MINUTES OF THE
IDAHO STATE BOARD OF PHARMACY

October 29, 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 8:00 a.m. In attendance were Kitty Gurnsey; Berk Fraser, RPh; Nicole Chopski, Pharm D; Holly Henggeler, Pharm D; Mark Johnston RPh, Executive Director; Mike McPeek, Deputy Attorney General; Melissa Moody, 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.

Ms. Gurnsey moved to accept the minutes of the July 30, 2008 meeting in Boise, Mr. Fraser seconded, motion adopted.

Dr. Henggeler moved to accept the minutes of the July 31, 2008 meeting in Council, with typo corrected, Mr. Fraser seconded, motion adopted.

Mr. Fraser moved to accept the minutes of the August 12, 2008 Conference Call, Ms. Gurnsey seconded, motion adopted.

Mr. Johnston presented legislation and rule review asking the board to approve language regarding several rules for the upcoming legislative session.

> Rule 458 – Mr. Fraser moved to accept as presented, Dr. Henggeler seconded, motion adopted.
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> Rule 165 – Dr. Chopski moved to accept the spelling correction but not the changes to the rule, Mr. Fraser seconded, motion adopted.
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> Rule 156 – Unanimous consent by the Board: no changes to the proposed language.

Mr. Johnston presented the proposed operating memorandum between Adams County Health Center Pharmacy (ACHC), Park Vu Pharmacy and the executive director of the Board. Mr. Fisher has applied for a waiver from DEA to allow controlled substances on premises. All controlled substances are removed from ACHC until authorized by DEA to have them there. Lisa Culley conducted a follow-up inspection at the facility at the request of Dr. Henggeler. Ms. Culley presented her findings to the board. Mr. Johnston will make minor corrections to the memorandum, sign and mail to Mr. Fischer and Mr. Wheatley for finalization.

Mr. McPeek presented Docket 810 that addresses Rule 156 in regards to the pharmacist-in-charge work week/month requirements. Mr. Fraser moved to adopt Docket 810, Mrs. Gurnsey seconded, motion adopted.

Mr. McPeek presented Docket 801 that updates rules to be in line with wholesale drug distribution legislation; provides consistency in 'pharmacist in charge' usage; clarifies 'pharmacist in charge' requirements and responsibilities; includes pharmacy technicians for employment reporting to the Board; substitutes 'licensed' for 'registered' in reference to pharmacists; reflect the name change regarding ACPE; and clarify procedures for veterinary dug outlets receiving oral prescription orders. Mr. Fraser moved to adopt Docket 801, Dr. Henggeler seconded, motion adopted.

Mr. McPeek presented Docket 802 that addresses Rule 165 in regards to pharmaceutical care/collaborative practice. Mr. Fraser moved to adopt Docket 802, Mrs. Gurnsey seconded, motion adopted.

Mr. McPeek presented Docket 806 that addresses Rule 460 in regards to possession of controlled substances. Mr. Fraser moved to adopt Docket 806, Dr. Henggeler seconded, motion adopted.

Mr. McPeek presented Docket 808 that addresses Rules 252-257 in regards to long-term care. Mr. Fraser moved to adopt Docket 808, Dr. Chopski seconded, motion adopted.

Mr. McPeek presented Docket 809 that addresses Rule 404.07 in regards to a fee increase for wholesaler (distributor) to cover the cost of fingerprint processing. Mr. Fraser moved to adopt Docket 809, Dr. Henggeler seconded, motion adopted.

After much debate of Rule 251 regarding pharmacy technicians, Mr. Fraser moved to proceed with current changes. Motion dies for lack of a second. Dr. Henggeler moves to remove interns from the ratio and increase the technician ratio to 4:1, no technician certification required, increase intern ratio to 2:1 and keep clerks. Mrs. Gurnsey seconded, motion died 3 to 2. Issue to be revisited later in the meeting.

Ms Moody, DAG presented the stipulated order in the matter of Sav-on Pharmacy license 2073CP. Victor Vercammen was present to represent Sav-on. Mr. Fraser moves to accept the stipulation as written, Mrs. Gurnsey seconded, motion adopted.

Ms. Moody, DAG presented the stipulated order in the matter of Amerisourcebergen Drug Company. Mr. Fraser moves to accept the stipulation as written, Mrs. Gurnsey seconded, motion adopted.

Ms. Moody, DAG presented the stipulated order in the matter of Target Pharmacy license 2118CP, Mitch May was present to represent Target. Dr. Chopski moves to accept the stipulation as written, Dr. Henggeler seconded, motion adopted.

Ms. Moody, DAG presented the stipulated order in the matter of Tony Rost license P4205. Mr. Rost was present. Mrs. Gurnsey moves to accept the stipulation as written, Mr. Fraser seconded, motion adopted.

Ms. Moody, DAG presented the complaint in the matter of John Gates pharmacist license P3801. Mr. Gates was contacted via telephone, but requested to not to appear via telephone for the proceedings. Mr. Fraser moves to accept the complaint increasing the fine from $250 to $1,000; motion died for lack of a second. Mrs. Gurnsey moves to accept the complaint increasing the fine from $250 to $500. Dr. Henggeler seconded, motion adopted.

Ms. Moody, DAG presented the complaint in the matter of Mikkal Barrett pharmacy technician registration T5427. Ms Barrett was unable to be reached via telephone. After discussion of the pharmacy technician's responsibility Vs the pharmacist's responsibility in dispensing prescriptions, Mr. Fraser moves to accept the complaint as written, Dr. Henggeler seconded, motion adopted.

John Letter addressed the board and requested release from probation and drug testing. Dr. Chopski moved to abate Mr. Letter's probation and drug testing requirement. Mr. Fraser seconded, Dr. Henggeler opposed. Motion adopted.

Dennis Beach addressed the board with legal counsel Sam Hoagland to request reinstatement of his pharmacist license. Mr. Fraser recused himself due to a personal and professional relationship with Mr. Beach, but later, at the request of Ms Gurnsey with Chairman Sheffler's approval, spoke on behalf of Mr. Beach. Mrs. Gurnsey moves to reinstate Mr. Beach's license with the provision he continues with counseling, random drug testing and the provisions made at the time of suspension. After much discussion, Dr. Chopski seconded, Dr. Henggeler opposed. Motion adopted.

Ms. Moody, DAG presented the stipulation and order in the matter of Steven Streeper license P3861. Mr. Streeper was present with legal counsel Sam Hoagland. Dr. Chopski moves to accept the stipulation and order as written, Mr. Fraser seconded, motion adopted.

Ms. Moody, DAG presented the stipulation and order in the matter of David Dortch, DMD registration CS5715. Dr. Dortch participated via telephone, requesting only a restricted CS registration with the ability to prescribe CIV medications, with oversight from another practitioner. Mr. Fraser moves to accept the stipulation and order as written, Dr. Henggeler seconded, motion adopted. The Board to reconsider Dr. Dortch's request at the next Board meeting, post Southworth Associates evaluation results.

Ms. Moody, DAG presented the stipulation and order in the matter of Vernon McCready, PA, registration CS8267. Dr. Henggeler moves to accept the stipulation and order as written, Mr. Fraser seconded, motion adopted.

In the matter of Rule 251 regarding pharmacy technicians, Mr. Fraser moved to accept the changes as written with changes to grandfathering, tech-in-training renewal, and discipline in regards to the ratio. Mrs. Gurnsey seconded, motion adopted. Dr. Henggeler and Dr. Chopski opposed.

Conference call set Tuesday, November 4, 2008 to review additional language changes to rule #251, as motioned by Mr. Fraser, and the corresponding dockets. Next board meeting December 18, 2008 (later changed to 12/17/08), plans to hold a meeting in the spring in Pocatello.

Mr. McPeek presented Docket 804 regarding Rule 458. Mr. Fraser moved to accept the rule as presented. Dr. Chopski seconded, motion adopted.

Mr. McPeek presented Docket 807, which makes the rules related to the Remote Dispensing Pilot Project permanent rules. Mr. Fraser moved to accept Docket 807, Dr. Chopski seconded, motion adopted.

Mr. McPeek presented Docket 805. Mr. Fraser moves to hold Docket 805, Dr. Henggeler seconded, motion adopted.

Mr. Johnston presented FY2010 budget and travel calendar.

Robert Morris, student pharmacist, presented on pharmacy compounding.

Mr. Fraser moved to adjourn the meeting, Mrs. Gurnsey seconded, motion adopted.

Meeting adjourned 6:55 p.m.