MINUTES OF THE
IDAHO STATE BOARD OF PHARMACY
August 13-14, 2013
Boise Hotel & Conference Center, Boise, Idaho

This meeting of the Board was held to conduct regular Board business

Chairman Nicole Chopski called the meeting to order at 8:15 a.m. In attendance were Board members Holly Henggeler, PharmD; Rich de Blaquiere, PharmD; Kristina Jonas, Pharm D; and Ed Sperry, Public Member; as well as Mark Johnston, RPh. Executive Director; Nicole McKay, DAG; Colleen Zahn, DAG; Lisa Culley and Jaime Sommer, Compliance Officers; Ellen Mitchell and guests.

The reinstatement hearing for BOP Case 13-065 Kristine Babb, NP, commenced as Colleen Zahn presented the facts surrounding Ms. Babb's voluntary surrender of her DEA registration and subsequent suspension of her Idaho controlled substance (CS) registration in 2006 for violation of I.C. 37-2734(a)(3): obtaining a controlled substance by misrepresentation, fraud, forgery, deception or subterfuge. After hearing the facts of the case and hearing from Ms. Babb, who appeared via phone without legal representation, Dr. Henggeler motioned to approve Board staff's recommendation that Ms. Babb's CS Registration be reinstated with the stipulation that no controlled substances (including samples) are to be ordered in her name for her office use and that no verbal prescription drugs orders for controlled substances are to be issued (all CS prescriptions must be written). Dr. de Blaquiere seconded. The motion carried with Dr. Henggeler, Dr. de Blaquiere, and Dr. Jonas for and Mr. Sperry abstaining.

The administrative hearing for Steve Greenslade, pharmacy technician, commenced as Ms. Zahn presented the facts concerning Mr. Greenslade's past criminal history. Mr. Greenslade appeared in person without legal representation and answered Board questions. Mr. Greenslade neglected to disclose a 25 year old felony conviction on two previous applications to the Board. Dr. Henggeler motioned to approve Mr. Greenslade's application and assess a $500 fine for each occurrence of falsifying an application for a total of $1000 to be paid within six months. Dr. de Blaquiere seconded. The motion carried unanimously.

Mr. Hootan Melamed, R.Ph. attended the meeting in person without legal representation to appeal the denial of his mail service pharmacy application for Concierge Compounding Pharmaceuticals. Mr. Melamed's application was denied based on his previous felony conviction. After the Board questioned Mr. Melamed, Dr. de Blaquiere motioned to approve the application, Dr. Jonas seconded, and the motion carried unanimously.

A discussion ensued about denying a facility registration for issues concerning the facility's PIC or director, as non-resident mail order pharmacies and central drug outlets are now required to have a PIC or director that is either licensed or registered in Idaho. The Board concluded that the facility application should be denied if it does not name a valid Idaho licensed or registered PIC or director, but that issues, such as felony convictions, are pharmacist registration or licensure application issues, not facility application issues. Mr. Johnston explained that the PIC or director requirement became effective on 7/1/13, one day after the renewal period. Thus, the Board's staff is expecting compliance with the changes upon 2014 renewal and with every new application. The Board directed Mr. Johnston to mail a copy of the June Newsletter to all non-resident mail service pharmacies, if they do not already receive it, so that they are informed of the new PIC or director changes, before applying for 2014 renewal.

Nichelle Daigle, Pharm D, appeared in person without legal counsel, to request elimination of all restrictions placed on her license by Stipulation and Consent Order BOP 13-004 (Order) that went into effect on November 7, 2012. Dr. Daigle presented evidence of her completion of the Order's requirements. Dr. Henggeler motioned to remove the restrictions from Dr. Daigle's license. Dr. Jonas seconded, and the motion carried unanimously.

Ms. Zahn presented the stipulation and order signed by Ryan Lytle, Pharm D to settle a case involving a prescription filling error. Dr. Lytle was not present. The stipulation included a $500 fine to be paid within 180 days, and completion of six (6) credits of continuing education pertaining to prescription or medication error within 90 days. Dr. Henggeler motioned to accept the stipulation as written. Dr. Jonas seconded, and the motion carried unanimously.

Doyle Beach, Managing Member of Advantage Medical Pharmacy, and Jason May, PIC, appeared telephonically without legal counsel to appeal the denial of their application for a mail service pharmacy registration in Idaho. The application was denied based on the facility's probationary status in their resident state (Idaho Code 54-1729(a)). After the Board questioned Mr. Beach and Mr. May, Dr. Henggeler motioned to uphold the staff denial of the application and approve after probation has

been satisfied in May 2014 (barring no further action) or upon early dismissal of probation in Mississippi. Advantage Medical Pharmacy will need to reapply, but not reappear before the Board. Dr. Jonas seconded, and the motion carried unanimously.

Debra Phillips, R.Ph., attended the meeting telephonically without legal counsel to request reinstatement of her pharmacist license. Ms. Phillips allowed her license to lapse in 2012. Ms. Phillips is currently under Board order for failure to complete required continuing education and is required to submit paper renewals with evidence of completion of annual continuing education requirements. When Ms. Phillips applied for reinstatement of her pharmacist license she neglected to disclose a criminal conviction for 'willful concealment of goods…' and to disclose such prior Board discipline. Mr. Sperry motioned to fine Ms. Phillips $500 and require her to write a ten (10) page essay on decision making. Dr. de Blaquiere seconded. After discussion the motion was withdrawn. Mr. Sperry then motioned for Ms. Phillips to pay a $500 fine for falsifying an application to the Board. Dr. Henggeler and Mr. Sperry voted for, Drs. de Blaquiere and Jonas voted against. Chairman Chopski voted no, motion failed. Dr. Jonas motioned to fine Ms. Phillips $500 for falsifying an application to the Board, payable within 6 months, and restricting Ms. Phillips from being Pharmacist-in-Charge for two (2) years. Dr. de Blaquiere seconded, Dr. Henggeler and Mr. Sperry voted no. Chairman Chopski voted yes, and the motion carried.

Upon returning from lunch, the Board took up the matter of E2S Consulting's denied wholesale distributor application. Mr. Earl Sullivan appeared in person without legal counsel on behalf of E2S Consulting. The Board staff was concerned that E2S Consulting was not a traditional wholesale distributor and that their facility and practices could not comply with Board rule. Mr. Sullivan explained his business practices in great detail. After much discussion, Dr. de Blaquiere motioned to license E2S Consulting, if they pass an inspection that proves compliance with Board rule. Mr. Sperry seconded, and the motion carried unanimously.

The Board discussed certain policies, establishing the following:

- An applicant for reinstatement, who has not practiced in Idaho for two years or more, must pass the MPJE.
- In reaction to NABP's policy that limits all tests to a maximum of 5 attempts, an applicant for a 6th attempt must appear in front of the Board.
- Non-resident facility applicants that are on probation cannot obtain registration in Idaho.
- Delegated authority was granted to the Board's staff to stipulate to a $500 fine for application falsification, including falsification of continuing pharmacy education hours.

Chairman Chopski called for public comment. Derek Molyneaux, Pharm D, addressed the Board and the audience regarding his experience with Southworth Associates and the Pharmacist Recovery Network (PRN). Dr. Molyneaux was very candid regarding his addiction and the crucial help provided by Southworth Associates in his recovery. The Board thanked Dr. Molyneaux for sharing his experience.

Mr. Eddie Reyes, Certified Pharmacy Technician applicant, addressed the Board in person to request approval of his application. Mr. Reyes was previously denied registration by the Board due to outstanding legal issues. Mr. Reyes has recently reinstated his national technician certification and continues to maintain employment at Sav-Mor Drug in Mountain Home, Idaho. Mr. Reyes is bi-lingual and thus believes he is an asset to the pharmacy and surrounding community. Mr. Reyes indicated Mr. Jim Alexander conducts random UAs even though Mr. Reyes is not working in the pharmacy. Dr. Henggeler indicated she wants Mr. Reyes' probation to be completed prior to issuance of a registration. Mr. Sperry motioned to approve Mr. Reyes application on condition of the completion of anger management classes, weekly participation in AA and that Mr. Alexander informs the Board of UA results. The motion died for lack of a second. After further discussion, Mr. Sperry motioned to approve the registration on condition of Mr. Reyes ensuring that employer mandated UA results are submitted to the Board, attendance at AA meetings once per week, and completion of eight (8) hours of anger management. AA meetings and communication of UA results are to be in effect for five (5) years, and the anger management classes are to be completed within ninety (90) days. Mr. Sperry amended his motion to require random UAs at least once per quarter with all associated costs being Mr. Reyes responsibility. Dr. de Blaquiere seconded. Drs. Jonas and Henggeler voted against. Dr. de Blaquiere and Mr. Sperry voted in favor. Chairman Chopski voted yes, and the motion carried. Chairman Chopski warned Mr. Reyes about fraudulent applications and encouraged Mr. Reyes to read application questions carefully before answering. The Board is hopeful that Mr. Johnston can convince Southworth Associates to administer such a program.

In the matter of Jessica Guymon, pharmacy technician in training applicant, the Board upheld staff denial of her application by unanimous consent. Ms Guyman was not in attendance.

Dr. Jonas motioned to adjourn the meeting and reconvene at 8:00 a.m. August 14, 2013. Dr. Henggeler seconded, and the motion carried unanimously. The meeting adjourned at 4:34 p.m.

MINUTES OF THE
IDAHO STATE BOARD OF PHARMACY
August 13-14, 2013 (Day 2)
Boise Hotel & Conference Center, Boise, Idaho

This meeting of the Board was held to conduct regular Board business

Chairman Nicole Chopski, PharmD, called the meeting to order at 8:10 a.m. In attendance were Board members Holly Henggeler, PharmD; Rich de Blaquiere, PharmD; Ed Sperry, Public Member; and Kristina Jonas, PharmD, as well as Mark Johnston, RPh., Executive Director; Nicole McKay, DAG; Lisa Culley and Jaime Sommer, Compliance Officers; Ellen Mitchell and guests.

Dr. Henggeler motioned to approve the minutes of the July 29, 2013 conference call with minor corrections. Dr. de Blaquiere seconded, and the motion carried unanimously.

Dr. Henggeler motioned to approve the minutes of the June 3, 2013 meeting. Mr. Sperry seconded. The motion carried with all in favor, except Dr. Jonas abstained as she was not in attendance at said meeting.

Mr. Johnston introduced the Negotiated Rule Making session, explaining that the rules are currently draft rules, which will become proposed rules after publishing in the October Administrative Bulletin, commencing the 21 day comment period. The Board will consider all public comment received during the 21 day comment period at the October meeting. Changes initiated by such public comment will be published in the January 2014 Bulletin and the rules then become pending.

Chairman Chopski asked for public comment on draft compounding rules.

Rob Wills, Pharm D, ISHP President and clinical pharmacy manager at St. Luke's Regional Medical Center addressed the Board in person, commending the Board for a job well done in regards to the proposed compounding rules. Dr. Wills requested a garbing exception for pharmacies that use isolator hoods. After discussion, the Board directed Mr. Johnston to draft such an exception, if upon inspection the PIC or Director can provide manufacturer's written documentation that any component of garbing is not required. Chairman Chopski thanked Dr. Wills' for participating in the legislative process.

Pam Eaton, Executive Director of the Idaho Retailers Association (IRA) and Idaho State Pharmacy Association (ISPA) and speaking for the National Association of Chain Drug Stores (NACDS) expressed concern regarding draft language in rule 239.04 regarding the policy and procedure (P&P) manual, as it would be a huge burden for those doing only a small amount of compounding. Mr. Sperry indicated the P&P doesn't have to be a huge document, but there has to be a standard for consistency. Chairman Chopski spoke in favor of the current draft, as the Board has heard testimony concerning questionable retail compounding, such as compounding Cyclosporine eye drops in a non-sterile environment. Dr. Henggeler expressed concern of limiting access to compounded medications. Dr. Jonas worried about such limited access translating into patients attempting their own compounding. Ms. McKay pointed out that the current language only required a P&P manual that is "appropriate to the scope of practice", and suggested that this language was sufficient to remedy Ms. Eaton's request. The Board directed Mr. Johnston to review the language to ensure that a P&P manual was required but not too onerous for pharmacies that only engage in simple, infrequent compounding.

Chairman Chopski requested that Mr. Johnston clarify in draft rule 240.02 that if starting with a sterile product and if maintaining sterility throughout the compounding process that final sterilization is not needed.

Dr. de Blaquiere pointed out a spelling error in the draft compounding rules.

With the discussion on draft compounding rules complete, Mr. Johnston reviewed the Board's second docket of draft rules, and Chairman Chopski asked for public comment.

Dr. Wills explained the process that ISHP endures to receive ACPE accreditation for their educational activities at their two meetings annually. Dr. Wills also explained the cost of such accreditation and that ISHP's Board has authorized Mr. Johnston's ACPE accredited activities from such meetings to be used ongoing, with ISHP processing the ACPE paperwork and absorbing most of the cost, charging each attendee a nominal fee. After discussion, the Board thanked Mr. Wills and ISHP for such a generous offer, but did not think it appropriate to charge attendees or have ISHP incur such costs.

Paul Allen Frisk, R.Ph. and executive director of the Capital Pharmacy Association updated the Board on educational activities that his association sponsors and spoke in favor of the draft changes to continuing pharmacy education, explaining the national trend to accept only ACPE accredited activities.

Mr. Johnston presented written comment submitted by Brooke Pugmire, PharmD, and Catherine Cashmore, PharmD and Associate Dean of Idaho State University (ISU)'s College of Pharmacy. Both urged the Board to retain some Board approved continuing pharmacy education, commenting on the rigors of ACPE accreditation and the usefulness programs that ISU sponsors that are not ACPE accredited.

After much discussion, Dr, de Blaquiere motioned for Mr. Johnston to draft the following changes to the draft CPE rules, including the "un-striking" of much struck draft language:

- Change the number of required ACPE or CME annual hours to twelve, allowing for a maximum of 3 Board approved CPE annually.
- Require 21 days notice for Board approved CPE.
- Require a sponsoring organization, presenter or continuing education coordinator to apply for Board approved CPE, not just an attendee.
- Require Board approved CPE applications to include additional information, such as a resume of the presenter, learning objectives, assessments of learning, evaluation of the CPE activity, and the presentation itself.

Dr. Henggeler seconded, and the motion passed unanimously.

Mr. Johnston briefly presented three draft bills:

- Updates to Idaho's schedule of controlled substances, pursuant to recent DEA changes.
- PMP access for peer assistance entities, such as Southworth Associates
- Requirement for wholesale distributors that ship controlled substances into Idaho to verify that the recipient has a valid Idaho CS registration and DEA registration.

The Board approved of all draft legislation.

Kevin Plant, PIC of Greer Pharmacy attended the meeting telephonically to request a waiver or variance of Board rule 750. Mr. Plant's pharmacy is only open five (5) days per week versus the required six (6) days. After hearing Mr. Plant's comments Dr. Jonas motioned to deny the waiver request as the waiver request does not meet the rule requirement of being an undue hardship. Dr. Henggeler seconded. Drs. Jonas and Henggeler voted in favor and Dr. de Blaquiere and Mr. Sperry voted against. Chairman Chopski voted in favor, and the motion carried: waiver denied.

Robert Fischer, R.Ph. addressed the Board in person to request a waiver or variance of rule 631.04.c allowing student access to the pharmacy office when a pharmacist isn't present. Mr. Fischer works at the hospital five or six hours per day with the student working eight hours per day. The office is considered part of the pharmacy, because the controlled substances are locked in a cabinet in the office. Dr. de Blaquiere stated the office needed to be a true office and not part of the pharmacy in order for the student to have access in the absence of a pharmacist, which would require the controlled substances to be moved back into the true pharmacy. He then motioned to deny the request. Dr. Jonas seconded, and the motion carried unanimously: waiver denied.

Pursuant to prior Board direction, Mr. Johnston researched and presented on other government entities that require refrigeration standards for stored drugs and vaccinations, including the CDC, Idaho Health and Welfare, and the Washington State Board of Pharmacy. Crystal Spencer from AmericanPharma returned with additional data to support her previous testimony and her product that electronically monitors refrigeration. Mr. Frisk spoke in support of such conceptual rules. After much discussion, Dr. de Blaquiere motioned for Mr. Johnston to further research the subject for potential 2015 rule promulgation, including feasibility, availability of products, drug manufacturer allowable temperature variations, cost, and current pharmacy practices. Such potential promulgation shall be ranked a lower priority than the Board's other known promulgation efforts. Dr. Henggeler seconded, and the motion passed unanimously.

Chairman Chopski asked for public comment. As there was none, the meeting adjourned for lunch.

Upon returning from lunch, Chairman Chopski called for public comment again. A discussion of the fingerprinting requirement ensued. Chairman Chopski voiced her displeasure with the time that Idaho State Police and the FBI were taking to process fingerprints. Dr. de Blaquiere expressed concern for the entire process. After much discussion, the Board directed the Board's staff to update the pharmacy technician forms and Frequently Asked Questions regarding fingerprinting, to place educational materials for applicants on the Board's web site, to purchase a fingerprint scanner for the Board's office, and to pen a Newsletter article.

Mr. Johnston presented a request from Licensing to change the length of time a reciprocity application is valid from six (6) months to one (1) year, to match NABP's policy. Dr. Henggeler motioned to approve the change, Dr. Jonas seconded, motion carried unanimously.

Mr. Johnston and Ms. McKay reported on the recent understanding of a need for Western Hemisphere Travel Initiative compliant documentation to be accepted as a form of positive identification, when identification is required for dispensing controlled substances. Currently, certain Canadian Provinces are issuing such identification, as opposed to Passports, and the United States accepts such documentation for international travelers to access the United States. The Board directed Mr. Johnston to draft such 2014 changes via unanimous consent.

Mr. Johnston presented the Board's travel calendar, and Chairman Chopski added her presentation at ISU's White Coat Ceremony. The Board scheduled the following Board 2014 meeting dates:

- January 21 in Boise: the day after the ISPA/ISHP legislative reception.
- March 13 in Pocatello at ISU.
- May 29 in Coeur D'Alene in conjunction with the Northwest Pharmacy Convention

Mr. Johnston presented the Board financials.

Dr. de Blaquiere motioned to enter executive session to discuss personnel matters. Chairman Chopski took roll call and all were in favor. Mr. Sperry motioned to exit executive session. Dr. Jonas seconded and Chairman Chopski took roll call. All were in favor. Executive Session ended at 3:47pm.

Dr. de Blaquiere motioned to adjourn. Mr. Sperry seconded, and the motion passed unanimously. The meeting adjourned at 3:47pm.