

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

**January 4, 2008**

**DOUBLETREE CLUB HOTEL  
BOISE, IDAHO**

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

Chairman Berk Fraser, RPh called the meeting to order at 8:07 a.m. In attendance were Kitty Gurnsey; Dwayne Sheffler, 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; Barbara Beehner-Kane, Deputy Attorney General; Fred Collings, Chief Investigator; and Ellen Mitchell.

Regarding the minutes of the October 26, 2007 meeting, Kitty Gurnsey made a motion to accept the minutes as written. Dwayne Sheffler seconded. Motion carried unanimously.

John Southworth of Southworth Associates presented program information regarding the Pharmacist Recovery Network. Mr. Southworth outlined the services provided to various regulatory boards and to the impaired professional.

Jan Atkinson presented citation #1313 issued to Wade Flowers, Pharm D for violation of Board Rule 251.02 allowing a pharmacy technician to be unsupervised in the hospital pharmacy. Nicki Chopski commented the issue of unauthorized personnel being in the pharmacy without a pharmacist is an on-going issue. She would like to see this issue address in an upcoming newsletter and discussed at CE presentations. Jan Atkinson indicated discussion of access to the pharmacy is part of the inspection conducted at each pharmacy. Kitty Gurnsey motioned to fine Dr. Flowers \$200. Dwayne Sheffler seconds. Vote of the Board 3 against. Motion dies. Holly Henggeler believes the penalty should be more. Holly Henggeler motioned to fine Mr. Flowers \$350 with a reprimand in his file. Nicki Chopski seconded. Motion carried unanimously.

Jan Atkinson presented citation #1314 issued to Jodi Holland, Pharmacy Technician for violation of Board Rule 251.10 allowed access to a hospital pharmacy when the pharmacist was not present; pharmacy technician had her own key to the pharmacy. Holly Henggeler motioned to fine Ms. Holland \$150. Kitty Gurnsey seconded with the addition of a letter of reprimand in Ms. Holland's file. Motion carried unanimously.

Barbara Beehner-Kane presented the stipulation regarding Kimberly J Anton, Pharm D. Dr. Anton appeared before the Board to present her after care plan that includes disclosure of her probation status to employers during the probationary period. Employers are to provide a letter to the board indication their awareness of Dr. Anton's situation. Benewah Community Pharmacy currently employs Ms. Anton; she presented a letter from them indicating their knowledge of her licensure status. Kitty Gurnsey motioned to accept the stipulation as written. Nicki Chopski seconded. Motion carried unanimously.

The matter of Jason Jungert, Pharm D was continued until the next regular board meeting.

Fred Collings presented the stipulation regarding Jennifer Williams, applicant for a Pharmacy Technician Registration. Ms. Williams intends to work for Rite Aid under the supervision of Barry Williams PIC. Neither Ms. Williams nor Mr. Williams were in attendance. The Board had several questions they wanted to ask of Ms. Williams. Kitty Gurnsey asked for unanimous consent to table this discussion to see if Ms. Williams can be present. The matter was tabled to allow time for Mr. Collings to contact the applicant and request her appearance at 4:30 p.m. Unanimous consent.

Berk Fraser asked staff to convey to registrants and/or applicants the importance of appearing before the Board if they are issued a citation or their application is being reviewed.

Mr. Collings asked the Board to require the Pharmacist in Charge (PIC) to conduct specific tasks when hiring an individual that is on stipulation or had substance abuse issues in the past.

Barbara Beehner-Kane presented the stipulation regarding Alan Kohal, RPh. Mr. Kohal has signed the stipulation indicating his willingness to comply with its contents. Nicki Chopski motions to accept the stipulation as written. Dwayne Sheffler seconded. Motion carried unanimously.

Andrew Welch, Pharm D appeared before the Board to request a modification of his current stipulation. He requests permission to be the Pharmacist-in-Charge at Chateau Drug in Ketchum, Idaho. Ken Sangha, owner of Chateau Drug appeared on Dr. Welch's behalf. Nicki Chopski motions to allow Mr. Welch to be the PIC of Chateau Drug implementing additional requirements for the accounting and inventory of the top two narcotics (most volume) of each class submitted to the Board on a monthly basis for the first twelve months; indicating the additional requirements would be reviewed after twelve months; additional audits to begin February 1, 2008. Holly Henggeler seconded the motion clarifying the change in the stipulation is for Mr. Welch to be PIC at Chateau Drug only and not any other pharmacy. After some discussion a vote of the Board resulted in 3 for; Holly Henggeler against. Motion carried.

In the matter of Dennis Beach, RPh Mr. Fraser recused himself based on his professional and personal relationship with Mr. Beach. Mr. Sheffler took the chair in Mr. Fraser's absence. Sam Hoagland, representing Mr. Beach, requested a continuance of the matter until the next regular board meeting to allow time to put a treatment plan in place. Mr. Beach has surrendered his license and is pursuing evaluation and treatment. The Board granted the request by unanimous consent.

Dan Luce, Manager of Pharmacy Affairs for Walgreens offered a presentation on future technology and model language regarding pharmacy law from around the country.

Bill Holmes representing Parata presented a new automated will-call system known as APM. There is some question as to the legality of this type of system in Idaho. Mr. Holmes referred to previous Board minutes that indicate a Board directive issued to Mr. McPeck to research and submit a letter to Wal-Mart regarding this technology. Mr. Fraser indicates he has no issue with the technology per se, but the lack of the final face-to-face check with the patient makes him uncomfortable. Mr. Holmes indicated the bulk of the patients that choose to use APM have been using the same maintenance medications for a long period. In the five years, this technology has been in use there have not been any instances of mis-filled medications. Mr. Holmes requests Board allow use of APM during regular pharmacy hours in order to obtain information regarding use. Nicki Chopski cautions the Board to look at all aspects of APM usage. After further discussion, Mr. Fraser is willing to issue a written statement allowing use of APM only for refills, application for remodel and floor plans of pharmacy to be submitted to Board office for staff approval; the APM must be

built into the pharmacy, not free standing; no narcotics to be placed in the APM; only available for use when the pharmacy is open. The Board will address offer to counsel at another time. Mr. Fraser calls for a vote of the Board allowing use of APM during regular pharmacy hours only; approval will apply to both companies represented today. Unanimous consent. Board directs Mr. McPeek to provide a written legal opinion regarding the use of APM in Idaho two weeks from today.

David Gusdorf, Pharmitis presented his company's product ComplyScan PSE.

The matter of Jennifer Williams was revisited. Board staff was able to contact Ms. Williams and request her appearance at the meeting today. She is unable to attend. Holly Henggeler motions to deny the Pharmacy Technician Registration application based on insufficient information. Kitty Gurnsey seconded. Dwayne Sheffler opposes. Motion carries.

Lisa Worthington, Director of Pharmacy for Omnicare appeared with Bill Fitzpatrick and Mike Wood to request approval of an in-house formulary. Discussion tabled until later in the meeting.

Conference call with Randy Shinneman, R.Ph. and Rollie Watson, counsel; Nicki Chopski motions to accept the new stipulation as presented to the hearing officer. Motion dies for lack of a second. Mr. McPeek recommends denial of new stipulation with remand back to hearing officer for further proceedings. Fred Collings presented a printout of Mr. Shinneman's urinalysis results. Mr. Collings indicates Mr. Shinneman has not complied with urinalysis requirements since November 13, 2007. Nicki Chopski amends her motion to deny the stipulation and remand the matter back to the hearing officer. Dwayne Sheffler seconds. Motion carries unanimously.

Barbara Beehner-Kane requests the Board convene a meeting as soon as the hearing officer has submitted his recommendations. Unanimous consent.

Omnicare formulary request was taken up again. After discussion it was determined legislative change would be required to Rule 187 to allow anyone except a hospital pharmacy to make formulary changes without prescriber consent. Mr. Fraser indicates they would support legislation introduced by Omnicare to change the wording of Rule 187 from 'hospital' to 'institutional'.

John Michael Brassey, Commission on Uniform State Laws: Uniform Emergency Volunteer Health Practitioner Act. Mr. Brassey was unable to appear. After discussion unanimous consent to support the bill proposed by Mr. Brassey.

Liisa Itkonen PhD, Senior Environmental Projects Coordinator, DEQ appeared to present the Idaho Pharmaceutical Take Back Program proposal. The proposal is to help the public dispose of household pharmaceutical drugs. The role of DEQ would be facilitative in nature. Nicki Chopski commented this is a huge issue and suggests the Board send a letter to NABP to continue pressuring DEA to adjust their rules in regards to the disposal of controlled substances. There are no answers to this issue and we need to educate the public not to flush antibiotics and contaminate the water. Antibiotics and heavy metals can't be removed from the water once introduced. Fred Collings to check with Washington and Oregon to gather information on how these states handle this issue. Mr. Fraser offers the Board's assistance to DEQ in moving forward with a solution. Mark Johnston indicates CE would be approved for pharmacists attending meetings regarding this matter.

Tony Lund, Canada Prescription Services appeared before the Board to request permission to serve Idaho patients. Mr. McPeek indicated shipping medication into the U.S. from a Canadian pharmacy is in violation of federal law. The states that have passed legislation allowing this practice are in violation of federal laws. Mr. Lund's request to serve Idaho patients is denied as a violation of federal law.

Ron Lavigne owner of Lavigne Drug Group letter requesting a waiver of Board Rule 182. Mr. Lavigne is requesting the Board allow him to leave LAVIGNE DRUG GROUP and his logo with the image of a mortar and pestle on the side of his building. Mr. McPeek cites Idaho Code 54-1719 and Idaho Code 54-1721(2). The issue was addressed on an inspection report during a routine inspection. The Board directed Mr. Johnston to write a letter of response Mr. Lavigne's request indicating the word 'drug' as used in his sign is part of his company name and is not descriptive in nature and not an offer of services. Unanimous consent.

Mr. Johnston informed the Board of procedural changes within the Board office including the change of tracking the pharmacy technicians from location to employer. In addition, the changes in the form pharmacy students use to report their extern hours.

Prescription Monitoring Program (PMP) 24/7 will go live with the month of January.

Board staff is pursuing online renewals and placing public records online.

Travel calendar includes the NABP meeting in May 2008 to be held in Baltimore, MD. Board member generally attends with director and inspectors.

Dean Steiner of ISU has invited the Board to Pocatello for the next board meeting of March 7 or April 4, 2008. Mr. Johnston prefers to have the meeting on March 7, 2008. ISPA requests the board hold a meeting in conjunction with the NW Pharmacy Convention on May 29, 2008 in Coeur D'Alene. The next board meeting is scheduled for March 7, 2008 in Boise, with the following meeting May 29, 2008 in Coeur D'Alene.

Mr. Johnston attended the Board of Medicine meeting recently and presented information regarding electronic prescribing. Board of Medicine has requested Mr. Johnston to write an article for their up-coming newsletter.

Mr. Johnston requested the Board allow the listing of disciplinary actions in the newsletter. Unanimous consent using registrant initials.

Legislation and rule review; continue to pursue pharmacist change of status to practitioner; inducement issue, replace fax law or strike completely, also discussed was Federal law and Idaho code does not establish an expiration date for CII prescriptions. Ms. Chopski reiterates the importance of ISU College of Pharmacy students being involved in the rule making process as they are the future of the profession.

Kitty Gurnsey motions to adjourn the meeting. Dwayne Sheffler seconds. Motion carried.

Meeting adjourned 6:35 p.m.