MINUTES OF THE
IDAHO STATE BOARD OF PHARMACY
March 13, 2014
Pond Student Union Bldg ISU
Pocatello, 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 am. In attendance were Board members Holly Henggeler, PharmD; Rich de Blaquiere, PharmD; Kristina Jonas, PharmD; Ed Sperry, Public Member; Mark Johnston, RPh, Executive Director; Nicole McKay, DAG; Colleen Zahn, DAG; Scott Zanzig, DAG; Fred Collings, Chief Investigator; Compliance Officers Lisa Culley and Jaime Sommer; and Ellen Mitchell.

Dr. Henggeler motioned to accept the minutes of the 1/9/2014 conference call and the 1/21/2014 meeting with minor corrections. Dr. Jonas seconded, the motion carried unanimously.

Tami Taylor, ISU student pharmacist, presented her research of telepharmacy in Idaho and several other states. Her presentation was informative and timely as the Board heard a telepharmacy request later in the day. Ms Taylor reported that studies from other states indicate that prescriptions dispensed through telepharmacy have a lower error rate and are more likely to be counseled when compared to retail pharmacy dispensing. Also, patient satisfaction was higher than traveling to a retail pharmacy and cost was lower. North Dakota reports no cases of diversion in their many telepharmacy sites, unlike the diversion cases found in their other pharmacies. Ms. Taylor noted that Idaho rules, such as mandating that a remote dispensing site be located within a medical care facility, that drugs are locked in secure cabinets, and that remote dispensing sites utilize an ADS system to dispense, were unique to Idaho and a hindrance to developing more telepharmacy practice sites within Idaho. Alternatively, Idaho's rules did not contain detail that is common within other state rules, such as technician training requirements, inventories, inspections, distance from a retail pharmacy, and limits upon how many sites or technicians a pharmacist may supervise.

Dean Paul Cady, RPh, PhD and Rex Force, PharmD, BCPS, FCCP, Associate Dean for Research presented information in support of their request for waiver of Board Rules 710.10.d *"…drugs must be stored in a locked cabinet…"* and 711 *"prescription drugs… must only be filled…through the use of an ADS system…*" for the proposed remote dispensing site located in Arco, proposed to be supervised by Bengal Pharmacy located in Pocatello at Idaho State University. Much Board discussion ensued pertaining to potential waiver parameters and rule changes, including Dr. Henggeler's concerns over technician diversion. Ultimately due to time and the length of the day's agenda, it was determined that either delegated authority for the Board's staff or a conference call meeting of the Board would be required in order to detail waiver parameters and potential rule changes. Chairman Chopski asked for a motion to approve or disapprove of the waiver request, before an additional Board meeting was to be considered. Mr. Sperry motioned to approve the waiver request for rule 710.10.d subject to parameters to be determined. Dr. de Blaquiere seconded, and the motion carried with three in favor and Dr. Henggeler opposed. After discussion of the waiver request for rule 711 Dr. de Blaquiere motioned to approve the waiver: no use of ADS would be required; all drugs could be unlocked; controlled substances could be dispersed amongst non-controlled substances. Mr. Sperry seconded. During further discussion Dr. de Blaquiere explained his beliefs, including that remote dispensing site security should be no less than what is required of secured delivery rooms, a perpetual inventory should be required, and that parameters of a waiver should generally result in rule changes for all telepharmacy operations. Ms. McKay asked Chairman Chopski to grant delegated authority to Mr. Johnston and her to draft, negotiate, and contract a waiver agreement with ISU that would include the many parameters discussed today and more. The Board preferred to approve any waiver agreement themselves through a conference call meeting. Dr. de Blaquiere amended his motion to approve the waiver request for rule 711 pursuant to parameters to be determined. Mr. Sperry seconded. The motion carried with Dr. Henggeler opposed. A conference call meeting of the Board was scheduled for March 18th, 2014.

Kris Ellis, lobbyist for Idaho Chapter of the American Association of Naturopathic Physicians presented draft legislation that was not expected to be heard in 2014, as the legislature was nearing Sine Die. Although this draft appears to finally solve the many issues that have hindered naturopath prescriptive authority from becoming a reality, the chiropractic association has complicated the issue by seeking prescriptive authority through this draft. While Ms. Ellis sought the Board's approval of a two tiered system of prescriptive authority that included chiropractors, the Board did not feel that it was within their statutory authority to comment upon the potential prescriptive authority of other practitioners. Ms. Ellis left satisfied that the Board was not opposed.

The administrative hearing for BOP Case 11-024 concerning Lisa Mathis, RPh, commenced. Ms. Mathis appeared telephonically with her legal counsel Virginia Bond. Colleen Zahn, DAG presented

the Board's case alleging Ms. Mathis' non-compliance with her PRN contract. Ms. Bond and Ms. Mathis testified on Ms. Mathis' behalf. After Board questions and deliberations, Dr. Henggeler motioned to revoke Ms. Mathis pharmacist license and controlled substance registration. Dr. Jonas seconded. The motion carried with three in favor and Dr. de Blaquiere abstaining.

Dennis Beach attended the meeting with his legal counsel Tony Sasser. Mr. Beach sought reinstatement of his pharmacist license and controlled substance registration. Both Mr. Beach and Mr. Sasser provided testimony and documents in support of their request. Dr. Henggeler motioned to approve Mr. Beach's reinstatement application, as he has finally complied with all Board orders and his PRN contract. Mr. Sperry seconded. Dr. Chopski noted Mr. Beach is still bound by the PRN contract he signed, as it is a five year contract. Dr. Henggeler amended her motion to include Mr. Beach's compliance with his PRN contract. No additional Board appearance is required to release Mr. Beach from his current Board order if compliant with his PRN contract after 5 years of initial signing. Mr. Sperry seconded, and the motion carried unanimously.

The administrative hearing for BOP Case 14-036 concerning Irvin Christensen, RPh, commenced. Scott Zanzig, DAG, presented the Board's case. Mr. Christensen owns and operates Eastman Drug in Soda Springs, Idaho. The complaint against Mr. Christensen alleges he failed to renew his controlled substance registration in a timely fashion and dispensed controlled substances from his pharmacy while his controlled substance registration was expired. Mr. Christensen provided testimony and an apology. After Board questions and deliberation, Dr. Henggeler motioned to fine Mr. Christensen $2000 and Eastman Drug $1000, consistent with the Board's prior direction for such cases, but without the typical pharmacist-in-charge (PIC) fine, as Mr. Christensen was both the unregistered pharmacist and the PIC. Dr. Jonas seconded. During discussion, Dr. de Blaquiere expressed his concerns that the fines were excessive. Dr. Chopski asked for the vote. Three were in favor, with Dr. de Blaquiere opposed; the motion carried.

Sam Hoagland attended the Board meeting representing Community Health Associates of Spokane and requesting a waiver from rule 601.03.b which requires "*a lavatory facility in the pharmacy restricted to pharmacy staff*." Following the presentation of the waiver request and discussion, Dr. Jonas motioned to deny the request as it is not an undue hardship. Dr. Henggeler seconded. After further discussion and a poll of the Board, the motion carried unanimously.

Dr. Chopski called for public comment, hearing none the Board broke for lunch.

Following lunch, the Dr. Chopski again called for public comment. Melissa Sutton, certified pharmacy technician from Shaver's Pharmacy & Compounding Center asked the Board about 503a and 503b. The Board responded that efforts to understand such federal law and its effect upon Idaho and the Board's pending rules are still ongoing.

Dr. Chopski called for the agenda item: Inspector Q & A. Lisa Culley asked the Board for an interpretation of rule 116. *Prescription Drug Order: Refills* and rule 400. *Technician – Utilization and Practice Limitations*. The question was whether a pharmacy technician could accept a verbal refill authorization from a practitioner's office, which by rule mandates the creation of a new prescription drug order. The two rules appear to be conflicting. The Board determined that this function is not a violation of the restriction of technicians receiving new verbal prescription drug orders.

Mr. Johnston presented a written question from Matthew Murray, PharmD, who asked if the annual controlled substance inventory must be taken within seven days of the previous years' inventory. Dr. Murray desires to take an inventory sooner, to "reset" his annual date. The Board agreed this was within the intent of the rule, but that the rule language should be clarified in 2015.

Dr. Chopski asked for Mr. Johnston to lead the agenda item Legislation and Rule review. Mr. Johnston stated that all of the Board's rules and statute changes passed the legislature, except for the compounding docket of rules, for which the Board asked the legislature to defeat via concurrent resolution. Mr. Johnston quickly covered other bills related to pharmacy that had either passed or failed to pass, and he read from a list of potential changes for 2015 that he had collated from Board meetings over the past year. The Board agreed with all, but felt that refrigerator temperature monitoring was the lowest priority.

The Board commenced the administrative hearing for BOP Case 14-026 concerning Alma Canchola, pharmacy technician. Scott Zanzig, DAG, presented the case against Ms. Canchola, which alleged diversion of oxycodone from KJ's Pharmacy in Twin Falls. Fred Collings, Chief Investigator and Reynold French, RPh employed by K.J.'s Pharmacy, testified on behalf of the Board. Ms. Canchola represented herself and following a short recess in which Ms. McKay determined the appropriateness of presenting taped conversations, two separate recordings between Ms Canchola, Mr. French and Kent Jensen, RPh and owner of KJ's Pharmacy, were heard. After the Board questions and deliberation, Dr. Jonas motioned to revoke Ms. Canchola's pharmacy technician registration, and Dr.

Henggeler seconded. During discussion Mr. Sperry expressed his feeling that revocation was extreme. Dr. Chopski called for the vote, and the motion failed with three against and Dr. Jonas for. After further discussion, Dr. Henggeler motioned to revoke Ms. Canchola's registration, and Dr. Jonas seconded. Dr. Chopski called for the vote, which resulted in Mr. Sperry opposed, Dr. de Blaquiere abstained, Dr. Henggeler for and Dr. Jonas for. Thus, Dr. Chopski had to vote, which she did in favor of the motion, which carried.

The Board commenced the administrative hearing for BOP Case 13-063 concerning Richard M Sutton, RPh. Ms. Zahn presented the administrative complaint and the Board's case indicating Mr. Sutton pled guilty to two counts of driving under the influence and due to a past conviction pled guilty to one felony count of driving under the influence in October 2013. Mr. Sutton was not represented by legal counsel. Mr. Sutton provided testimony and documents concerning his addiction treatment outside of the Board's Pharmacy Recovery Network (PRN). After Board questions and deliberations, Dr. Henggeler motioned to suspend Mr. Sutton's pharmacist license and controlled substance registration for one year, require enrollment and compliance with PRN, and to fine $2000. The motion failed for lack of a second. Dr. de Blaquiere motioned to suspend until the criminal probation is complete, fine $2000, and require enrollment and compliance with PRN. Dr. Henggeler seconded, and the motion carried unanimously.

The Board commenced the administrative hearing for BOP Case 13-064 Tonya D Rydman, RPh. Ms. Rydman was represented at the hearing by her legal counsel Joe Fillicetti. Ms. Rydman, through her attorney, pled guilty to three misdemeanor charges including driving under the influence, possession or use of a legend drug or precursor without authorized prescription or drug order and possession of a controlled substance on January 15, 2014. Ms. Zahn presented the Board's case including a stipulation of facts signed by Ms. Rydman on March 5, 2014. Mr. Fillicetti and Ms. Rydman testified in defense on behalf of Ms. Rydman. Ms. Zahn and Mr. Fillicetti stipulated to seal some records, which are not public record pursuant to Idaho Code 9-340(c). Dr. de Blaquiere had to leave the hearing due to the late hour and his flight schedule. Following Ms. Zahn's and Mr. Fillicetti's closing arguments and Board questions and deliberation, Dr. Henggeler motioned to suspend Ms. Rydman's pharmacist license and controlled substance registration for a period of one year, mandate enrollment and compliance with PRN, require a reappearance before the Board prior to reinstatement and impose a $1000 fine. Dr. Jonas seconded, and the motion carried with Mr. Sperry opposed.

As Mr. Johnston had exited the meeting to present continuing education in Idaho Falls, Dr. Chopski tabled the travel calendar and financial report until the next conference call.

Dr. Jonas motioned to adjourn the meeting, and Mr. Sperry seconded. The motion passed unanimously, and the meeting adjourned 6:41 pm.