

MINUTES

**UTAH
BOARD OF PHARMACY
MEETING**

March 25, 2014

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

CONVENED: 8:31 A.M.

ADJOURNED: 2:45 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
Ashleigh Nye, DOPL Investigator
Travis Drebing, DOPL Inspector

Guests:

Dean Jolley, Jolley's Pharmacy
Jaime Peterson, Walgreen's
Chad Campbell, U of U
Chris Rise, Utah Interactive
Greg Jensen, Target
John, Sisto ESI
David Nay, ESI
Matt Rim, U of U
Erin Gellis, U of U
Kylie Winward, Roseman (student)
Brandon Cressall, Harmon's
Linda Sandberg, Associated Foods
Dean Moncur, Omnicare, SLC
Jared Memmott, MCP
Seth LeFevre, Creighton Univ. (student)
Betty Yamashita, Intermountain
Dave Davis, UFIA/URMA

Beth Young, U of U College of Pharmacy
Donelle Perez
Adam Jones, UPHA
Erin Johanson, Roseman University
Tia Billinsley, Roseman University
Jared Cash, Primary Childrens
Ben Schwab, Roseman University
Anthony Trovato, U of U College of Pharm. Student
Jay Lewando, U of U Pharmacy
Charlie Holmes, Walgreen's

ADMINISTRATIVE BUSINESS:

Minutes:

The Board reviewed the minutes dated February 18, 2014. Dr. Lundberg made a motion to accept the minutes with changes. The motion was seconded by Mr. Hoffman and carried unanimously.

DISCUSSION ITEMS:

1. Update regarding CSD real-time program

Mr. Steinagel reviewed the CSD real time pilot program with the Board. This program was developed about eighteen months ago to assist medical practitioners and pharmacies regarding individuals who doctor shop for abuse of controlled substances. The Division received a grant from the federal government to fund this program and the funding has ended. Mr. Steinagel stated the Division is looking for the Board's recommendation regarding further funding options and policy. There is a question of whether the Board recommends that the Division require that all pharmacies be required to do real-time reporting of prescription information or if they should continue to be required to do weekly reporting.

Mr. Steinagel turned the time over to Mr. Chris Rice, Utah Interactive. Mr. Rice noted that the pilot project program is going well. The study reported that practitioners using the CSD prefer real-time reporting. Some pharmacies find that real-time reporting is a challenge. The Board expressed concern regarding information submitted on a Friday or the day before a holiday that is not posted or viewed until the following Monday or working day. Mr. Rice stated that medical practitioners can designate up to 3 employees to access the database. To access the database, a mental health therapist must be part of a substance abuse program and associated with a licensed medical practitioner

such as a licensed physician, physician assistant, or APRN. Clinics and emergency rooms and police have access to the database. There is discussion with the VA and HAFB regarding reporting to the database. The Board tabled this discussion until the May or June Board meeting.

2. Investigation report

Mr. Furlong reviewed the pharmacy investigation report for February 2014 with the Board. Mr. Furlong noted that investigators worked with some PICs to fix their computer firewall issues to allow for emails from the Division. Mr. Furlong introduced Travis Drebing, pharmacy inspector. Mr. Furlong advised the Board that Ms. Sandy Hess, Mr. Lynn Hooper and Ms. Missy Stoffel will attend the Utah Pharmacy Association Spring Meeting in St. George. They will be at a booth to answer questions and pass out information.

3. Compounding Task Force report

Mr. Hoffman reviewed the Compounding Task Force report with the Board. Mr. Hoffman noted that the next quarterly meeting will be May 20th and anyone interested in attending may contact him. Mr. Hoffman stated he attended the FDA Intergovernmental Meeting in Silver Spring, MD on March 20 and 21. They discussed numerous topics. Mr. Hoffman noted that some states have still not adopted USP 795 and 797. Mr. Hoffman stated that they reviewed the Drug Quality and Security Act (DQSA) Section 503a, that addresses traditional compounding which is inspected and regulated by the states. It follows the standards set by USP 795 and 797. Compounding must be performed by a licensed pharmacist in a licensed pharmacy or by a licensed physician. A pharmacy cannot dispense more than 5% of their total prescription orders to another pharmacy unless they are located in a state that has entered into a MOU with them. Section 503b requires that outsourcing facilities-registered with the FDA are inspected by the FDA. They report to the FDA twice a year regarding products that they compound. Mr. Hoffman stated he will forward a copy of the information to the Board members. Amendments to Utah law may be necessary as FDA works out more details relating to the federal standards.

The Pharmacy Practice Act Rule indicates you cannot

compound commercially available products in dosage form which is regularly and commonly available from a manufacturer in quantities and strengths prescribed by a practitioner. See Utah Admin. Code R156-17b-402 (27). A pharmacist may compound a commercially available product to change the strength, flavor, or to make it sugar or alcohol free. If the need to compound is prompted by a patient's request for a different flavor, the pharmacist may accommodate that request. If a doctor prescribes specific use of a commercial product, the commercial product should be dispensed. If a doctor prescribes no sugar, or requests a different flavor, the pharmacist should compound it to the specifications of the doctor. A pharmacist cannot offer to compound a commercially available product just because it is a cheaper product. The doctor must prescribe the cheaper product.

4. Bills passed during legislative session impacting pharmacy practice

Mr. Oborn reviewed the bills that passed during the 2014 General Legislative Session that impact pharmacy practice. Mr. Oborn noted that a full copy of the individual bills can be accessed at www.le.utah.gov. The effective dates for these bills are contingent upon Governor Herbert's right to veto. Some amendments require drafting of administrative rules to be adopted by the Department.

H.B. 114: Mail-Order Wholesale Drug Amendments. Utah is the 48th state to require pharmacy licensure for non-resident pharmacies that engage in the manufacture, production, wholesale, or distribution of drugs. In the past, mail order pharmacies mailing directly to patients were the only pharmacies located outside Utah that were required to have Utah licenses. Effective July 1, 2014.

S.B. 55: Pharmaceutical Dispensing Amendments Drug Sales Between Pharmacies. A pharmacy in Utah not licensed specifically as a pharmaceutical wholesaler or distributor may sell drugs to other pharmacies if their total distribution-related sale of prescription drugs does not exceed 5% of the facility's total prescription drug sales. Effective July 1, 2014. Hospital Pharmacy Dispensing of Multi-Dose Drugs to Discharge Patients. A hospital pharmacy may

dispense a prescription drug in a multi-dose container to a hospital patient being discharged if labeling requirements outlined in the bill are met.
Effective July 1, 2014.

License Classification for Dispensing Medical Practitioners and Clinics. A new license classification titled "dispensing medical practitioner" was created for medical practitioners who prescribe and dispense certain drugs. A pharmacy facility license classification titled "dispensing medical practitioner clinic pharmacy" was created for clinics that dispense certain drugs in limited settings. Creating these licenses required removal of the license exemption of medical practitioners and clinics for medical practitioners who prescribe and dispense a cosmetic drug, injectable weight loss drug, or a cancer drug treatment regimen. A medical dispensing practitioner's ability to dispense is limited to a cosmetic drug, a cancer drug treatment regimen, or a prepackaged drug at an employer sponsored clinic. It establishes that practice as a dispensing medical practitioner does not include the use of a vending-type dispensing device or the dispensing of controlled substances, except for the dispensing of schedule IV and V controlled substances as permitted for cancer drug treatment regimens.
Effective July 1, 2014.

Clarification of Acceptable Methods of Drug Delivery. A pharmacy may only deliver a prescription drug to a patient or patient's agent in person at the pharmacy. It may also deliver a prescription drug via the United States Postal Service, a licensed common carrier, or supportive personnel, if the pharmacy takes reasonable precautions to ensure the prescription drug is: (1) delivered to the patient or patient's agent; or (2) returned to the pharmacy. Effective July 1, 2014.

Clarification of Patient Counseling Standards. Patient counseling standards were clarified to address misunderstandings caused by prior statutory language.
Effective July 1, 2014.

S.B. 77: Pharmacy Practice Act Amendments
Creation of Pharmacy Technician Trainee License.
Before working in a pharmacy, a pharmacy technician

in-training is now required to obtain a "pharmacy technician trainee" license from the Division. To apply for a pharmacy technician trainee license, individuals must submit a license application to the Division including a criminal background check and the name of their training program. Effective July 1, 2014.

Pharmacy Selling of Drugs to Practitioners for Office Use. Pharmacies may repackage or compound a prescription drug for sale to a practitioner under circumstances outlined in the bill. Effective July 1, 2014.

S.B. 78: Prescription Eye Drop Guidelines. A pharmacist or pharmacy intern may dispense a refill of a prescription for a liquid legend drug administered to the eye once an amount of time has passed after which a patient should have used 70% of the dosage units of the drug according to a practitioners instructions. Effective May 13, 2014.

S.B. 210: Prescription Synchronization Amendments. A cap is placed on the co-pay charged by a health insurance plan for the dispensing of certain prescription drugs in quantities less than a 30-day supply. The following health insurance plans are prohibited: (1) one that provides prescription drug coverage from excluding prescription drugs dispensed in quantities less than a 30-day supply; and (2) one that bases the dispensing fee for an individual prescription on the quantity of the prescription drug dispensed to fill or refill the prescription. These standards apply to health benefit plans renewed or entered into on or after January 1, 2015. Effective May 13, 2014.

S.B. 178: Controlled Substance Database Modifications. A pharmacist-in-charge (PIC) may designate up to three pharmacy technicians to have access to the controlled substance database (CSD) on behalf of the pharmacist-in-charge under conditions outlined in the bill. Effective May 13, 2014.

S.B. 138: Controlled Substances Act Amendments. More than one controlled substance may be included on a prescription for a schedule III - V drug. A

prescription to contain a legend drug may be included on the same prescription. Effective May 13, 2014.

H.B. 113: Pharmacy Benefit Manager Amendments. Certain reimbursement practices of pharmacy benefit managers are regulated. The bill defines maximum allowable costs, requires certain contract provisions between a pharmacy benefit manager and a pharmacy related to the use of maximum allowable cost and appeal rights, and requires a pharmacy benefit manager to register with the Division of Corporations and Commercial Code within the Department of Commerce. Effective July 1, 2014.

H.B. 119: Opiate Overdose Emergency Treatment. Dispensing of an opiate antagonist is permitted to a person who is reasonably believed to be at risk of experiencing an opiate-related drug overdose event. It is not unlawful or unprofessional conduct for health professionals to prescribe an opiate antagonist to: a person at increased risk of an overdose or a family member, friend, or other person who would be able to assist in an overdose. The ability to administer the opiate antagonist does not establish a duty to act. Finally, the health professional will advise the person to seek help after an overdose and opiate antagonist administration. Effective May 13, 2014.

5. Consideration of rule amendments prompted by bills passed

Mr. Oborn noted that some rules will need to be amended because of the bills that just passed. Bills requiring rule writing include SB 55, SB 77, SB 138 and HB 114.

6. Central fill and central prescription processing standards

Mr. Oborn will have more information for the Board to review regarding central fill and central prescription processing standards at a future Board meeting.

7. Operating standards for Class E pharmacy private canine trainers

The Board tabled this discussion to another Board meeting because research regarding how other states are handling this is still ongoing.

8. Other propose rule amendments

Discussed above

9. Board of Pharmacy Newsletter

The Board reviewed the Board of Pharmacy Newsletter. Mr. Oborn stated this will be distributed electronically to all licensed pharmacists and

pharmacies. There will be a link from the DOPL website to the NABP website where the newsletter will be viewable. Mr. Oborn stated interested parties may register with NABP to have the newsletter emailed directly to them.

10. Request for approval of Genoa Healthcare pharmacy technician training program

Ms. Bird and Ms. Kemper reviewed the Genoa Healthcare pharmacy technician training program. Ms. Bird stated that this program appears to meet the program requirements. Ms. Bird made a motion to approve the program. The motion was seconded by Mr. Jones and carried unanimously.

Not on the agenda:

Mr. Young stated the Board needs to meet to write and review exam questions for the MPJE exam to cover new statutes and rule changes. The Board does not want to do it in conjunction with a Board meeting. Mr. Oborn noted that the public member of the Board does not need to attend. The Board decided to meet May 6, 2014, 8:30 A.M. to 12:00 P.M.

11. Compounding commercially available prescription drugs

Discussed above

APPOINTMENTS:

Connie Call, compliance report

At 1:05 P.M. Dr. Lundberg 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 Mr. Jones and carried unanimously. There was no recording made. There were no written notes. The Board meeting opened at 1:38 P.M.

Gunnison Pharmacy/Court Hardy, telephonic probation interview

Mr. Hardy met with the Board regarding Gunnison Pharmacy's probation. The probation interview was telephonic. Mr. Hoffman conducted the interview. Mr. Hardy stated things are going well. They are working towards getting the probation terminated and are waiting for the inspection to take place. The Board noted that he has been in compliance with his stipulation and encouraged him to continue in this direction and if the inspection is completed in April, he can meet with the Board to request early termination in May. The Board asked to see Mr.

Orem Family Pharmacy/Daniel Webster,
telephonic probation interview

Hardy after the inspection or on May 27, 2014.
Gunnison Pharmacy is in compliance with its stipulation.

Mr. Webster met with the Board regarding Orem Family Pharmacy's probation. The probation interview was telephonic. Mr. Garn conducted the interview. Mr. Webster stated that they have completed the changes to the pharmacy as required. The inspection went well. The inspector was impressed with their work and the way they are doing things. They make sure the labels on the compound prescriptions are done correctly and anyone receiving a compound prescription receives an offer of counseling. Mr. Webster stated he feels they are moving forward making sure they are in compliance and keeping up standards. The Board asked to see Mr. Webster on December 16, 2014. **Orem Family Pharmacy is in compliance with its stipulation.**

Tremonton Community Pharmacy/Rich Beus,
telephonic probation interview

Mr. Beus met with the Board regarding Tremonton Community Pharmacy. His interview was telephonic. Mr. Hoffman conducted the interview. Mr. Hoffman stated the Board reviewed his SOP manual and Mr. Beus did a good job preparing it. The Board is still waiting for his supervisor's CV. Mr. Beus stated he thought that had been submitted and he will get a copy to Ms. Call. Things are looking good and he is happy with the progress. They have been keeping a manual log of the perpetual inventory. They record the prescription numbers and deduct what was done the day before. They are still working with program administrators to work out the perpetual inventory. His next supervisor report is due in May 2014. The Board asked to see Mr. Beus on September 23, 2014. As long as the pharmacy is in compliance, a telephone interview is acceptable. **Tremonton Comm. Pharmacy is in compliance with its stipulation.**

Katherine (Katie) Keller, first probation
interview

Ms. Keller met with the Board. Dr. Lundberg conducted the interview. Ms. Keller stated she was licensed as an intern in 2009. She was arrested for an alcohol related DUI and entered the diversion program with DOPL shortly after the arrest. She has had about 6 to 8 relapses since then with the last one in 2013 when she was arrested again. She went to Alpine for

IOP. Ms. Keller stated the charges from the 2013 arrest are still pending. She may need to go to jail for 5 days and perform 120 hours of community service. She went to treatment at New Roads where they completed an evaluation. This was in June or July. The Board advised Ms. Keller to contact Ms. Call regarding the outcome of her criminal court proceedings as soon as possible. The criminal court may accept the DOPL evaluation and UAs. The Board advised Ms. Keller she needs to attend at least one support meeting a week and have her therapist submit reports. Her paperwork is due April 1, 2014. Dr. Lundberg made a motion that Ms. Keller attend one AA or one PIR support meeting at least once a week. The motion was seconded by Mr. Jones and carried unanimously. The Board advised Ms. Keller that she needs to submit a self-evaluation and supervisor reports. Ms. Keller stated she works for home infusion for the University of Utah. The stipulation indicates she needs indirect supervision with a supervisor on site. Ms. Keller stated this could be a problem because she is on call and works weekends. Ms. Keller asked if this could be changed to general supervision.

Mr. Jay Lewando, Ms. Keller's supervisor, stated the facility is located in Research Park. They need to have the staff available 24/7. There is security system that requires waving of a badge to identify the person entering the premises. A record of the date and time of each entry to the pharmacy is made. Entry into the cabinet where the meds are stored is handled similarly. Ms. Keller works about thirty hours a week where she is on call 2 to 3 times a week plus weekends. Providing a supervisor on weekends would be problematic.

The Board advised Ms. Keller that it is difficult for the Board to change her supervision requirement at this time. The Board feels she needs to establish a track record first. The Board encouraged her to make this request at another time. The Board is supportive to a probationer as long as the probationer stays in compliance with their stipulation. This includes getting all paperwork in on time and no missed calls or UAs. The Board advised Ms. Keller that the Board

compliance with their stipulation. This includes getting all paperwork in on time and no missed calls or UAs. The Board advised Ms. Keller that the Board would not provide flexibility if she is not in compliance with her stipulation. She may contact Ms. Call with any questions she has and to confirm Ms. Call has received all of her paperwork. Ms. Keller will need to have the evaluation completed for the Board to review at the June Board meeting. The Board asked to see Ms. Keller on June 24, 2014. **Ms. Keller is in compliance with her stipulation.**

NEXT SCHEDULED MEETING:

April 22, 2014

2014 Board Meetings:

2014 Board meetings tentatively scheduled:
April 22, May 27, June 24, July 22, August 26,
September 23, October 28, November 18 (changed
from 25), December 16 (changed from 23).

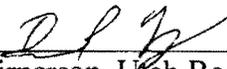
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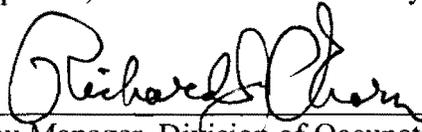
Motion to adjourn at 2:45 P.M.

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.

4-22-14
Date Approved

4 / 22 / 14
Date Approved

(ss) 
Chairperson, Utah Board of Pharmacy

(ss) 
Bureau Manager, Division of Occupational &
Professional Licensing