

MINUTES

**UTAH
BOARD OF PHARMACY
MEETING**

September 22, 2009

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

CONVENED: 8:03 a.m.

ADJOURNED: 2:50 p.m.

**Bureau Manager:
Acting Board Secretary:**

Laura Poe
Connie Call

Board Members Present:

Dominic DeRose, Chair
Roger B. Fitzpatrick
Derek D. Garn
Kelly Lundberg
Andrea Kemper
David Young arrived at 2:15 p.m.

Guests:

Linda Sandberg, Omnicare
Betty Yamashita, Intermountain Health Care

DOPL Staff Present:

Laura Poe, Bureau Manager
Connie Call, Acting Secretary

TOPICS FOR DISCUSSION

DECISIONS AND RECOMMENDATIONS

**ADMINISTRATIVE BUSINESS:
MINUTES:**

The minutes from the August 25, 2009 meeting were reviewed. Mr. Fitzpatrick made a motion to approve the minutes as corrected. It was seconded by Dr. Lundberg, all Board members in favor.

Compliance Report
Connie Call, Compliance Specialist

Ms. Call reported the following probationers were non-compliant: Cameron Tolley, Diann Millikan, Rich Wright, and Aidee Torres.

Probation Interviews:
Stapley Pharmacy:

Stapley Pharmacy had a telephonic interview conducted by Mr. Fitzpatrick. Mr. Stapley

reported things are going fine. He is receiving requests for compounding and he has informed the requesters that Stapley Pharmacy is no longer compounding. Mr. Fitzpatrick informed Mr. Stapley he needs to submit his next audit to the Board by the end of November. His audits are now due the end of November and the end of May. **Compliant**

Cameron Tolley:

Cameron Tolley was interviewed by Mr. Garn. Mr. Tolley stated the new computer at work is causing stress. Mr. Garn informed Mr. Tolley we have not received his employer report. Mr. Tolley explained he gave the form to his supervisor and the supervisor didn't have time to complete it before he went on vacation. Ms. Call will follow-up with the supervisor to see if there is anyway the Board can facilitate his submitting the employer evaluation as well as the requested audit. **Non-Compliant.**

Richard Lowe:

Richard Lowe was interviewed by Dr. Lundberg. Mr. Lowe is still working at Walgreens. His last two employer reports appear to be copies of the June report with the date changed. This is not acceptable to the Board and the Division will notify the employer and explain what information is needed on the report. **Compliant**

Phuong Vo Sheffer:

Phuong Vo Sheffer was interviewed by Mr. DeRose. Mr. Sheffer's criminal probation has been completed. He has decided to keep seeking employment as a Pharmacist. The Division will update the National Practitioner Databank regarding the reduction and discharge of Mr. Sheffer's criminal conviction. **Compliant**

Diann Millikan:

Diann Millikan had a telephonic interview conducted by Mr. Fitzpatrick as she is having some additional medical problems and was unable to physically attend the meeting. Mr. Fitzpatrick gave Ms. Millikan a list of items she needs to submit to the Division by October 1, 2009. The list includes copies of her prescriptions, a list of her current medications, and her regular paperwork that was due

September 1, 2009. Ms. Millikan started therapy in June and is now meeting once a week. There was confusion on when Ms. Millikan's paperwork was due so Ms. Call will send her new forms with the due dates on them. **Non-Compliant**

Michael Jarman:

Michael Jarman had his initial interview conducted by Mr. DeRose. Mr. Jarman explained the circumstances that brought him before the Board. Mr. Jarman worked as a framer and on one job a frame fell and crushed him. After Workers Compensation ended he looked at different jobs in which he was eligible to obtain training and the pharmacy technician was a program he could qualify for. Due to his criminal history he was issued a probationary license. **Compliant**

Trent Decker:

Trent Decker was interviewed by Mr. Garn. Mr. Decker is requesting to be allowed to have his Order changed to allow him to work under general supervision and to be alone in the pharmacy. Mr. Garn made a motion to amend the Order to allow Mr. Decker to work under the general supervision of a pharmacist, and delete the requirement to have a licensed technician on-site at all times. The motion was seconded by Dr. Lundberg and the motion carried. **Compliant**

Aidee Torres:

Aidee Torres was interviewed by Dr. Lundberg. Ms. Torres' last day of work was September 10, 2009 because she had a baby. Ms. Torres informed the Board she has not reactivated her Compass Vision account because her boyfriend lost his job and she has had serious financial problems. Ms. Torres was encouraged to reactivate her account with Compass Vision as soon as possible. **Non-Compliant**

David Barrow,
New Order:

David Barrow had his initial interview conducted by Dr. Lundberg. Mr. Barrow explained why he is before the Board. Mr. Barrow said he has very good family support and church clergy support. His main goal right now is to stabilize his family and life. At this time he is not interested in

dispensing controlled substances. He has been clean and sober sixteen days. **Compliant**

Discussion Items:
Review of Pharmacy Technician Programs for Approval:

Mr. Fitzpatrick reviewed the Stansbury High School program and made a motion to approve the program. Mr. DeRose seconded the motion. The vote was unanimous in favor of the motion.

Branch Pharmacy Application:

Mr. Fitzpatrick informed the Board the Fountain Green Branch Pharmacy had not originally submitted enough information. Ms. Kimball notified them what was needed and they submitted all of the required documents. Mr. Fitzpatrick made a motion to approve the Fountain Green Branch Pharmacy and Dr. Lundberg seconded the motion. The vote was unanimous in favor of the motion.

Review and discuss email correspondence received by DOPL:

Ms. Poe reviewed an email regarding morphine shortages. The email stated there was a shortage of morphine and sometimes the manufacturer would run out of their supply and the pharmacy would need to compound the drug for their customers. Given the perceived shortage of morphine, the pharmacist wanted to know if he could always compound the drug even when it is available commercially, so customers won't be surprised when their medication looks different. The law and rule are very clear regarding this issue. A pharmacist shall not compound a commercially available medication.

Ms. Poe reviewed an email from a fourth year student at Stanford regarding research she is completing regarding state regulations of the sale of insulin and syringes. The Board indicated there or no Utah regulations regarding the sale of non-prescription insulin or over-the-counter syringes. It is the policy of the individual pharmacy regarding whether or not syringes are sold only with insulin or upon request.

Ms. Poe reviewed an email from an investigator from the Washington State Board of Pharmacy. The question was whether a veterinary wholesaler could sell directly to a customer. This act is

prohibited and the veterinary wholesaler would need to sell directly to a veterinarian or a pharmacy.

Ms. Poe reviewed an email asking when Utah began requiring a graduate degree from an accredited school. Mr. Fitzpatrick said the ACPE standard requiring the Pharm D degree was implemented for any student entering a program as of 2002. Utah's first graduating class under the new requirement was 2006.

Ms. Poe reviewed an email asking if a Pharmacy in Fort Duchesne could have a branch pharmacy in Tooele based on Tooele being an underserved area. Given the number of established pharmacies already located in Tooele, a branch pharmacy would not be approved in that area.

Ms. Poe reviewed an email from an out-of-state company that reviews Workers Compensation claims. They are a consulting company that does not have contact with patients, only contact with insurance companies. Would the company or their staff pharmacists require licensure in Utah? It was the decision of the Board that the State of Utah does not license this type of corporation as a pharmacy but their pharmacist(s) would be required to be licensed in the state in which the company is physically located.

Ms. Poe reviewed an email regarding a question of whether an individual would need a license to ship his drug device to Utah. The company is a New York based manufacturer. The Board stated he will not need to be licensed in Utah, but would need a New York license as a manufacturer.

Review Pharmacy Technician Program:

Dr. David Young reviewed the Quick Stop Pharmacy Technician Program. Dr. Young stated the submitted documentation was not adequate and informed the Board of additional information needed. The Division will send a letter requesting documentation of coursework in over-the-counter drugs and specific Utah law and rule content.

Discussion Regarding Possible Rule Changes:

While completing an investigation the Division had a pharmacist who kept records in the basement of the pharmacy building. He would use a pharmacy technician to do a triple check of the prescriptions for billing, insurance, etc. and to make sure the records were in order. The pharmacist felt it was a benefit to use a pharmacy technician versus an unlicensed person to review and file prescriptions. Meanwhile in the upstairs level of the building, the drugs were stored and dispensed. The pharmacist and two technicians were working on the upstairs level. At one point a third technician came in for a shift change. During shift change there were five pharmacy technicians in the pharmacy building, three upstairs and two downstairs. Taking into account the shift change, the pharmacist was cited for over-ratio of 1-4 rather than 1-3. The pharmacist didn't contest the citation but wanted to explain his rationale for staffing and he questioned the interpretation of the law. First he questioned what was considered to be the actual pharmacy? His thinking was that the events going on in basement had nothing to do with the pharmacy and the pharmacy technician should not have been included in the ratio. He explained that if he were housed in a mall setting and the pharmacy was at one location and three doors down the hall the records were kept, a person in the records room would not be counted in the supervision ratio.

The second issue was regarding supportive personnel and who can provide the services of a support person. The pharmacist felt he was being punished for having a licensed person complete the work of a support person. Ms. Poe stated it wasn't logical to say a pharmacy technician couldn't do the work of an unlicensed support person. However, if a pharmacy technician is working as a cashier, it is very easy and tempting to have them switch positions as needed, thus violating the ratio. Mr. Garn felt supervision was only needed during the filling process. During past discussion the Board has

considered allowing the pharmacist to supervise no more than six people regardless of title or licensure. Mr. Fitzpatrick asked for clarification regarding if staff come and interrupt the pharmacist, are they being supervised and don't they take time and attention away from the pharmacist and his duties. The Board felt it was and any discussion regarding supervision by a pharmacist should also include support personnel. Mr. Fitzpatrick stated he was sure that the more people a pharmacist supervised the more likely an error would occur. Dr. Young said some states do not have a supervision ratio. Ms. Poe will call Arizona, Idaho, and Ohio to see if these are states with no ratio. Ms. Poe clarified that currently the pharmacist in charge can supervise one paid intern, one unpaid intern, three technicians and as many supportive staff at one time.

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.

October 27, 2009
Date Approved

(ss) Dominic DeRose
Dominic DeRose, Chairperson, Board of
Pharmacy

October 27, 2009
Date Approved

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