

**MINUTES
UTAH
BOARD OF PHARMACY
MEETING**

**September 23, 2014
Heber M. Wells Bldg
474, 4th floor – 8:30 A.M.
Salt Lake City, UT 84114**

CONVENED: 8:32 A.M.

ADJOURNED: 1:43 P.M.

Bureau Manager:
Board Secretary:

Richard Oborn
Lee Avery

Board Members Present:

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

DOPL Staff Present:

Connie Call, Compliance Specialist
Ray Walker, DOPL Enforcement Counsel
David Furlong, DOPL Chief Investigator
Dan Briggs, Investigation Supervisor
Lynn Hooper, DOPL Investigator

Guests:

Greg Jensen, Target
Rachael Kankamp, Roseman University
Jamie Peterson, Walgreens
Jeanette Bean, St. Marks/UF
Noeria Kamshla, UF
Analee Marston, UF
Kailee Shean, Roseman University
David Cheney, Associated Food Stores
Glade Baldwin
Brandon Cressall, Harmons
Donelle Perez
Jared Memmott, MCP
Bill Stilling
Trixi Gore, Utah Cancer Specialists
Dave Davis, UFIA/URMA
Betty Yamashita, IHC
Jeanne Brennan, Attorney
David Nay, ESI
Joanie Rawle, Utah Cancer Specialists

Wayne Jones, UPHA
Sterling Corbett, AG
Lynette Pomrenke, Utah Cancer Specialists
Sam Stucki, Sam Stucki Pharmacy
Lara Stucki, Sam Stucki Pharmacy

ADMINISTRATIVE BUSINESS:

Minutes

The Board reviewed the minutes dated August 26, 2014. Ms. Kemper made a motion to accept the minutes with changes. The motion was seconded by Ms. Bird and carried unanimously.

DISCUSSION ITEMS:

1. Investigation report

Mr. Furlong reviewed the Pharmacy Board Report for August 2014. Mr. Furlong noted that Mr. Hooper gave training at the DEA Pharmacy Diversion Conference. Mr. Furlong invited members to contact him with any questions.

2. Compounding Task Force report

Mr. Hoffman advised the Board that the next meeting of the Compounding Task Force will be November 11, 2014. It will be at the DOPL building. This is an open meeting and individuals should let him know if anyone has an agenda item. Mr. Hoffman stated the Task Force noticed that R156-17b-614a (3)(d)(iv) requires that a compounding master worksheet include a sample label; however USP 795 requires that it include sample label information. In addition, the Task Force recommended that the rule be amended to clarify that a master worksheet may be kept electronically. Mr. Oborn stated he will add the language in the next rule filing for the Board to review.

3. Proposed rule amendments

a. Office-use compounding

Mr. Oborn reviewed the proposed rule amendment regarding office use compounding. SB 77 required that this rule be written. Mr. Oborn stated that he obtained legal advice from an assistant attorney general about how to draft the rule in light of federal legislation that prohibited office use compounding unless strict federal standards are met. The federal law applies to sterile and non-sterile compounding. Mr. Hoffman reported that he communicated with the Executive Director of the Idaho Board of Pharmacy about rule they plan to adopt. Mr. Sterling Corbett, AAG, shared his legal opinion that the rule should require that a Utah pharmacy comply with the Food,

Drug, and Cosmetic Act. Mr. Oborn agrees that the rule should emphasize the need to comply with the federal law. If the rule did not mention the federal law, Utah pharmacies may assume that they are not required to follow it. At this time, it appears the FDA is not aggressively enforcing the federal law in cases of non-sterile compounding. Mr. Young made a motion to recommend that the Division adopt the following language in R156-17b-624:

Pursuant to Section 58-17b-624, a pharmacy may repackage or compound a prescription drug for sale to a practitioner for office use provided that it is in compliance with all applicable federal and state laws and regulations regarding the practice of pharmacy, including, but not limited to the Food, Drug, and Cosmetic Act [21 U.S.C.A § 301 et seq.].

The motion was seconded by Mr. Jones. Mr. Hoffman abstained from voting, all other Board members voted in favor.

b. Physician dispensing

Mr. Oborn reviewed a rough draft of proposed rule amendments related to physician dispensing and SB 55. Mr. Ray Walker, DOPL Regulatory and Compliance Officer, shared his opinion that Utah Code 58-17b-803 (4)(c) allows a dispensing medical practitioner (DMP) to delegate the authority to dispense a drug prescribed by the DMP to an individual who: (1) is employed by the DMP or the outpatient clinic setting in which the DMP works; and (2) is acting under the direction of the DMP who is immediately available on site for any necessary consultation. Mr. Walker believes the statute does not grant the Division the authority to further restrict who a DMP can delegate to. As a result, the rough draft should use the term "DMP designee," not "licensed DMP designee."

The Board requested multiple changes to the rough draft of the proposed rule. Changes requested by the Board included amendments to paragraphs related to security systems and pharmacy temperature. Mr. Oborn noted the changes and indicated they would be reflected in an updated copy of the draft to be emailed to Board members prior to the next meeting.

c. Clarification of R156-17b-614a (2) requirement to store drugs at appropriate temperature

Discussed above.

d. Definition of "positive identification"

Mr. Oborn reviewed the proposed language for the definition of the term "positive identification" in R156-37f-102. The Board discussed accepting a foreign issued ID and a concealed weapons permit as positive identification as long as a photo and a number appear on them. The Board recommended that the words "valid" and "United States" be removed from the proposed language. In rare cases if the individual does not have a government issued identification, the Board would like it to be possible for a pharmacist to request alternative evidence of the individual's identity as appropriate. They indicated support for allowing a pharmacist to pursue other means of identification in situations in which a government identification is not available and the pharmacist determines harm to the patient will result if the prescription is not filled. The pharmacist would be required to document their actions in a prescription record. Mr. Oborn will draft language and send it to Board members for review.

e. Central fill and central processing standards

Mr. Oborn reviewed proposed language for R156-17b-614f: Operating Standards - Class A, B, D, and C - Central Prescription Processing and Filling. The rule indicates that a pharmacy may perform centralized prescriptions processing or centralized prescription filling services if they have a common ownership or common administrative control or have a written contract outlining the services to be provided. Mr. Oborn noted this section does not need to address labeling because another section in the rule has labeling standards that apply to all pharmacies. Mr. Oborn indicated that a change to the definition of central prescription processing cannot be made because the same definition is in the statute. The Board will review this again at the next meeting.

4. Problems with electronic refills requests

The Board recognizes that this is a problem but does not think it is necessary to adopt a rule to address it.

Not on the agenda:

The Board noted that on October 6, 2014, hydrocodone becomes a Schedule II controlled

substance. According to DEA, prescription refills written prior to October 6, 2014 may be honored following Schedule III guidelines, with up to a six month allowance. Hydrocodone prescriptions issued after October 5, 2014 are per the Schedule II laws and rules. It is recommended that all pharmacies follow their store/corporate policy and keep very good records. The Board recommended that the Division adopt a policy that is consistent with the federal guidance; however, it is recommended that pharmacies follow their specific store or corporate policy if it is stricter than the federal guidance.

APPOINTMENTS:

Connie Call, compliance report

At 10:47 A.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. Hoffman and carried unanimously. There were no written notes taken. A recording was not made. The Board meeting opened at 11:02 A.M.

#1. Katherine Keller, probation interview

Ms. Keller met with the Board. Dr. Lundberg conducted the interview. Ms. Keller stated she is taking life one day at a time and doing well. She is working full time. The Board advised Ms. Keller that her employer reports are positive. The Board received the report from her psychologist; however, it did not include the information that the Board requested. The Board feels her psychologist may have misunderstood the information the Board is wanting, which is clarification of drugs of abuse. Mr. Oborn and Dr. Lundberg will send him a letter to clarify. The Board advised Ms. Keller she is still in compliance with her stipulation. Ms. Keller inquired about the possibility of changing her supervision to general supervision. The Board asked her to make this request in writing and the Board will consider it at her next appointment with the Board. The Board asked to see Ms. Keller in March 2015 as long as she stays in compliance with her stipulation. **Ms. Keller is in compliance with her stipulation.**

#2. Cache Valley Community Health Pharmacy/Greg Luke, PIC, telephone probation interview

Mr. Luke met with the Board for Cache Valley Community Health Pharmacy probation interview. Mr. Jones conducted the interview via telephone. Mr. Luke stated things are going well. Inventories are

separated and dated. The practice of delivering prescriptions to a clinic was stopped. The Board advised Mr. Luke that the fine has not been paid yet and the Board received his draft probation plan. Mr. Luke stated he will send a reminder to get the fine paid and submit the probation plan soon. The Board will meet with him September 22, 2015 as long as the pharmacy stays in compliance with the stipulation. **Cache Valley Community Health Pharmacy is in compliance with their stipulation.**

#3. Bear Lake Community Health Care #4. Pharmacy/Richard Ballam, PIC, telephone probation interview

Mr. Richard Ballam met with the Board for the Bear Lake Community Health Care Pharmacy. Mr. Jones conducted the interview via telephone. Mr. Ballam stated that things are going well. The Board advised Mr. Ballam that revisions to his probation plan were received and accepted by the Board. The Board will meet with him September 22, 2015 as long as the pharmacy stays in compliance with their stipulation. **Bear Lake Community Health Center Pharmacy is in compliance with their stipulation.**

#5. Samuel Stucki, public reprimand

Mr. Stucki met with the Board. Mr. Young conducted the interview. Mr. Stucki stated that he received a public reprimand when he was a pharmacist working for Walmart. He stated that Walmart installed a new computer system that he claimed was not working very well. He reviewed the many violations listed in his stipulation and order including dispensing a name brand drug to a family member and directing a pharmacy staff to enter the NDC number of Lansopr/AMOX, the generic equivalent to Prevpac into the pharmacy's computer system. He dispensed the brand name drug Lidoderm to a customer, however, directed pharmacy staff to enter the NDC number of Lidocaine, the generic equivalent of Lidoderm into the pharmacy's computer. He dispensed approximately 30 Benazepril to a patient that did not possess a valid prescription for Benazepril. He labeled the bottle with the label of the patient's previous prescription. He did not enter the dispensed medication in the pharmacy's computer and did not require payment for the Benazepril. The Board reviewed his practice plan and noted that he addressed the issues in the reprimand and it was very detailed. Mr. Stucki advised the Board that he is opening his

own family pharmacy. He will be the PIC. The Division placed his pharmacy license, Stucki Family Pharmacy, on probation for two years with conditions and restrictions. The Board wants to meet with Mr. Stucki after his pharmacy is opened. The Board noted that a telephone interview will be okay.

#6. Superior Care Pharmacy dba:
Omnicare/Brian Wood-PIC/Jerry Berndt

Mr. Jerry Berndt, regional compliance officer for Omnicare and Brian Wood, PIC for Superior Care Pharmacy met with the Board. Ms. Bird conducted the interview. Mr. Wood is the new PIC for the pharmacy. Mr. Wood reviewed the multiple violations that placed the pharmacy license on probation. Mr. Wood advised the Board that he has cleaned out old medication and has put policies in place to continue keeping this practice. He has retrained the staff and will continue with ongoing training and spot checking. Currently there are about six or seven pharmacists and about 20 to 30 technicians. The Board reviewed his written response to the violations. The Board asked to see Mr. Wood again on September 22, 2015 as long as the pharmacy stays in compliance with their stipulation, a telephone interview will be okay. **Superior Care Pharmacy dba: Omnicare is in compliance with their stipulation.**

NEXT SCHEDULED MEETING:

October 28, 2014

2014 Board Meetings:

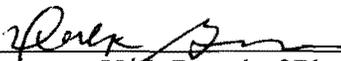
2014 Board meetings tentatively scheduled:
October 28, November 18 (changed from 25),
December 16 (changed from 23).

ADJOURN:

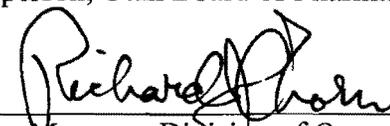
Motion to adjourn at 1:43 P.M.

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.

10/28/14
Date Approved

(ss) 
Chairperson, Utah Board of Pharmacy

10/28/14
Date Approved

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