

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

**FEBRUARY 23, 2007**

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BOISE, IDAHO**

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

Dwayne Sheffler motioned to approve the minutes from the November 17, 2006 board meeting as written. Berk Fraser seconded the motion. Motion unanimously carried.

Regarding citation # 1234 issued to pharmacist Susan Minor; Dwayne Sheffler made a motion to fine Ms. Minor \$200, place a letter of reprimand in her file and require Ms. Minor to give an explanation to the board of what procedures she has implemented to prevent this type of error from occurring in the future. Mike Merrill seconded the motion. Motion unanimously carried.

Deputy Attorney General Mike McPeek presented a request from Mr. Battershell's attorney that his hearing be vacated due to attorney conflict. Mike Merrill made a motion to vacate the hearing but require Mr. Battershell to schedule a hearing with another hearing officer at the conclusion of the legislative session (in latter March) or be required to voluntarily surrender his controlled substance registration if he chooses to delay the hearing until the next board meeting in May. Berk Fraser seconded the motion. Motion unanimously carried.

Based on requests from Representatives Woods, Rusche and Henbest, the board directed Mr. Collings to initiate weekly reporting requirements for the controlled substance prescription reporting program. Voluntary reporting will begin the first Friday of April and pharmacies will be required to be compliant by the 1<sup>st</sup> Friday in July 2007. Chairperson Gurnsey requested that board staff report the upcoming changes in both the June Newsletter and by pharmacy fax alert and in addition asked Mr. Markuson to send a letter to the representatives informing them of the board's decision.

Regarding the proposed Order for pharmacy technician Ryan Wood; Dwayne Sheffler made a motion to revoke Mr. Wood's technician registration. Mike Merrill seconded the motion. Motion unanimously carried.

Regarding the proposed Order for pharmacy technician Jennifer Pinkerton; Berk Fraser made a motion to revoke Ms. Pinkerton's technician registration. Dwayne Sheffer seconded the motion. Motion unanimously carried.

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

Regarding the proposed Stipulation and Order for practitioner John B. Casper; Dwayne Sheffler motioned to accept Dr. Casper's Stipulation and Order and requested that all information Dr. Casper is routinely required to report to the Board of Medicine is also sent to the Board of Pharmacy. Berk Fraser seconded the motion. Motion unanimously carried.

Regarding the proposed Stipulation and Order for practitioner Matthew C. Lysne; Dwayne Sheffler made a motion to accept the Stipulation and Order as written following verification, within thirty days from receipt of registered letter, that Dr. Lysne has entered the PRN program. Mike Merrill seconded the motion. Motion unanimously carried.

During budget review Mr. Markuson discussed the significant free fund cash balance and the large salary savings for 2006 due to vacancy in two office positions. The board encouraged Mr. Markuson to utilize the salary savings however possible and give staff one time bonuses or temporary merit increases. Chairperson Kitty Gurnsey also discussed the need for the board members to address JFAC directly regarding budget matters and in the future it would be better for the board members to meet face-to-face with members of the finance committee to discuss personnel issues.

Regarding pharmacy technician Alexander Wagner; Mike Merrill made a motion to revoke Mr. Wagner's technician registration. Dwayne Sheffler seconded the motion. Motion unanimously carried.

Chairperson Kitty Gurnsey accepted the offer from Dean Joseph Steiner, College of Pharmacy, ISU, to hold the next board meeting on the campus in Pocatello, May 4, 2007.

At 9:15 A.M. Mike Merrill made a motion to go into Executive session for matters exempt from public records. Mr. Merrill identified Idaho Code Section 67-2345(d) to authorize the session. Berk Fraser seconded the motion. Motion carried. At 10:00 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 10:00 A.M.

The above minutes respectfully submitted by Jan Atkinson.

Andrew Welch, Pharm. D. appeared before the board to request reinstatement of his pharmacist license and controlled substance registration after having voluntarily surrendered them in November 2006. The board was unable to make a determination and tabled the discussion for later in the day.

Kristina Jonas, PharmD President of ISPA and Stan Gibson, R.Ph. Legislative Representative of ISPA requested the board consider supporting the removal of (other than a pharmacist) from the definition of "Practitioner" in Idaho Code 54-1705 (24). Following a discussion by the board Mr. Merrill motioned that Mr. Markuson and Mr. McPeck draft suitable language for the change following a search to its affect on other parts of the code or rules. Berk Fraser seconded the motion; motion carried. Dwayne Sheffler requested co-sponsorship with ISPA and ISHP.

Mr. Markuson discussed Temporary Rule 464 that included new language outlining requirements for obtaining positive ID when dispensing a controlled substance prescription. Although the rule was rejected by the House Health and Welfare Committee the Committee felt it had merit and

directed the board work with the Idaho Retail Pharmacy Council and draft language that would satisfy all parties. Ms. Pam Eaton from the Council presented a letter and draft of new language they wished the board to consider. Mr. Sam Hoagland President of the Idaho State Health Systems Pharmacists indicated he had not seen the new language. The Pharmacy Board will review the proposal.

Rule 142.02 and Rule 471 dealing with the reporting of theft and loss of controlled substances have been approved by both the House and Senate.

Temporary Rules dealing with the Remote Dispensing Pilot Project were approved by the House and Senate Health and Welfare committees. At the request of the board the rules will remain temporary for another year allowing the board to monitor the progress of the project.

Mr. Markuson indicated that HB 118 that would place carisoprodol in Schedule IV may not be heard. This bill was introduced by Representative Dr. Ring.

The board recessed for lunch at 11:50 P.M.

Chairwoman Kitty Gurnsey called the meeting to order at 1:20 p.m.

Andrew Welch, Pharm. D. Berk Fraser motioned that Soo Kang, Deputy Attorney General draft a stipulation to include suspension until April 1, 2007; three years probation; can not be pharmacist-in-charge during probation; mandatory attendance at the next three board meetings and must inform any employer of this action. Inspectors are also to see if there are any citations that should be issued in regards to Dr. Welch's actions. Seconded by Mike Merrill; motion carried.

After the hearing regarding Randy Shinneman, R.Ph. Per the stipulation the complaint was vacated. Soo Kang will draft a stipulation to include 3 years probation; abstain from drugs and alcohol during probation; random UA with results submitted to Fred Collings, Chief Investigator.

Annabeth Elliott from Health and Welfare appeared before the board in search of approval of their Expedited Partner Therapy or Partner Delivery Therapy program. The program would treat the sexual partners of patients diagnosed with Chlamydia and/or gonorrhea. The program would reduce re-infection of patients and help to ensure treatment of partners. There were 3300 Chlamydia cases diagnosed in Idaho last year. The board will draft language for review at the May board meeting.

Mr. Markuson discussed the following legislation that is now under consideration in the legislature.

HB 158 allowing law enforcement access to certain patient information has passed the House and is now on the floor. This bill was introduced by the board.

HB 164 reduces the number of days an out-of-state mail service must remain open from six to five days has passed the House and is now on the floor. This bill was introduced by the board.

SB1077 regarding faxing of prescriptions in assisted living facilities. Has passed the Senate and is now on the floor.

HB 46 deals with the otc sales of precursors to methamphetamine and brings Idaho in compliance with federal law.

HB106 establishes the Office of Drug Policy.

SB1146 introduced by Pfizer adds eleven pages of new language to Title 54 Chapter 17 of Idaho Code dealing with the licensing of wholesalers and distributors. After some discussion with our attorney and an attorney from the criminal division of the AG's office it was determined that some of the language in the bill needed to be addressed. This was discussed in the Senate Health and Welfare Committee and sent out to be redrafted. With agreement from all parties the bill will be reintroduced for consideration.

SB144 will allow federally licensed Narcotic Treatment Programs to operate in Idaho under certain conditions. The bill requires that any medications prescribed for take home dosing must be prepared by a pharmacist for dispensing.

Future Meetings: May 4, 2007 Board Meeting in Pocatello, Idaho to be held at the Pond Student Union Building on ISU campus.

Ron Lavigne addressed the board with concerns regarding the pharmacy fax alerts. Fred Collings addressed his concerns and clarified what the fax alerts are for and where the information comes from. Mr. Lavigne also questioned the survey sent out to various pharmacies by Jan Atkinson. Mike Merrill addressed his concern stating she had received approximately 60 surveys back with 42 of them being positive.

Berk Fraser motioned to go into Executive Session as authorized by Idaho Code 67-2345 (d). Mike Merrill seconded. Executive session called to order at 5:00 P.M. Dwayne Sheffler motioned to adjourn the Executive Session at 6:00 P.M. second by Berk Fraser

Board Meeting adjourned at 6:00 P.M.