

MINUTES
UTAH BOARD OF PHARMACY
December 20, 2022 | 8:30 A.M.
North Conference room
160E 300 S Salt Lake City UT
Hybrid Meeting- In Person and Electronic

Electronic attendance was available.

CONVENED 8:30 A.M.

ADJOURNED: 1:10 P.M.

DOPL STAFF PRESENT:

Bureau Manager: Lisa Martin
Board Secretary: Maree Christensen
Lead Investigator: Camille Farley
Investigator: Silmara Charleworth
Investigator: Travis Drebing

Investigator: Alicia Moran
Investigator: Kaila Silcox
Investigator: Johnathan Evans
CSD Admin: Jeff Henrie
Compliance Specialist: Bernice Palama

BOARD MEMBERS PRESENT:

Chair: Carrie Dunford, Pharm-D
Vice Chair: Christopher Sheard, Pharm-D
Karen Gunning, Pharm-D
Sepidah Daeery, Pharm-D

Gary Hale, R.Ph.
Autumn Hawks, Pharmacy Technician
Shaun Curran, PA CS, Public Member

BOARD MEMBERS NOT PRESENT:

GUESTS IN ATTENDANCE ELECTRONICALLY:

Adam Gee
Adam Jones
Barb Keyser
Dave Davis - Utah Retail Merchants
Association
Dave Peterson
Donelle Perez – Petersons Pharmacy
Elizabeth Miller
Greg Jones
Jared Memmott
Jeanne Brennan
Lorri Walmsley

Chris Christensen – Stapley Pharmacy
Dane Hoffman – (DHHS)
Daniel Cheung
Maimuna Bruce
Mark Brinton – Utah Medical Association
Mark Johnston
Richard Oborn (DHHS)
Ryker Blair – MedQuest Pharmacy
Sara Waston - Critical Access Hospital
Senator Evan Vickers
Warren Young

Note: Other guests may have been in attendance electronically but were not identified.

ADMINISTRATIVE BUSINESS:
CALL MEETING TO ORDER

Dr. Dunford called the meeting to order at 8:30 A.M.

REVIEW AND APPROVE NOVEMBER 22, 2022 MINUTES (*Audio 00:02:59*)

Mr. Curran made a motion to approve the minutes, with revisions as discussed.

Dr. Sheard seconded the motion.

The Board motion passed unanimously.

DISCUSSION ITEMS:

INVESTIGATIVE REPORT—CAMILLE FARLEY (*Audio 00:05:10*)

Ms. Farley stated no investigation report for November was generated. Ms. Farley stated there were no new citations for the month of November.

Mr. Hale asked if there has been any recent updates regarding fraudulent electronic prescriptions.

Ms. Farley stated she has not heard of any recent updates, but will follow up with the DEA.

Ms. Martin stated the topic was discussed at a recent NABP meeting, they are aware that the fraudulent electronic prescriptions are happening.

CSD UPDATE—JEFF HENRIE (*Audio 00:08:18*)

Mr. Henrie presented the Controlled Substance Database (CSD) trends from June to November, as provided.

Mr. Henrie stated 80% electronic prescriptions and 10% written prescriptions were reported to the CSD for the month of November.

Dr. Dunford requested a copy of the data dated back to when electronic prescriptions started.

Mr. Henrie stated he will email the data to members of the Board.

MEDICAL CANNABIS PHARMACY AGENT COURSE (*Audio 00:26:27*)

Mr. Oborn reviewed the presentation, as provided.

LEGISLATION UPDATES (*Audio 00:20:28*) and (*Audio 01:08:36*)

Dr. Dunford discussed a list of bill proposals that could be presented in the next legislative session including; changes to the abortion trigger law, additional prescribing, pharmacy tech-ratio, wholesaler opioid red flag issues, cancelling or modifying electronic prescriptions, copay accumulator possibility, and white-bagging.

Dr. Gunning stated the suggested changes to abortion bill will help protect the patient while obtaining the care that they may require.

Senator Vickers stated he is looking into obtaining clarification regarding correlation between the abortion trigger law and multiple use medications, he is currently working with Senator McCay on the topic. Senator Vickers stated he became aware that Representative Dunnigan is planning to propose a bill that will repeal the online prescribing act. Senator Vickers stated he has the pharmacy practice act bill open to work on white-bagging issues.

NEWSLETTER TOPICS *(Audio 00:52:57)*

Dr. Dunford stated the next newsletter deadline is January 01, 2023.

Dr. Dunford stated Mr. Henrie will draft a summary regarding reporting correcting to the CSD.

Ms. Martin stated she is drafting a summary on the rule changes.

Dr. Dunford stated the next newsletter deadline is April 01, 2023.

ALTERATIONS TO SCHEDULE II CONTROLLED SUBSTANCES *(Audio 00:54:17) and (Audio 01:17:48)*

Dr. Dunford asked if the 2010 alterations to schedule II controlled substances letter was still searchable online.

Ms. Martin stated the 2010 letter is no longer accessible online. Ms. Martin stated that Ms. Blackburn recommended for an updated letter to be drafted.

Dr. Dunford discussed and requested feedback from the Board, in drafting a new letter.

The Board discussed and gave feedback regarding items that cannot be changed on a schedule II controlled substance prescription and pharmacists' being allowed to use their clinical judgment for best practice of patient care, when information is incorrect.

Dr. Dunford recommended the prescribers' signature should be the only thing that a pharmacist could not change.

Dr. Dunford stated she will work with Ms. Martin to draft the letter, and then forward to the DEA for feedback.

EMERGENCY STOCKPILE *(Audio 01:33:55)*

Dr. Dunford stated she had contacted Dr. Hoffman concerning the state's emergency stockpile. Dr. Hoffman stated a few pharmacies had accessed the stockpile of amoxicillin; though pharmacies must replace the medication. Dr. Dunford stated collaboration and education is needed for pharmacies on accessing the stockpile from DHHS in a state of emergency situation. Dr. Dunford stated she will reach out to Dr. Hoffman to find out who is the best contact in an emergency situation, what medications are available and what the Board can do to assist.

Dr. Gunning discussed safety concerns relating to certain weight loss medication shortages with pharmacies compounding from the GLP1 list.

Dr. Dunford stated there was nothing in the rules, stating a pharmacy could not compound in an emergency shortage situation. Dr. Dunford stated the FDA allows pharmacies to compound in a state of emergency shortage.

Dr. Gunning recommended an emergency shortage GLP1 discussion, patient questions and an opportunity to remind pharmacies of patient safety. Dr. Gunning stated Poison Control would be the best resource to obtain information from, in regards to GLP1 medications, reporting and complaints.

Dr. Dunford suggested to invite a representative from Poison Control to the next Board meeting. Dr. Dunford stated the GLP1 list ties into online prescribing and dispensing. Dr. Dunford asked if there is a Board for online prescribing.

Ms. Martin stated there is a Board, however the Division has had no license type active in over a year. Ms. Martin stated to meet as a Board, members must have an active prescriber's license.

Mr. Davis stated online prescribing was active about ten years ago, linked to a quick med business, where the patient would fill out a questionnaire online and have access to a limited list of non-controlled medications for dispensing. Mr. Davis stated he had contacted Representative Dunnigan regarding online prescribing and will provide feedback to the Board.

METHADONE DISPENSING- 3 DAY SUPPLY *(Audio 01:54:39)*

Dr. Dunford stated there was recent clarification from the DEA that allows a hospital to dispense up to a three days' supply of methadone for substance use disorder patients. Dr. Dunford stated the Board has had enquires for clarification from retail pharmacies.

Mr. Peterson stated the DEA in March 2022 changed the law that now allows hospitals upon discharge to dispense up to a three day supply instead of one day at a time for up to the three days; not to be extended or renewed. Mr. Peterson stated the DEA did not seem to clarify how this should happen. Mr. Peterson stated he has been in contact with the DEA who had informed

him that a hospital can allow a medication order to go out with the patient upon discharge, the pharmacy then acts as an agent to be able to dispense. Mr. Peterson stated pharmacies are unsure of following the DEA ruling, as Utah statutes do not match the updated DEA ruling.

Dr. Dunford asked Ms. Martin to work with Ms. Blackburn to review and draft new rule language to be more in line with the DEA. Dr. Dunford asked if methadone facilities need to report to the CSD.

Mr. Henrie stated CSD reporting is not required for methadone.

58-17B-304 PHARMACY INTERN QUALIFICATIONS *(Audio 02:07:57)*

Dr. Dunford stated there has been some confusion, surrounding intern license extensions. Dr. Dunford stated the ruling is, that once the schooling is finished interns have 60 days to obtain a temporary pharmacist license. Dr. Dunford stated the intern license is valid for five years, however if they have graduated before the end of the five years, the individual should not be continuing to work as an intern. Dr. Dunford stated the rule was written that particular way to assist graduating interns to keep on track of becoming a pharmacist. Dr. Dunford recommended the intern license expiration date be adjusted to sixty days past the graduation date, instead of the current five years.

Dr. Gunning stated that the expiration date is important for students, to assist them to stay on track with their careers.

Dr. Dunford asked Ms. Martin if the Division could adjust the expiration date.

Ms. Martin stated the statement of intern eligibility application page, currently asks for a start date and graduation date. Ms. Martin stated she would need to research the state statutes for authorization to make changes to the expiration date.

Dr. Dunford recommended to meet with pharmacy schools at the next Board meeting to discuss and clarify pharmacy intern licenses.

APPOINTMENT ITEMS:

COMPLIANCE REPORT—BERNICE PALAMA *(Audio 02:32:45)*

Ms. Palama presented the compliance report for December.

Siena's Pharmacy fine \$10,000.00 to be paid by August 23, 2023, remains unpaid.

Harmony Schneider had no missed check in's, one positive prescription-verified, supervisor report received on time, stated good reviews, and practice plan received.

HARMONY SCHNEIDER, INITIAL PROBATIONAR INTERVIEW *(Audio 02:40:22)*

Mr. Curran conducted the interview.

Mr. Curran made a motion to close the meeting in accordance with the Open and Public Meetings Act, 52-4-205(1)(a) to discuss the character, professional competence or physical or mental health of an individual.

Dr. Gunning seconded the motion.

All Board members voted in favor of closing the meeting.

The meeting closed at 11:24 a.m. The meeting opened at 11:39 a.m.

Dr. Dunford recommended to discuss the practice plan at the next Board meeting.

Mr. Curran made a motion for Harmony Schneider to return and review the practice plan and supervisor approval at the January 24, 2023 Board meeting.

Dr. Gunning seconded the motion.

The Board motion passed unanimously.

ADALYN LEE, EXAM ELIGIBILITY INTERVIEW *(Audio 02:45:03)*

Dr. Dunford asked Ms. Lee for a brief history regarding her exam attempts.

Ms. Lee stated she had failed all three of her exam attempts for NAPLEX due to untreated anxiety.

Dr. Dunford suggested for her to contact exam provider for test prep and accommodations.

Ms. Lee stated she will be seeking accommodation assistance for the next attempt.

Dr. Dunford asked when she was eligible to sit for the exam again.

Ms. Lee stated NABP had informed her that she wasn't eligible to retest until July 2023; 1 year from the first attempt. Ms. Lee stated she was hoping for a sooner date if the Board approved.

Dr. Gunning made a motion to allow two attempts for the NAPLEX exam.

Dr. Sheard seconded the motion.

The Board motion passed unanimously.

MELANIE LAMBERT, TEMPORARY LICENSE EXTENSION REQUEST *(Audio 02:58:54)*

Dr. Dunford asked Ms. Lambert what brings her before the Board.

Ms. Lambert requested a closed meeting.

Dr. Sheard made a motion to close the meeting in accordance with the Open and Public Meetings Act, 52-4-205(1)(a) to discuss the character, professional competence or physical or mental health of an individual.

Mr. Curran seconded the motion.

All Board members voted in favor of closing the meeting.

The meeting closed at 11:55 a.m. The meeting opened at 12:11 p.m.

Dr. Gunning made a motion to allow one attempt for the NAPLEX exam.
Dr. Sheard seconded the motion.
The Board motion passed unanimously.

LOIS KIM, EXAM ELIGIBILITY INTERVIEW (*Audio 02:59:17*)
Dr. Dunford asked Ms. Kim for a request summary.

Ms. Kim stated she has failed the Utah MPJE exam three times, is requesting to extend her temporary pharmacist license which expired on December 08, and approval for two additional attempts the Utah MPJE exam.

Dr. Gunning asked what her study plan is.

Ms. Kim stated she had been using RX prep study materials, however due to studying for multiple states she had confused the laws.

Dr. Gunning suggested Ms. Kim focus on Utah's exam for now. Dr. Gunning asked if she was working in the field.

Ms. Kim stated she was currently working in a community pharmacy.

Dr. Gunning recommended she fill out self-inspection forms to familiarize herself with the Utah Admin Codes.

Dr. Sheard asked if she had passed NAPLEX exam.

Ms. Kim stated she had failed the NAPLEX twice, and has not taken the third attempt.

Dr. Gunning reminded Ms. Kim that the Board was only allowed to extend the temporary pharmacist license once.

Dr. Sheard asked when was she planning to take the third attempt at the NAPLEX exam.

Ms. Kim stated she plans to take the Utah MPJE again at the end of January and the NAPLEX at the end of February 2023.

Dr. Sheard made a motion to approve two additional Utah MPJE exam attempts.
Mr. Curran seconded the motion.
The Board motion passed unanimously.

Dr. Sheard made a motion to extend the temporary pharmacist license until March 2023.
Dr. Daeery seconded the motion.
The Board motion passed unanimously.

PHILLIP COWLEY, EDUCATIONAL INTERVIEW (*Audio 03:14:12*)

Ms. Moran gave a summary regarding a recent video created by Mr. Cowley that developed safety complaints from viewers from multiple states. Ms. Moran stated Mr. Cowley had worked with Ms. Moran and had removed the said video from all media platforms.

Mr. Cowley explained his video content was about him compounding an amoxicillin preparation, and administering it to himself by mouth.

Dr. Dunford asked if the safety concern complaints were related to Mr. Cowley performing sterile compounding or against him administering the medication.

Ms. Moran stated the complaints were mostly due to patient safety, and concerns with the levels of toxicity.

Dr. Dunford asked how the Board could assist DOPL with this matter.

Ms. Moran stated that Mr. Cowley requested the meeting, the case has since been closed by DOPL.

Ms. Moran asked Mr. Cowley what assistance he is seeking from the Board.

Mr. Cowley stated he is seeking assistance with video content boundaries, while remaining compliant.

Dr. Sheard asked if he was giving out advice as a pharmacist or a pharmacy.

Mr. Cowley stated he was giving out advice as a pharmacist.

Dr. Gunning suggested to have an advisory committee and a few patients to provide feedback on video content before uploading to the internet.

Dr. Dunford stated the Board cannot provide legal advice, and recommended to seek an attorney to assist with possible liability issues.

Dr. Sheard recommended to research the unprofessional conduct section in the Utah Admin Codes to guard against any possible complaints.

MEETING ADJOURNED: 1:10 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.

NEXT SCHEDULED MEETING: Tuesday, January 24, 2022

2023 Board Meeting Scheduled:

February 28, March 28, April 25, May 23, June 27, July 25, August 22,
September 26, October 17, November 28, December 19.

Chairperson

Date

Bureau Manager

Date



SWORN STATEMENT SUPPORTING CLOSURE OF BOARD MEETING

DOPL-FM-010 05/02/2006

I, Carrie Dunford as the presiding member of the Utah R Board,
which met on the 20th day of December, 2022

Appropriate notice was given of the Board's meeting as required by Utah Code Annotated § 52-4-202.

A quorum of the Board was present at the meeting and **voted by at least a two-thirds vote**, as detailed in the minutes of the open meeting, to close a portion of the meeting to discuss the following:

- ☒ The character, professional competence, or physical or mental health of an individual (§ 52-4-205(1)(a))
- ☐ Strategy regarding pending or reasonably imminent litigation (§ 52-4-205(1)(c))
- ☐ Deployment of security personnel, devices, or systems (§ 52-4-205(1)(f))
- ☐ Investigative proceedings regarding allegations of criminal misconduct (§ 52-4-205(1)(g))

The content of the closed portion of the Board meeting was restricted to a discussion of the matter(s) for which the meeting was closed.

With regard to the closed meeting, the following was publically announced and recorded, and entered on the minutes of the open meeting at which the closed meeting was approved:

- (a) The reason or reasons for holding the closed meeting;
- (b) The location where the closed meeting will be held; and
- (c) The vote of each member of the public body either for or against the motion to hold the closed meeting.

If required, and/or kept or maintained, the recording and any minutes of the closed meeting will include:

- (a) The date, time, and place of the meeting;
- (b) The names of members present and absent; and
- (c) The names of all others present except where such disclosure would infringe on the confidentiality necessary to fulfill the original purpose of closing the meeting.

☐ Pursuant to § 52-4-206(5), a sworn statement is required to close a meeting under § 52-4-205 (1)(a) or § 52-4-205(1)(f), but a record by tape recording or detailed minutes is not required.

☐ A record was not made

☐ A record was made by: ☐ Tape Recording

☐ Detailed Written Minutes

☐ Pursuant to § 52-4-206(1), a record by tape recording is required for a meeting closed under § 52-4-205(1)(c) or § 52-4-205(1)(g), and was made.

☐ Detailed written minutes of the content of a closed meeting although not required, are permitted and were kept of the meeting.

I hereby swear or affirm under penalty of perjury that the above information is true and correct to the best of my knowledge.

Carrie Dunford
Board Chairman or other Presiding Member

12/20/2022
Date