

1970 NW Bella Vista Drive
Pullman, WA 99163

March 2, 2011

Idaho State Board of Pharmacy
1880 Americana Terrace
PO Box 83720
Boise, ID 83720-0067

Re: Administrative Complaint Case No. BOP 10-225

Dear Board:

This letter is an answer to the allegations in the aforementioned administrative complaint (dated 27 January 2011) regarding an incident that occurred at the Moscow Idaho Wal Mart Pharmacy on 08 February 2010. This letter replaces the one I sent on February 15 of this year. More details on the reason for my needing to send this replacement letter are near the end of this letter.

The major differences in this updated letter are summarized as follows:

1. My postal address (above)
2. Replacing the second paragraph:
 - a. I stated "I have no recollection of this transaction, other than he was upset and/or impatient about insurance issues". After I wrote this letter, I realized that I may not have direct memory of the patient being upset about insurance issues: that notion probably came into my memory from the writeup of the incident and it was thus the technicians who had direct recollection of this.
 - b. Replacing the last two sentences about Wal Mart's clear bagging system. I have no direct knowledge that this was in place in the Moscow pharmacy when this incident occurred; in fact I am positive that it was installed after this incident. The reason for my initial incorrect verbiage is at the bottom of this letter.
3. Providing more commentary on the material the Board sent which I received after this letter namely addressing the inclusion of my SSN in the document.
4. Additional letters of testimony from other people.

Moving past these preliminaries, I will now reply to the Board regarding this incident. On the date in question, Patient W.C. ("patient") came to have a new prescription filled. I have no recollection of this transaction, though I do know that he did complain to the Board a few weeks later. The narrative from this incident was prepared for BOP by Gina Knittel is dated March 3, 2010, and I assume the Board is in possession of. That narrative consists of my team's recollection of this transaction from when we discussed it when she visited the pharmacy within 2-3 weeks of the incident in question.

I do note that the pharmacy was not on the date of the complaint using the clear bag system, as outlined in the Wal Mart memo of 31 August 2006 (and as incorrectly stated in my earlier letter; reason



is below). However, the pharmacy did have a system in place to ensure that those picking up all new prescriptions are given the chance to accept or decline counseling. As I mentioned above, I have no direct memory of this transaction, including whether or not the patient was offered counseling. I do note that I have been a pharmacist for over 25 years, and have worked in four states (Washington, Idaho, Arizona, and New Hampshire). It has long been my standard protocol to always give counsel for a new prescription for any patient, whether at the time it is picked up, or at any other time that is possible (such as over-the-phone or during the filling process). I note that this has long been my professional policy even when working at retail pharmacy in states that did not require such counseling. Indeed, on a personal level I greatly enjoy counseling patients, which is why I changed from practicing hospital pharmacy to retail after about 20 years ago.

At this point I wish to offer commentary on information that I received from the Board after sending my letter. Namely, I do note that my SSN was included on some of the documentation that I received. I believe it was unnecessary to do this, because my license number alone should have been sufficient to uniquely identify me in the documents for this case. While I wish that the Board and others had not been given my SSN, please go to extreme lengths to ensure that it is not part of any public release of records.

Given the above, and the passage of time, I regret that I cannot provide the Board with any further information germane to this case. It was most unfortunate that it was almost a full year after the incident in question that I received this notification from the Board. I note for the record that this is the first time in all my practice in any state that any similar kind board interaction has happened, including not even having received any reprimand of any kind from any board of pharmacy or any employer. With all due respect to the Board, then, it seems to me to be disproportionate (and, frankly, puzzling) that after only once such complaint that I am required to travel to Boise and defend my license. Having said that, however, I wish to reaffirm that I will of course assist your investigation in any way I can, even beyond the testimony which I will provide to you on March 4.

In addition to the above commentary, enclosed with this letter are additional letters from people who can offer direct observations about my counseling of patients. One person who very much wanted to provide a letter testifying to my diligence in counseling patients is Karen Gould R.Ph. (Idaho P5303 and N16676). I met with her Sunday morning, and she wanted to provide strong supporting testimony. However, due to schedule and personal issues, she could not get this prepared before we had to drive to Boise. She said she would be quite willing to provide any input desired by the Board. While I do not have Karen's contact info handy, I am sure that you have it on file.

Finally, I wish to apologize for the letter of February 15, which was superseded by this letter. In summary, there was a perfect storm of circumstances that contributed to this. First, as you know, I have a health condition at present (one which did not start until months after the date in question) that (presumably temporarily) makes it hard for me to type letters, and causes me to occasionally stutter and always need much more sleep, so my husband was drafting versions of this first letter (as well as this updated one). Second, recent months have been the busiest ever for him as a professor, and he had been working late nights on many things, including this letter. Third, he was being fed information by



email from Wal Mart about this that he thought was true, namely the two sentences about the clear bag system (which they provide for inclusion in this letter). Fourth, we are in the middle of moving from a post-sale temporary apartment into a home, the basement of which we are finishing (and that has really dragged out alas). As a result of this and my husband's business trips, we would only check our PO Box every week or more (I cannot drive at present so only he could check), so information got to me slowly from the Board. Fifth, we don't have internet and our computers up at our new house yet, so I could not check this email myself and also he had to type the letters at work away from my direct oversight and checking, and then shuttle them back and forth. Finally, I am pretty sure that he woke me up from sleep to get my signature on this final draft (and I did not read it carefully; I was upset when I did so later), because it had to be received in Boise two days later. All of this led to the incorrect few sentences, which I provide here in context for the record:

Further, I note that Wal Mart has a standard operating procedure in place which was designed to eliminate the possibility of a new prescription reaching the patient without interaction with the pharmacist. With this procedure, all new prescriptions are placed in clear bags; upon checkout must have the final bagging done by the pharmacist upon counsel with the patient. Although there may be a time delay between when the patient checks out and when the pharmacist can present the prescription (depending on workload, etc), this practice ensures that the patient has the opportunity to receive counsel.

Looking forward to testifying and having this matter behind me, I am

Most Respectfully Yours,



Elizabeth A. Bakken, R.Ph.

Idaho License No. P5716

Cc: Andrew J. Snook
Deputy Attorney General
Civil Litigation Division
1880 Americana Terrace
PO Box 83720
Boise ID 83720-0010

Encl: Letter from Billy Amos, R.Ph, Idaho License P5328
Letter from Brent McIntosh, R.Ph., former Wal Mart pharmacy manager at Moscow
Letter from technician Amy Farley
Letter from technician Edna Hastain
Letter from David Bakken, Ph.D.

Billy E. Amos
606 Homestead St
Moscow, ID 83843
March 2, 2011

Idaho State Board of Pharmacy (c/o Dr. David Bakken)
1880 Americana Terrace
PO Box 83720
Boise, ID 83720-0067

Re: Elizabeth A. Bakken, R.Ph. (BOP 10-225)

Dear Board:

I am writing to offer my observations on Elizabeth Bakken, and also on patient counseling in the Moscow WalMart, which is the subject of your hearing this Friday.

I had the pleasure of working with Beth in the Moscow WalMart for a number of years. In my extended observations of her, she was eager to provide patients with extensive counseling. This included patients with first-time prescriptions, refills, OTC products and a broad array of health related topics. WalMart is famous for making things efficient in many ways, so if anything, Beth may have been counseling more than they wanted, not too little.

Having worked a dozen years with Walmart, it is difficult for me to believe that a patient was not offered counseling, though a rare fluke could happen. Our cashiers consistently offered counseling (by the pharmacist or pharmacy intern) to all patients with new prescriptions. In addition, printed prescription information was bagged with all prescriptions and patients were encouraged to call the pharmacy if they had questions.

Prior to my departure, the TASCO system was used to process prescriptions at the point of purchase. This system alerted the cashier of special instructions and/or prescriptions requiring consultation with a pharmacist. In my experience, this system worked very well and the BOP inspectors were satisfied with the system when they visited our store.

Prior to my departure in the summer of 2009, the Moscow Walmart had not implemented the "clear bag system" due to space limitations, however there was a system in place to ensure first time patients were offered counseling.

Please feel free to contact me if I can be of further assistance.

Sincerely,


Billy E. Amos, R.Ph

Idaho License No: P5328
208.669.1958

2/28/11

Case: BOP 10-225

Idaho State Board of Pharmacy,

I've worked as a Pharmacist / Pharmacy Manager for Walmart for over 20 years and am still employed by Walmart. I've known Beth Bakken for approximately eight years as I was pharmacy manager for ten years in Moscow, ID. While working different shifts with Beth she was always very diligent in counselling patients. Beth enjoys talking to each patient about their medications and provided counselling at every opportunity presented. I moved to Arizona in November of 2009 and currently reside there.

~~Beth Bakken~~ RPh
Brent McIntosh RPh

My name is Amy Fairley. I have worked for Wal-Mart Pharmacy for more than five years and during that time I worked with Beth Bakken. I believe that Beth is a pharmacist who cares about our customers. Beth was always ready to help any customer who had a question, and she would stay with the customer until any problems were satisfactorily settled.

Amy Fairley

To Whom It May Concern:

I am a pharmacy technician who worked with Beth Bakken in a retail pharmacy for more than a year. I observed her to be a compassionate pharmacist who was always willing to help our customers. Beth is a good listener and would spend time with the customer until she felt any questions or problems were addressed.

Edna Hastain

Edna Hastain

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Pullman, WA 99163

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Re: Administrative Complaint Case No. BOP 10-225

Dear Board:

I am the husband of Elizabeth ("Beth") Bakken, who is named in this case, and have been for over 25 years. I am (breathtakingly) unqualified to comment on her abilities as a pharmacist, and even if I were to my objectivity should of course be doubted. However, I do have direct observations of information that is germane to this case, ergo this letter she has enclosed.

First of all, I have lengthy direct observations indicating that Beth absolutely loves to counsel patients. Indeed, she switched from hospital to retail just because she really missed the interactions with patients that she was exposed to in an internship. An additional indicator of this was when we went to visit the house we now live at for the first time, when it was for sale; it turned out that the wife had been counseled quite a bit by Beth. The wife, Sharon Heltzer, was absolutely delighted to see Beth. She gushed on and on about how wonderful Beth's lengthy counseling was for her glandular condition, and she was sad when Beth was no longer there (as you know due to being on sabbatical to recover from her stroke).

I have also seen her in at work quite often. At least once a week I would come to pick her up before her shift was over, or be shopping in the store. She would be counseling patients much of the time, often at great length.

Finally, I have acted as Beth's counsel in this case; we can't afford a lawyer now (we had 2 kids in college when her stroke happened last June) so I am quite familiar with the paperwork, and have talked with technicians and pharmacists. From that perspective, it is hard for me not to conclude that something WAY beyond the processing of a simple and sincere complaint is going on here.

First of all, while I am definitely not the type to shoot the messenger, the patient who filed this complaint seemed to me to have a big axe to grind. Even if he indeed came with a medical question to be answered, and he somehow was not offered counseling (which I find highly unlikely), why on earth did he not just ask his question, as any reasonable person would? Because I would literally stake my life on the proposition that, had he asked, he would have not just been counseled but he would have been so to a satisfactory degree.

It is also noteworthy enough that it seems unheard of for a pharmacist with no record of any complaints or reprimands to get called in front of the board over a single complaint. Indeed, in discussing with local

(Idaho) pharmacists and technicians, it seems that there was recently a case where an Idaho pharmacy sent a 90-something man home with an extra prescription (not his), one to clear out bowels before surgery, and that almost killed him. Yet it is our understanding that the pharmacist in question was received a reprimand (which may well have been an appropriate punishment) but was never even called before the board.

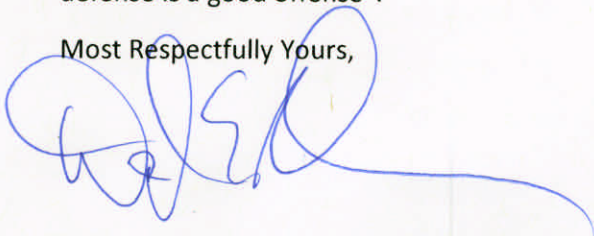
It is also very noteworthy that this board case involves a pharmacy that has since moved out of Idaho over the border to Pullman, and involves two pharmacists that are not actively practicing (Beth is on stroke rehab and Susan is basically 90% or 100% retired). That is REALLY curious...

Finally, it seems like someone in the system here is out to get Wal Mart, too (which may or may not be a good thing to some).

All these things above make it to any reasonable person seem extremely unreasonable to drag a pharmacist into be questioned by the board, with her license (or at the very least a reprimand) in question. And to do so at her time and expense; and for most pharmacists it would result in either hiring expensive counsel, or in my case (since we can't afford one) having to waste at least 40 hours on this. So, unless this summons and hearing can be taken completely at face value, something is at wrong here, although it may well beyond the scope of the board members.

Thank you for the opportunity to provide input germane to this case. For the record, I have no doubt that the members of the Board are salt-of-the-earth pharmacists who are good people and who would rather be with their families now, so please do not take anything above personally. And, for what it is worth, I am neither the kind to whine about things nor to believe that in such circumstances "the best defense is a good offense".

Most Respectfully Yours,

A handwritten signature in blue ink, appearing to read 'David E. Bakken', with a long, sweeping horizontal line extending to the right.

David E. Bakken, Ph.D