

MINUTES

**UTAH
BOARD OF PHARMACY
MEETING**

September 24, 2013

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

CONVENED: 8:34 A.M.

ADJOURNED: 4:20 P.M.

Bureau Manager:

Richard Oborn

Board Secretary:

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

Board Members Excused:

Jan Bird, CPhT

DOPL Staff Present:

Ray Walker, Division Enforcement Counsel
David Furlong, Chief Investigator
Lynn Hooper, DOPL Investigator
Brittany Butsch, DOPL Investigator
Ashleigh Nye, DOPL Investigator

Guests:

Nannette Brensen, IHC
Agnela Whitney, IHC
Dallas Moore, IHC
Nick Vamianakis
Angela Green, U of U
Raymond Wong, U of U
Greg Jensen, Target
John Wendt, Medquest Pharmacy
Dean Moncur, OMNI Care
Betty Yamashita, IHC
Jeb Blackham, U of U
Angela Hardcastle, University Pharmacy
Jacob Corsi
Jamie Peterson, Walgreens
Beth Young, U of U

Kavish Choudhary, U of U
Emmeline Tran, U of U
Lisa Dimick
Dam Ditto, IHC
Paige Patterick
Zach Judkins, U of U
Adam Jones, UPHA
Jason Braithwaite, HCA
Jared Memmott, MCP
Bill Stilling

ADMINISTRATIVE BUSINESS:

Minutes:

The Board reviewed the minutes dated August 27, 2013. Dr. Lundberg made a motion to accept the minutes with changes. The motion was seconded by Mr. Hoffman and carried unanimously.

DISCUSSION ITEMS:

#1. Telemedicine study

Mr. Oborn advised the Board that the Division Director expressed interest in doing a study on telemedicine. Mr. Oborn noted that an RFP would be obtained and the research would cover federal and local statutes in all states. Telemedicine is happening all over the United States. Mr. Oborn stated the funding would come from the pharmacy, nursing and physician education and enforcement funds.

#2. Question of how to license IHC central institutional support pharmacy

Mr. Oborn stated there is a question of how to license an IHC central institutional support pharmacy. Currently they are a Class C and they have a facility within the same general structure that is a Class B. Standards for record keeping, handling and storage of drugs are different between the Class B and Class C pharmacies. Constantly changing between the two is confusing. The Board noted the differences between the two classes and feels the statutes and rules need to be clarified. To resolve the current problem with IHC, Mr. Jones made a motion to recommend that IHC surrender the Class C license and keep the Class B pharmacy license. The Class C pharmacy should be incorporated into the Class B. The motion was seconded by Ms. Kemper and carried unanimously.

#3. Compounding task force report

Mr. Hoffman reviewed the compounding task force report with the Board. The goal of the task force is to help all pharmacies become compliant with the statutes and rules. Mr. Hoffman stated there has been

a lot of interest in becoming a member of the task force committee. Currently there are 13 members as the core group. The task force has been meeting to come up with a SOP standardization checklist. They are planning to have subcommittees study USP 795 and 797. Currently the gap analysis will help with an internal review of what needs to be focused on. With the self inspection report, the gap analysis and the SOP standardization checklist, pharmacists will know what to expect when the investigators come in to inspect the facility. Mr. Hoffman stated the communication letter sent to pharmacies was well received. The task force received a lot of questions regarding how to become compliant, how to utilize the gap analysis, and how to implement a training program. Mr. Hoffman stated they received calls stating the letter had not been received by some. Mr. Oborn stated the letters were sent out to email addresses on file with the Division and faxed to the fax number listed with the Division. Mr. Oborn noted that the Division will make a copy of the letter available on the DOPL website for view and copies will be made available for the IACP conference. Mr. Hooper stated they have a compounding checklist that is used by the Division inspectors and the SOP standardization checklist would be a big help too. Mr. Oborn noted there are 81 Class C pharmacies, 485 Class A pharmacies, 243 Class B pharmacies, 531 Class D pharmacies, and 516 Class E pharmacies.

#4. Division investigation report

Mr. Furlong reviewed the pharmacy investigation report with the Board. He noted that they have not reported this information to the Board of Pharmacy in the past; however, they hope to do this every other month. The report includes investigation statistics from January to August 2013. Mr. Furlong stated that he attended the NABP meeting and noted how important the profession and ethics are within the profession. Mr. Furlong stated that investigators Lynn Hooper, Ashleigh Nye, and Missie Stoffel have been assigned to the pharmacy profession. Brittany Butsch continues to be a pharmacy investigator. Sandy Hess continues to investigate pharmacies part-time in the St. George area. Mr. Furlong stated that NABP is offering to pay up to \$1,500 to each state to send an investigator to attend investigator training. Lynn

Hooper will attend this one in October. Lynn, Missy, Ashleigh, Brittany and Sandy attended the compounding training. Mr. Furlong stated that as of October 1, 2013 the Division will no longer be faxing out pharmacy alerts and notifications. These will be sent via email.

#5. Review and update regarding proposed rule amendments discussed and approved at prior Board meetings

The Board reviewed the proposed rule amendments discussed and approved at prior Board meetings. The Board discussed changing the need to replace "expiration date" with "beyond use date". The Board discussed adding a deadline for a pharmacy technician student in training to apply for a pharmacy technician license within six months after they complete the program and pass the exam. Mr. Oborn noted that some professions have a clause that indicates once the education/exams are completed the student needs to apply for the license. Mr. Oborn will look at what other professions have in place. Mr. Oborn noted that tech training programs will be approved by DOPL until March 31, 2014. After this date, programs seeking approval will need to work towards getting their programs nationally accredited. Mr. Oborn stated the Division will send out emails and letters advising those facilities with already approved programs they will need to work towards obtaining national accreditation before January 1, 2016.

Mr. Jones made a motion to move forward with the following proposed amendments. The motion was seconded by Ms. Kemper and carried unanimously.

- #1. The Board discussed reestablishing a deadline for technician in training.
- #2. Subsection 601 (1)(vi): change mediations to medications.
- #3. Subsection 601 (3): Remove direct supervision and replace with general supervision.
- #4. Subsection 614a (3)(d): "expiration date" is changed to "beyond use date."

Mr. Oborn will check the references, formatting, and renumber the subsections where needed. Mr. Oborn advised the Board that there will be a rule hearing at the October or November Board meeting.

#6. Operating standards for Class C central

The Board reviewed the operating standards for Class

order entry processing pharmacies

C central order entry processing pharmacies. Mr. Oborn advised the Board the bill that passed during the 2013 legislation further defined what a Class C pharmacy is not and the Board will need to further define standards for various types of central order entry processing pharmacies in rule. The current rules only have operating standards for wholesalers or distributors. The Board decided to create a subcommittee to propose standards for the Board to review at a future Board meeting.

#7. Operating standards for Class E central order entry processing pharmacies

The Board decided to create a subcommittee to propose standards for Class E central order and central fill processing pharmacies for the Board to review at a future meeting.

#8 Other proposed rule amendments

#1. Committee representative working on standards for Class C central order entry processing pharmacies.
#2. Committee representative working on standards for Class E central order entry processing pharmacies.

#9. Possible changes to Division's internal licensing process

Mr. Oborn reviewed the current internal licensing process with the Board. Currently DOPL receives an application and it is taking an average of 7 days to process the application. This includes sending the fingerprint cards to the DOPL criminal history section to review the prints. At a previous Board meeting, the Board discussed changing the internal process for in state pharmacies to be issued a conditional license. Mr. Oborn reviewed a letter developed to send to all new pharmacies regarding the conditional license. Mr. Oborn noted that the conditional license will be issued for four months. An inspection will be requested at this time. The conditional license will look the same as the current full license, only the expiration date will be four months from the date of issuance. Mr. Oborn stated that the conditional license will allow the licensee to continue working until their full license is issued. There would not be an additional fee. Mr. Oborn stated that if the pharmacy fails to pass the inspection, the PIC will be sent a letter regarding the areas that did not pass inspection and given a timeframe to fix the problem. If they do not meet this time frame or are unable to fix the problem, then the

pharmacy would need to immediately close their doors.

#10. Consideration of proposal to define drug labeling in different practice settings under Utah Code 58-17b-602

Mr. Oborn advised the Board that the current Utah Code 58-17b-602 does not clarify the difference between inpatient i.e. administering and outpatient i.e. dispensing. The current language is leaning more towards outpatient. After reviewing the statute, the Board noted there needs to be clarification made and the statute would need to be changed.

#11. Consideration of proposal to amend R156-17b-606 to adjust ratio of preceptors to interns for community services events.

The Board discussed a proposal to amend R156-17b-606, Approved Preceptor. The current rule indicates that a preceptor can provide direct, on-site supervision to no more than two pharmacy interns during a working shift. The current rule does not cover preceptors to interns for a community service event. At a single event, a preceptor may be able to supervise up to five pharmacy interns. Mr. Oborn and Mr. Young will develop language to be reviewed at the October Board meeting.

#12. Consideration of proposal to clarify Utah Code 58-17b-102 (4)(b)(v) regarding 5% standard to not qualify as pharmaceutical wholesaler

The Board considered a proposal to clarify Utah Code 58-17b-102 (4)(b)(v) regarding 5% standard to not qualify as pharmaceutical wholesaler. The Board will review this further at another Board meeting. The statute may need to be amended. The intent was to mirror what the federal law indicates.

APPOINTMENTS:

Connie Call, compliance report

UTAH BOARD OF PHARMACY NON-COMPLIANCE REPORT **September 24, 2013**

Gunnison Pharmacy/Jensen Drug/Court Hardy 2012-227: The Board needs to review their current status. They have not received their DEA number yet so they are still working under Jensen Drug's DEA registration. Their practice plan is not required until they receive their DEA and change the name from Jensen Drug to Gunnison Family Practice. ***Compliant***

Colton Dale 2012-231: The Division received his employer and self-assessment paperwork. If the Board does not release him from probation, whether his drug testing requirement is terminated is a decision the

Board needs to make. ***Compliant***

Michael Wright 2012-375: All drug screens are prescription positive. He submitted his employer report and self-assessment. The Board needs to discuss his decision on whether or not he will be going into pharmacy. ***Compliant***

Paul Martz 2010-575: All drug screens are negative. He submitted all of his paperwork but his self-assessment report and employer evaluation were late. He submitted prescriptions for all medications he is testing positive for. Mr. Martz in non-complaint because his employer report has been late three times now and his self-assessment has been late twice. ***Non-Compliant***

David Barrow 2009-261: His last three drug screens have been positive and he has not submitted prescriptions to justify the drugs for which he is testing positive. He has not entered prescriptions in Affinity since April 2013. He submitted his employer and therapy report due September 1, 2013 but as of September 17, 2013 he has not submitted his self-assessment or his 12-Step/PIR meeting attendance. Ms. Call sent him messages through Affinity, that he has read, on June 6, June 24, July 18, and August 1, 2013 regarding his non-compliance. The only time he responded was on 6/18/13. Ms. Call telephoned him on June 25, August 1, and August 16, 2013. The only time he returned her call was August 16, 2013 at which time he wanted to know if he could be seen in August. He was advised no because there was a special meeting and the probationers would not be meeting then. He explained that his wife had moved to Texas for a job and that he would just fly back in town in September because he wanted to talk to the board face-to-face and explain what was going on and say goodbye. He paid his fine on 9/17/13. He was instructed by Mr. Oborn to send all of his prescriptions to the Division by noon on September 20, 2013 which he did. He submitted his self-assessment on September 20 but has still not submitted his 12-Step/PIR meeting attendance. When comparing his submitted scripts to those reported on the the Controlled Substance Database, there was only one script filled on 7/29/13 for which the Division still

needs documentation. *Non-Compliant*

Discussion:

Dr. Lundberg motioned to close the Board meeting at 2:15 pm. to discuss the character, professional competence, or physical or mental health of an individual. A recording was not made. Written notes were not taken. The motion was seconded by Mr. Hoffman and carried unanimously. The Board meeting opened at 2:32 pm.

Gunnison Pharmacy/Cort Hardy, probation interview held via telephonic

Mr. Hardy, PIC, was contacted by the Board via telephone. Mr. Hoffman conducted the interview. Mr. Hardy stated they are still waiting for DEA to issue their DEA number and will continue working under the Jensen Drug name until this is received. The Board noted that while the practice plan is not required yet, he may want to start working on the content. Ms. Call will send him an example practice plan. Mr. Hardy asked if the probation would end once Gunnison Pharmacy was in full control. The Board advised Mr. Hardy that the probation was initially for one and one half years. It started May 2013 ends May 2015. He may request early termination in May 2014 as long as he stays in compliance with the stipulation. The Board asked to see Mr. Hardy on December 17, 2013. **Gunnison Pharmacy is in compliance with the stipulation.**

Colton Dale probation interview

Mr. Dale met with the Board. Mr. Jones conducted the interview. Mr. Dale stated that things are going well. He enjoys working and continues being involved with his racing. He has not had any cravings or thoughts of relapse. The Board noted that his supervisor reports are positive. They indicate that he is respectable and makes good use of his time. Mr. Dale stated he is going to California at the end of the month for the weekend. He was advised to go to the Affinity program for an interruption of UAs. Mr. Colton advised the Board that he has not indulged in alcohol since the Board changed his stipulation. He has been busy and no desires to abuse alcohol. The Board asked to see Mr. Dale on December 17, 2013. **Mr. Dale is in compliance with his stipulation.**

Michael Wright, probation interview held

Mr. Wright met with the Board. Dr. Lundberg

via telephone

conducted the interview. Mr. Wright stated he decided to stay in the profession and will be applying for pharmacy license. He hurt his back and may need surgery in the near future. He has been studying for the NAPLEX exam and staying in compliance with his probation. The Board noted that his employer report was not very positive. Mr. Wright stated he is no longer working with Dr. Munger because he completed the internship at school and his rotations stopped. The Board noted that his employer report with his last supervisor was good. The Board advised Mr. Wright that he will need to submit employer reports, sign, date, and indicate that he is not working in the field. Mr. Wright's probation will end upon graduation from pharmacy school.

Paul Martz, probation interview held via telephone

Mr. Martz met with the Board. Ms. Kemper conducted the interview. Mr. Martz stated things are going well. The Board noted that his reports look good in content; however, they were turned in late. The Board advised Mr. Martz that DOPL now has fine authority for probationers who fail to stay in compliance with their stipulation. Mr. Martz stated that he knows he needs to have these turned in every three months and he will work with his supervisor and Ms. Call to ensure they are submitted on time. The Board advised Mr. Martz that if he does not get into compliance with his stipulation and stay in compliance, the Board will fine him. The Board asked to see Mr. Martz on December 17, 2013. **Mr. Martz is not in compliance with his stipulation because his reports were received late.**

Garan Fabrizio, request to be approved to take MPJE for the 3rd time

Mr. Fabrizio met with the Board to request approval to take the MPJE exam for the third time. Mr. Oborn advised the Board that the Pharmacy Practice Act requires an applicant to meet with the Board if they fail the MPJE exam two times. Mr. Fabrizio advised the Board that he attended the class presented by Dr. Ruble. He continues to study for the exam and has ordered additional study methods and material to help him. Mr. Fabrizio stated he is a visual learner and feels the flash cards will help him a lot. Mr. Garn made the motion to approve him to retake the test again. Dr. Lundberg seconded the motion. The

motion was carried unanimously.

David Barrow, probation interview,
telephonic

Mr. Barrow was contacted via telephone. Dr. Lundberg motioned to close the Board meeting at 3:15 p.m. to discuss the character, professional competence, or physical or mental health of an individual. A recording was not made. Written notes were not taken. The motion was seconded by Mr. Hoffman. The motion carried unanimously. The Board meeting opened at 4:15 P.M. The Board advised Mr. Barrow that he needs to do the following:

By October 1, 2013:

- 1. Begin submitting all paperwork on a monthly basis including monthly reports.*
- 2. His past six months of 12 step and PIR attendance.*

By November 1, 2013:

- 1. Submit the name of a new practitioner to Ms. Call.*
- 2. Submit the name of a therapist with expertise in substance abuse to Ms. Call.*
- 3. Submit the name of the pharmacy he will be using in Texas to Ms. Call.*
- 4. Submit a copy of his stipulation to his practitioner. There is a form on the website they need to complete indicating they know about his probation with the Utah Board.*
- 5. He will contact the Texas State Board and start the process of obtaining a license in Texas.*
- 6. He needs to attend one support meeting a week.*

The Board noted that if he is not in compliance with his stipulation at the next Board meeting, the Board will impose a \$500 fine on him. The Board advised Mr. Barrow that if he is not in compliance with his stipulation, he will need to meet with the Board in person. If he is compliance with his stipulation, the Board will allow a telephone interview. Mr. Barrow requested an early morning appointment. The Board asked to see Mr. Barrow on December 17, 2013. **Mr. Barrows in not in compliance with his stipulation.**

NEXT SCHEDULED MEETING:

2013 Board Meetings:

October 22, November 19, December 17

2014 Board meetings tentatively scheduled:

January 28, February 25, March 25, April 22, May 27, June 24,
July 22, August 26, September 23, October 28, November 14,
December 16.

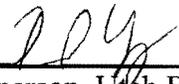
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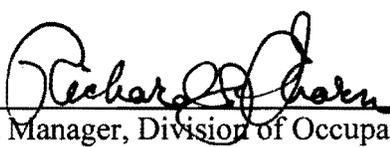
Motion to adjourn at 4:20 P.M.

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.

10-22-13
Date Approved

10/22/13
Date Approved

(ss) 
Chairperson, Utah Board of Pharmacy

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