

MINUTES

**UTAH
PHARMACY
BOARD MEETING
February 23, 2010**

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

Convened: 8:01 a.m.

Adjourned: 2:35 p.m.

Conducting:

Dominic DeRose Jr., Chair

**Bureau Manager:
Acting Board Secretary:**

Laura Poe
Connie Call

Board Members Present:

Dominic DeRose Jr.
Roger B. Fitzpatrick
Derek D. Garn
David C. Young
Kelly Lundberg
Andrea Kemper
Jan Bird

Division staff:

Laura Poe, Bureau Manager
Connie Call, Acting Board Secretary

Guests:

Greg Jensen, Target
Linda Sandberg, Omnicare
Betty Yamashita, IHC
Ron Bird, IHC
Erica Bushnell, U of U
Rory Davies, U of U
Camie Brinkerhoff, Walgreens
Mark Longo, 4 Care Pharmacy
Dave Cheney, Fresh Market

TOPICS FOR DISCUSSION

DECISIONS AND RECOMMENDATIONS

**ADMINISTRATIVE BUSINESS:
CONNIE CALL, COMPLIANCE REPORT:**

Ms. Call presented the compliance report. The following probationers were in compliance with their Order: Kathryn Irons, Alfonso Montano, Tom Strebel, Scott Harris, Kenny Nielson, David Barrow, Sheryl Ledet, and Mark Akagi. The following probationers were non-compliant with their Order: Michael Jarman,

ENVIRONMENTAL SCAN:
LEGISLATIVE UPDATE

and Susan Macon.

Ms. Poe gave the Pharmacy Board a Legislative Update. SB 274, Online Prescribing passed out of the Senate Committee and will be heard on the Senate floor. SB 88 Practitioner dispensing cosmetic drugs was amended to physicians only. HB 13 consistency regarding drug definitions is moving forward. Ms. Poe also reported Soma is being considered as a scheduled drug but Tramadol is not moving forward.

Ms. Poe also reported Google has indicated they will only list on-line pharmacies that have been approved by NABP's Verified Internet Pharmacy Practice Site (VIPPS).

Ms. Poe explained there is a possibility one Board member may be allowed to attend the NABP Annual meeting this year. Dr. Young is planning on attending at his own expense. Ms. Poe will check to see if the state will allow Dr. Young to be our delegate even though he is attending at his own expense. If we can get the state to pay for the registration Mr. Garn would like to attend.

The Division may be able to send a Board member to the MPJE item writing the first week of April 2010. Dr. Young explained the process and the importance of having someone attend. Mr. Fitzpatrick may be able to attend depending on the dates. Ms. Poe will get him the dates.

Mr. Fitzpatrick reported the NABP District meeting will be held in Albuquerque, New Mexico September 28-30, 2010.

CENTRALIZED PRESCRIPTION
PROCESSING

The Board believes that a company providing prescription processing should be licensed in the state where they are physically located and licensed as a mail order pharmacy in every state in which drugs are sent. Ms. Poe asked if a pharmacist needs to be licensed or if the pharmacy needs to be licensed. Ms. Sandberg explained in some states one pharmacist must be licensed to be held responsible but it may depend on the situation. The recommendation of the Board is the pharmacist approving the order must be

licensed in Utah. Mr. Garn questioned what license a central processing facility in Utah would be required to obtain. Ms. Poe stated she thought it would be a Class B Closed Door Pharmacy license.

MEDICAL MARIJUANA

Mr. Fitzpatrick attended a conference in Colorado where medical marijuana was discussed. Mr. Fitzpatrick asked if Ms. Poe was aware if this topic had been brought up in the Legislature. Ms. Poe said she was not aware of anyone bringing this issue forth.

PHARMACY TECHNICIAN PROGRAM REVIEW

Oquirrh Mountain Pharmacy has submitted the additional information for review. Ms. Kemper will review the additional information and report to the Board next month.

The St. George Superior Care program is using the Salt Lake Superior Care pharmacy technician training program. This program is already approved by the Board; hence the St. George program is approved.

WASELAND SCOTT & CATHERINE WILLIAMS/WILLIAMS FAMILY VIDEO & VARIETY INTERVIEW:

Interviewed by Derek Garn. Mr. Williams explained the reason for meeting with the Board. Mr. Williams reported the pharmacy was open when there was no pharmacist available. Mr. Williams also indicated he was not wearing his name badge when the pharmacy investigator came into the pharmacy and that the investigator did not feel their records were secure. There were also outdated medications in the pharmacy. Mr. Garn stated his concern was that in October of 2008 the investigator found a technician working without a pharmacist and a letter of concern was sent. More than a year later, the same thing was still happening and a technician was working without a pharmacist. Mr. Williams stated he is the only pharmacist in the area. He reported he is usually late in the mornings and has his wife, who is a pharmacy technician, open the pharmacy for him. Mrs. Williams stated she has the keys to the pharmacy because if there is a fire in the pharmacy she wants to be able to save her inventory. Mr. Garn stated the law states no one should have access to the pharmacy without a pharmacist in the pharmacy. Mrs. Williams stated they have an unusual situation because the pharmacy is in a store where videos, toys and tools are sold. Ms. Poe clarified that the store can be open, but the

pharmacy needs to be locked if the pharmacist is not there. An individual can not drop off prescriptions or pick up prescriptions if the pharmacy is closed. Ms. Poe clarified calling an insurance company is acceptable but it is not acceptable to interact with the public when the pharmacist is not in the pharmacy. Mr. DeRose questioned when the last controlled substance inventory was completed. Mr. Williams stated they had one done when they opened the pharmacy in 2006 and just recently because the pharmacy investigator requested one. Mr. DeRose stated that the Federal law requires an inventory every two years and the state requires one every year. Dr. Lundberg questioned whether or not they can run the business successfully and run the pharmacy according to the law. Mr. Williams stated he is the only pharmacist in town. Mr. Fitzpatrick stated they need to be in compliance with the law, and that he needs to take this seriously or he could lose the license. Mr. Fitzpatrick stated they need to provide the Board with a copy of the policies and procedures manual and meet with the Board next month.

Mrs. Williams needs to complete four hours of continuing education in law and ethics within one year in addition to the continuing education requirement required for renewal. Mr. Williams needs to complete six hours of continuing education in law and ethics within one year. Mr. Garn reviewed the terms and conditions of the probation placed on the pharmacy. Both Mr. and Mrs. Williams stated they understand the terms and conditions of the probation and the public reprimand. They both stated they understand they will need to come into compliance or may lose the Pharmacy license. Mr. DeRose recommended they read the Pharmacy Practice Act. The next meeting will be scheduled for March 23, 2010 at 8:15 a.m.

THOMAS STREBEL INTERVIEW:

Interviewed by Derek Garn. Mr. Strebel stated things are going great and he is working more hours. Mr. Strebel is still working at 4 Care Pharmacy and doing the pre-packing only. Mr. Strebel needs to have Mark Longo, his supervisor, read his Stipulation and Order and send notification to the Division. Mr. Longo also needs to be sure and mark the box on the employer report form indicating he has read the Order. Mr.

Strebel submitted ten (10) hours of continuing education. Mr. Strebel said he couldn't thank the Board enough for all they have done to work with him. Mr. Garn reminded Mr. Strebel he can apply to remove his name from the OIG list in May 2010. Mr. Garn also thanked Mr. Strebel for furnishing the Division with possible continuing education vendors. Ms. Poe asked if the Board would consider meeting with Mr. Strebel biannually rather than quarterly due to his continued compliance. The Board was in agreement and Mr. Strebel's next meeting will be scheduled for August 24, 2010. Before Mr. Strebel left the meeting Mr. Longo completed the employer form indicating he has read Mr. Strebel's Order. **Mr. Strebel is compliant with his Stipulation and Order.**

KATHRYN IRONS INTERVIEW:

Interviewed by Andrea Kemper. Ms. Irons traveled to the South Pacific and did some volunteer work since her last meeting with the Board. Ms. Irons submitted an updated practice plan to include how she will practice under general supervision. Mr. Fitzpatrick made a Motion to approve the practice plan. Dr. Lundberg seconded the Motion. All Board members voted in favor. Ms. Kemper asked Ms. Irons to have her supervisor be more specific on how he feels she is doing without direct supervision on his next report. Mr. Fitzpatrick requested the supervisor address whether or not there are any problems when she is on-call. Ms. Irons asked if she still needs to inform her prescribing practitioner of her abuse of medications. Ms. Poe explained that she is required to notify the provider initially but doesn't need to remind him/her every time she meets with him/her. She was also instructed if she goes to a new provider and it is applicable to prescribing medications she would need to notify that provider. **Ms. Irons is in compliance with the terms of her Stipulation and Order.**

ALFONSO MONTANO INTERVIEW:

No show – Excused because he did not receive the letter of invite.

DAVID BARROW INTERVIEW:

Interviewed by Dr. Kelly Lundberg. Mr. Barrow stated he is doing well other than working part-time. He said he has been sober 170 days. He has been working between sixteen and twenty hours a week.

Mark Longo, his supervisor informed the Board he will give Mr. Barrow more work when they get busier. Mr. Longo also stated he feels this is the perfect situation for Mr. Barrow to work in. Mr. Longo stated Mr. Barrow has been very open with him. Mr. Barrow is attending aftercare a minimum of one time per week. It is a group setting and everyone is required to speak. Dr. Lundberg reminded Mr. Barrow to make sure Mike Dusoe completes the aftercare form and sends it to the Division on time. Mr. Barrow is requesting his controlled substance license be reinstated now that he has been on probation for six months. Mr. Barrow also submitted a practice plan for approval by the Board. A Motion to approve the practice plan was made by Dr. Lundberg and seconded by Mr. Garn. All Board members in favor of the Motion. Mr. Garn made a Motion to lift the suspension on his controlled substance license as of March 2, 2010. Ms. Kemper seconded the Motion. Mr. DeRose opposed the Motion. All other Board members voted in favor of the Motion. Mr. Barrow is now required to resubmit a new practice plan to include the controlled substance portion of his practice plan. Mr. Barrow will meet with the Board on March 23, 2010 and if all documentation due March 1 including an evaluation by Mike Dusoe is submitted, then a decision will be made whether Mr. Barrow can meet with the Board quarterly. Mr. Barrow wanted to express his appreciation to Mark Longo for attending the Board meeting and supporting him. He also thanked the Board for their support. **Mr. Barrow is in compliance with his Order.**

DISCUSSION ITEMS:
RULES:

Ms. Poe distributed a draft of the Rules for discussion and possible revision. Attached to these minutes is a copy of the Rule and the changes suggested. The following is a summary of the discussion:

- Need to change pharmacist-in-charge to PIC throughout the Rules.
- Require the FPGEC examination for applicants who have graduated from a foreign school.
- Add administrative fines and penalties for unprofessional conduct.
- The fines for #59 Dispensing a medication that has been discontinued by the FDA should be \$500-\$1,000

for initial offense and \$2,500-\$5,000 for subsequent offenses.

-#61 Failing to provide PIC information to the Division. Ms. Poe wants to keep the language the same and the fine was approved.

-#62 Requiring a pharmacist to operate a pharmacy with unsafe personnel ratio fines should be \$500-\$2,000 for initial offense and \$2,000-\$10,000 for subsequent offenses.

502 – Unprofessional Conduct.

-Failing to report training hour section is okay.

-Failing to provide information to the Division of a change of PIC within 30 days regardless of PIC or PIC interim. Unexpected changes may occur but the pharmacy still needs to notify the Division of the interim PIC who will deal with issues until a new PIC is found.

601 Operating Standards – Pharmacy Technician.
(delete Scope of Practice)

-No more than one pharmacy technician-in-training shall be supervised at any time by a pharmacist. Mr. Fitzpatrick asked where tele-pharmacy is in reference to that. Ms. Poe indicated it is part of the ratio for which the pharmacist is responsible.

602 – Operating Standards – Pharmacy Intern.

-Changed a couple of references and deleted scope of practice.

603 – Operating Standards – Pharmacist-in-charge.

-#19 - Responsibilities of PIC section. Accepted.

-#20 - Change to assure the PIC assigned to the pharmacy is on record with DOPL.

613 – Operating Standards – Issuing Prescription Orders by Electronic Means.

-References the federal code.

614 -Operating Standards Class A and B Pharmacy

-Any pharmacy dealing with compounding needs to follow the USP <795> compounding of non-sterile preparations and/or USP <795> compounding sterile preparations.

-At the December 2009 meeting the DEA and FBI said they think the time lock safe was discussed as a deterrent to theft of controlled substances. Ms. Poe asked if we want to include in the rules the time lock system as mandatory. Dr. Lundberg and Mr. DeRose were in opposition. Mr. Cheney with Fresh Market

Pharmacies stated it would cost about \$1,000 per store to implement it in all stores.

-614B could change to operating standards for A, B or D for sterile pharmaceuticals including nuclear pharmacies. The Board felt we don't need to list classes; rather state the USP <795> and USP <797> compounding standards apply to all pharmacies licensed by Utah.

Ms. Poe feels these proposed rule changes address two major issues we have spent a great deal of time on which are ratios and nuclear pharmacy. Ms. Poe will make corrections in the next two days and send them to all Board members for their review and comments. If no major changes are suggested the proposed Rule can be filed. Mr. Fitzpatrick reminded the Board that UPhA has their meeting in May and there can be discussion on the rules at this meeting. The timing is right for this information to get out and people need to understand. If we can get those rule changes filed as soon as possible, maybe we can discuss them at that meeting. Mr. Fitzpatrick made a Motion to approve the changes the Board made to the Rules. Ms. Kemper seconded the Motion. All Board members in favor. The Motion was unanimous.

RICHARD MARK ANDERSON RENEWAL REQUEST

Ms. Poe reviewed his request for license renewal and the reason it was brought before the Board. Mr. Anderson gave the Board an update on his current status with both Idaho and Oregon. A Motion was made by Dr. Young to approve Mr. Anderson's renewal. The Motion was seconded by Ms. Bird. Mr. Garn abstained. All other Board members in favor. Ms. Poe explained he would receive a license that doesn't say restricted in the next couple of weeks.

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 23, 2010
Date Approved

(ss) Dominic DeRose
Dominic DeRose, Chairperson, Utah Pharmacy
Licensing Board

March 23, 2010
Date Approved

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