

MINUTES

UTAH PHARMACY BOARD MEETING

October 25, 2011

Room 474 – 4th Floor – 8:30 a.m.
Heber Wells Building
Salt Lake City, UT 84111

CONVENED: 8:30 a.m.

ADJOURNED: 1:10 p.m.

Bureau Manager:

Debra Hobbins, DNP, APRN, LSAC

Board Secretary:

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
Greg Jones, R.Ph
Derek Garn, R.Ph
David Young, Pharm D
Andrea Kemper, Pharm D

DOPL Staff Present:

Connie Call, Compliance Specialist
Mark Steinagel, Division Director
Ray Walker, Compliance Officer
Jared Memmott, Division Investigator
Bryson Grey, Division Investigator

Guests:

Linda Sandberg, Omnicare
Betty Yamashita, IHC
Greg Jensen, Target
Denise Kunkel, Associated Food Stores
Bonnie Stout, Smiths
Tina Aramaki, IHC

TOPICS FOR DISCUSSION

September 27, 2011 Minutes:

Connie Call, Compliance report:

DECISIONS AND RECOMMENDATIONS

The September, 2011 minutes were approved with corrections.

Ms. Call reported the following individuals are out of compliance with the terms and conditions of their

probation: Sheryl Ledet (missed one 12-step meeting), Susan Macon (two positive urine screens and admitting to ingesting alcohol), Suresh Boodram (incomplete self assessment report), and Danny Carter (needs to submit physical evaluation).

Dr. Hobbins questioned Board members on whether or not additional action is necessary for Susan Macon. She questioned whether or not an Order to Show Cause Hearing would be appropriate, or should we offer a new stipulation and additional time. Mr. Garn indicated that the Board had suggested issuing citations to those individuals out of compliance; however, the acting Bureau Manager at that time indicated a citation could not be issued. Dr. Hobbins indicated she would check with the Assistant Attorney General to see if citations can be issued for non-compliance. Mitchell Jones joined the meeting and discussed with Board members the different options the Board and Division can take if a probationer is out of compliance. Mr. Jones stated the best option is to refer the individual for an Order to Show Cause Hearing. An OSC could suspend, revoke or extend probation and could include a fine. He indicated a citation would not be his first choice of action, but it can be done if the probationer admits to the violation and agrees to sign a Stipulation and Order that includes the citation. Dr. Kemper suggested the Board indicate to Ms. Macon that she has violated her Stipulation and Order and let her know the different options available to the Board. If she agrees to the fine, Ms. Call could take her to Mr. Jones' office to sign the Stipulation and Order.

Paul Martz,
Request for general supervision:

Board members indicated Mr. Martz's request for general supervision will not be considered until Mr. Martz meets with his therapist and a therapist report has been received. Mr. Jones made a Motion to deny the request until Mr. Martz submits a therapist report. Dr. Kemper seconded the Motion. All Board members in favor.

Sheryl Ledet,
Probation Interview:

Ms. Ledet reported she is doing well. Ms. Ledet indicated her login page with Affinity does not have a place to enter her prescriptions and Ms. Call will follow-up on this issue. Ms. Ledet stated she missed a 12-Step meeting in July, however, attended an extra

meeting in August. She indicated she did not realize she needed to attend four meetings in 30 days and thought that as long as she attended the correct number of meetings per quarter she would be in compliance. Ms. Ledet also had dilute urine screen in August and she reported she drinks a lot of water while at work. Board members indicated she is out of compliance for the missed 12-step meeting in July. Dr. Lundberg indicated the Board has several options they can consider, the first is to do nothing, the second is to impose a fine if she agrees, or the third option would be to refer her for an Order to Show Cause Hearing. Mr. Garn stated he feels no action should be taken at this time because she attended an additional meeting the following month. However, if it happens again, then he would suggest further action. **Ms. Ledet is out of compliance due to the missed 12-step meeting in July.** She will be seen January 24, 2012.

Susan Macon,
Probation Interview:

Ms. Macon reported things are going well. Ms. Macon questioned whether or not her urine screens could be discontinued. Board members stated she is out of compliance with the terms and conditions of her Order and would not consider her request at this time and she will need to continue drug testing. Dr. Lundberg stated one way to monitor compliance is by drug testing. Mr. Jones stated it seemed like she was doing better at the last meeting and it is frustrating for the Board to see that she has had several positive urine screens and admitted to ingesting alcohol. Board members indicated it does not appear Ms. Macon has taken the probation seriously. Ms. Macon stated she is feeling better about herself, is happy and feels like she can succeed in the probation. Dr. Lundberg questioned what if something happens and she is no longer happy, will she be out of compliance again? Ms. Macon stated she does not think she will be out of compliance again. She indicated she did not realize how unhappy she was. Ms. Macon reported her last drink of alcohol was the end of September.

Dr. Kemper stated there are consequences for her non-compliance and explained to Ms. Macon that at this point, there are several actions that can be taken. Board members could assess a fine, or refer her for an Order to Show Cause Hearing. Board members

recommend that a \$500.00 fine be imposed for violation of probation. Ms. Macon agreed to the \$500.00 fine. **Ms. Macon is out of compliance with the terms and conditions of her Order.** She will be seen January 24, 2012.

Cynthia Asher,
New Order:

Ms. Asher explained the circumstances that brought her before the Board. She admitted to consuming medications during her work shift which may have affected her ability to practice. Ms. Asher stated she had prescriptions for the medications, but took them from her employer because she did not have them at work. She then answered “no” on the renewal qualifying questionnaire to having been arrested. Ms. Asher stated she understands the terms and conditions of her probation. Dr. Lundberg stated she is also concerned that there is more than just the medication issue, she was also charged with retail theft. Ms. Asher stated she wants to move forward. Board members stated that once the evaluations are received, the Board can decide what additional terms need to be added to her probation. **Ms. Asher is in compliance with the terms and conditions of her Order.** She will be seen in January 2012.

Wildon Danny Carter,
Probation Interview:

Mr. Carter reported things are going okay. He stated the biggest problem is that work is slow. Mr. Carter also indicated he is going through a divorce but is trying to keep a positive attitude. Mr. Carter indicated he continues to meet with his therapist and sponsor. Mr. Carter submitted his practice plan. Mr. Garn made a Motion to approve the practice plan. Dr. Lundberg seconded the Motion. All Board members in favor. Mr. Carter reported he has been sober 253 days. Mr. Carter requested that his Order be amended and he be allowed to work under general supervision. Dr. Lundberg stated he has not been on probation for a long enough period of time. Board members indicated if the therapist were to submit a letter regarding how Mr. Carter would handle work and the stress if not under supervision, the Board could take that under consideration. **Mr. Carter is in compliance with the terms and conditions of his Order.** He will be seen again in January 2012.

Layne Kilpatrick,

Mr. Kilpatrick reported work is going well. Board

Probation Interview:

members reviewed the supervisor and self assessment report. Board members requested Mr. Kilpatrick expound more on what he has learned in the probation. Mr. Kilpatrick stated that by the time this probation is completed, it will have cost him 90 thousand dollars and he is struggling to find anything positive to say. Mr. Kilpatrick stated he has to be careful what he says, but he doesn't think the process should be about what he is learning. Mr. Kilpatrick submitted a practice plan for review. Ms. Bird made a Motion to approve the practice plan. Dr. Kemper seconded the Motion. All Board members in favor. **Mr. Kilpatrick is in compliance with the terms and conditions of his Order.** He will meet January 24, 2012 and requested to be placed first on the agenda.

Rajan Radhakrishnan,
Request to allow hours teaching as meeting the
Pharmacy Intern hour requirement:

Dr. Hobbins reviewed with Board members Mr. Radhakrishnan's request to be allowed to count teaching hours as meeting the Intern hour requirement. Mr. Radhakrishnan will be meeting with the Board to present his case. Board members indicated that pharmacy intern hours must be obtained under a pharmacist preceptor. Dr. Young stated that teaching is not the practice of pharmacy and he would not be able to be precepted while teaching.

Mr. Radhakrishnan stated he works at Roseman University teaching at the Pharm D level in the pharmacist program. Mr. DeRose stated that looking at statute, the consensus of the Board is that teaching is not the practice of pharmacy. Interns practice under a preceptor. Practice is not the same as teaching. Mr. Radhakrishnan stated that teaching is a learning process and several states allow 600 hours in unconventional settings, such as research, lab, and teaching. Mr. Radhakrishnan stated it may not be the practice of pharmacy, but it relates to pharmacy practice. Dr. Lundberg questioned how many hours he is requesting the Board allow? Mr. Radhakrishnan stated he would like the Board to accept 400 hours. This would allow him to sit for the NAPLEX and MPJE examination. Mr. Jones questioned whether or not the law disallows these hours? Dr. Young stated the Statute and Rules indicate that an intern must be supervised by a pharmacy preceptor in the practice of pharmacy. The definition of practice of pharmacy

does not speak to teaching. Dr. Young made a Motion to deny his request to allow hours teaching to count toward the intern hour requirement for pharmacist licensure. However, the Intern license could be extended for one year to allow him to obtain the additional 400 hours. Mr. Garn seconded the Motion. All Board members in favor.

Break at 11:00 a.m.
Reconvened: 11:12 p.m.

Denise Kunkel, Associated Food Stores
Bonnie Stout, Smith's Food and Drug

Ms. Kunkel provided the Board with a brief history regarding states that allow pharmacists to immunize. Ms. Kunkel stated Utah has been very proactive; however, the pharmacist works off a protocol. She indicated the focus of today's discussion is to propose a change in the protocol so that pharmacists do not have to work off a list and all vaccines would be included (travel and child vaccinations also). Ms. Kunkel stated Linda Abel, Utah Department of Health, lends full support to the proposal.

Ms. Kunkel suggested the following changes to the Protocol: Second paragraph redact "the following" and take out the list of vaccines. Dr. Young stated the vaccine protocol was presented to the Physicians Board and to the Board of Nursing in 1998 and it was a hard fought battle at that time. Dr. Young stated the pharmacists have done a good job regarding vaccinations. The age limit was eliminated several years ago. However, there is still some animosity against pharmacists providing vaccinations and Dr. Young stated he is not sure how comfortable the Physician's Board and the Board of Nursing will be with this proposal. Mr. Jones stated he would support the proposal. Dr. Kemper stated she feels it is a great idea, but she is concerned that this may prevent parents from taking children to well child clinics. Ms. Kunkel stated this concern has been addressed and she does not feel vaccinating children will prevent them from going in for their well clinic visits. The Health Department feels it is the adolescents who are being missed.

Ms. Stout stated that not reporting the vaccinations is the concern at this time. It was proposed adding:

upon signed consent of the patient or guardian the pharmacist shall notify the patient's designated physician or primary care provider or; update the Utah Department of Health Immunization Information System (USIIS) electronic registry. Ms. Stout stated there is no cost to reporting to the database and this would assure that immunizations have been reported. Dr. Young stated he is concerned with the statement regarding reporting to the primary care provider "or" USIIS. He indicated reporting should be to the Department of Health (USIIS). It was suggested to add to the notification of the Department of Health Immunization Information System: within one week of any vaccines administered. Dr. Lundberg suggested a presentation to the Physician's Board and Board of Nursing regarding the proposed changes. Mr. Jones made a Motion to make the suggested changes and have the Board approve the final document next month. Once the Board has approved the protocols, present to the Physician Board and the Nursing Board. Dr. Kemper seconded the Motion. All Board members in favor.

Tina Aramaki,
IHC Central Distribution:

Ms. Aramaki reported IHC is engaged in developing a central distribution site to serve their pharmacies. Ms. Aramaki provided a presentation and update for their planned changes. She reported they would like to open the third quarter next year. She stated they want to distribute to small facilities in the system; have an open door pharmacy and a central fill/mail order pharmacy. Ms. Aramaki stated the wholesale distributor needs to know the type of pharmacy and she questioned what types of license they would need to apply for. Mr. Memmott stated it sounds like they would need a Class E Wholesale Distributor for each facility, a retail pharmacy and two closed door pharmacies. However, Ms. Aramaki will need to contact Mr. Memmott and they can work out which licenses are needs. She would also need to contact the FDA for a federal repackaging license.

Mr. Jones stated that a retail pharmacy can not apply more than six weeks prior to opening a pharmacy. The Division currently allows the inspection to be completed after the license is issued for larger pharmacy chains; however, the smaller individual

pharmacy needs to have the inspection prior to opening. This causes problems for the pharmacy if the application or inspection process is delayed. Dr. Young suggested extending the time to 90 days prior to opening. Dr. Young stated the Board has discussed in the past the issuance of a temporary license contingent on passing the inspection. The problem was that if there are any problems with the inspection and the license has been issued, the Division may have a difficult time getting the pharmacy to correct the deficiencies. Dr. Young also indicated that we do not have rules for central fill and the Board may want to appoint a working group to address rules for the central fill after the first of the year.

Boodram Suresh:

Mr. Suresh indicated he has completed the Thinking Errors course. He reported the course was a 6 hours condensed course and he completed it in one day. Dr. Lundberg also questioned why the evaluation from the therapist did not mention that he also took the Latisse for his wife. She indicated the Board wants to see evidence that he is taking the probation seriously. Mr. Suresh needs to submit his essay; however has one year to complete the continuing education. Mr. Suresh reported he began employment on October 8, 2011. He needs to have an employer report. Mr. Suresh requested early termination of probation. Board members indicated he needs to submit his reports and complete the requirements listed in the Order. He also filled out the self assessment report by listing NA and indicated to the Board that those questions did not apply to him. Dr. Young indicated some questions may not apply, but others do and he needs to respond to those questions. Dr. Lundberg reminded Mr. Suresh that he is responsible to submit all reports on time. Dr. Lundberg questioned what he has learned during the disciplinary process. Mr. Suresh stated he has learned to be very careful. Mr. Jones indicated that question number eleven of the self assessment report is one of the most important questions he needs to answer to help demonstrate to the Board he is aware of the issues that brought him before the Board. Mr. Jones stated he is uncomfortable with the responses from Mr. Suresh and is concerned that Mr. Suresh does not understand that the decisions he made brought him before the

Board. Mr. Suresh needs to provide the essay and what he learned from the Thinking Errors course. **Mr. Suresh is out of compliance and will be seen in December 2011.** Board members informed Mr. Suresh that they expect him to make this a priority.

Discussion:

Mr. Memmott stated he has two different applicants applying for a Class C Wholesale license who are currently licensed as a Class A pharmacy. He stated these pharmacies have been contacted by wholesaledistributor.com and wants the pharmacies to become a straw buyer. The pharmacies would be reimbursed the costs and a fee. The state Board where this pharmacy is located has concerns. Dr. Young stated that pharmacies with dual licenses at the same site need to make sure the pharmacies are separate, two distinct operating standards. Mr. Walker stated there is nothing in rule that prohibits dual licensure. The question is the same location. He suggested rules need to be developed to address this issue, but need to be careful on the wording.

Mr. Walker questioned if multiple pharmacies exist at the same address and requires a separate license do we need to add restrictions to protect the public safety? A Rule could be put in place that a retail pharmacy can not be dual licensed as a wholesaler unless granted an exception after demonstration of public safety. Mr. Walker stated guidelines and standards would have to be developed. Dr. Young stated he will search other states wholesale distributor laws and rules. Mr. Memmott stated he does not know how long he can withhold the license.

Pharmacy Technician Program Approval:

Kanab United Pharmacy Technician Program assigned to Jan Bird.

Ridley Drug Pharmacy Technician Program assigned to Andrea Kemper.

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.

January 24, 2012
Date Approved

(ss) Dominic DeRose
Dominic DeRose, Chairperson,

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Minutes
Pharmacy Licensing Board
October 25, 2011

Pharmacy Licensing Board

January 24, 2012
Date Approved

(ss) Debra Hobbins
Debra Hobbins, Bureau Manager,
Division of Occupational & Professional Licensing