

MINUTES OF THE
IDAHO STATE BOARD OF PHARMACY

MAY 4, 2007

ISU STUDENT UNION BUILDING
POCATELLO, IDAHO

Chairperson Kitty Gurnsey called the meeting to order at 8:00 A.M. In attendance were board members Dwayne Sheffler R.Ph., Berkeley Fraser R.Ph., Mike Merrill R.Ph. and Richard Jones R.Ph. Also in attendance were Richard Markuson, Executive Director, Soo Kang, Deputy Attorney General, Mike McPeck, Deputy Attorney General, Fred Collings, Senior Investigator and Jan Atkinson, Senior Compliance Officer.

Dwayne Sheffler motioned to approve the minutes from the February 23, 2007 minutes. Berk Fraser seconded the motion. Richard Jones requested that his name be removed from the list of board members in attendance because he didn't attend the meeting.

Chairperson Kitty Gurnsey reviewed board directives discussed during the last meeting.

Regarding citation # 1297 issued to pharmacist Andrew Welch; Mr. Welch's stipulation ordered him to attend three consecutive board meetings, the first being today's board meeting. Mike Merrill made a motion to have DAG Soo Kang draft a complaint stating Mr. Welch had violated his stipulation and his pending citation would be held until those issues could be addressed by Mr. Welch. Berk Fraser seconded the motion. Motion unanimously carried.

Regarding the proposed Default Order for pharmacy technician Diana Gibson; Mike Merrill made a motion to revoke Ms. Gibson's pharmacy technician registration. Dwayne Sheffler seconded the motion. Motion unanimously carried.

Regarding PA Vern McCready; Berk Fraser made a motion to suspend Mr. McCready's controlled substance registration indefinitely. Richard Jones seconded the motion. Motion unanimously carried.

Andrew Welch arrived at the meeting at 9:00 A.M. The board tabled the earlier action taken in Mr. Welch's absence and addressed citation #1297 issued to pharmacist Andrew Welch. At 9:25 A.M. Mike Merrill made a motion to go into Executive Session for matters exempt from public record. Mr. Merrill identified Idaho Code Section 67-2345(d) to authorize the session. Richard Jones seconded the motion. . Motion carried. At 9:45 A.M. Mike Merrill moved to come out of Executive Session. Berk Fraser seconded the motion. Motion unanimously carried. Meeting opened to the public at 9:45 A.M. Following board discussion Berk Fraser made a motion to withdraw Mr. Welch's citation. Mike Merrill seconded the motion. Motion unanimously carried.

Regarding the proposed Stipulation and Order for Darrell Henrichs; Mike Merrill made a motion to accept the Stipulation as written. Berk Fraser seconded the motion. Motion unanimously carried.

Regarding the proposed Stipulation and Order for John Casper MD as addressed at the February 23, 2007 meeting; Soo Kang recommended the board amend Dr. Casper's Stipulation to reflect that it is exempt from public record. Mike Merrill made a motion to accept the amendment. Richard Jones seconded the motion. Motion unanimously carried.

Regarding Hospital Corporation of America's (HCA) request for rulemaking to allow them to function as an out-of-state telepharmacy operation; the board determined that the institution involved in the proposal is not a rural area and as such would not meet the criteria under the current rule. Mike Merrill made a motion to deny HCA's request for rulemaking and maintain focus on the rural area concept. Richard Jones seconded the motion. Motion unanimously passed.

Regarding Anthony Ruud's request for reinstatement of his pharmacy license; Richard Jones motioned to revisit Mr. Ruud's request once all probationary restrictions and requirements have been completed. Berk Fraser seconded the motion. Motion unanimously carried.

Regarding Amanda Melugin's request for reconsideration of her pharmacy technician application; Richard Jones motioned that the board accept her explanation and approve her pharmacy technician application for processing. Dwayne Sheffler seconded the motion. Motion unanimously passed.

During legislation and rule review attorney Sam Hoagland requested clarification regarding Rule 458. Time for Filling a Schedule II Prescription. The board members officially interpreted Rule 458 to mean if a Schedule II prescription is "tendered" to the pharmacy within 30 days it can legally be dispensed to or picked up by the patient after 30 days. Mr. Hoagland, representing ISHP with his statement also supports the Tech ck Tech proposal before the board.

Regarding the request by Charles Davis for reinstatement of his pharmacist license; Richard Jones motioned to reinstate his license. Berk Fraser seconded the motion. Motion unanimously carried.

During legislation and rule review representatives for ISHP and ISPA requested the board strike the words "other than a pharmacist" from the existing definition of a practitioner {54-1705(24)} and also strike the last sentence in the proposed wording in order to prevent any possible impact to the scope of practice for pharmacy. Mike Merrill made a motion to strike "other than a pharmacist" from the existing definition of 54-1705(24) and to remove all additional proposed wording. Berk Fraser seconded the motion. Motion unanimously carried.

Regarding Rule 464 on Positive ID; the board directed Berk Fraser, Fred Collings, Stan Gibson, Mark Johnston and attorney Mike McPeek to meet and draft new language for the rule and resubmit. Mr. McPeek was also directed to initiate rulemaking.

Mr. Markuson discussed the need to draft supporting rules for the new wholesale legislation enacted by Senate Bill 1184.

Regarding Stephanie Garretson's request for reconsideration of her pharmacy technician application; Richard Anderson PIC of Paul's Pharmacy appeared on Ms. Garretson's behalf and asked that she be given the opportunity to work for him as a pharmacy technician. Dwayne Sheffler motioned that the board accept Ms. Garretson's explanation and approve her pharmacy technician application for processing. Richard Jones seconded the motion. Motion unanimously carried.

Marty Durand from the Idaho Women's Network and Burke Hays, Public Affairs Field Coordinator for Planned Parenthood of Idaho requested that the Board initiate rulemaking to ensure that all Idaho women have access to emergency contraception. Their request was accompanied by a copy of a proposed rule which would require pharmacies/pharmacists to fill and dispense OTC contraceptives. Mike Merrill made a motion to reject the proposal for rulemaking that would require pharmacists to dispense emergency contraception. Berk Fraser seconded the motion. Motion unanimously carried.

Mr. Markuson discussed the Expedited Partner Therapy and explained to the board members that Ms. Annabeth Elliot would be addressing this with the Board of Medicine to get their opinion on this subject and subsequently will request assistance from both boards if possible.

Fred Collings requested that the board include limited service pharmacies in the reporting requirements of Rule 469. In recent investigations board staff identified several limited service pharmacies were filling prescriptions for ambulatory patients in certain situations and therefore should be required to report data on controlled substance prescriptions to the board. The board instructed Mr. McPeck to initiate the rulemaking process to address the change to Rule 469.

Mr. Collings also reminded the board that the mandatory requirement for weekly reporting of controlled substances will begin July 1, 2007.

The board discussed the proposed rules from Larry Munkelt, Pharmacy Director of St. Al's RMC regarding the Tech ck Tech program. In addition Mr. Markuson presented California's requirements for technicians in hospitals employing the Tech ck Tech program. The board directed Mr. Markuson to finalize the approval process with Mr. McPeck and begin the rulemaking process for a Tech ck Tech Pilot program.

During budget review Mr. Markuson discussed the ongoing problem of filling the vacant position for the Southern Idaho Inspector. Two announcements and eight interviews later the office is still no closer to finding a replacement for the position which has remained vacant since June 2006. Jan Atkinson, Senior Compliance Officer requested that the board consider reviewing the State's level of compensation for the position since several Idaho pharmacies pay similar wages to a starting pharmacy technician.

Future Meetings: ACE Committee Meeting, Chicago; ISPA Tri-State Meeting, June in CDA; MPJE Law Review, June in Chicago; DEA Conference, June in Florida; and the District VII-VIII Meeting, October 3-6, 2007 in Ashland, OR. The next meeting of this board is scheduled for August 3, 2007 in Boise.

At 4:45 P.M. Berk Fraser motioned to go into Executive Session for matters exempt from public record. Mr. Fraser identified Idaho Code Section 67-2345(d) to authorize the session. Richard Jones seconded the motion. Motion unanimously carried. At 5:15 P.M. Mike Merrill moved to come out of Executive Session. Dwayne Sheffler seconded the motion. Motion unanimously carried. Meeting opened to the public at 5:15 P.M.

Mr. Merrill thanked Mick for his tremendous contributions to the Board throughout the years as Executive Director and the board members also gave their unanimous support to Mick regardless of what his current decision were relating to his retirement. Dwayne Sheffler expressed his hope that Mick would assist the Board in making the transition with a new director and Mick stated he planned to stay on as Executive Director for the imminent future but promised to inform the Board of his retirement plans in ample time to assist them in finding a replacement.

Meeting adjourned.

Minutes respectfully submitted by: Jan Atkinson.