

MINUTES

**UTAH
PHARMACY
BOARD MEETING**

October 28, 2008

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

Convened: 8:05 a.m.
Conducting: Roger B. Fitzpatrick, Chair

Bureau Manager: Laura Poe
Board Secretary: Shirlene Kimball
Division Director: F. David Stanley

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
Kent Barnes, Sr. Business Analyst
Wayne Holman, Chief License/Investigations manager
Jared Memmott, Investigator

Guests: Greg Jensen, Target
Linda Sandberg, Omnicare
Derrick Shepherd, Student
Sara Ridges, Student
Titiya Hongsawong, Student
Wissuta Arunkanjana, Student
Jaime Peterson, Walgreens
Rian Dans, Student
Adam Cook, Student
Jessica Griffin, Student
Reid Barker, UPhA
Vicki Berger
James Berger
Eric McDowell, Pharmaceutical & Diagnostic

TOPICS FOR DISCUSSION

ADMINISTRATIVE BUSINESS:

September 23, 2008 Minutes:

Connie Call,
Compliance Report:

Mark Munger, presentation:

DECISIONS AND RECOMMENDATIONS

Dr. Lundberg made a motion to approve the September 23, 2008 minutes with corrections. Ms. Yamashita seconded the Motion. All Board members in favor.

Ms. Call reported the following individuals are in compliance with the terms and conditions of their Orders: Jay Bawden, Andrea Lowry, Mary Jo Cates and Spencer Edwards. The following individuals are out of compliance: Sheryl Ledet, William Roberts and David Abrams.

Ms. Ledet missed calling CVI September 25, 27 and October 5, 2008. She also missed a urine screen and has not attended PIR meetings. Ms. Call reported clarification is needed regarding Ms. Ledet's employment. She submitted a practice plan which included two practice sites, but only one employer report has been received.

William Roberts is out of compliance because he did not submit an employer evaluation. Mr. Roberts has also requested early termination of probation.

Dave Abrams did not submit his employer report. His probation terminates November 10, 2008 and he may not realize he needed to continue to submit the paperwork until the probation was terminated.

Alfonzo Montano was employed for 4 days and then his employment was terminated. The supervising pharmacist indicated the termination had nothing to do with probation or for poor performance. Ms. Call indicated the employer indicated he was not willing to provide training for Mr. Montano when Mr. Montano would be leaving as soon as he found a higher paying position.

Cameron Tolley updated his practice plan, but did not include the information that was requested last month.

Dr. Munger requested a meeting with the Board to discuss pharmacy technician continuing education and

the scope of practice that allows the pharmacy technician to counsel for over-the-counter drugs and dietary supplements.

Dr. Munger stated there has been criticism of the Pharmacy Practice Act and Rule that allows pharmacy technicians to counsel for OTC drugs. Dr. Munger questioned whether or not the Board wants to stand by the decision to allow pharmacy technicians to counsel on OTC drugs or should the rule be reexamined? Dr. Munger stated he feels that reexamining the rule and not allowing the pharmacy technician to provide OTC counseling would be a step backward.

Dr. Munger stated that experience and education for pharmacy technicians has not developed as envisioned four years ago when the OTC rule was written. Dr. Munger requested the Board address the criticism of the rule by addressing these issues. Mr. Cortes stated there are not a lot of technicians providing OTC counseling. He stated they are capable of counseling but the schools are not providing the educational foundation. Dr. Munger stated we need to encourage the schools and the organizations providing continuing education to provide training in this area. Mr. Fitzpatrick stated there is a long list of rule changes that need to be made and this issue could be added.

Dr. Munger also suggested the Board make live continuing education mandatory even if the pharmacy technician has a current PTCB certification. He stated he understands that live continuing education is hard to find, and that pharmacists and pharmacy technicians are looking at obtaining live CE from the internet. Dr. Munger indicated that if live CE is obtained from the internet, it would be more comprehensive if combined with attendance at live CE seminars. Ms. Poe indicated the rule regarding renewal can be changed to accept PTCB certification **and** x number of live continuing education. Dr. Lundberg questioned whether or not this would be a problem for those individuals in the rural areas? Dr. Munger stated yes, the education system will have to look at a way to offer the live continuing education. Ms. Poe also indicated the Rule would include a definition of who can provide acceptable continuing education.

Mr. Young questioned whether or not a pharmacy technician can attend a pharmacist program and receive credit? Mr. Fitzpatrick stated that as long as the program is ACPE accredited it would be accepted and more courses are accepting pharmacy technicians.

Ms. Yamashita stated the pharmacy technician may not want to counsel for OTC and dietary supplements. Mr. Fitzpatrick stated the rule should address OTC products and the technicians can choose whether or not they are going to participate in counseling.

Mary Jo Cates,
Quarterly probation interview:

Ms. Yamashita conducted the interview. Ms. Cates reported things are going well. She indicated she likes her job and is currently working 20 hours per week. She stated she eventually would like to return to an institutional setting. Board members questioned how she is dealing with stress. Ms. Cates stated she lives a healthy lifestyle and attends PIR and 12-step meetings. Ms. Yamashita questioned whether or not she has any cravings. Ms. Cates stated sometimes she starts to entertain the thought, but stops because she doesn't want to go back to that lifestyle. Ms. Cates stated her supervisor has read the Stipulation and Order. She indicated her supervisor questioned why she has to submit a practice plan and an inventory when they are not required in the Stipulation. Board members stated these documents are helpful in monitoring her probation and it has been a policy to ask for these documents. However, if she is not willing to submit them, she is not required to do so. **Board members indicated Ms. Cates appears to be in a good place and is in compliance with the terms and conditions of her Order.**

Update on the Controlled Substance
Data Base:

Ms. Poe reported the rules became effective in October requiring pharmacies to report every 7 days. She stated it appears to be working fairly well. Ms. Poe indicated the legislation that passed regarding the real time data base is being addressed by the Deputy Director of the Department of Commerce. The Department has been receiving the proposals and those proposals are being evaluated to determine who will be awarded the contract. The next phase will be to select participating pharmacies. Board members

indicated there needs to be a cross section of pharmacies represented.

Smith Rexall Drug
Pharmacy Technician program approval
request:

Mr. Cortes will review the program and report to the Board at the next meeting.

Pass Assured Pharmacy Technician program
approval request:

Mr. Cortes reported the Pass Assured program is not a pharmacy technician program, but a review course on how to pass the PTCB examination. Mr. Cortes made a Motion to deny the request for approval because the program does not meet the criteria set forth in rules. Mr. DeRose seconded the Motion. All Board members in favor.

William Roberts,
request for early termination of probation:

Mr. Fitzpatrick conducted the interview. The Division has not received a supervisor report for this quarter. Mr. Roberts indicated his supervisor quit at the end of September and now resides in Texas. Mr. Roberts indicated he has left messages requesting the report. Mr. Roberts stated the pharmacy has not yet hired for the supervisor's position. He stated he does not have a pharmacist working with him at this time. Mr. Roberts also reported his wife was in a bad car accident, but is doing fairly well. He indicated his daughter gave his wife her medications and he did not have to deal with them. Board members questioned how he is dealing with his stressors? He reported he is dealing surprisingly well. He stated he has been in contact with his therapist and support group members. Ms. Yamashita questioned him on what he has learned through the probation process. Mr. Roberts stated he has learned to never assume you know more than you know. It is easy to cross the line when dealing with the effects of medications. He warned the students to be careful and cautious and not mess with drugs because it becomes very easy to rationalize your actions once you cross the line. Mr. Fitzpatrick questioned whether or not Mr. Roberts would continue to attend PIR or 12-step meetings if the probation was terminated. Mr. Roberts stated he would continue to attend AA, but doesn't think he will continue to attend PIR meetings. Ms. Call reported Mr. Roberts has been in total compliance until this last quarter when he failed to submit the employer report. Mr. Fitzpatrick stated Mr. Roberts has been clean since November

2000. Based on his compliance with the terms and conditions of the probation and the changes Mr. Roberts has made, Mr. Fitzpatrick made a Motion to terminate the probation. Mr. DeRose seconded the Motion. All Board members in favor. Mr. Roberts will not need to submit the employer report and is in **compliance with the terms and conditions of his order.**

J. Michael Hodges,
Quarterly interview:

Mr. Young conducted the interview. Mr. Hodges indicated nothing has changed since he last met with the Board. He continues to attend counseling and continues to work at 4 Care pharmacy full time. Mr. Hodges needs to complete the sexual boundaries course by April 2009 and he indicated he is working with his counselor to meet this requirement. He stated he changed counselors last week and will need to discuss the course with the new counselor and find out how he wants to proceed. Dr. Lundberg questioned what the counselor has to do with the course? Mr. Hodges stated the counselor had found a course and was willing to work with him on a one to one basis. Board members indicated he needs to make sure the Board approves the course and indicated there are formal courses offered. Mr. DeRose expressed concern that the sexual boundary course Mr. Hodges wants to complete is tied to the counselor. Mr. DeRose stated he would prefer Mr. Hodges attend a formal approved sexual boundaries course. Dr. Lundberg stated she agrees with Mr. DeRose. Ms. Call provided Mr. Hodges with the name of an approved course. Ms. Yamashita questioned how work is going and who he is working with? He stated work is going fine. He indicated the pharmacists are male and there are some female pharmacy technicians. He reported he has had no problems at work. He stated his supervisor and two other pharmacists are aware of his problem and he feels he is supported at work. Mr. Young indicated that the August employer report indicates an incident where he grabbed a pharmacy technician. He stated he was not aware of the incident, other than one time when a pharmacy technician started to leave before finishing a job. He reported he is more vocal now and uses his hands less. He will be seen again in January and will need to continue to submit monthly reports. Board members

indicated his goal should be to have the sexual boundaries course completed by January. Board members indicated they would like to see him take the initiative and not be dependent on the counselor to complete the course. **Mr. Hodges is in compliance with the terms and conditions of his Order.**

Break: 10:10 a.m.
Reconvened: 10:25 a.m.

Spencer Edwards,
Quarterly interview:

Mr. Fitzpatrick conducted the interview. Mr. Edwards is requesting early termination of probation and submitted a letter to the Board addressing what he has learned in the probationary process. Mr. Edwards has completed the court probation and has been in compliance with the terms and conditions of his Order. He is currently working at Walgreens and reported everything is going well. He is currently enrolled in an associates' degree program and would like to obtain an engineering degree. Ms. Call reported he has been in total compliance with the terms and conditions of his Order. Mr. Fitzpatrick made a Motion to terminate the probation. Mr. Garn seconded the Motion. All Board members in favor. **Mr. Edwards is in compliance with the terms and conditions of his Order.**

Jennica Bringhurst,
New order:

Mr. DeRose conducted the interview. Mr. Memmott, division investigator and Ms. Bringhurst's parents, Dr. and Mrs. Berger were present for the interview. Ms. Bringhurst explained the circumstance that brought her before the Board. Ms. Bringhurst stated she understands the terms and conditions of the Memorandum of Understanding. She stated she has not yet signed up with Compass Vision for the random urine screens because she cannot afford them. Ms. Poe indicated Ms. Bringhurst did not qualify for in-patient or out-patient treatment and will not be required to enter a program. She does need to attend PIR and 12-step meetings. No other therapy or treatment will be required.

Ms. Bringhurst stated she is working at K-Mart and her supervisor is aware of the Order. She reported she last used marijuana December 2007 and had only used marijuana a total of five times. She stated she did not

answer yes on the qualifying questionnaire regarding marijuana use because she believed if she had answered yes, her application would have been denied. Mr. DeRose responded that if she had answered truthfully, her application would have been presented to the Board and the Board would have made a decision regarding licensure. If she had answered truthfully, she may not have had any restrictions or the length of probation may have been shorter. Dr. Berger stated his daughter made a mistake and only asks that the punishment fit the crime. Ms. Poe indicated compliance to the terms of the Memorandum of Understanding is critical and if she is completely compliant, she may ask to reduce the probation at some point in time.

Ms. Bringhurst reported she works 18 hours per week and is attending school almost full time. Board members questioned whether or not she is now using marijuana or any other drug. Ms. Bringhurst stated no. She stated she does have wine with dinner and at parties approximately once a month. Board members indicated her Order does not allow alcohol and questioned if she will have a hard time giving it up? She stated no, but this is depressing because she worked hard to get through school and now she has to deal with having a license on probation. Mr. Fitzpatrick stated the Board is here to protect the public and to also help her through the process. He indicated the Board wants her to be successful. **Ms. Bringhurst is in compliance with the terms and conditions of her Order.**

Sheryl Ledet,
Quarterly interview:

Mr. Young conducted the interview. Ms. Ledet's Order was amended and her narcotic restriction was lifted in June to help her obtain employment at a home infusion pharmacy. She reported she was not hired due to a corporate decision; however, she was hired by Smith's Pharmacy on August 31, 2008 and is currently working 20-30 hours a week under direct supervision. Mr. Young indicated she is missing her PIR attendance card. She stated she is attending PIR meetings but only attended one meeting in June, July and August. She stated she attended additional 12-step meetings during those months. She indicated she was having a hard time traveling to Salt Lake to attend

the PIR meetings, but is now attending them at McKay Dee Hospital in Ogden. The facilitator at those meetings does not sign the cards, but submits a formal report to the Board. Ms. Ledet was requested to remind the facilitator to have the report submitted to the Board by the 1st day of the month. Ms. Ledet submitted an explanation of how her employer handles controlled substance discrepancies. Ms. Ledet missed calling CVI on September 25, 27, and October 5, 2008. Ms. Ledet stated she knew she missed calling two days, but was not aware of the third day. Ms. Ledet questioned whether or not she could run the pharmacy while her supervisor is at lunch? She stated she is currently under direct supervision and is not sure how to handle the situation. She stated the pharmacist does not take a lunch outside the pharmacy. Mr. Cortes stated he would not be comfortable with her working alone for 30 minutes. Mr. Fitzpatrick stated supervising pharmacists need to be allowed to take a break, or no one will agree to be a supervisor for an individual on probation. He would recommend the pharmacist be on-site except during the lunch period. The lunch period would have to be a reasonable period; a three hour lunch would not work. If a patient came in and needed a Schedule II controlled substance, the patient would need to wait until the pharmacist returned. Ms. Yamashita suggested Ms. Ledet's PIC draft a letter for the Board's review and approval as part of the practice plan. The supervisor would need to specify that Ms. Ledet does not have the keys and can't open or close the pharmacy. **Ms. Ledet is out of compliance with the terms and conditions of her Order because she missed calling CVI and missed PIR meetings.**

Alfonzo Montano,
Quarterly interview:

Ms. Yamashita conducted the interview. Mr. Montano reported he started a new job on September 16, 2008, but the pharmacy let him go because of the probationary license. Mr. Fitzpatrick questioned whether or not the pharmacist knew about the probationary license before he was hired? Mr. Montano stated yes, everything was fine for the first four days. Ms. Call reported she spoke with the pharmacist who indicated the termination had nothing to do with the probation, or with job performance. Mr. Montano stated he is looking for a job, but not in

pharmacy. He stated it seems like he wasted his time going to school. He stated he feels he is jumping through hoops and is very frustrated. Mr. Garn stated he needs to realize it was his actions that put him where he is today, not the State or the Board. Mr. Montano stated his offenses occurred 10 years ago. Ms. Call indicated he did not complete the terms and conditions of the court probation 10 years ago and still needs to complete them. Ms. Yamashita indicated there are a number of probationers who have found jobs and are working with a probationary license. Mr. Montano indicated employers have also indicated he does not have the experience and they will not hire him. Ms. Yamashita stated she hears the frustration and he may want to look outside of pharmacy for a job. The therapist report indicates he is currently working on anger issues. He stated he is not angry, just very assertive. Dr. Lundberg stated that assertiveness could be perceived as aggressiveness by others. Ms. Call indicated he has requested she provide a copy of his Order on multiple occasions. He needs to be responsible, have everything ready to submit to the employer and to the Board. Ms. Yamashita reminded Mr. Montano if he is not employed as a pharmacy technician, the period of probation will be extended. He will need to decide if he wants to maintain his license and become compliant to the Order or lose his license due to non-compliance. He stated he will know November 1, 2008 whether or not he gets the job outside of pharmacy and will let Ms. Call know if he wishes to surrender his license. **Mr. Montano is out of compliance with the terms and conditions of his order because he has not submitted the required reports.**

Dave Abrams,
Annual interview:

Mr. Fitzpatrick conducted the interview. Mr. Abrams has completed the terms and conditions of his Stipulation and Order. This will be his last meeting with the Board. He is current on all reports and is in compliance with the terms of the probation. He stated he does not plan on changing jobs once he is off probation. His advice to the students is to error on side of caution. He stated he has nothing to discuss with the Board. **Mr. Abrams is in compliance with the terms and conditions of his order and his probation will be terminated on November 10,**

2008.

Break for lunch: 12:10 p.m.
Reconvened: 1:00 p.m.

Alan Mueller,
New application:

Mr. Mueller met with the Board to discuss his application for licensure as a pharmacist. He stated he has not been licensed for the last 10 years because he has been working as vice president for a pharmaceutical research company. He indicated he has worked as a consultant for about one year doing clinical trials in pain. He indicated he was hired at Lifetree Research as a clinical research pharmacist with the understanding he would obtain a Utah pharmacist license. Board members questioned whether or not he feels competent to practice as a pharmacist after 10 years of not being licensed. He stated he feels he is competent and has maintained contact through research. He stated he understands he will need to complete continuing education and pass the MPJE examination. He stated he has completed some continuing education, and is signed up with the University of Kansas for additional CE. Mr. Fitzpatrick suggested he obtain 60 hours of continuing education with a therapy focus. Ms. Poe indicated there are several options the Board could follow: The Board could approve a restricted license and restrict to research only. However, if he is using federal grants, he may be excluded because the Federal Government does not allow for restricted licenses. The second option would be to issue a temporary pharmacist license upon completion of continuing education hours and passing the MPJE. A full license would be granted upon completion of supervised intern hours. He could arrange to work under the pharmacist at Lifetree.

Mr. Garn made a Motion to approve Mr. Mueller to take the MPJE. He will need to submit documentation of completion of 60 hours of continuing education with a therapy focus including 12 live hours. Upon passing the MPJE and documentation of the 60 hours of CE, a temporary license would be issued so he can complete 80 hours of internship under an approved supervisor. Once he has successfully completed the internship, a full license would be issued. The

temporary license would be issued for six months. Ms. Yamashita seconded the Motion. All Board members in favor.

Pharmaceutical and Diagnostic Services,
pharmacy technician program:

Mr. Cortes will review the information and report at the next meeting.

Advanced Care Scripts application:

Ms. Poe indicated Advanced Care Scripts has had a change of share holders and has submitted a new application. Ms. Poe reported the existing entity has had no problems, but the parent company had a settlement and was under a monitoring agreement in several states. It was reported that this action has been resolved. Board members recommend the application be approved for licensure. All Board members in favor.

December agenda:

Ms. Poe proposed that the Board meetings go until 5:00 p.m. to work on the rules. In December the Board would discuss the issue of disposal of medications, establish a list and time-line for rule changes/additions, and any proposed legislation for the 2009 General Session which affects pharmacy regulation.

Mr. DeRose:

Mr. DeRose stated he received a fax from Rx changes.com. This is an advertisement to list prescriptions for exchange from one pharmacist to another pharmacist. It appears to get around the pedigree requirement. Ms. Yamashita stated the rules need to be tightened up to prevent problems.

Adjourned:

1:50 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.

December 16, 2008
Date Approved

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

December 16, 2008
Date Approved

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