

ADJOURNED: 3:12 P.M.

Bureau Manager:

Richard Oborn

Board Secretary:

Lee Avery

Board Members Present:

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

DOPL Staff Present:

Ray Walker, Division Enforcement Counsel
David Furlong, Chief Investigator
Missy Stoffel, DOPL Investigator
Travis Drebing, DOPL Inspector
Dan Briggs, DOPL Investigation Supervisor

Guests:

Jonathan Starr, Walgreens
Jason Braithwate, MountainStar
Lauana Gillman, Assoc. Foods
Dan Feltch, Roseman
Kathy Varley, MedQuest
Kyle Anderson, MedQuest
Dave Davis, UFIA/URMA
Dave Cheney, Assoc. Foods
Ken Schaecher, MD, Physician Licensing Board
Mark Britton, Utah Medical Assn.
John Robbins, Argosy Univ.
Sarah Dehaan, University of Phoenix/UMHCA
Gregg Luke, Cache Valley CHC
Richard Ballan, Bear Lake CHC
Ashleigh Nye
Bryan Holt, Harmons
Donnelle Perez, Peterson's Pharmacy

Thinh Nguyen, Peterson's Pharmacy
Dean Jolley, Jolley's Compounding Pharmacy
Wayne Jones, UPHA
David Nay, Express Scripts
Brandon Cressall, Harmons
Greg Jensen, Target
Scott Allen
Darren Seegmiller, Macey's Pharmacy
Jared Memmott, MCP
Bill Stilling
Paige Patterick, Smith's

ADMINISTRATIVE BUSINESS:

Minutes

The Board reviewed the minutes dated May 27, 2014. Ms. Bird made a motion to accept the minutes with changes. The motion was seconded by Ms. Kemper and carried unanimously.

DISCUSSION ITEMS:

1. Investigation report

Mr. Furlong reviewed the pharmacy investigation actions taken by the Division against licensees for May 2014. Mr. Furlong introduced Mr. Dan Briggs to the Board. Mr. Briggs is the new investigations unit supervisor. This unit will cover the pharmacy, nursing, veterinarians, dental and several smaller professions. Mr. Furlong noted that the Division took action against two pharmacists and three community health centers.

2. Compounding Task Force report

Mr. Hoffman reviewed the Compounding Task Force report with the Board. Mr. Hoffman stated that the next meeting will be August 19 at 7 A.M. The Task Force is working on a master list of cleaning supplies. The Task Force requested input from stakeholders to be submitted to the Task Force by July 1, 2014. Mr. Hoffman noted that the mouthwash SOP guideline was approved and is now posted on the DOPL website. The Board noted this will be a good tool to be used, but cautioned that the document is only a guideline. Pharmacists still need to follow 795. Mr. Hoffman stated the Task Force is receiving questions regarding compounding kits. The current laws are unclear. The Board agrees that the laws need to be clarified. Mr. Hoffman and Mr. Oborn will research information about compounding kits for the Board to review at the September Board meeting.

3. Priority Pharmaceuticals Inc., Dave Zeiger

Mr. Oborn reviewed the email from Mr. David Zeiger regarding the following license requirements:

58-17b-302. License classifications of pharmacy facilities, (3): Each place of business shall require a separate license. If multiple pharmacies exist at the same address, a separate license shall be required for each pharmacy.

R156-17b-615. Operating Standards – Class C Pharmacy – Pharmaceutical Wholesaler/Distributor and Pharmaceutical Manufacturer in Utah, (21): No facility located at the same address shall be dually licensed as both a Class C pharmacy and any other classification of Class A or B pharmacy.

Mr. Zeiger and Mr. Ellman were contacted by phone. Mr. Zeiger stated his company provides pharmaceuticals that are in short supply and are for emergencies to pharmacies they have contracted with nationwide. Mr. Zeiger is requesting a law change or exemption because of their unique business model. Mr. Ellman stated all orders are for emergency needs, usually in small quantities, for acute care hospitals. Many of their partner pharmacies have space limitations. They are proposing a lockable wire cage that sits in the pharmacy drug storage area that is not accessible to the public. The key would be held by the PIC. The day the product arrives it is either picked up in person or by the doctor or in the alternative that afternoon by FedEx to be delivered to the licensed facility. In the past, Division representatives said they needed a separate license to provide this type of service. Mr. Ellman noted that Priority Pharmaceuticals works to ensure the drugs they obtain are safe for the public. To require them to obtain a separate license for each pharmacy that exists at the same address is expensive and could force them out of business in Utah. The Board noted that the Utah licensing Boards are charged with protecting the public and enhancing commerce while not becoming over regulatory. The Board opted to not recommend changes at this time.

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

Mr. Oborn reviewed 58-37f-203 (2)(e) with the Board. *(2)(e) positive identification of the individual receiving the prescription, including the type of identification and any identifying numbers on the identification.*

There have been questions regarding this subsection. Do they get the ID for the person who is picking up the prescription or the ID for the individual identified on the prescription? Mr. Oborn stated that the Division is interpreting this as the ID of whoever is picking up the medication. Mr. Oborn stated that he will coordinate with the CSD program manager to make changes to a letter that is sent to new database registrants. Mr. Oborn stated he will address the issue in the next issue of the Utah Board of Pharmacy newsletter. Mail order pharmacies outside of Utah need to gather information on the individual to whom they are mailing the medication.

5. Penicillin skin testing by a pharmacist under collaborative practice agreement

Mr. Oborn advised the Board there are questions regarding penicillin skin testing by a pharmacist under collaborative practice agreement. The Board reviewed the statutes and felt that under Utah scope of practice this is not allowed because it requires a diagnosis. The Board opted to not recommend any changes.

6. Physician dispensing rules and other rules prompted by 2014 Legislative Session

Mr. Oborn reviewed a summary of the discussion at the June 6 meeting of SB 55 Task Force. This bill created 2 licenses. Dispensing medical practitioner (DMP) and DMP clinic pharmacy. The bill defined a DMP clinic pharmacy as a closed-door pharmacy. For this reason, the Division classifies it as a Class B pharmacy. Some DMP clinics may dispense certain drugs, if licensed by the Division. Such DMP clinics include cosmetic drug dispensing clinics, injectable drug dispensing clinics (HCG), cancer drug regimen clinics, and employee sponsored clinics. The members of the SB55 Task Force agreed that it made sense to separate DMP clinic pharmacies into 2 groups within the Class B pharmacy classification.

B1 - Prepackaging. A pharmacy performs prepackaging services in the sense that it relabels the original container received from the manufacturer.

B2 - Repackaging. A pharmacy performs repackaging services in the sense that it removes pills from an original manufacturer container, separates them into a smaller amount, and places them in a separate container.

Members of the Task Force identified multiple standards that apply to current closed door Class B pharmacies that should not apply to the B1 group. The Division is willing to consider the possibility of changing some standards for Class B pharmacies in all subcategories, not just the new DMP clinics. Mr. Oborn stated the applications for the DMP and DMP clinics will be posted on the Division website July 1, 2014. The task force will meet again July 9, 2014 at 8:30 am to further discuss the standards to which DMPs and DMP clinic pharmacies will be subject.

7. Repackaging of mail-order meds into bubble packs

Tabled to a future Board meeting.

8. Patient counseling

The Board reviewed the language to 58-17b-613. Patient Counseling. Mr. Oborn advised the Board that this language was amended to make it more user friendly. The Board indicated that they would like to further discuss possible amendments to the counseling requirement at the October 2014 Board meeting.

9. Other proposed rule amendments

None discussed.

12:00 P.M. -1:00 P.M.: Telehealth Study Presentation

Mr. Walker introduced Mr. Pilot. Mr. Pilot was awarded a grant by the Division to study telehealth trends nationwide. Mr. Pilot stated that the goal of this project was to help complete research that informed policymakers industry leaders and the public regarding the public safety, healthcare, and economic implications of the practice of telehealth. Mr. Pilot presented an overview of his research and findings.

APPOINTMENTS:

Connie Call, compliance report

At 1:14 P.M. Dr. Lundberg 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 Mr. Jones and carried unanimously. There was no recording made. There were no written notes. The Board meeting opened at 1:44 P.M.

Gunnison Pharmacy/Court Hardy, telephonic probation interview

Mr. Hardy met with the Board regarding Gunnison Pharmacy's probation. Mr. Hardy's interview was conducted via telephone. Mr. Hoffman conducted the interview. Mr. Hardy advised the Board that things

are going well. The Board noted that the pharmacy passed the inspection completed in April 2014. Mr. Hardy reviewed his letter requesting early termination of Gunnison Pharmacy's probation with the Board. The Board noted that the pharmacy probation term is May 31, 2013 to November 13, 2014. Gunnison Pharmacy has consistently been in compliance with its stipulation and has passed all inspections. Mr. Hoffman made a motion to recommend the Division terminate Gunnison Pharmacy's probation early. The motion was seconded by Ms. Bird and carried unanimously. **Gunnison Pharmacy is in compliance with their stipulation.**

Tremonton Community Pharmacy/Rich Beus,
telephonic probation interview

Mr. Beus met with the Board regarding Tremonton Community Pharmacy's probation. Mr. Beus' interview was conducted via telephone. Mr. Hoffman conducted the interview. Mr. Beus stated things are going well. The Board noted that the pharmacy is in compliance with his stipulation. Mr. Beus will contact Mr. Powelson for his CV. Mr. Beus stated he is keeping on top of things. They are now keeping a hand log and then entering and deducting CS in the perpetual log. Mr. Beus stated he finished 2 of the required 3 CEs and will submit the certificates once all CEs are completed. Mr. Beus stated he reviews everything with Mr. Powelson. Mr. Powelson stated he feels the pharmacy is doing well. The Board advised Mr. Beus that as long as the pharmacy is in compliance with their stipulation, a telephone interview will be okay. The Board asked to see Mr. Beus in June 2015 as long as he submits supervisor's CV and his reports are positive. **Tremonton Community Pharmacy is in compliance with their stipulation.**

Katherine Keller, probation interview

Ms. Keller met with the Board for her probation interview. Dr. Lundberg conducted the interview. Ms. Keller stated that work is going well. She is now working full time. The Board noted that her employer reports were received on time and are positive. She is requesting, with the support of her supervisor, that her level of supervision be changed. The Board advised Ms. Keller that she has not been on probation very long and this is her 2nd meeting with the Board. Additionally, her substance abuse evaluation by Dr.

Dusoe failed to include a statement that she was fit to practice. Furthermore, her therapist's report identifies a diagnosis indicating Ms. Keller has three drugs of abuse, which may or may not be an error. Finally, Ms. Keller's account of her history of sobriety is very different than the account indicated in the Stipulation and Order. Because of all of these issues the Board is not ready at this time to request a change in the supervision requirement in her stipulation. Ms. Keller was advised that Dr. Dusoe must provide the statement of fitness. Additionally, Ms. Call will email Ms. Keller with the request for the necessary clarification in diagnoses from her therapist. Ms. Keller stated she went to court and was sentenced to 5 days in jail, 120 hours community service. She has completed 50 hours so far, and she will be on probation for a year. She has already given her probation officer permission to share information with DOPL. The Board asked to see Ms. Keller September 23, 2014. **Katherine Keller is in compliance with her stipulation.**

Cache Valley Community Health
Pharmacy/Greg Luke

Mr. Luke met with the Board regarding the Cache Valley Community Health Pharmacy probation interview. Mr. Jones conducted the interview. Mr. Luke reviewed the violations that placed the pharmacy's license on probation. Mr. Luke reviewed the changes the pharmacy has completed regarding these violations. The Board asked Mr. Luke to expand the policies and procedures he had submitted by identifying each violation listed in the stipulation, indicating which policies and procedures apply, and specifying the changes that have been made to keep the violations from happening again. The Board asked to meet with Mr. Luke September 23, 2014. The Board approved a telephone interview as long as Cache Valley Community Health Center Pharmacy is in compliance with its stipulation. **Cache Valley Community Health Center Pharmacy is in compliance with its stipulation.**

Bear Lake Community Health Center
Pharmacy/Richard Ballam

Mr. Richard Ballam met with the Board regarding Bear Lake Community Health Center Pharmacy's probation interview. Mr. Jones conducted the interview. Mr. Ballam reviewed the violations that placed the pharmacy's license on probation. Mr. Ballam reviewed the changes the pharmacy has

completed regarding these violations. The Board asked Mr. Ballam to expand the policies and procedures he had submitted by identifying each violation listed in the stipulation, indicating which policies and procedures apply, and specifying the changes that have been made to keep the violations from happening again. The Board asked to meet with Mr. Ballam on September 23, 2014. The Board approved a telephonic interview as long as Bear Lake Community Health Center Pharmacy is in compliance with its stipulation. **Bear Lake Community Health Center Pharmacy is in compliance with its stipulation.**

NEXT SCHEDULED MEETING:

July 22, 2014

2014 Board Meetings:

2014 Board meetings tentatively scheduled:

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

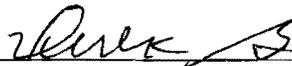
ADJOURN:

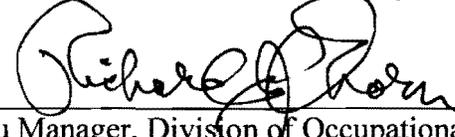
Motion to adjourn at 3:12 P.M.

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.

7/22/14
Date Approved

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Date Approved

(ss) 
Chairperson, Utah Board of Pharmacy

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