

**MINUTES OF THE  
IDAHO STATE BOARD OF PHARMACY**

**April 8, 2009**

**ISU College of Pharmacy – Leonard Hall  
Pocatello, Idaho**

This meeting of the board is held to conduct regular board business.

Chairman Dwayne Sheffler, RPh called the meeting to order at 8:00 a.m. In attendance were Kitty Gurnsey; Berk Fraser, RPh; Nicole Chopski, Pharm D; Holly Henggeler, Pharm D; Mark Johnston RPh, Executive Director; Mike McPeek, Deputy Attorney General; Jan Atkinson, Senior Compliance Officer; Mike Brown, Compliance Officer; Fred Collings, Chief Investigator; and Ellen Mitchell.

Ms. Gurnsey motioned to accept the minutes from the February 6, 2009 meeting, Mr. Fraser seconded. Motion carried unanimously.

Mr. Fraser motioned to accept the minutes from the March 6, 2009 Special Meeting conducted by conference call, Dr. Chopski seconded. Motion carried unanimously.

Representative Sue Chew addressed the Board via conference call regarding Docket 27-0101-0811 and public safety concerns of the technician ratio. Rep Chew indicates her many concerns regarding the docket including the burden placed on the pharmacist with the responsibility of six technicians. Representative Chew petitions the Board to create a temporary rule while concerns are addressed. Mr. McPeek advises the Board that this is not a rule making session and the public comment period ended on October 22, 2009.

During Board discussion Dr. Henggeler indicated her desire for error rate monitoring to be conducted as it relates to the ratio change; Mr. Fraser desires the same monitoring but doesn't believe it needs to be tied to legislation. Mr. Fraser motioned to deny the petition, Dr. Chopski seconded, motion carried unanimously. Petition is denied.

Open comment period will be at 11:00 A.M.

Tracey Sessions, Dan Harrison & Brady Dowding appeared on behalf of State Hospital South to request the independent practice of pharmacy, where through a secured system pharmacist employees can provide pharmaceutical care from a location away from the hospital. This system is designed to be utilized hours that the pharmacy is normally closed, as an alternative to having "on-call" pharmacists travel into the hospital. Mr. McPeek noted that this practice is not addressed in statute or rule. Dr. Chopski stated that by not being addressed the practice is not restricted. Mr. Fraser motioned to allow this practice. The motion also included direction to the Board's staff to initiate the process of rule promulgates to support this practice. Dr. Henggeler seconded. The Motion passed unanimously.

Brittin Mohlman, ISU Pharmacy Student presented information of the Legend Drug Donation Act that has passed the legislature. The Board is charged with promulgating rules regarding this legislation. Ms. Mohlman indicated there were several areas that should be considered during the rule making process including formulary, recordkeeping, guidelines for inspecting donated drugs, who would be in charge of the transfer process, etc. There are currently federal guidelines to ensure against adulteration. Dr. Chopski voiced concern regarding the storage of the donated drugs. Iowa has a central depository, and Arizona, Arkansas and Kansas all have rules relating to donated drugs. Mr. Johnston has seen the clinics in operation, the pharmacists are not working as pharmacists but as an agent of the physician; physician dispensing. There is also concern regarding drug recalls. Mr. Johnston indicated there will be a fiscal impact on the Board created by rule writing and implementation. Mr. Johnston also points out 54-1764 which offers immunity from liability to those donating, accepting, distributing or dispensing these legend drugs. Mr. Johnston needs proposed language for rule by August 2009. Dr. Chopski suggests contact the free clinics and get input from the pharmacists that are currently volunteering. Ms. Mohlman is currently contacting the free clinics in Idaho and requesting input from the pharmacist volunteers.

Lynette Berggren, Paralegal contracting with the Board to complete re-codification of BOP rules presented her ideas regarding the organization and layout of the new chapters. Mr. Johnston indicated the goal is to take 2 years for entire law book to be published. Mr. Johnston also indicated the Department of Administration has approved the non-substantive changes to the Rules as submitted by the Board.

Chairman Sheffler opened the floor for public comment from those in attendance in person and by telephone. Several Pharmacists and student pharmacists offered comment.

Following public comment period Dr. Chopski motioned to break for lunch and return at 1:00 p.m. Mr. Fraser seconded; Ms. Gurnsey offered an alternate motion that the Board accept and revoke the voluntary surrender of technician registrations for Kim Day, Brooke Sherrow, and Ellisa Shieler be addressed prior to breaking for lunch. Mr. Fraser seconded, Mr. Collings gave a brief overview of the three cases, motion carried unanimously.

Jackie Livingston, Pharmacy Technician addressed the Board requesting approval of a future pharmacist license as she has been accepted to ISU College of Pharmacy. Ms. Livingston's technician application was previously approved by the Board in spite of her felony conviction. Mr. McPeek indicated a felony conviction is not an automatic denial of licensure but can be grounds. Dr. Chopski encouraged Ms. Livingston pursue having the charge expunged. Ms. Gurnsey requests unanimous consent for Ms. Livingston to pursue her pharmacy career and approve her pharmacy student registration. Unanimous consent granted.

Ms. Gurnsey left the meeting at 1:15 pm.

Jason Jungert, Pharm D petitioned the Board for reinstatement of his pharmacist license. Mr. McPeck indicated the Board does not have authority to implement item 7 of Staff Recommendations: employer would have to periodically ensure the Board that Mr. Jungert is not involved in diversionary practices at the employer's work locations. Mr. Fraser motioned to accept Staff Recommendations 1 – 6 (Mr. Jungert must remain complaint in the PRN program, can not work as a PIC, can not be a preceptor for student pharmacists, must notify the Board of employment changes immediately, is not permitted to work without a board licensed or registered coworker on duty all hours that Mr. Jungert is working, and must notify his employer of this Board order) and replace item 7 with 'supply all continuing education requirements'. Dr. Henggeler seconded, Mr. Fraser amended his motion to include item 8 stating \$2,750 to be paid by April 8, 2010 and item 9 stating 5 year probation from today's date superseding previous probation order. Dr. Chopski seconded the amended motion, unanimous vote on all 9 requirements.

Mr. John Southworth presented information regarding the PRN program and the process once a person contacts his office and the success of the PRN program thus far. The budget for this program has been approved by JFAC.

Mr. Johnston gave the Board a legislative update. Rules still have not been approved for the naturopaths; the Senate repealed their act though the House did not, leaving the door open for them to return with rules next year.

Midwifery bill went through giving midwives the authority to obtain and administer prescriptions according to the formulary. Additions to the formulary require Board of Medicine and Board of Pharmacy approval.

Changes to the wholesale legislation passed the legislature, allowing repackagers who are the manufacturer's authorized distributor to be exempt from pedigree requirements.

Changes to the open meeting laws have passed both the House and the Senate and is currently awaiting the Governor's signature.

Conscience clause is still in consideration and is a highly debated issue.

Tele-pharmacy across state lines mirrors NABP model rules and requires the pharmacist to be *registered* in Idaho. Mr. Johnston asks for the Board's position on the proposed statute. The Board is not opposed to this legislation, but the Board does have some concerns.

Mr. Johnston presented his travel calendar covering March 1, 2009 – August 21, 2009.

Date for the next Board meetings are set for June 19, 2009 and August 14, 2009, both meetings to be held in Boise.

Mr. Johnston presented the financial status of the Board.

Mr. Fraser motioned to adjourn the meeting, Dr. Henggeler seconded, motion carried.

Meeting adjourned 4:00 pm