

**MINUTES**

**UTAH  
PHARMACY BOARD**

**January 22, 2008**

**Room 475 – 4<sup>th</sup> Floor –9:00 A.M.  
Heber Wells Building  
Salt Lake City, UT 84111**

**CONVENED: 9:10**

**ADJOURNED: 3:53**

**Bureau Manager:  
Secretary:  
Division Director:  
Division Staff:**

Diana Baker  
Shirlene Kimball  
F. David Stanley  
Connie Call, Discipline Specialist  
Kent Barnes, Division Sr. Business Analyst

**Conducting:**

Roger Fitzpatrick, RPh

**Board Members Present:**

Roger Fitzpatrick, RPh  
Betty Yamashita, RPh  
Edgar Cortes, Pharmacy Technician  
David Young, PharmD  
Dominic DeRose, RPh  
Marty Hill, Public Member

**Board Members Excused:**

Derek Garn, RPh

**Guests:**

Kenneth Brown, Student  
Greg Jensen, Target Pharmacy  
Mallory Norris, Student  
Paul Martz, Student  
Danita Stead, Wal-Mart Pharmacy  
Kim Bounds  
Shawna Hansen  
Jim Olsen, Utah Foods Association  
Reid Barker, Utah Pharmaceutical Association  
Rich Sykes

**TOPICS FOR DISCUSSION**

**DECISIONS AND RECOMMENDATIONS**

**ADMINISTRATIVE BUSINESS:**

December 18, 2007 Minutes:

Mr. DeRose made a Motion to approve the minutes with corrections. Mr. Hill seconded the Motion. All Board members in favor.

Connie Call, Probation Report:

Ms. Call reported Cody Beaumont, Sheryl Ledet and Hollie Kilburn are out of compliance. Mary Jo Cates will be asking for termination of therapy and a change in meeting dates. Ms. Call reported Thomas Shiozaki surrendered his license since he does not think he will ever practice again. She reported Reid Acord did not sign the surrender document last month as he agreed to do. Mr. Acord will be placed back on the docket for an Order to Show Cause Hearing. Mr. Hill expressed concern that the hearing was canceled prior to having a signed document. Ms. Baker reported Mr. Acord is apparently in Idaho and not working in Utah.

Discussion, Roger Fitzpatrick:

Mr. Fitzpatrick reported on the NABP Item Review meeting he attended in Florida. Mr. Fitzpatrick suggested Mr. Young attend the meeting next year with him to become familiar with the process. Ms. Yamashita stated she attends the Item Writer meetings, but she will be going off the Board in the next several years and another Board member needs to attend to learn the process. Mr. DeRose stated he would be willing to attend.

Sheryl Ledet, probation interview:

Mr. Hill conducted the interview. Ms. Ledet indicated her suspension was terminated in November and her license was placed on probation. She stated she thought she had found a pharmacist position at that time but the offer was withdrawn. She stated she is currently working a non-pharmacist position at Working RX America at the help desk.

Ms. Ledet is out of compliance with the terms and conditions of her Order for failing to submit the required reports and copies of prescriptions. She stated she had faxed the prescriptions and reports she had from work and was not aware the fax did not go through. She stated she feels the non-compliance letter was unfair. She indicated she did not submit the employer report because she had only been on probation for 3 weeks and was working in a non pharmacist position. Ms. Call reminded her that even if she is not employed as a pharmacist, she needs to submit the form by the due date indicating she is not employed as a pharmacist. Ms. Ledet also needs to submit her aftercare report and 12-step meeting attendance cards that are signed. Ms. Ledet stated her

counselor, Brent Duncan, indicated aftercare was no longer necessary and Board members explained she would need to have him submit a letter stating she had completed aftercare. She stated she missed 12-step meetings because her employer does not allow her to leave work early. She also indicated she does not have enough time on her lunch to go for drug screens. Ms. Call informed Ms. Ledet that there is a mobile unit for urine screen collection; however, Ms. Ledet stated she was not interested in using this service. Ms. Ledet reported she started working at Working RX America December 3, 2007. She indicated she has considered changing her days off so she can attend meetings with Nancy Carter. Ms. Ledet stated she does not plan on working at Working RX America for longer than six months. In her current position she does not use her knowledge as a pharmacist, there is no pharmacist on staff, but there is a pharmacy technician. The employees are provided a flow sheet for making decisions when calls come in. Ms. Ledet stated it is frustrating, but it is the only position she can find at this time due to her OIG restriction. Ms. Ledet stated she is overwhelmed and indicated she understands she needs to be employed as a pharmacist in order for her probation to begin. She stated she is trying to meet the requirements of the Stipulation, but it is hard with the job she currently has. Mr. Hill warned her that she is falling behind in her paperwork and is currently **out of compliance with the terms and conditions of her Order**. Mr. Hill suggested Ms. Ledet be invited back next month and she must have her paperwork up to date. She needs to submit the aftercare report, a letter from the therapist indicating aftercare is no longer needed, PIR and 12-step attendance cards signed for two PIR and two 12-step meetings per month and the employer report indicating she is not currently employed as a pharmacist. Ms. Ledet indicated she has been clean for three years.

Cody Beaumont, probation interview:

Ms. Yamashita conducted the interview. Mr. Beaumont stated he has been employed at the K-Mart Pharmacy in St. George since October 1, 2007. He stated he did not bring the correct practice plan and will submit it within the next week. He indicated there are three other pharmacists at the pharmacy and he stated work is going well. He indicated he is never

at the pharmacy by himself, does not open the pharmacy and does not have a key to the pharmacy. Ms. Yamashita indicated he is not calling CVI consistently and reminded him he is out of compliance if he does not call everyday. He also missed a urine screen. Mr. Beaumont stated he thought he had been calling everyday and understands the drug screens will be doubled because of the missed screen. He reported things are going well at home, he has a good support system and his wife has a good support system. He stated he has finished aftercare, attends court appointed 12-step meetings in Beaver and PIR meetings in St. George. He stated the PIR meetings are beneficial, however, does not feel the 12-step meetings are as helpful. He indicated he works 78 hours every two weeks. Mr. Fitzpatrick suggested he submit to the Board monthly controlled substance audits and have the audits submitted with his quarterly reports. Ms. Yamashita also requested he include how the pharmacy addresses pill counts that are off, how it is reconciled. **Mr. Beaumont is out of compliance because he needs to submit an updated practice plan.**

Issac White, probation interview:

Mr. White was interviewed by Mr. DeRose. Mr. White indicated he is currently employed at Smiths on 6<sup>th</sup> Avenue in Salt Lake. He stated he has been clean since December 2006. Mr. White was late on submitting his reports, has only submitted one therapist report, missed a urine screen, is attending AA meetings but does not have a sponsor and needs to complete an ethics course. Mr. White indicated his state probation is scheduled to terminate within the month. Mr. DeRose reminded Mr. White to submit his information on time. **Mr. White is now in compliance with the terms and conditions of his Order.**

Mary Jo Cates, probation interview:

Betty Yamashita conducted the interview. Ms. Cates indicated she started working at the Smith's in Layton on December 14, 2007. She submitted an updated practice plan that includes her current supervisor and what shifts she will work. She indicated she will not work less than 20 hours or more than 45 hours per week. She presented the pharmacy discrepancy report for review. She stated she does not order, or

complete outdates and does not sign for Scheduled II medications. Board members reviewed the report and found a lot of negative numbers. She stated she will clarify the negative numbers and will present the updated log at her next meeting with the Board. She indicated she has completed the outpatient program and aftercare. The aftercare counselor indicated in the last report that aftercare had been completed. Ms. Cates requested termination of attendance at aftercare. Board members indicated the practice plan looks good, she is attending her meetings and **appears to be in compliance with the terms and conditions of her Order**. She indicated she would like to keep the same schedule meeting with the Board. A Motion was made to terminate the aftercare requirement. The Motion was seconded. All Board members in favor.

Jay Bawden, probation interview:

Mr. Hill conducted the interview. Mr. Bawden submitted a letter listing the hours he worked. He stated Macey's has hired a part time pharmacist and this will allow Mr. Bawden to cut down on the number of hours he is working so he can come into compliance with his Order. He indicated he visits with LDS Social Services and his ecclesial leaders weekly or every other week. He stated he feels he is doing well without counseling and he doesn't feel the need to go into professional counseling. Mr. Bawden indicated he has not found a support group for impulse control. He stated he has put a lot of help systems in place and is in a 12-step program. **Mr. Bawden is currently in compliance with the terms and conditions of his Order**. Mr. Hill made a Motion to allow Mr. Bawden to meet with the Board every six months instead of quarterly. Ms. Yamashita seconded the Motion. All Board members in favor.

Andrea Lowery, Probation Interview:

Mr. Cortes conducted the interview. Ms. Lowery expressed concern with the drug testing policy. She indicated her legal status is affected if she is out of compliance with her Order. She stated she is concerned because the closest drug testing center is closed on the weekend and the next closest testing center is in Las Vegas. She stated she is concerned that her number will come up when she is in the hospital having her baby. She stated she is willing to give blood serum, which could be done at the hospital.

She stated she doesn't intend to practice pharmacy, but because of the felony charges held in abeyance she has to comply with the Order. Ms. Baker stated the hospitalization would not be viewed as missed screen. She would not be expected to give a urine screen, but would have to provide dates of hospitalization and a list of medications she received while in the hospital. She stated she was unable to attend her grandmother's funeral for the same reason. Ms. Baker indicated she could have provided documentation of the funeral, and the division could have taken care of the urine screen internally. It would not be excused, but accommodations could have been made. However, if she is going out of town for other reasons, the urine screens are not excused. The rules are not meant to be to keep her homebound, but she must be in compliance. She stated she last worked September 2006.

Break at 12:05 p.m.  
Reconvened at 12:15 p.m.

Agenda Item Discussion:

Mr. Hill indicated he would like to place on a future agenda a discussion item for clarification of what to do with a prescription when a practitioner dies, or the practitioner's license is suspended. He indicated there should be better options than having the patient go to the ER to have a prescription written. Ms. Baker stated the AMA Code of Medical Ethics indicates the existing prescriptions and refills become invalid.

Spencer Edwards, New application:

Mr. Cortes conducted the interview. Mr. Edwards is applying for a pharmacy technician license and had several "yes" answers on the qualifying questionnaire. Mr. Edwards explained that in April 2006 while working in a coffee shop, he added an extra two or three dollars to the customer's credit card and collected the money in tips. He stated he was placed on court probation. He was required to repay the tips placed on the credit cards; complete 100 hours of community service and meet with his probation officer. He indicated he will be off court probation as soon as he completes the community service. He indicated Walgreen's would like to hire him once he obtains his license. He stated Walgreen's is aware of his court probation. Mr. Edwards stated he

occasionally has a drink of alcohol, but does not use drugs. Board members expressed concern he is drinking underage. Mr. Hill made a Motion to approve the license on a Memorandum of Understanding, placing the license on probation for 1 year with the following terms and conditions: complete an ethics course approved by the Board, submit to random urine screens, and submit supervisory reports. Ms. Yamashita seconded the Motion. All Board members in favor.

Rebecca Burton, New application:

Mr. DeRose conducted the interview. Ms. Burton indicated she received a ticket for underage possession of alcohol. She stated she received a misdemeanor and was placed on a one year court probation. Her court probation will terminate the end of May. She indicated she gave into peer pressure but no longer hangs out with those friends. She stated she has not had a drink since that time. She stated she understands it is important to follow all laws and they are in place for a reason. Ms. Burton stated Smiths Downtown is willing to hire her as a pharmacy technician. Board members discussed whether or not to place her license on probation. Mr. Hill stated he is not sure. Mr. DeRose and Ms. Yamashita stated the issue is underage drinking and the precedence has been to place the individual on probation. Mr. Hill stated two years is a long time to be on probation. Is it appropriate to place her on a MOU until her 21<sup>st</sup> birthday, and if clean the probation can be terminated. Mr. Hill made a Motion to issue the license on a one year probation with the following terms and conditions: no alcohol, submit to random urine screens and submit employer reports. Mr. DeRose seconded the Motion. All Board members in favor.

Ruzanna Mnatsakanan, New application:

Ms. Mnatsakanan did not appear for her scheduled interview. She will be invited to meet with the Board next month and if she does not appear, her application will be denied.

Discussion regarding proposed Legislation:

HB 100 is a bill trying to allow 90 days of Schedule II drug to be dispensed. Current statute states only 30 day supply can be supplied. This bill was defeated 2 years ago. Also the DEA has implemented language that allows the prescriber to write 3 prescriptions on a

single visit and have the patient take each prescription to the pharmacy each month for dispensing. The Pharmacy Association opposed this bill 2 years ago because of the danger to pharmacies with more available medications needed to fulfill a 90 day supply and an increased number of pharmacy robberies in the area. There are other pharmacy issues, but many do not have bill numbers assigned so they are not available to review. The Board members were encouraged to watch the Legislative website for other bills being proposed.

Adjourned to Rules Hearing at 1:00 p.m.

Rules Hearing:

Rules Hearing was held. Judge Eklund indicated changes will be made to the Rules and will be re-filed. The proposed Rules will be published either March 1 or March 15, 2008.

Rules hearing adjourned at 1:35 p.m.  
Reconvened to Board meeting at 2:00 p.m.

LSJ Pharmacy, probation interview  
Joseph Johnson, pharmacist:

Mr. Fitzpatrick conducted the telephone interview. Mr. Johnson stated he would like to petition the Board for early termination of probation. He indicated the Pharmacy passed the last inspection and has a Board approved pharmacy technician program in place. He indicated the pharmacy inspector recommended the Pharmacy keep a log; monitor the temperature in the pharmacy and in the pharmacy fridge. He stated he has implemented those recommendations. Ms. Baker questioned why his pharmacy technician can not pass the PTCB examination. Mr. Johnson stated the first failure was because of the math, but he reported she does well in the pharmacy. The pharmacy technician will not be licensed within the year requirement and he has suggested she take the class again. He stated his pharmacy has four licensed technicians and is well staffed. The probation is scheduled to terminate June 2009 and he is requesting the Pharmacy probation be terminated 1 and ½ years early. Board members suggested he meet with the Board in person at the next scheduled interview and make the request at that time.

Globalnet Pharmacies LLC,  
Telephone probation interview:

Ms. Yamashita conducted the telephone interview. The pharmacist in charge, Shalifie Data was contacted

by telephone. Ms. Data explained the circumstances that brought Globalnet Pharmacies before the Board. She stated the customer service department had answered the phone when the pharmacy was closed and the individual answering the phone did not know what a transfer was. They were also cited for having no pharmacist in the facility. The Florida Board placed them on probation because of inadequate daily logs and an unclean pharmacy. She indicated the pharmacy paid the Florida fine, cleaned up the pharmacy, updated the logs and have completed 6 of the 12 continuing credit hours required. She stated they do not have any questions regarding the Utah Order and understand the terms and conditions of the Order. Juan Zuetta, owner of the pharmacy was present during the interview. They both stated they understand the pharmacist must complete the transfers. Mr. Zuetta explained the customer service representatives answer the telephone and transfer the call as appropriate. Mr. Hill questioned what has been done to ensure the situation has been corrected? Mr. Zuetta stated the customer service reps are trained on what they can or can not do. A manual of standard operations is given to all agents. Mr. Hill requested a copy of the manual and policies used to train these individuals. Board members questioned why customer service is answering telephones when the pharmacy is closed? Mr. Zuetta stated he has three additional companies and the customer service reps handle all calls. Board members questioned how many pharmacists work in the pharmacy. Mr. Zuetta stated only one. There is no pharmacy technician. He stated the pharmacist fills prescriptions for 48 states. He indicated some days they fill 50 prescriptions, some days 16. He indicated his company includes three different internet sites. Board members questioned how he keeps 27 people employed by filling only 16-50 prescriptions per day? He stated as of today, he only has five employees and fills 50 to 150 prescriptions per day. Ms. Baker questioned if she were to fax her prescription, where does the fax go? Mr. Zuetta stated the customer goes to the website, the customer fills out the phone number of the physician, and the request is faxed to the physician. The fax comes directly from the physician's office to the pharmacy. Board members questioned whether or

not the pharmacy closes when the pharmacist is gone? Mr. Zuetta stated the pharmacy is shut down. He stated that 60% of the pharmacy business is controlled substances. Prescriptions are verified by calling the physicians office. Board members questioned who calls the physician office, the pharmacist or the customer service rep? He stated the customer service rep calls to verify that the person is a patient of the doctor. Mr. Zuetta and Ms. Data both stated it is clear on what needs to be done to be in compliance with the Order.

Review Market Pharmacy Formulary:

Market Pharmacy formulary was reviewed. Mr. Fitzpatrick made a Motion to approve the formulary as a branch pharmacy. Mr. Hill seconded the Motion. All Board members in favor.

Mr. Fitzpatrick discussion:

Mr. Fitzpatrick indicated he received a letter from Dixie College regarding on-the-job training versus formal training for pharmacy technicians. He questioned Board members on how to respond to the letter. Mr. Cortes stated pharmacies began on-the-job training because it was the quickest and most economical way to educate pharmacy technicians. The demand for pharmacy technicians is not as high now and it is up to the pharmacies to decide whether or not to accept students. If the program has a good relationship with the pharmacy the student will usually be accepted. But in an area with limit pharmacies, there are not enough slots for all the students. Mr. Cortes stated that as a Board we need to help the formal programs place the students. Mr. Fitzpatrick indicated Dixie should contact peers to find help. Ms. Yamashita stated the trends are toward a push for more hours. But if more hours are required, sites become less available.

Thank you to Ms. Baker:

Board members thanked Ms. Baker for her dedication to the Pharmacy Board. Board members wished her well in her new endeavors. Ms. Baker stated she will continue to work on pending cases for a period of time. Ms. Taxin will take all new cases.

February 26, 2008  
Date Approved

(ss) Roger Fitzpatrick  
Roger Fitzpatrick, Chair Board of Pharmacy

February 26, 2008  
Date Approved

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