

SOUTH DAKOTA PHARMACISTS ASSOCIATION REPORT

Prepared March 5, 2024 for SDPhA Spring District Meetings



2024 LEGISLATIVE SESSION AND POLICY INITIATIVES

99TH LEGISLATIVE SESSION

Both chambers are poised to gavel out for the main run of the 99th Legislative Session. It was a busy one for the South Dakota Pharmacists Association and the Commercial and Legislative Branch (that's the legislative arm of SDPhA), but not always in the traditional sense. Much of our work this session focused on what the future might look like as a whole for the association, as well as our lobbying branch. However, we of course monitored several bills of consequence to the profession and engaged where appropriate. You can find all the bills we monitored and took a position on in the [Action Center](#) on our [website](#). Select the "[Bills](#)" tab for the complete list.

HB 1168 – MANDATED DISPENSING

SDPhA C&L Branch led the charge in opposition to this unnecessary, mandated dispensing bill. On Tues., Feb. 6 the House Health and Human Services Committee heard [HB 1168 – An Act to Require the Dispensing of Drugs Prescribed for an Off-Label use During a Public Health Emergency](#). We strongly opposed this dispensing mandate which not only undermined our ability to practice pharmacy but could have also resulted in significant patient harm. You can listen to SDPhA President [Jessica Stobl's opposition testimony here](#). The committee voted unanimously to send the bill to the 41st legislative day, which effectively kills the bill. Thank you to all those who reached out to members of the House Health Committee. It matters when they hear from you.

HB 1147 – 340B PROTECTIONS

SDPhA C&L Branch joined with the South Dakota Association of Healthcare Organizations (SDAHO), Sanford and Avera in support of [HB 1147 – Address Discriminatory Acts Against Entities Participating in the 340B program](#). HB 1147 was first heard in the House Commerce Committee Wed., Feb. 7. The bill builds upon language we first passed in 2019 and adds actual and consequential damages for violation of the law. The bill sailed through both chambers with only one dissenting vote. Gov. Kristi Noem signed it into law Mon., March 4. Typically bills become effective July 1 of the calendar year they were signed, but this one is effective beginning Jan. 1, 2025 as stated in the language of the bill. You can listen to the testimony, including ours, in both the [House Commerce](#) and [Senate Health and Human Services](#) Committees by clicking the links.

SB 100

[SB 100: Prohibit the Imposition of Additional Immunization Requirements on Children](#) was one of a handful of vaccine related bills this year. We were among several opponents to the legislation which, among other things, would have essentially removed the South Dakota Department of Health from the scheduling process. You can [listen here to all the testimony](#), including ours. SB 100 was deferred to the 41st legislative day in the Senate Health and Human Services Committee by a vote of 5-1.

OTHER KEY BILLS

There were several other bills of consequence we monitored with great interest, including the [annual scheduling bill](#), which had some unusual intrigue this year of including a drug not on the current updated federal schedule – because it was missed some 40 years ago! Also [HB 1028](#) which classifies xylazine as a Schedule III controlled substance (signed into law Tues., Feb. 13), and [HB 1125](#) which addresses chemical modification of industrial hemp (delta-8 tetrahydrocannabinol, delta9 tetrahydrocannabinol, delta-10 tetrahydrocannabinol, or any other tetrahydrocannabinol isomer, analog, or derivative) and the sale or distribution of it. A bill making all that a Class 2 misdemeanor was delivered to Gov. Noem for her signature Mon., March 4. SB 198 was a constituent bill (that means it was brought forward by a legislator at the request of a constituent) that authorizes schools to acquire and administer nasal glucagon. That bill too now awaits the Governor’s signature. SB 76 which modifies provisions pertaining to vacant board provisions was signed into law Tues., March 5. This bill is important for any profession regulated by a board. Finally SB 57, billed as Gov. Noem’s “Second Chance Bill” caused most professional associations (including ours) some heartburn, but in the end was signed into law Wed., Feb 7. We also closely monitored a handful of medical marijuana and appropriations bills. Again, the full list is available [here](#).

LEGISLATIVE DAYS | FEB. 13-14

I’ve said it many times in recent months, but I truly am not sure there has ever been a more pivotal time for all pharmacists, technicians and students to be involved in the association, and the work we do. At the federal and state level – I’m not sure there has been a more important time in the recent history of this profession for you to be informed, aware, and active in the promoting, protecting, and advancing of it. This holds true no matter your practice setting. It is also true that no matter your practice setting, SDPhA represents you. But to do that to the best of our ability, it is important that you engage with us.

Legislative Days is a prime opportunity to do just that, and we can’t say enough about the incredible crew (30 SDSU student pharmacists!) that brought a lot of excitement and energy to the Capitol this year. The event is a fantastic opportunity to show a much broader range of the great work you all do each day. It’s also a unique chance for students to hone their skills by providing screenings, while also having the option to sit-in on various committees, and venture onto the House and Senate floors to meet their lawmakers.

We can’t stress enough the impact Legislative Days has on our legislators. While the student certainly get people’s attention, Legislative Days is an opportunity for ALL pharmacists to make their presence, and our issues, known. If you haven’t been here to experience it yourself, mark your calendars for next year, Feb. 11-12, and plan to join us in Pierre! We’re putting a new spin on a familiar event, and you don’t want to miss it!

STATE PRIORITIES AND INITIATIVES

DRUG SHORTAGE TASK FORCE

The South Dakota Department of Health is currently analyzing the state’s drug shortage situation and has partnered with ASHP Consulting to complete an assessment of the vulnerability of the hazard of drug shortages and recommend best management practices to mitigate risk to the citizens of South Dakota. This project is in response to the Governor’s [Executive Order 2023-07](#). The next step is forming a steering committee to guide planning for the risk assessment, action

plan and a one-day summit. Executive Director Amanda Bacon will participate in this process, as will Jessica Strobl, SDPhA President. Those meetings are set to begin this Spring and will include stakeholders from the profession as well as state agencies.

HB 1135 IN ACTION

With HB 1135 now the law in South Dakota, our focus for now is on assessing how it works in practical application for regulating Pharmacy Benefit Managers (PBMs). In the months that followed HB 1135 becoming law, SDPhA went to work with the South Dakota Division of Insurance (SD DOI) on the process and procedure for filing complaints and violations of the new law. We thank the DOI for bringing us to the table early and often in this process. We worked with them to create an intake form that is simple and direct, yet comprehensive.

As a reminder, here are the highlights of the bill:

- **Prohibit direct or indirect retroactive claim adjustments** unless it's the result of a technical billing error, audit, fraudulent or duplicate claim. (Section 13)
- **Prohibit the numerous onerous fees** PBMs charge pharmacies. (Section 14)
- **MAC list regulation** to help ensure pharmacies are paid fairly and transparently. (Sections 15-16)
- **Prohibit a PBM from reimbursing its own pharmacies more** than it does other resident South Dakota pharmacies (Section 17)
- **Strengthens gag clause prohibition** (Section 10)

In addition, the bill strengthens audit (Section 4, 7) and reporting (Section 18) requirements for PBMs (including identifying all instances of spread spicing) and establishes the conditions under which the Division of Insurance may suspend, revoke, or deny a PBM's license (Section 19).

One very important note – it is incumbent upon us to report issues and they occur and provide the proper documentation regarding. Complaints need to be reported **IN WRITING** via the form. A phone call to the DOI is not going to initiate the process. The Division has also hired an investigator and a pharmacist, but the process is new for everyone, and we are committed to taking the time to work through any issues that arise with the process as we go. You can find a link to the complaint form, and a host of other resources on our new webpage devoted exclusively to [PBM and Payer Resources](#).

NATIONAL PRIORITIES AND INITIATIVES

PBM INITIATIVES

While we are pleased with the strides we have made here at home on PBM reform, we continue to engage at the national level as well. There are very few issues for which you will find bipartisan support on Capitol Hill, but reining in PBMs has been one of them. Even so – the PBM reform bills we've fought for so hard on the Hill for the past many months will likely get pushed to the lame duck session of Congress. Even so, it's important that our delegation hears from you. They need to know, loud and clear, that time for reform is **NOW**, and that the future of (especially independent) pharmacy in South Dakota is truly on the line. Failure to finish the job on these reforms in this Congress is a huge win for the PBMs, and huge loss for South Dakota patients and pharmacies.

We've spent most of our time on this engaging with the office of Sen. John Thune R-SD, on this issue. Sen. Thune has played a particularly important role as a member of the Senate Finance Committee, and we appreciate his strong show

of support for South Dakota pharmacy. When you reach out – especially when you reach out to him, it’s really important to thank him for the leadership and hard work that he’s put in on this issue.

Key provisions include:

- Requirements for the Centers for Medicare & Medicaid Services to define reasonable and relevant contract terms under Medicare Part D and create a process for pharmacies to report contract violations.
- Provisions to give CMS the tools to enforce reasonable and relevant contract requirements.
- Boost oversight of pharmacy benefit managers before the bill is implemented, especially regarding DIR hangover issues.

SOUTH DAKOTA ATTORNEY GENERAL JOINS CALL FOR ACTION ON PBMS

South Dakota Attorney General Marty Jackley [recently joined a coalition of 39 Attorneys General](#) in urging Congress to reform the current practices conducted by pharmacy benefit managers (PBMs). The bipartisan coalition of Attorneys General have sent a letter to both the U.S. Senate and the U.S. House seeking legislative action to address potential abuses within the PBM industry and bring transparency to the profession.

"Consumers in South Dakota are being forced to pay higher drug prices because of certain unscrupulous PMBs, and smaller pharmacies across South Dakota are being hurt by these PMBs' actions," said Attorney General Jackley in a press release. "Congress needs to take decisive action to protect the public."

DIR HANGOVER | CENTERS FOR MEDICARE AND MEDICAID SERVICES

The CMS final rule to, “put an end” to PBMs retroactive DIR fees went into effect Jan. 1, 2024. The rule requires DIR fees be reflected in the negotiated price the patient pays at the point of sale. So, the rule does not remove DIR fees, but instead moves them to the point-of-sale negotiated price. The fee reform is a huge cashflow shift that’s having a major impact on pharmacy. We’re helping our national partners track the impact. If you have stories you’re willing to share on this critical issue, please contact the association office.

ADDITIONAL ADVOCACY EFFORTS

SDPhA also remains engaged in a variety of ways in other various additional national efforts on key topics directly impacting our pharmacists such as: TRICARE Pharmacy contracts, COVID-19 advocacy, provider status, reproductive health care, pricing transparency, DSCSA, improvements to Medicare, prescription drug misuse and abuse, biologics and biosimilars, and compounding guidance.

SDPHA GENERAL AND COMMERCIAL AND LEGISLATIVE BRANCH FUNDS

We continue all this work while also working through some major changes at the Association. SDPhA was handed a tough blow at the December 2023 South Dakota Board of Pharmacy (SD BOP) meeting. It was at that meeting the board voted to rescind their vote from June 2023 to send SDPhA the 80% of the pharmacist renewal license fees as per SDCL 36-11-6.

The BOP finds itself in financial difficulty, and this is also now the position we find the Association in as a result.

Via [SDCL 36-11-6](#), pharmacists renewing their license in South Dakota are SDPhA members (you can opt out should you

choose). Here's the history –years ago, the SD BOP and the Association were run out of the same office, by the same executive. When the offices separated, the funding mechanism became essentially what we know now – that a portion of the pharmacist renewal fees may go to the association as detailed in the statute referenced above.

Funds that come to SDPhA through those fees go into the SDPhA General fund and are used in accordance with our obligations as outlined in that statute. Primarily this includes day-to-day operations, continuing education, funding the Health Professionals Assistance Program (HPAP) and other initiatives that advance patient care, enhance public awareness, and serve in the best interest of public health and pharmacy.

These funds are not to be used for lobbying, which is why we maintain a separate Commercial and Legislative Fund. That fund sustains the lobbying arm of SDPhA. The reality is, to ensure the profession has a seat at the table, first and foremost, the Association needs the funds in the general fund to even exist. (While we have some reserves, like you, SDPhA can't operate without its main source of income for very long.) Second, we must have the funds in the C&L Fund to pay for the chair.

We appreciate the BOP's efforts to work toward solutions and hope to find a resolution that allows SDPhA to continue the good work the legislature has tasked us to do.

One more quick note about lobbying: this is an extremely expensive, but necessary function. We have been represented by the same firm for decades, and the executive director also performs many lobbying duties. That has all kept our rate extremely low. Before the past three years, our lobbying expenses typically totaled about \$12,000 per year. Even then, expenses far outpaced contributions.

For the past few years, we have needed additional lobbyists, which means expenses have increased dramatically. We have spent an average of \$33,000/year for the past three years. Those costs will only continue to increase, yet they remain far below the going rate for most lobbyists. As we continue to work through PBM and other significant issues, we foresee the need to move forward with all four lobbyists in an effort to protect the profession.

Thus far (8 months) into the 2023-2024 fiscal year, contributions are minimal. Simply put, we need your help. \$25, \$250, \$2,500 – whatever you can contribute will help ensure the profession continues to have representation at the Capitol. Because without your contributions – it simply won't.

You can support the C&L Fund by [contributing online](#), or sending a check made out to the SDPhA C&L Branch, PO Box 518, Pierre, SD 57501.

SPRING AND ANNUAL MEETINGS

SPRING DISTRICT MEETINGS

Spring District meetings are underway! Please watch your emails, the website and social media for dates and instructions. This spring meeting is the most important district meeting of the year, as the fall meeting is optional. Many important items need to be addressed, including the future of SDPhA, election or re-election of district officers; nominations for the state association board of directors; and the recognition and nomination of worthy pharmacists, reps and technicians to be considered by the Executive Board for the awards presented at our annual meeting. Our district presidents are working hard to ensure these meetings provide quality networking and learning opportunities, in addition to everything mentioned above. Our thanks to our district leaders for all your hard work!

SOUTH DAKOTA PHARMACISTS ASSOCIATION ANNUAL MEETING | SEPT. 13-14, 2024

Early bird registration opens late Spring for the 138th annual meeting. Plan to join us Sept. 13-14 in Brookings, SD - and be ready for ACTION! We already have several fantastic speakers and continuing education topics on deck, plus we're providing more networking opportunities than ever this year, while of course honoring our colleagues and celebrating pharmacy in South Dakota! We'll have registration information out soon!

NATIONAL COMMUNITY PHARMACISTS ASSOCIATION (NCPA) AND NATIONAL ALLIANCE OF STATE PHARMACY ASSOCIATIONS (NASPA)

In October, Amanda Bacon and Jessica Strobl, SDPhA President attended the annual NCPA Meeting in Orlando Florida. This was the first national meeting attended in person for Bacon since before COVID. NCPA provided great learning opportunities, both in terms of CE, and advocacy. This organization was extremely helpful in our efforts the last 2 years to pass PBM legislation. It was great to be able to finally say an in-person thank you to those who worked so hard for us. The NASPA meeting was also time very well spent. While we meet often via Zoom – just like with our state association meeting – it's just different when you are all together in the room. The networking and insight gained about the work in other states is extremely important, especially ahead of our legislative session.

AMERICAN PHARMACISTS ASSOCIATION (APHA) ANNUAL MEETING

To conserve funds, SDPhA will have only one representative at the APhA Annual Meeting this year. Jessica Strobl, SDPhA President will attend, and also serve as South Dakota's lone delegate in the APhA House of Delegates. NASPA will hold its semi-annual meeting in conjunction with APhA – we are uncertain at this time whether there may be an option for Amanda Bacon to participate virtually.

PRESCRIPTION DRUG ABUSE AND AWARENESS

DEA TAKEBACK EVENTS

The Spring DEA Take Back Day is April 27, 2024. There's a wealth of [information available here](#) about this event, including law enforcement information, year round disposal locations, take back day results since 2016 and more! We continue to work to encourage pharmacist and law enforcement participation in these locally held events. We also continue to work with pharmacists and the BOP to promote the year-round pharmaceutical disposal receptacles. If you have a story you'd like to share about either to aid in that promotion, please contact our office.

PRESCRIPTION DRUG MONITORING PROGRAM

SDPhA has strongly supported the PDMP since its inception and remains a solid supporter of the program. However, we also firmly believe that the Board of Pharmacy, and therefore our pharmacists should not have to bear the entire burden of funding this program. We have committed to the Governor's office, as well as the BOP to help work to find a sustainable funding source for the PDMP that makes sense for all stakeholders.

The Prescription Drug Monitoring Program (PDMP) is excellent resource for practitioners. South Dakota state law mandates PDMP registration for everyone who has a SD Controlled Substance Registration (SD CSR). While the Board of Pharmacy is the entity managing the program, an advisory board was established under the law which consists of at least twelve (12) designees. Jessica Strobl serves on SDPhA's behalf on the advisory board and attended the Oct. 17

meeting. The group makes recommendations to the Board of Pharmacy as to how to best use the program to improve patient care and reduce the misuse, abuse, or diversion of controlled substances. The advisory council also makes recommendations to the Board regarding safeguards for release of information to only persons who are entitled access to maintain the confidentiality of program information.

SOUTH DAKOTA OPIOID ABUSE ADVISORY COMMITTEE

This committee met most recently on Jan. 4, 2024. The next meeting should be held this summer. SDPhA Past President Kristen Carter continues to represent SDPhA. The goal of the group is to review opioid use data for the state and develop strategies for preventing prescription opioid misuse and abuse. According to the National Institute on Drug Abuse, researchers have observed increases in substance abuse and drug overdoses since the COVID-19 pandemic was declared a national emergency. Nationwide, pharmacists continue to engage in the work to prevent prescription drug abuse with the knowledge that real solutions must balance the need for patient access to medications for legitimate medical purposes with the need to prevent diversion and abuse. You can learn more about their work here:

<https://doh.sd.gov/news/opioid.aspx>.

HEALTH PROFESSIONAL ASSISTANCE PROGRAM (HPAP)

As part of our obligations under statute as noted above, SDPhA pays the bill for the HPAP program. We do this each year at the beginning of the fiscal year, and after an affirmative Board of Pharmacy vote on SDCL 36-11-6. Therefore, upon receiving the affirmative vote in June of 2023, we paid that bill in July of 2023 (we did see a decrease in the billing for FY 2023-2024 from \$20,000 to \$15,000.) However, in the December vote to rescind the June vote means the money to fund that program had come out of SDPhA reserves.

A pharmacist may access the program by self-referral, board referral, or referral from another person or agency, employer, coworker, or family member.

PHARMACY TECHNICIAN UNIVERSITY (PTU) (UPDATE)

The SDPhA board is committed to strongly supporting pharmacy technicians, including finding them, training them, and keeping them. We know this is becoming an even more pressing issue now than perhaps ever before.

SDPhA is pleased to continue to offer low-cost access to this online training module. We are nearing the end of our current contract, and given the current financial circumstances, the SDPhA Board will have to weigh whether we can continue to offer this program and such a reduced cost.

In the past 5 years, SDPhA has now enrolled roughly 180 participants. We are also thrilled to report a record-tying 15 student participants enrolled in the DIAL Virtual Program for the 2023-2024 school year. The DIAL program works with high schools throughout South Dakota. We have seen a very exciting increase in the number of students enrolled through Oglala Lakota in particular. We appreciate the pharmacists who have stepped up in communities across the state to work with the DIAL program and these students. This is an exceptional opportunity to introduce the profession into the school systems, and we are grateful for everyone working together who makes it happen.

Just a reminder, the Therapeutic Research Center - PTU 101 module we administer qualifies as a PTCB-Recognized Education/Training Program of the CPhT program, and upon completion, allows participants to sit for the certification exam. In addition to PTU 101, we now offer four additional training modules through TRC:

- PTU Elite: Immunizations
- PTU Elite: Math Mastery – Community Pharmacy
- PTU Elite: Compounded Sterile Preparation Technician Program
- PTU Elite: Soft Skills Program.

You can find out more about those on our website. For more details and enrollment information, contact Amanda Bacon.

EDUCATION, COMMUNICATION, PUBLIC AFFAIRS AND PROFESSIONAL RELATIONS

CONTINUING EDUCATION

The Association continues to focus on providing quality continuing education for practitioners, as we are tasked with in statute. SDPhA continues to work with the SDSU College of Pharmacy to bring you interesting continuing education opportunities at the annual convention and throughout the year. We have also been engaged from time to time to assist pharmaceutical companies in getting the word out on local opportunities for informative programs.

REACHING OUT

The Association prepares and delivers Legislative and Association Updates, CE and pharmacy-related information at Fall and Spring district meetings, in addition to delivering a variety of educational programs at each Annual Convention. The Association continues to work with student pharmacists on the American Pharmacists Month campaign, which helps bring awareness to the state about all pharmacists can do, and how patient care is improved with a pharmacist engaged. SDPhA previously provided SDSU students a grant for, and continues to assist with, pieces related to the, “More Than a Count” campaign. This campaign showcases the profession and SDPhA utilizing traditional and social media platforms to engage both pharmacists throughout the state as well as members of the general public.

THE SOUTH DAKOTA PHARMACIST

Communicating with our members quickly and effectively is extremely critical to the success of the Association. The South Dakota Pharmacist continues a quarterly electronic distribution. You can also find it posted with past issues on our website. It always offers 1.5 hours of CE and provides a source of communication for the association on rules, legislative issues and education that affect pharmacy practice.

WEBSITE UPDATES

The website continues to expand and grow as a resource for the public and those in the profession. Recent changes include and new [PBM and Payer Resource](#) page, and updates to the [Pharmacist Wellbeing](#) resource.

We continue to see even greater utilization of the new and improved [Action Center](#). Last year, we contracted with a new vendor service for this area – half the price of the old, and a product better suited to our website and how our pharmacists communicate with their lawmakers. The new process is clearly a success, and we’re excited about the customization this platform offers, and how it enhances our communication and messaging opportunities! If you have information you think we should consider adding to our pages to make it even more useful for you – please let us know!

SOCIAL MEDIA/EMAIL BLASTS

Enhancing communication will take center stage 2024. Expect to see more from us in all the areas – as we work to really drill down into the best methods of communication for our pharmacists, technicians, and students. We continue to utilize and expand our social media footprint where appropriate. This presence is something we consider vital to our work of representing the pharmacy profession through advancing patient care, enhancing public awareness, and serving in the best interest of public health and pharmacy.

SCAPP | SDSU APHA – ASP CHAPTER

We continue to work closely with SDSU, and the student pharmacists. The student liaisons do an amazing job keeping us apprised of activities, and the SDPhA board remains committed to supporting the students in every way possible. In fact, this year the board voted to continue the increased dollar amount of SDPhA scholarships to SDSU students. Support also includes activities such as convention attendance (free of charge), rooms for convention and Legislative Days, and support for the Back-to-School Picnic, Pharmacy Days, and American Pharmacists Month activities. We believe these activities are an incredible investment in your association's future. The student pharmacists worked extremely hard to assist us with the 2023 meeting, volunteering for everything from running the registration table to creating slide shows and providing technical support through the conference. We couldn't appreciate them more! We also remain a resource for faculty whenever needed and collaborate on projects whenever possible.

SOUTH DAKOTA SOCIETY OF HEALTH SYSTEM PHARMACISTS (SDSHP)

We are extremely excited about the work we have undertaken with SDSHP of late. For the past several years, the leadership of the Society and SDPhA have found more and better ways to work together and enhance communication. We are extremely pleased to have had Khia Walzer, SDSHP president provide updates at SDPhA board meetings for the past quarter, and likewise, we are honored to participate in the SDSHP board meetings in the same fashion. SDPhA also attends the ASHP advocacy calls.

ASSOCIATION MANAGEMENT APPE

We were pleased to welcome Tara Jorgensen for an APPE in Association Management late this summer. Tara started with us in August and stayed through the convention. We appreciate the opportunity to work with student pharmacists who want to take a deeper dive into this unique field of management, learning the day-to-day operations, the complexities of running an association, and the many aspects unique to associations and legislative work. Tara got a very honest picture of the balancing act of a one-person association office. Rotations prior to convention offer a unique look at how we lay the groundwork for legislation, work through the process of legislative summer studies, and plan conventions—and what happens when it all changes on a dime. As always, we look forward to the opportunity to work with more students in the future.

OFFICE UPDATE

We are at a pivotal point for so much in the pharmacy profession. My colleagues around the country agree – we see waning engagement, but there's never actually been a more important time to be informed, aware, and active in the promoting, protecting, and advancing of your profession. No matter the practice setting, SDPhA represents you. But to do that to the best of our ability, it is important that you engage with us by attending SDPhA district and annual meetings. Get involved with us on social. Email your lawmakers. There is a lot happening, in-state and nationwide, that should have a voice in. We are your voice – make sure you show up to amplify it, and ensure the message is heard.