

MINUTES

**UTAH
PHARMACY
BOARD MEETING**

March 24, 2009

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

Convened: 8:09 a.m.

Conducting: Roger B. Fitzpatrick, Chair

Bureau Manager: Laura Poe
Acting Board Secretary: Connie Call

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

Division staff: Wayne Holman, Licensing/Investigations Manager
F. David Stanley, Division Director

Guests: Greg Jensen, Target
Ann Stone, U of U College of Pharmacy
Nicholas Sparrow, U of U College of Pharmacy
Linda Sandberg, Omnicare
Timothy Auger, U of U College of Pharmacy
Dave Davis, Ut Food Ind./Retail Merchants
Judy Nielsen, Walgreens
Reid Barker, Utah Pharmacy Association

TOPICS FOR DISCUSSION

ADMINISTRATIVE BUSINESS:

February 24, 2009 Minutes:

Connie Call,
Compliance Report:

DECISIONS AND RECOMMENDATIONS

Motion passed to approve minutes with corrections.

Ms. Call reported the following probationers were in compliance with the terms and conditions of their Order: Stapley Pharmacy, Cameron Tolley, Phuong Sheffer, and Richard Lowe.

Ms. Call reported the following probationers were not in compliance with the terms and conditions of their Order: Issac White, Diann Millikan, S. Rich Wright, Aidee Torres, Alfonso Montano, and Jennica Bringhurst.

Phuong Sheffer Telephone Interview:

Interviewed via telephone by Dominic DeRose Jr. All reports have been sent in. Mr. Sheffer's employment with Walgreens was terminated. On the 3rd of December 2009, the District Manager for Walgreens said Mr. Phuong was terminated because it was against company policy to continue to employ him due to his probationary status. Mr. Sheffer has applied for many jobs but the bad economy (which is worse in Las Vegas) he hasn't been successful. Rite Aid said he still had a felony on his record which he thought was expunged. Mr. Sheffer was instructed by Mr. DeRose to contact Utah to find out the status of his criminal case. Ms. Poe suggested he contact BCI to find out what is going on with his case and send them a copy of the court order showing the plea bargain and expungement information. Mr. Sheffer said everything else was going fine except not knowing his future and he hopes he can move on. Mr. Sheffer was informed his next scheduled appointment would be in June and it would be another telephone interview. Mr. Sheffer wanted to know if he surrendered his license in Utah how it would affect his Nevada license. Ms. Poe recommended he may want to speak with an attorney regarding this issue. Ms. Poe further explained most states want an individual to go back to the state where the license was surrendered, and finish everything required by that Board to reinstate that license. Once the surrendered license has been re-issued, then the individual can apply for licensure in another state. Mr. Fitzpatrick asked if there are any sanctions on his Nevada license, and Mr. Sheffer replied no. Mr. Fitzpatrick asked if Nevada was pursuing anything because of his Utah restriction and Mr. Phuong said he didn't know of anything. Ms. Poe suggested Mr. Sheffer speak with the Nevada Pharmacy Board and find out how surrendering his Utah license would affect his license in Nevada. **Mr. Sheffer is in compliance with his Order.**

Recessed for a Rules Hearing at 9:00 a.m.
Reconvened at 9:54 a.m.

Cameron Tolley Interview:

Interviewed by Betty Yamashita. The Division received all of his reports as well as Mr. Mauchley's audit. Ms. Yamashita asked that Mr. Mauchley's entire audit be sent not just a summary. Mr. Tolley expressed his frustration that he completed the expensive psychological evaluation the Division required and the evaluator didn't feel 12-step and professional support group meetings were necessary and yet he is still required to attend them. Mr. Tolley didn't feel the Board had even read the evaluation. Mr. Tolley believes many of his issues are private and do not apply to his probation. Ms. Poe mentioned in reviewing the minutes from the last meeting, a motion was made to discontinue the requirement to attend AA, but to continue attending PIR. Mr. Tolley stated he doesn't feel he gets anything from AA and it is difficult for him to connect with anyone there. However, PIR is better because they are people coming from similar backgrounds and education, and his situation is more similar to theirs. Ms. Poe will amend his Order to delete the requirement to attend 12-step support meetings. A Motion was made by David Young and seconded by Betty Yamashita to have Mr. Tolley meet with the Board two times a year rather than quarterly. This motion was passed unanimously. **Mr. Tolley is in compliance with his Order.**

Richard Lowe Interview:

Interviewed by Kelly Lundberg. Mr. Lowe has been attending the thinking errors course Dr. Lundberg recommended. Mr. Lowe said it has been really helpful and he is using things he is learning in his personal and professional life. Mr. Lowe said his job at Walgreens is going well and he has been there three months. Mr. Lowe was reminded his fine is due soon. He said he has been paying Cobra insurance but now Walgreens is covering insurance and he should be able to pay the fine soon. Mr. Fitzpatrick asked Mr. Lowe to get documentation showing completion of the thinking errors course, and indicated the course would be counted for the Pharmacy Law & Ethics CE that is required in his Order. **Mr. Lowe is in compliance with his Order.**

Issac White Interview:

No show.

Diann Millikan Telephone Interview:

Interviewed via telephone by Betty Yamashita. Ms. Millikan brought the Board up to date regarding her circumstances. Last December is the last time she met with the Board and she was going back in for a consultation on her leg. On December 30, 2008, she saw the doctor and her femur was still in two pieces and the doctors prescribed additional medication to help the bones to heal, however, the medication didn't help. Ms. Millikan is planning on more surgery in April. She is living with her father and step-mother in Oklahoma and has scheduled another evaluation with an Orthopedic surgeon on March 30, 2009, in Oklahoma for a second opinion. Ms. Millikan said she is still working diligently on her sobriety. This has been a very difficult situation. Ms. Millikan is attending AA and recovery meetings where she can talk with others. She indicated the closest PIR meeting is two hours away. Dr. Lundberg asked how often she is attending AA. Ms. Millikan said she is attending 1-2 meetings per day. She stated there are three drug testing sites where she is staying, but they are closed on the weekends. She has made arrangements with one of sites to test on weekends should she be selected to test. Ms. Yamashita asked when was the last day she worked and was told January 31, 2009. Ms. Yamashita made a motion to allow Ms. Millikan to attend AA/NA/PIR at least six times per month. Mr. DeRose seconded the motion. All Board members in favor of the motion. **Ms. Millikan is not in compliance with the terms of her Order.**

Thomas Strebel Interview:

Interviewed by Derek Garn. Mr. Strebel explained the way his probation is set up there is no way he can find employment. The only way to get a job is at a very busy pharmacy where they fill 400 prescriptions per day. Mr. Strebel said he has found three pharmacies that may work. Mr. Strebel has been unable to locate employment for even 16 hours a week. Mr. Strebel said he has a letter from OIG stating other pharmacists could fill prescriptions dealing with Medicaid/Medicare as long as he isn't involved in the process which would include

supervising pharmacy technicians filling prescriptions for Medicaid/Medicare patients. Mr. Strebel said he checked into a job in Morgan but he would be alone twenty percent of time which violates the probationary term to practice under direct supervision. Mr. Strebel stated as soon as he mentions his probation, potential employers won't give him a job. Mr. Garn explained we have several probationers who require supervision and they have been able to find employment. Mr. Strebel said he was here to ask for assistance or suggestions where he could possibly find employment. He indicated he is not against the probation or on-site supervision, but under the current circumstances, he can't re-offend or repeat the behavior that lead to the previous action against his license. Board members recommended he keep looking for employment consistent with the terms and conditions of his Order. Ms. Yamashita stated the OIG list is a bigger problem for obtaining employment, than the requirement for direct, on-site supervision. Board members recommended to Mr. Strebel that he complete a thinking errors or cognitive restructuring course. **Mr. Strebel is in compliance with the probation.**

Legislative Review:

Ms. Poe reviewed a few bills that passed during the 2009 Legislative General Session including: HB 17 - Expedited Partner Therapy Treatment, HB 106 - Controlled Substance Database Amendments, HB 108 Hormone Restoration Amendments, HB 121 - Retired Volunteer Health Care Practitioner Act, HB 128 Electronic Prescribing Act, and HB 144 Medical Language Interpreter Act.

Discussion items:

Ms. Poe asked Board members their opinion of prescribing HCG for weight loss based on an Internet health history. Board members indicated HCG is not approved by the FDA for weight loss and should not be prescribed without a face-to-face assessment. Timothy Auger, guest from the U of U College of Pharmacy explained it is not the actual drug that is helping with the weight loss but the 500 calorie diet that helps people loose weight.

Mr. Young asked if the Board/Division could send emails out regarding new issues rather than pharmacists having to pull up the website. Ms. Poe

said she would look into this.

Ms. Poe received a phone call from a pharmacist wondering if he should fill a prescription for Lortab when the patient is on Suboxone. Ms. Poe's understanding is the pharmacist should contact the prescribing practitioner and clarify the interaction with the medication the patient is currently taking. The pharmacist was concerned that he couldn't contact the prescribing practitioner because he cannot identify if the person is in a substance abuse program. However, the pharmacist was reminded not everyone on Suboxone is in a treatment program. Ms. Poe asked what needs to be done in this type of situation. Mr. Garn said he would call the prescribing practitioner and let him/her decide what to do. That way the pharmacist is not disclosing information about someone in a treatment program.

Mr. DeRose asked how the Board members are handling situations where a prescription for a Scheduled II controlled substance is missing information. Ms. Yamashita said if a pharmacist can call and talk to the prescribing practitioner, some information can be clarified on the prescription.

Adjourned:

12:07 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.

April 28, 2009
Date Approved

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

April 28, 2009
Date Approved

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