

MINUTES

**UTAH
PHARMACY
BOARD MEETING**

September 23, 2008

**Room 474 – 4th Floor – 8:00 A.M.
Heber Wells Building
Salt Lake City, UT 84111**

Convened: 8:03 a.m.
Conducting: Roger B. Fitzpatrick, Chair

Bureau Manager: Noel Taxin
Board Secretary: Shirlene Kimball

Board Members Present: Roger B. Fitzpatrick
Derek D. Garn
Betty Yamashita
David C. Young
Edgar Cortes
Dominic DeRose
Kelly Lundberg

Division staff: Connie Call, Compliance Specialist
Assistant Attorney Generals Office: Dan Lau

Guests: Greg Jensen, Target
Linda Sandberg, Omnicare
Rebecca Youngberg, Student, U of U
Camie Brinkerhoff, Walgreen's
Faith Stapley, Stapley Pharmacy

TOPICS FOR DISCUSSION

ADMINISTRATIVE BUSINESS:

Swearing in of new Board member, Kelly Lundberg, PhD:

August 19, 2008 Minutes:

DECISIONS AND RECOMMENDATIONS

Ms. Taxin conducted the swearing in of Dr. Lundberg as Board member. Dr. Lundberg introduced herself and indicated she is a psychologist at the University of Utah Addiction Center. Board members welcomed Dr. Lundberg to the Board.

Minutes from the August 19, 2008 Board meeting were approved with corrections. All Board members in favor.

Report from the NABP/ AACP District meeting:

Mr. Fitzpatrick reported he received a lot of positive feedback regarding the NABP/AACP District meeting. He reported there were 130 attendees and 16 spouse guests. Mr. Fitzpatrick expressed appreciation for sponsor support and for Board member assistance at the meeting.

Mr. Fitzpatrick indicated the NABP Annual meeting will be held in Miami Florida, May 16-19, 2009. The Board will need to nominate a delegate and an alternate delegate for the meeting. Board members nominated Mr. Young as delegate and Mr. Garn as alternate delegate. All Board members in favor.

Mr. Fitzpatrick also indicated he and Mr. Young will be reviewing state specific MPJE questions.

Connie Call,
Compliance Report:

Ms. Call reported the following individuals/pharmacies are in compliance with the terms and conditions of the Stipulation and Order: Hollie Kilburn, Andrew Buckley, Cameron Tolley, Rebecca Burton, Stapley Pharmacy and Warren Enterprises.

The following individuals/pharmacies are out of compliance with the terms and conditions of their Stipulation and Orders:

Diann Millikan. Ms. Millikan did not attend 12-step or PIR meetings and has numerous prescribing practitioners and pharmacies.

Rich Wright: Mr. Wright needs to submit the neuropsychological evaluation.

Issac White. Mr. White missed calling CVI on August 29, 2009.

Michael Hodges: Mr. Hodges needs to submit his therapist report.

Laura Tautfest. Ms. Tautfest failed to meet with the Board last month as scheduled.

San Rafael Chemical: The last analysis report was submitted March 27, 2008. The Division has not

received a report since that date. The analysis report is due quarterly and Mr. Meibos should have submitted the reports June 1, 2008 and September 1, 2008. If the reports are not submitted by October 2, 2008, the Board will recommend an Order to Show Cause Hearing.

Cameron Tolley,
Quarterly probation interview:

Ms. Yamashita conducted the interview. Mr. Tolley reported the Order amendment which allows him to practice under general supervision and to open and close the pharmacy has been good for him and for the pharmacy. Ms. Yamashita requested an updated work/practice plan outlining the days he will work, the work hours, what his extended practice includes and the procedure he follows if there are any problems. The work/practice plan also needs to address ordering medications, how the controlled substance audits will be conducted and how discrepancies are handled. Ms. Yamashita requested the controlled substance audits be submitted quarterly. Mr. Tolley stated he will have his supervisor submit a copy of the audit and outline how the pharmacy handles discrepancies. Mr. Tolley stated he will work on the work/practice plan and submit it to the Board.

Mr. Tolley stated he has a good support system. He indicated he is attending PIR meetings and AA meetings. He stated he finds AA meetings a waste of time, but continues to attend as stipulated in his Order. **Mr. Tolley is in compliance with the terms and conditions of his Order.**

Diann Millikan,
Quarterly probation interview:

Ms. Yamashita conducted the interview. Ms. Taxin left the room during the interview. Ms. Millikan reported she had been in a motor vehicle accident July 8, 2008 and is still recovering from the accident. She reported she had just started a new job when the accident occurred. She stated she returned to work yesterday and will work 20 hours per week until her strength returns. She indicated she is enrolled in a six week stress management class. Her supervising pharmacist submitted a letter indicating he has read and understands the requirements of her Order. Board members requested she have the pharmacy submit a beginning inventory from the date she began employment and then submit quarterly inventory

reports to the Board. Ms. Yamashita also requested Ms. Millikan submit a work/practice plan that includes the days she will work and her work hours. Board members also requested a report on how the pharmacy handles discrepancies.

Board members discussed with Ms. Millikan the number of prescribing practitioners and the number of pharmacies used. Ms. Millikan stated her family was filling her prescriptions and were not aware she could only have the prescriptions filled at one pharmacy. She indicated the prescribing practitioners were from the emergency room and specialists she saw after her accident. She stated all prescribing practitioners were made aware of her addiction. She indicated she is now using only one prescribing practitioner. She stated she did not attend 12-step meetings while recovering from surgery, but her sponsor came by the house. She will have the sponsor write a letter indicating she met with Ms. Millikan. She stated she will start attending 12-step meetings again as well as PIR and aftercare. She stated she will continue to work with her sponsor and has enrolled to do volunteer work at Ronald McDonald House. She stated she is doing well and has been able to handle the accident and associated stressors. **Ms. Millikan is out of compliance because she did not attend 12-Step, PIR or aftercare meetings, had multiple prescribers and multiple pharmacies. She will be seen again in December.**

Pass Assured Pharmacy Technician program approval request:

Pass Assured Pharmacy Technician program submitted a request for approval. The program is on a CD and Mr. Cortes will review the CD and report to the Board next month. If approved, only the didactic portion would be accepted.

Review Memorandum from Sandy Hess regarding Pharmacy Services, LLC:

Pharmacy Services, LLC was issued a letter of concern July 2007 and had a follow up inspection on February 2008. The February 2008 inspection found numerous deficiencies and Ms. Hess followed up with another inspection September 4, 2008. Ms. Hess reported the majority of concerns from the February 2008 inspection had been corrected; however, there were still several minor deficiencies. Board members recommend the investigators re-inspect the pharmacy

S. Rich Wright,
Interview:

in approximately two months.

Ms. Yamashita conducted the interview. Mr. Wright's license is currently suspended and he indicated it has been a very hard year for him. He stated he has lost everything, his job, his family and his home; however he stated he has been able to stay sober. He indicated he is currently active in his sobriety and sobriety is going well. He indicated AA keeps him sober, he stated he does not attend PIR meetings because he does not find them useful for sobriety. He indicated PIR meetings are more of a networking meeting and do not help with recovery. He reported he is doing odd jobs until his license is returned and he is currently working for Rocky Mountain Outfitters. He needed to complete a psychological evaluation, which he reported was submitted to the Division yesterday. He stated he had completed the evaluation within the 90 days, but he did not have the money to have the follow up completed. Board members questioned whether or not he has thoughts of relapse. He stated he has thoughts everyday, but he does not associate with anyone who uses and has been able to maintain his sobriety. He stated it is difficult without doing the urine screens because no one is monitoring him. Ms. Yamashita indicated he could contact the Division and sign up with Compass Vision if he wants to be monitored. He stated he feels okay with where he's at currently. Dr. Lundberg expressed concern with his statement that he is depressed. He stated once the license is returned, he will be less stressed and less depressed. Board members indicated he will need to let Ms. Call know the outcome of the criminal court proceedings regarding the felony charges. The evaluation needs to be reviewed and he will be scheduled to meet with the Board in December. A determination can be made at that time whether or not to terminate suspension and/or add additional requirements. Mr. Wright expressed concern that he may receive the license back, but the license will be so limited he will not be able to find employment.

After Mr. Wright left the meeting, Board members received a copy of the psychological evaluation. It was recommended Mr. Wright address depression issues with a therapist. Board members recommended

the Division contact Mr. Wright and let him know he needs to contact a therapist, start receiving therapy, and have the therapist address the recommendations in the evaluation. This needs to be started by the December meeting so that a determination can be made whether or not additional requirements will be necessary.

Rebecca Burton,
Quarterly probation interview:

Mr. Garn conducted the interview. Ms. Burton reported things are going well. She indicated she began her general education classes at the University of Utah and is working 20 hours per week. She reported she has no temptations for alcohol and avoids situations where she may be tempted. She is current on all reports and Board members recommend she submit quarterly reports instead of monthly reports. Ms. Burton is **in compliance with the terms and conditions of her Order. She will be invited to meet with the Board in February.**

San Rafael Chemical,
Probation interview:

Mr. Garn conducted the interview. Mr. Meibos indicated he had submitted the analysis log report that was required. Mr. Garn indicated the Division received a report from March 1, 2008 to March 30, 2008, but has not received a report since March 30, 2008. Mr. Meibos submitted a current report for this quarter and stated he had sent a report for June. Board members indicated he will need to re-submit the report from April 1, 2008 to present. Board members requested the client name be included (the person requesting the analysis not just the name of the company). Mr. Meibos stated he has a handwritten log with the ID number and the company requesting the analysis. He reported his assistant takes the information from the handwritten log and inputs it into an excel spread sheet. Board members requested Mr. Meibos also submit the handwritten log. The complete report and log needs to be submitted by October 2, 2008 and the next report will be due December 1, 2008. He stated he will have the report to the Division within 48 hours. Board members will meet with Mr. Meibos in December. **San Rafael Chemical is out of compliance with the terms and conditions of the Order because the analysis reports have not been received.**

Stapley Pharmacy,
Probation interview:

Mr. Fitzpatrick conducted the interview. Mr. Stapley submitted a copy of the employee handbook as required in the Stipulation and Order. Mr. Stapley stated employees will be required to sign a statement that they understand the handbook and have read the current laws and rules. Mr. Stapley indicated they have put a lot of work into the handbook and stated it has been beneficial even though he did not think it would be. The pharmacy audit was good and the next inspection will be done April 2009. After the April 2009 inspection is completed, the Board will determine if additional audits are necessary. **Stapley Pharmacy is in compliance with the terms and conditions of the Order.** Mr. Fitzpatrick indicated the December interview could be conducted by telephone.

Warren RX
Probation interview:

Mr. DeRose conducted the interview. Mr. Brent Warren met with the Board and submitted the required continuing education documentation. Mr. Warren also submitted a copy of the July 3, 2008 inspection and indicated he made changes as requested by the investigator. Mr. Warren requested early termination of probation. **The Pharmacy is in compliance with the terms and conditions of the Order.** Mr. DeRose made a Motion to terminate probation. Mr. Young seconded the Motion. All Board members in favor.

Break at 10:50 a.m.
Reconvened at 11:00 a.m.:

Laura Tautfest,
Probation interview:

Ms. Yamashita conducted the interview. Ms. Tautfest stated things are going well. She indicated she has had no changes in responsibilities at work and is keeping very busy. **Ms. Tautfest appears to be in compliance with the terms and conditions of her Order.**

Thomas Strebel
Application:

Mr. Fitzpatrick conducted the interview and asked Mr. Strebel what his expectations were for today's meeting. Mr. Strebel stated he surrendered his license January 4, 2007 and his Order indicated he could reapply for licensure at the end of his criminal probation which ended February 29, 2008. Mr. Strebel indicated that at his June 24, 2008 meeting with the Board he was told he would need to submit a

plan for obtaining continuing education; submit a letter from Darrell Bell, AG; submit a letter from Wendy Johnson; submit a letter of recommendation from his attorney and check to see if he is on the OIG list. Mr. Strebel indicated he has submitted the documentation that was requested, with the exception of a letter from Mr. Bell.

Mr. Fitzpatrick stated the Division and Board needs to determine whether or not Mr. Strebel qualifies for reinstatement or re-licensure. He indicated Ms. Poe and Mr. Perry will need to look at the Statute and Rules to see which area he falls under. If he falls under re-licensure, he must meet the re-licensure requirements. To meet those requirements he would need to submit an application with the fees, fingerprint cards, transcripts, and documentation of passing the NAPLEX, retake the MPJE examination and submit documentation that addresses the issues why he surrendered his license. Board members indicated they would accept documentation of the NAPLEX from the original license, but he will need to retake the MPJE examination.

If he falls under reinstatement, he would need to meet the reinstatement qualifications which would be to submit a renewal coupon, pay the renewal fee and reinstatement fee and complete continuing education.

Ms. Taxin indicated she will have Ms. Poe follow-up with Mr. Strebel.

Roe Rx,
Pharmacy Technician Training Program:

Roe Rx Inc requested additional pharmacies be approved under their formal technician training program. Current approved pharmacies are Wangsgard Pharmacy and Valley Pharmacy. Roe Rx wants to add Mountain View Health Mart; Canyon View Health Mart and Ogden Clinic Health Mart. Board members indicated before approving the additional pharmacies, Roe Rx would again need to submit the training program for review.

Rules:

Ms. Taxin indicated that several changes were requested at the Rules Hearing regarding Wholesaler rules and Board members need to review the changes and accept or deny those changes. The Proposed rules

were reviewed page by page.

Page 4 Definitions: R156-17-102(27) “Pedigree”.
The following was added after the Rules Hearing:
“but does not include prescription devices”.

Discussion: Mr. Young stated there are certain things listed as devices that are drugs. Hypertonic saline is one, which is a liquid poured into a device. It is approved by the FDA as a device, but is a drug. Ms. Taxin questioned whether or not it would need to have an electronic file containing information regarding the device? Mr. Garn indicated there are many devices that don’t need to be tracked and questioned if there would be a lot of exceptions? Board members indicated the number of exceptions is not known. Board members recommended ending the sentence after prescription drug and not include the suggested change.

Page 5 (40) Wholesaler. The proposal is to strike out “the term includes a person who derives, produces, prepares or repackages drugs or medical devices that are restricted by federal law to sales based on the order of a physician for resale”.

Discussion: Board members indicated it is not clear why the request was made to eliminate this wording. Mr. Fitzpatrick stated the key word may be “repackage”. Warehouses that buy in bulk may repackage, but if you read the whole sentence in this section it refers to repackaged drugs or medical devices that are restricted to sales **based on the order of a physician for resale**. Board members indicated if it is repackaged by physicians for resale, it does not belong under the wholesale section. Board members are okay with striking out this wording and it will not be included in the Rule.

R156-17b-615(3)(iii) added to this section was “if a publically traded corporation, the social security number and date of birth for each corporate officer shall not be required”. Board members indicated they are okay with this addition.

R156-17b-615(12) added “for human use” in this

section. Board members are okay with this addition.

R156-17b-615(12)(x) added “National Drug Code (NDC) number”. Board members are okay with this addition.

R156-17b-615(13) Eliminate this section. Board members are okay with the elimination of number thirteen.

Ms. Yamashita made a Motion to accept the changes in R156-17b specific to wholesalers as discussed. Mr. DeRose seconded the Motion. All Board members in favor.

Ms. Taxin reported the Controlled Substance Act changes become effective and beginning October 1, 2008, pharmacies will need to submit weekly to the controlled substance data base. Ms. Poe or Mr. Sims will be invited to update the Board next month regarding the real time reporting.

Discussion regarding additional areas to add to Rules:

Board members indicated that a recent article in the newspaper indicated that a pharmacist could be considered negligent for dispensing medications that have had FDA approval withdrawn. Ms. Taxin stated the Board may want to add that it is unprofessional conduct not to keep current with Rule changes in the profession.

Mr. DeRose also discussed off-label use. Mr. DeRose stated the pharmacist may not know the prescription is written off-label if there is no diagnosis and the pharmacist would constantly be calling the physician for clarification.

Board members suggested additional open meetings be scheduled to gather suggestions/requests regarding other areas to be addressed in rule.

Adjourned:

12:10 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.

10/28/2008
Date Approved

(ss) Roger Fitzpatrick
Roger Fitzpatrick, Chairperson, Utah Pharmacy
Licensing Board

10/28/2008
Date Approved

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