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SDPhA Update | Spring 2023

Updated March 21, 2023

Legislative Session and Policy Initiatives

98th Legislative Session

The main run of the 2022 Legislative Session has nearly drawn to a close, as of the date of this report we are in the final week of the main run of the Legislative Session, which concludes March 10. The final legislative day is, “Veto Day,” March 27. That’s the legislative day reserved at the end of each session calendar for the consideration of gubernatorial vetoes.

We are extremely grateful to once again have retained the skillful services of long-time SDPhA lobbyist and general legal counsel Robert Riter, as well as Lindsey Riter-Rapp, who is in her 4th year as lobbyist for SDPhA. This year we also again employed the services of Craig Matson and Roger Tellinghuisen specifically regarding our Pharmacy Benefit Manager (PBM) initiatives.

HB 1135

Things were quite active for the SDPhA Commercial and Legislative Branch well before the session started. In fact, round two of work on legislation to regulate PBMs began shortly after the gavel fell on the 97th (2022) Session. Nearly immediately after SB 163 failed on a tie vote, several Senators expressed to us, and some of our opponents, that they had a desire to see this work come to fruition for the good of all. We took those words to heart, and your SDPhA board soon went to work. SB 163 was very comprehensive legislation, so the board’s first task was to identify the “must have” provisions from that bill. The following were the pieces we felt had the most immediate impact should the bill become law. We’re happy to say that after many months and countless hours of negotiations with stakeholders (including Wellmark and PhRMA, among others), all the SDPhA priorities remained in 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).

HB 1135 came unanimously out of the House Commerce and Energy Committee, Feb. 8, passed the House of Representatives 62-5 Feb. 12, passed unanimously out of the Senate Health and Human Services Committee, and passed the full Senate with a vote of 34-0. At present, HB 1135 has been signed by the Speaker of the House and the President of the Senate, and has gone to the Governor. Wellmark, Hy-Vee, Avera and the South Dakota Retailers spoke as proponents of the bill.

We want to express our immense gratitude to **Rep. Mike Weisgram**, the Prime Sponsor of HB 1135, and **Sen. Mike Diedrich**, the prime sponsor on the Senate side. These two gentlemen have put in a lot of work to help us pass this bill. In addition, thank you to **Eric Grocott, Hugh Mack, Lindsey Osterkamp, and Kristen Carter** for their invaluable testimony, as well as to all of you who wrote, called, emailed, and showed up to make sure the voice of pharmacy was heard. Thank you to SCAPP student liaisons **Kaylee Ayers** and **Annabelle Simpson**, who rallied our student pharmacists, and thanks to some fortuitous timing – ensured we packed the first committee hearing with a sea of beautiful white coats. Last but certainly not least, we would not be where we were it not for **Craig Matson**, our lead lobbyist on this issue. He put countless hours into this bill in the “off season” with Amanda Bacon and the SDPhA board, as well as the other principal stakeholders. His partner **Roger Tellinghuisen** was also an integral part of the passage of HB 1135.

Other Key Bills

The passage of HB 1135 required the bulk of our time and attention. As such, while we monitored a long list of other bills this Legislative Session, the board is extremely strategic regarding the bills in which they choose to actively engage. Lindsey Riter-Rapp and Robert Riter continue to do a remarkable job of working with us to watch out for the profession.

- **SB 122** - SDPhA testified in opposition this legislation titled “address the potential abuse of opiate and opioid drugs.” We echoed the concerns of many others with regard to the legislation, but also highlighted section three of the bill as particularly problematic for pharmacy. The Senate Health and Human Services Committee unanimously sent SB 122 to the 41st legislative day.

Several other key pieces of legislation on which SDPhA kept a close watch: Immunization measures, COVID immunization measures, mental health issues, practice act measures, employment contracts issues, Medicaid coverage, drug paraphernalia measures, controlled substance scheduling, several bills related to medical marijuana, You can see the full scope of the bills we followed this session [online with the SDPhA’s new bill tracker](#).

Medical Marijuana and IM 26 Oversight Committee

One of the medical marijuana bills referenced above came out of the Medical Marijuana Oversight committee. Initiated Measure 26 required the creation of an oversight committee, and South Dakota pharmacists have a seat at the table. Eric Grocott, a past president of SDPhA, was appointed to the 14-member oversight committee by the executive board of the Legislative Research Council. The committee’s role is to review and advise on medical marijuana in South Dakota. The group most recently met in Pierre Oct. 25. Discussion included legislative drafts, one of which the group voted to move forward to the Executive Board for further consideration as referenced above.

Lobbying Funds Update | Commercial and Legislative Branch

All of this legislative work leads us here – to the very important role the Commercial and Legislative Fund plays in our ability to move forward with PBM reform, and other legislative priorities. The legislative work of recent years shed some light on something that may have seemed a bit mysterious to many – the SDPhA Commercial and Legislative (C&L) Branch. The C&L branch is the lobbying arm of the association.

Some very important things about this fund:

- The funds for our lobbying branch must be maintained separate from the general fund
- It relies nearly exclusively on your contributions
- For many years now, expenses have vastly outpaced contributions

Lobbying is an extremely expensive, but necessary function. We've been represented by the same firm for decades, and the executive director performs many of the lobbying duties. That's all kept our rate very low – our lobbying expenses **had** typically totaled only about \$12,000 per year. This amount is **far below** the going rate of most lobbyists. In fact, the going rate for one session with many would empty our entire C&L Fund.

As referenced earlier, we had additional lobbyists working with us for the 2022 and 2023 session. **So, while all this was needed to move our PBM initiatives forward, it also means expenses have increased dramatically.** This legislative work cannot continue without your strong financial support. If we want to ensure the profession has a seat at the table, we have to pay for the chair. **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.

Legislative Days

They say timing is everything and that couldn't possibly be more true than for the 2023 Legislative Days event at the Capitol. The event Feb. 7-8 coincided with the House Commerce Committee Hearing for HB 1135, and we filled the committee room with pharmacy students eager to see the process, and take a stand (literally – it was standing room only) for their profession.

Tuesday evening provided a townhall style opportunity for pharmacists, pharmacy technicians and pharmacy students to learn about our work thus far in the legislative session. Lindsey Riter-Rapp, SDPhA lobbyist, and Amanda Bacon, SDPhA executive director, discussed the various bills and legislation SDPhA was working on your behalf. The group also heard from Kari Shanard- Koenders, Executive Director, Board of Pharmacy. Wednesday morning prior to the committee hearing, we provided wellness screenings at the Capitol, courtesy of the roughly 30 SDSU student pharmacists who attended.

Legislative Days 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. There's nothing like learning the legislative process first-hand! Practicing pharmacists, we strongly encourage you to join us next year – your involvement further showcases, for students and lawmakers alike, the importance of having a strong presence at the table during legislative session.

Legislative Process 101

SDPhA was honored to again virtually join the classroom of Dr. Erin Miller Thurs., Feb. 9. Executive Director Amanda Bacon provided students with a walk-through of the legislative process, and used real-time examples from the current legislative session to explain many of the issues, challenges and pitfalls bill can face on the way from becoming an idea to a law, as well as the politics often in play behind the scenes. The students had fantastic questions, and we had great dialogue about how the process works, and how the results impact them each day in their professions. Our thanks to Dr. Miller for having us – we always enjoy the opportunity.

SDPhA Spring and Annual Meetings

Spring District Meetings

Spring District meetings are taking place in a variety of ways this year. While some districts are back to meeting in person, others continue to utilize Zoom to gather. 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 now optional. Many important items need to be addressed, including the 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.

South Dakota Pharmacists Association Annual Meeting

Early bird registration opens late Spring for the 137th annual meeting. Plan to join us Sept. 15-16 at the Lodge in Deadwood, SD. We plan for a fantastic time of continuing education, networking, honoring our colleagues and celebration! We'll have registration information out soon!

National Efforts and Partnerships

Federal Trade Commission and House Committee on Oversight and Accountability

We, along with many other organizations and individuals from South Dakota, have submitted comments to the Federal Trade Commission (FTC) regarding detrimental PBM practices, and expressed similar concerns to the Centers for Medicare and Medicaid Services (CMS) regarding DIR fees and their 2023 proposal. There's finally some true momentum in Washington D.C. on this topic. The bipartisan bill S. 127 Pharmacy Benefit Manger Transparency Act of 2023 was introduced at the end of January. Feb. 16, U.S. Sen. Maria Cantwell (D-Wash) convened a full committee hearing on, "Bringing Transparency and Accountability to Pharmacy Benefit Managers. Just a few days later on March 1, the House Committee on Oversight and Accountability launch an investigation into PBM practices.

Additional Advocacy Efforts

SDPhA also remains engaged in a variety of ways in other various national efforts on key topics directly impacting our pharmacists such as: TRICARE pharmacy contracts, COVID-19 related bills, DIR fee relief, PBM reform, pricing transparency, improvements to Medicare, prescription drug misuse and abuse, compounding guidance, and scope of practice.

APhA Annual Meeting | March 24-27

The APhA Annual meeting will take place Phoenix, AZ March 24-27. SDPhA Board President Melissa Gorecki will represent SDPhA, and South Dakota in the House of Delegates. Plans are in the works to resume the tradition of taking the SDSU SCAPP students and faculty out for a dinner/activity – that's always a highlight!

NCPA Congressional Pharmacy Fly-In | April 26-27

The National Community Pharmacy Association has is once again holding the pharmacy fly-in. We are in the process of finalizing who will attend for SDPhA. This is a fantastic opportunity for pharmacy to take the PBM fight to Capitol Hill, as well as take the opportunity to discuss other priority measures for pharmacy. NCPA has been an extremely important partner for us in our legislative work the past few years, and we appreciate the opportunity to participate in this important event.

Coronavirus (COVID-19)

Unwinding from the Public Health Emergency - Medicaid

The Public Health Emergency is set to expire May 11, 2023. That means a lot of different things for different aspects of healthcare, including pharmacy. According to Medicaid.gov, “The expiration of the continuous coverage requirement authorized by the Families First Coronavirus Response Act (FFCRA) presents the single largest health coverage transition event since the first open enrollment period of the Affordable Care Act. As a condition of receiving a temporary 6.2 percentage point Federal Medical Assistance Percentage (FMAP) increase under the FFCRA, states have been required to maintain enrollment of nearly all Medicaid enrollees. When the continuous coverage requirement expires, states will have up to 12 months to return to normal eligibility and enrollment operations. Additionally, many other temporary authorities adopted by states during the COVID-19 public health emergency (PHE), including Section 1135 waivers and disaster relief state plan amendments (SPAs), will expire at the end of the PHE, and states will need to plan for a return to regular operations across their programs. CMS will continue to update this page as additional tools and resources are released.”

Pharmacist Access

Pharmacists were granted additional authorities through the Public Readiness and Emergency Preparedness (PREP) act. This was an emergency waiver granted through HHS, and linked to, but not dependent on, the Public Health Emergency. Under these authorities, HHS granted pharmacists and pharmacy technicians the ability to order and administer COVID-19 tests, vaccines and therapeutics. While those authorities run through Oct. 1, 2024, because pharmacists operate largely under state law, there’s a lot that remains unclear when the emergency expires in May. Our national pharmacy groups are working together to urge the Biden administration to make these authorities permanent. SDPhA supports these efforts.

Prescription Drug Abuse and Awareness

DEA Take-Back Events

The Spring DEA Take Back Day is planned for April 22, 2023. Please visit https://www.deadiversion.usdoj.gov/drug_disposal/takeback/ for more information. We continue to work to encourage pharmacist 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

The Prescription Drug Monitoring Program (PDMP) continues to be an 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. The group continues to make 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 to access in order to maintain the confidentiality of program information.

South Dakota Opioid Abuse Advisory Committee

This committee met most recently Jan. 6, 2023. SDPhA Past President Kristen Carter represents 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

The passage of SB4 in 2021 brought changes to some of the requirements for HPAP program administration. We continue to appreciate the open communication with the Board of Pharmacy on what this may mean for the future of the program. Our association continues to support HPAP, and saw no changes in the billing for FY 2022-2023. 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)

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 maybe ever before.

After negotiating a new contract for 2022-2024, SDPhA is pleased continue to offer low-cost access to this online training module. As with everything, user fees increased slightly starting in July 2022. SDPhA has now enrolled nearly 160 participants. We are also thrilled to report a record 15 student participants have enrolled through the DIAL Virtual Program for the 2022-2023 school year. This program works with high schools throughout South Dakota. 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 more about those on our website. For more details and enrollment information, contact Amanda Bacon at amanda@sdpha.org or (605) 224-2338.

Education, Communication, Public Affairs and Professional Relations

Continuing Education

The Association continues to focus on providing quality continuing education for practitioners. 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. We're also exploring some exciting options for 2023 that would allow us to expand the reach of our current CE programming. Stay tuned!

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

The SDPhA website continues to evolve! Changes to the convention registration pages for both participants and sponsors to streamline the process proved successful this Fall. We've also updated the [COVID resource page](#), and added resource pages regarding [TRICARE](#) and [Pharmacist Wellbeing](#). Another key change is a new and improved [Action Center](#). We've contracted with a new 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. You'll still find all the issues we're working on at the federal and state level, and an opt-in to receive text messages from us on key issues. But you'll also find an enhanced communication tool to help you contact your state and national lawmakers on issues most important to the profession. We're really excited about the customization this platform offers, and how it will enhance our communication and messaging opportunities!

Social Media/Email Blasts

We continue to utilize our social media where appropriate. This presence is something we consider vital to our work of representing the pharmacy profession through advancing patient care, enhancing the public awareness, and serving in the best interest of public health and pharmacy, but it's also the most challenging to keep up with on a daily basis. Please like, follow, share, and engage with us – that's what makes these tools effective.

SDSU SCAPP/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 double the 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 have worked extremely hard to assist us with the 2022 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.

Office Update

- Developed and enhanced promotional materials on the importance of SD Pharmacists
- Provided outreach and shared information with new lawmakers regarding pharmacy
- Provided guidance on pertinent legislation, working with state lawmakers
- Updated educational materials to share with interested groups
- Acted in advisory and liaison capacities to other agencies, departments, associations
- Increased awareness, especially with lawmakers, regarding immunization activities available from pharmacies
- Developed documents for utilization of pharmacy, students, and technicians for Legislative Session, District Meetings, and other applications
- Worked with pharmacy students to share information and enhance networking opportunities
- Lobby our Congressional delegation to move national pharmacy legislation forward and share information on national issues that involve pharmacy
- Updated various policy materials

In addition to the above, we are also working extensively on raising funds for the C&L Fund, and preparing for Convention 2023! I sincerely appreciate everyone who reached out to their lawmakers this legislative session, and look forward to continue to move the ball forward on that issue, and many others. Please reach out to me, or any member of the board if you have any questions or comments. Thank you!

Kind Regards,

Amanda Bacon, SDPhA Executive Director

