MARCH 2023

NEW MEXICO BOARD OF PHARMACY

newsletter to promote pharmacy and drug law compliance

Significant Adverse Drug Events

1. An 85-year-old female patient with atrial fibrillation and high blood pressure was prescribed amiodarone and Xarelto®. The patient expected to pick up the amiodarone first and the Xarelto later, but the Xarelto prescription was mislabeled and dispensed with a reprinted amiodarone leaflet due to insurance issues. The patient took the Xarelto, assuming that it was amiodarone, for an unspecified amount of time. The error was discovered approximately three weeks after the patient picked up the medication from the pharmacy when a bleeding complication occurred during a scheduled surgery. The pharmacist attributes the error to a break in process; the technician did not show the changes to the pharmacist after the label reprint. The pharmacist required staff to review the policy on showing the pharmacist all changes prior to the sale of a prescription.

2. A 61-year-old female patient was prescribed ursodiol 300 mg capsule #270 by a public health clinic. A clinic medical room assistant prepared three stock boxes for the clinic provider to dispense to the patient; however, one of the stock boxes was for tizanidine 4 mg tablets instead of ursodiol. The provider missed the incorrect drug during the labeling/final check of the medication. After taking two of the tizanidine tablets, the patient was admitted to the emergency room for lethargy, dizziness, and light-headedness. The clinic emergency medical services project manager/risk management director attributed the error to both medications having similar packaging (same manufacturer) and being next to each other on the shelf due to alphabetical sequence. As a

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result of the error, the clinic now only allows the provider to fill and label medications. The clinic has also implemented the use of look-alike-sound-alike warning labels.

3. A 58-year-old female patient received mirtazapine 45 mg tablets in place of her meloxicam 7.5 mg tablets from a retail pharmacy. The correct patient leaflet was attached to a bag that contained medication intended for a different patient with the same first name. The pharmacist believes the labeling mix-up may have occurred as a result of updating insurance information. After taking the medication for approximately one week, the patient reported feeling sleepy and lethargic. The pharmacist attributes the error to numerous factors: multiple pharmacists working at the same time, verifying multiple prescriptions simultaneously, and not using a second identifier to differentiate patients with the same first name. The pharmacist now requires all staff to use a second identifier during filling and final check of all prescriptions.

4. A 76-year-old male patient received duloxetine 40 mg capsules that were intended for another patient. The incorrect bag was pulled at the point of sale and instead of scanning the prescription at the point of sale, the prescription was entered manually from computer lookup. After taking two doses, the patient returned to the pharmacy complaining of a stomach ache, at which point the error was discovered. The pharmacist attributes the error to a break in procedure by a cross-trained employee. Normally the prescription bottle is scanned at the point of sale as a safety feature. The pharmacist required all staff to review the policy on scanning the prescription bottle in hand as opposed to entering it from the computer lookup screen.

Disclaimer: These suggestions are made by the pharmacist submitting the Significant Adverse Drug Event Report. The publication of recommendations is not an indication of endorsement by the New Mexico Board of Pharmacy.

Changes to the PMP Website

The prescription monitoring program (PMP) website, which contains PMP links, interstate data sharing information, frequently asked questions, and other various resources, has had a slight change to its web address. Previously, it could be accessed at *NMPMP.org*; however, this link is no longer functional. The new web address is *NMPMP.info.* Please note that **the website that is used to check the PMP database remains unchanged.** If you have any questions or concerns, please contact the Board's PMP at 505/222-9818.

Regulatory Updates

During the January 2023 meeting, the Board approved the following rule updates:

- 16.19.12 New Mexico Administrative Code (NMAC) – Fees. Section 3 was amended to include medicinal gas repackagers and sellers. Section 13 was amended by lowering

the fee for a seller or dispenser of contact lenses and adding a fee for a medical gas repackager or seller. Section 15 was amended by the addition of Class E clinic to Clinic License Fees.

- 16.19.14 NMAC – Devices; Medical Gas Repackagers and Sellers. Section 1 had administrative updates. Section 3 had an administrative update and an update statutory authority to include reference to paragraphs 18 and 19 of Subsection B of Section 61-11-14, which authorize the Board to license and otherwise establish minimum standards for medical gas sellers and repackagers. Section 6 had an update to include the objective of establishing standards for the repackaging and selling of medical gases to minimize the risk of injury from the distribution and use of adulterated or misbranded medical gases. In Section 7, definitions were added. Sections 13, 14, 15, 16, 17, 18, 19, and 20 were added to address the procedure for licensure; license requirements; minimum qualifications; minimum requirements; change in location; transfer of ownership; prescription requirement; and report of robbery, fire, and flood for medical gas repackagers and sellers.

- 16.19.27 NMAC – Dishonorable Conduct. Section 3 had an update to statutory authority. Section 7 added provisions to dishonorable conduct by a business to include: failure to provide a work environment that allows performance of duties requiring professional judgment and the duties of a pharmacist; introducing or enforcing factors (such as quotas) that interfere with the ability to provide appropriate professional services to the public; and retaliation against a pharmacy employee for reporting or filing a complaint regarding violation of Board requirements that the business has the authority to correct.

- 16.19.29 NMAC – Controlled Substance Prescription Monitoring Program. Section 2 updated scope to include reference to "drugs of concern." Section 3 had an update to statutory authority. Sections 6 and 7 were updated to reference and define drugs of concern. "Drug of concern" means a non-controlled dangerous drug that the Board has by rule determined to require dispenser PMP reporting of in the same manner as controlled substance (CS) prescription dispensing, when required reporting is expected to protect patients due to interaction of the drug of concern with CS or other compelling issues. Gabapentin is a drug of concern. Sections 8, 9, and 10 were updated to include reference to drugs of concern.

Changes to the DATA-Waiver

On December 29, 2022, the Consolidated Appropriations Act of 2023 was signed into law. As part of this act, the Mainstreaming Addiction Treatment Act provision seeks to weaken barriers and increase access to medications utilized in the treatment of opioid use disorder. As such, the

DATA-Waiver (also known as the X-waiver) program has been eliminated. On January 12, 2023, Drug Enforcement Administration (DEA) released a statement including the following:

- A DATA-Waiver registration is no longer required to treat patients with buprenorphine for opioid use disorder.
- Going forward, all prescriptions for buprenorphine only require a standard DEA registration number. The previously used DATA-Waiver registration numbers are no longer needed for any prescription.
- There are no longer any limits or patient caps on the number of patients a prescriber may treat for opioid use disorder with buprenorphine.
- The Act does not impact existing state laws or regulations that may be applicable.

A copy of the full statement can be found at *https://www.deadiversion.usdoj.gov/pubs/docs/A-23-0020-Dear-Registrant-Letter-Signed.pdf.*

Disciplinary Actions

During the October 2022 meeting, the Board took the following actions:

Geri C'deBaca – PT00010961. Voluntary surrender. The Board accepted the voluntary surrender of respondent's technician registration.

Anissa Gonzales – PT00013161. Default revocation. This registration was revoked by default as the respondent did not request a hearing.

Santiago Joaquin Montano, Technician applicant. Default denial. Registration was denied by default as the respondent did not request a hearing.

Jesus Sanchez, Technician applicant. Default denial. Registration was denied by default as the respondent did not request a hearing.

Dominique Sandoval – PT00014573. Settlement agreement. If the respondent ever reapplies for licensure or registration, she must:

- enroll with the New Mexico Health Professional Wellness Program and meet all outlined requirements; and
- notify any potential employers of the existence of this agreement.

During the January 2023 meeting, the Board took the following actions:

Atria Vista del Rio – CU00006350. Settlement agreement. The respondent must pay a fine of $2,000. Should the respondent again seek licensure with the Board, the respondent must:

- implement a corrective action plan (CAP) for compliance with Board rules at issue;

- provide quarterly reports to the Board for one year; and
- report all previous disciplinary action to the Board, including a copy of this settlement agreement.

Debra Barajas – PT00000214. Voluntary surrender. The Board accepted the voluntary surrender of respondent's technician registration. The respondent must also pay the cost of investigation in the amount of $350.

Darlene Chavez-Silver – RP00008017. Settlement agreement. Respondent must submit a CAP to the Board and must provide quarterly reports to the Board for one year in regard to her CAP. The respondent must also pay the cost of investigation in the amount of $500.

Jordan Gallegos – PT00015638. Voluntary surrender. The Board accepted the voluntary surrender of respondent's technician registration. The respondent must also pay the cost of investigation in the amount of $400.

Erica Gregory – PT00014275. Voluntary surrender. The Board accepted the voluntary surrender of respondent's technician registration. The respondent must also pay the cost of investigation in the amount of $475.

Kelly Kemper – RP00005290. Default revocation. This pharmacist's license was revoked on August 14, 2020. The respondent cannot practice as a pharmacist until further order of the Board. Also, the respondent is prohibited from having an ownership interest in any facility licensed or required to be licensed by the Board. Lastly, the respondent must pay the cost of investigation in the amount of $850.

Kelly's Pharmacy – PH00004278/CS00223521. Default revocation. Both the pharmacy registration and pharmacy CS registration were revoked.

Morada Albuquerque – CU00011787. Settlement agreement. Respondent must submit a CAP to the Board and must provide quarterly reports to the Board for one year. The respondent must also pay the cost of investigation in the amount of $2,025 as well as a fine of $500.

2023 Law Update Schedule

Upcoming Albuquerque Pharmacy Law Lecture Dates:

- April 14, 2023

  Webinar. Registration closes on April 12.

- May 5, 2023

  Webinar. Registration closes on May 3.

- June 2, 2023

  Webinar. Registration closes on May 31.

- July 7, 2023

  Webinar. Registration closes on July 5.

- August 4, 2023

  Webinar. Registration closes on August 2.

- September 1, 2023

  Webinar. Registration closes on August 30.

- October 6, 2023

  Webinar. Registration closes on October 4.

- November 3, 2023

  Webinar. Registration closes on November 1.

- December 1, 2023

  Webinar. Registration closes on November 29.

Upcoming Pharmacy Law Lecture Dates (Outside of Albuquerque):

- May 23, 2023

  Webinar for Farmington, NM update. Registration closes on May 19.

- June 20, 2023

  Webinar for Santa Fe, NM update. Registration closes on June 16.

- August 22, 2023

  Webinar for Roswell, NM update. Registration closes on August 18.

- September 19, 2023

  Webinar for Clovis, NM update. Registration closes on September 15.

- October 24, 2023

  Webinar for Las Vegas, NM update. Registration closes on October 20.

- November 14, 2023

  Webinar for Hobbs, NM update. Registration closes on November 10.

- December 4, 2023

  Webinar for Las Cruces, NM update. Registration closes on November 30.

- December 5, 2023

  Webinar for Las Cruces update. Registration closes on December 1.

The most up-to-date information on review format and the full list of law updates can be found on the Board website.

Reminders

- The Board has seen an uptick of forgery attempts for promethazine and promethazine with codeine. Please be aware of and follow all associated regulatory requirements for these prescriptions.
- If you receive a call from someone claiming to be a Board inspector, please remember that Board staff will not ask you for money over the phone. The Board will not solicit you to provide personal information. Calls may be routed to appear on caller ID to be from the Board office (505/841-9102, 505/222-9830). If you receive such a call, please report it to one of the Board investigators.
- There has been a string of attempted burglaries in eastern/southern New Mexico independent pharmacies over the past few months. Please ensure the following regarding pharmacy security:
  - All motion detectors and sensors are functioning as intended.
  - All cameras are functioning and accessible. Recording is functioning as intended.
  - All alarm systems are functioning as intended.

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