

**MINUTES**

**UTAH  
PHARMACY BOARD  
MEETING**

**December 13, 2011**

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

**CONVENED:** 8:35 a.m.

**ADJOURNED:** 12:39 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

**Guests:**

Roger Fitzpatrick, Midtown Pharmacy  
Kyle Cline, U of U Pharm D resident  
Nick Killpack, U of U College of Pharmacy  
Greg Jensen, Target  
Matt Ence,  
Linda Sandberg, Omicare  
Betty Yamashita, IHC  
Bill Stilling, Parsons Behle & Latimer  
Jeff Sanchez, Parsons Behle & Latimer  
Kirt Wray, EGC  
Leah Grisamer, EGC  
Rebecca Lynn, EGC  
Jacob Katz, EGC  
Jeff Littlefield, EGC  
Matt Hancock, EGC  
Camie Brinkerhoff, Walgreen's  
Beth Young, U of U College of Pharmacy

Erin Johanson, Roseman University  
Andrew Draper, Roseman University

## **TOPICS FOR DISCUSSION**

October 25, 2011 Minutes:

November 15, 2011 Minutes:

Compliance Report  
Connie Call:

Mr. Steinagel:

## **DECISIONS AND RECOMMENDATIONS**

The October 25, 2011 minutes were tabled.

The November 15, 2011 minutes were approved with corrections.

Ms. Call reported the following individuals are out of compliance with the terms and conditions of their Order: Paul Martz, Dennis Beasley and Suresh Boodram.

Ms. Call also reported that Division investigator, Brittany Butsch, found major problems during an inspection to Williams Family Video. Board members will need to determine if further action needs to be taken.

Dr. Lundberg recommended that the following individuals be issued a fine for non-compliance to the terms and conditions of their Order: Suresh Boodram a \$100.00 fine and Paul Martz a \$50.00 fine. All Board members voted in favor of the recommendation.

Mr. Steinagel handed out a Question and Answer document prepared by the DEA regarding the e-prescribing process. Lynette Wingert, DEA requested that the document not be disseminated to the public at this time. It is requested the Board review the document and provide additional input. Once the document has been approved by the DEA, it will be posted to the DEA web site. Mr. Steinagel stated the Division will draw up a letter of clarification and have it posted to the Division's web page; however, this will not be completed before the end of March 2012.

Dr. Munger reported on e-prescribing at the November Health Interim Committee meeting. Dr. Munger reported that most pharmacies are ready to accept e-prescribing, but most prescribing practitioners are not. After the Health Interim Committee meeting, Dr. Munger and Michelle McOmber from the UMA met with Senator Menlove and requested that the deadline

date be extended. Senator Menlove indicated that the Division has rule making authority and the deadline could be extended. Board members would like to see the deadline extended for one year which would allow all parties involved to become better informed on the process. Mr. Steinagel stated he would work with Senator Menlove.

Pharmacy Licensing Issues:

Dr. Hobbins provided a copy of the technician-in-training approval letter for Board members to review. Dr. Hobbins reported the approval letter will be sent to both the individual and the formal/on-the-job-training program. The letter includes a bolded statement that licensure must be completed within one year of approval to begin a program.

Dr. Hobbins also indicated she is receiving numerous requests for pharmacy intern extensions. She questioned how many times an extension should be granted. Dr. Young stated one extension could be granted depending on the circumstance.

Dr. Hobbins indicated the Division has an individual who has taken the NAPLEX exam and failed six times. The scores for this individual have been in the 20's. The passing score on the NAPLEX is 75. Board members discussed limiting the number of times an individual can sit for the NAPLEX. Board members suggested limiting to three times in three years. This will need to be added to Rule.

Mr. Memmott indicated there is a rural hospital administrator who is dispensing medications from the ER. This hospital administrator is going by the Division's October 1999 guidelines for hospital pharmacies. Mr. Memmott questioned whether or not the guidelines are still in effect today. Mr. Memmott indicated the hospital administrator is having staff dispense a 72 hour supply of medications labeled as samples. Board members indicated if they charge for the medications, they cannot call them a sample. There is also the question of who can dispense these medications. Most of the medications will be controlled substances and another question would be how these medications will be reported to the controlled substance database.

Board members stated that the guidelines were put into place before the 24 hour pharmacies were opened. Mr. Jones questioned whether or not the document should be formalized, or if they would qualify as a branch pharmacy. Mr. Jones stated he feels it is more extensive than just in the rural areas. A copy of the document will be forwarded for Board member review and discussion next month. Board members will determine whether or not it should be placed in rule so that everyone is clear on the process.

Mr. Memmott also had questions regarding inspections for pharmacy remodeling. Mr. Memmott stated that in the past, if there were only cosmetic changes, no inspection was required. Mr. Memmott indicated the Rule currently requires a new application and a new inspection if the pharmacy changes addresses; however, does not address a remodel inspection and whether or not a fee can be charged. He indicated a lot of remodels are not reported to the Board. Mr. Memmott also questioned what constitutes a remodel? Is it a new counter or a move to a different area of the building? Mr. Memmott reported Nevada does an inspection with the remodel and charges an inspection fee. Mr. Jones indicated his concern is that a pharmacy would be waiting for an inspection before being able to make any changes. There needs to be language indicating what constitutes a formal inspection. He suggested drafting language to charge a flat fee for the inspection.

Bill Cordova  
Interview:

Mr. Cordova didn't renew his license and is out of compliance with his Order. Mr. Cordova stated it was an oversight and will renew the license. He stated he wanted to meet with the Board to seek approval of a work proposal in the Park City area. He stated he would be picking up and delivering prescriptions to individuals in the area. He would work with the prescribing practitioners, pharmacies and clients. Mr. Cordova's Order does not require him to work under direct supervision, but it does require general supervision. Mr. Cordova stated he would be considered an employee of the pharmacy and the pharmacy manager would be the supervisor. Mr. DeRose suggested Mr. Cordova put the proposal

together and submit in writing a detailed plan on how the proposal will work, how many hours he will be working and a written agreement from the pharmacist. Dr. Lundberg stated Mr. Cordova must make sure he remains in compliance with the terms and conditions of his Order. Board members also questioned how the payment situation will be handled and he should include in his proposal a payment log.

William Stilling, discussion regarding DME pharmacy licensure:

William Stilling indicated some DME suppliers have questioned whether or not an out-of-state DME company needs to have a pharmacist in charge. He stated it is his understanding that out-of-state DME providers would be licensed as a Class E pharmacy and a pharmacist in charge is not required. Mr. Stilling also indicated that the information from Medicare and the Palmetto web site that lists a state by state summary for DME providers is confusing for DME providers.

Mr. Stilling stated the rule does not include the non-resident DME providers. Class D is defined as a non-resident pharmacy selling medications to Utah residents and the DME sells medical devices not medications.

Mr. Stilling requested clarification and stated that the DME providers who have contacted him sell infusion pumps, glucose meters, catheters, etc and wanted to know if the Division is willing to write a letter to Medicare indicating they are properly licensed in Utah with a Class E pharmacy license. Mr. Garn stated there should also be clarification that if the DME provider is not sending directly to the patient, a Class E license is not required. Board members indicated this is a frequent question and the letter could be posted to the Pharmacy page on the web site.

Paul Martz,  
Telephone interview:

Mr. Martz reported he found a therapist and started meeting with him in October. The therapist and employer reports are late and he is considered out of compliance with the terms and conditions of his Order. Mr. Martz was informed that since he has been late in submitting the required reports, he will be assessed a \$50.00 fine for being out of compliance. Mr. Martz stated he understands. Mr. Martz stated he will submit

his information and follow up with Ms. Call. Mr. Martz reported he has no cravings. He indicated he does have occasional thoughts of relapse, but he has not relapsed. Mr. Martz will be seen in March. **Mr. Martz is out of compliance with the terms and conditions of his probation due to the late paperwork.**

Dennis Beasley,  
Telephone interview:

Mr. Call reported Mr. Beasley has not submitted any paper work since August 2010 and missed a urine screen on December 2, 2011. Mr. Beasley stated he has submitted his paperwork online with Affinity. He stated he is diligent and checks in with Affinity everyday. Ms. Call stated she will follow up with Affinity to see if there are any problems. Mr. Beasley stated since Affinity appears to be having problems he will submit the reports by mail. He stated he can not work as a pharmacist for another seven months. Mr. Beasley reported he has no cravings and has a great support system. He reported he has been clean one year and three months. He reported he is keeping up to date by completing continuing education. He also indicated he has set up a payment arrangements with the collection agency.

**Mr. Beasley is out of compliance with the terms and conditions of his Order.**

Break at 10:40 a.m.  
Reconvened at 10:53 a.m.

James Bee,  
Interview:

Mr. Bee did not appear for his scheduled interview last month and is not available this month. Board members contacted his employer who indicated Mr. Bee is doing great and works well with the pharmacy staff, is accurate and works hours as needed. He does not have consistent work hours. Dr. Lundberg indicated Mr. Bee will need to meet with the Board in January or he will be referred for an Order to Show Cause Hearing, will need to surrender his license or be offered a new Stipulation with a fine and adding an additional year to the probation. **Mr. Bee has been non-compliant for the last two months because he has not met with the Board.** Ms. Bird made a Motion to refer Mr. Bee for an Order to Show Cause Hearing. Dr. Lundberg seconded the Motion. All

Board members voted in favor.

Brent McFadden,  
Telephone interview:

Mr. McFadden reported things are going well. Mr. McFadden stated he does not have any questions. He did indicate that he was not aware that Soma was a controlled substance in Utah and has been in contact with Mr. Sims and the Controlled Substance Database so that he can transmit his information. **Mr. McFadden is in compliance with the terms and conditions of his Order** and will meet with the Board March 27, 2012.

David Barrow,  
Telephone interview:

Mr. Barrow reported the only change since his meeting last month has been in his medication. He indicated Dr. Ponce and others have convinced him that a slow taper from his current medication is better for him. He stated he has agreed to taper off the medications slower than what he wanted. Dr. Lundberg stated it was a good idea to not make any drastic changes to his recovery and let the physician and therapist guide him at this point. Mr. Barrow stated he would like to be more involved in 12-step meetings and has been sharing more. **Mr. Barrow is in compliance with the terms and conditions of his Order.** He will be seen again March 2012.

Diann Millikan:

Ms. Millikan was not on the agenda but she wanted to report on her progress. Ms. Millikan indicated she has extended her treatment program. She will be seen for a probation interview in February 2012.

Scott Williams,  
Telephone interview:

Mr. DeRose indicated that Williams Family Video Pharmacy failed their last inspection. He indicated at this point, Mr. Williams can either surrender the license or he will be referred for an Order to Show Cause Hearing. Mr. Williams indicated he will speak with his attorney. The pharmacy can continue until further action is taken.

Beth Young, University of Utah  
Erin Johansen, and Andrew Draper, Roseman  
University:

Ms. Young, Ms. Johansen and Mr. Draper met with the Board to discuss the student intern hour form that is filled out and submitted with the pharmacist application. Ms. Young indicated they are hoping to simplify the form and have the signature in one place rather than having to sign-off on each course listed. Board members approved the suggested changes

presented.

Dr. Young indicated that ACPE has recommended a change in the number of hours needed to be obtained outside the education program. Board members discussed whether or not to continue to require outside hours. Dr. Young indicated that the ACPE standards are very stiff and additional hours may not be necessary. Mr. Jones stated he would like to keep the outside hours because he feels it is important for the new pharmacist to obtain the experience. Mr. Fitzpatrick indicated that interns are having a harder time finding positions and if they can't obtain the hours, they can't become licensed. Mr. Jones stated he has the responsibility of what happens in his stores and would hate to see that piece go away. Dr. Young stated the schools will be moving to 1740 hours and will the additional 600 hours make them safer practitioners? This issue will be addressed at a later date.

Layne Kilpatrick:

Board members reviewed the self assessment form provided by Layne Kilpatrick.

Dominic DeRose report on the Patient Safety Centered Prescription Labeling recommendation:

Mr. DeRose stated that Rep. Poulson was not present at the Legislative Committee meeting to discuss the Patient Safety Centered Prescription Labeling issue. Mr. DeRose stated the workgroup recommendations were submitted to Rep. Vickers.

Review Draft Rule to Implement HB 336:

A clarifying paragraph has been added at the end of the document. Board members stated there are no issues with the document. Mr. Jones made a Motion to approve the draft Rule to implement HB 336. Mr. Garn seconded the Motion. All Board members voted in favor.

Pharmacy Technician Program Approval:

Ms. Bird reported the pharmacy technician program at Kanab United Pharmacy is acceptable; however, she would like to speak with Mr. Shakespeare regarding the law exam.

Ridley Drug still needs to provide a copy of the text book and further information regarding practical training.

*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,  
Pharmacy Licensing Board

January 24, 2012  
Date Approved

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