

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

**August 2 – 3, 2007**

**AMERITEL INN  
BOISE, IDAHO**

This meeting of the board is held to conduct interviews for the Executive Director position and for regular board business.

Chairman Berk Fraser, RPh called the meeting to order at 7:00 a.m. In attendance were Kitty Gurnsey; Dwayne Sheffler, RPh; Nicole Chopski, Pharm D; Mike McPeek, Deputy Attorney General; Jan Atkinson, Senior Compliance Officer; Fred Collings, Chief Investigator; and Ellen Mitchell.

The board interviewed Mark Johnston, RPh for the position of executive director beginning at 7:10 a.m and concluding at 8:15 a.m.

Kitty Gurnsey motioned to approve the minutes of the May 4, 2007 and the July 12, 2007 meetings as written. Dwayne Sheffler, RPh seconded. Motion carried.

Fred Collings, Chief Investigator was asked to review citation #1298 issued to Tim Brown, RPh regarding several violations of pharmacy law as indicated in the cover letter sent to Mr. Brown. Kitty Gurnsey motioned to fine Mr. Brown \$200 on the legend drug violation and assess costs of \$150; place license on probation for 5 years and if there are any violations within the 5-year period Mr. Brown's license would be immediately suspended. Dwayne Sheffler seconded. Motion carried unanimously. Mike McPeek, DAG to draft probation documents.

The board had a general discussion regarding the levying of fines and the inconsistency over the years. They desire to establish guidelines to ensure more consistency and inform those that are required to appear before the board of the possible consequences.

Jan Atkinson, Senior Compliance Officer asked the board for direction in regards to the letter of complaint submitted to the board by Rebecca Simpson, PA. At issue is the dispensing of mediset medications by the pharmacy after Ms. Simpson had instructed the pharmacy not to dispense medication to a particular patient even though there was a valid prescription. Dwayne Sheffler made a motion to have Ms. Atkinson and Mike McPeek, DAG draft a letter to Ms. Simpson indicating there would be no board action regarding this matter. Kitty Gurnsey seconded. Motion carried unanimously.

Fred Collings and Soo Kang, DAG presented request and application from Carl Knight, RPh for reinstatement of his Idaho pharmacist license. Kitty Gurnsey motioned to reinstate Mr. Knight's license with stipulation of 3 years probation; random UA's 24 times per year and all associated costs paid by Mr. Knight. Dwayne Sheffler seconded. Motion carried unanimously.

Fred Collings and Soo Kang, DAG presented a request from Charles Davis, RPh to change the 'green card' signature requirements for his attendance at 12-Step meetings the board directed

staff to draft a letter indicating he must comply with his stipulation and obtain signatures from 8 of the 25 meetings he attends monthly.

Regarding Michael Petersen, DDS, Fred Collings and Soo Kang, DAG presented a stipulation to mirror the Board of Dentistry's stipulation. Dwayne Sheffler, RPh moved to accept the stipulation as written. Nicole Chopski, Pharm D seconded. Motion carried.

Fred Collings and Soo Kang, DAG presented Christopher Partridge, MD's voluntary surrender of his controlled substance registration. Dwayne Sheffler motioned to suspend the registration indefinitely. Kitty Gurnsey seconded. Motion carried unanimously.

Soo Kang, DAG informed the board that Andrew Welch, Pharm D was not in attendance at the board meeting as required by his stipulation. The board tabled further discussion on this matter until later in the day. Mr. Kang also indicated that he would no longer be representing the Board of Pharmacy and introduced Barbara Beehner-Kane, DAG who will be taking his place.

Kitty Gurnsey motioned to elect Dwayne Sheffler, RPh as Vice Chairman of the board. Nicole Chopski, Pharm D seconded. Motion carried unanimously.

Mike McPeek, DAG reviewed the IDEA forms relating to the definition of practitioner (IC § 54-1705) and the other concerning confidential patient information (IC § 37-2727) created for submission to DFM as possible legislation in 2008. Board directed Mr. McPeek and Fred Collings to proceed with the drafting of legislation.

The following Proposed Temporary Administrative Rules (PARF) for the 2008 Legislative Session were reviewed and approved by the board:

- 2007 Idaho Legislature enacted comprehensive legislation regarding the licensing of wholesale distributors and the providing of prescription pedigrees. 2007 Session Law, Chapter 319 (SB1184)
- BOP is instituting a 24/7 electronic database for tracking controlled substance prescriptions. Rule is needed to comply with the directive of IC§37-2726(4)
- Proposed rule provides for identification of persons receiving controlled substances at a pharmacy, describes the manner of satisfying the positive ID requirement, and provide exceptions to the ID requirement
- Tech-check-tech pilot project
- Include 'limited service pharmacies' to IDAPA 27.01.01469.01 and strike IDAPA 2701.01469.02

Tory Shaver, owner of Shaver Compounding and Home Living Services appeared before the board to request the board address electronic medication administration record systems (EMARS) that are being provided to assisted living facilities in exchange for their business. Jan Atkinson referenced Board Rule 161.03. After discussion the board directed Mike McPeek, DAG to draft legal opinion for the next regular board meeting

The request for a waiver to board rule from Ginny Griggs, Pharmacy Technician and owner of Teton Pharmacy to allow her access to the pharmacy without a licensed pharmacist present for cleaning purposes was reviewed by the board. Board directed staff to respond by letter the request has been denied.

Mr. McPeek presented IDEA form revising the definition of 'practitioner'. The revision would strike 'other than a pharmacist' from the definition. The board directed Mr. McPeek to submit the IDEA form to DFM.

Mr. McPeek asked the board if they wanted to pursue a permanent rule in regards to the Remote Dispensing Pharmacy pilot project. Dwayne Sheffler motioned to keep the rule as temporary one more year. Kitty Gurnsey seconded. Motion carried unanimously. The board will contact Bob Fischer for an update on the current project.

Mr. McPeek presented the results of the meeting regarding the new language for the Positive ID rule between Berk Fraser, RPh; Fred Collings and Mr. McPeek. The board directed Mr. McPeek to submit the PARF with the new language after deleting section Cii regarding refills. Mr. Sheffler indicated he would like to see the inspectors educate pharmacists on the new rule and unless there is a 'material' violation, no citations should be issued. The board also directed staff to write a policy regarding Positive ID.

The board was informed by staff that Holly Henggeler, Pharm D has been appointed to the Board effective July 30, 2007.

Request from Annabeth Elliott, RN with Health & Welfare regarding the Board's approval for Expedited Partner Therapy or Patient Delivered Partner Therapy; according to the minutes of prior board meeting Ms. Elliott was to contact the Board of Nursing and Board of Medicine. Staff directed to draft a written response to Ms. Elliott for Chairman's signature.

In regards to the letter of complaint from Katherine Lunger, the board directed staff to draft a letter for Chairman's signature.

Future meetings: Hearing in the matter of Paul Battershell, PA was set for October 25, 2007 at 9:00 a.m. in Boise. Board meeting date was set for October 26, 2007 in Boise.

The board acknowledged Andrew Welch's attendance at the meeting in accordance with his stipulation. Mr. Welch was instructed to be present at the October 26, 2007 board meeting on time.

Jan Atkinson asked the board for direction regarding technician applications that have a positive response to the personal data questions. The board directive was that all applicants must have completed all probationary and court requirements before registration approval. Ms. Atkinson will also provide this information to the technician schools.

Dwayne Sheffler, RPh motioned to recess the meeting until August 3, 2007 at 7:30 when they will resume interviews for the executive director position. Kitty Gurnsey seconded. Meeting recessed 4:10 p.m.

Chairman Berk Fraser, RPh called the meeting to order at 7:40 a.m., August 3, 2007 for completing interviews for the executive director position. In attendance were Kitty Gurnsey; Dwayne Sheffler, RPh; Nicole Chopski, Pharm D; Mike McPeek, Deputy Attorney General; Jan Atkinson, Senior Compliance Officer; and Ellen Mitchell.

The board interviewed Michael Griffiths, RPh; Douglas Schoonover, RPh and Terrel Collins, RPh.

Kitty Gurnsey motioned to go into Executive session as authorized by Idaho Code 67-2345 (d) for matters exempt from public record. Nicole Chopski seconded. Executive session called to order at 9:30 a.m. Dwayne Sheffler motioned to come out of Executive session. Nicole Chopski seconded. Motion carried. Adjourned 10:00 a.m.

Samuel Hoagland, RPh was interviewed for the executive director position. All interviews were concluded at 11:35 a.m.

Following the conclusion of interviews, the Board recessed for lunch.

The Board meeting resumed at 12:45 p.m. Upon resumption of the meeting, Kitty Gurnsey moved that the Board hold an executive session pursuant to Idaho Code § 67-2345(a) to consider hiring an executive director. Nicole Chopski seconded the motion. The motion carried upon an individual vote of the Board, with Dwayne Sheffler, Kitty Gurnsey, Nicole Chopski, and Chairman Berk Fraser each voting in favor of the motion. The Board then moved into executive session.

At 1:50 p.m., Dwayne Sheffler moved that the Board end its executive, and Nicole Chopski seconded the motion. The motion carried upon an individual vote of the Board, with Dwayne Sheffler, Kitty Gurnsey, Nicole Chopski, and Chairman Berk Fraser each voting in favor of the motion. The Board then returned to public session. Upon returning to public session, Chairman Fraser announced that the Board during its executive session had discussed the interviews it had conducted of the applicants for the executive director position and the qualifications of the applications, but that the Board had taken no action nor made any decision regarding any candidate. Chairman Fraser also announced that the Board would recess until 2:00 p.m.

Chairman Fraser reconvened the Board in open session at 2:00 p.m.

Dwayne Sheffler moved that the Board offer the executive director position to Michael Griffiths, RPh. The motion failed for want of a second.

Dwayne Sheffler moved that the Board offer the executive director position to Samuel Hoagland, RPh. The motion failed for want to a second.

Nicole Chopski moved that the Board offer the executive director position to Douglas Schoonover, RPh. The motion failed for want of a second.

Nicole Chopski moved that the Board offer the executive director position to Mark Johnston, RPh. Dwayne Scheffler seconded the motion. Ms. Chopski commented that Mr. Johnston's experience, energy and enthusiasm, and demeanor indicate he would be an asset to the Board in dealing with practitioners, the legislature, and the public. There being no further discussion, the Board voted on the motion. Ms. Chopski and Chairman Fraser voted in favor. Mr. Sheffler and Ms. Gurnsey voted against. The motion failed for lack of a majority.

Kitty Gurnsey moved that the Board offer the executive director position to Terrel Collins, RPh. Nicole Chopski seconded the motion. Ms. Gurnsey commented that Mr. Collins would be a

good fit for the position because of his lengthy professional experience, his knowledge of the Board, and the excellence of his reputation in the profession and among legislators. There being no further discussion, the Board voted on the motion. Ms. Chopski, Mr. Sheffler, Ms. Gurnsey, and Chairman Fraser voted in favor of the motion and the motion carried.

The Board directed Chairman Fraser to proceed on behalf of the Board to offer the executive director position to Mr. Collins. There being no further business, the Board voted unanimously to adjourn the meeting. The meeting concluded at 2:20 p.m.