

IDAHO STATE BOARD OF PHARMACY
Division of Occupational and Professional Licenses
1199 W. Shoreline Ln.
Boise, Idaho 83702

Board Meeting Minutes of 3/3/2022

BOARD MEMBERS PRESENT: Richard de Blaquiére, PharmD, Chair
Kris Jonas, PharmD
Justin Messenger, PharmD
Kevin Ellis, PharmD

BOARD MEMBERS ABSENT: Ed Sperry

DIVISION STAFF: Nicki Chopski, PharmD, Executive Officer
Katie Stuart, Board Services Program Manager
Stephanie Lotridge, Licensing & Registration Program
Manager
Berk Fraser, RPh, Chief Investigator
Mike Celeste, Investigations Supervisor
Amy Hickerson, CPhT, Compliance Officer
Felicia Kruck, Management Assistant
Jan Arrasmith, RT, Education and Practice Specialist
Pam Rebolo, Board Support Supervisor
Susan Villanueva, Board Support Specialist
Susan Cassell, Board Support Specialist
Bob McLaughlin, Public Information Officer

OTHER ATTENDEES: Ali Breshears, Deputy Attorney General, General Counsel
Keegan Hahn, Deputy Attorney General, Prosecutorial Counsel
James Rankin, Attorney General (Paralegal)
Demitria Milford, APPE 4th Year Student
Ben Chiarolanza, IPPE 3rd Year Student
Jeremy Boyle, IPPE 3rd Year Student
Mark Johnston, CVS Health
Rob Geddes, Albertsons
Amanda Davis, Amazon/Pill Pack
Emmanuel Adu-Gyamh, APPE Student
Brenda Shafer, Quarles & Brady
Julie Brown, PharmD

Convened: Dr. de Blaquiére called the meeting to order at 7:59 AM MST, the Pledge of Allegiance was recited, and the Mission Statement was read.

Dr. Chopski introduced present Division staff members.

APPROVAL OF MINUTES

Dr. Ellis moved to approve the October 28th, 2021, meeting minutes with minor amendments, Dr. Jonas seconded. Motion carried.

Dr. Jonas moved to approve the December 9, 2021, meeting minutes as written, Dr. Ellis seconded. Motion carried.

DIVISION BUSINESS

Division Update

Dr. Chopski reported about the progress with Building 4, she stated the move is still scheduled for June 30th.

Dr. Chopski also discussed the pending Request for Proposal (RFP) for the new Division licensing system. The Joint Finance Appropriations Committee will set the budget on March 7.

Ms. Stuart gave an update on the Pharmacist Recovery Network (PRN) RFP. She stated there is an Invitation to Negotiate (ITN) process that will allow bidders to negotiate with the state. The hope is for a new contract to be in place by July 1, 2022.

Dr. Chopski gave an update on the Chambers Case. The Supreme Court will hear arguments on May 11, 2022.

Dr. Chopski also stated that the FDA has withdrawn the current Memorandum of Understanding (MOU) related to compounded products while it enters the rulemaking process. All activities and limitations related to the MOU will be suspended for the duration of rulemaking.

Dr. Chopski gave a summary of which Boards will be going through Zero-Based Regulation (ZBR), and what is involved for that process. The Board of Pharmacy will not be doing ZBR until 2024.

Financial Update

Dr. Chopski stated that there is no financial report at this time, but did present a FAQ from the Finance department, which answers the most common questions Board Members have.

LEGISLATIVE UPDATE

Dr. Chopski presented the legislative update.

Rules Update

As of Feb 3, 2022, all the rule dockets have passed both the House and the Senate.

Agency Legislation Update:

Senate Bill 1245 removes discrepancies in definitions between statute and the administrative rules of the Board of Pharmacy. This has passed the Senate and yesterday was approved with a “do pass” recommendation in the House committee. Dr. Chopski pointed out to the Board that this may result in some minor clean-up of the rules to remove unnecessary duplication.

Senate Bill 1246 is the annual alignment of scheduled controlled substances with the DEA, including placing synthetic opioids in Schedule I, an opiate in schedule II, multiple substances in Schedule IV and an anticonvulsant substance in Schedule V. This has passed the Senate and yesterday was approved with a “do pass” recommendation in the House committee.

Senate Bill 1233 allows Division staff to share investigatory information regarding licensees with other boards and commissions to create efficiency within Division investigations. This was held in Committee and on 2/10/22 was reintroduced as SB 1297. At this time, it is being held in Committee.

Non-Agency Legislation Update

Dr. Chopski gave an update on the following House bills that are relevant to the Board of Pharmacy:

House Bill 446- This legislation amends the definitions of “marijuana” and “tetrahydrocannabinols” under the state’s Uniform Controlled Substance Act to exclude nabiximols in a drug product form approved by the Food and Drug Administration (FDA). This bill has passed the House and the Senate.

House Bill 562- This legislation consolidates drug outlet (pharmacy) registrations for simplification and consistency. This simplifies registrations into 2 categories, resident, and non-resident. This has passed the House and will go to the Senate later this week. Dr. Jonas raised a question about the transition for licensees. Dr. Chopski stated that there will be no license number changes for prior licensees.

House Bill 612- This legislation allows an Idaho licensing authority to consider and grant a request for the expungement of disciplinary action previously imposed on a person's occupational license. This has passed the House. It was held in the Senate for an amendment.

House Bill 613- This legislation is intended to amend Section 67, Idaho Code, by adding Chapter 97. The chapter will define terms and provide certain licensing protection for physicians, physicians assistants, nurses, and pharmacists. Furthermore, vaccination records shall not form any basis for occupational licensing purposes. This bill is currently awaiting a hearing in the House Health & Welfare Committee.

Senate Bill 1328- This legislation amends Chapter 57, the Idaho Telehealth Access Act, to expand the use of asynchronous technology in delivering healthcare services through telehealth. Currently, this is waiting for a committee hearing.

Senate Bill 1326- This legislation transitions the regulatory authority, duties, and staff responsible for licensing and inspecting eighteen (18) types of healthcare facilities and agency types within Idaho from the Division of Licensing and Certification (L&C) in the Department of Health and Welfare to the Division of Occupational and Professional Licenses (DOPL). This has been heard in the Senate but is being held in committee at this time.

House Bill 658- This legislation provides legal protection from discovery or disclosure for certain persons and entities to carry out the death penalty.

BOARD BUSINESS

Dr. Chopski talked about the APhA/NABP Survey. They created an online algorithm in a survey that measures the wellbeing of the people who take the survey. It is grouped by state and district. It sheds additional light on many issues pharmacists, technicians and pharmacy owners are currently facing, regarding staffing, job satisfaction and challenges they face on the job. The Board mentioned they would continue to monitor these surveys.

The Board reviewed a letter of concern they received from Dr. Higgins, PharmD, owner of Medical Clinic Pharmacy. They also reviewed many supplemental surveys, limited studies available, the actions of other state boards and news items compiled by Dr. de Blaquiere and Demitria Milford regarding pharmacy closures, staffing shortages, workplace safety conditions, breaks, and errors. The Board discussed what other states were doing to combat the increasing concerns of these subjects.

Dr. de Blaquiere talked about the relationship between workplace safety and errors. The Board had an in-depth discussion providing direction to staff as to how to respond to errors and complaints. They determined that there are many contributing factors. Rob Geddes of Albertsons, provided information about what approaches other states are taking related to performance metrics, errors and the number of technicians allowed in the pharmacy. Dr. Chopski mentioned the Culture of Safety and discussed the Board's ongoing efforts to seek alternative options for errors other than fines and discipline. The Board acknowledged that it is unlikely that they will be able to regulate or fine their way out of the dilemma and will continue to work on ideas for a solution.

The Board summarized its discussion by giving the staff direction on how to determine the appropriate way to handle complaints and when or if to use CAPs under its delegated authority. Factors included, type of complaint, severity, or if it was a violation of law. They discussed levels of action, including, taking no action, issuing a letter of concern, engaging in a CAP, and including a hearing if necessary.

The Board also discussed providing communication to licensees concerning staffing issues, rolling blackouts, and tools to help workflow, as well as Board rules vs company policies. The Board supported hosting additional conversation with industry at future Board meetings.

PUBLIC COMMENT

Mark Johnston, CVS Health, commented that Idaho has already taken steps to implement staffing solutions, central processing/fill, and expanded technician duties.

EXPUNGEMENT

Dr. Brown appeared before the Board to request that discipline on her record be expunged. Following her testimony and follow-up questions by the Board, Dr. Jonas moved to expunge disciplinary action from her license. Dr. Ellis seconded. Motioned carried.

BOARD BUSINESS Continued

Travel Calendar

Dr. Chopski reviewed her travel with the Board and, went through upcoming travel for the APhA, ISHP and NABP meetings.

Dr. Jonas moved for Dr. de Blaquiere to be the delegate at the NABP annual meeting, with herself being the alternate. Dr. Ellis seconded. Motion carried.

APPEARANCES

Case #22-086- Dr. Chester Dudzik appeared before the Board to request approval of his application for licensure. After review of the documents and discussion with the applicant, Dr. Messenger moved to approve Dr. Dudzik's application. Dr. Jonas seconded. Motion carried.

Case #22-030- Dr. Jonas moved to accept the facts in the administrative complaint and revoke Dr. Otteson's license, adding in the future if he reapplies, he must pay the initial fines plus investigative costs, complete all CE's, with an additional \$2000.00 fine, plus additional investigative costs added. Dr. Messenger seconded. Motion carried.

Case #21-087- Patient Direct Rx– Item vacated as Board received a voluntary surrender just prior to the meeting.

Case #21-124- Sawtooth Compounding Pharmacy– Item vacated as Board received a voluntary surrender just prior to the meeting.

Finding of Facts and Conclusion of Law Review

Dr. Jonas moved to accept the Findings of Fact, Conclusions of Law, and Recommended Order of the Hearing Officer to deny the reinstatement application of Kenneth Lowther. Dr. Ellis seconded. Motion carried.

CONSENT AGENDA: Stipulation and Orders

Dr. Jonas moved to approve all the Stipulations & Orders on the consent agenda, as is written with no changes. Dr. Messenger seconded. Motion carried.

CONSENT AGENDA

The Board reviewed the Consent Agenda.

Dr. Jonas moved to approve the Consent Agenda. Dr. Ellis seconded. Motion carried.

PUBLIC COMMENT

Dr. Jennifer Adams of ISU College of Pharmacy thanked Dr. Chopski and Dr. Frost for their help with the Pharmacy Law class.

ADJOURN

There being no further business, the meeting was adjourned by general consent at 1:31 PM MST on 3/3/2022.

The next Board of Pharmacy meeting will be June 16, 2022.

DRAFT