

MINUTES  
**HOUSE HEALTH & WELFARE COMMITTEE**

**DATE:** Thursday, January 10, 2013

**TIME:** 9:00 A.M.

**PLACE:** Room EW20

**MEMBERS:** Chairman Wood(27), Vice Chairman Perry, Representatives Hancey, Henderson, Hixon, Malek, Morse, Romrell, Vander Woude, Rusche, Chew

**ABSENT/  
EXCUSED:** Representative Vander Woude

**GUESTS:** Carol Youtz, Board of Veterinary Medicine; Erik Makush, Idaho Freedom Foundation; Mark Johnston, Board of Pharmacy; Matt Keenan, Idaho Reporter; Colby Cameron, Sullivan & Reberger; Dennis Stevenson, Department of Administration; Kent Abz, Board of Accounting; Jared Tatro, Legislative Services Office; Kate Haas, Kestrel West; Pam Eaton, Idaho Retailers Association and Idaho State Pharmacy Association.

**MOTION:** **Chairman Wood(27)** called the meeting to order at 9:01 a.m.

**Rep. Malek** made a motion to approve the minutes of the January 8, 2013 meeting. **Motion carried by voice vote.**

**Dennis Stevenson**, Administrator Rules Coordinator, Department of Administration, Executive Branch, presented a summary of the rules review process. The promulgation of rules through the state agencies allows legislators to pass broad legislation, which differs from other state legislatures and keeps the agencies on track to follow the intent of the law. He summarized the different types of rules: Temporary, Final, Pending, and Fee. He added that once a docket is reviewed and accepted, the rule is in effect; however, the committee can reject, amend, and modify any rule before them. He cautioned that changing verbiage is not prudent since it may bring the rule before the Supreme Court. Mr. Stevenson explained the use of the concurrent and omnibus resolutions.

**DOCKET NO. 27-0101-1201:** **Mark Johnston**, Executive Director, Board of Pharmacy, Pharmacist. After giving a brief history of the Board of Pharmacy and its purpose, Mr. Johnston presented **Docket No. 27-0101-1201**, which moves the equal protection waiver parameter from criteria to content, clarifies the thirty educational hours required for reinstatement, and changes the parental add mixture to sterile products. References to two 2012 statutes, which create rule exemptions, are now included and confusing language has been clarified.

Responding to questions, **Mr. Johnston**, stated that parental add mixture and sterile products are the adding of one substance to another, typically done when making intravenous (IV) sterile products, and now extends the rule to other sterile products, like eye medicine. Mr. Johnston stated that he knew of no opposition to this Pending Rule.

For the record, no one indicated their desire to testify.

**MOTION:** **Rep. Rusche** made a motion to approve **Docket No. 27-0101-1201**. **Motion carried by voice vote.**

**DOCKET NO.  
27-0101-1202:**

**Mark Johnston** presented **Docket No. 27-0101-1202**, which incorporates the FDA Green Book of veterinary exchanges. Additionally, licensing and registration documents change to retrievable from displayed, student pharmacist and tech-in-training registration and cancellation is clarified, brand only designation is expanded, and registered pharmacist (RPH) initials are required on dispensing and admixture preparation. Inclusions are correction facilities to the institutional facility definition, hospital directors to the controlled substance (CS) annual inventory, and over-the-counter (OTC) drugs to the drug storage section. The written protocol for returned drugs to pharmacies is added back into the rules, as is the mail order pharmacy required toll free number hours of operation.

Separate phone line and solid core or metal door grandfather clauses are added. A thirty-day allowance for the replacement of a pharmacist in charge (PIC) or pharmacy director, with an exception for new pharmacies is added. Revisions are made to allow non-institutional RPh breaks only if a tech or student pharmacist remains on duty, and public notification of any change in hours. The substitution process formulary system in closed door situations is clarified that neither prescriber nor patient approval is needed. Other changes allow correctional facility delivery authorization, pharmacist in charge report inclusion of hospital directors, and definition of emergency room registered nurse (RN) dispensing parameters.

Responding to committee questions, **Mr. Johnston** stated that substitution references include generic selection instructed by the orange and green books, with formulary substitution by hospitals and nursing homes where a committee agrees upon and continues to review the case. With the rule change, a physician can mandate dispensing of a brand name, without the previously strict terminology requirement. Mr. Johnston said that a mandate for written protocols was added for drug returns. He clarified that extern registration is upon school enrollment, and could be prior to the start of the school session. The student pharmacist designation applies to externs or interns and is used when differentiation is not required. The grandfather door clause protects the small business owner from an immediate update cost. The Board of Veterinary Medicine is okay with the changes in the docket and the Idaho Retail Association was involved in the changes.

For the record, no one indicated their desire to testify.

**MOTION:**

**Vice Chairman Perry** made a motion to approve **Docket 27-0101-1202**. **Motion carried by voice vote.**

**DOCKET NO.  
27-0101-1203:**

**Mark Johnston** presented **Docket No. 27-0101-1203**. This legislation updates the automated dispensing and storage (ADS) systems to include oversight to designee by prescriber, PIC or director, RN stocking of ADS machines with scan bar technology, pharmacist review, and loading of temperature sensitive drugs. There are new exceptions to the drug removal pharmacist review in institutional facilities. Controlled substances (CS) are added to the wasted drug section, parameters of drug returns to institutional ADS machines, and self-service system ADS machines in practitioner offices and emergency rooms is expanded.

**Chairman Wood(27)** requested that an update of the self-service system pilot project be presented to the committee during the 2014 legislative session.

**Mark Johnston** responded to committee questions by stating that the self-service medication is electronically prescribed and transmitted to the machine using a 24-hour voucher that the patient inserts along with a credit card payment. Dispensing occurs upon phone contact to the pharmacist facility. Only prepackaged drugs are allowed in the machine and InstaMed, the repackaging source, is registered with the FDA. The InstaMed machines scan the packages to dispense, which are loaded differently than the slot-style equipment. The machines are used only in situations where no other pharmacist is on duty in the community and is at the request of the hospitals, who are the only late-night provider. Medications dispensed are for immediate therapeutic needs only, with the exception of a full course of antibiotic therapy.

For the record, no one indicated their desire to testify.

**MOTION:** **Rep. Chew** made a motion to approve **Docket 27-0101-1203. Motion carried by voice vote.**

**DOCKET NO. 27-0101-1204:** **Mark Johnston** presented **Docket No. 27-0101-1204**, which specifies that an RPh cannot practice medicine or conduct physical examination, can order lab tests, and allows substitution in the event of a drug shortage, with an equivalent amount of the drug dispensed.

For the record, no one indicated their desire to testify.

**MOTION:** **Rep. Hixson** made a motion to approve **Docket 27-0101-1204. Motion carried by voice vote.**

**ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at 10:15 a.m.

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Representative Wood(27)  
Chair

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Irene Moore  
Secretary