



# Iowa Board of Pharmacy

May 12, 2021 Minutes

## **Members Present**

Brett Barker, Chair-elect  
Gayle Mayer, Vice-Chair-elect  
Joan Skogstrom  
Kathy Stone  
Sherill Whisenand  
Erik Maki  
Dane Nealson

## **Staff Present**

Andrew Funk, Executive Director  
Therese Witkowski, Executive Officer  
Amanda Woltz, Administrative Assistant  
Mitchell Barnett, Associate Director of PMP  
Laura Steffensmeier, Assistant Attorney General  
Melissa Carstens, PMP Associate Administrator  
Becky Carlson, IMP3 Case Manager

## **Members Absent**

## **Compliance Officers**

Sue Mears  
Jim Wolfe  
Dan Sedlacek  
Mark Mather  
Christie Carlson  
Curtis Gerhold  
Jennifer Tiffany  
Jean Rhodes

## **Call to Order**

At 9:01 a.m., on Wednesday, May 12, 2021, Brett Barker, Chair-elect, called the meeting of the Iowa Board of Pharmacy to order.

## **Public Comment Period**

No comments

## **Election of Officers**

Motion by Joan Skogstrom, second by Gayle Mayer, to nominate Brett Barker as Chairperson of the Iowa Board of Pharmacy. No further nominations.

Motion by Sherill Whisenand, second by Gayle Mayer, to accept Brett Barker as the new Chairperson of the Iowa Board of Pharmacy. Motion passes unanimously.

Motion by Joan Skogstrom, second by Sherill Whisenand, to nominate Gayle Mayer as Vice-Chairperson of the Iowa Board of Pharmacy. No further nominations.

Motion by Sherill Whisenand, second by Dane Nealson, to accept by acclamation Gayle Mayer as the new Vice-Chairperson of the Iowa Board of Pharmacy. Motion passes unanimously.

### **Approval of Minutes**

1. March 9-10, 2021 Open Session Minutes

Motion by Gayle Mayer, second by Sherill Whisenand, to approve the Open Session Minutes of the March 9-10, 2021 meeting as presented. Motion passed unanimously with Erik Maki abstaining.

2. March 31, 2021 Open Session Deliberation Minutes

Motion by Sherill Whisenand, second by Gayle Mayer, to approve the Open Session Deliberation Minutes of the March 31, 2021 meeting as presented. Motion passed unanimously with Erik Maki and Dane Nealson abstaining.

### **Requests**

1. Request to waive 657 IAC 42.3(4), paragraph “b”, requiring the payment of a \$500 reactivation fee for reactivation of a delinquent limited distributor license beyond the grace period – Topko Home Equipment, License 40053, Denison

Motion by Kathy Stone, second by Dane Nealson, to deny the request. Motion passed unanimously.

2. Request to waive 657 IAC 8.5(11), 20.3, 20.4 requiring compliance with USP 800 standards
  - a. MercyOne Centerville Medical Center, License 914, Centerville

Motion by Dane Nealson, second by Gayle Mayer, to approve the request to September 31, 2021. Motion passed unanimously.

- b. University of Iowa River Landing Pharmacies, Licenses 1419 and 1584, Iowa City

Motion by Gayle Mayer, second by Dane Nealson, to approve the request to April 30, 2022. Motion passed unanimously

3. Request to Authorize an Innovative Pharmacy Pilot Project with the use of Automated Medication Dispensing Systems (AMDS) at Long Term Care Facilities in Iowa
  - a. AlixaRx – License No. 5306, Eden Prairie, MN

Motion by Kathy Stone, second by Sherill Whisenand, to authorize the pilot project. Motion passed unanimously.

### **Petition for Exemption from the Mandate for Electronic Transmission of Prescriptions**

1. Briar Cliff University, Sioux City

Motion by Kathy Stone, second by Gayle Mayer, to approve the exemption to December 31, 2021. Motion passed unanimously.

2. Dr. Thomas Lower, DO

Motion by Sherill Whisenand, second by Joan Skogstrom, to deny the request. Motion passed unanimously.

**License/Registration Applications**

1. Pharmacy Support Person Applicant – Kimberly Mosloski, Estherville

Motion by Gayle Mayer, second by Sherill Whisenand, to offer the applicant registration by consent agreement. Motion passed unanimously

**Reports & Informational Items**

1. Executive Director’s Report

- Andrew welcomed new Board member Dr. Erik Maki. Erik Maki was appointed by Governor Reynolds and began serving on the Board May 1, 2021. His current term will end April 30, 2024.
- Pharmacy Licensing Specialist, Byron Stover, left the Board on April 30, 2021.
- Technician Licensing Specialist, Dzenisa Burnic, will be leaving the Board May 28, 2021.
- The Board has received 84 applicants for the two open positions. Two positions will be filled from the applicant pool. Interviews will be conducted soon, and new employees are expected to be in place early June.

2. Staff Anniversaries

- Assistant Attorney General, Laura Steffensmeier has been with the State of Iowa for 9 years.

3. Nominations and Appointments:

- Ed McKenna has finished his third and final term. Governor Reynolds has decided to defer this position.
- Erik Maki was appointed by the Governor and assumed former Chair Jason Hansel’s seat.

4. Licensing Update:

- The Board has seen a recent uptick in technician trainee applications, likely due to the ability for technicians to immunize.
- Staff is still working to implement new online applications and are currently working on the wholesale distributor initial application. Next will be the CSA-B application.
- The pharmacy application is expected to be complex, and staff will be spending ample time perfecting it.

Integrated Conference Room

- The Board is anticipating in-person meetings starting July 2021.
- Enhancements are coming to the conference room to allow for hybrid meetings.

FDA MOU

- Regarding pharmacy compounding.
- The Rules Committee considered additional information, and a report from the committee and recommendations about signing it will be forthcoming. The FDA expressed a deadline of 10/27/2021. They will then start enforcing the 5% limit described in the Food, Drug and Cosmetic Act to states who do not sign the MOU.
- On April 27<sup>th</sup>, NABP sent a request to the FDA to consider a deadline extension. No further action from the FDA has been reported regarding the request.

#### 5. Meetings and Travel

- NABP Annual Meeting-Virtual ..... May 13-14, 2021
- IMP3 Meeting ..... June 2, 2021
- Board Meeting ..... June 14, 2021
- Rules Committee-Virtual ..... June 15, 2021
- Board members may continue to attend meetings via electronic means.

#### 6. Financial Update and Review of Fees

Terry Witkowski presented Board finances for the current fiscal year. With current fee collection, the Board is currently over 100% of what was anticipated for this year.

- Increased fees due to conversions to the CSA and CPhT registrations in order to align registrations to the primary health license or national certification.
- Other increases in NRP-PIC fees, and limited distributor fees. Pharmacist reciprocity and/or transfer applications are up.
- Unclaimed “Treasure Hunt” fees collected by the Board totaled over \$1700.

#### 7. Discussion and Vote on FY 2022 Budget Proposal

Terry Witkowski provided details on the FY 2022 Budget Proposals, and recommended to approve with no changes to fees. Terry recommended this proposed budget must include provision that the allocations and actual costs associated and identified could be adjusted by staff.

Motion by Kathy Stone, second by Sherill Whisenand, to approve the request with Board staff being able to make adjustments as needed. Motion passed unanimously.

#### 8. Prescription Monitoring Program (PMP) Update

Mitch Barnett provided a program update. Mitch and the Board’s Administrative intern, Emily Albers, will be presenting PMP data at the 117<sup>th</sup> Annual NABP meeting.

- Nearly 600 entities have integrated with the PMP.
- Rule Changes – as of May 12, 2021, Schedule V (CV) prescriptions are required to be reported to the PMP.
- Pharmacist Narcan® Dispensing Program – continues to grow.

- Integration Funding – the first round of applications has closed, with 24 new applications.

#### 9. Board-Sponsored Medication Disposal Program Update

Melissa Carstens reported that disposal has stayed consistent from last month. The monthly weight of prescriptions received by the program is still an average 30 pounds per site per month. From April 2020 to April 2021, the total comes to 45,279 lb. The program has gained three new sites.

#### 10. Iowa Monitoring Program for Pharmacy Professionals (IMP3) Update

Becky Carlson provided a program update. The program has received several self-reports, and has a total of 19 participants as of May 12, 2021. The program will be switching drug screening to First Source Solutions, to be more user-friendly and cost-effective.

#### 11. Compliance Report

Christie Carlson provided a compliance update. In the last two months compliance officer have conducted 90 inspections. The compliance staff is discussing shifting the percentage of facilities they are visiting, and focusing on controlled substances act registration inspections. The compliance team have been involved in several special projects, such as legislation, MPJE work, and licensing work groups.

Break until 11:00 a.m.

### **Rules and Legislation**

#### 1. Update and Discussion on Legislation

Sue Mears provided an update on the Board's pending bills. Both bills have been signed by Governor Reynolds. The Rule Committee will assess new rules in June.

Iowa Pharmacy Association – IPA's bill was amended and awaits a signature by Governor Reynolds. The bill no longer includes immunization changes. Casey Ficek provided a brief update from IPA's perspective, stating that HHS guidance might be extended or made permanent, which would eliminate the need for state legislation.

#### 2. Proposed for Adoption and Filing to amend Chapter 2, "Pharmacist Licenses", adopt a new Chapter 31, "Criminal Convictions," and amend Chapter 33, "Military Service and Veteran Reciprocity," and Chapter 36, "Discipline" (ARC 5454C)

These changes will be filed concurrently with the other Boards and rules. Rulemaking will ideally be published in the July publication.

The amendments:

- Temporary pharmacist license for license transfer candidates that meet all other requirements while waiting to take the law exam.
- Removes the term "spouse" from Chapter 33.
- Updates implementation references in 33.

- Adds a new Chapter 31 to address criminal convictions in licensing decisions.
- Allowing pharmacy license transfer candidate to license transfer based on current/active licenses in any other state. Removes the requirement that it must be by the original license by examination.
- Pharmacists seeking reactivation are subject to a background check.

Motion by Dane Nealson, second by Sherill Whisenand, to adopt and file. Motion passed unanimously.

3. Proposed for Notice of Intended Action to amend Chapter 6, "General Pharmacy Practice" to amend terminology relating to deaf and hard-of-hearing persons

Motion by Kathy Stone, second by Gayle Mayer, to adopt. Motion passed unanimously.

4. Proposed for Notice of Intended Action to amend Chapter 10, "Controlled Substances" to add fifteen substances to schedule I and exclude one substance from schedule II in response to similar action taken by the federal DEA

Motion by Kathy Stone, second by Gayle Mayer, to adopt. Motion passed unanimously.

1. Vote on Nicotine-replacement Statewide Protocol, Naloxone Statewide Protocol
  - General review of protocol developed two years ago with IDPH. Set to automatically renew.
  - Any changes will have to be consulted with IDPH.
2. Vote on Immunizations Statewide Protocol
  - Defer to ACIP.
  - No changes or vote at this time.

### **Closed Session**

At 11:19 a.m., on a motion by Dane Nealson, seconded by Gayle Mayer, the Board voted unanimously by roll call vote to move into closed session pursuant to Iowa Code section 21.5(1)(f), to discuss the decision to be rendered in a contested case conducted according to the provisions of Iowa Code chapter 17A.

At 11:26 a.m., the Board returned to open session. In open session the following actions were taken:

1. Closed Session Minutes

Motion by Gayle Mayer, second by Sherill Whisenand, to approve the March 9, 2021 and March 31, 2021 closed session deliberation minutes.

2. Findings of Fact, Conclusions of Law, Decision, and Order

Motion by Sherill Whisenand, second by Gayle Mayer, to approve the Findings of Fact, Conclusions of Law, Decision, and Order in the follow case. Motion approved with Dane Nealson and Erik Maki abstaining.

- A. 2018-123 Empower Pharmacy, Nonresident Pharmacy License 4263, Houston, TX

Motion by Sherill Whisenand, second by Gayle Mayer, to approve the Findings of Fact, Conclusions of Law, Decision, and Order in the follow case. Motion approved with Erik Maki abstaining.

B. 2020-0117 Marlene McNaughton, CPhT Registration 29775, Des Moines

At 11:29 a.m., on a motion by Gayle Mayer, seconded by Dane Neilson, the Board voted unanimously by roll call vote to move into closed session pursuant to Iowa Code section 21.5(1)(a), to review or discuss records which are required or authorized by state or federal law to be kept confidential; pursuant to Iowa Code section 21.5(1)(d), to discuss whether to initiate licensee disciplinary investigations or proceedings; and pursuant to Iowa Code section 21.5(1)(f), to discuss the decision to be rendered in a contested case conducted according to the provisions of Iowa Code chapter 17A.

At 4:57 p.m., the Board returned to open session. In open session the following actions were taken:

1. Licensure Request – Alana Scavuzzo. RPh, Eldridge

Motion by Kathy Stone, second by Gayle Mayer, to approve the request as discussed in closed session. Motion passed unanimously.

2. License/ Registration Applications – Lauri Dvorak, RPh, License 17332, Omaha, NE

Motion by Kathy Stone, second by Gayle Mayer, to offer reactivation by consent agreement for the applicant. Motion passed unanimously.

3. Notice of Hearing and Statement of Charges

Motion by Dane Neilson, second by Gayle Mayer, to approve the Notice of Hearing and Statement of Charges. Motion passed unanimously.

A. 2020-0049 & 2020-0152 Brandon Iacobo, RPh, License 22545, La Crosse, WI

4. Combined Statement of Charges, Settlement Agreement, and Final Order

Motion by Dane Neilson, second by Gayle Mayer, to approve the Combined Statement of Charges, Settlement Agreement, and Final Order in the following cases. Motion approved unanimously.

A. 2020-0049 & 2020-0153 CVS Pharmacy #8443, License 1395, Cedar Rapids

B. 2020-0112 Absolute Pharmacy, NRP License 4353, Lutz, FL

C. 2020-0167 BET Pharm LLC, NRP License 3614, Lexington, KY

D. 2020-0147 Stephen Eby, RPh, License 14374, Logan, IA

E. 2021-0029 Eby Drug Store, License 603, Logan, IA

5. Closed Session Minutes

Motion by Kathy Stone, second by Gayle Mayer, to approve the closed session minutes from the March 9-10, 2021 meeting as presented. Motion passed unanimously with Erik Maki abstaining.

6. Closed with No Further Action

Motion by Gayle Mayer, second by Dane Neilson, to close with no further action the following investigative files in complaint numbers: 2020-0027, 2020-0046, 2020-0055, 2020-0056, 2020-0091, 2020-0098, 2020-0070, 2020-0132, 2021-0061, 2021-0016, 2021-0024, 2021-0046, 2020-0173, 2020-0014, 2020-0003, 2021-0022, 2021-0042, 2021-0043, 2021-0047, 2021-0049, 2021-0050, 2021-0051, 2021-0053 and 2021-0027 Motion passed unanimously.

7. Administrative Warning

Motion by Gayle Mayer, second by Kathy Stone, to issue Administrative Warnings to the respondents in complaint numbers: 2021-0041, 2021-0025, 2021-0026, 2021-0044, 2021-0078, 2021-0015, 2021-0048, and 2021-0002. Motion passed unanimously.

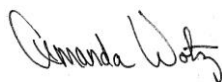
8. Letter of Education

Motion by Gayle Mayer, second by Kathy Stone, to issue letters of education to the respondents in the following investigative files in complaint numbers: 2020-0045, 2020-0056, 2020-0055, 2020-0057, 2021-0096 and 2021-0094. Motion passed unanimously.

Voluntary Surrender

Motion by Dane Neilson, second by Gayle Mayer, to approve the voluntary surrender in the following case: 2021-0030. Motion passed unanimously.

At 5:05 p.m., motion by Dane Neilson, second by Gayle Mayer, to adjourn. Motion approved unanimously.



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Amanda Woltz, Administrative Assistant and Recording Secretary



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Andrew Funk  
Executive Director



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Brett Barker  
Board Chair

APPROVED THIS 14th DAY OF July, 2021