

## MINUTES

### UTAH PHARMACY BOARD MEETING

April 26, 2011

Room 474 – 4<sup>th</sup> Floor – 8:00 a.m.  
Heber Wells Building  
Salt Lake City, UT 84111

**CONVENED:** 8:00 a.m.

**ADJOURNED:** 1:05 p.m.

**Bureau Manager:**  
**Board Secretary:**

Dave Taylor  
Shirlene Kimball

**Conducting:**

Dominic DeRose, R.Ph Chairman

**Board Members Present:**

Dominic DeRose, R.Ph  
Kelly Lundberg, PhD public member  
Jan Bird, CPhT, pharmacy Technician  
Andrea Kemper, Pharm D  
Greg Jones, R.Ph  
Derek Garn, R.Ph  
David Young, Pharm D (arrived at 11:35 a.m.)

**DOPL Staff Present:**

Connie Call, Compliance Specialist  
Dennis Meservy, Division Investigator  
Brittany Butsch, Division Investigator

**Guests:**

Min Chew Chiang, Harmon's  
Haylie Weston, Lee's Pharmacy  
Joe Stanger, Lee's Pharmacy  
David Nay, Medco Health  
Rob Hansen, Wal-Mart  
Betty Yamashita, IHC  
Linda Sandberg, Omnicare  
Ryan Lindquist, IMC Outpatient  
Greg Jenson, Target  
Reid Barker, UPhA  
Camie Brinkerhoff, Walgreens  
Jinal Desai, Walgreens

#### **TOPICS FOR DISCUSSION**

**Introduction of Dave Taylor, Bureau  
Manager:**

#### **DECISIONS AND RECOMMENDATIONS**

Mr. Taylor was introduced to Board members. Board members welcomed Mr. Taylor.

**March 22, 2011 Minutes:**

Dr. Lundberg made a Motion to approve the March 22, 2011 minutes with corrections. The Motion was seconded. All Board members in favor.

**Connie Call, Compliance report:**

Ms. Call reported Sheryl Ledet missed a urine screen January 19, 2011 and needs to submit copies of two prescriptions. There is also a question regarding her 12-Step attendance report. Ms. Call stated due to Ms. Ledet's continued non-compliance, the Compliance Unit recommends that Ms. Ledet's probation be extended two additional years. Ms. Ledet would need to sign an amended Order extending the probation and if she is unwilling to sign the Order she should be referred for an Order to Show Cause Hearing. Dr. Lundberg stated issuing a citation would have more impact than extending the probation. Dr. Lundberg stated she does not feel adding two additional years to the probation would help Ms. Ledet.

-Paul Martz is out of compliance due to a missed urine screen and failing to provide a copy of his prescriptions.

-Dennis Beasley is compliant with his Stipulation and Order, but non compliant with the Board policy because he missed calling CVI more than three times this quarter.

- Bill Cordova requested a reduction in the number of hours worked per week from 16 hours to 4 hours to keep his probation going. He also questioned if he could provide medication therapy management, prescription, delivery and counseling services under his current stipulation. Dr. Lundberg made a Motion to allow Mr. Cordova to work a minimum of 4 hours per week. Ms. Bird seconded the Motion. All Board members in favor. Board members requested Mr. Cordova meet with the Board next month to discuss his request to provide medication therapy management.

Ms. Call stated the Division is looking at probationer files to determine who would be a good candidate for early termination of probation. Ms. Call stated after reviewing the pharmacy probation files, she feels S. Rich Wright would a good candidate for early termination of probation. He has had excellent employer reports, attends more groups meetings than

required, has support from his therapist and has completed a total of 5 ½ years of probation. He has 1 ½ years left on the probation. Mr. DeRose stated Mr. Wright has made a lot of changes, but hesitates recommending early termination. He indicated he would feel better recommending early termination if Mr. Wright only had one year remaining on probation. Dr. Kemper and Mr. Garn stated Mr. Wright has made significant changes and would like to meet with him in May to discuss the recommendation. Mr. Wright will be scheduled for the May 2011 meeting.

Brent McFadden, Interview:

Mr. McFadden submitted a new practice plan and will have the independent pharmacist and pharmacy technician submit written reports to the Board. Dr. Kemper made a Motion to approve the practice plan. Mr. Jones seconded the Motion. All Board members in favor. Mr. McFadden can move forward and begin practicing as a pharmacist. **Mr. McFadden is in compliance with the terms and conditions of his Order.** He will be scheduled for a telephone interview in May.

Zion Pharmacy – Kurtney Stirland

Mr. Stirland reported he is doing well. He submitted the two additional continuing education hours as required in the Order. Mr. Stirland questioned whether or not he could request early termination of probation. Board members indicated if he submitted the request in writing and included what he has learned in the probationary process the Board would consider the request. Mr. Stirland stated he will be moving to Park City and opening a pharmacy there. Mr. DeRose questioned whether or not he will be doing any compounding. He stated there will be some compounding but will not compound sterile products. **Mr. Stirland and Zion's Pharmacy is in compliance with the terms and conditions of the probation.**

Diann Millikan,  
Probation Interview:

Ms. Millikan reported she is doing well and feels she is ready to meet with the Board quarterly. She stated she feels like she has developed a solid foundation and has made many positive changes. **Ms. Millikan is in compliance with the terms and conditions of her Order and she will be seen in August.**

Mary Jo Cates,  
Probation Interview:

Board members indicated Ms. Cates has done very well in her recovery and suggested if she feels she is ready to terminate probation, she could submit a request for early termination and include what she has learned from the process and what changes she has made. **Ms. Cates is in compliance with the terms and conditions of her Order.**

Sheryl Ledet,  
Probation Interview:

Ms. Ledet stated she has changed her attitude and is now working toward a goal. She stated she feels working toward the goal will help her get her paperwork in on time. She missed a urine screen January 19, 2011 and she stated she forgot to call. Board members stated it appears that the 12-step attendance card had been altered. Ms. Ledet explained that she fills out the dates of her meetings ahead of time and has the cards signed at the meeting. She indicated she missed one meeting and attended on a different day. She stated she crossed out that date and filled it in with the date she actually attended. Ms. Ledet stated she attends 2 12-Step meetings per week and would like to replace some of those meetings with other activities such as an exercise program. She stated she has 6 years of sobriety and would like to attend one support group meeting per week. Dr. Lundberg made a Motion to have Ms. Ledet meet with the aftercare therapist as needed and amend the Order to allow her to attend one support group meeting per week. The meeting can be either 12-Step or PIR. Mr. Jones seconded the Motion. All Board members in favor. Dr. Lundberg stated if Ms. Ledet is not in compliance by the next meeting, she will be referred for an Order to Show Cause Hearing. **Ms. Ledet is currently out of compliance for missed urine screen and needing to submit two prescriptions.** She will be seen July 26, 2011.

Susan Macon,  
Probation Interview:

Board members indicated the self assessment letter was received and was very well written. Board members noted a positive difference in her attitude this meeting. **Ms. Macon is in compliance with the terms and conditions of the Order.** She will be seen July 26, 2011.

Danny Carter,  
New Order:

Mr. Carter explained the circumstances that brought him before the Board. He indicated he completed a

30 day intensive outpatient treatment program and has been clean 71 days. He stated he sees the therapist once a week, attends group meetings once a week, aftercare once a week and attends AA meetings everyday. Mr. Carter reported he has a good support system and speaks with his sponsor daily. He stated he understands the terms and conditions of the Order. **Mr. Carter is in compliance with the terms and conditions of his Order and will be seen again next month.**

Dennis Meservy, Division Investigator  
Discussion regarding Bubble Packs:

Mr. Meservy met with the Board to discuss his concerns regarding the number of errors in labeling bubble packs and the lack of rules, specifically for assisted living. Mr. Meservy stated the VA Hospital provides medications to the family in bottles and assisted living personnel places the medications in the bubble packs. He also stated that in some instances, family members receive a three month supply of medications and will take the medication to a pharmacy to place in the bubble packs. Mr. Garn stated that the pharmacist is taking a risk placing the medication in the bubble pack because the pharmacist does not know if it was filled properly. Mr. Garn asked if there is model language from the NABP that may address this issue. Mr. Meservy stated he would like to see this issue addressed in Rule or Statute.

Priority Pharmaceuticals,  
Jack Pickney  
William Stilling:

Brittany Butsch reported on the results from the inspection completed for Priority Pharmaceuticals. Jack Pinckney, an employee of Priority Pharmaceuticals was present for the discussion. Mr. Pinckney reported his background is in cardiology medications; however, he is not a pharmacist.

Ms. Butsch reported the following concerns:  
- The size and location of the facility. Ms. Butsch stated the pharmacy is located on the 5<sup>th</sup> floor in a large office tower. There is a receptionist upon entering the building and the facility is an 11 by 8 foot room with two desks and a computer. She reported there is a drop ceiling and the facility is accessed from the hall.  
-Mr. Pinckney is not always in the facility and the building manager would have a key to the facility. The building manager would accept shipments if Mr.

Pinckney is unavailable. According to the Pharmacy Practice Act, a building manager is not an authorized person to accept drugs. The receptionist also can not accept pharmaceutical shipments.

-At the previous meeting, Board members were informed that the facility would not be a temporary holding site. During the inspection Mr. Pickney stated they will not carry an inventory. The concern is that if a medication is delivered on Friday it would sit in the facility until Monday.

-Security of the facility. There is currently a drop ceiling that needs to be addressed.

- The policies and procedures were not clear. Mr. Pinckney called the California company while Ms. Butsch was there and had them fax a copy of a policy. Ms. Butsch stated they need to be sure they understand and follow the policies and procedures.

-Ms. Butsch also stated she has concerns with the labeling process.

Mr. Pinckney stated he doesn't anticipate any inventory being kept at the facility unless it is over the weekend. He indicated if this happens, the medications that need refrigeration would be kept in the refrigerator.

Mr. Stilling stated the facility is small by nature because of the type of business. They purchase from wholesalers and may also purchase from other pharmacies less than 5% of their sales. Mr. Stilling indicated that the source that receives the drugs makes sure the pedigree is appropriate. Mr. Stilling also stated they will not be purchasing from physicians. Mr. Jones stated it sounds like they purchase from other pharmacies, not wholesalers. Mr. Pinckney stated it would be from either. Mr. Stilling stated they would be buying from an appropriate source.

Mr. Garn stated he feels the biggest issues are the security of the room, the quarantine and they must have policies and procedures on how they will pick up, package and ship the medications. Mr. Jones also stated it is important that the medications are taken care of properly. Mr. Garn suggested they review R156-17b-615 and compare their policies and procedures to make sure they are in compliance with

Rule. Mr. Stilling stated the parent company in California should have policies and procedures in place that ensures that the temperature control is in place and he will provide a copy for the Board.

Board members indicated the concerns that need to be addressed are: the cold storage, temperature of shipped items, security of facility (dropped ceiling), having unauthorized people in the pharmacy, and having the appropriate person available to accept shipments. Dr. Lundberg made a Motion to issue the Class C Pharmacy license pending receipt of appropriate policies and procedures regarding storage, temperature, maintenance during transportation, assurance that access is limited only to authorized personnel, provide the Division with how labeling is done and provide a process of how they will track what is coming in and what is going out. Ms. Bird seconded the Motion. All Board members in favor.

#### 2011 Legislative Update:

Mr. Taylor updated the Board regarding the 2011 Legislative session. He reported H.B 84, Office of Inspector General Medicaid Services allows access to the controlled substance data base. S.B. 248 authorizes certain individuals to access the database for the purpose of reviewing a patient's request for workers' compensation benefits. S.B. 128 would allow advanced practice registered nurses and physician assistants to dispense the approved cosmetic drug or injectable weight loss drug to a patient. H.B. 336 authorizes the Department of Health to establish a protocol for the distribution of medicine in a national, state, or local emergency. S.B. 61 requires those individuals who hold a controlled substance license to complete 4 hours of continuing education related to controlled substances. Mr. Barker stated he understood that the bill was going to require anyone with a controlled substance license, including pharmacist, to complete the continuing education. However, the bill does not address the pharmacist and this will be addressed at the next Legislative session. Mr. Barker stated he feels addiction and dependency continuing education should be required. Dr. Young stated he feels two hours of law and two hours in addiction would be best. H.B. 384, Veterans Preference Amendments allows a member or spouse

of active duty military personnel to work in Utah if they are licensed in another state.

David Young,  
Discussion regarding Pharmacy Technician  
Ratio:

Dr. Young stated he is receiving a lot of feedback regarding the pharmacy technician ratio change. He indicated there are a few pharmacists who have indicated they are losing technicians and the volume of work has increased. The rule covers the pharmacist and the higher number of pharmacy technicians, but it does not cover working without enough pharmacy technicians.

VIPPS Certification:

Dr. Young reported NABP has a program that certifies online pharmacies. He reported that 90% of the online pharmacies looked at by the NABP are not legitimate pharmacies. NABP assures the public that those online pharmacies with VIPPS certification are legitimate. He reported that 13 states require VIPPS certification to be licensed and stated he feels this is a good process to require for licensure.

*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.*

May 24, 2010  
Date Approved

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

May 24, 2010  
Date Approved

(ss) Dave Taylor  
Dave Taylor Bureau Manager,  
Division of Occupational & Professional Licensing