

MINUTES

**UTAH
PHARMACY
BOARD MEETING**

February 24, 2009

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

Convened: 8:07 a.m.

Conducting: Roger B. Fitzpatrick, Chair

Bureau Manager: Laura Poe
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
Kent Barnes, Compliance Manager
Jared Memmott, Investigator
Sandy Hess, Investigator
Wayne Holman, Licensing/Investigations Manager

Guests: Timothy Auger, U of U College of Pharmacy
Daniel Manning, Pacific Univ. Pharmacy School
Christian Larsen, Creighton Univ. School of Pharmacy
Greg Jensen, Target
Ann Stone, U of U College of Pharmacy
Nick Sparrow, U of U College of Pharmacy
Linda Sandberg, Omnicare
Camie Brinkerhoff, Walgreens

TOPICS FOR DISCUSSION

DECISIONS AND RECOMMENDATIONS

ADMINISTRATIVE BUSINESS:

January 27, 2009 Minutes:

Minutes from the January 27, 2009 Board meeting were approved with corrections. All Board members in favor.

Connie Call,
Compliance Report:

Ms. Call reported the following individuals are in compliance with the terms and conditions of their Orders: Laura Tautfest, Kami Creer, Jennica Bringhurst, Richard Lowe, Phuong Sheffer, Chad Smith and San Rafael Chemical.

Ms. Call reported Alfonzo Montano is out of compliance with the terms and conditions of his Order and needs to submit a therapist report.

Board members discussed the essay submitted by Jennica Bringhurst. Board members would like Ms. Bringhurst to summarize the essay when she meets with the Board in April. Ms. Call indicated she contacted Ms. Bringhurst's previous employer and it appears the reason for her termination was a misrepresentation on the employment application and not because of the probation. There will be no need to have the district manager meet with the Board.

Review continuing education submitted by
Jay Bawden:

Mr. Fitzpatrick made a Motion to accept the continuing education submitted by Jay Bawden. Mr. Garn seconded the Motion. All Board members in favor.

Kathryn Irons,
New Order:

Mr. Young conducted the interview. Ms. Irons explained the circumstances that brought her before the Board. She indicated she did not waste medications properly at her place of employment and had attempted suicide. Ms. Irons stated she understands the terms and conditions of her Order and has already attended a PIR and AA meeting. She indicated she did not find these meetings helpful because they do not address her issues. She indicated she will seek counseling and will work on the issues that lead to her license being placed on probation. She stated she is not currently employed, but is looking for work. Mr. Young made a Motion to amend the order to eliminate the 12-step and PIR attendance requirements; however, she will be required to obtain appropriate counseling at a frequency determined by therapist. Ms. Yamashita seconded the Motion. All Board members in favor. Ms. Irons will meet with the Board in May. **Ms. Irons is in compliance with the terms and conditions of her Order.**

Mr. Cortes questioned why Ms. Irons was placed on probation for five years? He stated he feels since she does not have substance abuse issues, the term of probation should be less than five years. Mr. Cortes made a Motion to reduce the probation to three years. There was no second. The Motion died.

Scott Dale Harris Hearing
Adjourned to Hearing at 9:05 a.m.:

Mr. Harris did not appear for his scheduled Hearing. The Board meeting reconvened at 9:40 a.m.

Discussion regarding the threshold for security that should be required for the Controlled Substance Data Base:

Ms. Poe indicated the rule for the pharmacy pilot program for daily reporting to the Controlled Substance Database has been filed. Mr. Fitzpatrick stated he contacted Foundation Systems, the software company his pharmacy uses. Foundation Systems indicated that with some modifications, daily reporting would be possible. It was reported that PDX would also have the capability to report daily with some minor modifications. Mr. Garn reported Wal-Mart should not have a problem reporting daily. Mr. DeRose stated he runs a manual log and does not know if he would be able to report daily. Ms. Yamashita stated she has an electronic log and is not sure what modifications would need to be made. Other Pharmacies reported they could report daily, but it would have to be done manually. Ms. Poe stated the possible implementation date would be May 1, 2009.

Ms. Poe had a question regarding access to the Controlled Substance Data Base. Is it acceptable if the prescribing practitioner allows a staff member to use his/her PIN to access the controlled substance database information? Board members indicated the law does not allow for the practitioner to have staff members access the data base using the practitioner's PIN number. Mr. Holman stated changes are being considered to allow the physician to have two or three people assist in obtaining this information. Each assistant will have his/her own PIN number.

Discussion regarding licensure requirements for the jail setting, public/private schools, small hospitals receiving pharmaceutical services from a larger hospital or affiliate

Ms. Poe reported she receives questions regarding licensure in various setting where medications are administered and stored. Ms. Poe indicated school settings are having more and more children being

hospitals, and facility that houses research participants for medication administration or storing 30 days supply of medication for research participants:

placed on controlled substance medications and the schools are being asked to store and administer the medication. She indicated that in looking at the definition of pharmacy, she is concerned that these types of settings may require a pharmacy license. She also questioned medication administration and storage in the jail setting.

Mr. Memmott stated most jails are receiving medications from licensed pharmacies in a bubble pack for PRN purposes. If there is a licensed individual whose scope of practice allows medication administration, the jail could use bubble pack medications and would not be required to have a pharmacy license. If a jail doesn't have a licensed person, and/or they use stock medications, then the jail would need to be licensed as a Pharmaceutical Administration Facility.

Ms. Hess also indicated there are some mental health facilities that pick up client medications and hold the medications for the client. Some of these facilities are licensed as Pharmaceutical Administration Facility. Those that are not licensed should not store these medications.

After a lengthy discussion, Board members recommend the following:

Jail: If the jail uses stock medications, the jail would be required to be licensed as a Pharmaceutical Administration Facility and a licensed person would be required to administer the medications. If the medications are dispensed by a pharmacist and is patient specific (such as a bubble pack), then no pharmacy license would be required.

School settings: Board members indicated the school setting is more problematic. Board members expressed concern with safety issues which are increasing as the number of students who are taking narcotics increases and the schools are required to store the medications. Mr. Cortes suggested the Division contact the Board of Education to see how they handle this issue and whether the regulation for schools needs to be modified. Ms. Poe indicated she

will work on this issue.

Research facility that stores medication and houses patients receiving trial medications: These facilities should be licensed as a Pharmaceutical Administration Facility.

Small hospital: Ms. Poe gave an example of a question regarding the small hospital. If Hospital A receives the medications for its own use, then contracts to Hospital B (which is not licensed) and the technician from Hospital A transports the medication, does Hospital A then become a wholesaler? Can Hospital A distribute to Hospital B and is the method acceptable? Hospital B has pharmacy staff and a contractual agreement, but no pharmacy license. The medications are received from Hospital A and are stored and administered in Hospital B. Mr. Fitzpatrick stated when a pharmacy signs a purchase agreement it is very specific what can and can not be done with the medications, including prohibiting or selling the discounted medications to another facility. This may be a legal issue that should be reviewed by the hospital's legal counsel. Board members indicated if Hospital A provides more than 5% of their medication stock to Hospital B or sells any medications to Hospital B, then Hospital A would need to be licensed as wholesaler/distributor.

Parowan Drug Pharmacy,
Pharmacy Technician Training Program
approval request:

Mr. Cortes recommended approval for Parowan Drug Pharmacy Technician program. All Board members in favor. Mr. Cortes reported Parowan Drug did an excellent job with the curriculum and examination.

Mountain View Pharmacy,
Pharmacy Technician Training Program
approval request:

Mr. Cortes recommended approval for Mountain View Pharmacy Technician training program. All Board members in favor.

Pharmaceutical and Diagnostic Services
Pharmacy Technician Training Program
approval request:

Mr. Cortes recommended approval for Pharmaceutical and Diagnostic Services Pharmacy Technician Training Program. All Board members in favor.

Rules:

Discussion regarding ratios. Ms. Hess questioned if a pharmacy technician is behind the counter and working as a clerk, are they counted in the 3 to 1 ratio? She reported there is a pharmacist that wants to have 4

pharmacy technicians working at the same time, however, one will be the cashier/clerk. Then, when one pharmacy technician goes to lunch, the cashier/clerk steps in to work as a pharmacy technician. Board members stated if an individual is hired as a pharmacy technician and is placed in the cashier/clerk position, that individual will switch into the pharmacy technician role if the pharmacy becomes busy. Board members indicated this pharmacy technician would have to be counted into the ratio. Ms. Hess indicated she explained the Board's position to the pharmacist, but the pharmacist is saying this is not written in rule. Ms. Hess suggested further clarification be placed in rule.

Board members discussed whether or not the current ratio is too low. Mr. DeRose stated he is comfortable supervising three individuals in any combination. Mr. Fitzpatrick stated he has three licensed technicians, one intern and a cashier, and he stated at times he finds it is difficult to supervise this number safely. Mr. Cortes stated there are many issues, but he feels the solution is not to increase the number of technicians supervised by a pharmacist. Mr. Young questioned whether or not there has been a study looking at error rates and whether or not the error rate increases with an increase in the ratio. No one in attendance at the meeting was aware of any research in this area. Board members stated the rationale for having a ratio is for public safety; however, the current 3:1 ratio was an arbitrary choice. Ms. Yamashita indicated the ratio was left at three because of the interns and technicians in training. Several Board members indicated that technology is changing and there are checks and balances in place now that should allow an increase in the ratio. Ms. Yamashita expressed concern that if the Board increases the ratio to 6:1, then a pharmacist could possibly have eight individuals to supervise. Ms. Poe stated the rule would establish a maximum number of people who can be supervised and the 6:1 ratio would include students and interns. The individual pharmacist would determine how many individuals he/she would be willing to supervise according to his/her comfort level.

Board members recommended a ratio of 6:1 with a

maximum of two students/interns and we would not distinguish between paid and unpaid. The 6:1 ratio would include clerks. The pharmacy technician in training ratio would be 1:1 and the intern ratio 2:1.

Break for lunch at 12:15 p.m.
Reconvened at 12:45 p.m.

San Rafael Chemical:

Mr. Garn conducted the interview. Mr. Meibos met with the Board for his last probation interview. Board members questioned Mr. Meibos on what he has learned through the probation process. Mr. Meibos stated he has learned it does not pay to have a business in Utah and indicated he feels this way because of all the litigation he has been through. Mr. Meibos stated there is nothing else he wants to discuss with the Board. Board members requested Mr. Meibos have his final reports submitted to the Board by March 1, 2009. **San Rafael Chemical appears to be in compliance with the terms and conditions of the Order.** Mr. Young made a Motion that upon receipt of the final report, the probation be terminated. Mr. Garn seconded the Motion. All Board members in favor.

Alfonzo Montano,
Probation interview:

Ms. Yamashita conducted the interview. Mr. Montano stated he is looking for a job and cannot find one because of the probation on his license. He reported he has a disability in his hand due to nerve damage and can't do heavy lifting and typing is a challenge. He has not submitted the therapist report and stated he will be seeing the therapist tomorrow. He stated he feels he is a good pharmacy technician and would like to keep his pharmacy license. He indicated he is having a difficulty time finding a job with the probationary license. Ms. Yamashita stated there are a lot of pharmacists and pharmacy technicians that are on probation who have been able to find employment. Mr. Montano stated he feels like DOPL has discriminated against him because of court actions that happened 10 years ago. He stated he will go to court March 17th or 18th and will know the outcome of some of his charges. He stated in March he also has a hearing for a plea in abeyance. Ms. Poe informed him that cleaning up and clearing up the court problems will help him with this probation. **Mr. Montano is**

out of compliance with the terms and conditions until we receive a copy of the therapist report. We will see him in May,

Laura Tautfest,
Probation interview:

Ms. Yamashita conducted the interview. Ms. Tautfest's employer indicated on his report that Ms. Tautfest is doing well at work. However, he did note that she does not accept criticism well. Ms. Tautfest stated she is having some problems with co-workers and does not like her job. She indicated she would like to look for another position once her probation is terminated. **Ms. Tautfest is current on all reports and is in compliance with the terms and conditions of her Order.** Mr. DeRose made a Motion to terminate Ms. Tautfest's probation. Mr. Young seconded the Motion. Mr. Garn and Mr. Cortes abstained. All other Board members voted in favor of terminating the probation.

Rule Items:

Mr. Fitzpatrick stated he would like the Rule to further clarify the role of the Pharmacist in Charge. He stated he is concerned with the PIC who does not work at the pharmacy where he/she has been designated as the PIC. Current Rule does not require the PIC to work at the pharmacy.

Mr. Garn stated when a PIC is terminated or leaves the position it is very difficult for a pharmacy to find a qualified person within a limited period of time. It was suggested that a temporary or acting PIC be designated for a period of time not to exceed 30 days while a replacement PIC is recruited. Time periods longer than 30 days have to be approved by the Division and the Board. If the PIC is on family leave, then an interim PIC needs to be in place. If the interim period is less than 30 days, the pharmacy does not have to notify the Board/Division. If the period is more than 30 days a request for additional time must be approved by the Board. Board members indicated the pharmacist can be a PIC at two pharmacies. The PIC must work 51% of the hours of a full time equivalent as defined by the employer.

Ms. Poe stated she will begin working on a Rule draft for review at the next meeting. Also at the next meeting the Board will discuss how to handle the

technician in training programs.

Travel:

Ms. Poe indicated there is a freeze on travel, even if a third party is paying for the travel. She indicated we will not be sending anyone to the NABP meeting.

Edgar Cortes, discussion regarding pharmacy technician programs:

Mr. Cortes stated he would like to see the pharmacy technician programs include basic anatomy and pharmacology. Ms. Poe stated the Board could indicate their support of the additional courses, but can not add this requirement to rule.

Adjourned:

3:14 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.

March 24, 2009
Date Approved

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

March 24, 2009
Date Approved

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