

## MINUTES

### UTAH BOARD OF PHARMACY MEETING

October 22, 2013

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

**CONVENED:** 8:34 A.M.

**ADJOURNED:** 3:00 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:**

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

**Guests:**

Roger Fitzpatrick, Midtown Pharmacy  
Brad Winter, student  
Alisyn Hansen, student  
Jay Stuman, Baxter Healthcare  
John Wendt, Medquest Pharmacy  
Greg Jensen, Target  
Jeb Blackham, U of U  
Matt Bruce, student  
Russell Scow, student  
Jamie Peterson, Walgreens  
Kate Bradshaw, Utah Retail Merchants Assn.  
Jeanne Brennan  
Jacob Corsi, Silverlining  
Doug Murdock, EMS  
David Nay, Express Scripts

Adam Jones, UPhA  
Betty Yamashita, IHC  
Kavish Choudhary, U of U Hospital Pharmacy  
Charles Holms, student  
Christine Douglas, Baxter Healthcare  
Caroline Heyrend, student  
Jared Memmott, MCP  
Linda Sandberg, Assoc. Food Stores  
Paige Patterick, Smiths  
Zach Judkins, student  
Ben Schwab, student  
Erin Johanson, Roseman University  
David Cheney, Assoc. Food Stores  
Missy Duke, USHP

#### **ADMINISTRATIVE BUSINESS:**

##### **Minutes:**

The Board reviewed the minutes dated September 24, 2013. Dr. Lundberg made a motion to accept the minutes with changes. The motion was seconded by Ms. Kemper and carried unanimously.

#### **DISCUSSION ITEMS:**

##### **#1. Investigative report**

Mr. Furlong reviewed the pharmacy investigation report with the Board. The report includes investigation statistics from January to September 2013. Mr. Furlong noted that the alerts are now being sent to the pharmacies via email. Mr. Furlong advised the Board that Mr. Lynn Hooper attended the NABP training for investigators. Mr. Hooper stated the training included how to investigate sterile compounding, what should be looked at during an inspection, and they tied a lot of information into 797. Mr. Hooper stated he will work with the compounding task force to develop an updated SOP checklist for the pharmacists and investigators. Mr. Oborn will contact NABP to see if they will be providing regional training.

##### **#2. Compounding Task Force report**

Mr. Hoffman stated the committee is in the final updates to the SOP checklist. They hope to have it together by November or December. Mr. Hoffman reviewed R156-17b-614a (3)(f)(ii) with the Board noting that there have been concerns with prescription labels. The current labeling practice to list all ingredients is okay for bulk labels. The concern is regarding the information given to the patient. Mr.

Hoffman noted that the task force is recommending the wording be changed to “active” ingredients only for the labels going to the patient. Mr. Hoffman made a motion to change the language to “active ingredients” for medication going to the patient. The motion was seconded by Ms. Bird and carried unanimously.

Mr. Hoffman stated the task for committee is trying to get information out to everyone in the profession and inquired if minutes from task force meetings could be placed on the DOPL website. Mr. Oborn will consult with Mr. Steinagel.

#3. Update regarding proposed rule amendments approved at previous Board meeting

Mr. Oborn reviewed the draft of the proposed rule amendments that were approved at previous Board meetings. Mr. Oborn stated the draft is being reviewed at the department level and is expected to be approved soon. He hopes to have the rule hearing at the November Board meeting.

#4. Discussion regarding opening of new pharmacy in Utah for distribution of Baxter dialysis solutions to home patients

Representatives Jay Stuman and Christine Douglas from Baxter Dialysis Solutions met with the Board to discuss their plans to open a distribution center in Utah. Baxter Dialysis Solutions specialize in the treatment of life threatening diseases, i.e. kidney disease, immune disorders, infectious disease and chronic and acute medical conditions. They distribute medical devices and pharmaceuticals. They are requesting a pharmacy license for a closed door pharmacy located within the distribution warehouse of Cardinal Healthcare. They have a national contract with Cardinal Healthcare for distribution of Baxter products. The product stays sealed from the time it is manufactured until it is delivered to the home patient. There is no compounding at these pharmacies. The packages come in boxes and the patient keeps a months supply. The driver delivers the supply and rotates stock and works with the patient. The pharmacist is on call 24 hours a day and will verify everything that goes to the patient is correct. Labels are generated at the warehouse at the time the product/order number is being set up. The label includes the patient name, address, physician name, address and the order number. The label contains an order number, not the prescription number. There is a

toll free number for the patient to call. Mr. Stuman stated the warehouse has strict security and they do not share employees with Cardinal Healthcare. The Board reviewed the definition of pharmacies and expressed concern the prescription number is not on the label. The Board indicated they need to obtain a Class B closed door pharmacy license. Mr. Oborn will contact them later to confirm the license type for which they should apply.

#5. Proposal to amend statute to allow for Class A retail pharmacies to dispense meds to be stored at tribal clinics or Indian reservations

Mr. Young advised the Board that a concern has been raised regarding a pharmacy that is subcontracted to provide medications to patients living on an Indian reservation. The patient goes to a clinic on the reservation and then needs to drive from the reservation in Richfield to the pharmacy located in Cedar City for their prescriptions. There is a question about whether, under the current law, someone from the reservation clinic could pick up the medications and store them for the patient to pick up. There is a concern with the pharmacy releasing the medication to an individual who is not the patient or family member. After reviewing the statutes and rule, Mr. Walker noted the easiest way to resolve this would be for the pharmacy to hire an employee to take the medications to the clinic on the reservation. This would not require a statute or rule change.

#6. Consideration of approval of Birch Family Pharmacy technician on-the-job training program

Ms. Bird made a motion to approve the Birch Family Pharmacy in Grantsville. The motion was seconded by Dr. Lundberg and carried unanimously. The Board will continue reviewing and approving the technician training programs until March 2014.

#7. Proposal to clarify patient counseling standards in R156-17b-610 (3) and (5)

Mr. Oborn reviewed the proposal to clarify patient counseling standards R156-17b-610 (3) and (5). The rule needs to clarify language in subsections (3) and (5) because they are confusing. Mr. Walker noted that the Board may want to review the statute for legislative changes before changing the rule. Mr. Young will obtain the information from other states regarding counseling standards. The Board will review this at the November Board meeting.

#8. Other proposed rule amendments

Mr. Young will draft an amendment to Utah Admin. Code R156-17b-606 to adjust the ratio of preceptors to

interns for community service events. Mr. Young will submit the language for Board approval at the next meeting.

#### APPOINTMENTS:

Dr. Lundberg made a motion to close the Board meeting at 11:27 A.M. to discuss the character, professional competence or physical or mental health of an individual. The motion was seconded by Ms. Bird. A recording was not made. There were no written notes. The Board meeting opened at 12:00 P.M.

#### Connie Call, compliance report

#### QUARTERLY PROBATIONERS BEING SEEN:

**1. Kirtland Wray 2012-413:** All drug screens were prescription positive. Received all required paperwork. CSD is okay as he has submitted copies of all prescriptions filled this past quarter. Mr. Wray is requesting the Board amend his Order to terminate his requirement of drug screens. Copies of his request are in the packet. *Compliant*

**2. Kyle Rootsart 2012-219:** Telephonic interview. Not required to submit drug screens. He submitted his self-assessment but no employer or supervisor report due October 1, 2013. *Non-Compliant*

**3. Scott Williams 2012-296:** Drug screens not required. Received self-assessment and employer report. *Compliant*

**4. Sheryl Ledet 2005-250:** Drug screens were negative. Received all of her paperwork due October 1, 2013. She is non-compliant because she failed to submit a copy of her prescription filled on 9/25/13. *Non-Compliant*

**5. Skyline Pharmacy 2013-128:** Telephonic interview. Nothing is due at this time but we do need to see if they had their six month inspection. If they have not had a six month inspection I have talked to Mr. Hooper about scheduling one in the near future. *Compliant*

**6. Parkway Pharmacy 2013-108:** Nothing due at this time. The Board needs to ask if they have had their semi-annual inspection. If not, compliance staff has notified investigations they need to complete one. *Compliant*

#### QUARTERLY PROBATIONERS NOT BEING SEEN:

**1. Andrea Lowry 2006-03:** All drug screens were prescription positive. She submitted her employer report and self-assessment with her self-reflection letter. CSD is okay as she has submitted all of her prescriptions filled in the past quarter. *Compliant*

2. **College Pharmacy 2011-410:** Mr. Gillick submitted his report due October 1, 2013. *Compliant*

3. **Cynthia Asher 2011-292:** Compliance attempted to reach Ms. Asher by telephone to find out what her plans are going forward but she has not returned the call.

4. **Danny Carter 2011-127:** Drug screens are negative. He submitted all required paperwork. CSD is okay as he did not fill any scripts this past quarter. Need to review his new Practice Plan for approval. *Compliant*

5. **David Abrams 2011-164:** Drug screens are not required. He submitted his supervisor/employer report but not a self-assessment. The Division has agreed to terminate his probation effective October 31, 2013.

6. **Layne Kilpatrick 2011-183:** Drug screens are not required. He submitted his supervisor report, employer report, and self-assessment. *Compliant*

Mr. Garn made a motion to accept the practice plan for Mr. Carter. The motion was seconded by Ms. Kemper and carried unanimously.

Kirkland Wray, probation interview

Mr. Wray met with the Board. Ms. Kemper conducted the interview. Mr. Wray stated that he continues working in the profession and things are going well. The Board noted his reports are positive. The Board received both letters requesting early termination of his probation and his request to terminate the drug testing requirement. Mr. Wray was advised that the Board wants to continue with the drug testing because he has been on probation only a year and this is the only way the Board has to determine he is in compliance with his stipulation. The Board noted that his probation term is September 2012 to September 2017. The Board advised Mr. Wray that if he would like to request early termination of his probation, the letter from his supervisor supporting his request should be current. The Board advised Mr. Wray that in the past the Board has not released anyone from probation until they have completed at least half of the probation time. Ms. Kemper made a motion to deny Mr. Wray's request for no longer being required to do alcohol and drug testing. The motion was seconded by Ms. Bird and carried unanimously. The Board asked to see Mr. Wray on January 28, 2014. **Mr. Wray is in compliance with his stipulation.**

Kyle Rootsart, probation interview

Mr. Rootsart's interview was held via telephone. Mr. Garn conducted the interview. Mr. Rootsart advised the Board that he just started working 40 hours a week and things are going well. The Board advised Mr. Rootsart that his employer and supervisor reports since last December have not been received on time. The Board is discussing issuing a fine due to his non-compliance. Mr. Rootsart stated he will get with his supervisor and employer and make sure these are submitted on time. The Board advised Mr. Rootsart that if the Board gives him a pass on the fine this time, he will be fined \$500 the next time he is out of compliance. Mr. Rootsart stated he understands and will check with his supervisor when he submits his self-awareness report to ensure these are submitted on time. The Board encouraged him to contact Ms. Call with any questions. **Mr. Rootsart is not in compliance because the Board has not received his employer reports in time.** The Board asked to see Mr. Rootsart on January 28, 2014.

Scott Williams, probation interview

Mr. Williams met with the Board. Mr. Jones conducted the interview. Mr. Williams stated that things have been going well. He works part-time at Davis Jubilee. He works at least one day a month, filling in for other employees who are taking the day off or on vacation. Mr. Williams stated he has been reading and doing CEs. He enjoys working with this supervisor. His supervisor is very organized and taught Mr. Williams to keep the work done daily and not let it stack up. The Board noted that the self assessment report indicates he is learning to be consistent with the state laws. The Board asked to see Mr. Williams on January 28, 2014. **Mr. Williams is in compliance with his stipulation.**

Sheryl Ledet, probation interview

Ms. Ledet met with the Board. Dr. Lundberg conducted the interview. Ms. Ledet stated she is well. She is feeling more secure with herself and more capable of being independent. Her supervisor is more positive and she has taken on additional responsibilities. The Board noted that her employer reports are positive. The Board advised Ms. Ledet that she is missing a prescription from September. Because she obtained the hair follicle test and the test

indicates the Division has a prescription for the medications she is taking, she is not out of compliance at this time. The Board advised Ms. Ledet that her probation is scheduled to end December 2014 and advised her that if she would like to request the Board consider early termination of her probation, she would need to submit a letter requesting early termination. She would need to include why she is requesting early termination of her probation and what she has learned in this process. She would need to have her supervisor submit a letter supporting early termination of her probation. The Board asked to see Ms. Ledet on January 28, 2014. **Ms. Ledet is in compliance with her stipulation.**

Skyline Pharmacy/David Blackham,  
probation interview

Mr. Blackham's interview was conducted via telephone. Ms. Bird conducted the interview. Mr. Blackham stated his inspection went well. He is not doing compounding at this time; however, he plans to attend the compounding meeting in Florida for the additional training required by the Board. Mr. Blackham stated that once he has his standard operating procedures lined up he would like to start compounding again. He wants to meet with the Board in January to present his plan to be in compliance with 795 and the formal training he received. The Board encouraged him to submit his request to meet with the Board and his plan early in January. The Board would like time to review it before the meeting on January 28. Mr. Blackham stated he is not compounding at this time and that he continues to refer customers. Mr. Blackham requested information regarding early termination of his probation. The Board suggested that he take the following steps in order to be in a position later on to request early termination: (1) continue to be compliant with his Order; (2) draft and submit to the Board standard operating procedures for compounding at his pharmacy; (3) complete at least half of his probation term; and (4) submit a written request for early termination. The Board asked to see Mr. Blackham on January 28, 2014. **Mr. Blackham is in compliance with his stipulation.**

Parkway Pharmacy/Larry Kearns, probation  
interview

Mr. Kearns met with the Board. Mr. Garn conducted the interview. Mr. Kearns stated he feels things are going well. He had an inspection last week and there

were a few questions to resolve. Mr. Kearns stated he was not there for the inspection. Had he been there, he felt he could have resolved the questions. Mr. Kearns noted that the backdoor is locked at all times. Everything goes through the front counter. The investigator noted a freezer located in a back room and said this room is being used as a break room. Mr. Kearns stated the freezer is always locked and only medications are kept in the freezer. Mr. Kearns noted that occasionally a pharmacist may go back there to have lunch; however, it is not an established break room. They could not find the annual controlled substance inventory. Mr. Kearns stated he faxed the copy to the Division and put them inside the binder. The Board asked to see Mr. Kearns on April 22, 2014. **Mr. Kearns is in compliance with his stipulation.**

The Board discussed the creation of a newsletter from the Utah Board of Pharmacy and inquired if funding could come from the education and enforcement fund. Mr. Oborn will review the request with Mr. Steinagel and report back to the Board.

**NEXT SCHEDULED MEETING:**

**2013 Board Meetings:**

**2013 Board meetings**

November 19, December 17

**2014 Board meetings tentatively scheduled:**

January 28, February 25, March 25, April 22, May 27, June 24, July 22, August 26, September 23, October 28, November 14, December 16. 18

**ADJOURN:**

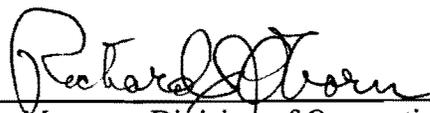
Motion to adjourn at 3:00 P.M.

*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.*

11-19-13  
Date Approved

(ss)   
Chairperson, Utah Board of Pharmacy

11/19/13  
Date Approved

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