

**MINUTES OF THE
IDAHO STATE BOARD OF PHARMACY
January 20, 2015**

Holiday Inn, Boise, Idaho

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

Chairman Holly Henggeler, PharmD, called the meeting to order at 8:00 a.m. In attendance were Board members Nicki Chopski, PharmD; Rich de Blaquiére, PharmD; Kristina Jonas, PharmD; and Ed Sperry, Public Member, as well as Mark Johnston, RPh, Executive Director; Berk Fraser, RPh, Deputy Executive Director; Andy Snook, DAG; Scott Zanzig, DAG; Colleen Zahn, DAG; Lisa Culley, CPhT, Jaime Sommer and Wendy Schiell, Compliance Officers; Fred Collings, Chief Controlled Substance Investigator; Ellen Mitchell and guests.

The Board heard from Di Ann Butterfield, ISU Pharmacy student and current Board extern, regarding Oregon State University's (OSU) online course "Patient Safety & Medication Error Prevention". Ms. Butterfield suggested this course as an alternative to the Board's current disciplinary model of levying six (6) continuing education hours and a \$500 fine for pharmacists that have committed prescription dispensing errors. The course is online, costs \$350, and provides 18 credit hours. Ms. Butterfield completed the course in approximately eight (8) hours and believes it to be a comprehensive and beneficial program. The course is structured into five modules that can be completed separately. The modules include:

1. Patient Safety & Pharmacy Practice
2. Communication Skills & Patient Safety
3. Transitions of Care
4. Managing Workflow
5. Workplace Culture & Error Response

Dr. Chopski thought that the course would be good training for new PICs as well. The Board granted unanimous consent to change the current policy as requested.

Scott Zanzig, DAG, presented the Stipulation and Consent Order signed by Kenneth T. Blackner, MD, who was not at the meeting and was not represented by legal counsel. Dr. Blackner purchased tramadol and stored it at an unregistered location. Dr. Blackner failed to create a beginning inventory when tramadol became scheduled, and he could not account for some of the missing tramadol. Dr. Blackner agreed by stipulation that he would not order, wholesale purchase, handle, administer or dispense any controlled substances, including samples of controlled substances, for office use, and that he would not store or maintain any controlled substances, including samples of controlled substances, in his office, home, automobile, or any other similar area. Also, he would abstain from the personal use or possession of controlled substances, except those prescribed, administered, or dispensed to him by another so authorized by law. Dr. Chopski motioned to accept the stipulation as written, Dr. de Blaquiére seconded, and the motion carried unanimously.

Mr. Zanzig presented the Stipulation and Consent Order signed by Michael Gardner, RPh, who was not at the meeting and was not represented by legal counsel. While Mr. Gardner was acting in the capacity of PIC for Life's Doors pharmacy, he moved the pharmacy to a new location without proper notification to or inspection by the Board. Mr. Gardner stipulated to a

\$500 fine. Dr. Chopski motioned to accept the stipulation as written. Dr. de Blaquiere seconded, and the motion carried unanimously.

Colleen Zahn, DAG, presented the Stipulation and Consent Order signed by Julie Brown, PharmD. Dr. Brown attended the meeting without legal counsel. Dr. Brown filled two prescriptions after their refill expiration dates. Though Dr. Brown accepted the stipulation and admits there was an error, she wanted to address the Board regarding the circumstances that lead to the error. Dr. Brown explained how the pharmacy electronic record keeping system works. During the investigation it was discovered the pharmacy system automatically inserted the expiration date, allowing the prescription to be filled 3 times after the expiration date issued by the prescriber. The work flow process at Costco does not allow the pharmacist to see the expiration date at their work station. When Dr. Brown was notified of the error she called the veterinarian to make restitution. She spoke with the veterinarian's representative and explained how the error occurred and that the error would not happen again. Dr. Brown is impressed with the Board's earlier discussion concerning such discipline. After some discussion, Dr. Jonas motioned to have Dr. Brown complete the 6 hours of continuing education but remove the \$500 fine. Mr. Sperry seconded. During discussion Dr. de Blaquiere stated that he would like to see then new disciplinary model, approved earlier in the meeting, implemented now and suggested giving Dr. Brown the option of going forward with her signed stipulation or completing the OSU online program. Dr. Brown indicated she would rather complete OSU's program as it will make her a better pharmacist. Dr. Jonas modified her motion to give Dr. Brown the choice of the stipulation she signed or to complete the new requirement of completing OSU's online program. Dr. de Blaquiere seconded. After further discussion Dr. Jonas withdrew her motion. Dr. Jonas motioned to change the stipulation to require the OSU program presented this morning and remove the \$500 fine. Dr. de Blaquiere seconded. Mr. Sperry, Drs. Jonas and de Blaquiere voted for the motion, and Dr. Chopski voted against. The motion carried. Mr. Sperry asked Dr. Brown to write a review of the program for the Board, and she agreed. Mr. Sperry and Dr. Chopski both expressed their appreciation for Dr. Brown for taking the time to attend the meeting and share her side of the story.

Ms. Zahn presented the Stipulation and Consent Order signed by Bruce Stanger, PharmD. Dr. Stanger did not attend the meeting and was not represented by legal counsel. Dr. Stanger is Dr. Brown's co-worker and this stipulation is related to the same case. Dr. de Blaquiere motioned to modify the stipulation, remove the \$500 and 6 hours of continuing education and add the OSU 18 hour course on medication errors. Mr. Sperry seconded and the motion carried unanimously. Dr. Chopski asked that the stipulations state that the 18 hour course is in addition to the annual continuing education requirement.

Ms. Zahn presented the Stipulation and Consent Order signed by Patricia Peterson, PharmD. Dr. Peterson did not attend the meeting and was not represented by legal counsel. Dr. Peterson completed an online renewal for her Idaho pharmacist license on May 20, 2014, certifying she had completed the required continuing education requirements. Dr. Peterson was randomly selected for continuing education audit and was requested to submit evidence of her continuing education credits for two licensing periods. Dr. Peterson was unable to produce the requested evidence. Dr. Peterson stipulated to pay an administrative fine in the amount of \$1500 and complete 60 continuing education credits within 90 days of the Order being approved. Dr. Jonas motioned to accept the stipulation as written. Dr. Chopski seconded. Dr. Henggeler called for the vote, and the motion to accept the stipulation as written carried unanimously.

Kris Ellis, lobbyist for the Idaho Naturopaths Association and the Idaho Psychologists Association, presented the draft Naturopathic Medicine Licensing Act legislation. Ms. Ellis indicated the Naturopath legislation is finally the consensus bill that all have waited a decade for. She reported that the formulary counsel has been removed from the bill due to cost. Instead, the bill includes a pharmacist as a Board member. Ms. Ellis is appearing, as the bill requires the Board of Pharmacy to submit names for the pharmacist Board member. Ms. Ellis indicated her members are looking for a small formulary. The legislation has the support of the IMA, and Ms. Ellis is asking the Board's support as well. Ms. Ellis went on to say that chiropractors and acupuncturists are excluded from this legislation. Dr. Chopski motioned to remain neutral in relation to this bill, and Mr. Sperry seconded. During discussion Dr. de Blaquiére asked what the reservations were of those not supporting this bill. Mr. Sperry needs more information about the training and education of naturopaths and has concerns based on past experiences. Dr. Jonas believes the legislation will tighten up the profession, as of now anyone can call themselves a naturopath. Ms. Ellis clarified the Naturopath Board would create the formulary, it would then go to the legislature as a rule. After much discussion Dr. Henggeler called for the vote: Mr. Sperry, Drs. de Blaquiére and Jonas opposed, Dr. Chopski in favor. Motion to remain neutral failed. Mr. Sperry motioned to support the Board's required participation within legislation, and Dr. Jonas seconded. The motion carried with Dr. Chopski opposed.

Ms. Ellis presented the Psychological Association's proposed legislation which is based on a program piloted in the military whereby prescribing psychologists were assigned to aircraft carriers. The program was very successful, and Congress mandated that a prescribing psychologist be on all aircraft carriers in the U.S. Military. The program is also used by U.S. Health Services and on the Indian reservations, though Idaho doesn't currently have any in place. The draft legislation doesn't list the education requirement, but drafted rules require a PhD in clinical psychology and a master's degree in psychopharmacology. New Mexico's program is 28 months, and they anticipate ISU's program will be similar. The prescribing psychologist would not be able to prescribe on their own, it would be in conjunction with the patient's medical provider. The draft legislation requires an advisory panel that includes a pharmacist, a medical doctor and a pediatrician, who would be charged with working out the collaboration requirements. Ms. Ellis shared that Idaho is rated last in the United States in mental health care. She recently heard from a patient's family member that waited 8 months to see a psychiatrist in Coeur d'Alene. Dr. de Blaquiére wants to see a collaboration between a prescribing psychologist and a psychiatrist in order to support the legislation, and Dr. Jonas was in agreement. Ms. Ellis expressed their concern of not having enough psychiatrists in Idaho to accomplish the task. The Board chose to take no position on this legislation.

The Board took up the matter of Richard M. Sutton, RPh, and his Motion for Reconsideration of Suspension. Mr. Sutton attended the hearing with legal counsel Donald J Chisholm. Dr. Henggeler swore Mr. Sutton in and asked for opening statements.

Mr. Chisholm thanked the Board for their service; having served on various boards he understands what it means to be a board member. They have filed this motion for reconsideration as the Administrative Procedures Act encourages parties that have conflicts with administrative agencies to return to those agencies to resolve conflicts as opposed to filing an appeal in district court. Mr. Chisholm reported that Mr. Sutton has worked hard to be proactive in dealing with some of the concerns expressed by the Board in their prior decision. He has completed 18 months of sobriety; 80 blood alcohol tests all were all negative for alcohol; he has completed treatment that he has imposed on himself after his felony DUI and submitted to an evaluation at a facility in Aurora, Colorado that is approved by PRN. It was not a good

experience, stated Mr. Chisholm, and Mr. Sutton will share that during his testimony. Mr. Sutton feels he has addressed all the concerns raised by the board and is competent to be readmitted to the practice of pharmacy. He is under scrutiny by the Idaho Department of Corrections, Probation and Parole, has follow-up evaluations, and is currently serving 10 years of probation. If the Board wanted evidence of compliance, Mr. Sutton is willing to submit to any testing requested by the Board. Mr. Sutton has practiced 38 years without any violation and was not practicing pharmacy at the time of his arrests. He did violate the law and the criminal justice system is addressing that violation. Mr. Sutton had back surgery in 2013 and was prescribed prescription pain killers including Norco, which he does not believe is an area of concern, as his use is monitored very closely. Mr. Sutton is able and willing to comply with any conditions that may be placed on his reinstatement. But he is unwilling to join PRN.

Ms. Zahn reiterated the Board's prior action revoking Mr. Sutton's pharmacy license was taken appropriately. At the time of that action the Board did not have all the information regarding Mr. Sutton's fitness to practice. The Board basis for revoking his license was his felony conviction for his third DUI in 10 years. Mr. Sutton stated in his request for reconsideration that the DUIs had nothing to do with pharmacy, as he wasn't practicing pharmacy at the time of his arrests. During the initial hearing, the Board provided testimony from Dr. Mark Broadhead, Medical Director for Southworth Associates, indicating healthcare providers require more in-depth evaluation of substance abuse and alcohol addiction, due to the high standard required in the performance of their duties. Dr. Broadhead stated that pharmacists hold safety sensitive positions, and we must delve deeper into their addiction issues. Mr. Sutton agreed to go to CeDAR for an evaluation, a copy of the 68 page report was provided to the Board. The report opines Mr. Sutton is not fit to return to the practice of pharmacy at this time. Although he has taken steps toward treatment, they are incomplete, and he remains at a very high risk of relapse. Ms. Zahn intends to call addiction psychiatrist Peter Manske, MD, as an expert witness, and he will appear telephonically.

Following opening statements Ms. Zahn and Mr. Chisholm agreed the following exhibits could be presented to the Board. Ms. Zahn asked the Board to seal any records that contain personal health information. They granted Ms. Zahn's request.

Prosecution Exhibits:

- Exhibit A – Dr. Manske Report, letter to Zahn dated 12/18/2014 (9 pages)
- Exhibit B – Dr. Manske Curriculum Vitae Summary (3 pages)
- Exhibit C – Sutton Offender History, date range "From: 10/25/13 To: 05/01/2014" (10 pages)
- Exhibit D – Koscielski (Shopko Regional Pharmacy Supervisor) "Memo to File", dated 5/26/2011 (1 page)
- Exhibit E – Shopko Corrective Action Report, dated 12/5/2011 (2 pages)
- Exhibit F – Hunnicutt email string regarding "resignation", dated 04/28/2014 (1 page)

Respondent Exhibits:

- Exhibit 1 – St. Luke's Pain Management Clinic Medication Management Agreement (3 pages)
- Exhibit 2 – Chisholm letter to Zahn, with attachments, dated 09/25/2014 (7 pages)
- Exhibit 3 – University of Colorado, CeDAR, Report, printed 07/28/2014 (63 pages)
- Exhibit 4 – St. Alphonsus Rehabilitation Services – Neuropsychological Evaluation, date of service 12/01/2014 (6 pages)
- Exhibit 5 – St. Luke's Clinic Pain Management, visit date of 01/13/2015 (2 pages)
- Exhibit 6 – St. Luke's Clinic Pain Management, document date of 01/13/2015 (3 pages)

Mr. Chisholm presented his case for reinstatement of Mr. Sutton's pharmacist license, indicating Mr. Sutton's two most recent DUIs should not be a factor as to his ability to practice pharmacy, as he was not practicing pharmacy at the time of the arrests. Mr. Chisholm stated that Mr. Sutton has experienced upheaval in his personal life over the last several years, and following his June 1, 2013 arrest, conditions of his pretrial release were that he not consume alcohol and submit to random drug testing in Ada County. Mr. Chisolm stated that Mr. Sutton hasn't consumed alcohol since this arrest. After the June arrest, Mr. Sutton entered the Walker Center Intensive Outpatient Substance Abuse Treatment Program until his felony conviction in December 2013. He subsequently completed the program in April 2014. The December 2013 conviction is a withheld judgment and requires Mr. Sutton to serve 10 years of probation, loss of driving privileges for 5 years, 90 days jail and weekly random substance abuse testing. Testing has since been reduced to semi-monthly, as Mr. Sutton has appeared for each test and not failed any. Mr. Sutton completed the Ada County New Directive Substance Abuse Program while incarcerated. He was also required to attend 90 AA meetings in 90 days which he completed. The probation department reduced his AA attendance to 3 times per week. Dr. Mark Broadhead reviewed Mr. Sutton's discharge report from the Walker Center on behalf of the Board of Pharmacy, and he recommended a PRN evaluation.

Mr. Sutton submitted to a 4 day evaluation at the Center for Dependency, Addiction and Rehabilitation (CeDAR) at the University of Colorado in June of 2014. CeDAR's recommendation is a 90 day inpatient treatment program. Mr. Sutton chose not to enter CeDAR due to the expense, and he believes he has accomplished everything the CeDAR program would accomplish. The report from CeDAR's Laura Martin was delayed, and when received by Mr. Sutton he noted what he believed to be a number of errors and inconsistencies in the report. Mr. Sutton has sent a letter to Dr. Martin regarding the matter but has not received a response. Mr. Sutton has also completed a CT brain scan and neurological examination conducted by Dr. James Redshaw whose report indicates there are no organic problems. Mr. Sutton had back surgery in April 2014 and has taken Norco as prescribed. Richard Du Bose, MD, is his pain management practitioner and has provided a report indicating Mr. Sutton's use of pain medications is consistent with his needs and is not creating a dependency/addiction issue.

Ms. Zahn presented the Board's case and examined Dr. Manske. Dr. Manske reviewed the following as they relate to Mr. Sutton's case:

1. <http://www.thewalkercenter.org/outpatient.html>
2. Evaluation from a Multidisciplinary Independent Medical Evaluation at CeDAR
3. PubMed – Moral Reconciliation Therapy (MRT) – PubMed is the archival source of peer reviewed journals; this is an important factor for determining the medical literature to apply to the studies aspect of evidence based.
4. Federation of State Physician Health Programs – FSPHP.org. This organization membership includes state programs which address a spectrum of health care professionals including pharmacists
5. Letter of concern about conclusions at CeDAR
6. Pharmacy Board notes of March 2014 hearing
7. Sutton FFCL&FO from the Board
8. Memo to Board dated 10-16-14

Dr. Manske testified there are three major questions that need to be answered in determining fitness to practice in sensitive medical positions.

1. Establishment of a reliable diagnosis. The gold standard for this involves a multidisciplinary Independent Medical Evaluation (IME) covering several days of observations at a center familiar with evaluation of health care professionals.
2. Evaluation of existing level of recovery which can be determined from the IME and from the history of the pharmacist's recovery, his previous treatment as well as his actions and his written statements. The primary source is the IME and information supplied by Mr. Sutton.
3. Recommendations for treatment and After Care Monitoring best for a medical safety sensitive position are based on the best and most reliable evaluative information.

Mr. Sutton's diagnosis is based on all the documentation with heavy weight given to the IME. The IME and supportive information, not objected to by Mr. Sutton, includes the following items for the diagnosis using DSM 5 of Alcohol Use Disorder, Severe: tolerance, withdrawal, use longer than intended, use despite significant consequence, harmful behavior while using, interference with functioning on the job (he only objects to job category), relationship problems related to use, and severe craving. You need a minimum of 6 items for the diagnosis of "severe". The diagnostic standard prior to 2013 is DSM IV TR which diagnoses Alcohol Abuse and Alcohol Dependence. Mr. Sutton qualifies for a diagnosis of Alcohol Dependence using these criteria.

The level of recovery needed is at a higher level for health care professionals who work in safety sensitive positions. The IME determined that Mr. Sutton was not in adequate recovery and needed residential treatment. This was a very thorough, several day evaluation by multidisciplinary clinicians whose assigned job is to determine level of recovery and need for treatment. These clinicians and CeDAR not only serve Colorado but are a national source for evaluation and treatment. Many programs rely on their assessments because they are noted to be reliable.

Dr. Manske said that the information from CeDAR speaks for itself, but there are factors that might help the non-addiction expert comprehend the decision. The denial and rationalization that Mr. Sutton has concerning his disease and the needed aspects for recovery are remaining patterns of coping derived from drug and alcohol use and seen in most patients suffering from alcohol addiction. One example of this is the rationalization by Mr. Sutton that his alcohol use never affected his work. At times he was noted to drink one bottle of wine a night and at other times two bottles nightly while he was working before he retired. This amount of alcohol had to effect his work since either he still had alcohol in his system when working or he was suffering the effects of hangover and early withdrawal. Alcohol is metabolized at about one wine glass per hour. Withdrawal from alcohol will start at 8 hours after the last drink. The initial signs of withdrawal are relatively mild but can interfere with worksite performance. Many health care professionals in good recovery will note that they are not aware of major patient harm caused by their drinking but they are aware that their drinking effected their ability to provide safe and effective performance at their worksite.

Another example is that Mr. Sutton indicated that he can remain sober, reinforcing this by stating that he has made the decision to stop drinking. The decision is just the first step in recovery. After that decision, the work on building strong, successful recovery begins. The alcoholic maintains his drinking using certain styles of thinking that support his active drinking. Two styles which illustrate this are rationalization and denial. All the styles tend to recur in abstinent alcoholics if they don't have a firm foundation from their initial treatment. Cognitive Behavioral Therapy alone does not lead to enough change in the old mode of thinking, which is influenced by the brain changes inherent in the disease of alcoholism. Making the decision not to drink does not prevent these styles of thinking from recurring when craving returns. The

craving is then supported by the old styles of thinking which remain even without alcohol in recovering alcoholics. This can easily lead to relapse of drinking.

Dr. Manske continued by stating what changes this form of thinking, when craving recurs, is a continued practice of a new way of thinking established during the intensity of residential treatment. After the residential treatment the patient realizes that he may have cravings in the future and needs more than an initial decision not to drink to maintain abstinence. The new way of thinking is maintained by mutual help meeting attendance, recovery step work with a sponsor or a mentor, and being able to call a member of the patient's home group when craving occurs. This requires involvement in mutual help groups and having a substantial list of group members to contact. When craving occurs the thinking style such as denial and rationalization are reawaken and calling a member of the patient's home group can help to combat this. The substantial number of contacts is good because when craving occurs some of the members may not be available.

The experienced evaluators during the several day, multidisciplinary Independent Medical Evaluation (IME) ascertained that Mr. Sutton had not developed the degree of support and did not have the understanding which would predict a high probability of continued abstinence. They ascertained that Mr. Sutton was not able to internalize the attitudes needed for recovery and Mr. Sutton has not built a strong support group and relies mostly on his girlfriend for support. Again IMEs are the Gold Standard for licensing boards to use in making a decision in protecting the public with regards to safety sensitive medical positions. Mr. Sutton was noted to see his use of alcohol when he retired as the result of his missing his friends at work and most important as something used to pass the time. He does not see his use of alcohol as an addiction to alcohol but as a choice. It is clear that follow up monitoring is essential for health care professionals. The monitoring should be of continued treatment, behavior, mutual help group attendance, body fluid testing for toxicology, and worksite monitoring. The monitoring that occurs with Mr. Sutton's probation is urine monitoring twice a month according to his attorney. It is not known if this has an extensive panel of drugs and alcohol which is standard for health care professionals. If it only tests for limited drugs and alcohol it cannot pick up alcohol used several days prior to testing. To do this it would need to measure metabolites of alcohol such as Ethyl Glucuronide or Ethyl Sulfate. We do not know if the urine monitoring was observed and randomly determined by a random table. We do not know if the monitored urine was sent to a laboratory by Chain of Custody.

The latter are the standard conditions of monitoring for health care professionals because of their ability to do patient harm if impaired at the worksite by use of or withdrawal from an addicting substance. Because of the lack of use of standard monitoring for healthcare professionals it cannot even be determined that Mr. Sutton is abstinent from alcohol and drugs of abuse at this time. Another aspect of recovery covered extensively in residential patient settings is cross addiction. Exposure to any drug with an addiction potential has the ability to be a risk factor in relapse. Mr. Sutton's use of opiates post surgically can be a relapse factor for his Alcohol Dependence. Again close contact with his mutual help group, his sponsor and his addictionologist would be valuable cautions in preventing relapse. An active member of a mutual help group would request his home group members to have meetings at his house. It is understandable that Mr. Sutton did not go to meetings for 6 weeks after surgery but phone calls to others, meetings at his house and talks with his addictionologist are standard protections to use in early recovery. There is no evidence that he did this. Furthermore, residential treatment will be helpful in recommending or starting treatment of chronic pain without medication or with medications used for chronic pain which do not have an addiction potential and are not relapse triggers through cross addition. Another concern is that Mr. Sutton has held to his explanation

for his third DUI of accidentally using Ambien. During his IME he indicated that he takes 20 mg of simvastatin at bed time. But Mr. Sutton still insists that he made a medication error in taking Ambien instead of his simvastatin. There is no information concerning who prescribed the Ambien. Since Mr. Sutton did not take Ambien daily it should have remained in the prescribed bottle. He had to take simvastatin daily and this would either be kept in a weekly or time related dispenser or in the prescribed bottle. So Mr. Sutton should not have had his occasional use of Ambien in the same dispenser or prescription bottle as his daily Simvastatin. The multidisciplinary IME report indicates cognitive functioning deficits on tests and more thorough testing is recommended. His neurologist found no abnormality in a thorough examination. Brain MRIs from March 2010 and August 2011 were without abnormality. Interestingly, there is no explanation for why the two brain scans were ordered in the past. The neurologist also agrees that more neuropsychological testing should be performed. He mentions that "narcotic analgesia and muscle relaxants are of concern". He mentions that Mr. Sutton has "a failed back syndrome" with pain but that there is "no evidence of denervation, muscle atrophy or fasciculations" which would support his particular neurological complaints. He suggests that EMG studies and nerve conduction studies would be useful.

From the brochures and the internet site, the Walker Center appears to be oriented to preventing recidivism in addiction including Alcohol Dependence. Two of the modes of therapy emphasized are Moral Reconciliation Therapy (MRT) and Cognitive Behavioral therapy (CBT) which emphasizes choices leading to decrease in future illegal behavior. MRT is stated to be evidence based. There are few articles about this method in PubMed Archival Sources, but those that exist show only that it is evidenced based in terms of recidivism. Recidivism for DUI is decreased from 80%, and repeat DUI arrest to 60%. Recidivism arrest does not measure abstinence from alcohol but it represents frequent use and frequent driving over the limit before arrest occurs. It also emphasizes making the right choice which is not useful for health care professionals who need to remain abstinent. Abstinence is achieved over time by understanding processes such as rationalization involved in relapse as discussed above. CBT is the most frequently used form of therapy by many health care professionals. It takes many forms but the form the Walker Center uses, as stated on the website and in the brochures, is CBT "to teach the client to change the patterns of thinking, feeling and behaving which lead to rule breaking or criminal behaviors" emphasizing "the principles of choice, self-risk management and personal accountability." The Walker Center also indicates that the IOP "emphasizes abstinence, relapse prevention, disease model education, familiarization with 12-Step programs, family codependency counseling, problem solving skills, stress management and family communication skills". Either this was not taught to Mr. Sutton or he did not learn these principles as evident by the multidisciplinary IME at the CeDAR Center.

Dr. Manske stated that Mr. Sutton is a pharmacist who suffers from Alcohol Dependence or an Alcohol Use Disorder, Severe. In laymen terms he suffers from a severe form of alcoholism. The treatment at the Walker Center is not evidence based for preventing use of alcohol for medical professionals. The Walker Center indicated that it also taught about 12 step programs, relapse triggers and the importance of abstinence. It is opined, within the records from the multidisciplinary Independent Medical Evaluation at CeDAR, that Mr. Sutton did not learn the degree of these subjects to predict a high degree of probability of continued abstinence. This lack of the level of recovery important for public safety is an indication for a need of higher level of treatment which would be residential treatment as recommended by the IME.

Dr Manske stated that abstinence is essential for a health care professional, such as a pharmacist who works in a safety sensitive position. Higher levels of treatment, recovery, and monitoring are also needed for health care professionals in order to maintain abstinence. In line

with this Mr. Sutton was evaluated by a several day, multidisciplinary Independent Medical Evaluation at a center experienced in this type of evaluation for health care professionals. This is the gold standard of evaluation of health care professionals including pharmacists. The evaluation indicated that his previous treatment was inadequate. Mr. Sutton's cognitive function deficit may be from his chronic use of alcohol, his age, partially treated major depression, or a result of his medications. It may well be reversible with additional evaluation and appropriate treatment. The brain can function with cognitive defects without neurological findings. The neurologist did not indicate the reason for previous MRI brain scans and this would be important information for the recommended treatment facility to ascertain. This is far beyond the capability of a treatment center such as the Walker Center.

Mr. Sutton's pain doctor speaks of slowly lowering his opiate medication and then only occasional use. He opines that the opiate has a low addiction potential for Mr. Sutton. He does not talk about the potential of the medication as a trigger for relapse to alcoholism. The Idaho PRN is part of an Idaho program that assists many health care professionals in their recovery activities. It has been in existence for many years, has excellent medical supervision by physicians experienced in physician health, and is a member of the Federation of State Physician Health Programs (FSPHP) which has set standards as they apply to each state. The PRN's role is to facilitate evaluation, treatment, and recovery through monitoring. They also provide advocacy for the health care professionals for work related credentialing entities and licensing boards. The PRN and other programs throughout the country provide an expertise for many state Boards. Included in various state programs are boards addressing pharmacy, allopathic and osteopathic medicine, veterinarian medicine, and dental professionals. There are state health professionals programs in 48 states. The treatment and monitoring by programs similar to PRN lead to a high rate of recovery with abstinence treatment. This is both clinically valuable for Mr. Sutton's wellbeing and is the best way of protecting the public by preventing impairment at the worksite. The state boards in these areas can feel comfortable relying upon the expertise of programs in terms of doing what is best for the individual health care professional and for the safety of the public. This is supported by reports and by archival literature. The evaluation and treatment centers outside a clinician's home area can provide unbiased data and treatment. They are also valuable for certain individuals who desire confidentiality they feel is not available by local assessment and treatment.

Dr. Manske continued by stating addiction and alcoholism are complicated diseases and health care professionals represent a subclass of treatment challenges. They do best in treatment programs designed for them. Treatment of at least 30 days residential in a center specializing in treating health care professionals would achieve a solid basis for Mr. Sutton's recovery, often accompanied by better personal life satisfaction and better protection of the public.

Dr. Manske stated that the neurologist who examined Mr. Sutton did mention depression as a factor in Mr. Sutton's treatment. During residential treatment all of Mr. Sutton's medications can be examined especially his antidepressant medication. Major Depression may mimic cognitive functioning deficits. The medications can be changed during residential treatment with daily observations of effects. Additionally, the residential treatment can address non medication management of pain. The main objection Mr. Sutton mentions against his seeking residential treatment at a residential center is the cost. It should be noted that some treatment programs for healthcare professionals provide partial scholarship with proof of need. This requires cooperation and work with PRN which like other state programs is set up to be supportive to the health care professional in this process.

Dr. Manske concluded by stating that his medical opinion, within a reasonable degree of medical certainty, is that Mr. Sutton suffers from a severe degree of Alcoholism, which is not at this time adequately treated to protect the public wherever he chooses to practice as a pharmacist. He faces three major clinical problems: cognitive deficits, chronic pain, maintaining abstinence, and major depression which may be secondary to chronic pain and being able to afford residential treatment for his severe alcoholism. All of this can be addressed in residential treatment in coordination with the Idaho PRN. Dr. Manske's recommendations, which would increase the level of public safety, are based on the multidisciplinary evaluation at the CeDAR Center.

Recommendations:

1. Mr. Sutton would benefit by enrollment in Idaho Pharmacist Recovery Network
2. From the IME it is recommended that Mr. Sutton should obtain residential treatment for at least 30 days at a national center which can address all of his clinical problems listed above in a coordinated and intense manner.
3. If Mr. Sutton wishes to disagree with the recommendations of the IME he should be allowed to seek a multiday, multidisciplinary IME at one of the many centers for health care professionals recommended by the PRN. There are many such centers.
4. It would be valuable to know why Mr. Sutton had two brain scans in 2010 and 2011.
5. The Pharmacy Board and the public of Idaho can best be protected by the completion of treatment recommended by a multiday, multidisciplinary Independent Medical Evaluation by a center familiar with evaluation and treatment of health care professionals.
6. Mr. Sutton should not be compelled to seek additional treatment or to join the Idaho PRN. This should only be done if Mr. Sutton desires to continue working in a medical safety sensitive position and if the Pharmacy Board decides that it is in the best interest

Mr. Chisholm and Ms. Zahn were offered the opportunity for closing statements, after which the Board began their deliberations.

Dr. de Blaquiére addressed Mr. Sutton's concerns about the Board's current PRN program indicating that if the Board was to try to put something together for testing and follow-up it would look much like the current program and probably be in the same cost range. He reiterated the Board has chosen the route of Southworth as it seems to be the most logical and helpful way. He is concerned about Mr. Sutton's minimization and denial. His current program is designed by the criminal courts to prevent additional offenses. The Board's program is designed to get people the best treatment they can and assure the Board is protecting the public. Dr. de Blaquiére motioned to deny the application for reinstatement, eliminate the 10 year revocation, and replace with the requirements that if he wants to apply for reinstatement with the following:

1. Complete at least a 30 day inpatient treatment program
2. Enroll in Southworth program
3. Be compliant with all Southworth and inpatient recommendations
4. Provide annual cognitive evaluation

Mr. Sperry seconded. During discussion, Dr. Chopski address Mr. Sutton's concern over Southworth as well. She explained there is a process in place in order for a state agency to enter into a contract, as the Board has done with Southworth Associates, and it is not a conflict for the Board to use their services. She pointed out that Dr. Manske testified that Mr. Sutton should not be compelled to seek additional treatment unless he wants to remain in a safety sensitive medical position. She also suggested Mr. Sutton obtain another IME if he believes he was misrepresented in the one he has already completed. She addressed the felony probation,

as she'd rather see the felony probation gone, but may be willing to exchange it for PRN. Dr. Chospki supports the annual cognitive evaluation. Mr. Johnston spoke to Southworth's flexibility in program locations and prices. Southworth Associates has been known to offer scholarships to those that truly don't have the funds. They have also evaluated new programs upon request, and if they meet the criteria those programs have been added to the list of approved providers. Following extensive discussion Dr. de Blaquiere withdrew his motion. Mr. Sperry motioned to reject the application. Dr. de Blaquiere seconded, and the motion carried unanimously.

Mr. Zanzig presented the Stipulation and Consent Order signed by Steven Hardy, CFO of 4 Care Pharmacy (BOP Case 15-009). 4 Care Pharmacy continued to ship prescriptions to Idaho patients though their mail service pharmacy license expired June 30, 2013. The violation came to Board staff attention when a new PIC applied for registration. Mr. Hardy agreed to a \$2000 administrative fine for the violation. Dr. Chospki motioned to accept the stipulation as written. Dr. Jonas seconded, and the motion carried unanimously.

Stacey Carson, Telehealth Council Chair presented a new draft of the proposed Idaho Telehealth Access Act legislation. Ms. Carson is asking the board to review the draft language and provide feedback. She is meeting with the attorneys later this week to get the draft into legislative format and review for any unintended consequences. Dr. Jonas asked Mr. Johnston to review the draft for any possible 'back door' to internet prescribing. Mr. Johnston will email Ms. Carson the Board's thoughts after review. The Board did not take a position on the presented draft.

Becky Sheehan from Roadrunner Pharmacy addressed the Board requesting a legislative change regarding veterinary drugs that are compounded and dispensed to veterinarians. The Federal Drug Quality and Security and the Wholesale Drug Distribution Act don't distinguish between human and veterinary drugs. Roadrunner Pharmacy is a compounding pharmacy, and Ms. Sheehan is requesting an exception for veterinary pharmacies to distribute compounded veterinary drugs into Idaho for clinic use. Mr. Johnston explained that the Idaho Wholesale Drug Distribution Act was opposed by the Board in 2007, but the Board is tasked with administering it anyway. Mr. Johnston explained that the request could only be honored via a change to this Idaho Code, not just a waiver to Board rules. Dr. Chospki expressed hesitation in moving forward quickly on any topic that involved veterinarians, due the Board's past history on vet issues. Mr. Johnston noted that it was not too late for Roadrunner to run their own statute change at the 2015 Idaho Legislature.

Mr. Sperry left the meeting at 4:15 p.m., Dr. de Blaquiere left the meeting at 4:20 p.m.

During open public comment Rex Force, PharmD, attended the meeting to address any questions the Board may have about ISU Bengal Pharmacy and their remote dispensing sites. Dr. Force emailed a report earlier in the week indicating the pharmacy has filled 7,000 prescriptions out of Arco and has documented 8 errors, which is less than pharmacist error rates in many published studies. They are averaging 120-130 prescriptions a day. Council and Challis aren't set up yet.

Mr. Johnston presented the Board's travel calendar and noted Drs. Henggeler and Jonas will be going to New Orleans for NABP's annual meeting in May. Teresa Anderson, Program Information Coordinator of PMP, has been to several meetings over the last several months and provided a synopsis of those meetings in the Board packet.

During Legislation & Rule Review Mr. Johnston noted there were very few changes to the Board's pending rules and bills since the last Board meeting. Statute 54-1733 was divided into two parts, adding 54-1733a on the advice of LSO. New Rule 615 was drafted to incorporate all of the various forms of drug distribution that the Board directed, also incorporating current distribution statutes. Rule 270 was correspondingly struck. Mr. Johnston is still concerned about asking for fining authority via the CS Act, but the Board directed Mr. Johnston to carry on with the bill as drafted. Mr. Johnston briefly covered a list of potential 2016 legislative changes that he had compiled from previous Board meetings.

Hearing no further business Dr. Chopski motioned to adjourn; Dr. Jonas seconded and the motion carried unanimously. The meeting adjourned at 5:10 p.m.