

**MINUTES**

**UTAH  
BOARD OF PHARMACY  
MEETING**

**January 28, 2014**

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

**CONVENED: 8:30 A.M.**

**ADJOURNED: 3:26 P.M.**

**Bureau Manager:**

Richard Oborn

**Board Secretary:**

Lee Avery

**Board Members Present:**

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

**Board Members Absent:**

David Young

**DOPL Staff Present:**

Ray Walker, Division Enforcement Counsel  
David Furlong, Chief Investigator  
Jenny Johnson, Licensing Technician

**Guests:**

Josh Bolin, NABP representative  
Jamie Peterson, Walgreens  
Linnea Anderson  
Jared Memmott, MCP  
Dan Moxcur, Omnicare  
Linda Sandberg, Assoc. Foods  
Betty Yamashita, Intermountain  
Dave Cheney, Assoc. Foods  
Brandon Cressall, Harmons  
Beth Young, College of Pharm. U of U  
John Wendt, Medquest Pharmacy  
David Nay, Express Scripts  
Jacob Corsi, SLMS  
Adam Jones, UPhA  
Donnell Perez, SLMH  
Bill Stilling, Days Pharmacy  
Dave Davis, UFIA/URMA

Erin Johnson, Roseman University COP  
London Daly, student  
Jason Braithwaite, HCA Mountain Star Hospitals  
Mark Brinton, UT Med Assn.  
Vy Bin, student  
Heather Martz  
Byron Day, Days Pharmacy

## **ADMINISTRATIVE BUSINESS:**

### **Minutes:**

The Board reviewed the minutes dated December 17, 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. NABP Verified Pharmacy Program Presentation - Josh Bolin, NABP R156-17b- 102**

Mr. Bolin met with the Board and reviewed a presentation from NABP regarding the new Verified Pharmacy Program (VPP) that is being developed by NABP. This program will be a clearinghouse for non-resident pharmacies and will include current qualified inspection reports, verification of state licenses from all states the pharmacy is licensed in and disciplinary action reports. The goal is to have all states involved in developing, maintaining and establishing policies and standards for these programs. When a VPP application is received from a pharmacy, NABP reviews and verifies the data submitted. NABP will also provide inspections to the member Boards requesting this service. All of the information collected will be shared with the member licensing Boards. NABP recently convened a task force to compile licensure standards that are consistent across the states with the purpose of structuring a uniform inspection form. This form is under development and will assist in further defining a qualified inspection. The form will continue to evolve to meet each state's needs. NABP has worked to develop uniform compounding inspection forms using elements of several different states' inspection forms that inspect using United States Pharmacopeia Chapter 795 and 797 as a minimum standard. These forms will also evolve to meet the needs identified by the member Boards of Pharmacy. Mr. Oborn stated that using this information would require an amendment to the

Pharmacy Practice Act Rule. Mr. Oborn noted that Utah is one of three state boards that do not currently license out of state wholesalers. Licensing out of state wholesalers has been discussed at previous Board meetings. Mr. Jones made a motion to recommend that the legislature amend the Pharmacy Practice Act to grant permissive authority to begin to license and regulate out of state wholesalers and establish in rule the authority to participate in the NABP program and share the records with other states and pass any costs to the applicant. The motion was seconded by Ms. Bird and carried unanimously. A statutory change is needed to require that pharmacies cover the cost of a NABP inspection Mr. Oborn stated he will share this with Mr. Steinagel.

2. 9:30 A.M. - Skyline Pharmacy / David Blackham - probation interview

Skyline Pharmacy/David Blackham met with the Board. Mr. Blackham stated that things are going well. He passed the inspection and has met all of the requirements in the stipulation. Mr. Blackham stated he would like to request early termination of the pharmacy probation. He completed training in compounding and will let the Board know if he decides to engage in compounding again. At this time he will refer clients to another pharmacy. His pharmacy continues to provide what he refers to as simple compounding. The Board noted that Mr. Blackham's probation term is 3/28/13 to 3/28/16. He has completed almost one year. The Board advised Mr. Blackham that the Board rarely releases probationers until they have completed at least half of their probation term. The Board noted that Mr. Blackham is in compliance with his probation and encouraged him to stay on track and to request early termination again in September 2014 when he will have completed half of his probation term. The Board is looking for a pattern of compliance. Mr. Jones motioned to deny Mr. Blackham's request for early termination. The motion was seconded by Dr. Lundberg and carried unanimously. The Board advised Mr. Blackham that the Board decided to not make any exceptions to the federal simple vs. moderate compounding guidelines and encouraged him to be sure he is in compliance with them. **Skyline Pharmacy/Mr. Blackham is in compliance with the**

**stipulation.**

3. Investigation report

Mr. Furlong reviewed the pharmacy investigation report with the Board. The report includes investigation statistics from January to November 2013. Mr. Furlong stated that anytime there is a risk to the health, safety, and welfare of the public the investigator will write citations to the PIC. Mr. Furlong stated that DOPL Investigations sent the self-inspection report to all pharmacies who have current email addresses. They received back about 80% electronically and 20% in the mail. They are trying to mirror the self inspection report to what the inspection form looks like to keep both inspectors and PICs on the same level. He will also work with Mr. Bolin from NABP regarding their inspection form. Mr. Furlong noted that there are levels of discipline and that a letter of concern is private, a letter of reprimand is public, and stipulations and orders are public.

4. Compounding task force report  
a. Checklists to assist pharmacies with compliance with USP <795>, <797>

Mr. Hoffman reviewed the compounding task force report with the Board. Mr. Hoffman stated that the taskforce meetings have been set up for the week before the Pharmacy Board meeting. In case anyone would like to attend, those meets are February 11, May 20, August 19, and November 18. Mr. Hoffman stated the committee will focus on the drug act and quality assurance at the February meeting. Mr. Hoffman noted that the checklist for 797 is long. Mr. Oborn stated that the DOPL investigators have reviewed the list and he will contact Ms. Taxin, Bureau Manager over the Physicians Licensing Board regarding physicians who are doing compounding in their offices. The Board discussed adding language definition clarification to the pharmacy statutes/rules. Mr. Hoffman made a motion to recommend that the legislature amend the statute to address "for office use compounding" and amended the motion to address "office use in general". The motion was seconded by Dr. Lundberg and carried unanimously.

5. Review of drafted language of proposed rule amendments approved at previous

Mr. Oborn reviewed the following draft language of proposed rule amendments approved at previous

meetings

- a. Amendments to education and internship requirements for foreign-educated pharmacist applicants in R156-17b-303a, 303b
- b. Amendments to incorporate drug shipping and stability standards into R156-17b

Board meetings. Mr. Oborn noted that this draft shows some housekeeping changes to include renumbering the subsections.

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

Mr. Oborn stated there are no changes for US trained students. A new subsection has been created for foreign educated students. This subsection will require foreign educated students to complete at least 1,440 supervised hours in pharmacy practice. The hours are required to be done in the US or other territory of the US regardless of experience that may have been completed outside the United States.

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

**b. Amendment to incorporate drug shipping and stability standards into R156-17b-608. Common Carrier Delivery.**

Mr. Oborn noted that the language in this section was received from NABP and other states and will apply to any pharmacy licensed in Utah if they are shipping directly to the patient. The Board reviewed the proposed changes and expressed support for adding the following section:

**R156-17b-608. Common Carrier Delivery.**

A pharmacy that employs the United States Postal Service or other common carrier to deliver a filled prescription directly to a patient shall, under the direction of the pharmacist in charge or other responsible employee:

(1) use adequate storage or shipping containers and shipping processes to ensure drug stability and potency. The shipping processes shall include the use of appropriate packaging material and devices, according to the recommendations of the manufacturer or the United States Pharmacopeia Chapter 1079, in order to ensure that the drug is kept at appropriate storage temperatures throughout the delivery process to maintain the integrity of the medication;

(2) use shipping containers that are sealed in a manner to detect evidence of opening or tampering;

(3) develop and implement policies and procedures to ensure accountability, safe delivery, and compliance with temperature requirements. The policies and procedures shall address when drugs do not arrive at their destination in a timely manner or when there is evidence that the integrity of a drug was compromised during shipment. In these instances, the pharmacy shall make provisions for the replacement of the drugs;

(4) provide for an electronic, telephonic, or written communication mechanism for a pharmacist, or a pharmacy intern working under the direct supervision of a pharmacist, to offer counseling to the patient as defined in Section 58-17b-613 and there shall be documentation of such counseling; and

(5) provide information to the patient indicating what the patient should do if the integrity of the packaging or drug was compromised during shipment.

Dr. Lundberg made a motion to add the language above the Pharmacy Practice Act Rule. The motion was seconded by Ms. Bird and carried unanimously.

## 6. Hospitals dispensing of multi-dose medications

Mr. Oborn reviewed proposed amendments to R156-17b-612 with the Board. The Board expressed support for adding the following paragraph at the end of Section 612:

(16) Discharge prescriptions shall be dispensed and labeled in accordance with standards established in this section except that medications packaged in unit of dose containers, such as metered-dose inhalers, insulin pens, topical creams or ointments, or ophthalmic or otic preparation that are administered to the patient during the time the patient was a patient in the hospital, may be provided to the patient upon discharge provided the pharmacy receives a discharge order and the product bears a label or prescription containing the following information:

- a. name of the patient;
- b. name and strength of medication;
- c. directions for use;
- d. duration of therapy, if applicable; and
- e. name, phone number of pharmacy.

The Board noted the pharmacy needs to receive a copy of the discharge order. Mr. Oborn will develop language for the Board's review in February.

7. Establishment of pharmacy licenses and standards specific to central-fill and central prescription processing

Mr. Oborn stated he met with individuals who came up with Class A and B license with standards that are specific to central fill facilities. Mr. Oborn noted that some central prescription processing facilities do not have medications stored at the facility. Mr. Oborn will have specific language for the Board to review at the February Board meeting.

8. Proposal to amend R156-17b-616 to require that PICs for Class D out of state mail order pharmacies hold a Utah pharmacist license

Mr. Oborn reviewed a proposal to amend R156-17b-616 Operating Standards – Class D Pharmacy – Out of State Mail Order with the Board. Mr. Oborn noted that subsection (4) only requires a license from the state the PIC where the non-resident pharmacy is located. The proposed change would require that the PIC to hold a Utah license as well. If the Board and Division approve of this proposal, the rule filing process takes 60 to 90 days. The proposed rule amendment will not become effective until after the 2014 General Legislative Session. The Board would like to see it become effective at the next renewal. Dr Lundberg made a motion to approve the proposal. The motion was seconded by Ms. Kemper and carried unanimously.

9. Removal of controlled substance license law exam requirement in R156-37-403

Mr. Oborn reviewed the proposal to remove the controlled substance exam requirement from the application. There is an affidavit in the application the PIC will need to sign instead. Mr. Oborn noted that with the exam being in the application, the PIC answers the exam questions once and may not retain the information long term. The Division is considering incorporating material from this exam into the controlled substance license renewal process. This way testing regarding controlled substances will be ongoing, not just at the initial licensure. The Board reviewed the application and recommended the word “optional” be removed too because they felt it was confusing.

Mr. Jones made a motion to remove the exam requirement and to remove the word “optional” from that section of the license application. The motion was

10. Question of when a PIC's extended absence from a pharmacy warrants a PIC change

seconded by Ms. Bird and carried unanimously.

Mr. Oborn advised the Board that there has been a question regarding when a PIC's extend absence from a pharmacy warrants a formal PIC change? Mr. Oborn noted that currently laws do not provide guidelines when a temporary absence of a PIC requires that a pharmacy make a change in the PIC. Mr. Oborn stated that because there is not a specific period of absence to trigger a change in the PIC or notification to the Division, the pharmacy owner and PIC are responsible to ensure compliance with state and federal standards, even when the PIC is not in the pharmacy for an extended period of time. If something goes wrong when the PIC is absent, the responsibility falls on the PIC. The Board opted to leave the statutes and rule as is and to not establish timeframe at this time.

11. Adding of "prepackaging" definition to R156-17-102

The Board reviewed R156-17-102. Mr. Oborn noted that the phrase "prepackaged" is used once in the current rule and it may be helpful to add a definition of this term in the rule. The Board noted that because this term may be used more often in the future, developing a definition now is a good idea. The Board expressed support for amending Section 102 to include the following definition:

(37) "Prepackaged" or "Prepackaging" means the act of transferring a drug, manually or by use of an automated pharmacy system, from a manufacturer's or distributor's original container to another container in advance of receiving a prescription drug order or for a patient's immediate need for dispensing by a pharmacy or practitioner authorized to dispense in the establishment in which the prepackaging occurred.

Ms. Bird made a motion to recommend that the Division amend the rule to include this definition. The motion was seconded by Mr. Hoffman and carried unanimously.

12. Other proposed rule amendments

Mr. Oborn indicated that the following issues will be discussed the next Board meeting: central prescription filling and preprocessing standards; e-kits, private canine trainers; and operating standards for long-term care facilities.

**APPOINTMENTS:**

Paul Martz, probation interview, requesting early termination of his probation

Mr. Martz met with the Board to request early termination of his probation. His probation started December 2010. He stopped working February 2011 and started worked again May 2011. He has completed just over 3 years of his 5 year probation. He has been consistently in compliance with probation. There was a problem with his therapist; however, he worked to resolve this problem and then he continued to be in compliance. The Board noted that his employer reports have been excellent during his probation. His drug screens have all been negative. He has not missed any drug tests or calling in. Mr. Martz stated his PIC/supervisor and family have been very supportive. He has been sober since July 16, 2010. Mr. Oborn advised the Board that because we were not able to put him on the agenda the Board may recommend the Division terminate his probation early, if this is the Board's decision. The Board wanted the record to reflect that the Board supports early termination of Mr. Martz's probation. Mr. Oborn will review this with the Division Director.

Connie Call, compliance report

At 1:23 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 Dr. Lundberg and carried unanimously. There was no recording. No written notes were taken. The Board meeting opened at 2:01 P.M.

**APPOINTMENTS:**

David Barrow, probation interview and informal adjudicative proceeding

The Board contacted Mr. Barrow at 1:35 PM. Mr. Oborn asked Mr. Barrow if he is going to submit a written reply to the Notice of Agency Action and Order to Show Cause filed by the Division. Mr. Barrow indicated he intends to make a written statement. Mr. Oborn stated that his written reply needs to be received by February 3, 2014. The Board advised Mr. Barrow that he needs to physically be at the February 18, 2014 Board meeting. Mr. Barrow is not in compliance with his stipulation for reasons outlined in the Notice of Agency Action and Order to Show Cause filed by the Division.

SOS Drug/Garrett Crane probation interview

SOS Drug/Garrett Crane met with the Board. Mr. Jones conducted the interview. Mr. Crane stated that in December 2013 the pharmacy failed an inspection and reviewed the violations with the Board. Mr. Crane stated the violations have been fixed, the clutter on the counters was cleaned up and they now have a fridge for food and a separate one for medications. He has developed logs to track the fridge/freezer temperatures. The computer was moved to the back of the pharmacy where it is out of sight of the public. Mr. Crane advised the Board that the pharmacy building had been there since 1909. He has been the owner since March 1, 2005. With the pharmacy being old, they had antique bottles with old medication inside on display. These bottles have been moved to the inside of the pharmacy out of reach of the public. Mr. Crane stated he is still looking for a supervisor pharmacist. The Board encouraged him to contact the UPHA for names or he may want to contact a former Board member. He met with Ms. Call and submitted a written practice plan. The Board advised Mr. Crane that once he obtains his supervisor, the Board wants him to amend his practice plan. The Board asked to see Mr. Crane annually or after he submits his practice plan. The Board will consider a phone interview for his next appointment as long as he stays in compliance.

**SOS Drug is in compliance with its stipulation.**

Day's Pharmacy/Gary Moeller, probation interview

Day's Pharmacy/Gary Moeller met with the Board. Ms. Bird conducted the interview. Mr. Moeller stated that Byron Day is the owner of the store. The pharmacy failed an inspection in August 2013. Mr. Moeller reviewed the violations and stated that these have now all been fixed. Training programs are now being documented. Mr. Day stated the fine was paid in October; however, the check has not cleared yet. Mr. Oborn encouraged him to contact DOPL customer service to resolve this. Ms. Bird made a motion to approve Mr. Jim Robles as Mr. Moeller's supervisor. The motion was seconded by Dr. Lundberg and carried unanimously. Mr. Moeller was advised that his reports need to be submitted on the first of the month. Ms. Bird made a motion to approve Mr. Moeller's practice plan. The motion was seconded by

Dr. Lundberg and carried unanimously. The Board asked to see Mr. Moeller annually. His next interview will be in February 2015 as long as he is in compliance with his stipulation.

**Day's Pharmacy is in compliance with its stipulation.**

Andrea Lowry, probation interview

Andrea Lowry met with the Board. Mr. Garn conducted the interview. Ms. Lowry stated that things are going well. She is working about 20 to 25 hours a week, 15 are in the pharmacy and five are in a clinic doing diabetes education. Ms. Lowry stated she feels like she is ready for the Boards support to be finished. She has been on probation eight years and has worked for two and a half of them. Her sobriety date is October 2006. The Board reviewed Ms. Lowry's request to no longer be required to do the drug screens. The Board noted that her compliance during this time has been exceptional and she is half way through her probation term. The Board noted that her self reports have been very good and are what the Board wants to see when requesting early termination of probation. Dr. Lundberg made a motion to recommend early termination of Ms. Lowry's probation because she has consistently been in compliance with her stipulation, she has completed half of her probation and her self reports include the reflection the Board wants to see. The motion was seconded by Ms. Kemper and carried unanimously.

Jordan Jenkins, informal adjudicative proceeding

The Board reviewed the informal adjudicative proceedings regarding Jordan Jenkins. His license was issued 12/12/06 and expired 9/30/13. He pled guilty to criminal charges. Mr. Jenkins was mailed a Notice of Agency Action on November 19, 2013 and was given thirty days to reply to it. As of January 28, 2014, DOPL has not received his reply. The Division is seeking the Board's recommendation to revoke his license. Dr. Lundberg made a motion to recommend that the Division revoke Mr. Jenkins license. The motion was seconded by Mr. Jones and carried unanimously.

**NEXT SCHEDULED MEETING:**

February 18, 2014

2014 Board Meetings:

**2014 Board meetings tentatively scheduled:**

2014 Board Meetings:

**2014 Board meetings tentatively scheduled:**

February 18(changed from 25), 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 3:26 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.

2-18-14

Date Approved

(ss)

*D. P. G.*  
Chairperson, Utah Board of Pharmacy

2/18/14

Date Approved

(ss)

*Richard D. Koenig*  
Bureau Manager, Division of Occupational &  
Professional Licensing