

MINUTES

**UTAH
PHARMACY
BOARD MEETING**

March 25, 2008

**Room 474 – 4th Floor – 9:00 A.M.
Heber Wells Building
Salt Lake City, UT 84111**

CONVENED: 9:08 A.M.

ADJOURNED: 5:00 P.M.

Bureau Manager:
Bureau Manager:
Board Secretary:

Noel Taxin
Diana Baker
Joyce McStotts

Board Members Present:

Roger B. Fitzpatrick, Chairperson
Dominic DeRose, Jr.
Marty V. Hill
Betty Yamashita
Edgar Cortes
Derek D. Garn
David C. Young

Board Members Absent:

Guests:

Gerry Hassell, Wal-Mart Pharmacy
Greg Jensen, Target Pharmacy
Reid Barker, UPhA
Faith Stapley, wife of Dee Evan Stapley
David Bao, Savon/Albertsons Pharmacy
Alma Joyce Caviness, RPh, Carbon Medical Services
Kim McFarlane, PA-C, Green River Medical Center

DOPL Staff Present:

F. David Stanley, Division Director
Connie Call, Compliance Specialist
Sandra Hess, Investigator
Debbie Willes, Investigator

TOPICS FOR DISCUSSION

DECISIONS AND RECOMMENDATIONS

ADMINISTRATIVE BUSINESS:

MINUTES:

The minutes from the February 26, 2008 Board meeting were read. The Board requested corrections.

Mr. Garn made the motion to approve the minutes with the corrections. Ms. Yamashita seconded the motion. The motion passed unanimously.

Mr. Fitzpatrick presented problems the Board, investigations, and pharmacies are having with electronic signatures.

The Board discussed SureScript versus electronic signatures. They discussed cost, prescriptions verification, authentication, technology, and electronic signature verification.

Ms. Hess stated that SureScript would not meet the Controlled Substance Law as the Law requires original signatures on Controlled Substance prescription.

Mr. Young voiced concerns about the printed signature being confused for a digital signature.

Mr. Hill stated the day is coming that the small pharmacies will be updated with modern technology and they will then have the ability to verify electronic signatures.

Mr. Garn stated there was a difference between electronic signatures versus electronic prescribing.

Introduction of New Investigator

Sandra Hess introduced Debbie Willes to the Board as a new Pharmacy Investigator.

APPOINTMENTS:

9:30 am

Connie Call, Compliance Specialist, Update on Probationers

Ms. Call stated the following probationers would not be meeting today and wanted to update the Board:

Ms. Call stated **Andrew Buckley** is compliant.

Ms. Call stated **Rich Wright** is compliant.

Ms. Call stated **Holly Kilburn** is compliant.

Ms. Call stated **Jay Bawden** is compliant.

Ms. Call stated **Diann Millikan** is compliant but she is not working so the probation time period has stopped but will continue once she starts working again.

Ms. Call stated **Issac White** is compliant with his Memorandum of Understanding but he needs 5 hours

of continuing education in Law and Ethics which is due on June 6, 2008 and needs to be recertified by July 31, 2008.

Ms. Call stated **Rebecca Ann Burton** will be here for her initial probation interview. She has other criminal conduct charges for underage drinking. Ms. Call stated she had reviewed the Stipulation and Order with Ms. Burton.

Ms. Call stated **Stapley Pharmacy/Dee Evan Stapley** will be here for the initial probation interview for the Pharmacy. Ms. Call stated the charges were for unauthorized practice.

Mr. DeRose requested clarification from Ms. Taxin on Stapley's Stipulations.

Ms. Taxin pulled out the Stipulation and reviewed line by line the facts and Ms. Baker expanded upon Ms. Taxin's comments as written below.

Ms. Taxin clarified Mr. Stapley had three locations; one pharmacy he owned and two branch pharmacies. Only one location was licensed so he was practicing without a license for two of the pharmacies.

Ms. Baker stated there was more to the situation than just practicing without a license. Ms. Baker stated there was another pharmacy that had the branch pharmacies in two different locations and when Mr. Stapley bought out the branch pharmacy he did not do anything with the branch licenses. Ms. Baker stated that Mr. Stapley was just sending the medications to the Physician Assistant (PA) and the PA was doing the billing, charging, maintaining the inventory, doing all the requirements and Mr. Stapley was not doing any of that.

Ms. Baker stated we discovered that based on Bateman Pharmacy, these items have been corrected and the branch pharmacies are under the direction/consultation of Cliff Holt out of LaVerkin, Utah. Ms. Baker stated that this part of Mr. Stapley's Stipulation has been resolved as Mr. Stapley will not be the pharmacist over the branch pharmacies. The

Order addresses the pharmacist over branch pharmacies as some of the violations listed in the Stipulation.

Mr. Hill asked how long this had been going on since Mr. Stapley had bought the pharmacies and the Division discovered the error.

Ms. Baker stated it would have to be verified through investigations for the exact time but she recalled three to five years.

Mr. Hill questioned if it could not have been six months that Mr. Stapley could have just forgotten to do the paperwork.

Ms. Baker and Ms. Taxin both stated no and Ms. Taxin stated the Stipulation alluded to the time factor.

Mr. Fitzpatrick asked if the PA's had received any type of Stipulations as well.

Ms. Baker stated yes.

Ms. Taxin stated another item of the Stipulation was pharmacy technicians were compounding drugs on prescriptions.

Ms. Baker stated there is a surgery center in St. George, Utah which was doing cosmetic surgery and would send the patient to a hotel room to recover. The surgery center would set them up with a PCA pump and medication and a home health nurse would come in to do some teaching but the family primarily was Post-op caring for the patients.

Ms. Baker stated that the medication which was put in the partial filled bag was miscalculated and two of these patients died of an overdose of Demerol because it was diluted inappropriately.

Ms. Baker stated that these have gone through malpractice and she was certain the families have finished with the process but there was concern that Mr. Stapley was having pharmacy technicians compound these IV bags with medication for pain and

the pharmacy technicians were not following a recipe.

Ms. Baker stated when investigations went into investigate; Mr. Stapley had no recipe for compounding this product or for any compounding products.

Mr. Fitzpatrick asked if there was proof as to who mixed the compounds.

Ms. Baker stated Mr. Stapley claimed he mixed them, then another time he claimed the pharmacy technicians mixed them, and when investigations went to investigate there was no recipe for compounding products.

Mr. Hill clarified the Stipulation was just probation.

Ms. Taxin stated Stapley Pharmacy was on probation and Mr. Stapley was on probation.

Mr. Hill requested clarification on why the Stipulation was just probation.

Ms. Baker stated there was difficulty getting tissue samples from the ME to validate the actual death of one patient. For the other patient, there were tissue samples but not enough tissue samples for our investigation and for the investigation of the defenses side. Therefore, there is no solid evidence to bring to the Board.

Ms. Baker stated that in March of 2005, she stated this case needed to go before the Board immediately.

Ms. Baker stated there was an additional issue. The ME did not accept or acknowledge the ALJ decision to subpoena some of the tissue samples and ignored the subpoena for months. Ms. Baker stated there were a lot of complicated legal issues.

Mr. Fitzpatrick asked if Mr. Stapley was on probation who is the pharmacist-in-charge.

Ms. Baker stated the Pharmacy was on probation and Mr. Stapley received a public reprimand.

Mr. Hill strongly expressed his frustration with the process and discipline and stated he is on the Board to protect the public and he felt the public was not protected.

The Board discussed the frustration of the legal process, the frustration of obtaining evidence, and the frustration of not hearing about this situation in a timely manner.

Mr. Fitzpatrick requested Ms. Taxin review the Stipulation and then the Board would continue with the first probationary interviews.

Ms. Taxin reviewed the clauses of the Stipulation.

Ms. Call stated **Laura Tautfest** is non-compliant because she has not completed the required four hours of continuing education in the area of professional ethics which was due on February 18, 2008.

10:00 am

Diann Millikan, Probationary Interview

Diann Millikan met for her probationary interview.

Board members and Division staff were introduced. Ms. Taxin also introduced herself as the new Bureau Manager and Ms. McStotts, who was filling in for Karen McCall the Board Secretary.

Ms. Yamashita conducted the interview.

Ms. Yamashita asked Ms. Millikan to sign the case file.

Ms. Millikan stated she went into substance abuse treatment to get off of drugs and was in rehab for 31 days. Ms. Millikan stated she now understands why the Board recommended she get off more medications.

Ms. Millikan stated she was only on Cymbalta and discussed how this was helping her to be better and she stated she wants to get even better than she is now.

Ms. Yamashita asked about her Alcoholics Anonymous meetings and on-going treatments.

Ms. Millikan stated she is attending 2 to 3 meetings a

week. She also stated her sponsor has been very helpful.

Ms. Yamashita recommended she continue with daily and aftercare meetings. Ms. Yamashita stated she thought it would be very helpful to Ms. Millikan to do the extended aftercare program.

The Board discussed with Ms. Millikan the different work opportunities and discussed the possibility of her working with Smith's again.

Ms. Yamashita verified Ms. Millikan was working on herself, going to her meetings, was living in a supporting environment, and that she is looking for a job.

Ms. Yamashita stated she received Ms. Millikan's letter to work alone. Ms. Yamashita stated it was premature to begin working alone at this time. She recommended Ms. Millikan work in a pharmacy with other people at this time.

Ms. Millikan stated she understands and she is looking forward to eventually working alone again.

Ms. Yamashita asked if she was seeing a therapist.

Ms. Millikan stated she was seeing one and asked if the counselor from the aftercare would be enough.

Ms. Millikan stated she felt she had received all the benefit out of the therapist she was with but stated she was open to other therapy but didn't know who to contact.

Ms. Baker recommended she find someone she would be more comfortable with to discuss addiction issues but also the additional issues Ms. Millikan is dealing with.

Ms. Taxin gave Ms. Millikan her card and offered the opportunity for her to call her tomorrow to obtain additional resources to find a counselor to work with.

Ms. Call requested clarification on aftercare and therapist to ensure the proper paperwork required would be put in the probation file.

Ms. Taxin clarified what the requirements would be when Ms. Millikan finds a counselor she chooses to work with and what is required when she obtains a job.

Ms. Taxin reminded Ms. Millikan that when she finds a job she needs to complete a practice plan and provide it to the Board.

Ms. Millikan voiced understanding and left the meeting.

10:20 am

Issac White, Probationary Interview

Issac White met for his probationary interview.

Board members and Division staff were introduced. Ms. Taxin also introduced herself as the new Bureau Manager and Ms. McStotts, who was filling in for Karen McCall, the Board Secretary.

Mr. DeRose conducted the interview.

Mr. DeRose reminded Mr. White he has to complete five hours of continuing education due in June. Mr. DeRose handed Mr. White the February 2008 issue of *Pharmacy Times Journal* which offered ideas of where he could take Continuing education. Secondly, Mr. DeRose stated Mr. White needs to provide documentation of recertification by July 31, 2008.

Mr. White stated that not much has changed since January and requested he have the first interview time in the future as this would help with his school schedule.

Ms. Call stated she told him to try and plan his school schedule on other days than Tuesdays as the Board meets on Tuesdays.

Mr. White stated he is going to school and he wants to stay in school. He stated he is enjoying the science

classes, studying hard and partying safe.

Mr. Fitzpatrick asked Mr. White what a safe party was.

Mr. White stated a safe party was where people do not get hurt and there is no drinking.

Mr. DeRose asked about legal issues and the plea and abeyance.

Mr. White stated he needed to complete community service and discussed the legal issues.

Mr. White explained the community service work as very humbling and fulfilling when he serves food to misfortunate individuals.

Mr. DeRose stated Mr. White needs to let the Board know when the community service is complete.

Ms. Call requested documentation verifying when the community service, continuing education and recertification were completed.

Ms. Taxin requested Mr. White to have his supervisors write more clearly. She stated with the poor hand writing and the faxing, they are extremely difficult to read.

Mr. White stated he needed to be diligent in completing his community service.

Ms. Taxin suggested he have the continuing education class pre-approved to ensure it meets Stipulation requirement.

Mr. White agreed to have the continuing education class pre-approved and left the meeting.

10:40 am
Rebecca Burton, Probationary Interview

Rebecca Burton met for her probationary interview.

Board members and Division staff were introduced.

Mr. Hill conducted the interview.

Mr. Hill asked Ms. Burton to sign the file.

Mr. Hill asked why Ms. Burton was meeting with the Board today. Mr. Hill verified Ms. Burton had received and reviewed her Stipulation.

Ms. Burton stated yes, she had received and reviewed the Stipulation.

Mr. Hill reviewed each clause in the Stipulation and confirmed Ms. Burton's understanding.

Mr. Hill then asked if Ms. Burton had notified her employer.

Ms. Burton stated yes she had notified her employer.

Ms. Call stated she had received an e-mail from the supervisor stating that the supervisor had read the Stipulation.

Mr. Hill stated the ethics course needed to be completed.

Mr. Hill read thru the clause dealing with respondent seeing one doctor.

Ms. Burton stated she was going to Foothill Family Clinic and was seeing a different doctor every time.

Mr. Hill recommended Ms. Burton see the same doctor each time. The Board discussed the reason to visit one doctor for prescriptions and stated why she should visit only one prescribing doctor.

Ms. Burton requested clarification on drug/alcohol testing requirements.

Ms. Call clarified the drug/alcohol testing requirements.

Mr. Hill re-clarified Ms. Burton's understanding of the Stipulation and the requirements.

Mr. Hill stated Ms. Burton is required to meet with the Board quarterly.

Mr. Fitzpatrick asked how Ms. Burton was going to handle the up-coming wedding with her father.

Ms. Burton stated her cousin also has a wedding this summer and she will not be drinking at the weddings.

Ms. Call stated Ms. Burton needed to keep Ms. Call updated on traveling for the weddings and how she would be handling the scheduling for the drug/alcohol testing while traveling.

Ms. Burton left the meeting.

11:00 am

Stapley Pharmacy, Dee Evan Stapley,
Probationary Interview

The Board discussed the two disciplinary actions that required Mr. Stapley to meet with the Board. Mr. Stapley was meeting with the Board for his public reprimand on his pharmacist license and for the Stipulation/Order concerning the pharmacy.

Dee Evan Stapley met for his probationary interview.

Board members and Division staff were introduced.

Mr. Young conducted the interview.

Mr. Young asked Mr. Stapley to discuss the reasons Mr. Stapley was meeting with the Board.

Mr. Stapley stated one reason was a failure to have a policy and procedures manual in place in regards to mixing Demerol or Meperidine packs.

The Board discussed the need to have policies and procedures in place including possible testing procedures.

Mr. Cortes asked if the pharmacy was following manufacturing procedures for mixing.

Mr. Stapley stated he was following the manufacturing procedures.

Mr. Cortes asked how long Mr. Stapley spent training the Pharmacy Technicians on this procedure.

Mr. Stapley stated he trained the Pharmacy Technicians for one day by personally taking them in and showing them how to mix the packs.

Mr. Hill asked how you explain two people dying of an overdose of Demerol.

Mr. Stapley stated there could be a couple of reasons for the deaths including faulty pumps.

The discussion continued and during this discussion, Mr. Hill, became angry that Mr. Stapley was not taking responsibility over the loss of two lives and the disciplinary action of only a public reprimand.

Ms. Taxin and Mr. Fitzpatrick brought the focus of the meeting back to the Stipulation.

Ms. Taxin clarified that the two reasons for Mr. Stapley's interview were Mr. Stapley's public reprimand and the Pharmacy Stipulation and Order.

Mr. Stapley voiced confusion and stated he is not sure the reason he believes he is meeting with the Board is the same as what the Division/Board understands.

Ms. Taxin refocused the meeting on Mr. Stapley's public reprimand and the Pharmacy Stipulation and what Mr. Stapley needs to do to become compliant. Ms. Taxin stated the facts were the same for both the public reprimand and the Stipulation.

Ms. Taxin asked Mr. Stapley to explain his association with the branch pharmacies.

Mr. Stapley discussed his association with branch pharmacies for the last 20 years, and Mr. Stapley stated about three and a half years ago he wanted to change the name of the pharmacies. Mr. Stapley apologized for not applying for licenses and stated he

did not even think about changing the licenses over. Mr. Stapley stated he is no longer affiliated with the rural pharmacies.

Ms. Taxin clarified that the Board is dealing with Stapley Pharmacy only.

Mr. Stapley confirmed this is correct.

Mr. Young began reviewing the Stipulation when Mr. Fitzpatrick felt it was important to bring up items he felt should be reviewed with the Board.

Mr. Fitzpatrick stated he felt it was important to review these items because it was more than just forgetting to license the pharmacies, it was what Mr. Stapley agreed to on the acts, practices, and omissions on the Stipulation.

Mr. Fitzpatrick read the document which Mr. Stapley signed and according to the document, Mr. Stapley sold prescriptions including controlled substances to the branch pharmacies, the branch pharmacies then sold them without keeping any documentation or records of the prescriptions. Mr. Stapley enabled the clinic to engage in the practice of pharmacy when they were not licensed to do so.

Mr. Stapley stated that maybe he did not understand the Rules of the Pharmacy.

Mr. Fitzpatrick asked Mr. Stapley if it was not his responsibility as a licensed Pharmacist to understand the Rules of the Pharmacy as he was engaged in the business practice.

Mr. Stapley stated he has been doing this for 20 years and this is the first time it was brought to his attention.

Mr. Fitzpatrick asked Mr. Stapley if he reviewed the Laws and Rules on a regular basis as they change.

Mr. Stapley acknowledged he was not keeping up on the Laws and Rules.

Mr. Fitzpatrick stated Mr. Stapley needs to review the Laws and Rules on a regular basis as the Laws and Rules change constantly. Mr. Fitzpatrick stated this was part of the reason Mr. Stapley was before the Board, was part of the public reprimand, was part of the Stipulation and needs to be addressed before the Board.

Mr. Fitzpatrick suggested that practicing without understanding the Laws and Rules was a problem with the public.

Mr. Stapley stated that the public was never in jeopardy.

Mr. Hill strongly disagreed that the public was not in jeopardy.

Mr. Fitzpatrick brought the discussion back to why Mr. Stapley was fined and why the Pharmacy was now on probation.

Mr. Fitzpatrick wanted Mr. Stapley to understand that the public reprimand and Stipulation are more serious than Mr. Stapley may even believe and the Board is concerned about the services provided by the Pharmacy.

Mr. Fitzpatrick stated the Board would require Mr. Stapley to meet the requirements of the Stipulation and Order on time or he would be in violation and further sanctions could then be assessed.

Mr. Fitzpatrick asked if Mr. Stapley had a Policy and Procedures manual for his Pharmacy with him for the Board to review.

Mr. Stapley stated that he did not. Mr. Stapley asked if the Policy and Procedures manual had to be for the whole pharmacy.

Mr. Fitzpatrick stated that was what the Stipulation said and he wanted to ensure the Board would be able review the manual.

Ms. Taxin reviewed each clause of the Stipulation and confirmed Mr. Stapley's understanding.

Ms. Baker clarified Mr. Stapley would still need to meet with the Board quarterly, but would not need to provide copies of prescriptions from branch pharmacies as Mr. Stapley is not associated with branch pharmacies at this time.

Ms. Taxin read from the Stipulation that if Stapley Pharmacy agrees to act as a parent pharmacy for any branch pharmacy, included but not limited to the Brian Head Clinic pharmacy and the Zion Canyon Clinic, Mr. Stapley would be required to notify the Division/Board in advance.

Ms. Taxin read from the Stipulation that Stapley Pharmacy needs a policy and procedures manual and formularies approved by the Division/Board.

The Board suggested the information in the policy and procedures manual should be usable for anyone in the Pharmacy, so they will know the procedure for any situation.

Ms. Taxin read from the Stipulation that during the duration of probation Stapley Pharmacy shall cease and desist from compounding Meperidine solutions and Demerol packs.

Mr. Stapley stated he is not doing sterile compounding at this time.

Ms. Taxin suggested Mr. Stapley go to the Divisions website, print and read the current Laws and Rules and be prepared to discuss them with the Board at the his next quarterly Board appointment.

Ms. Taxin stated Stapley Pharmacy will need to have an audit for the next quarterly Board meeting.

Mr. Stapley asked where he could find someone who conducts audits and what they would look for.

Mr. Fitzpatrick and Ms. Yamashita suggested Ray Beasley, who does independent audits and stated he would know what the requirements are for an audit.

The Board suggested the auditor should read the Stipulation to understand the requirements.

Ms. Taxin stated the Pharmacist license and the Pharmacy license must be current through the whole probationary period.

Ms. Call clarified Mr. Stapley's requirements for the next quarterly appointment. Mr. Stapley needs to have a policy and procedures manual, results of the audit, and be prepared to discuss the current Laws and Rules with the Board.

Mr. Young asked if Mr. Stapley was reporting controlled substances to the controlled substance database.

Mr. Stapley stated the main pharmacy was reporting to the controlled substance database. He stated the branches were not reporting to the controlled substance database.

Mr. Fitzpatrick suggested Mr. Stapley re-read the Stipulation and be able to discuss the items that he admitted to.

Ms. Taxin stated Mr. Stapley needs the following four items for his quarterly meeting on June 24, 2008: read the Laws and Rules, read what was admitted to in the Stipulation and Order, have the audit results, and have the policy and procedures manual for the Board to read and approve.

Mr. Stapley and his wife left the meeting.

11:40 am

Christine Dewey, Discussion regarding Reinstatement Requirements

Christine Dewey requested her license be reinstated without meeting current licensing requirements. The Board discussed the concerns with the knowledge base of new drugs since the last time of her practice. The Board requested to see Ms. Dewey's application

when she applies.

12:15 pm

Ritu Shetty, Intern License Extension

Ritu Shetty met to request an extension on her intern license.

Board members and Division staff were introduced.

Mr. Garn conducted the interview.

Mr. Garn asked why Ms. Shetty was requesting an extension on her intern license.

Ms. Shetty explained that she was late in starting her required hours because of the visa requirements and process. She stated she is working at Albertson's in Sandy, Utah and still needs to complete her intern hours and submit her license application.

The Board discussed the items needed to meet the pharmacist licensing requirements and how much time would be needed to meet these requirements.

Mr. Hill made the motion to extend the license one year from March 15, 2008 to March 15, 2009. Mr. Young seconded the motion. The vote passed unanimously.

12:45 pm to 1:45 pm

Lunch Break

1:45 pm

Bill Baker, Pharmaceutical & Diagnostic Services, Questions on selling of non-FDA Drugs

Mr. Baker stated it would not be appropriate to discuss the item with the Board at this time since he discussed the item with investigations. Mr. Baker thanked the Board for their time. Mr. Baker left the meeting.

2:15 pm

Laura Tautfest, Probationary Interview

Laura Tautfest met for her probationary interview.

Board members and Division staff were introduced.

Ms. Yamashita conducted the interview.

Ms. Yamashita stated she received proof of the continuing education and asked what Ms. Tautfest learned from the ethics course.

Ms. Tautfest stated she learned more about the dispensing of medication and emotional labor in practice.

Ms. Yamashita asked what was learned about prescribing errors.

Ms. Tautfest stated she understands more about prescribing and legal errors and she stated she learned how to apologize when errors occur.

Ms. Yamashita stated the continuing education course fit the criteria the Board wanted her to complete.

Ms. Yamashita stated the Board had received Ms. Tautfest's employer report.

Ms. Tautfest stated she received a letter which stated she needed to request an early dismissal.

Ms. Taxin explained that something happened with the invitation letters and a few probationers had received this information with the invitation letters in error.

Ms. Tautfest stated she had written this letter.

Ms. Yamashita stated the probation had just started and it would be two years before Ms. Tautfest would be eligible for this procedure.

Ms. Call stated that the Division required proof of the completion of her criminal probation.

Ms. Tautfest asked when she would need to provide the next quarterly report and Ms. Call stated she would call her and let her know.

Ms. Tautfest left the meeting.

2:40 pm
Prashanth Burguru, Intern License Extension

Prashanth Burguru met to request an extension on his intern license.

Board members and Division staff were introduced.

Mr. Hill conducted the interview.

The Board discussed Mr. Burguru's file, schooling, testing, and licensing requirements.

Mr. Burguru stated he was a foreign pharmacist graduate and he did his schooling in India.

Ms. Taxin asked if he knew why he was having trouble passing the tests.

Mr. Burguru stated he lived a sheltered life in his country and when he came to America he met bad people. The things these people said about him and to him affected him until he was even unable to read. Being unable to read made it difficult to study and learn what was required to pass the test.

The Board discussed the issues of being able to read, knowing what to study, understanding the Laws and Rules, and being able to take tests under the stress of learning a different culture.

Mr. Burguru stated he works at Albertson's on Redwood Road and discussed the items he does as an intern.

The Board discussed with Mr. Burguru what type of employee he felt he was and what his pharmacist-in-charge would say about him.

Mr. Burguru stated he thought the pharmacist-in-charge would say he was a capable person, a hard worker, more focused, and working hard.

Mr. Young asked about adversity in the past and he asked how Mr. Burguru will react in the pharmacy when adversity occurs.

Mr. Burguru stated the difference between the incidents that happened at work and the incidents that happened at home. Mr. Burguru explained his process for handling adversity at work.

The Board discussed when the testing would be available and when Mr. Burguru would be able to take them again.

Mr. Fitzpatrick asked if it would be possible for the pharmacist-in-charge to send in an evaluation of Mr. Burguru's performance.

The Board discussed receiving an employee evaluation before extending the intern license.

Mr. Burguru stated he thought Albertson's liked him and would provide the employee evaluation.

Mr. Hill made the motion to extend the license for 6 months until October 1, 2008 as soon as the letter from Albertson's was received. Mr. Garn seconded the motion. The vote passed unanimously.

Mr. Fitzpatrick stated the Board would not be able extended Mr. Burguru after this extension.

Mr. Burguru left the meeting.

DISCUSSION ITEMS:

FYI

Ms. Taxin informed the Board of the Order of Dismissal for Medquest Pharmacy.

Ms. Taxin reviewed each clause of the Order of Dismissal.

Castleview Hospital Pharmacy Report from Mr. Cortes

Mr. Cortes reported back on the submitted Pharmacy Technician Training Program. Mr. Cortes recommended that Basic Pharmacology for Technicians be included in the training program. Mr. Cortes stated the training program could be approved.

Taylor Drug Pharmacy Technician Training Program

The Board discussed the training program.

Ms. Baker stated that Taylor Drug had not provided the letter requested and requested Mr. Cortes review the file to ensure proper student evaluation and what was actually being taught about the Law.

The file was given to Mr. Cortes for review.

The Medical Center Technician Training Program

Ms. Taxin reviewed the request for approval of the Medical Center Technician Program which is same as Jolley Pharmacy. The file was assigned to Mr. Cortes to review.

St. George Discount Pharmacy Technician Training Program

The file was assigned to Mr. Cortes to review.

Kamas Foodtown Pharmacy Technician Training Program

The file was assigned to Mr. Cortes to review.

Cedar Mountain Medical/Urgent Care Clinic – Application Review

Ms. Taxin requested the Board review the branch formulary.

Mr. Fitzpatrick stated the Apothecary Shoppe is the main pharmacy and Kevin DeMass was the Pharmacist-in-Charge.

Mr. Fitzpatrick asked if the license of the Pharmacist-in-Charge was verified to be in good standing.

Ms. McStotts answered yes; licenses are verified to be in good standing.

The Board discussed the drug and quantities of drugs which would be at the branch.

The Board read the letter of request and stated that the 30 day supply does match the amount of medication required for urgent care.

After much discussion about the medications in the pharmacy inventory compared to the urgent care setting, Mr. Fitzpatrick stated the file could be approved and the Board agreed.

Pharmacy Technician Program – National Standards

The Board discussed the possibility of a National Pharmacy Technician training program. The Board recommended watching the Federal Law which addresses the standardization of Pharmacy Technician Training.

The Board discussed adapting the current standards to increase quality. It was decided further discussion will

Rules Discussion

occur in the future.

Diana Baker conducted the Rules discussion with the changes in the Federal Law and State Law.

Ms. Baker discussed the need to have the Rules completed and submitted tomorrow for the pilot of the pharmacies in regards to reporting controlled substances.

The Board continued the discussion of the Rule changes required in meeting State and Federal Laws.

Ms. Baker stated she is working with the National Association to create continuity across the county.

Ms. Baker stated the deadline for submitting the Rules was March 26, 2008.

The Board discussed the one week requirement of reporting to the Controlled Substance Database and the issues of discipline in meeting the reporting requirement.

The Board discussed the nuances in the Pharmacy Technician Rules.

Ms. Baker will be addressing the one year timeframe, training programs with externships, and other pharmacy technician items.

The Board discussed the differences between formal training programs, on-the-job training programs, exam requirements, time in the classroom and time in the pharmacies.

Mr. Cortes stated the errors he saw and requested this item be the number one item on the next Board meeting.

The Board discussed the National Accreditation for Pharmacy Technician training and Walgreen's and Everest College being the only two with the National Standard Accreditation at this time.

The Board discussed the items and problems of

becoming accredited on a national basis, the models that are available, and on-line school availability.

Mr. Cortes stated the need for this issue to become a priority for the Board.

Tom Strebel, License Reinstatement Review

Ms. Taxin discussed Mr. Strebel's file and stated Mr. Strebel called and asked to get his pharmacist license reinstated.

The Board reviewed why Mr. Strebel surrendered his license. The Board discussed how the pharmacy technician working for him was on probation at one time and additionally she purchased his pharmacy when he surrendered his license.

Ms. Taxin read part of the facts from the Stipulation and Order Mr. Strebel signed:

6. (a) On or about February 28, 2006, Respondent plead guilty to and was convicted of one count of filing a false/fraudulent insurance claim, a class A misdemeanor, in connection with charges filed in the Third Judicial District Court, Summit county, State of Utah (the "Misdemeanor Conviction")
7. The Division alleges that the Misdemeanor Conviction and the conduct of Respondent which resulted in the Misdemeanor Conviction, is unprofessional conduct as defined in Utah Code Ann. § 58-1-501 (2)

The Board discussed the insurance fraud, the insurance company involved, the medication, and other issues of the incident.

The Board discussed the sale of Mr. Strebel's pharmacy and discussed if Mr. Strebel would be planning to re-purchase the pharmacy.

In a letter from Mr. Strebel he stated he would not deal with the sale or the purchasing of the Park City Pharmacy @ the Clinic pharmacy as he was under a Stipulation not to have any access to the pharmacy or it's business issues.

Ms. Taxin stated in one of her telephone calls Mr. Strebel stated he would like to take the pharmacy over, clean it up, and sell it.

Mr. Hill asked if there was a record of the escrow account listed in the Stipulation. Mr. Hill requested statements from the escrow account and shared his concern about a fraudulent transaction if the statements were not available.

Ms. Taxin stated the business is not registered with the Division of Corporations within the Department of Commerce under the name of Park City Pharmacy @ the Clinic.

The Board discussed obtaining the IRS tax records to; see who paid them, or who did not, whose tax return the revenue was filed on, and what Federal Tax ID number is being used.

Mr. Fitzpatrick suggested that Mr. Strebel retake the NAPLEX and MPJE before he could be re-licensed.

The Board discussed the Division's procedures for a Pharmacist coming from another State.

Mr. Fitzpatrick asked about the OIG requirements.

The Board discussed the issues of the Stipulation in regards to restitution, fines, and finding of facts for Mr. Strebel.

The Board discussed obtaining the information required to ensure the requirements of the Stipulation have been met.

Mr. Hill made the motion to deny the license based on moral turpitude. There was no second.

The Board continued the discussion about obtaining the information required to ensure the Stipulation has been met.

The Board discussed the process required to obtain the type of information the Board needs to make the decision of reinstating Mr. Strebel's license.

The Board discussed their options, the information required, and the need for further information.

Ms. Taxin stated she would speak with the Attorney General's office to clarify legal issues, Board options, and the correct process of obtaining the requested information.

Mr. Hill amended the motion to conditionally deny the re-instatement of licensure pending verification the Stipulation has been met. Including clarification about the sale of the pharmacy, tax returns, clarification of the Federal ID number, a copy of the promissory note, statements for the escrow account, and the records of all payments received.

**Ms. Yamashita seconded the motion.
The vote passed unanimously.**

Ms. Taxin stated she will research what the best way to obtain this information.

2008 Board Meeting Schedule

The Board noted the following dates for the 2008 Board meeting schedule: April 22, May 27, June 24, July 9, August 19, September 23, October 28, November 25 and December 16, 2008.

CORRESPONDENCE:

Green River Medical Center Request and
Carbon Medical Service Pharmacy Request,
Branch Pharmacy Review

Ms. Taxin read Kim McFarlane, PA-C's, request to the Board. Ms. Taxin clarified that the request was really one request not two separate requests from both Green River Medical Center and Carbon Medical Service Pharmacy.

Ms. Caviness was present and further clarified the request was from both Green River Medical Center and Carbon Medical Service Pharmacy.

Ms. Caviness stated that Mr. McFarlane is requesting to allow licensed pharmacy technicians or nurses be allowed to give the already filled prescription to patients, and to be able to take the label off of the printer, put it on the medication, and then hand it to the patient.

The Board discussed the options available to help meet the needs of the rural pharmacy.

Ms. Baker stated that it was not part of the nursing scope of practice and therefore a nurse doing this procedure is not an option.

Ms. Taxin stated there are two issues:

1. It is out of the nurses' scope of practice and the Board should not discuss another Board's practice in this meeting.
2. The Board needed to address the issue of having a Pharmacy Technician handing medications to the patient.

The Board discussed the issues which brought this request up and the Laws and Rules of who is allowed to give medications to the patient.

Mr. Hill stated his understanding was that giving the bag to the patient is distributing but that putting the label on the prescription is dispensing.

Ms. Taxin read the Rule for supportive personnel and the Board discussed the options available to Green River Medical Center and Carbon Medical Service Pharmacy.

Ms. Caviness stated that this was a collaboration between both pharmacies and requested clarification of what their options are.

The Board discussed the intent of the Rule in regards to supportive personnel and requested a written protocol of how the two pharmacies will be handling the use of supportive personnel if they choose to use them. But if using a pharmacy technician following the Law and Rules is sufficient.

Ms. Taxin stated she would need to receive the proposal and review it to verify it meets all Laws and Rules. She also stated the protocol would need to meet all of the telepharmacies Laws and Rules.

NABP Correspondence

The Board reviewed the following NABP correspondence:

1. MPJE Item Writing Workshop information.
2. News Release regarding Support of White House's Commitment to End Illegal Internet Drug Sales.

Ms. Yamashita stated she would be willing to go to the MPJE Item Writing Workshop on June 5 and 6, 2008.

Mr. Fitzpatrick stated he is participating in reviewing the old questions with NAPB.

The Board discussed the importance of participating in the workshop.

Mr. Young stated it is beneficial to start with the writing process before doing the review process.

The Board discussed the need to be at the Writing Workshop and discussed items to be required on the test. Both Ms. Yamashita and Mr. Young volunteered to participate this year.

RX Bids.Com

The Board discussed the possible benefit of working with this type of pharmacy. Ms. Yamashita read the requirements and stated she was glad that one of the requirements was the pharmacy needed to be in good standing.

The Board discussed four dollar scripts from Smith's and other local pharmacies and questioned how RXBids.com prices would be cheaper.

The information provided by RXBids.com was noted. No action taken.

NEXT MEETING SCHEDULED FOR:

April 22, 2008

ADJOURN:

Motion to adjourn was made by Ms. Yamashita

The time is 5:00 pm and the Board meeting is adjourned.

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.

April 22, 2008
Date Approved

(ss) Roger Fitzpatrick
Chairperson, Utah Pharmacy Licensing Board

April 11, 2008
Date Approved

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