

**MINUTES OF THE
IDAHO STATE BOARD OF PHARMACY
June 7, 2018**

**Board of Pharmacy Offices
Boise, Idaho**

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

Chairman Nicole Chopski, PharmD, called the meeting to order at 9:00 a.m. In attendance were Vice Chairman, Holly Henggeler, PharmD; Board members Rich de Blaquiére, PharmD; and Kristina Jonas, PharmD. Also in attendance were Alex J. Adams, PharmD, MPH, Executive Director; Berk Fraser, RPh, Deputy Executive Director; Amy Hickerson, CPhT, Jaime Thompson, and Wendy Shiell, Compliance Officers; Misty Lawrence, Management Assistant; Andy Snook, Deputy Attorney General; Ellen Mitchell, Program Information Coordinator, and several members of the public.

Dr. Henggeler motioned to approve the April 12, 2018, Dr. Jonas seconded, and the motion carried unanimously.

The Board took up the matter of the Consent Agenda, which contained the following matters:

- a. Board Performance Dashboard
- b. Travel Calendar
- c. Exercises of Delegated Authority
- d. Director's Expenses
- e. Remote Dispensing Update

Board staff had several items to discuss regarding the Consent Agenda. Mr. Fraser introduced Amy Hickerson, CPhT as the new Compliance Officer for southwestern Idaho. Ms. Hickerson comes to the Board from Sav-On and has many years of experience as a pharmacy technician.

Dr. Adams indicated there were a few meetings to add to the travel calendar. Dr. Jonas attended the Oregon Board of Pharmacy rulemaking session in May to observe another Board's process and identify opportunities to improve our own. Dr. Jonas indicated it was helpful to see another state's rulemaking, as it crystalized our town hall meetings and pursuit of processes to generate evidence-based feedback are strong. The Board approved the Consent Agenda with modifications to the travel calendar.

The Board took up the matter of the Consent Agenda: Stipulation and Consent Orders, which contained the following:

- Star Pharmacy – The posted hours for the facility are 9:00 a.m. to 6: p.m. Monday through Friday. Board staff received information indicating Star Pharmacy had closed the pharmacy on November 23-24, 2017 without notifying Board staff or the public. Board staff visited Star Pharmacy on an unrelated matter on November 22, 2017 and did not observe any signage indicating the pharmacy would be closed. By signing the Stipulation and Consent Order, Star Pharmacy agreed to pay \$2,000 in administrative fines.
- John E. Goodrich, DDS – Dr. Goodrich had outdated controlled substances on hand and failed to prepare annual inventories of controlled substances dispensed from his practice. Dr. Goodrich was also convicted of a felony charge of Delivery of a Controlled Substance. By signing the Stipulation and Consent Order, he agreed to pay \$4,000 in administrative fines, to only convey controlled substance prescriptions in written or electronic form, and not dispense or administer any controlled substances.
- Mark I. Romer, PharmD – Dr. Romer filled a prescription for Vyvanse 20 mg capsules 30 count that had been altered by the patient to read 80 mg capsules. Though the medication is not made in 80 mg capsules, Dr. Romer filled the prescription with 40 mg capsules 60 count. Idaho pharmacists are required to fill prescription drug orders as instructed by the prescriber and must confer with the prescriber if the necessary components of the order are in question. Idaho pharmacists were notified of this

requirement via the Board's quarterly newsletters. By signing the Stipulation and Consent Order, Dr. Romer agreed to pay a \$200 fine and complete six credit hours of continuing education focused on 'red flags'.

- Bengal Pharmacy at Challis – During a routine inspection the Board's compliance officer witnessed the dispensing of a new prescription medication with counseling conducted by a pharmacy technician-in-training versus a pharmacist as required. The officer also witnessed other employees dispensing medications without the offer of counseling, though pharmacy staff notes indicated counseling had either been refused or accepted. By signing the Stipulation and Consent Order, Bengal Pharmacy agreed to pay \$1,000 in administrative fines.
- Chateau Drug – During a routine inspection the Board's compliance officer noted several non-compliance issues including compounding of Cyclosporine 1% eye drops, a sterile product, using Cyclosporine Oral Solution USP Modified 100 mg/ml, a non-sterile product. The product was also compounded in the hazardous drug compounding hood instead of the sterile hood. By signing the Stipulation and Consent Order, Chateau Drug agreed to pay \$8,000 in administrative fines.
- Liberty for All – Failed to renew their mail service pharmacy registration as required on June 30, 2016 resulting in a lapse of its license for 265 days. During the lapse they continued to ship medication into Idaho. By signing the Stipulation and Consent Order, they agreed to pay \$2,000 in administrative fines.
- Allen Drug – During a routine inspection the Board's compliance officer noted several non-compliance issues. The most significant issue being the manufacturing of Daniel's Croup and Cold Ointment. Compounding products for over-the-counter-sales without a patient specific prescription is considered manufacturing and is not allowed without approval of and registration with the U.S. Food and Drug Administration. By signing the Stipulation and Consent Order, they agreed to pay \$500 in administrative fines and remove all Daniel's Croup and Cold Ointment from their shelves.

Dr. Henggeler motioned to remove Star Pharmacy, Bengal Pharmacy, Chateau Drug, Liberty for All, and Allen Drug from the Consent Agenda for discussion. Dr. de Blaquiere seconded, and the motion carried unanimously.

Dr. de Blaquiere motioned to accept the stipulations for Drs. Goodrich and Romer. Dr. Jonas seconded, and the motion carried unanimously.

Following a brief discussion, Dr. Henggeler motioned to accept the Star Pharmacy stipulation as written. Dr. de Blaquiere seconded, and the motion carried unanimously.

The Board addressed the Stipulation regarding Bengal Pharmacy. Dr. Chopski questioned whether the required technology was being used during hours of operation. She believes the penalty is too light, and believes there are more issues than just the one presented in the current document. Dr. Chopski asked for clarification of the number of incidents of counseling by a technician. Dr. de Blaquiere agreed with Dr. Chopski and believes a review of the technology, training, and monitoring procedures are in order. Following extensive discussion Dr. Henggeler motioned to reject the stipulation, with direction to Board staff to pursue a subsequent stipulation containing an increased fine of \$2,000, and a corrective action plan addressing training, technology, and monitoring procedures be submitted 2 weeks prior to the July meeting for review, with a representative from Bengal Pharmacy appearing at the August meeting of the Board. Dr. Jonas seconded and the motion carried unanimously.

The Board took up the case of Chateau Drug. Following a brief discussion Dr. de Blaquiere motioned to accept the stipulation as written. Dr. Jonas seconded, and the motion carried unanimously.

The Board took up the matter of Liberty For All. Dr. Chopski expressed her concern with the length of time it took the facility to respond to staff's request for information. Following a brief discussion, Dr. de Blaquiere motioned to accept the stipulation as written. Dr. Henggeler seconded and the motion carried. Dr. Chopski indicated her opposition for the record.

The Board took up the matter of Allen Drug. Following a brief discussion Dr. de Blaquiere motioned to accept the stipulation as written. The motion died for lack of a second. Dr. Henggeler motioned to reject the stipulation, and direct Board staff to pursue a subsequent stipulation containing an increased fine. Dr. Jonas seconded and the motion passed with Dr. de Blaquiere opposed.

Mr. Sperry arrived at 10:30.

Dr. Adams provided a letter from Christine Hahn, from the Division of Public Health, detailing the state's ongoing research with Epidiolex, and indicating her support for ensuring there are no state barriers if the FDA approves the drug and DEA schedules it. The Board considered temporary rule 316 moving FDA-approved products that contain cannabidiol from schedule 1 to a schedule to be determined by the DEA. Following a brief discussion Dr. de Blaquiere motioned to approve the temporary rule contingent upon:

- FDA approval of a drug product containing cannabidiol; and
- DEA scheduling of such drug product.

This temporary rule language will only be effective upon the above contingencies having occurred, and shall be completed consistent with any DEA scheduling. If one or both of the above contingencies do not occur, this temporary rule language will not take effect. Dr. Henggeler seconded, and the motion carried unanimously.

Dr. Chopski reiterated it was previously determined this rule language is appropriate for a temporary rule under Idaho Code Section 67-5226(1) as evidenced by approval of the Administrative Rules Request Form that was submitted by Board staff. The Board again notes that its approval of this rule language will be ineffective until all contingencies set forth in the Board's motion have occurred. Once the contingencies set forth in the Board's motion have occurred, this rule language will take effect as a temporary rule.

The Board took up the matter of Serenity Bornstine, pharmacy technician-in-training applicant. Ms. Bornstine attended the meeting in person, without legal counsel. Board staff was unable to approve her application as it fell outside the bounds of delegated authority. Ms. Bornstine was forthcoming in answering the Board's questions. Following discussion Dr. Jonas motioned to approve the application. Mr. Sperry seconded, and the motion carried unanimously.

The Board took up the matter of Lonnie Huntsinger, PharmD. Dr. Huntsinger attended the meeting in person without legal counsel. He requested the restriction of not serving as a pharmacist-in-charge be removed from his license. Dr. Huntsinger has the support of Southworth Associates for his request. Following discussion Dr. Henggeler motioned to approve the request. Dr. de Blaquiere seconded and the motion carried unanimously.

The Board took up the matter of Cindy Duke, NP, controlled substance registration applicant. Ms. Duke attended the meeting telephonically without legal counsel. Board staff was unable to approve her application as it fell outside the bounds of delegated authority. Following discussion Dr. de Blaquiere motioned to approve the application. Mr. Sperry seconded and the motion carried unanimously.

Ms. Lawrence presented the Board's financial report.

Fiscal Year Budget to Expenses

- Fiscal year 2018 budget status with 91.7% percent of the year elapsed and 77% of the budget expended.
 - Personnel Costs are 86.63% expended; the Board is currently trending about \$13,000 in one-time Salary savings. This assumes the customer service representative position is filled before the end of the fiscal year. This number will likely be slightly higher.
 - Operating Expenses are 68.91% expended; \$35,000 will be encumbered into FY19 and moved to Capital Outlay for the licensing system.
 - Operating Expenses for the Department of Health and Welfare Contract are 44.86% expended, staff is waiting for several large invoices and anticipate expending the full appropriation for the contract.
 - Capital Outlay (CO) is 72.22% expended; all CO will be expended or encumbered for payments in FY19.

- Teresa Anderson has submitted a grant application for the Bureau of Justice Administration FY 18 Comprehensive Opioid Abuse Site-based Program. The grant request is for up to \$750,000 to be used over 3 years, and is intended to further enhance the state's Prescription Monitoring Program.

Current Cash Balance

- The beginning of the fiscal year started with a cash balance of \$2,610,200. Disbursements were exceeding receipts by \$356,710 or 36% on the last report. Disbursements now exceed receipts by only \$83,990 or 4.8%. As expected there was an increase in expenses and revenue due to renewals.

4 Year budget Trend Comparison FY15-FY18 – July - May

- Expenditures are higher than in previous years as anticipated due to one-time spending regarding the licensing system and an increase in personnel dollars.
- Revenues were trending down 2% on the last report. As of 5/31 revenues are trending up about 2%, or \$37,850.

FY18 Monthly Cash Flow

- License renewals created an increase in expenditures for April and May, along with a large increase in revenue.

Renewal Comparison

- In 2017, the renewal period was open approximately 70 days.
- The 2018 renewal period will be open about 80 days, the additional time has made very little difference the number of renewal processed to date.
- Final renewal notices will go out 6/8/2018.

The Board thanked Ms. Lawrence for her comprehensive update.

Mr. Fraser gave a brief update on the new licensing system. Staff has completed two weeks of training, and more will be scheduled as the launch date gets closer. He indicated the licensing team is working out new processes and things look good for a July 1 launch. He reminded the Board that the licensing system will go down at midnight on June 30 and no licenses would be issued between July 1 and July 9.

The Board took up the Pharmacist Prescribing Pilot Project. Marcus Hurst, PharmD, from Broulim's, and Todd Wise, PharmD, from Ridley's, attended the meeting telephonically. Laura Churns, PharmD, from Sav-On attended the meeting in person. Each indicated the pilot had gone well, with positive feedback from patients, positive outcomes achieved, and with no known issues. Each indicated they felt the Board's regulations and protocols were strong and appropriate, with some feedback the protocols were too stringent relative to clinical guidelines. The Board indicated it would revisit the protocols later this year after additional experience is gained but would continue with the stringent parameters for the implementation.

Following a lunch break the Board took up preliminary review of its proposed statute and rule updates for 2019. The Board reviewed public comments from Robert Myers, PhD, RPh, Chad Jungert, PharmD, CVS, Walgreens, and the Idaho Society of Health-System Pharmacists. The Board also asked for public comments from meeting attendees. The Board reviewed the comments and research, and made suggestions to improve the drafts for subsequent meetings. The Board granted unanimous consent to move forward. The Board decided to hold a proposed update regarding Continuous Professional Development (CPD) as an alternative to continuing education until 2019.

Dr. de Blaquiére presented research he conducted on best practices regarding medication safety, and teed up a discussion for what the Board may consider in 2019. The Board members will review the book *Just Culture* and Board staff will survey pharmacies on best practices.

As this is the last meeting of the fiscal year, the Board addressed the election of officers for FY19. Mr. Sperry motioned to retain Dr. Chopski as Chair for the upcoming year. Dr. Henggeler seconded and the motion carried unanimously.

Dr. Jonas motioned to retain Dr. Henggeler as Vice Chair for the upcoming year. Dr. de Blaquiére seconded and the motion carried unanimously.

Dr. Chopski called for public comment, hearing none, Dr. Jones motioned to adjourn, Mr. Sperry seconded, and the motion carried unanimously. Meeting adjourned at 4:30 p.m.

Nicole Chopski, Chairman

Holly Henggeler, Vice-Chairman

Member

Member

Member

Alex J. Adams, Executive Director

APPROVED