

**MINUTES OF THE
IDAHO STATE BOARD OF PHARMACY
June 11, 2020**

**Board of Pharmacy Office
1199 Shoreline Ln
Boise, Idaho**

This meeting of the Board was held to conduct regular Board business. Due to COVID-19 and social distancing requirements there was limited seating available for the public. The telephone conference line information was published on the website and the agenda and the conference line was open for the duration of the meeting.

Chairman Holly Henggeler, PharmD, called the meeting to order at 8:30 a.m. Those in attendance telephonically included Fred Collings, Chief Investigator; Jaime Thompson and Wendy Shiell, Compliance Officers, and members of the public.

Those in the Board office included Dr. Henggeler, PharmD; Rich de Blaquiere, PharmD; Justin Messenger, PharmD; Kris Jonas, PharmD; Ed Sperry, Public Member; Nicki Chopski, PharmD, Executive Director; Berk Fraser, RPh, Deputy Executive Director; Theresa Arnold, Management Assistant; Ali Breshears, DAG; Amy Hickerson, Compliance Officer; Dustin Garcia, ISU Pharmacy Student, and Ellen Mitchell, Program Information Coordinator.

To celebrate Ellen Mitchell's 25 years of dedicated service to the state of Idaho Dr. Henggeler presented her with a certificate of appreciation along with a letter from Governor Brad Little. They Board and staff congratulated Ms. Mitchell and thanked her for her work over the years.

After a brief discussion Dr. Jonas motioned to approve the minutes of April 9, 2020, as written. Mr. Sperry seconded, and the motion carried unanimously.

The Board took up the Consent Agenda. Dr. Chopski framed the presentation of the Board Performance Dashboard explaining the increased PDMP percentage numbers relating to pharmacist searches. The increase is due in part to multiple searches per patient caused by name variations. Dr. Chopski reminded the Board the July report will be modified to match the strategic plan.

Dr. Henggeler noted the processing of Pharmacy Technician-in-Training and Reciprocity applications appear to be consistent even with the challenges of COVID-19. Dr. Chopski noted deficiency letter counts are high as applicants were unable to complete pieces of the application packets due to the pandemic. As such, a few of the requirements were temporarily waived. Mr. Sperry suggested creating a video to help applicants understand the process.

The Board reviewed the travel calendar and noted the list of meetings that were canceled due to COVID-19. Some meetings will be offered virtually while others have been cancelled. Drs. Chopski and Messenger will attend ISHP in the fall. Dr. Chopski will present a law program.

The NABP District 6, 7, & 8 meeting may go to a virtual platform, no decision has been made. Dr. Chopski shared with the Board she has been appointed by Governor Little to the position of Section Chief of the newly formed Department of Occupational and Professional Licenses. Due to this change Board meeting dates may be affected. She will update the Board as meeting plans are made and information regarding live or virtual meetings is available.

The Board took up Exercises of Delegated Authority. The Board had no questions or comments. The Remote Dispensing Site update was reviewed, there are currently 18 facilities in Idaho.

The Board reviewed the quarterly report from Southworth Associates. There have not been any new pharmacists enter the program in the last 18 months. Dr. Chopski noted her concern regarding the lack of new participants. During a meeting with Southworth Associates it was indicated the other Boards are experiencing climbing or consistent numbers, where the Board of Pharmacy's numbers are dropping. Dr. Chopski indicated it has been a point of discussion regarding how to notify people of the availability of the program and encourage those needing help to get it. Mr. Collings indicated he is not receiving complaints as often as in the past. He shared he and staff are still reviewing wholesale reports and monitoring as they always have; he is not receiving reports from pharmacies. Dr. Henggeler requested a newsletter article be penned regarding Southworth Associates. Dr. Chopski indicated the termination form is being revamped to be more specific in the information requested regarding termination for cause. She has also added a slide to the 2021 law presentation.

Dr. Henggeler read kudos that were received from around the state to board staff. One specifically was a compliment to Susan Villanueva, "she is very pleasant and eager to assist." The Board is fortunate to have such a staff member.

Dr. Jonas motioned to accept the Consent Agenda. Dr. de Blaquiére seconded and the motion carried unanimously.

Following a brief discussion Dr. de Blaquiére motioned to accept the stipulation for Royal Pharmacy. Dr. Jonas seconded and the motion carried unanimously.

Dr. de Blaquiére motioned to accept the stipulation for Total Vein. Dr. Messenger seconded and the motion carried unanimously.

The Board took up the staff deferral application for Elsa Sanchez, Pharmacy Technician applicant. Dr. Henggeler recused herself as Ms. Sanchez has applied at Terry Reilly Health Services where Dr. Henggeler is employed. Ms. Sanchez attended the meeting

telephonically without legal counsel. Ms. Sanchez has an administrative action from the Department of Insurance. Following discussion Dr. de Blaquiére motioned to move the application forward with the condition Ms. Sanchez pay the fine due to the Department of Insurance. Dr. Messenger seconded and the motion carried unanimously.

The Board took up the staff deferral application of for Lydia Ness, Pharmacy Technician applicant. Ms. Ness attended home school and received a diploma from her home school; it is unclear if a home school diploma meets the requirements of the Board rule as the Board of Education does not recognize them as diplomas. Ms. Ness attended the meeting telephonically without legal counsel. Following discussion Mr. Sperry motioned to approve the application with the home school diploma after the waiver paperwork is on file in the Board office. Dr. Messenger seconded and the motion carried unanimously.

Mindy Smith attended the meeting telephonically to present Medwise's Tabula Rasa program. The program focuses on preventing adverse drug events to improve efficacy, outcomes, and adherence for at-risk patients and reduce associated medical costs. Following the presentation, the Board thanked Ms. Smith for the informative presentation.

The Board then took up the Wholesaler of OTC discussion. Mr. Fraser explained there are only 15 states that register wholesalers of OTC products. In recent rule reviews the Board has removed the registration necessary to sell OTC medications in a retail setting but continues to require registration for the wholesaling OTC medications. The issue lies in Idaho Code 54-1729 which requires these facilities to be "registered and in good standing in the applicant's state of residence." The current rule requirements are hindering the approval of these applications. The requirement for out of state facilities to be licensed or registered in their home state and have an inspection is prohibitive and more stringent than federal law. Several states do not license or register for wholesale and retail sales of OTC products which prohibits staff from issuing registrations. Applicants must appeal to the Board for approval. Following a detailed discussion Dr. de Blaquiére motioned to grant Dr. Chopski delegated authority to approve registrations for Wholesalers that do not have a resident state license or inspection report. Mr. Sperry seconded, and the motion carried with Dr. Jonas opposed.

Dr. Chopski presented graphs from the Culture of Safety survey. Grayson Bosen, ISU Pharmacy student, compiled the information from the survey and created the graphs to post on the Board's website. Following review and discussion, the board directed staff to add graphs for two additional data points.

Following the lunch break the Board took up the topic of the FDA MOU. This version was developed using comments from stakeholders after the last version came out. NABP received a grant to build a reporting system that would be tied to a pharmacy's e-profile making reporting less burdensome for states. If Idaho does not sign the MOU, Idaho compounders would need to remain under a 5% limit for shipping compounded products out of state. Dr. Chopski wants to engage stakeholders for additional input.

Signing the MOU would also require Idaho pharmacies to comply with USP Chapters <795> and <797>.

Dr. Chopski framed the discussion regarding house bill 318 that created an umbrella agency named the Division of Occupational and Professional Licenses (DOPL). By executive order Governor Little assigned the self-governing, independent agencies to DOPL and organized it into three sections. He has appointed Dr. Chopski as the Section Chief of Health Professions. This Section is comprised of the Boards of Dentistry, Medicine, Nursing, Pharmacy, Veterinary Medicine, Optometry, and Podiatry. All agencies will move to the Chinden Campus location at a future date. Dr. Chopski noted the Boards will continue to be self-funded agencies.

Teresa Anderson, Program Information Coordinator, shared with the Board the statewide Gateway project is going quite well with many medical offices signing on. Ms. Anderson presented the public facing PDMP statistics page that has been added to the Board's website. The Board was appreciative of the addition and congratulated Ms. Anderson and Mr. Sevillano on the great result.

Dr. Henggeler addressed the topic of pharmacy technicians and the requirement for a high school diploma. The concern is around the varying levels of quality education in home school situations. The Board of Education does not recognize home school diplomas, making it difficult for staff to make those decisions as well. Dr. Henggeler noted Nevada, Oregon, Washington, Wyoming, Montana, Alaska, and South Dakota all required a high school diploma or high school equivalent. Utah does not recognize home school diplomas. Dain Johnson from the Home School Idaho association attended the meeting telephonically to answer questions from the Board. Mr. Johnson would prefer a decision on this topic that would apply statewide. Following extensive discussion, the Board directed staff to continue to bring additional cases to the board and to include a waiver for the high school diploma requirement.

Dr. Chopski updated the Board on COVID-19 license/registration accommodations. All applicants that were granted license/registrations during the height of the crisis are now requested to complete their applications. Those that were granted extended time to renew, are now required to renew.

Dr. Chopski brought Rule 704 Medication Limits forward. The limitation this rule imposed is no longer necessary due to the continuously changing COVID-19 pandemic. Dr. Jonas motioned to remove the limitation. Dr. Messenger seconded and the motion carried unanimously.

Dr. Chopski notified the Board that the agency has filed the agency reopening plan as required by the Governor. Idaho is moving into stage 4 of Rebound Idaho. All agency staff will be back in the office full time starting June 15.

Dr. Chopski addressed the addition to stipulations of the 'neither admits nor denies' language. All disciplinary action is required to be reported to National Practitioner Data

Bank (NPDB) at the federal level. Often after action is reported other states the facility or person is licensed in will 'pile on' discipline. This consequence prolongs the negotiation process with registrants. Idaho does not automatically participate in 'pile on' of discipline.

Dr. Chopski presented the Wholesale Drug Distribution Act 54-1751 through 54-1759. Mrs. Thompson conducted extensive research on this legislation. The bulk of this act is covered by federal law making this a duplication of their efforts. Following discussion, the Board granted unanimous consent to remove anything that is duplicated in federal law.

Dr. Chopski presented the annual conformity bill that brings Idaho's Controlled Substance Act in line with DEA scheduling actions.

This is Dr. Henggeler's last meeting as a board member as she has served her entire term. She read a letter of thanks and appreciation to the Board and staff. Dr. Henggeler nominated Dr. Jonas as the new Chairman. Dr. de Blaquiere seconded, and the motion carried unanimously. Dr. Jonas nominated Dr. de Blaquiere as Vice Chairman. Mr. Sperry seconded, and the motion carried unanimously.

The Board reviewed the director's expenses. Dr. de Blaquiere motioned to accept the director's expenses. Mr. Sperry seconded, and the motion carried unanimously.

Dr. Chopski presented Dr. Henggeler with a group photo of the Board, with a plaque indicating her years of service.

Dr. Henggeler reviewed written public comment, which included an email from Elizabeth Criner, lobbyist for Pfizer, indicating her client is "in agreement with the analysis that the states' statutes are no longer necessary anymore given federal law" and then called for public comment. Dr. Jennifer Adams, ISU College of Pharmacy, thanked Dr. Henggeler for her years of service and wanted to acknowledge Dr. Chopski for her efforts on behalf of the Class of 2020 and getting additional NAPLEX testing sites opened. Due to COVID-19, testing times and locations have been limited causing students to fly to various locations to test, which created an additional burden.

Dr. Jonas motioned to enter executive session as permitted by Idaho Code 74-206(f) To communicate with legal counsel for the public agency to discuss the legal ramifications of and legal options for pending litigation, or controversies not yet being litigated but imminently likely to be litigated. Mr. Sperry seconded and the motioned carried unanimously by roll call vote. Entered executive session at 3:10 p.m. The public conference line was disconnected, and the room was cleared.

Dr. Jonas motioned to leave executive session. Dr. de Blaquiere seconded, and the motion carried unanimously by roll call vote. The doors were opened to the public and the conference line was re-established.

Dr. Messenger motioned to adjourn at 3:18 pm. Dr. Jonas seconded, and the motion carried unanimously.

APPROVED