

MINUTES

**UTAH
BOARD OF PHARMACY
MEETING**

November 19, 2013

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

CONVENED: 8:31 A.M.

ADJOURNED: 3:32 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
Jan Bird, CPhT

DOPL Staff Present:

Ray Walker, Division Enforcement Counsel
David Furlong, Chief Investigator
Sterling Corbett, DOPL, AAG
Jana Johansen, Licensing Technician
Lynn Hooper, DOPL Investigator
Brittany Butsch, DOPL Investigator
Ashleigh Nye, DOPL Investigator
Whitney Beckstead, DOPL Investigator

Guests:

Kavish Choudhary, U of U Hospital Pharmacy
Jacob Corsi, Silverlining
Greg Jensen, Target
Betty Yamashita, IHC
Matt Showalter, IMC Outpatient
Jamie Peterson, Walgreens
David Cheney, Assoc. Food Stores
Dave Dobis, U of U
Gary Huynh, U of U
John Wendt, Medquest Pharmacy
Kate Bradshaw, Utah Retail Merchants Assn.
Dean Jolley, Compounding Task Force
Stephanie Cook
Adam Jones, UPhA

Jeanne Brennan
Paige Patterick, Smith's
Erin Johanson, Roseman University
Bill Stilling, Parsons Behle & Latimer
Jared Memmott, MCP

ADMINISTRATIVE BUSINESS:

Minutes:

The Board reviewed the minutes dated October 22, 2013. Ms. Bird made a motion to accept the minutes with changes. The motion was seconded by Dr. Lundberg and carried unanimously.

Rule Hearing for proposed amendments to Utah Admin. Code R156-17b

Ms. Jennie Johnson conducted the rule hearing. The rule will become effective December 23, 2013 at the earliest.

DISCUSSION ITEMS:

1. Investigative report

Mr. Hooper reviewed the pharmacy investigation report with the Board. The report includes investigation statistics from January to October 2013. Mr. Hooper noted that investigators attended training and reviewed the self inspection report with many pharmacists. DOPL received many positive reviews as a result of this. Mr. Hooper reviewed some questions asked by pharmacists who attended. Mr. Hooper stated that DOPL has been asked to do the same thing in the St. George area.

2. Compounding Task Force report

Mr. Hoffman reviewed the compounding report with the Board. Mr. Hoffman stated the Task Force Committee has worked hard to put the standard operating procedures (SOP) checklist together. He recognized many members of the Task Force and thanked them for their hard work and dedication to the profession. Mr. Hoffman noted that the members obtained input from many sources. The SOP checklist will help pharmacists and DOPL Investigators be on the same page. It is user friendly, and contains every chapter from USP 797. The Board discussed adding the SOP checklist to the Pharmacy Practice Act Rule. The Board will review the final draft at the December Board meeting. Mr. Hoffman stated the committee will start working on USP 795 soon.

3. Clarification of patient counseling standards in Utah Code 58-17b-613

The Board reviewed the Pharmacy Practice Act, 58-17b-613, Patient counseling standards in Utah. Mr.

Walker noted that the current rule goes beyond what the act allows because it made patient counseling mandatory. The Board recommended the following amendments to R156-17b-610:

1. Replace the term "pharmacist" with "pharmacy" in paragraph (3) and move paragraph (3) to paragraph (1).
2. Delete paragraphs (5)(a) and (5)(b).
3. Move paragraph (5)(c) to paragraph (2).
4. Change the word "verbal" to "oral" throughout the rule. Mr. Oborn will work with Mr. Walker and Mr. Young to draft the amendments for the Board to review on December 17, 2013.

4. Amendment to Utah Admin. Code R156-17b-606 to adjust ratio of preceptors to interns for community service events

Out of order on the agenda:

Mr. Young noted that the proposed rule amendment to adjust the ratio of preceptors to interns is for no more than two interns during a working shift except as follows: Up to five interns at public health outreach programs such as informational health fairs, chronic disease, state screening, education programs and immunization clinics. Mr. Young stated this will affect 3rd or 4th year students and a written approval is submitted to the school before the event. Dr. Lundberg made a motion to approve the drafted language as amended. The motion was seconded by Mr. Jones and carried unanimously.

5. Amendment to further define standards in rule for pharmacy to accept and dispose of and/or reuse legend prescription drugs under Utah Code 58-17b-623

The Board reviewed the amendment to further define standards in rule for pharmacy to accept and dispose of and/or reuse legend prescription drugs under Utah Code 58-17b-623. Mr. Oborn noted that the statute directs the Division and Board to create a standard regarding a pharmacy accepting unused legend drugs from patients. If the State does not have statutes and rules in place to cover this, then it defaults back to the federal codes. Mr. Oborn will work with Mr. Young on drafting language for the Board to review at another meeting. The Board noted this will be an option for pharmacies, not a requirement.

6. Amendment to further define pharmacy security system standards in Utah Admin. Code R156-17b-614a (1)(f)

Mr. Oborn advised the Board that there is possibly a need to amend Utah Administrative Code R156-17b-614a (1)(f). The current rule only requires that that the pharmacy be equipped with a security system to permit detection of entry at all times when the facility

is closed. After discussion, the Board expressed support for a proposal to add language recommended by Mr. Steinagel. Mr. Steinagel proposed that all pharmacies be required to "Provide notice of the unauthorized entry to an individual who is able to quickly and reasonably respond and assess the entry and resolve the matter." Mr. Oborn will work with Mr. Walker and Mr. Young to draft language for the Board to review on December 17, 2013.

7. Proposal to allow pharmacy technicians access to the CSD in Utah Code 58-37f-301 (2)

The Board reviewed the proposal to allow pharmacy technicians access to the Controlled Substance Database (CSD) in Utah Code 58-37f-301 (2). Mr. Oborn noted that this proposal would require a statutory change. Currently pharmacists access the CSD database more frequently and it would be very helpful if a pharmacy technician could also access this information. The language would need to clarify that they cannot do random or general checks and the PIC would need to authorize and train the pharmacy technician first. Mr. Hoffman made a motion to recommend that language be developed to pursue a statutory change. The motion was seconded by Mr. Garn and carried unanimously.

8. Consideration of request for approval of CVS Technician Training Program

Ms. Kemper reviewed the training program submitted by CVS Caremark. The program does not meet criteria in terminology, abbreviations and symbols, pharmaceutical calculations identification of drugs by trade and generic names, therapeutic classifications, and non prescription products including cough and cold products. Mr. Oborn will advise them of their deficiencies and they will be given an opportunity modify their curriculum plan and resubmit for Division approval.

9. Other proposed rule amendments

The Board reviewed R156-17b-614a Operating Standards, Class A and B Pharmacy. Paragraph (5) reads as follows: "The facility shall post the license of the facility and the license or a copy of the license of each pharmacist, pharmacy intern and pharmacy technician who is employed in the facility, but may not post the license of any pharmacist, pharmacy intern or pharmacy technician not actually employed in the facility." The current language does not require that pharmacy interns not technically employed by the

pharmacy post their licenses. Many pharmacies employ part-time people on a sporadic basis, making the posting of the license a challenge. The Board discussed how there may be a need to amend this requirement. The Board plans to discuss the issue further at a future meeting.

Topics for the December Board meeting may include:
Discussion items related to rule changes.

1. Mr. Young and Mr. Oborn will draft language for rule changes regarding foreign degree and drug shipping and stability standards.
2. Creating operating standards for a class E pharmacy central fill.
3. Make an exception in the rule regarding community and institution setting for technicians in training.

Mr. Garn motioned to amend R156-17b-303b to create a separate internship requirement track for foreign graduates. The motion was seconded by Mr. Hoffman and carried unanimously. Mr. Oborn and Mr. Young will draft language for the Board to review at the next meeting.

APPOINTMENTS:

Dr. Lundberg made a motion to close the meeting at 1:11 P.M. to discuss the character, professional competence, or physical or mental health of an individual. The motion was seconded by Ms. Bird and carried unanimously. The Board meeting opened at 1:40 P.M.

Connie Call, compliance report

QUARTERLY PROBATIONERS BEING SEEN: **PHARMACY BOARD COMPLIANCE REPORT** **November 19, 2013**

Lloyd Thomas – Mr. Thomas met with compliance staff on November 6, 2013. The Board needs to determine if he will be required to have two different supervisors or if Mr. Ali Ghazvini can be his supervisor and let him fulfill both responsibilities.
Compliant

Clell Fowles – Mr. Fowles submitted his self-assessment and 12-Step attendance report. He has not submitted an employer report since April 2013. After

being notified of this, he submitted late employer reports for May and August 2013 but has not submitted the one due November 1, 2013. ***Non-Compliant***

Day's Pharmacy – Initial interview. Compliance staff has not had any contact with anyone from Day's Pharmacy. ***Non-Compliant***

Roy Winegar's Pharmacy/Ali Ghazvini - Mr. Ghazvini met with compliance staff on 11/4/13. He was hired as the PIC to resolve the violations. He began employment on 9/28/13 and became the PIC on 10/8/13. There are some questions regarding items h, i, and j in the stipulation regarding his supervision. The Board will need to clarify these questions with him. ***Compliant***

James Ammon – Received his self-assessment and supervisor/employer report. ***Compliant***

Richard Martin – He submitted his compliance report. Ms. Call requested a contact name for his New Hampshire Order for an updated status. ***Compliant***

William Cordova – Submitted his self-assessment, employer, and supervisor report. He is employed but not in a pharmacy. ***Compliant***

Clifford Holt – He has paid his fine and completed his required CEs. ***Compliant***

Hurricane Pharmacy/ J R Bell – Nothing due at this time. Next audit is due May 2014. ***Compliant***

DeWayne Keysor – License suspended and nothing is due at this time. ***Compliant***

4 Care Pharmacy – He paid his fine. Ms. Call asked investigators to complete an inspection on this facility this month. ***Compliant***

MISCELLANEOUS:

David Barrow – He submitted the name of his new therapist, Starr Thurber, LPC, LMFT, and the Licensee Certification of Receipt of MOU/Stipulation.

He also submitted a supervisor/employer report from Mark Longo. He failed to submit the name of a prescribing practitioner by the agreed upon date. Mr. Barrow is not employed right now and submitted a self assessment; however, it was received late. He has not submitted copies of prescriptions since September 6, 2013. He is required to attend a support group once a week. He did not attend one in October.

Discussion:

Mr. Barrow had been previously informed that should he be out of compliance he would be issued a fine and required to appear in person at his next probation interview. Dr. Lundberg made a motion to issue Mr. Barrow a \$500 fine and to require that Mr. Barrow appear in person before the Board in December. The motion was seconded by Ms. Bird and carried unanimously.

Paul Martz - is requesting to be approved by the Board to have his medications prescribed by 2 physicians. This is because one of the medications requires certification to prescribe and not all physicians have this.

Discussion:

Dr. Lundberg made a motion to approve this request condition upon the Division's receipt of documentation that both physicians are aware of each other. The motion was seconded by Mr. Garn and carried unanimously.

Lloyd Thomas, new probation interview

Mr. Thomas met with the Board. Mr. Hoffman conducted the interview. The Board reviewed the list of violations stated in Mr. Thomas' stipulation. Mr. Thomas stated the pharmacy is no longer providing compounding services. He does not have plans to start compounding again. He hired another pharmacist and they are adding a new metal gate. The hot water problem is fixed and they have a new fridge. The Board advised Mr. Thomas that he not only needs to fix the violations, but the Board also wants him to put in writing how the violations were resolved. Mr. Thomas stated he plans to work only about 20 hours a week for now. The Board advised Mr. Thomas he has one year to complete two CE courses. Once he finds the courses he wants to attend, he should submit this information to Ms. Call for the Board to review. He

will need to become a detailed person and comply with stipulation requirements. If he does not stay on top of things, the Division may take further action against him, such as a fine, suspension, or revocation. The Board advised Mr. Thomas that he needs to have his practice plan submitted to Ms. Call in one week. The Board expressed concern with Mr. Ghazvini being both the pharmacy PIC and Mr. Thomas' supervisor. The Board would feel more comfortable having someone else supervise Mr. Thomas. He needs to have a proposed supervisor and CV submitted to Ms. Call by December 1, 2013. The supervisor will need to have a copy of his stipulation.

Discussion:

The Board discussed having one of Mr. Thomas' CE courses be changed to a thinking errors course. Dr. Lundberg motioned to recommend the Division propose Mr. Thomas' stipulation be amended to require him to complete a thinking errors course. The motion was seconded by Mr. Garn and carried unanimously.

The Board asked to see Mr. Thomas on March 25, 2014. **Mr. Thomas is not in compliance with his stipulation because he failed to submit his practice plan.**

Clell Fowles, probation interview

Mr. Fowles met with the Board. Mr. Garn conducted the interview. Mr. Fowles stated things are going well. He continues working at Terrel's and Skyline Pharmacies. Mr. Fowles stated he worked at Skyline only one day about a month ago. He is working about sixteen hours a month. Mr. Fowles stated he passed the NAPLEX exam in March 2013 and a copy was given to Ms. Call. The Board advised Mr. Fowles that he needs to submit quarterly supervisor reports from any pharmacy he works at. He also needs to advise the Division of the pharmacies where he is working. Mr. Fowles confirmed he will be working at Gunnison and Skyline pharmacies and will submit supervision reports. The Board asked to see Mr. Fowles on February 25, 2014. **Mr. Fowles is not in compliance with his stipulation because he failed to notify the Board when he started working and he did not submit his supervisor report and he needs to submit supervisor reports for November.**

Jessica Keady, informal adjudicative proceeding

Mr. Oborn reviewed the notice of agency action regarding Ms. Jessica Keady. She was placed on probation with the Board and failed to comply with the requirements of the stipulation. Currently her license indicates expired on probation. Dr. Lundberg made a motion to revoke her license the motion was seconded by Ms. Bird and carried unanimously.

Day's Pharmacy/Gary Moeller, new probation interview

Mr. Oborn stated Day's Pharmacy is on probation and their PIC failed to schedule an appointment with Ms. Call. Because of a misunderstanding about who should meet with the Board, Day's Pharmacy indicated that they would soon schedule a meeting with Ms. Call and then the PIC will attend an appointment with the Board on December 17. **Day's Pharmacy is not in compliance with their stipulation because their PIC failed to schedule an appointment with Ms. Call prior to their first appointment with the Board and their PIC failed to appear at the pharmacy's first appointment with the Board.**

Roy Winegars Pharmacy/Ali Ghazvini, new probation interview

Mr. Ghazvini met with the Board. Mr. Hoffman conducted the interview. The Board reviewed Roy Winegars' stipulation. Mr. Ghazvini is the new PIC and stated they have stopped all compounding. They would like to be able to provide simple compounding sometime in the future. Mr. Ghazvini stated he will have the practice plan to Ms. Call before December 4. They already have the issue regarding the need for a clean sink with hot water resolved. They have a fridge for foods and a fridge for medications. The Board discussed supervision and submitting reports. The Board determined that they need to have an outside supervisor and have that supervisor provide two reports, one for Mr. Thomas, one for the pharmacy. Mr. Ghazvini asked about how to conduct an inventory without prior records to check the inventory against. The Board suggested he obtain an inventory count of everything as if he were opening a new pharmacy and then reconcile the inventory from there. The Board advised Mr. Ghazvini that as the PIC, he needs to follow up with Ms. Call to ensure all supervisor reports have been submitted to the Board. They need to be submitted by the first of the month. The Board asked to see Mr. Ghazvini on February 25, 2014. **Mr. Ghazvini is in compliance with the**

stipulation.

NEXT SCHEDULED MEETING:

2013 Board Meetings:

2013 Board meetings

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 18, December 16.

ADJOURN:

Motion to adjourn at 3:32 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.

12-17-13

Date Approved

(ss) 

Chairperson, Utah Board of Pharmacy

12/17/13

Date Approved

(ss) 

Bureau Manager, Division of Occupational &
Professional Licensing