

MINUTES

**UTAH
BOARD OF PHARMACY
MEETING**

July 31, 2007

**ROOM 474– 9:00 A.M.
Heber Wells Building
Salt Lake City, UT 84111**

CONVENED: 9:00 a.m.

ADJOURNED: 5:07

**Bureau Manager:
Board Secretary:**

Diana Baker, Bureau Manager
Penny Vogeler, Board Secretary

Board Members Present:

Roger Fitzpatrick
Betty Yamashita
Dominic DeRose
Derek Garn
Edgar Cortes

Board Members Absent:

Marty Val Hill, Public Member

Guests:

DOPL Staff Present:

F. David Stanley, Division Director
Diana Baker, Bureau Manager
Penny Vogeler, Board Secretary
Sandras Hess, DOPL Investigator
Jered Memmott, DOPL Investigator

TOPICS FOR DISCUSSION

Sandra Hess, DOPL Investigator

DECISIONS AND RECOMMENDATIONS

Ms. Hess presented the pharmacy related statistics for investigation activity. This is information from July 2006 to July 2007. She stresses that more licenses are being issued each year and therefore the amount of complaints could possibly increase. This information is also sent into NABP to be compared with other states.

**ADMINISTRATIVE BUSINESS:
MINUTES:**

The minutes from the 06/26/2007 meeting were not approved due to the fact that there is no quorum present at this time.

Swearing in of new Board member:

Ms. Baker swore in Mr. Derek Garn as a new member of the Utah Board of Pharmacy. The Board welcomed Mr. Garn to the Board. Mr. Fitzpatrick assigned Dominic DeRose as a mentor for Mr. Garn and Ms. Yamashita as a mentor for Dr. David Young who will be sworn in next month.

Connie Call, Probation Coordinator:

Probation report was given by Ms. Call and all quarterly probationers were in compliance. All but one of the monthly probationers were also in compliance.

PROBATION INTERVIEWS:
LSJ Pharmacy

Joseph Johnson of LSJ Pharmacy attended the meeting and stated he wanted to attend in person rather than a phone interview because he was recently inspected and had outdated drugs on his shelves. The employee who was assigned to take care of the outdated drugs was on maternity leave and Mr. Johnson had not assigned anyone else to take over for her. At the present time his wife, a pharmacy technician, is now handling the outdated drugs. He has a reversed distributor come in every three months to discard these. He discussed the cleanliness of the pharmacy and is making changes that needed to be improved. Mr. Johnson expressed how he appreciates the inspections and stated they have made his pharmacy better. He has two licensed technicians and three pending licensure, and had questions about how he handles his scheduling with his technicians. It appears Mr. Johnson is in compliance with the law as far as ratio. He is using the Foundations systems and would like to see the expiration date have to be entered. It was suggested he call Foundations with this suggestion.

Mr. Cortes joined the meeting and there is now a quorum present.

Layne Kilpatrick

Mr. Fitzpatrick interviewed Mr. Kilpatrick. He was accompanied by his attorney and his wife. He asked the Board for termination of his probation. He feels he has completed the terms and conditions of his Order and is prepared to work independently and within the framework of the law. All criminal charges in California were either expunged, vacated or set aside. He stated he wants to move on with profession. His

attorney expressed his reason for being here at this time was solely for support reasons. Mr. Kilpatrick plans are to own his own business. He was asked what words of advice he would pass on to others. He feels pharmacists are at risk with the everyday challenges. He felt support from regulatory agencies rather than cold hard enforcement is more productive. A motion was made to terminate the Stipulation and Order. Motion carried. Mr. Cortes abstained.

William Roberts

Mr. Roberts was interviewed by Mr. Fitzpatrick. He is working at the U of U as pharmacist consultant in the IT Dept. His life has been very busy with the recent marriage of two of his children. He discussed the advantages to not being in the pharmacy, but does miss working there at times. He enjoys what he is doing and feels he is still staying in touch with the practice of pharmacy. He is **in compliance** with the terms of his Order.

Mary Jo Cates

Ms. Cates was interviewed by Ms. Yamashita. She has completed her out patient treatment, and is still seeking employment. Ms. Cates stated she has a few leads with IHC for the future. All reports have been submitted. She is **in compliance** with the terms of her Order. She feels she has had to make a few adjustments in her life dealing with recent losses in her life. Ms. Cates asked the Board if they ever allow early release of probation. Ms. Yamashita stated they look at each case individually but also have a standard by which they follow.

Andrea Lowry

Mr. Cortes conducted the interview. Ms. Lowery stated everything is going fine. Stated she would like to return to work but is planning to stay at home for a while. It was suggested that she go to annual visits. Ms. Lowry was in favor of this change. A motion was made and seconded to change her Stipulation to require annual visits.

Jessica Nielson

No Show. A motion was made and seconded to do an Order To Show Cause. Motion carried.

Cody Beaumont

Ms Yamashita conducted the interview with Mr. Beaumont. He has been working at Beaver Valley Hospital as a phlebotomist. Mr. Beaumont is starting new five year probation as of 7/5/2007. He has been offered a position at Walgreens in Orem. He will be working 40 hours a week eight hour days and will be working the overlapping schedule with

another pharmacist. Mr. Beaumont was asked to submit a statement addressing the fact that Walgreens has seen and agrees to supervision as stated in his Order. He was also asked to submit what he is going to do to monitor controlled substance inventory and submit with his quarterly reports. Mr. Beaumont stressed that he feels very lucky to have this position offered to him. He was asked to email his practice plan to Ms. Baker and if it looks to be in place the Board is in favor of his license being issued. He turned in CE certificates and they were placed in his file. Mr. Beaumont will also bring the practice plan to the meeting in August.

EDUCATIONAL INTERVIEW:
Letter of Concern
Miguel Bejarano, Pharmacist
Firoozeh Patel, Pharmacist in charge

Ms. Hess introduced Ms. Brittany Butsch, DOPL investigator, and she explained to the Board that the letter of concern for Mr. Bejarano was in regards to a complaint from a patient after receiving the wrong medication. The Division invited both the Mr. Bejarano and his pharmacist-in-charge to the Board for an educational interview. Mr. Bejarano and Ms. Patel were interviewed by Mr. Fitzpatrick. The medication error involved two different dosages of the same medication being placed in the same bottle. The system Wal-Mart uses does not allow for them to scan more than one bottle per prescription. A change was made to require the pharmacist checking the medication must review both bottles from which the prescription was filled. Mr. Fitzpatrick complimented them on the way they handled the problem once it occurred but also stressed the seriousness of medication errors.

Ms. Patel also revealed that the pharmacy was out of ratio when the investigator visited the store. They had a four to one ratio during a period of overlap of shifts. They are aware that this is against policy and stated she was intending to send one of them home but had failed to do so.

Charles Humphreys

Mr. Humphreys was interviewed by Mr. Cortes. Mr. Humphreys was the Pharmacist-in-charge at Rock Canyon Pharmacy during a time when the pharmacy was filling from prescriptions that were generated as part of an Internet site. It was discovered that this Internet site did not have the appropriate Consent Agreement with the Division and no bona fide physician-patient relationship existed. He is now working for Target pharmacy, and left Rock Canyon Pharmacy for various reasons including this practice. He stated that Rock Canyon Pharmacy is owned by a pharmacy technician and that he was not consulted about the business with the Internet site. He was issued a public reprimand and is required to complete 6 additional CE which he submitted to the Board. Mr.

Humphreys was concerned about the DOPL news letter and the information relating to himself versus Rock Canyon Pharmacy. Ms. Baker stated this issue has been addressed and a change to the news letter will be re addressed in the August news letter.

Diann Millikan

Betty Yamashita conducted the interview. She stated she had taken her cousin's medication thinking it was Phenergan and it was actually MS Contin. She stated she realized she had taken the wrong medication and tried to make herself vomit, but was unable to do so. She tested positive for morphine on one of drug screens, but was not able to explain this to the Division for several weeks. Ms Yamshita stated she is worried about Ms. Millikan's judgment since as a pharmacist she must know that it is inappropriate to take someone else's medication.

From last month's meeting, Ms. Millikan was required to submit statements from her doctor, Lee Smith, regarding her prescribed medications and how often she is supposed to be taking them. It was noted that she was prescribed Fiorecet but this has not been seen on her database. She stated this medication could have been filled as long ago as one to two years ago. Additionally, the Board had received a letter from her APRN but she was told to see Dr. Smith. Ms. Baker mentioned that she needs to be honest with her provider and with the Board about taking the medications she is prescribed. Ms Millikan stated that she is concerned about having to take so many medications. Ms. Baker explained that the Board is not going to take further action against her license if she is taking medications that are legally prescribed, if this is what is required at this time to help her get her life back together. Ms. Millikan is thinking about going back into a rehab program again. The Board supported her decision to do that, if she thinks she would benefit from the program again, but they also suggested that she see her therapist more frequently and followed the prescribed medication orders. She was instructed to make an appointment to actually see Dr. Smith and not just the APRN for any need for adjustment in medication. She will be invited in again next month.

Kory Biddle

Ms. Biddle was interviewed by Ms. Yamashita. She had submitted an application for a pharmacy technician license and was to discuss the yes answers on the application regarding her past criminal actions. She stated she has learned from this experience and stated she was young and living alone. She now wants to complete her technician program and eventually go to pharmacy school. She stated she has completed everything required of her and knows that she would enjoy the

job. Ms. Biddle was asked what her license would allow her to do in a pharmacy. She did very well with her answers and had good grades throughout her schooling. A motion was made and seconded to approve the application for Ms. Biddle. She has been working beyond the time allowed without a license so she will be cited her for unlicensed practice as well as her employer, Harmon's as deemed appropriate by DOPL.

NEW APPLICATION:

Uinta Basin Medical Center:
Formulary: Kenny Stansfield

Mr. Fitzpatrick conducted the interview with Uintah Basin Medical Center. The clinic in Manila, Utah is requesting to function as a branch pharmacy with UBMC as the parent pharmacy. The clinic will be open 40 hours per week and the Physician Assistant will be available after hours for minor emergencies and urgent care. The Board reviewed the formulary. The pharmacist has decided to not have pseudoephedrine products on their formulary. Out dated prescriptions will be removed on a monthly visit by the parent pharmacist and destroyed. An Emergency kit will be available. The group was informed that the PA can do no billing.

A motion was made and seconded to approve the application for the branch pharmacy of Uintah Basin Medical Center.
Motion Carried.

**Superior Care Pharmacy
Proposal**

Several staff from Superior Care Pharmacy came before the Board to discuss Bar Code Technology that they want to institute into their pharmacies. They are asking the Board if a technician be able to use a bar code for the final scan. This would apply to sealed packages only. Currently the pharmacist performs the final task function.

Superior Care Pharmacy
Re: Bar Code Technology

Ms. Baker read from the Pharmacy Practice Act 57-17b-102(55)(b)(i) that states: **“Practice as a licensed pharmacy technician does not include” performing a drug utilization review, prescription drug order clarification from a prescribe, final review of the prescription and prescribed drug prepared for dispensing, dispensing of the drug, or counseling a patient with the respect to the prescription drug.** A few other states that have approved this program have a tech-check-tech program but not the Board has never embraced this method.

Mr. Fitzpatrick asked to see the error rate from others states. The final check was an issue and needs a statutory change if this is to be instituted. The Board encouraged Superior Care to meet with Reid Barker or a legislator to determine if they would support this change.

Reid Barker
Tamper proof prescription paper

On October 1, 2007, the CMS will require that all controlled substance prescriptions for Medicare/Medicaid patients need to be written on tamper proof paper. Mr. Barker was asking the Board to write Senator Cannon, Matheson and Cannon to Congress House Resolution 30-90. The Board was truly concerned about this issue going into effect so soon, and would agree that suspending the time frame would be helpful in allowing physicians to obtain tamper proof prescription pads so that pharmacists would not have to turn patients away. Ms. Baker agreed to write a letter to CMS to this response of the Board.

Diana Baker
Definition of Supervision

Mr. David Stanley presented a Memorandum regarding a global definition of "supervision" and is asking all Boards to look at the definition with respect to the pharmacy profession. Ms. Baker asked the Board members to study the definitions as stated in the memorandum and to be prepared to discuss the use of the definitions at the next Board meeting. This information will be presented to the Administrative Rules Review Committee in October and Mr. Stanley would like to have a reply from the Boards in September.

Edgar Cortes

Mr. Cortes submitted a handout concerning pharmacy technicians for the Board members to respond to at the September meeting.

Dr. Mark Munger
Ratio's for Interns

Postponed until next month.

8-28-07
Date Approved

(ss) Roger Fitzpatrick
Chairperson, Utah Board of Pharmacy

8-28-07
Date Approved

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