

MINUTES

**UTAH
PHARMACY BOARD
MEETING**

May 24, 2011

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

CONVENED: 8:00 a.m.

ADJOURNED: 12:05 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

Board Members Excused:

David Young, Pharm D

DOPL Staff Present:

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

Guests:

Scott Nelson, U of U College of Pharmacy student
Jonny Mears, Midwestern College Pharmacy student
David Nay, MEDCO
Robert Hansen, Walmart Pharmacy
Linda Sandberg, Omnicare
Betty Yamashita, IHC
Michael Ken, Midwestern University
Zona Keri, Midwestern University
Jaime Peterson, Walgreens
Greg Jensen, Target
Thomas Knudsen, Target
Kristin Wright
Hariella Crouch
Keith Crouch
Michael Wright, UPhA
Brian Palfreyman, UPhA

Dave Davis URMA
Jerry Petersen, UPhA
Paige Patterick, UPhA
Dean Jolley, UPhA
Darryl Wagner, UPhA

TOPICS FOR DISCUSSION

April 26, 2011 Minutes:

Connie Call, Compliance report:

Brent McFadden,
Probation interview:

Scott Williams,
Williams Family Video,
Probation interview:

DECISIONS AND RECOMMENDATIONS

Dr. Lundberg made a Motion to approve the April 26, 2011 minutes with corrections. Dr. Kemper seconded the Motion. All Board members in favor.

Ms. Call reported Bill Cordova is the only probationer out of compliance this month. Mr. Cordova is out of compliance for submitting his paperwork late.

Mr. McFadden was interviewed by telephone. He reported things are going well, the pharmacy opened for business May 5, 2011 and he is at the pharmacy from 10:00 a.m. until 6:00 p.m. Mr. McFadden reported there are currently two pharmacy technicians who work at the pharmacy and at least one pharmacy technician is in the pharmacy at all times. Mr. McFadden indicated the pharmacy is still waiting for the DEA license. **Mr. McFadden is in compliance with the terms and conditions of his Order.** He will be scheduled for a telephone interview July 26, 2011.

Mr. Williams submitted his controlled substance inventory as requested. Mr. DeRose reminded Mr. Williams that the DEA requires an inventory every 2 years and the State of Utah requires an inventory once a year. Mr. Williams stated his staff understands they can not conduct pharmacy business or use the computer unless he is present. He also indicated the pharmacy is not opened when he is not present. Ms. Bird questioned whether or not he has a policy regarding disciplinary action for the pharmacy technician or staff member who accesses the computer without the pharmacist present. Mr. Williams stated he does not have a written disciplinary policy. Ms. Bird suggested this be addressed in his policies and procedures manual. Mr. Williams also indicated the client is required to provide a drivers license or ID at the time they pick up the prescriptions. Board members stated it appears that the concerns addressed

during the inspection have been resolved. **Williams Family Video is in compliance with the terms of probation.** Mr. Williams will be seen again August 23, 2011.

Rich Wright,
Probation interview:

Mr. Wright reported things are going very well. His wife Kristin and his parents were present at the meeting. Mr. Wright stated he has a very good support system and feels he is in a good place at this time. Mr. Wright stated he has been suspended or on probation for a period of seven years and he is requesting termination of probation. Dr. Lundberg stated Mr. Wright has been honest and upfront with the Board and his honesty has been appreciated. Mr. Wright stated at the beginning of probation he felt the world was against him, however he has made a number of changes and appreciates the support he received from Ms. Call. Mr. Wright stated he will continue to see the therapist and take the necessary steps to maintain recovery. Dr. Lundberg made a Motion to **terminate the probation early**. Dr. Kemper seconded the Motion. All Board members in favor.

Danny Carter,
Probation Interview:

Mr. Carter reported he is doing well and reported he has been sober 99 days. He indicated he continues to attend an intensive outpatient treatment program, is actively working the steps, attends aftercare, AA and speaks with his sponsor or others everyday. The Board received Mr. Carter's evaluation which indicated Mr. Carter would be safe to return to practice and would take care of himself during the recovery. Mr. Garn made a Motion to lift the suspension and place the license on probation with the terms and conditions of his Order. Dr. Lundberg seconded the Motion. All Board members in favor. **Mr. Carter is in compliance with the terms and conditions of the Order** and will be seen again July 26, 2011.

Mary Jo Cates,
Request for early termination of probation:

Dr. Lundberg made a Motion to approve the request for early **termination of probation**. Mr. Garn seconded the Motion. All Board members in favor.

Kurtney Stirland,
Zion Pharmacy:

Mr. Stirland submitted a copy of his inventory as requested by the Board. Mr. Stirland also submitted a letter requesting termination of probation. Mr. Garn

made a Motion to **terminate the probation**. The Motion was seconded. All Board members in favor.

Linda Sandberg,
Handed out information regarding last month's discussion of bubble packs:

Ms. Sandberg provided information from other states regarding bubble packs. Board members indicated this should be clearly defined in rule and will add it to the list of items to be included. Board members thanked Ms. Sandberg for taking the time to do the research.

Mr. DeRose:

Mr. DeRose discussed the requirement regarding the annual inventory Rule that the inventory shall be conducted each year and needs to be taken within four days of the inventory date. He questioned whether or not we could change it to within 30 days of the inventory date. Mr. Garn stated he feels it would be best to do within the 4 days. If it was moved to 30 days, it could alter the annual inventory date a whole month each year.

Mr. DeRose also reported the DEA is going to become very stringent on Schedule II narcotics and if the DEA number is not on the prescription, the prescription will not be accepted. If the prescriber does not write the DEA number on the prescription, the pharmacist will need to. The DEA will no longer accept a second label, the DEA number has to be on the actual prescription.

Email request from Kevin Draper:

Mr. Draper indicated in an email that he would like to start a medication therapy management business focusing on cost savings to the patient. It would be a fee-for-service business separate from any pharmacy. He questioned whether or not he would need a pharmacy license or would be able to work under his pharmacist license. He indicated an example of what he is proposing would be if a prescription has a high co-payment and the customer is unwilling to pay for the medication, he would fax the doctor a suggestion for a similar generic medication that the patient could afford. If the prescribing practitioner authorizes the change, he would make the change. Mr. Draper stated there would be an initial consultation to determine if the patient would benefit from his services. Mr. Draper would then perform a comprehensive medication review with the patient in person. He would maintain charts on patients with whom he

performs the comprehensive medication review. Mr. Garn questioned whether or not Mr. Draper is providing this service while he is working as a staff pharmacist, and if so, it would be between him and his employer. Mr. Garn also questioned whether or not Mr. Draper would be taking a pharmacy patient from the pharmacy where he is employed. Mr. Jones also questioned whether or not he intends to provide this service outside his normal job. Mr. DeRose questioned if this service is billed to the insurance, or if the patient pays cash, is he using the pharmacy to build his clientele? Ms. Sandberg stated there are some independent pharmacists working in home health, they have their own business set up and they work under pharmacist license. It is independent contract work. Board members suggested Mr. Draper meet with the Board in July to clarify his request.

Break at 9:35 a.m.
Reconvened at 10:00 a.m.

Bill Cordova,
Probation interview:

Mr. Cordova stated he continues to look for employment and has considered doing volunteer work. He stated he is considering taking a course on medication therapy and questioned whether or not he would be allowed to provide medication therapy while on probation. Board members indicated it would be acceptable as long as he submitted a practice plan and the practice plan was approved. Mr. Cordova also indicated he has considered going to Saudi Arabia to practice. Board members indicated he would have to submit a practice plan and adhere to the terms and conditions in the Stipulation. **Mr. Cordova was out of compliance due to submitting his paperwork late.** He will be seen December 20, 2011.

James Bee,
Telephone probation interview:

Mr. Bee's probation interview was conducted by telephone. He reported he is studying for the MPJE examination and as soon as he has paid off his fine, he will register for the examination. He stated he worked a couple of days this month at IHC and is volunteering at Stapley Pharmacy. He indicated he has the same supervising pharmacist at both pharmacies. Board members indicated the supervisor is only signing the employer report and needs to provide more information on the form. **Mr. Bee is in compliance**

with the terms and conditions of his probation and will be seen again August 23, 2011.

Heather Palmer,
Probation interview:

Ms. Palmer reported she is doing well and is focusing on her recovery. **Ms. Palmer is in compliance with the terms and conditions of her Order** and her paperwork will be due quarterly instead of monthly. She will be seen August 23, 2011.

E-Mail review:
Jason Moyer request:

Jason Moyer, owner of Moyer Pharmacy, a Class B Closed door pharmacy indicated he delivers medications to psychiatric group homes and other long term care facilities. He questioned whether or not the law would allow his pharmacy to hand deliver medications to other types of customers. Mr. Moyer's proposal would be to have the customer's prescription sent to Moyer Pharmacy to be filled and prepared for delivery. A pharmacy technician would hand deliver the prescription to the customer, the customer pays for and signs for the prescription. A pharmacist would be available for counseling between 9:00 a.m. and 9:00 p.m. Mr. Garn stated Mr. Moyer's proposal would be appropriate for a Class A pharmacy, but could not be done under the Class B, closed door pharmacy license. Mr. Jones agrees that it can not be done under the Class B license, but would fall under the Class A pharmacy license. Mr. Garn stated he is concerned with the security and would recommend a tamper proof delivery system or have security tape over the package. Board members stated that the name of the pharmacy and the pharmacy address must be on the return label. The patient would need to sign the log at the time of delivery.

Discussion regarding Temporary Licensure:

Mr. Taylor explained that the intern license is good 60 days past the graduation date. This will allow time for the Division to issue a temporary license and will allow the graduate to continue to practice as an intern until the temporary license is issued.

Break at 11:00 a.m.
Reconvened at 11:15 a.m.

Ray Walker, discussion regarding H.C.R. 5 Resolution (Patient and Safety Centered Prescription Labels Concurrent Resolution):

Mr. Walker explained that H.C.R. 5 urges the Pharmacy Board, the Utah Pharmacists Association and other related groups to meet regularly during 2011

to develop a prescription label format that is patient and safety centered. Mr. Walker stated he spoke with Rep. Poulson and she indicated she feels there are shortcomings regarding the labeling of prescriptions. Rep. Poulson stated the elderly especially have problems taking medications correctly. Rep. Poulson suggested the Committee consider the print size on the label, the order in which the information is placed on the label, adding the reason/condition why the medication is being prescribed, and consider adding a portion of the information contained in the drug information sheet. Mr. Walker indicated Rep. Poulson has offered to attend the meetings for this discussion. Mr. Walker indicated we need to set up a meeting time, determine who will sit on the workgroup and determine whether or not to adopt by reference or incorporation into rule the suggestions regarding label. Mr. DeRose stated he feels like this is reinventing the Rule and he feels this information is outlined in the counseling section of the current Rule. Mr. DeRose also indicated there are a number of different software label vendors and a number of pharmacies that have stocks of labels already and making changes would not be a simple process if we add a lot of information. It would also require a larger label if more information is required. Mr. Walker stated the Boards direction is to make recommendations on labeling because not all patients know which questions to ask and the more information provided the safer it is for the patient. Jerry Peterson, UPhA suggested we move slow, look at what other states have done and let the pharmacies know changes are being made and give them time to exhaust label stock. Mr. Peterson also provided a copy of the California Board of Pharmacy labeling requirements for review. Mr. DeRose stated the prescribing practitioner doesn't even provide a DEA number and with additional information required on the label, the pharmacist will be on the phone for every prescription. Brian Palfreyman, UPhA stated that if the profession does not provide some direction, the Legislature will add requirements to the Statute and pharmacists will have to abide by whatever is placed in Statute. Mr. Davis, URMA, stated he does not believe that the Legislature wants to mandate one unified label, but would allow for creativity as long as certain information is on the label.

Board members indicated the concerns of pharmacists need to be expressed to Rep. Poulson. Prescribing practitioners will need to take the responsibility to place the required information on the prescriptions. This process may take awhile to develop; however, we do not want to imply that we don't care. The Board needs to take action, but in a way not to create more regulation. A timetable and a strategy need to be adopted and a report made to Rep. Poulson on what has been considered.

Mr. Walker proposed that a committee be formed to develop recommendations. The committee should include three or four Board members and members from the associations. Representative Poulson would be invited for the discussions so that she understands the concerns of the pharmacists and the dynamics that a pharmacist goes through everyday.

Mr. Jones made a Motion to form a subcommittee with members of the Pharmacy Licensing Board, the Utah Pharmacist Association and the Utah Retail Merchants Association to made recommendations regarding labeling. Ms. Bird seconded the Motion. All Board members in favor. Board members willing to serve on the subcommittee are Dominic DeRose, Jan Bird, Derek Garn, and David Young. Jerry Peterson, UPhA, will provide the Division with the members who would like to be part of the subcommittee. The meeting will be held June 28, 2011 at 9:00 a.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.

July 26, 2011
Date Approved

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

July 26, 2011
Date Approved

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