

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

**July 30, 2008**

**SpringHill Suites  
BOISE, IDAHO**

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

Chairman Dwayne Sheffler, RPh called the meeting to order at 8:02 a.m. In attendance were Kitty Gurnsey; Berk Fraser, RPh; Nicole Chopski, Pharm D; Holly Henggeler, Pharm D; Mark Johnston, Executive Director; Mike McPeck, Deputy Attorney General; Jan Atkinson, Senior Compliance Officer; Lisa Culley, Compliance Officer; Mike Brown, Compliance Officer, Gina Knittel, Compliance Officer, Fred Collings, Chief Investigator; and Ellen Mitchell.

Regarding the minutes of the May 29, 2008 Dr. Henggeler and Mr. Fraser requested minor corrections be made. Dr. Chopski motioned to accept the minutes with corrections, Mr. Fraser seconded. Motion carried unanimously.

Idaho State Pharmacy Association (ISPA) president, Ron Lavigne submitted a letter to the Board dated July 23, 2008 clarifying comments made in a letter dated July 10, 2008 regarding pharmacy technicians. Dr. Henggeler wants the clarification sent to everyone (not just ISPA members) that received the letter of July 10. Mr. Fraser motioned to add the July 23 letter to the minutes as public record. Dr. Henggeler seconded. Motion carried unanimously.

Mike Coughlin and Russell Wheeler, from ScriptPro presented information to the board regarding their product and how it is used around the nation.

Daniel Bellingham of Healthcare Distribution Management Association (HDMA) and Martha Russell with Cardinal Health appeared to request changes to Idaho's statutes related to repackager and pedigree requirements. Mr. Bellingham submitted proposed language to include repackagers in the definition of 'normal distribution channel' and identify them as an "authorized distributor of record."

Mr. Johnston clarifies it is too late for BOP to change the legislation. HDMA would need to pursue changes. Pfizer's representative, Elizabeth Criner, who was in attendance, has authorization from Pfizer to move forward with the proposed changes.

Mr. Johnston questions the timing of a letter from AmerisourceBergin indicating AmerisourceBergin and Cardinal are out of compliance. Ms. Russell responds: Cardinal is in compliance, however, Idaho customers are frustrated with delays in ordering from a pedigree capable site.

Dr. Chopski questions the missing terminology ADR or authorized distributor of record, Mr. Bellingham indicates the language has been updated. Mr. Fraser questions the control of the product going from the manufacturer to repackager: if it is opened, the control is gone, as the package has been opened then re-sent. Dr. Chopski believes the onus is on the manufacturer for the selection of the repackager/ADR. The proposed amendment requires the ADR be registered

with the FDA. The board gives HDMA their blessing to move forward with the amended legislation.

Mr. Johnston introduced Heidi Funk, ISU Pharmacy student currently completing a rotation with the Board. Mr. Johnston discusses the Idaho Pharmacy Leadership Council (IPLC) meeting on 7/29/08, held to discuss the technician ratio. The proposal is to increase the ratio from 3:1 to 6:1 and require certification of technicians. Ms. Gurnsey believes the ratio is too high and questions the physical limitations of the pharmacy itself. The process of tracking certification would fall to office staff. Sam Hoagland, representing ISHP, submitted survey results regarding the change or elimination of the technician ratio and received 80 responses. Of the responses, 85% did not want to see the ratio eliminated. Mr. Johnston indicates letters to the board office have been in favor of no increase in ratio though other states have eliminated the ratio without injury to patients. Mr. Fraser motioned to have Mr. Johnston initiate a PARF to include language requiring certification within one year of hire, 18 years of age, high school graduation or GED, 6:1, and certain, specific grandfathering guidelines. Ms. Gurnsey seconded. Discussion of 5:1 versus 6:1. Dr. Chopski wants the public comment notice to be clear about what is going to be changed and does not want the background check lost in the process. Vote of the board, Dr. Henggeler opposed. Motion carried.

Denise Nuxoll, R.Ph., representing Cottonwood and Orofino hospitals, appears before the board to request reinterpretation of Board Rule 258 Distribution of Medication from Hospital Emergency Rooms by a Registered Nurse. Currently, by rule, only a pharmacist can prepackage medications given in an ER. The requested interpretation is to allow a *licensed practitioner* access to all medications in the pharmacy, in the absence of a pharmacist and available pre-packed medication. Ms. Knittel indicates there are four pharmacies in the area that could provide the needed medications. Mr. Johnston notes that the number of pre-packaged medications could drastically increase. Mr. Sheffler notes that physicians could adhere to an expanded formulary. The board determined that a rule change would be necessary and that they would not support this proposed change.

Mr. Johnston presents legislation and rule review information and seeks approval for the following changes:

Rule 156.04 – Regarding pharmacist-in-charge qualifications. Board grants unanimous consent to create a PARF.

Rule 152 – Regarding reference Library. Board grants unanimous consent to create a PARF.

Mr. Fraser motioned to go into Executive Session as authorized by Idaho Code 67-2345 (d). Executive session called to order at 11:45 a.m. Mr. Fraser motioned to adjourn Executive Session. Dr. Chopski seconded. Motion carried unanimously, adjourned 12:18p.m.

Chairman Sheffler announces the reappointment of Kitty Gurnsey as public board member until 2013. At the end of this term, she will have served the Board of Pharmacy 14 years, 11 months.

In the matter of Benjamin Gage, Pharm D – Dr. Gage appeared before the Board with Counsel Samuel A. Hoagland. Melissa Moody, Deputy Attorney General presented the stipulation and

order. Dr. Henggeler motioned to accept the stipulation and order as written. Mr. Fraser seconded. Dr. Chopski against. Motion carried.

In the matter of Richard Mark Anderson, R.Ph – Mr. Anderson appears with Counsel Mike Burkett. Ms. Moody presented the order. Mr. Fraser motioned to accept the stipulation with the added requirements to notify employer(s) of stipulation and prohibition of serving as pharmacist-in-charge for 5 years. Ms. Gurnsey seconded, motion carried unanimously. Mr. Anderson and Mr. Burkett request time to discuss the board's added requirements.

Anthony Ruud, R.Ph appears with Counsel Patrick N George to request for reinstatement of his pharmacist license. Dr. Henggeler notes Mr. Ruud is missing the required live and law CE. Mr. Fraser notes Mr. Ruud's felony charge has been reduced to a misdemeanor. Mr. Fraser motioned to reinstate Mr. Ruud's pharmacist license with 3 years probation and completion of all required CE. Dr. Henggeler seconded, motion carried unanimously.

Ms. Moody discussed the difference between a citation and a complaint. Mr. Fraser offers to work with Board staff to create a list of infractions that can be handled in-house. Board grants unanimous consent.

Mr. Anderson and Mr. Burkett accepted the board recommendations to the stipulation and order.

Eileen Deleon appears with her mother Tabitha Deleon to request reconsideration of her Pharmacy Technician application. Ms. Deleon indicates Milan Institute is willing to help her find a pharmacy externship to complete her program. Dr. Henggeler clarifies Ms. Deleon is applying to work in a pharmacy and has admitted drug use including methamphetamine. Ms. Deleon states she has not used methamphetamine for 2 years. Mr. Fraser states the felony charges must be expunged before the board would be able to approve Ms. Deleon's application. Application denial is upheld.

Mr. Johnston presents legislation and rule review information and seeks approval for the following changes:

Rule 404.07 – Increase fee for wholesalers to cover the cost of background checks.  
Regarding pharmacist-in-charge qualifications. Board grants unanimous consent to create a PARF.

Rule 460 – Change heading and update language.

Rule 159.03 – Prescription requirements - In regards to the request from Medicaid, the board doesn't have statutory authority to adopt a blanket prescription blank, as it would be more stringent than DEA and state law. Mr. Johnston will notify Tami Eide at Medicaid the board will not pursue changes to this rule.

Rule 187 – Definition of skilled nursing facility as defined by Social Security Act

Rule 496.04 – Regarding controlled substance inventory

Rules 010 – 013 Update language

Strike Rule 104

Rule 105 – Update language

Rule 106 – Update

ACPE – ISU language

Long-term care pharmacy – quorum consent to move forward with changes as presented

Ms. Gurnsey left the meeting at 4:10 p.m.

Board Inspectors gave a report on their visit to Park Vu Pharmacy in Weiser and AHCH Pharmacy in Council to inspect the remote dispensing pharmacy operation. The Inspectors have concerns regarding the video feed between the pharmacies and the amount of oversight that can be done over 'dial-up' feed. Counseling is a concern where there is only a technician on site in Council. Technician being in possession of the keys to the cabinets is in direct conflict with the Operating Memorandum. The Inspectors have concerns regarding the tech ratio of the two pharmacies, transferring of prescriptions. The board members will be visiting the site tomorrow.

Ms. Culley expresses concern over the pharmacist shortage and the number of pharmacies that are closed for lack of pharmacists. Mr. McPeck is to create a PARF addressing pharmacy hours.

Mr. Johnston explains the contract with ISU to assist with re-codification of the law book.

Mr. Johnston explains the Governor's mandate to get cars off the road. The board office has gone to a condensed workweek.

Mr. Johnston requests Mr. Fraser be granted the authority to be the official signature of the board since he is in Boise and Chairman Sheffler is in Sagle. Dr. Henggeler motioned for Mr. Fraser to be official signature in chair's place as needed. Dr. Chopski seconded, motion carried with quorum.

Mr. Johnston presents the Peer Assistance entity agreement with Southworth and Associates. Mr. Johnston presented the budget review and his travel calendar, Mr. Johnston, Dr. Henggeler and Dr. Chopski will attend NABP District VI-VIII meeting in Park City, UT.

Conference call board meeting to review PARF language is scheduled for August 12, 2008 at 9:00 a.m. The date for the next full board meeting will be confirmed at that time.

Mr. Fraser motioned to break until 8:30 am in Weiser July 31. Dr. Henggeler seconded, motion carried with quorum.

Meeting broke at 5:51 p.m.