

MINUTES

**UTAH
PHARMACY BOARD
MEETING**

June 26, 2012

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

CONVENED: 8:30 a.m.

ADJOURNED: 3:40 p.m.

Bureau Manager:

Debra Hobbins, DNP, APRN, LSAC

Board Secretary:

Shirlene Kimball

Hailee Robertson, Licensing specialist

Conducting:

Dominic DeRose, R.Ph chair

Board Members Present

Dominic DeRose, R.Ph

Greg Jones, R.Ph

Jan Bird, CPhT, pharmacy technician

Derek Garn, R.Ph

David Young, Pharm D

Kelly Lundberg, PhD, public member

Board Members Excused:

Andrea Kemper, Pharm D

DOPL Staff Present:

Ray Walker, Enforcement Counsel

Connie Call, Compliance Specialist

Karl Perry, Assistant Attorney General

Jared Memmott, Division investigator

Jake Corsi, Division Investigator

Marv Sims, Controlled Substance Database manager

Guests:

Jason Braithwaite, IHC

Greg Jensen, Target

Linda Sandberg, Omnicare

Betty Yamashita, IHC

David Nay, Express Scripts

Mark Munger, U of U

Jon Magness, student pharmacist

Reid Barker, UPhA

Missy duke, USHP

Jeanne Brennan, Law Firm of J. Brennan

Jaime Peterson, Walgreen's

Dave Davis, UFIA/URMA

Peter Ax, PCM
Laura Hunter, Obagi
Ron Lapre, Obagi
Naseem Glavbitz, Obagi
Jeff Hesib, Obagi
Keenan Simon, PCM
Sam Ax, PCM
Paul Roger, PCM
Lisa Dimick, PCM
Robert Lane, U of U
Carson McFadden

TOPICS FOR DISCUSSION

May 22, 2012 Minutes:

Board Chair:

Mark Munger, Presentation
Regarding Pharmacist work environment
satisfaction and stressors:

DECISIONS AND RECOMMENDATIONS

The May 22, 2012 minutes were tabled.

Dr. Young will assume the responsibility as Board chairman in July. Mr. DeRose will continue to serve on the Board until his position has been filled or until December 2012. Dr. Lundberg will continue to serve on the Board until reappointed or until December 2012.

Dr. Munger presented a study regarding pharmacist satisfaction and stressors in the workplace. Dr. Munger stated this study included retail chain pharmacists and independent pharmacists. Pharmacists for the study were recruited by mail throughout the U.S. It also included a three-week field study in Utah. The pharmacists were middle-to-senior age, practiced in suburban and urban settings and the most were bachelor-degree prepared. Dr. Munger reported there was a negative correlation between job satisfaction and stress, and the preferred work setting was in the suburban areas. The pharmacists reported they spend 10-24% of their time counseling. A majority of the pharmacists did not support compulsory counseling for new or renewal prescriptions. Dr. Munger stated the study found no increase in direct patient consulting with an increased ratio of pharmacy technicians. These pharmacists were also provided with the definition of tech-check-tech. Dr. Munger stated he is not sure if the tech-check-tech was understood by a majority of the pharmacists. The tech-check-tech is better understood in institutional pharmacies. Dr. Munger reported a few of the

pharmacists believe that the change in the pharmacy technician ratio is one of the reasons why there are no pharmacist positions. Some of the study participants felt that technicians are more of a burden; however, this depended on the setting and the employer. The decision makers at the executive levels are making the call for the technician ratio even though the responsibility ultimately falls on the pharmacist being comfortable providing proper technician supervision. Dr. Munger stated there was a study in Oregon, which yielded similar results. Those results indicated that wait time guarantees, immunizations and prescription errors cause stress in the work environment.

David Young,
Report on the NABP Annual meeting:

Dr. Young reported there were great topics and speakers at NABP's Annual meeting. He indicated NABP posts all sessions on website if Board members want to review the sessions.

Dr. Young reported the following:

- The Pharmacist Assessment Remediation Examination (PARE) was developed for practicing pharmacists that may need to be assessed to see if they are competent to practice.
- The national pharmacy technician training program was not discussed at this meeting.
- NABP standard labeling will become effective May 2012. He stated there is no substantial difference from what is already on the label. Mr. Barker and Dr. Young will report the findings to Representative Paulsen.
- NABP's electronic licensing transfer system is up and going and will be available within 24 hours of the individual making the request for licensure transfer.
- NABP reported some states are preparing for drug shortages with storage banks, especially for antibiotics, but otherwise did not have an answer for shortages.
- NABP is moving forward on community pharmacy accreditation. NABP also reported that 25% of pharmacists are not up to date with continuing education requirements in their states of licensure.
- NABP reported that placing precursor medications behind the counter and requiring signatures has decreased the number of methamphetamine labs. Dr. Lundberg stated that in the past, methamphetamine

was the drug of choice for the uninsured. She reported Methamphetamine has now dropped to number three as the drug of choice. Alcohol is number one and opioids are number two.

InterConnect Prescription Monitoring program:

Dr. Young reported that the NABP InterConnect prescription monitoring program went live this month. Utah and eleven other states are currently participating in this program. He reported the Federal grant money will be extended beyond the five-year time period because it is a popular program. Reporting time is 7.5 seconds; each state sends the information to NABP, then NABP sends out the data. Mr. Walker stated that Utah inputs the data directly into the NABP system. It includes an abuse potential scoring system. The practitioner can pull up the program, review the abuse level likelihood for the particular patient and then decide whether or not to prescribe the medication. Dr. Lundberg questioned what goes into composite scores? Dr. Lundberg also questioned whether or not patients could see their own scores. Dr. Young indicated the website may have the answers, but he does not think the patient can access the information. Marvin Sims and Karl Perry were present for the discussion. Mr. Sims stated the PMIX InterConnect through NABP allows states to review information from other states. He also indicated that H.B. 35 and 36 require all hospital admissions for overdoses to report to the CSD. The CSD will report medications that have been prescribed for that individual back to the prescribing practitioner. Courts will have to report DUIs for controlled substances. Mr. Sims stated any participating state will be able to view the information. Dr. Munger questioned how it will be determined whether or not they are looking at the same individual? Mr. Sims stated it would be based on rules written for specific patient requirements, such as first name, last name and date of birth.

Discussion regarding Intern Hours:

Dr. Young reported thirty-one states do not require additional hours beyond the intern hours obtained in the education program. If a student is coming from another state, we accept the hours obtained in that program and state. The current rule makes it a disadvantage for students in Utah. Dr. Young stated of

those states that do require extra hours, one state requires 250, three require 300 hours, and several require 800 or 900 hours. Dr. Young questioned what is our point to requiring additional extern hours? What is our end goal? Mr. Jones stated he feels it is important for the intern to receive experience outside of the educational program. Dr. Munger stated that educational programs cannot provide the individual with actual practical experience. A guest present stated that the additional hours help the intern understand work flow and talk to patients. Ms. Brennan stated she feels that Utah needs to hold to the standards in place. Dr. Hobbins stated that it is not the States' job to track the hours. Mr. Garn stated he feels the extra hours are valuable and interns are on the front lines gaining experience. Board members determined this issue will be discussed at a future Board meeting.

Dr. Young discussed the pharmacist application and the requirement that the dean sign for each course taken by the individual. Dr. Young made a motion that the dean of pharmacy should not be required to sign the separate page of the pharmacist application for professional hours. Mr. Garn seconded the motion. All Board members voted in favor of the motion.

Break at 10:36 a.m.
Reconvened at 10:45 a.m.

Discussion regarding Pharmacy Issues:

Mr. Memmott introduced Jacob Corsi, a new Division investigator. Mr. Corsi comes to the Division as a pharmacy technician with pharmacy compounding experience.

Medication shortage and expiration dates:

Mr. Perry reported there is ongoing discussion regarding what the Division's position should be in dispensing expired medications in an emergency situation. Mr. Perry stated the Division needs to make an informal policy for emergency situations. Board members expressed concern regarding proper storage of medication and whether or not there are other medications that could work in an emergency situation. Mr. Perry stated factors would need to be weighed and looked at to evaluate the situation and to

determine whether or not a fine should be issued or if further action was necessary for using expired medications. Board members indicated the policy should be for a true emergency and not because of a shortage of a certain medication. Board members also suggested considering how dangerous it is to the patient. Mr. Garn questioned whether or not this follows federal statutes. Mr. Memmott stated the federal government depends on states to take responsibility to monitor this situation. Missy Duke stated emergency rooms will use the next best therapeutic medication if the first choice is unavailable and it is very rare that a medication does not have an equivalent. Dr. Young stated it will come down to a judgment call and whether or not an alternative is available. Board members indicated they are comfortable with Dr. Hobbins, Mr. Perry, Mr. Walker and Mr. Steinagel working out this issue. Mr. Walker stated the Division needs to follow federal and state guidelines and the bottom line is that the law is the law. However, we can look at a variety of factors and the spirit of law to save someone's life and whether prosecutors will charge or not is their option.

Discussion regarding Rule for Ownership changes:

Dr. Hobbins reported the Division is requesting the articles of incorporation or an organizational chart so that the Division can determine who needs to be fingerprinted for the pharmacy applications. The Division is requiring fingerprints for owners, the PIC, the PIC supervisor and general manager or other individuals responsible for the day-to-day operation of the pharmacy. Mr. Garn stated his concern is that a chain store manager may be required to submit fingerprint cards on a frequent basis because he/she is responsible for more than one store.

Dr. Hobbins stated there is concern with pharmacies that apply for a license and then changes names before the license is issued. There is also more awareness regarding grey market pharmacies. Dr. Young stated NABP has a VAWD program for wholesale distributors that requires background checks. VAWD gives ongoing accreditation that has to be renewed every three years and would help the state get a grasp on who is being licensed. Dave Davis stated it is not unusual for a grocery chain to put each store into an

LLC and have umbrella ownership. Mr. Garn questioned if the intent of the Statute was to fingerprint everyone? Mr. Perry stated those fingerprinted should be those individuals responsible at the decision making level. Mr. Walker stated that trying to impose a one size fits all does not work and not all corporate organizations are similar. The application needs to be reviewed and a determination made regarding fingerprints on a case by case basis, depending on the operational standards of the pharmacy. Mr. Walker stated the language must be reworded to allow discretion. A motion was made to require in rule VAWD certification for wholesale distributors. Mr. Jones seconded the motion. All Board members voted in favor of the motion. Dr. Young made a motion to have the Division determine who should submit fingerprints after a review of the application. This should include all owners and the most senior person responsible for the day-to-day operation of the pharmacy. Dr. Lundberg seconded the motion. All Board members voted in favor of the motion.

Report on the notification of physician intent to dispense:

Discussion tabled.

Review Clinic Inspection Report for Physicians Dispensing Cosmetic Drugs or injectable Weight Loss Drugs;
Review Clinic Inspection Report for Cancer Drug Treatment Regimen:

Sandy Hess, Division investigator, developed the clinic inspection reports for cosmetic drugs/injectable weight loss drugs and one for the cancer drug treatment regimen. Mr. Perry stated he has reviewed the cosmetic drug form and feels comfortable with the inspection report.

Review DOPL Laws and Rules concerning military personnel:

Reviewed.

Fact Sheet regarding Senator Udall's proposed bill and the Council of State Governments Resolution to explore a Telehealth Interstate Compact:

Dr. Hobbins provided Board members with a copy of the fact sheet regarding Senator Udall's bill. There is some concern that the Federal Government will move to national licensure and the professions will have no say in the regulation of their professions.

Adjourned to Lunch at 11:35 a.m.
Reconvened at 1:10 p.m.

Peter Ax, Phoenix Capital Management and

Mr. Ax and Mr. Lapre met with the Board to discuss

Ron Lapre, Obagi Medical Systems:

their proposal for a Class B, closed door pharmacy and a Class C, wholesale pharmacy. Mr. Lapre reported they already have a Class B license (the online pharmacy under the name of Kwikmed). This pharmacy is adjacent to the warehouse that distributes the Obagi Bella brand products. Mr. Lapre stated that Obagi Medical Systems has been in business over 20 years and distributes topical skin care products to physicians who contract with Obagi Medical Systems. Mr. Lapre stated that OPO, Inc. will receive Bella brands to distribute over the internet and will be an online distribution center. There is a 40,000 square foot building with separate entrances from the outside as well as inside. There would be three pharmacies licensed in the facility with separate entrances and different addresses. The Class B pharmacy will have a PIC and a pharmacy technician. The Class C pharmacy will have workers in the distribution center and customer service area. Mr. Lapre stated access is controlled from facility to facility. Each facility will have its own sink with hot/cold running water and is separate from the bathroom. There will be a side double door separating the Class C and the Class B pharmacies. Mr. Lapre stated they understand they must maintain separate inventory records for each facility. Mr. Lapre stated a patient has to go to an Obagi doctor to obtain Obagi products. There is a doctor/patient relationship and if the patient has been seen within the last 12 months, they can order the products. If they haven't seen the physician in over 12 months, the patient has to consult with the physician prior to ordering the product. The patient's existing primary care physician for Bella products could be the consulting physician if there is no Obagi physician relationship. Dr. Young questioned whether or not Obagi compensates the physician for the volume of product they sell? Mr. Lapre stated there is no incentive for the physician. The physician can offer the patient their choice of pharmacies and the physician does not have to use just Obagi products.

Mr. Lapre stated that current law does not allow for a PIC to be the PIC for two pharmacies at the same time. Mr. Ax questioned if there could be a rule change or a waiver for their locations specifically. He indicated they have good employees and a staff

pharmacist. Dr. Lundberg stated a rule change should not be made based specifically for this company and circumstance that it is “safe” just for them because of their trustworthy employees. The issue to look at is whether public safety is addressed. She indicated a rule change could be made for an exemption for two PICs for the closed door pharmacies, but the Board cannot grant permission to deviate or violate current law.

Ms. Bird made a motion to allow a PIC over more than one Class B pharmacy if the pharmacies are open at different times. Dr. Lundberg seconded the motion. All Board members voted in favor of proposing the rule change. The change would be to section R15-17b-301(7).

Connie Call,
Compliance report:

Ms. Call reported the following individuals are out of compliance with the conditions of their Orders:
-**Dennis Beasley** has not renewed his license.
-**Rachel Arnold** has not contacted the Division and the Division has been unable to locate her.

David Barrow,
Quarterly Interview:

Mr. Barrow stated he is grateful to hold a license and to work as a pharmacist. He stated he is only working a few hours each week and has not done an intense search for a better fitting position. He indicated he feels an independent setting would be the best fit for him. He reported he is doing well in his recovery. Mr. Barrow requested the urine screens be reduced because of the financial burden. Board members will consider his request and make a recommendation to the Division. **Mr. Barrow is in compliance with the terms and conditions of his Order.** He will be seen again September 25, 2012.

Paul Martz,
Quarterly Telephone Interview:

Mr. Martz reported he is doing well and is working 40 hours per week. He stated he is meeting with the therapist twice a week. Mr. Martz requested his Order be amended to allow him to work under general supervision and to work alone in the pharmacy. Mr. Garn made a motion to allow for general supervision. Ms. Bird seconded the motion. All Board members voted in favor of the motion. **Mr. Martz is in compliance with the conditions of his Order.** He will be seen again September 25, 2012.

Dennis Beasley,
Quarterly telephone interview:

Mr. Beasley could not be contacted by telephone. Dr. Lundberg made a motion to issue a \$100.00 fine for non-compliance to the terms and conditions of his Order. Mr. Jones seconded the motion. All Board members voted in favor of the motion. **Mr. Beasley is out of compliance with the conditions of his Order.**

Brent McFadden,
Quarterly Interview:

Mr. McFadden met with the Board and reported things are going well. He stated he has worked hard to regain the trust of the people in St. George and he has a number of physicians referring patients to his diabetes class. Mr. McFadden requested early termination of probation. He stated he now recognizes the difficult decision he imposed on Board and appreciates the Board's willingness to work with him. Dr. Lundberg made a motion to terminate probation. Mr. Jones seconded the motion. All Board members voted in favor of the motion. **Mr. McFadden is in compliance with the terms and conditions of his Order.**

Rachel Arnold,
New Order:

Ms. Arnold did not appear for her scheduled interview. She will be re-scheduled for next month. **Ms. Arnold is out of compliance with the terms and conditions of her Order.**

Colton Dale,
New Order:

Mr. Dale met with the Board and explained the circumstances that brought him before the Board. Mr. Dale is currently employed at MedSource as a pharmacy technician. Mr. Dale was requested to write a report on how his behavior has impacted others and what behaviors have changed. Mr. Dale stated he will write the report. Dr. Lundberg stated she is impressed with Mr. Dale taking ownership and responsibility for his actions. Ms. Bird questioned whether or not he has any desires or cravings to ingest alcohol? Mr. Dale stated he has cravings, but finds outdoor activities to deter him when he has cravings. **Mr. Dale is in compliance with the terms and conditions of his Order.** He will meet with the Board again September 25, 2012.

Kyle Rootsart:

Mr. Rootsart is working at three different pharmacies. Board members indicated Mr. Rootsart needs a practice plan for each pharmacy setting in

Utah.

Pharmacy Technician Program review:

Ms. Bird will review Alpine Apothecary pharmacy technician training program and report back to the Board next month.

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.

August 28, 2012
Date Approved

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

August 28, 2012
Date Approved

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