

MINUTES

**UTAH
PHARMACY BOARD
MEETING**

April 24, 2012

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

CONVENED: 8:42 a.m.

ADJOURNED: 2:06 p.m.

Bureau Manager:

Debra Hobbins, DNP, APRN, LSAC

Board Secretary:

Shirlene Kimball

Conducting:

David Young, Pharm D, acting chair

Board Members Present

Jan Bird, CPhT, pharmacy technician

Derek Garn, R.Ph

David Young, Pharm D

Kelly Lundberg, PhD, public member

Andrea Kemper, Pharm D

Board Members Excused:

Dominic DeRose, R.Ph

Greg Jones, R.Ph

DOPL Staff Present:

Ray Walker, Enforcement Counsel

Connie Call, Compliance Specialist

Guests:

Jamie Peterson, Walgreen's

Greg Jensen, Target

Linda Sandberg, Omnicare

Reid Barker UPhA

Missy Duke, USHP

Robert Nahoopii, USHP

Shantel Mullin, USHP

Carolyn Kowalchik, USHP

Dave Davis, UFIA/URMA

Brent Gardner, UTMED

Kory Young, Total Respiratory Care

Jeanne Brennan, Law firm of J. Brennan

KC Lee, Roseman University student

Betty Yamashita, IHC

Angie Kilpatrick, Mt. Olympus Compounding

Mike Huot

Kelly Hansen, HCA

TOPICS FOR DISCUSSION

March 27, 2012 Minutes:

David Young:

Missy Duke, Shantel Mullin, Robert Nahoopii,
USHP – discussion regarding the Tech-Check-
Tech program:

DECISIONS AND RECOMMENDATIONS

Dr. Lundberg made a motion to approve the minutes with corrections. Dr. Kemper seconded the motion. All Board members voted in favor of the motion.

Dr. Young reported Division staff members presented licensure information and answered questions during the senior meeting at the University of Utah. Dr. Young reported the intern license is good for a period of 60 days after graduating. This allows the student to obtain either a temporary license or full licensure. He reported that a majority of students do not want to apply for the temporary license, but it is an option if the student fails the NAPLEX and has to wait 61 days to retake the examination. Dr. Young reported one thing to consider for Rule is to redefine what an intern is. He indicated extending the period to be considered an intern could be six months.

Ms. Duke reported that nine states allow a technician to check a technician; however they have to have specific training and the program is limited to acute care hospitals. She reported the tech-check-tech program has been studied for accuracy and the technicians have been thorough in checking for accuracy.

Ms. Mullin provided the Board with a handout regarding the University of Utah Hospital's medication checking process for inpatient unit dose orders. Ms. Mullin indicated the medication is added to inventory management with a barcode and the buyer checks the product in with the barcode. Technicians would put the order in the inventory management system with the barcode. After the licensed practitioner enters an electronic medication order, the pharmacist verifies the order. The inventory management system then displays the verified order to be pulled for checking by the technician. Currently, a pharmacist checks these medications before they leave the pharmacy using barcode scanning. The patient name, product picture and order details can be seen on the screen for verification purposes. Ms. Mullin stated this is the step where technicians with advanced

competencies could check other technicians. This would also work the same way for filling automated dispensing cabinets with technician-checked product. The tech-check-tech program would allow the technician to check if barcode checking is consistently used; experience, training and competency requirements are met by the technician. This would only include non-manipulated medication checks, no IVs or compounded medications; there would be limitations on specific high-risk medications being checked.

Ms. Mullin stated there are many checks in the system and feels that the tech-check-tech program would be safe with this process after significant training and according to pre-set conditions. The patient's wristband is scanned and there are numerous double checks. Ms. Mullin reported the technician must have 6 months or 1 year of unit dose packing experience before allowing them to be in the program. Dr. Young stated that the law does not allow the pharmacy technician to do a final check and the Statute would have to be changed. Ms. Mullin indicated that the medications are going to a machine to be dispensed by another professional; the review is done by the pharmacist. There is no definition of a final check. Board members questioned whether or not this would be considered distributing or are they dispensing. Ms. Mullin stated it is moving the drug out of the pharmacy onto the unit. The medications may be patient specific, but not necessarily. Robert Holt indicated that Minnesota has rules in place which allow a tech-check-tech if a variance is granted from the Board. Mr. Holt stated this proposal is similar to the Minnesota law, the order is sent to the pharmacist, the pharmacist reviews the order and the order is double checked. Mr. Holt also indicated that the military has a tech-check-tech program so there is precedence. Ms. Mullin stated that general oral or inhaler fills are standard and it seems like it would be appropriate to offer a tech-check-tech program for those; however, no chemotherapy or anticoagulant medications would be involved. Ms. Mullin stated the Statute would probably need to define whether or not heparin would be included or excluded.

Dr. Young stated he feels this is a move in the right direction; however, it would require further study and a Statute or Rule change. Dr. Hobbins indicated Ms. Duke and Ms. Mullin should approach the group of interested individuals, look at other states' requirements, and find a sponsor. Dr. Young stated maybe it could be added to rule because he is hesitant about opening the Act at this time. If Mr. Walker indicates it will require an Act change, then the group can get together. This would also mean that additional investigators would have to be hired and the bill would require a fiscal note. Ms. Duke stated some states approve each program. Dr. Young stated the Board would not want to approve each program.

Brent Gardner, Kory Young,
Request to exempt oxygen as a legend drug:

Brent Gardner and Kory Young met with the Board to discuss exempting oxygen as a legend drug. Mr. Gardner stated that his clients are having problems renewing annual prescriptions. Utah Law requires the renewal at one year; however, federal law states 99 months.

Mr. Young stated the current law requires that a DME facility dispensing directly to the patient must have a Pharmacy Class E license. He questioned whether or not the Class E Pharmacy has to follow labeling requirements? Mr. Memmott stated there is no requirement in the current operating standards, but the facility would need to follow FDA guidelines and standard of care. Mr. Young stated they are following labeling standards for the oxygen and require a prescription on an annual basis. Mr. Young stated it is difficult for him to obtain the prescription on an annual basis if the physician writes the prescription for 99 months and does not see the patient yearly. Board members reported that CMS is looking at having face-to-face consultation between the physician and the patient to determine ongoing care. Board members indicated they feel it is safe practice to have the patient seen annually to determine the level of oxygen for the patient. Mr. Young stated CMS requires documentation and he can not get the physician chart notes. He indicated he would like to see uniformity; his job is to provide patient care. Board members indicated he will have to work with the provider and explain why he needs the

documentation. Dr. Young stated the Physicians Licensing Board would be the Board he needs to speak with. Dr. Hobbins indicated that Rep. Vickers had approached the Board with this issue; however, no one was in support of removing the annual prescription requirement. Dr. Hobbins indicated she believes Rep. Vickers also met with the medical association regarding this issue.

Division E-mails:

Dr. Hobbins reported she received an e-mail regarding a pharmacy technician who consults with a home health agency and is changing brand medication to generic. Board members indicated in accordance with the Pharmacy Practice Act Rule, section R156-17b-601(2), a pharmacy technician can not receive new verbal prescriptions or medication orders, clarify prescriptions or medication orders nor perform drug utilization reviews if there is no pharmacist supervision. This individual would be practicing outside the scope of practice of a pharmacy technician.

Dr. Hobbins indicated she received an e-mail from an out-of-state private waste management firm that facilitates the destruction of hazardous and non-hazardous wastes and the destruction of pharmaceuticals, including controlled substance destruction. This agency questioned whether or not they would need to be licensed in Utah. Mr. Memmott stated if the controlled substances are shipped from a pharmacy in this state to this facility, a Utah license would not be required; however the facility would need to be licensed in the state where it is located. If the facility was located in Utah, then he would be required to hold a Utah license. However at this time, there is no category of licensure for the destruction of pharmaceuticals and would fall under a Class C license. Mr. Memmott stated the FDA is working on rules and once those rules have been put into place, we would follow those rules. Board members agreed with Mr. Memmott.

Suresh Boodram,
Requesting he be allowed to work under general supervision and be able to work alone in a pharmacy:

Mr. Boodram requested he be allowed to work under general supervision and be able to work alone in a pharmacy. Board members indicated he has not addressed the reason why he was placed on probation and he has not taken responsibility for his actions. Dr.

Lundberg made a motion to deny the request. Ms. Bird seconded the motion. All Board members voted in favor of the motion.

Break at 10:15 a.m.
Reconvened at 10:30 a.m.

Connie Call,
Compliance report:

Ms. Call reported the only individual out of compliance is Andrea Lowry. Ms. Lowry is out of compliance due to a dilute urine screen. She is now working and will need to be seen quarterly. Board members indicated quarterly telephone interviews would be accepted. Dr. Young questioned whether or not the Board has the option to Skype interviews instead of by telephone. Dr. Hobbins stated she would check to see if this is an option.

Ms. Call reported Talair Huot has a new Order and she requested she be allowed to spend six months getting healthy and not having to submit to urine screens. Board members stated it would be to her benefit to provide urine screens. Ms. Call also reported there are no PIR meetings in the area where she is living and her Order would need to be amended to allow attendance at four 12-step meeting in lieu of two 12-step meeting and two PIR meetings.

Review of Rules:

Dr. Hobbins indicated an addition to the Rule will be the requirement for e-mail addresses. This was suggested because the controlled substance database would like to use e-mail for notifications, self audits and dissemination of information. Board members questioned what happens if an individual does not have e-mail, or the employer does not allow access to e-mail at work? Dr. Lundberg stated if there is a problem the individual could contact the Division. Dr. Lundberg made a motion to approve the proposed language for e-mail and self audit requirements. Ms. Bird seconded the motion. All Board members voted in favor of the motion.

Class C pharmacy: Dr. Lundberg made a motion to approve the language for the Class C pharmacy. Dr. Kemper seconded the motion. All Board members voted in favor of the motion.

It was noted that the Pharmacy Practice Act Rule, section R156-17b-613 refers to the Pharmacy Practice Act, section 58-17b-102(3) which references analytical laboratories, not issuing prescription orders by electronic means. Dr. Hobbins will research this issue and determine what section of Statute should be referenced.

Layne Kilpatrick,
Quarterly interview:

Mr. Kilpatrick and his wife, Angie, met with the Board. Mr. Kilpatrick reported things are fine. Mr. Kilpatrick was informed that the ethics continuing education he submitted would be accepted; however he will need to find a law CE. Dr. Hobbins indicated the University of Utah will be offering an all day course on Pharmacy law on May 12, 2012. It was also reported that the UPhA will be offering a two hour law course at its annual convention. Mr. Kilpatrick only needs one hour of law and the Board indicated they would accept either course. Board members addressed the e-mail sent by Mr. Kilpatrick regarding compounding of drugs. Board members indicated that federal law does not allow for compounding of already manufactured drugs unless federal approval has been granted. A pharmacist cannot compound a drug because there is a shortage. Mr. Kilpatrick would need to apply to the FDA for an exemption to manufacture or to compound these drugs.

Ms. Kilpatrick indicated she wanted to discuss a letter of warning sent to the pharmacist in their pharmacy. She stated she understands DOPL needs to protect the public, but DOPL should also look at the business environment. She stated there appears to be a communication gap within the Division and stated that if the Division has questions, they should call for clarification. She questioned why the Division sent a scathing letter? Dr. Young stated this discussion is independent of the Board and they will need to speak with investigations. Dr. Hobbins stated DOPL sends a letter so that there is written documentation of what transpires. Dr. Hobbins suggested Ms. Kilpatrick contact Mr. David Furlong, Chief Investigator. Mr. Kilpatrick questioned what happened to his request for termination of probation and for a reduction of the fine? He indicated the Board was going to speak with Mr. Memmott at one of their meetings. Mr. Garn

stated the Board was informed they could not readdress the facts and since the Order was signed, the Board needs to abide by the Order. Dr. Lundberg stated requests for modifications are considered and a determination is made to grant or deny a request based on how compliant the probationer is. **Mr. Kilpatrick is in compliance with the terms and conditions of his Order** and will be seen again July 2012.

Sheryl Ledet,
Quarterly interview:

Ms. Ledet stated she likes the Affinity reporting system and it has helped her with compliance. Ms. Ledet reported work is going well and she likes her current work schedule. She stated she works two weeks and has one week off. She reported she never works more than 40 hours per week. Ms. Ledet stated she is considering taking a vacation and questioned if she misses a 12-Step meeting if she can make it up. Dr. Lundberg stated she needs to contact Ms. Call prior to leaving on her vacation, but sees no problem asking for an extension to make up the missed meeting. **Ms. Ledet is in compliance with the terms and conditions of her Order.** She will be seen again July 2012.

Danny Carter,
Quarterly Interview:

Mr. Carter was excused from meeting with the Board. **Mr. Carter is in compliance with the terms and conditions of his Order** and he will be seen July 2012.

Talair Hout,
New Order:

Ms. Huot and her husband, Michael, met with the Board. Ms. Huot explained the circumstances that brought her before the Board and indicated she diverted Oxycodone from her place of employment. Ms. Huot stated she is not currently working in a pharmacy. Ms. Huot stated she is having a hard time with the cost of urine screens and requested she be allowed to use the urine screens required by her aftercare counselor at Bear River Treatment Center. She stated her counselor is willing to request the same urine screen panel the Division requires. Board members suggest the counselor contact Ms. Call to see if would be acceptable to the Division. Ms. Huot also indicated there are no PIR meetings in the area where she lives. Dr. Kemper made a motion to allow her to attend four 12-step meetings (AIP meeting) per month in lieu of PIR meetings. Ms. Huot reported she has a

four-or five-year addiction and this is her second time through treatment. She reported she has not used any medications for six to seven months.

Dr. Lundberg stated it appears Ms. Huot is taking responsibility for her actions. The Board is here to help her through the process and if she remains in compliance, modifications can be made to the Order, depending on the modification. Dr. Lundberg stated the Order requires a neuropsychiatric evaluation; however the Board would like a psychiatric evaluation, a substance use disorder evaluation and a physical evaluation. The evaluations must be conducted by the appropriate individual. Dr. Kemper made a motion to allow one AIP meeting per week in lieu of PIR and 12-Step meetings; allow her to have a psychiatric evaluation in place of the neuropsychiatric evaluation and accept the psychiatric evaluation from the LPC she is currently seeing. Ms. Bird seconded the motion. All Board members voted in favor of the motion. **Ms. Huot is in compliance with the terms and conditions of her Order.** She will be seen again July 2012.

Recommendation for Layne Kilpatrick:

Layne Kilpatrick requested termination of probation and to have his fine reduced to \$1.00. Board members indicated he has not been on probation for a long enough period of time to monitor his progress and he has not accepted responsibility for his actions. Ms. Bird made a motion to deny the request. Dr. Kemper seconded the motion. All Board members voted in favor of the motion.

Lunch Break: 12:17 p.m.
Reconvened: 1:10 p.m.

Kyle Rootsart,
New Order:

Mr. Rootsart explained the circumstances that brought him before the Board and indicated he filled online prescriptions; failed to notify the controlled substance database; and filled prescriptions for patients out of state without a license in that state. Mr. Rootsart reported this happened in 2007 and he closed his pharmacy in December 2010. Mr. Rootsart indicated he is currently employed at three different pharmacy sites, but with the same employer. He indicated there will be a different PIC at each site.

Board members indicated his employer reports should be filled out and signed by all three PICs and he will need to submit three different practice plans. Mr. Rootsart is required to complete a course in ethics and law. The Order does not indicate how long the course must be, and Board members indicated it should be a minimum of at least one hour. Dr. Lundberg stated it would have been helpful in this circumstance to require the Thinking Errors Course so that there was an assessment tool for the Board to look at. Mr. Rootsart stated he understands his Order and has no further questions. **Mr. Rootsart is in compliance with the terms and conditions of his Order.** He will be seen in July 2012.

David Abrams,
Quarterly interview:

Mr. Abrams reported he is having difficulty finding work as a pharmacist. He indicated he volunteers at Mt. Olympus Pharmacy to keep his probation going. Mr. Abrams stated he has read all 39 pages of the Pharmacy Practice Act and Rules. Dr. Young questioned if he had any changes he would suggest making to the Act or Rule? Mr. Abrams stated no. Mr. Abrams questioned whether or not his probation could be terminated. Board members indicated he has not been on probation for a year; however, he can submit a written request explaining why he feels the probation should be terminated early, what he feels he has learned and how he could have prevented the probation. **Mr. Abrams is in compliance with the terms and conditions of his Order.** He will be seen again in July 2012.

Pharmacy Technicians University,
Pharmacy Technician Training Program:

Ms. Bird was assigned to review the Pharmacy Technicians University technician program.

Ms. Bird stated she would like to see the Board focus on a standardized pharmacy technician program. Dr. Young stated there has been work on developing a standardized program through the American Society of Health System Pharmacists (ASHP). Dr. Young indicated the Board may want to review this program and if the Board required pharmacy technician programs have this certification, the Board would no longer approve pharmacy technician programs. Dr. Hobbins stated she feels a standardized program would protect the public and would ensure consistency

in the pharmacy technician programs. Dr. Young stated the NABP was also looking at standardized training and he will find the information and report back to the Board. Mr. Garn suggested the Division look at the pass fail rate by school for the national exam.

Report on CPE Monitoring:

Dr. Young stated that the CPE monitoring program developed by NABP for logging continuing education is now in place. Dr. Young indicated that pharmacists and pharmacy interns should be notified of the service.

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 22, 2012
Date Approved

(ss) David Young
David Young, acting chair,
Pharmacy Licensing Board

May 22, 2012
Date Approved

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