

MINUTES

UTAH BOARD OF PHARMACY MEETING

December 17, 2013

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

CONVENED: 8:40 A.M.

ADJOURNED: 4:30 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
Sterling Corbett, DOPL, AAG
Lynn Hooper, DOPL Investigator
Ashleigh Nye, DOPL Investigator
Whitney Beckstead, DOPL Investigator

Guests:

Greg Jensen, Target
Linda Sandberg, Assoc. Foods
Dave Cheney, Assoc. Foods
Jamie Peterson, Walgreens
Beth Young, College of Pharm. U of U
John Wendt, Medquest Pharmacy
Dave Davis, URMA/UFIA
Betty Yamashita, IHC
Jared Memmott, MCP
Jacob Corsi, SLMS
Adam Jones, UPhA
Donnell Perez, SLMH
Bill Stilling, Parsons Behle & Latimer
Chris Stock
Carrie Clement
John Lopez, SCHC

Dave Hadley, SCHC
Adam Smart
Nicole Webster

ADMINISTRATIVE BUSINESS:

Minutes:

The Board reviewed the minutes dated November 19, 2013. Ms. Bird made a motion to accept the minutes with changes. The motion was seconded by Ms. Kemper and carried unanimously.

DISCUSSION ITEMS:

1. Investigative report

Mr. Furlong reviewed the pharmacy investigation report with the Board. The report includes investigation statistics from January to November 2013. The pharmacy investigations group is currently re-designing the self inspection forms to be user friendly. They hope to have submitted the forms to all Class A pharmacies by the middle of January 2014.

2. Compounding Task Force report

Mr. Hoffman reviewed the USP 795 guidelines for SOP draft dated 12/17/13. Mr. Hoffman stated that once this is completed, the Task Force would like to post it on the DOPL website and UPHA website. The Board discussed the Task Force being an ongoing committee to ensure quality assurance and updates are made to the checklists as the statutes and rule changes. The Board tabled the rest of this discussion. Mr. Oborn will email the 797 checklist to Board members for comparison and discussion at the January 2014 Board meeting.

3. Review of drafted language of proposed rule amendments approved at previous meetings:

a. Amendments to patient counseling standards in R156-17b-610

a. Amendments to patient counseling standards in R156-17b-610. Mr. Young and Mr. Oborn reviewed the proposed language change in R156-17b-610. These changes are needed in order for rule to be consistent with the Pharmacy Practice Act (Utah Code 58-17b-613). The Board will review this further at the January Board meeting.

b. Amendments to education and internship requirements for foreign-educated pharmacist applicants in R156-17b-303a, 303b

c. Amendments to pharmacy security system standards in R156-17b-614a(i)(f)

The Board recommended Utah Code 58-17b-603 be amended to include the following subsection headings:

58-17b-613. Patient counseling.

- (1) **In Person.** Every pharmacy facility shall orally offer to counsel a patient or a patient's agent in a personal face-to-face discussion with respect

- to each prescription drug dispensed, if the patient or patient's agent:
- (a) delivers the prescription in person to the pharmacist or pharmacy intern; or
 - (b) receives the drug in person at the time it is dispensed at the pharmacy facility.
- (2) **Other Than In Person.** A pharmacist or pharmacy intern shall provide counseling to each patient, and shall provide the patient with a toll-free telephone number by which the patient may contact a pharmacist at the dispensing pharmacy during normal business hours and receive oral counseling, with respect to each prescription drug dispensed if the patient provides or the prescription is otherwise provided to the pharmacy facility by a means other than personal delivery, and the dispensed prescription drug is mailed or otherwise delivered to the patient outside of the pharmacy facility.
- (3) (a) **Correctional Facility.**
- (i) The provisions of Subsections (1) and (2) do not apply to incarcerated patients or persons otherwise under the jurisdiction of the Utah Department of Corrections or a county detention facility.
 - (ii) A written communication with a person described in Subsection (3)(a) shall be used by a pharmacist or pharmacy intern in lieu of a face to face or telephonic communication for the purpose of counseling the patient.

The Board recommended that paragraph (6) be removed from Utah Admin Code R156-17b-610.

b. Amendments to education and the internship requirements for foreign-educated pharmacist applicants in R156-17b-303a-303b.

Mr. Oborn reviewed the proposed changes to R156-17b-303b Licensure - Pharmacist - Pharmacy Internship Standards. Mr. Oborn noted that U.S. trained students are required to have 1,740 hours of supervised practice which includes 300 hours of IPPE and 150 hours balanced between community pharmacy and institutional health system settings. Foreign trained students are having problems obtaining the "institutional health system" setting hours because they are not affiliated with a specific U.S. approved program. Mr. Oborn stated the proposed change is to remove "and foreign" from subsection (a). The Board

will review language creating a second track to licensure with specific education/experience requirements for foreign-trained applicants at the January 2014 Board meeting.

c. Amendments to pharmacy security system standards R156-17b-614a(1)(f).

The Board reviewed the added paragraph (f)(ii) and approved the language as is.

4. Proposal to eliminate Division policy of requiring that pharmacy technicians-in-training notify Division prior to beginning program

Mr. Oborn reviewed a proposal to eliminate the Division policy of requiring that pharmacy technicians-in-training notify the Division prior to beginning a training program. Mr. Oborn noted that currently a tech in training registers online to notify DOPL they are starting a training program. Frequently when technicians leave a program, they fail to advise DOPL. At a later time they start another program. DOPL records show they are still currently working at the previous program. This is creating inaccurate records and costing the DOPL staff and investigations time and resources. Mr. Oborn noted that because this is an internal DOPL program, it would be easy to transition to a policy of no longer requiring technicians-in-training to notify DOPL. One option would be to make the PIC responsible to complete a form with the technician-in-training at the beginning of the program and to maintain the form on site during the program. The technician-in-training would be required to submit the form with their pharmacy technician license application. The Board also discussed the option of amending the statute to require a pharmacy technician-in-training license. There is a possibility that a bill filed during the 2014 General Legislative Session will create this new license.

5. Proposal to amend R156-17b-601 to clarify that pharmacy technicians-in-training may practice only under direct supervision

Mr. Oborn reviewed the proposal to amend R156-17b-601 to clarify that pharmacy technicians-in-training may practice only under direct supervision. Mr. Oborn stated the rule becomes effective December 23, 2013 but it needs to be further amended to clarify that pharmacy technicians-in-training shall only practice under direct supervision. The Board discussed adding paragraph four to clarify technicians-in-training shall

only practice under direct supervision. Dr. Lundberg made a motion to approve the proposed language change. The motion was seconded by Mr. Garn and carried unanimously. Mr. Oborn will have the final language for the Board to review in January.

6. Proposal for adoption of drug shipping and stability standards in R156-17b

The Board reviewed NABP Model Rules for Sterile Pharmaceuticals regarding drug shipping stability standards in R156-17b. The Board liked the language used by the Minnesota Board. Mr. Oborn will draft language for the Board to review in January. He will incorporate this in the rule under operating standards for Class A, B, and D pharmacies.

7. Other proposed rule amendments

Posting licenses:

The Board reviewed the statute/rule requirement to post licenses. This becomes a problem for floating pharmacists who may work in more than one pharmacy for one day or less. The Board noted that the current rule uses the language that the individual is employed by the pharmacy and opted to not make any changes at this time.

Naloxone Rescue Project:

Dr. Chris Stock reviewed a proposal for a legislative amendment regarding Naloxone distribution. Naloxone is a controlled substance, obtained by prescription only, and is used to reverse opioid overdoses. Mr. Stock stated that in 2012, 502 Utahns died of drug overdoses. 261 (52%) of them from prescription opioids. 75% are not suicides, 93% died at residence (very likely someone else was around). Currently Rep. Carol Moss is considering introducing legislation to address the issue. The legislation is intended to authorize unlicensed individuals to administer this drug in cases of overdoses.

APPOINTMENTS:

At 1:23 P.M. Mr. Jones made a motion to close the Board meeting to discuss the character, professional competence, physical or mental, of an individual. There was no recording. No written notes were taken. The Board meeting opened at 2:01 P.M.

Connie Call, compliance report

UTAH BOARD OF PHARMACY NON-

COMPLIANCE REPORT
December 17, 2013

PROBATIONERS BEING SEEN

Danny Carter 2011-127: Mr. Carter is meeting to discuss possible termination of his probation. Mr. Carter completed twenty-nine months of his probation. He had only one positive drug screen in May 2012 when he admitted he drank. He was fined and he paid the fine. He had a couple of late documents but as seen below he usually sends them on time. He has attended the required support group meetings and completed all of his continuing education hours. **In compliance.**

David Barrow 2009-261: The Board has previously determined that if he was not in compliance with his stipulation he would need to meet in person with the Board this month. He let his license expire in September 2013. His drug screen results show he tested positive for drugs for which he failed to submit prescriptions to the Division or enter any information about in Affinity for the last few months. Ms. Call spoke with Mr. Mark Longo and he said he only sent a copy of Mr. Barrow's previous employer report because Mr. Barrow said he would be considered not in compliance with his stipulation if he didn't. Mr. Longo stated Mr. Barrow was not working there anymore and he had instructed Mr. Barrow that he would need to find new employment. He failed to submit a therapy report that was due December 1, 2013. **Not in compliance.**

Wesley Remund 2013-514: Initial interview. He met with Ms. Call and reviewed his stipulation.

Orem Family Pharmacy/Daniel Webster 2013-475: Initial interview. He met with Ms. Call and reviewed his stipulation.

Tremonton Community Pharmacy/Rich Beus 2013-505: Initial interview. He met with Ms. Call and reviewed his stipulation.

Layne Kilpatrick 2011-183: He is requesting that the Board consider termination of his probation. He is in compliance with his stipulation. **In compliance.**

PROBATIONERS NOT BEING SEEN

Gunnison Pharmacy/Jensen Drug/Court Hardy 2012-227: They hope to receive their DEA license around the end of this year. **In compliance.**

Colton Dale 2012-231: His drug screens were all negative. He submitted his self-assessment and employer report. The CSD is okay as he did not fill any scripts this past quarter. **In compliance.**

Paul Martz 2010-575: All drug screens are negative. Received his self-assessment and employer report. CSD is okay as he has submitted all scripts he filled this past quarter. The Board tabled his request for early termination of his probation until the January 2014 Board meeting. **In compliance.**

Danny Carter, probation interview

Mr. Carter met with the Board. Mr. Garn conducted the interview. Mr. Carter is requesting to be released early from his probation. His probation term is 7/14/2011 to 7/14/2016. Mr. Carter has completed almost half of his probation. During this time he had one positive drug screen where he admitted he drank and he paid the fine. He submitted a couple of documents late; however, usually these were submitted on time. He attended the required support group meetings and completed all of his continuing education hours. Mr. Carter stated he is working 40 hours a week in a medical clinic. He continues consulting at a detox center. He does not have access to controlled substances. He works alongside doctors and dentists. Mr. Carter stated that he submitted a request to be released from probation early because he has an opportunity to move forward and help his current employer expand. The Board advised Mr. Carter that he did a remarkable job in his recovery. His letter to the Board shows good reflection and self-honesty. Mr. Carter's employers joined him at the

table and stated that everyone at work thinks highly of him. He has come a long way and is working hard. **Mr. Garn made a motion to recommend Mr. Carter be released from probation. The motion was seconded by Ms. Bird and carried unanimously.**

David Barrow, probation interview

Mr. Barrow's interview was conducted via telephone. Dr. Lundberg conducted the interview. Mr. Barrow stated his family is getting settled in their home. They are having problems receiving their mail. When they left Utah, they forwarded their mail to his wife's family address and now that they are in their own home, they are having their mail forwarded to them. Mr. Barrow stated he continues attending support meetings. His daughter had recent medical issues they are working through. The Board advised Mr. Barrow that he is out of compliance with this stipulation because he has not submitted prescriptions. His therapist reports indicate they met once and he has not scheduled another appointment. Mr. Barrow was advised that he has not been in compliance for a year. When he talked with the Board in September, he was advised he was out of compliance because he had not submitted his prescriptions. The Board advised Mr. Barrow that, due to his continued non-compliance, the Board is now considering two options: an additional fine for being out of compliance again; or recommend that the Division issue an Order to Show Cause to include a possible maximum penalty of his Utah license being revoked. Mr. Barrow was advised that the Board will discuss the above options and he will be sent a letter regarding the Board's decision.

Discussion:

The Board reviewed Mr. Barrow's file and noted that his therapist indicated he is not safe to practice. The Board noted that Mr. Barrow has already received fines regarding his past violations and feels this has not encouraged him to come into compliance with his stipulation. The Board noted that his probation is scheduled to end September 2014 and expressed concern he will continue as he has been. **Dr. Lundberg made a motion to recommend the Division issue an Order To Show Cause. The motion was seconded by Mr. Jones and carried unanimously.**

Wesley Remund, new probation interview

Mr. Remund met with the Board for his probation interview. He provided copies of his prescriptions and a list of medications to the Board. He submitted the form completed by his practitioner. Mr. Jones advised the Board that he used to work with Mr. Remund. Mr. Remund stated he does not feel Mr. Jones needs to recuse himself. Ms. Bird conducted the interview. Mr. Remund stated he passed the exams and received his license. He had been UA testing for six months and was approved to stop temporarily. He will go back to the drug testing now. He is looking for employment; however, the supervision requirement in his stipulation is proving to be problematic with possible employers. Mr. Remund stated he will be attending two support groups a month. He understands he has 48 hours to submit prescriptions. He submitted a preliminary practice plan and will submit a new one once he starts working in the field. Mr. Remund stated he has not been working since December 2006; however, he has continued with CEs and has kept up with the changes in the field. He has not taken illegal drugs or medications for seven years when he first surrendered his Utah professional license. He received a lot of help in therapy. The Board advised Mr. Remund his paperwork needs to be submitted monthly, starting January 1, 2014. If he is not working, he still needs to submit self assessment and keep up with his CEs. When he starts working, he will need to submit his employer report too. The Board advised Mr. Remund that the Board wants to meet with him once he starts working again.

Orem Family Pharmacy/Daniel Webster,
probation interview

Mr. Webster met with the Board regarding Orem Family Pharmacy's license on probation. Mr. Garn conducted the interview. Mr. Webster stated that the pharmacy failed the inspection and the pharmacy license was placed on probation. Mr. Webster stated there was no sink in the dispensing area with hot and cold water. They had twenty controlled substance prescriptions with electronic signatures on the original prescription. This was the practice, not just a one time error. Mr. Webster stated the plumber is working on the sink and he expects to have it completed later today. They have safety equipment and made the required changes to ensure compliance with the

statutes and rules. Once they finish addressing the violations he will initiate a compounding training program. He hopes to have this completed in six months. He continues working on the organization and record keeping policy. The Board advised Mr. Webster he has one year to complete the compounding training program. The Board noted that Mr. Webster is working to get things in place. Mr. Oborn gave Mr. Webster approval to continue compounding. Ms. Call stated that she sent an email to Mr. Hooper, DOPL Investigator, stating this inspection needs to be completed by April 2014.

The Board noted that his practice plan and procedures have been approved by the Board. Mr. Webster will be the PIC and will submit supervisor reports to the division on a monthly basis. The Board recommended he continue as the PIC and that a different supervisor is not required at this time. The Board encouraged Mr. Webster to submit monthly supervisor/employer reports until the pharmacy has fixed all violations. Mr. Webster was advised his reports are due January 1, 2014. The forms may be obtained from the DOPL website. The Board asked to see Mr. Webster April 22, 2014. **Mr. Webster is in compliance with his stipulation.**

Tremont Community Pharmacy/Rich
Beus, probation interview

Mr. Beus met with the Board regarding Tremont Community Pharmacy's license on probation. Mr. Hoffman conducted the interview. Mr. Beus stated that the pharmacy failed their inspection. The pharmacy was cluttered and disorganized and drugs were kept on top of the pharmacy counter. They have been working to clean things out and are no longer keeping drugs on the counter. They have a P&P for employees and have created training folders that are kept in a locked file drawer. They keep a daily printout of what is dispensed, including the quantities. He plans on starting a perpetual inventory in January 2014. Mr. Beus proposed Brent Powelson as the supervisor. Mr. Powelson has no affiliation with the pharmacy. The Board requested a vitae before approval is given. Mr. Jones made a motion to approve Mr. Powelson's practice plan. The motion was seconded by Dr. Lundberg and carried unanimously. The Board asked to see Mr. Beus on March 25, 2014.

As long as he is in compliance the Board approved a telephone interview. **Mr. Beus is in compliance with his stipulation.**

Layne Kilpatrick, probation interview

Mr. Kilpatrick met with the Board. Ms. Bird conducted the interview. Mr. Kilpatrick is requesting early termination of his probation. He gave the Board a letter requesting early termination and a letter from his PIC supporting this request. The Board noted his probation term is 6/1/2011 to 6/1/14. The Board reviewed Mr. Kilpatrick's letter. Some members of the Board expressed concern that his letter indicates an entitlement tone and encouraged him to submit another letter outlining what he has learned during this process, what he has done to protect the public, the reasons why he feel he should be released from probation at this time, and what his plan is to continue to operate in compliance with the law. Other members thought his previous letter sufficed. Mr. Oborn advised Mr. Kilpatrick his probation period is three years. The Board does not always recommend early release for probationers, especially for those that have been disciplined in the past. Dr. Lundberg made a motion to recommend Mr. Kilpatrick be released from probation. The motion was seconded by Mr. Hoffman and carried unanimously. Mr. Kilpatrick stated he did not feel his letter had an entitlement tone; however, he would like Mr. Oborn to hold the current letter and he would submit a new letter for the Director to review.

NEXT SCHEDULED MEETING:

January 28, 2014

2014 Board Meetings:

2014 Board meetings tentatively scheduled:

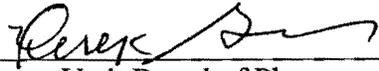
January 28, February 18(changed from 23), March 25, April 22, May 27, June 24, July 22, August 26, September 23, October 28, November 18(changed from 25), December 16 (changed from 23).

ADJOURN:

Motion to adjourn at 4:30 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.

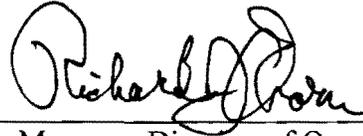
1/28/14
Date Approved

(ss) 
Chairperson, Utah Board of Pharmacy

1/20/14

Date Approved

(ss)



Bureau Manager, Division of Occupational &
Professional Licensing