

**MINUTES**

**UTAH  
BOARD OF PHARMACY  
MEETING**

**February 18, 2014**

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

**CONVENED: 8:31 A.M.**

**ADJOURNED: 4:45 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:**

Mark Steinagel, DOPL Director  
Ray Walker, Division Enforcement Counsel  
David Furlong, Chief Investigator  
Jana Johansen, Licensing Technician  
Lynn Hooper, DOPL Investigator  
Whitney Beckstead, DOPL Investigator  
Ashleigh Nye, DOPL Investigator

**Guests:**

Adrienne Duarte  
John Wendt, Medquest  
Lisa Dimmick  
Betty Yamashita, Intermountain  
Linda Sandberg, Assoc. Foods  
Dave Cheney, Assoc. Foods  
Brandon Cressall, Harmon's  
Donelle Perez  
Kelly Hansen, HCA  
Erin Johanson, Roseman Univ, COP  
Missy Duke, USHP  
Bill Stilling, Parsons Behle & Latimer  
Hannah Pratt, U of U College of Pharmacy Students  
Robert Hellinga, U of U COP Student  
Jared Memmott, MCP

Karin Caresita, Alpine Apothecary  
Kevin Witzenman

**ADMINISTRATIVE BUSINESS:**

Minutes:

The Board reviewed the minutes dated January 28, 2014. Ms. Bird made a motion to accept the minutes with changes. The motion was seconded by Ms. Kemper and carried unanimously.

**DISCUSSION ITEMS:**

Senator Evan Vickers

1. Pending legislation update
  - a. S.B. 55: Pharmaceutical Dispensing Amendments
  - b. Pharmacy Practice Act Amendments
  - c. S.B. 138: Controlled Substance Act Amendments
  - d. H.B. 114: Mail-Order Wholesale Drug Amendments
  - e. H.B. 106: Employer Sponsored Clinic – Prescription Drug Amendments
  - f. Prescription Eye Drop Guidelines
  - g. Synchronization of Maintenance Medication Dispensing Dates
  - h. H.B. 113: Pharmacy Benefit Manager Guidelines

Senator Vickers reviewed pending legislation with the Board.

a. S.B. 55: Pharmaceutical Dispensing Amendments. This bill defines terms, establishes the license classification “dispensing medical practitioner” and creates part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy. It removes the exemption from the Pharmacy Practice Act for medical practitioners who prescribe and dispense a cosmetic drug, injectable weight loss drug, or a cancer drug treatment regimen and requires a license as a dispensing medical practitioner for a health care practitioner. As of 2/13/14 this bill has been placed on the 2<sup>nd</sup> reading calendar.

b. Pharmacy Practice Act Amendments. This bill will include multiple amendments approved by the Board of Pharmacy. It has not been drafted yet but text will be shared with Board members once it is drafted.

c. S.B.138: Controlled Substance Act Amendments. This bill allows for more than one controlled substance to be included in a prescription. As of 2/14/14 this bill has moved from House to standing committee.

d. H.B. 114: Mail-Order Wholesale Drug Amendments. This bill amends the definition of a Class C pharmacy subject to regulation under the Pharmacy Practice Act. As of 2/13/14, this bill moved to the House for the 2<sup>nd</sup> reading.

e. H.B. 106: Employer Sponsored Clinic. Prescription Drug Amendments. This bill exempts a prescribing practitioner from the licensing requirements of the Pharmacy Practice Act if the prescribing practitioner

dispenses a prepackaged drug at an employer sponsored clinic and complies with other requirements and it makes technical and conforming changes. As of 2/10/14 this bill is holding in the House Committee.

f. Prescription Eye Drop Guidelines. This bill has not been drafted yet. It involves allowing a pharmacist to dispense a refill of a prescription for a liquid legend drug administered to the eye once an amount of time has passed after which the patient should have used 50 percent of the dosage units of the drug according to a practitioner's instructions.

g. Synchronization of Maintenance Medication Dispensing Dates. This bill addresses payments by health insurance plans for the synchronization of prescription drug dispensing.

h. H.B 113: Pharmacy Benefit Manager Guidelines. This bill establishes the Pharmacy Benefit Manager Act and defines terms, requires a license to operate as a pharmacy benefit manager, establishes a license application process and the general requirements for a license. As of 2/11/14 House received fiscal note from fiscal analyst.

The Board expressed its appreciation to Senator Vickers for his help and support of the pharmacy profession.

## 2. Investigation report

Mr. Furlong reviewed the pharmacy investigation report for January 2014 with the Board. Recently the Division disciplined a pharmacy that was never licensed to operate as a pharmacy or dispense prescription drugs in Utah. Mr. Furlong also reported that a pharmacy technician and a pharmacist surrendered their licenses. Mr. Furlong noted that there is a job opening for a pharmacy inspector position at the Division. Applicants with pharmacy technician licenses are preferred. This is a time limited position and paid for from the pharmacy education and enforcement fund.

Mr. Garn noted that currently pharmacists are being issued citations for first offenses of misfilling medications. In the past, a pharmacist making this

error for the first time would be required to meet with the Board to review what happened and what the pharmacist is doing to keep it from happening again. Mr. Furlong was unaware of how the Division handled these types of cases in the past. He will discuss it further with his staff, Mr. Steinagel, and Mr. Oborn. The Board briefly discussed the possibility of clarifying this issue in the Pharmacy Practice Act Rule. After addressing this issue internally, Mr. Oborn will prepare language for the Board to review.

Mr. Furlong advised the Board that the Division started a new process prior to citation hearings. Prior to a hearing, the Division will meet with a licensee and/or their attorney to discuss the circumstances regarding the citation they were issued. The investigations supervisor has the authority after the pre-hearing conference to uphold, adjust, or dismiss the citation. Mr. Furlong noted that citations are now posted on the DOPL website only after they are adjudicated.

### 3 Compounding Task Force report

Mr. Hoffman reviewed the Compounding Task Force report with the Board. Mr. Hoffman stated they had their first quarterly meeting. The next one will be May 20<sup>th</sup> for anyone wanting to attend. They devoted the discussion time to the Drug Security Act, 503a and 503b, new outsourcing facility, and they created the language for a possible “office use only” amendment to the Pharmacy Practice Act. Mr. Hoffman noted that the FDA website has language regarding 503a and 503b for review. The new hot topics are quality assurance and quality control.

### 4. Central-fill and central prescription processing operating standards

The Board reviewed the language from the NABP Model Rule regarding central-fill and central prescription processing. The Board gave Mr. Oborn suggestions for changes to the language. Mr. Oborn will have a revised draft reflecting the changes requested by the Board for review at the March Board meeting.

### 5. E-kit operating standards

The Board reviewed the emergency kit handout prepared by Jared Memmott. Mr. Oborn noted that currently Utah law does not have language that sets forth procedures regarding e-kits. The Division

receives calls regarding e-kits. The Board discussed developing a Class E license specifically for e-kit situations. This would allow the Board to establish guidelines for usage and put steps in place to allow long term facilities to use e-kits in accordance with federal laws. Mr. Oborn will develop language for the Board to review at the March Board meeting.

6. Operating standards for various Class E sub-classifications

Mr. Oborn advised the Board that the Division is receiving calls regarding private dog trainers wanting to possess drugs for training purposes. In previous years, they obtained a controlled substance handler permit. This allowed them to purchase drugs to train police dogs. Because the Division no longer issues controlled substance handler licenses, it needs to determine how to fit private dog trainers into a sub-classification of Class E pharmacy licensing. DEA will not allow them to legally possess controlled substances unless they hold a state issued license. The Board discussed the possibility of creating a Class E pharmacy license subcategory for this group. Mr. Oborn will draft some language to use as operating standards for the Board to review in March.

7. Direction from DEA regarding extent that pharmacists may modify prescriptions

Mr. Oborn advised the Board that there needs to be further research regarding the extent that pharmacists may modify prescriptions. This discussion was tabled for a future Board meeting. Mr. Oborn stated he will obtain a copy of a letter addressing the issue that was mailed to pharmacists in 2010.

8. Open Public Meetings Act training

Mr. Oborn provided the Board information about the Open Public Meetings Act.

9. Consideration of approval of H2RX Pharmacy as pharmacy technician training program

The Board reviewed the pharmacy technician training program submitted for approval by Mr. Hutchings. Ms. Bird and Ms. Kemper reviewed information about the program and determined that additional information about the exam and training manual used in the program were needed. The Board indicated that once this information is provided, the program will likely be accepted.

10. Other proposed rule amendments

The Board reviewed the proposed following language to R156-17b-610 Operating Standards – Prescriptions: (16) Discharge prescriptions shall be dispensed and

labeled in accordance with standards established in this section except that medications packaged in units of multi 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 patient was a patient in the hospital, may be provided to the patient upon discharge provided the pharmacy receives a discharge order or prescription and affixes a label containing the following information:

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

Mr. Hoffman made a motion to approve the proposal with changes. The motion was seconded by Ms. Bird and carried unanimously.

#### **APPOINTMENTS:**

Connie Call, compliance report

At 1:04 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 made or written notes. The Board meeting opened at 1:33 P.M.

The Board reviewed the SOPs submitted by Tremonton Pharmacy in January 2014. Mr. Hoffman made a motion to approve the SOPs. The motion was seconded by Ms. Bird. The motion was carried unanimously.

The Board reviewed the Gunnison Pharmacy practice plan. Dr. Lundberg made a motion to approve the plan. Ms. Kemper seconded the motion. The motion was carried unanimously.

Ms. Sheryl Ledett tested positive for alcohol. The Board noted that this is not the first time Ms. Ledette tested positive for alcohol. Dr. Lundberg made a motion to recommend that the Division issue her a fine of \$500. The motion was seconded by Ms. Bird and carried unanimously.

Lloyd Thomas, probation interview

Mr. Thomas met with the Board. Mr. Hoffman conducted the interview. Mr. Thomas stated that things are going well. He paid the fine and submitted a resume for Mr. Bart Manning. He chose Mr. Manning because he has known him in a professional manner for a long time. He has not reviewed the stipulation yet. Mr. Manning indicated that he is willing to provide supervision and submit the supervisor reports. He will review the stipulation if approved as Mr. Thomas' supervisor. Mr. Hoffman made a motion to approve Mr. Manning as Mr. Thomas' supervisor. The motion was seconded by Ms. Kemper and carried unanimously. Mr. Thomas stated he knows his CEs are due in October and he is planning on completing CE courses. He feels things are going well with Mr. Ghazvini acting as PIC. The Board asked to see Mr. Thomas on May 27, 2014. **Mr. Thomas is in compliance with his stipulation.**

Clell Fowles, probation interview

Mr. Fowles met with the Board. Mr. Garn conducted the interview. Mr. Fowles stated that things are going well. His supervisor, Brent Peterson, had some medical issues and will return to work on February 24. He will send Ms. Call his supervisor's resume as soon as possible. Mr. Garn made a motion to approve Mr. Peterson as Mr. Fowles' supervisor upon receipt of Mr. Peterson's resume and as long as there are no questions regarding the resume. The motion was seconded by Dr. Lundberg and carried unanimously. Mr. Fowles stated that if Mr. Peterson is not able to return to work full-time they will find someone else to supervise him. He will send the signed supervisor form regardless of who the supervisor is. The Board asked to see Mr. Fowles on May 27, 2014. **Mr. Fowles is not in compliance with his stipulation because he failed to attend 4 support meetings a month.**

Hurricane Pharmacy/JR Bell, probation interview

The Board contacted Mr. JR Bell at 2:04 P.M. regarding the probation interview for Hurricane Pharmacy. Mr. Bell indicated he was not aware of the interview. He had not received the letter mailed to him on February 7, 2014. The Board verified the address is correct. The Board advised Mr. Bell that as the PIC, he needs to meet with the Board and submit all required documents listed in the stipulation.

Currently, he needs to submit the P&P, SOP for 795 and 797. Mr. Bell stated that they are compounding, i.e., hormone replacement, some sterile compounding and injectables. The Board requested that Mr. Bell physically meet with the Board on March 25, 2014. **Hurricane Pharmacy is not in compliance with the stipulation because the PIC, Mr. Bell, failed to appear in person before the Board as requested by the Board and Division.**

Colton Dale, probation interview

Mr. Dale met with the Board regarding his probation interview. Mr. Jones conducted the interview. Mr. Dale stated that things are going well. He is requesting the Board consider terminating his probation early. The Board noted that his supervisor reports have been consistently positive. Mr. Dale advised the Board that his supervisor and the probation have helped him learn what he needs to do to concentrate on how to choose better friends. He wants to go back to school in the summer. Mr. Jones made a motion to grant Mr. Dale's request for early termination. The motion was seconded by Dr. Lundberg and carried unanimously.

Michael Wright, pharmacist applicant

Mr. Oborn advised the Board that Mr. Wright's probation as a pharmacist intern ended September 30, 2013 when his intern license expired. He is still on court probation for impaired driving. His court fines are paid in full and he will likely successfully complete his criminal probation in March 2014. The Board needs to review his application and determine if his pharmacist license should be issued, or issued with restrictions, or denied.

Mr. Wright met with the Board. The Board reviewed Mr. Wright's application packet. Mr. Wright stated that since the last time he met with the Board he has had some health problems. He plans to work part-time for now if he is issued a pharmacist license. He decided to continue moving towards obtaining his full pharmacist license. Mr. Wright stated he believes he should be issued his pharmacist license without restrictions because his intern license was on probation and he completed the probation requirements. He believes he has completed all requirements of his criminal probation and, if so, his probation will be

terminated in March 2014. The Board advised Mr. Wright that one of the responsibilities that the Board is charged with is to ensure the health, safety, and welfare of the public. The Board advised Mr. Wright that the Board needs time to determine if he meets the good moral character requirement as outlined in the statute and rule and feels his pharmacist license needs to be on probation. This will give him time to establish a positive track record with the Board. Mr. Jones made a motion to issue a probationary license for 3 years, conditioned upon review of the Assistant Attorney General. The motion was seconded by Dr. Lundberg. The motion carried unanimously.

Roy Winegar's Pharmacy/Ali Ghazvini  
probation interview

Mr. Ghazvini met with the Board for the probation interview for Roy Winegar's Pharmacy. Mr. Hoffman conducted the interview. The Board noted that the pharmacy is in compliance with their stipulation. Mr. Hoffman made a motion to approve Mr. Bart Manning as the pharmacy supervisor. The motion was seconded by Ms. Bird and carried unanimously. Mr. Ghazvini stated he completed the CS inventory January 7, 2014 and a metal gate has been installed. Mr. Ghazvini stated that things are going well and they have stopped all compounding. They are now making sure that all appropriate information is obtained on the prescriptions. The Board advised Mr. Ghazvini that Mr. Manning was approved as the pharmacy supervisor. Mr. Manning's supervisor reports for Mr. Thomas and the pharmacy will need to be submitted separately. Both reports are due monthly on the first of the month. The Board wants Mr. Manning to sign 2 license certification forms indicating he has read both of the stipulation orders. The first report is due March 1, 2014. The Board asked to see Mr. Ghazvini May 27, 2014. **Roy Winegar's pharmacy is in compliance with its stipulation.**

David Barrow, informal adjudicative  
proceeding

Mr. Barrow contacted the Division indicating he could not physically meet with the Board. The Board called Mr. Barrow at 3:29 P.M. Mr. Barrow stated he could not attend the meeting in person because his wife was ill and his buddy pass was used up. He could not afford the price of a flight ticket to physically meet with the Board. The Board noted this is one of

multiple times Mr. Barrow has not physically met with the Board when requested to do so. The Board asked Mr. Barrow if he was willing to proceed with the proceedings and he indicated he was. The Board reviewed Mr. Barrow's history of non-compliance with his stipulation including the following violations of his order:

1. Failure to maintain a current license. His license expired 9/30/2013.
2. Failure to submit copies of prescriptions on time.
3. Failure to submit therapy reports from his therapist on time.

The Board reviewed his written response to the allegations. Mr. Oborn stated that with the current violations, the Division could move to a formal hearing; however, the preference is to handle it informally at this time. Mr. Barrow is not disputing the allegations, except for one. Mr. Barrow stated he stopped working as a pharmacist in October 2013, after his license expired on September 30, 2013. He had been providing pharmaceutical information to other pharmacists. He claims that he has not been involved in patient care or billing. The Board noted that Mr. Barrow has not been in compliance with his stipulation for eighteen months. Every time the Board meets with him, he states he will come into compliance; however, he continues to be out of compliance. The Board advised Mr. Barrow that he does not have to be employed in the field to be in compliance with his stipulation. Mr. Oborn advised Mr. Barrow that the Board will need to further deliberate before making a final recommendation to the Division. At the time of the proceeding, Mr. Barrow admitted that he was still not in compliance with his stipulations. The Board ended the phone call with Mr. Barrow.

Mr. Oborn presented the following as options for the Board to recommend:

1. Written warning including a list of allegations with

a note that future failure will result in disciplinary action.

2. Fine of at least \$500.

3. Add more time to his probation period. The Board noted that time has already been added to his term because currently he is not working in the field.

4. Surrender of the residual rights to his expired Utah license.

5. Revocation of the residual rights to his expired license.

Dr. Lundberg made a motion to recommend that the Division revoke Mr. Barrow's residual rights to his expired license and he cannot reapply for his licenses until one year after the effective date of the order. If he reapplies after one year, and if the Division chooses to license him, his license will be issued with restrictions. The motion was seconded by Ms. Bird and carried unanimously. **Mr. Barrow continues to be out of compliance with his stipulation because he failed to attend the meeting in person as requested by the Board and Division, because his licenses continues to be expired, and because his paperwork was not submitted on time.**

**NEXT SCHEDULED MEETING:**

March 25, 2014

2014 Board Meetings:

**2014 Board meetings tentatively scheduled:**

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 4:45 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.*

\_\_\_\_\_  
Date Approved

3/25/14

\_\_\_\_\_  
Date Approved

(ss) \_\_\_\_\_

Chairperson, Utah Board of Pharmacy

(ss) \_\_\_\_\_

Bureau Manager, Division of Occupational &

Professional Licensing

*DPH 3-25-14*