

MINUTES

**UTAH
BOARD OF PHARMACY
MEETING**

March 26, 2013

**Room 474 (fourth floor)– 8:30 A.M.
Heber Wells Building
Salt Lake City, UT 84111**

CONVENED: 8:31 A.M.

ADJOURNED: 4:40 P.M.

**Bureau Manager:
Board Secretary:**

Richard J. Oborn
Lee Avery

Board Members Present:

David Young, Pharm D., Chair
Kelly Lundberg, Ph.D.
Jan Bird, CPhT, pharmacy technician
Derek Garn, R.Ph.
David Young, Pharm D
Andrea Kemper, Pharm D
Greg Jones, R.Ph.
Carl “Trip” Hoffman, Pharm D

DOPL Staff Present:

Ray Walker, Division Enforcement Counsel
Connie Call, Compliance Specialist
Jared Memmott, Investigator
Jake Corsi, Investigator

There is a new bureau manager and board secretary assigned to the pharmacy profession.

Guests:

Matt Ence, USPA
Greg Jensen, Target
David Cheney, Assoc. Foods
Scott Mitchell, Assoc. Foods
Linda Sandberg, R.Ph
Betty Yamashita, IHC
Brittany Bryan, IHC
Ian Ford, University of Utah
Adam Jones, Utah Pharmacist Association
Jamie Peterson, Walgreens
Nick Estrada, University of Utah
Dave Davis, retired pharmacist
Erin Johanson, Roseman University

Paige Patterick, Smith's
Blair S. Woolf, Smith's
J. Anderson

TOPICS FOR DISCUSSION

Minutes:

DISCUSSION ITEMS:

1. 8:45 a.m. - Report from Compounding Taskforce

2. 9:00 a.m. - Rule changes prompted by bills passed during 2013 Legislative Session

3. 11:00 a.m. - Discussion regarding Kroger distribution plan to assist with addressing issues in rule

4. 11:20 a.m. - Division's response to Compounding Task Force Report

DECISIONS AND RECOMMENDATIONS

Dr. Lundberg made a motion to approve the minutes dated February 26, 2013, with corrections. Dr. Kemper seconded the motion. All Board members voted in favor of the motion.

Mr. Hoffman suggested the Division review standards for compounding pharmacies established by other states, such as Texas, North Carolina.

Mr. Walker reviewed several bills that were passed during the 2013 Legislative Session. Dr. Young led the Board in discussing rule amendments that need to be made due to action taken by the legislature.

Mr. Paige Patterick, Mr. Blair Woolf, and Mr. Brody White, representatives of Kroger Stores, met with the Board. Kroger has a call center to help the Kroger Pharmacies provide better customer service. These representatives reviewed how call center technicians take calls from customers with a variety of questions such as is my prescription ready, how much is my prescription, and can you refill my prescription? When a customer contacts the call center and the technician cannot help the customer, the customer is transferred to the store pharmacist. These types of calls would include drug interactions. The Board indicated that they may recommend rule amendments to be made to the Division in the future that would impact what Kroger is hoping to set up in Utah. **The Board requested this topic be discussed at the June or July Board meeting.**

Taken out of order on the agenda.

Mr. Steinagel met with the Board and reviewed the Division's response to recommendations made by the Compounding Task Force.

The task force recommends that the Division enforce

an inspection moratorium on compounding pharmacies. The Division is uncomfortable with this idea. The Division cannot cease issuing citations and disciplining compounding pharmacies.

The task force recommends that DOPL investigators and inspectors go through training on federal laws that regulate the pharmacy profession. The Division supports this idea and is willing to provide additional training for investigators. Five investigators will go through intensive NABP training in May that was scheduled before the task force met to discuss recommendations.

The task force encourages inspectors to educate licensees when they investigate them and follow-up on inspections. The Division supports this idea.

The task force recommends updating of the compounding self-inspection report. The Division agrees with this idea and will consult with Board members and others in the field as necessary as updates to the report are made. The Division will make updates to the report and submit a revised self-inspection report to the Board for review at the May meeting.

The task force recommends creation of self-inspection reports for Class B and C pharmacies. The Division is working on this.

The task force recommends that the Pharmacy Practice Act be revised. The Division is happy to provide input to Board members, legislators, and associations as they propose amendments to the Act. The Board will be discussing possible amendments to the Act during future Board meetings.

The task force recommends that standards regarding transferring compounds within the same institutional setting be clarified and that language in regard to manufacturing vs. traditional vs. non-traditional compounding be clarified. The Division is willing to work with the Board on these items.

The task force recommends that DOPL send a letter to

compounding pharmacies. A letter was sent last year and the Division is willing to consider sending a second one this year.

The task force recommends that network-network-network become compliant with USP standards. This is something the Division agrees that the industry can work on.

Mr. Steinagel advised the Board that DOPL is interested in inviting NABP to come to Utah to make training available to representatives of pharmacies in Utah that engage in compounding. This training is three or four days and is very intensive. Mr. Steinagel advised the Board that it would require legislation to amend the laws upon which the inspection report is based.

The Board expressed concern regarding sending sterilized compounding out of state. Mr. Steinagel noted that currently pharmacies are self reporting to DOPL and encouraged the Board to consider the following options: (1) Creation of licensure for compounding pharmacy; (2) Require pharmacies to declare whether they do sterile compounding; (3) During renewal, have the pharmacy representative affirm whether they are engaging in sterile compounding. **The Board will discuss this at a future meeting.**

5. 11:40 a.m. - Transferring refillable controlled substances from one pharmacy to another within a chain pharmacy system

Mr. Oborn stated that the Division received a question regarding transferring refillable controlled substances from one pharmacy to another within a chain pharmacy system. The Board reviewed the rule noting that a prescription for legend drugs having a remaining authorization for refill may be transferred by the pharmacist or pharmacy intern at the pharmacy holding the prescription to a pharmacist or pharmacy intern at another pharmacy upon the authorization of the patient to whom the prescription was issued or electronically. The transferring pharmacist or pharmacy intern and receiving pharmacist or pharmacy intern shall act diligently to ensure that the total number of authorized refills is not exceeded. The Board also noted that pharmacy technicians may

not transfer controlled substances.

APPOINTMENTS:

1:00 p.m. - Connie Call, compliance report

1. Jessica Keady 2012-530: BOARD REQUEST: Board wanted to follow-up with her to see how she is doing and if she understands her probation. She failed to submit any of her paperwork that was due February 1 or March 1, 2013. She activated her Affinity account but has not been checked in since February 5, 2013. Compliance tried to contact her twice on February 20, 2013 to see what the problem is but she has not returned the call. She sent a letter on February 26, 2013 stating she was in jail. She was incarcerated February 4 – 28, 2013 which allowed her to turn her paperwork in due February prior to the incarceration and she was released on the 28th so she could have sent in her March paperwork. She missed all three of her drug screens since she activated her account. She did not fill any prescriptions this past quarter. *Non-Compliant due to failure to check-in with Affinity and failure to submit required paperwork.*

2. 4 Care Pharmacy (Robert Pratt) 2013-40: He is being seen because he was not compliant last month as he failed to meet with compliance staff prior to that meeting. Compliance met with Mr. Pratt on March 6, 2013 and reviewed his Order. He was informed the Board wanted to meet with Randy Bushell, the PIC.

3. James Ammon 2012-394: BOARD REQUEST: He is being seen because he was non-compliant. He failed to notify the Division of his employment until they received his employer report. He failed to submit a practice plan prior to accepting employment and his paperwork was late.

4. Paul Martz 2010-231: QUARTERLY MEETING: Drug screens are all negative. Received his employer report, self-assessment, and 12-Step attendance. The Board said until the Division receives a therapy form or letter from Jeff Vorhees stating Paul has completed his therapy, he will be non-compliant. The

compliance specialist sent a request to Mr. Vorhees in November and December 2012 requesting an exit report. Ms. Call called and left him a message and the Division has still not received an exit letter from him. Compliance spoke with Mr. Martz and he will attempt to obtain an exit evaluation from Mr. Vorhees. CSD is okay as he has submitted all of his prescriptions.

Compliant

5. Lincare, Inc. (Jeanne Reese) 2012-369: They paid the licensing fee. They have submitted the report due January 1, 2013 and the next one is due June 1, 2013. They have supplied a representative to meet with the Board which is Jeanne Maguire. The board secretary was informed that Mr. Gabos is no longer with Lincare, Inc. so we will speak with Ms. Reese.

Compliant

6. Diann Millikan 2009-74: Drug screens are either negative or prescription positive. Received her employer report, therapy report, and PIR/12-Step. She submitted all copies of her prescriptions filled over the past quarter. ***Compliant***

7. Kevin Whipple 2013-53: This is his initial interview. Met with compliance staff on March 25, 2013. He has a couple of concerns and a few questions. His biggest concern is the financial cost of being on probation which he will discuss with the Board. His other question is regarding clarification of “direct supervision” in a hospital setting.

8. Wesley Remund: He was previously on probation but surrendered his license. He has tested since October 2012 and all drug screens have been negative.

MONTHLY PROBATIONERS NOT MEETING WITH THE BOARD

Kirtland Wray 2012-413: Drug screens are all prescription positive. Received his self-assessment, employer report, and verification of 12-Step

attendance. Received all prescriptions filled over the past quarter. ***Compliant***

Michael Wright 2012-375: All drug screens are prescription positive. Received his employer report and self-assessment. He submitted a copy of all prescriptions filled over the past month. He submitted six months of reports so he can now submit his paperwork quarterly. ***Compliant***

Colton Dale 2012-231: Drug screens are not required. He submitted his self-assessment and employer report. He did not have any prescriptions this past month. ***Compliant***

1:30 p.m. - Jessica Keady, quarterly interview

Ms. Keady failed to keep her appointment with the Board. Ms. Bird motioned to recommend that the Division propose a surrender of license order be issued. If she refuses to surrender her license, the Division should move forward to revoke her license. The motion was seconded by Mr. Jones. The motion carried unanimously.

1:45 p.m. - 4 Care Pharmacy (Owner: Robert Pratt, PIC: Randy Bushell), New Order

Mr. Pratt and Mr. Bushell met with the Board. Mr. Jones conducted the interview. Mr. Pratt advised the Board that 4 Care Pharmacy is a closed door pharmacy, serving mainly assisted living and troubled youth. In May 2008, Mr. Pratt signed a stipulation and order to cease and desist dispensing numerous schedule II controlled prescriptions without a written prescription signed by the prescribing practitioner that were transmitted to the pharmacy via fax. In June 2012, the DOPL investigator found approximately 70 schedule II substance prescriptions which were dispensed based upon electronic communications from the prescribing practitioner but without having first obtained the prescribing practitioner's physical signature. They stored pharmaceuticals in the front office of the pharmacy where technicians had access after regular business hours and while the pharmacist was not present. He also accepted back bubble pack medications, including controlled substances that were already dispensed to nursing care facilities or other patient representatives. He failed to comply with the cease and desist order from May 2008. Mr. Bushell stated he is the current PIC and read the stipulation order carefully and has made several changes to comply with the stipulation order. Mr. Bushell stated

that there is only one other employee in the pharmacy. This person is a pharmacy technician. Mr. Bushell stated they hired Med-Call On Call Services, a professional service, to handle calls. The Board asked to see the owner, Mr. Robert Pratt and PIC, Mr. Randy Bushell, after the annual inspection. **4 Care Pharmacy is in compliance with the stipulation.**

2:15 p.m. - James Ammon, quarterly interview, confirmed 3/14

Mr. Ammon met with the Board. Ms. Kemper conducted the interview. The Board advised Mr. Ammon that he failed to advise the Board within one week of any change in his employer or employment status. He failed to submit a practice plan prior to accepting employment and his paperwork was late. Mr. Ammon stated he knew he needed to obtain pre-approval before accepting employment; however, he felt that because they required his reply in 48 hours, he did not believe he could get approval from the Board within that time frame. Mr. Ammon was assured the Division would have replied to his request in a timely manner. The problem is Mr. Ammon never notified the Division that he is working in the field. The Division was notified when his first supervisor report was received. Mr. Ammon was advised that he needs to make a plan to ensure there are no further misunderstandings regarding his employment notifications to the Division in a timely manner. Mr. Ammon was advised that he needs to give a copy of the stipulation and order to his employer and have them sign and return the paperwork. The Board recommended amending Mr. Ammon's stipulation regarding his work hours. Mr. Oborn will review the Board's recommendation with the Division Director. Mr. Ammon was cautioned to not make any changes in his work schedule until he receives an amended stipulation with Mr. Steinagel's signature. The Board advised Mr. Ammon he needs to complete a thinking errors course. The Board wants him to attend one in person, not online. The Board advised Mr. Ammon that if the changes are approved, he will need to submit a new practice plan. This will be due within 2 weeks of when he starts the new work schedule. The Board noted that his reports are monthly until the thinking errors course is completed. The Board asked to see Mr. Ammon August 27, 2013. If he is in compliance, the Board will do a telephone interview.

Mr. Ammon is in compliance with his stipulation.

2:30 p.m. - Paul Martz, quarterly telephone interview

Mr. Martz met with the Board. This interview was conducted via telephone. Ms. Kemper conducted the interview. Introductions were made. Mr. Martz stated that things are going well. The Board noted that his employer and self assessment reports look good. There is no change in sending in paperwork. The Board asked to see Mr. Martz in September as long as he stays in compliance. **Mr. Martz is in compliance with his stipulation.**

2:45 p.m. - Lincare, Inc. (Jeanne Reese) quarterly telephone interview

Ms. Reese was contacted via telephone. Ms. Kemper conducted the interview. Ms. Reese stated that Paul Gabos is no longer working with Lincare. The Board noted that Lincare's Utah probation will mirror Missouri's probation and the Division received all required paperwork. Lincare's Missouri probation will end May 2013 and once Utah receives this documentation, Mr. Oborn will submit the order removing Lincare's Utah probation. The Board advised Ms. Reese that unless she has questions for the Board or problems, she will not need to meet with the Board again.

3:15 p.m. - Diann Millikan, quarterly interview

Ms. Millikan met with the Board. Dr. Lundberg conducted the interview. Ms. Millikan stated she is doing well. She has worked since October at the State Hospital. She is enjoying her job. The Board noted that her supervisor report indicates they are very pleased with her performance. She was allowed to close the pharmacy for the first time and felt good about it. The Board noted that her probation will end April 20, 2013 and this will be the last time she meets with the Board. Ms. Millikan stated this process has taught her boundaries, self confidence and humility. She appreciated the therapist feedback and likes where she is right now. The Board noted that she had made remarkable changes and encouraged her to keep doing what she is doing. Ms. Call advised her to continue submitting reports until she receives the new amendment and a new license.

3:30 p.m. - Wesley Remund, reinstatement application

Mr. Remund met with the Board. Mr. Oborn conducted the interview. Mr. Remund is requesting reinstatement of his pharmacist license. He provided

the Division with documentation to verify six months of clean UAs. At 3:32 P.M. Dr. Lundberg motioned to close the Board meeting to discuss the character, professional competence, or physical or mental health of an individual. The motion was seconded by Mr. Jones. The motion was carried unanimously. There were no written notes taken. There was no recording made. The Board meeting opened at 3:43 P.M. Dr. Lundberg motioned to reinstate Mr. Remund's license with the following conditions: 3 year probation, drug testing, supervision, attend therapy as requested by the Board, attend support group once a week, retake the law exam, and submit a practice plan for Board approval. The motion was seconded by Mr. Garn and amended to include passing the MPJE exam. The motion was carried unanimously. The Board noted that because he has a track record of being clean, he does not have to start drug screens until he gets his license back. Mr. Remund stated his goal is to pass the exam by September 26, 2013. Mr. Oborn advised him that if he does not pass the exam by September 30, 2013, the Division will deny his application and he will need to reapply for a license. Mr. Remund submitted certificates documenting completion of thirty-two credit hours of CE courses completed online via webinars.

3:45 p.m. - Kevin Whipple, new probation interview

Mr. Whipple met with the Board. Mr. Jones conducted the interview. The Board advised Mr. Whipple that the Board's role is to help him through the process and maintain a balance of protecting the public. Mr. Whipple advised the Board that he was involved in an auto accident. He was charged with one count of possession or use of a controlled substance (3rd Degree Felony), one count of DUI (Class B) and one count of use or possession of drug paraphernalia (Class B) He did not have a current valid prescription for Oxycodone and told investigators he diverted them from his employer. His employer filed a report indicating that 2,500 tables of Oxy HCL were missing from their stock. Mr. Whipple advised the Board that he obtained an evaluation at the Utah County Health Department and entered into a treatment program where he attended classes four nights a week for three years and three 12 step support groups a week. Then his attendance was

moved to three nights a week and then two nights a week until he successfully completed the program. He found the program very helpful. They had homework and gave him good feedback. Mr. Whipple reviewed the requirements he needs to complete with the Board. The Board discussed the evaluation he received at the Utah County Health Department and he requested that Mr. Whipple send a copy of this to Ms. Call. The Board will review it and then decide if this evaluation meets the Board's needs, or if he will need to obtain another evaluation. The Board encouraged him to get into a support group two times a week while he is waiting to get into a treatment program and drug testing. Mr. Whipple advised the Board that currently he is on court probation for 12 months. He needs to complete 120 hours of community service and pay a fine. The charges will be enhanced if he gets into trouble again. The Board strongly urged Mr. Whipple to get his account activated and to call Affinity every day. This demonstrates he is moving forward and doing everything he can. Mr. Jones motioned to amend Mr. Whipple's stipulation to require the thinking errors course to be completed within one year, drug testing, attend support groups 2 times a week, and submit the completed essay to Ms. Call within 90 days. The motion was seconded by Dr. Lundberg and carried unanimously. Mr. Oborn will contact Mr. Memmott regarding Mr. Whipple's evaluation. The Board noted how well Mr. Whipple knew the contents and requirements of his stipulation. The Board asked to see Mr. Whipple at the May Board meeting.

ADJOURN:

The Board meeting adjourned 4:40 P.M.

NEXT SCHEDULED MEETING:

April 23, 2013

2013 Board meetings tentatively scheduled

April 23, May 28, June 10, July 30, August 27, September 24, October 22, November 26 December 17

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 were discussed.

April 23, 2013
Date Approved

(ss)David Young
Chairperson

Page 12 of 12
Minutes
Pharmacy Licensing Board
March 26, 2013

Pharmacy Licensing Board

April 23, 2013
Date Approved

(ss) Richard J. Oborn
Bureau Manager,
Division of Occupational & Professional Licensing