



Idaho State Board of Pharmacy

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MINUTES OF THE IDAHO STATE BOARD OF PHARMACY August 12-13, 2015

Idaho State Capital Building
Boise, Idaho

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

Chairman Rich de Blaquiere, PharmD, called the meeting to order at 10:07 a.m. In attendance were Board members Nicki Chopski, PharmD; Kristina Jonas, PharmD; Holly Henggeler, PharmD, Berk Fraser, RPh, Interim Executive Director; Ellen Mitchell and guests. Ed Sperry, Public Member joined the meeting following the lunch break.

Dr. Jonas motioned to approve the minutes of the July 27, 2015 meeting. Dr. Chopski seconded. During discussion Dr. Henggeler and Dr. Jonas noted two minor changes. Dr. Henggeler motioned to approve the minutes with minor corrections, Dr. Jonas seconded, motion carried unanimously.

Stephen Eide, RPh, attended the meeting without legal counsel to request the conditions of monthly urinalysis placed on his Controlled Substance registration by Board Order on June 10, 1996 be removed. Mr. Eide was candid in answering questions from the Board. Dr. Henggeler motioned to remove the conditions and return Mr. Eide's registration to an unrestricted status. Dr. Jonas seconded, motion carried unanimously.

Richard M Sutton, RPh, attended the meeting without legal counsel to request reinstatement of his pharmacist license. As Mr. Sutton had not completed the items listed in the Stipulation and Consent Order executed on April 29, 2015 the Board tabled Mr. Sutton's request until their October meeting.

Dr. Jonas motioned to amend the agenda by moving items N, O, and Q from tomorrow's agenda to today. Dr. Henggeler seconded, motion carried unanimously.

The Board took up the matter of Saad Hijazi MD. Dr. Hijazi signed a Stipulation and Consent Order agreeing to comply with his contract with Southworth Associates signed on August 13, 2014 for a period of five (5) years as well as other conditions outlined in the Order. He has also agreed to comply with the Board of Medicine's restriction on his authority to prescribe, administer, dispense, order, write orders for, or possess any controlled substances until October 30, 2015 and conditions outlined in their Board Order. Dr. Henggeler motioned to accept the Order as written, Dr. Jonas seconded, motion carried unanimously.

The Board took up the matter of Derek A Molyneux, PharmD. Dr. Molyneux was not present at the meeting; he is requesting release from the terms of the Stipulation and Consent Order executed on August 12, 2010. Dr. Molyneux has complied with all terms the Order and has the support of Southworth Associates. Dr. Henggeler motioned to accept Southworth Associate's recommendation and terminate the Order. Dr. Chopski seconded, motion carried unanimously.

Mr. Fraser presented the Board travel calendar which included the NABP meeting to Lake Tahoe in September. Dr. Alex Adams will attend the new executive orientation presented by NABP and plans to attend the ASPL meeting in November. Further travel and meetings will be discussed after Dr. Adams' official arrival at the Board office as the new executive director.

Mr. Sperry joined the meeting following the lunch break.

Victor Allen, RPh addressed the Board requesting a waiver to Board Rule 605.03. Pharmacy Security – Doors. Mr. Allen has purchased and is remodeling a building that was formerly used as a bank and wishes to retain the glass entry doors. His proposal includes the use of 3M security film on both sides of the glass that does not allow the glass to shatter and will retain the window closure. He will also have an alarm and video surveillance system to monitor the store at all hours. After extensive discussion Dr. Chopski motioned to grant Mr. Allen's waiver, Mr. Sperry seconded. Dr. Chopski and Mr. Sperry were in favor of the motion, Drs. Henggeler and Jonas were against. Dr. de Blaquiere voted against the motion and the motion failed.

After further discussion Dr. Chopski amended her motion to grant Mr. Allen's waiver to include placing 3M security film on both sides of the glass doors and providing video surveillance. She strongly suggested covering all windows in the same security film though it was not part of the motion. Mr. Sperry seconded. Dr. Chopski and Mr. Sperry were in favor of the motion, Drs. Henggeler and Jonas were against. Dr. de Blaquiere was against, motion failed.

After further discussion, Dr. Jonas motioned to grant the waiver if 3M security film is placed on the outside door, provide security surveillance inside and outside the building, and place 3M security film on windows that grant access to the building. Mr. Sperry seconded. Dr. Jonas and Mr. Sperry were in favor, Drs. Henggeler and Chopski opposed. Dr. de Blaquiere was in favor, motion carried and Mr. Allen's waiver was approved.

Dr. Jonas motioned to grant Mr. Allen 30 days to have the 3M film installed on all windows granting access to the building. Dr. Chopski seconded, motion carried with Dr. Henggeler opposed.

John Bronsell, PharmD attended the meeting without legal counsel. Dr. Bronsell is requesting reinstatement of his pharmacist license and controlled substance registration. Dr. Bronsell voluntarily surrendered his license and registration on October 2, 2014 after diverting controlled substances from his employer; his license and registration were subsequently revoked. After hearing from Dr. Bronsell, Dr. Chopski motioned to deny the reinstatement application, Mr. Sperry seconded, motion carried unanimously.

Dawn Berheim, PharmD and John Sullivan, PharmD presented St. Luke Hospital's protocol regarding common canister usage in their facilities.

Hearing no further business, Dr. Henggeler motioned to adjourn the meeting, Dr. Jonas seconded, motion carried unanimously. Meeting adjourned at 4:39 p.m.

August 13, 2015

Chairman Rich de Blaquiere, PharmD, called the meeting to order at 8:02 a.m. In attendance were Board members Nicki Chopski, PharmD; Kristina Jonas, PharmD; Holly Henggeler, PharmD, Ed Sperry, Public Member, Berk Fraser, RPh, Interim Executive Director; Lisa Culley, CPhT, Wendy Shiell and Jaime Sommer, Compliance Officers; Ellen Mitchell and guests.

Dr. de Blaquiere called for public comment.

Mark Johnston, RPh, director of regulatory affairs for CVS Health presented public comment on Rule 210. Mr. Johnston was hopeful the rule would allow storage in a secure cabinet, dispersion among stock, or a combination of the two.

Alex Adams, PharmD provided public comment on changes to Rule 310.02 to allow for a statewide protocol. Dr. Adams proposed new language for Rule 116 that changed emergency prescription refills to include a provision for refills during a declared emergency for up to a 30 day supply. In addition, Dr. Adams proposed changes to Rule 060.02 to allow for transferability of licenses and registrations as well as temporary and mobile pharmacy facilities in the event of a declared emergency.

Dr. Adams also presented information to the Board regarding term limits for other regulatory boards within the state as well as other pharmacy boards that border Idaho.

Mr. Fraser began negotiated rule making with:

- Updated language to Rule 021, combining of the Retail A and B Non-Pharmacy drug outlet registrations to a single retail non-pharmacy drug outlet registration and renewal for \$35.00. No further changes were considered.
- Combining all commercial lists to one fee of \$50.00 was discussed. Removing the Controlled Substance Act registrant list for \$150.00 was discussed with decision not to strike as the Board staff still has requests for this list.

After discussion all suggested changes were approved to move forward by unanimous consent.

- New language to Rule 040, adding the option for Board staff to cancel a certified technician registration if national certification is not maintained as required was discussed. Mr. Fraser looked into whether basic language could be written to cover all registrants if they fail to maintain registration/licensure requirements. However it was determined that by this language all areas would now be covered. Unanimous consent to move forward.
- Rule 210 providing for the storage of controlled substances to be in a substantially constructed cabinet if not dispersed into stock of non-controlled substances was clarified and new language added to ensure a combination of locked storage as well as dispersed would be allowed. Unanimous consent to move forward.
- No further discussion occurred to increase of foreign graduates' experiential hours from 1500 to 1740 hours as well as to add "at least" before the two thousand hours technician experience needed to be a technician in a remote dispensing site.

After discussion the Board granted unanimous consent to move forward.

The Board discussed "own use doctrine" for Institutional facilities language. Dr. John Sullivan and Dr. Dawn Berheim presented on August 12, 2015 during public comment segment requesting the addition of volunteers to the list of permissible dispensing. After much discussion and legal input from Mr. Snook the Board determined that volunteers would already be included

under current legal opinion. Dr. Henggeler motioned to not address public comment and to move forward with language as written. Unanimous consent was given.

The Board reviewed the updated definitions to clarify compounding rules. Mr. Fraser asked for clarification that hormones should be included in Hazardous Drug definition. Proposed language was determined to include any drugs listed by National Institute for Occupational Safety and Health which includes hormones. Rule 239 allowing the compounding of non-sterile compounding kits provided by manufactures was presented with previous requested changes to add non-hazardous to language. The Board granted unanimous consent to move forward.

The Board granted unanimous consent to move forward to an update to Rule 111 adding prescriber phone number and to adding “ordering laboratory tests” and “interpreting” to the definition of Pharmaceutical Care Services.

Rule 310 was discussed with the addition of Dr. Adams’ public comment language proposal for Rule 310.02. Dr. Chopski motioned to accept Rule 310 and to accept Dr. Adams public comment on Rule 310.02. Dr. Henggeler seconded, motion carried unanimously.

Public comment by Dr. Adams on Rule 116 was accepted and by unanimous consent moved forward providing for 30 day supply refills in the event of a declared emergency. The Board also directed Mr. Snook to add language that would tie Rule 116.02.b to Rule 310.02. The Board also accepted Dr. Adams’ language changes to Rule 060.02 (a) and (b) for license and registration transferability as well as temporary and mobile pharmacies. Unanimous consent to move forward.

Mr. Fraser presented the statute changes planned for 2016 Legislative session.

- Statute 54-1734 - updated to include midwives, home health or hospice agencies to be allowed to possess legend drugs. The Board granted unanimous consent to move forward
- Addition of “medical examiner or coroner” to Statute 37-2726 Filing Prescriptions— DataBase was granted unanimous consent to move forward.
- Complete striking of Title 39 Chapter 8 received unanimous consent to move forward.

Terms of office, organization of the Board and Compensation of the Board was discussed. Mr. Sperry motioned to un-strike language in Statute 54-1713(2). Dr Jonas seconded. After much discussion Mr. Sperry withdrew his motion. Mr. Sperry then motioned to accept the stricken language of Statute 54-1713(2). Dr. Jonas seconded, motion carried unanimously.

The Board granted unanimous consent to move forward with the schedule change for compensation in Statute 54-1714.

The Board discussed 64-1710 terms of office. After much discussion Dr. Jonas moved to un-strike language in 54-1710(3). The motion died for lack of a second. Further discussion resulted in a motion by Dr. Jonas to un-strike 54-1710(3). Mr. Sperry seconded, motion carried unanimously.

The Board granted unanimous consent for stricken language of 51-1710 (2) and (5) was given.

Changes to Statute 37-2720 previously approved as again unanimously approved to move forward.

The Board took up the matter of Angela Fullmer. Ms. Fullmer attended the meeting without legal counsel. Board staff denied Ms. Fullmer's application for a Pharmacy Technician in Training registration due to a felony conviction. Ms. Fullmer also answered 'no' to the liability question regarding previous convictions; circumstances of the plea agreement were explained in a letter from her attorney. After hearing Ms. Fullmer's case Dr. Jonas motioned to approve the application, Dr. Chopski seconded. Following further discussion Dr. Jonas amended her motion to approve the application on the condition Ms. Fullmer attend the January 2016 meeting of the Board with a letter from her probation officer regarding her progress. Dr. Chopski seconded, motion carried unanimously. The Board did not address the negative response to the liability question as they believed there was no falsification of the application.

The Board took up the matter of Sarah Mita. Ms. Mita attended the meeting without legal counsel. Board staff denied Ms. Mita's application for a Pharmacy Technician in Training registration due to a felony conviction. Ms. Mita also answered 'no' to the liability question regarding previous convictions. Ms. Mita was candid in presenting her case and in answering questions of the Board and freely admitted, though unintentional, she answered the liability question incorrectly. After hearing Ms. Mita's case, Mr. Sperry motioned to approve the application subject to an evaluation by Southworth Associates (SA), entering into a contract with SA for a minimum of two (2) years or as determined by SA and compliance with all recommendations of the evaluation and contract. Dr. Chopski seconded. After further discussion Mr. Sperry amended his motion to include Ms. Mita has forty five (45) days to complete the evaluation and sign a contract with SA, Dr. Chopski seconded, motion carried unanimously.

Dr. de Blaquiére called for public comment. Hearing none he called for the Inspector's Q & A. Ms. Culley, Ms. Sommer and Ms. Shiell spent the first part of the week training on sterile compounding inspections with an inspector from NABP. Though they believe the experience was valuable, Idaho law does not support many of the items on the inspection report.

Dr. Jonas motioned to enter executive session as allowed per Idaho Code 74-206(1)(a) and (d).

(a) To consider hiring a public officer, employee, staff member or individual agent, wherein the respective qualities of individuals are to be evaluated in order to fill a particular vacancy or need. This paragraph does not apply to filling a vacancy in an elective office or deliberations about staffing needs in general;

(d) To consider records that are exempt from disclosure as provided in chapter 1, title 74, Idaho Code;

Mr. Sperry seconded, the motion carried unanimously. Executive session commenced at 2:25 p.m. Dr. Jonas motioned to leave executive session, Dr. Henggeler seconded, the motion carried unanimously. Executive session concluded at 3:14 p.m.

Hearing no further business Dr. Jonas motioned to adjourn, Mr. Sperry seconded, motion carried unanimously. Meeting adjourned at 3:15 p.m.