

**MINUTES
UTAH
BOARD OF PHARMACY
MEETING**

November 18, 2014

**Heber M. Wells Bldg.
Room 210, 2nd Floor – 8:30 A.M.
Salt Lake City, UT 84114**

CONVENED: 8:33 A.M.

ADJOURNED: 3:37 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, Div. Enforcement Counsel
Dan Briggs, Investigation Supervisor
Lynn Hooper, DOPL Investigator
Sharilee McIntyre, DOPL Investigator
Travis Drebing, Pharmacy Investigator

Guests:

Greg Jensen, Target
Michael Jensen, Intermountain
Isabel Pande, IHC
Donelle Perez
Jessica Patton
Glade Baldwin
Bryce Sanders
Jaime Peterson, Walgreens
Robert Smith
John Wendt, Omnicare
Brian Wood, Omnicare
Adam Jones, UPhA
Paige Patterick, Smiths
Linda Sandberg, AFT
Matt Barton, Roseman
Neil Nebughr, Utah Cancer Specialists
Jared Memmott, MCP

David Cheney, Associated Food Stores
Bill Stilling
Jed Mile, Intermountain
Tim Drake, Intermountain
Kate Bradshaw
Lynnette Wingert, DEA

ADMINISTRATIVE BUSINESS:

Minutes

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

Connie Call, compliance report

At 8:37 Dr. Lundberg made a motion to close the Board meeting to discuss the character, professional competence, or physical or mental health of an individual. A recording was not made. There were no written notes. The motion was seconded by Mr. Jones and carried unanimously. The Board meeting opened at 9:42 A.M.

The Board reviewed the letter Ms. Keller sent the Board. Ms. Keller is requesting a change in her supervision. Dr. Lundberg made a motion to approve Ms. Keller's request, pending verification of her previous compliance with drug screens. The motion was seconded by Ms. Kemper and carried unanimously. Ms. Call later noted that Ms. Keller's UAs have been negative and she has not missed calling in to Affinity.

APPOINTMENTS:

Skyline Pharmacy/David Blackham, probation interview

Mr. Blackham met with the Board for the Skyline Pharmacy probation interview. Ms. Bird conducted the interview. Mr. Blackham reviewed a letter he submitted to the Board requesting early termination of his probation. Mr. Blackham stated he wanted to meet with the Board because he received a citation in September. He wanted to explain how the violations happened. Mr. Blackham reviewed the violations that he was charged with. The Board advised Mr. Blackham that this is not the first time Skyline Pharmacy failed its inspection. The Board expressed concern that this is a continuing pattern because the charges are the same as the ones that placed the pharmacy on probation. The Board advised Mr.

Blackham that he will need to correct these items to stay in compliance. He needs to establish a schedule with his technicians to dust the shelves and check the dates of the medications more frequently. Mr. Jones made a motion to deny Mr. Blackham's request for early termination of Skyline Pharmacy's probation because the pharmacy was just issued a citation. The motion was seconded by Ms. Bird and carried unanimously. The Board will meet with Mr. Blackham at a time to be determined. **Due to the violations noted during the inspection, Skyline Pharmacy is not in compliance with the terms of their probation.**

Kyle Rootsart, probation interview

Mr. Rootsart met with the Board for his probation interview. Mr. Garn conducted the interview via telephone. Mr. Rootsart advised the Board that he has been offered a job as a consulting pharmacist. The company is located on the east coast. He will work about 20 to 25 hours a week. He will continue to live in California and work out of his home. He will help establish health programs, i.e., diabetes, weight control, immunizations, etc. His supervisor will be licensed in Georgia. They will work closely together online, via telephone and Skype. The Board expressed no concern regarding Mr. Rootsart's new consulting position. The Board reminded Mr. Rootsart that he needs to have his supervisor sign the licensee stipulation and information form and submit supervisor reports to the Board. He needs to submit these to Ms. Call. He also needs to submit a new practice plan. The Board encouraged Mr. Rootsart to continue moving in the direction he is moving. Mr. Rootsart advised the Board that the California Board will be placing his California license on probation because his Utah license is on probation. The Board asked to meet with Mr. Rootsart in November 2015 as long as he continues to be in compliance with his stipulation. **Mr. Rootsart is in compliance with this stipulation.**

Stucki Family Pharmacy/Samuel Stucki,
telephonic probation interview

Mr. Stucki met with the Board for the Stucki Family Pharmacy probation interview. Mr. Jones conducted the interview via telephone. Mr. Stucki stated things are going okay except the new pharmacy is struggling. It has been open for five or six weeks. The Board

noted that the Stucki Family Pharmacy's license is on probation for two years. Mr. Stucki proposed Mr. Lamond Langston for his supervisor. The Board expressed concern that Mr. Langston's resume did not show employment in pharmacy related jobs since 2003, and that Mr. Langston was Mr. Stucki's employee. The Board requested Mr. Stucki find a different supervisor with more current pharmacy experience and one that he does not employ. Mr. Stucki stated that the pharmacy passed its first inspection. The Board advised Mr. Stucki that he needs to submit a new practice plan. The Board advised Mr. Stucki that he needs to submit his new proposed supervisor's resume by December 19, 2014 for the Board's review. The supervisor reports need to be submitted monthly at this time. After six months, the Board may consider changing this. The Board will meet with Mr. Stucki in November 2015 as long as the pharmacy stays in compliance with the stipulation or after an inspection if there is an issue with the inspection. **Stucki Family Pharmacy is in compliance with the stipulation.**

Roy Wiengar's Pharmacy/Ali Ghazvini,
probation interview

Mr. Ghazvini met with the Board for the Roy Winegar's Pharmacy probation interview. Mr. Hoffman conducted the interview. Mr. Ghazvini stated that things are going well. They had a problem with expired medications and changed the policy to assign different technicians to each bay. Mr. Ghazvini stated that they received a citation for outdated medications on the shelf. Mr. Ghazvini stated there were other things not included in the citation they found and have fixed, i.e., dust on the shelves and filing controlled substance logs. Mr. Ghazvini stated that the fine was paid. He gave the Board copies of his supervisor report. The Board noted that his reports have been positive. The Board asked to see Mr. Ghazvini in November 2015 as long as the pharmacy stays in compliance with the stipulation and there are no problems with the inspections. **Roy Winegar's Pharmacy is in compliance with the stipulation.**

Glade Baldwin, probation interview

Mr. Baldwin met with the Board for his probation interview. Mr. Jones conducted the interview. The Board advised Mr. Baldwin that the Board reviewed his essay and feels it was done very well. It includes

requirements for compounding and record keeping. The Board noted that he was given unofficial approval to start compounding at the October Board meeting. Mr. Jones made a motion to officially allow compounding and accept Mr. Baldwin's essay. The motion was seconded by Dr. Lundberg and carried unanimously. The Board advised Mr. Baldwin that the policies and procedures for compounding should be kept readily retrievable. It's best to keep them in either all electronic form or all in hardcopy form. The Board noted that his supervisor reports were received and are positive. Mr. Baldwin stated he paid his fine on October 8, 2014. He resubmitted his practice plan. Mr. Oborn noted that because the change to the practice plan only included correcting some typing errors, the Board does not have to approve a second motion. The Board asked to see Mr. Baldwin January 27, 2015, noting that his report is due Dec. 26, 2014. **Mr. Baldwin is in compliance with this stipulation.**

Parkway Pharmacy/Larry Kearns, probation interview

Mr. Kearns met with the Board for the Parkway Pharmacy probation interview. Mr. Garn conducted the interview. Mr. Kearns introduced Mr. Bryce Sanders as the new PIC for Parkway Pharmacy. Mr. Kearns stated that the pharmacy is owned by the University of Utah and is managed by Mike Kelley. The change in PIC form was submitted to DOPL investigations the first of November. Mr. Kearns advised the Board that he plans to retire at the end of the year, working in the pharmacy part-time. Mr. Kearns advised the Board that the pharmacy recently had an inspection. The shelves were not clean and there was outdated medication on the shelves. These were outdated by one month. They were tagged indicating they were expiring; however, the staff had not pulled them yet. Mr. Kearns stated they have changed their policy. They now mark and pull medications three months out. The Board expressed concern about another failed inspection and what action the Board should recommend to the Division. The Board noted that these issues have gone on for years. Hiring Mr. Sanders as the new PIC is a good step. Mr. Jones made a motion to recommend that DOPL issue a fine and if there are any other problems, then Mr. Kelly will need to meet with the Board. The motion was seconded by Ms. Bird and carried

unanimously. The Board encouraged Mr. Sanders to become very familiar with the stipulation. The Board asked to see Mr. Sanders in November 2015 as long as the pharmacy is in compliance with the stipulation. **Parkway Pharmacy is not in compliance with the stipulation due to violations found during their inspection.**

Robert Smith, Pharmacy Technician, new probation interview

Mr. Smith met with the Board for his probation interview. Dr. Lundberg conducted the interview. Dr. Lundberg reviewed the role of the Board. Mr. Smith advised the Board that in late 2013 he felt he had to work on a sexual addiction problem that he had had for many years. While in therapy, he disclosed that he touched his step daughter's breasts, over her clothes. He was charged with lewdness with a minor. He served some jail time and was placed on probation. He needed to pay fines and do some community service. The court did not require a mental health evaluation. He has been in therapy for over a year and had to register as a sex offender. He will continue with therapy as long as the therapist feels it is necessary. Mr. Smith stated that when he renewed his Utah pharmacy technician license, he failed to disclose the charges and subsequent arrest. The Board noted that his professional license is on probation for three years. Mr. Smith stated that his wife is involved in his treatment and has been very supportive. Mr. Smith advised the Board that he is looking for employment in the field. Mr. Smith gave the Board a copy of his written plan. The Board reviewed Mr. Smith's stipulation and noted that there are not a lot of requirements he needs to meet. He needs to submit a copy of his main therapist report and court documentation to Ms. Call by December 7, 2014. His therapist report is due monthly for the first six months. The Board might consider changing this at a later date. The Board also wants a copy of the previous assessment by his therapist. Mr. Smith stated his therapist is Michael Bowman, LCSW. The Board advised Mr. Smith that he is responsible to make sure his reports are sent to DOPL on time. The Board asked to see Mr. Smith on February 24, 2015. **Mr. Smith is in compliance with his stipulation.**

Cody Beaumont, applicant for license

Mr. Beaumont met with the Board. Mr. Oborn

reinstatement

advised the Board that Mr. Beaumont met with the Board to review his request to reinstate his license. Mr. Beaumont voluntarily surrendered his license to practice as a pharmacist and to dispense controlled substances in June 2008. Mr. Beaumont could not reapply for a license as a pharmacist for a period of five years from the date of the order and certain conditions have been completed. Mr. Beaumont stated that he has been clean and sober for over six years. He attends support groups and turns to his family and friends for support. He was in treatment during and after pharmacy school. He was on probation while he finished his residency. Mr. Beaumont stated that he is completely off court probation and restitution has been paid. He has completed some CEs and knows where to find information when he has questions. The Board expressed concern regarding Mr. Beaumont being out of the profession for so long and suggested he take a refresher course or the NAPLEX exam again. Mr. Beaumont stated he would prefer to retake the NAPLEX exam. The Board expressed concern with Mr. Beaumont having access to controlled substances. The Board would like Mr. Beaumont to obtain a current mental health and substance abuse evaluation and submit the therapist's recommendation to the Board. The Board will review the therapist report before making a recommendation to the Division. The Board wants Mr. Beaumont to complete the evaluation before retaking the NAPLEX exam and submitting an application. The Board wants a letter from his probation officer regarding how he did on probation. Mr. Oborn will provide Mr. Beaumont a list of evaluators that the Division has used in the past.

Not on the agenda:

Mr. Oborn advised the Board that Mr. Garn is attending the NABP conference in December. Mr. Garn will report to the Board at the December 2014 Board meeting information from the NABP conference.

Out of order:

Mr. Briggs reviewed the Pharmacy Investigation Report for October 2014. Mr. Briggs noted there were three administrative filings, 13 letters of concern, 89 cases received and assigned and issued eight citations

DISCUSSION ITEMS:

1. Investigation report

issued. Mr. Briggs invited members to contact him with any questions. Mr. Hooper stated there have been problems with the annual inventories. Investigations has developed a coversheet they give the PICs. A lot of PICs are still not sure what is needed. The Board reviewed the cover sheet and recommended it be added to the pharmacy section of the DOPL website. The Board inquired about the criteria DOPL investigators use regarding when citations and or fines are issued. Mr. Briggs advised the Board that the investigators review the information and come to a consensus within the group before action is taken.

2. Compounding Task Force report

Mr. Hoffman advised the Board that the Task Force had a meeting earlier this morning and they are still concerned with the "for office use" statute. They would like to see federal legislation amend this statute. The committee contacted Representative Stewart's office. The Task Force will develop a letter for the Board to review and approve.

3. Proposal for new method of reporting information to CSD - Tim Drake, PharmD.

Mr. Drake met with the Board regarding with a proposal for real-time reporting to the Utah Controlled Substance Database. Pharmacies would submit prescription data at the time of dispensing using NCPDP script to a third party database. The third party database would organize the data and submit it to the Utah Controlled Substance Database. Mr. Drake proposes the Board try a two to four month pilot program. The majority of the cost would be paid for by the pharmacies on a cost per claim basis. The Board advised Mr. Drake that this has been reviewed at many previous Board meetings and the process is in place. The Board expressed concern regarding the cost to the pharmacies. Under the proposal discussed by Mr. Drake, the majority of the cost would be paid for by the pharmacies on a cost per claim basis. At this time, the Board does not want to recommend these changes.

4. Upcoming Nov. 30 deadline for pharmacies to comply with USP-17 Prescription Container Labeling Standards

The Board reviewed USP-17 Prescription Container Labeling Standards. Pharmacies raised concerns regarding how to interpret USP-17. The Board noted that some of the language used is subjective and unclear. This rule would likely be difficult to enforce.

Mr. Jones made a motion to remove R156-17b-502(24) from the definition of unprofessional conduct. The motion was seconded by Dr. Lundberg and carried unanimously.

Mr. Oborn stated he will review this with the Division Director. If approved, Mr. Oborn will remove the USP 17 standard from R156-17b-502 (24) in the next rule filing. Mr. Oborn stated the Division will alert pharmacies that the Division will not enforce USP-17.

5. Physician dispensing rule amendments

Mr. Oborn reviewed a rough draft of proposed amendments to R156-17b. The definition of a DMP has been clarified to allow a DMP to authorize a pharmacy technician to be a DMP designee. Other changes to the rough draft include the addition of Section 622 that sets standards for dispensing training that DMP designees must complete. The DMP designee must keep documentation of their training.

The Board reviewed the definition of prepackaging and R156-17b-614a (b), Operating Standards, Class A and B. The Board recommended the language be amended to clarify that if there is a transfer of medications from one package to another, a separate sink is required. Ms. Bird made a motion to accept the proposal with noted changes in 614a (1)(b). The motion was seconded by Dr. Lundberg and carried unanimously.

6. Other rule amendments

Out of order on the agenda:

Board reviewed a rough draft of proposed amendments to R156-37f. This rule amendment includes a definition of the term "positive identification." The Board feels this language has a good balance. Dr. Lundberg made a motion to approve the amended language. The motion was seconded by Mr. Hoffman and carried unanimously. Mr. Oborn indicated that once this amendment to the Controlled Substance Database Act Rule is adopted, pharmacies will be notified about it in the Board of Pharmacy Newsletter.

Mr. Oborn reviewed a rough draft of proposed amendments to R156-37 with the Board. Mr. Oborn noted this draft reflects amendments already approved

by the Board and new amendments that are necessary but not yet approved by the Board. Mr. Oborn noted that some changes involve renumbering. Ms. Bird made a motion to accept the proposed changes to the Controlled Substances Act Rule. The motion was seconded by Mr. Jones and carried unanimously.

NEXT SCHEDULED MEETING:

December 16, 2014

2015 Board Meetings:

2015 Board Meetings Tentatively Scheduled

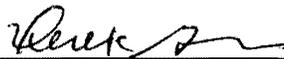
January 27, February 24, March 24, April 28, May 26, June 23, July 28, August 25, September 22, October 27, November 24, December 22

ADJOURN:

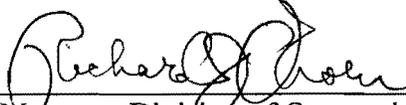
Motion to adjourn at 3:37 P.M.

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.

12/16/14
Date Approved

(ss) 
Chairperson, Utah Board of Pharmacy

12/16/14
Date Approved

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