

**BOARD MEETING MINUTES**  
**Oregon State Board of Pharmacy**  
**800 NE Oregon Street, Suite 150**  
**Portland, OR 97232**  
**April 20, 2009**

**Monday, April 20, 2009 @ 8:30 AM, PSOB, Room 150 (by conference call)**

MONDAY, APRIL 20, 2009

Board President, Cathryn Lew called the meeting to order at 8:30 AM.

Roll Call

The following members were present for all or part of the meeting:

Cathryn Lew, President	Dianna Pimlott - teleconference
Lee Howard, Vice President	Linda Howrey
Ann Zweber	Bernie Foster
Larry Cartier	

The following staff was present for all or part of the session:

Gary Schnabel, Executive Director	Chrisy Hennigan, Office Manager
Gary Miner, Compliance Director	Paige Clark, Pharmacist Consultant
Karen MacLean, Administrative Director	Ed Schneider, PRN Director
Tony Burt, Project Manager	Courtney Frank, Licensing Representative
Annette Gearhart, Compliance Secretary	Joe Ball, Chief Investigator
Meg Aulerich, Pharmacy Inspector	Katie Baldwin, Pharmacy Inspector
Michele Cale, Pharmacy Inspector	Jennifer Zanon, Pharmacy Inspector
Gregg Hyman, Pharmacy Inspector	Pam Aldersebaes, PRN Assistant

Tom Cowan, Board Counsel

**MOTION**

**Motion to approve the agenda was made and unanimously carried (Motion by Howard, second by Cartier).**

**MOTION**

**Motion to enter Executive Session was made and unanimously carried at 8:36 AM for the purpose of review and deliberation of compliance cases pursuant to ORS 676.175 and ORS 192.660 (Motion by Zweber, second by Cartier).**

**MOTION**

**Motion to exit Executive Session and resume Open Session for a working lunch was made and unanimously carried at 11:45 AM (Motion by Howrey, second by Howard).**



**MOTION**

**Motion was made to deny GE Healthcare's request to waive the PIC requirement and unanimously carried (Motion by Zweber, second by Howrey).**

**MOTION**

**Motion was made to deny Savon.com #5805's request to waive the PIC requirement and unanimously carried (Motion by Howard, second by Zweber).**

**MOTION**

**Motion was made to deny Madison Pharmacy Associates request to waive the PIC requirement and unanimously carried (Motion by Zweber, second by Pimlott).**

**MOTION**

**Motion was made to deny VetPharm Inc.'s request to waive the PIC requirement and unanimously carried (Motion by Howrey, second by Cartier).**

The Board discussed the 2009 NAPB Resolutions. The Board generally supports the NABP Executive Committees approved resolutions. The Board also supports Frank Whitchurch for the District VI Executive Committee position.

Project Manager Tony Burt summarized the difficulties staff has had with the assignment of registrations for wholesalers and manufacturers since the last rule update. He provided the staff's recommendation to create a temporary rule to alleviate most of the contentious issues by establishing a new Division 62 to include rules for companies involved in either the manufacturer or wholesale distribution of drugs that do not actually handle product and are not subject to FDA inspections. These are entities like brokers and import agents for foreign manufactured drugs. We propose to call these Drug Distribution Agents. Amendments to Division 60, 65 and 110 will also be necessary to clarify the new Division. Finally, staff recommends a revision to Division 65 to establish a waiver from the surety bond requirement for those outlets that have the VAWD certification. The Board agreed with these changes in concept and staff will draft temporary rules for their review and possible adoption at the June meeting.

**MOTION**

**Motion to resume Executive Session was made and unanimously carried at 1:15 AM for the purpose of review and deliberation of compliance cases pursuant to ORS 676.175 and ORS 192.660 (Motion by Howrey, second by Cartier).**

**MOTION**

**Motion to exit Executive Session and enter Open Session was made and unanimously carried at 5:00 PM (Motion by Howard, second by Cartier).**

**MOTION**

**Motion was made to approve the Consent Agenda and unanimously carried (Motion by Zweber, second by Howrey).**

Pharmacist Consultant Paige Clark provided a Legislative update. HB 3103 and HB 2535 have passed out of the House. HB 2118 has a new amendment that adds two Pharmacy Technicians to

the Board. The Pharmacy Coalition and OSPA are opposing. The Board's position is neutral as the new Certified Pharmacy Technician requirements are too new and there a lot of ground to cover.

Compliance Director, Gary Miner, read compliance cases for Motions.  
Please refer to Compliance Minutes for Motions.

**MOTION**

**Motion to adjourn at 5:49 PM was made and unanimously carried (Motion by Howrey, second by Cartier).**

Minutes accepted by:

A handwritten signature in black ink that reads "Gary A. Schnabel". The signature is written in a cursive, flowing style.

Gary A. Schnabel, R.Ph., R.N.  
Executive Director

**BOARD COMPLIANCE MEETING**  
**Oregon State Board of Pharmacy**  
**800 NE Oregon Street #150**  
**Portland, OR 97232**

**April 20, 2009 @ 8:30 a.m.**  
**800 NE Oregon St. STE 150, Conference Room**  
**Portland, OR 97232**  
**Cathryn Lew, R.Ph., Presiding**

An Executive Session of the Board to discuss Compliance was held on April 20, 2009 at 800 NE Oregon Street Ste 150 Conference Room in Portland. Board members and staff present in person or via telephone.

Board Members present for all or part of compliance session:

Cathryn Lew, R.Ph., President  
Lee Howard, Vice President  
Larry Cartier, R.Ph.  
Linda Howrey, R.Ph.  
Dianna Pimlott, R.Ph.  
Ann Zweber, R.Ph.

Absent:  
Bernie Foster, Public Member

Staff present for all or part of compliance session:

Gary Schnabel, R.Ph., R.N., Executive Director  
Gary Miner, R.Ph., Compliance Director  
Joe Ball, R.Ph., Chief Investigator  
Meg Aulerich, R.Ph., Pharmacy Inspector  
Katie Baldwin, R.Ph., Pharmacy Inspector  
Michele Cale, R.Ph., Pharmacy Inspector  
Gregg Hyman, R.Ph., Pharmacy Inspector  
Jennifer Zanon, R.Ph., Pharmacy Inspector  
Annette Gearhart, Compliance Secretary

Absent:  
Jen Pickens, Compliance Assistant  
Ed Schneider, R.Ph., PRN Program Director  
Loretta Glenn, Administrative Secretary

Karen MacLean, Administrative Director  
Paige Clark, R.Ph., Consultant Pharmacist  
Thomas Cowan, Senior AAG  
Pam Aldersebaes, PRN Assistant

**Case 2008-0391**

**Motion to remove suspension on R.Ph. license.**

**Motion by Ann Zweber, seconded by Lee Howard. Motion was unanimously accepted.**

**Case 2009-0108**

**Motion to remove suspension on CPT license.**

**Motion by Linda Howrey, seconded by Ann Zweber. Motion was unanimously accepted.**

**Case 2008-0392**

**Motion to revoke certified pharmacy technician license and impose \$1,000 civil penalty.**

**Motion by Ann Zweber, seconded by Linda Howrey. Motion was unanimously accepted.**

**Case 2008-0520**

**Motion to reinstate pharmacist license with 5 year PRN probation.**

**Motion by Ann Zweber, seconded by Linda Howrey. Motion was unanimously accepted.**

**Case 2009-0148**

**Motion to reinstate R.Ph. license with 5 year probation; impose \$1,000 civil penalty.**

**Motion by Linda Howrey, seconded by Ann Zweber. Motion was unanimously accepted**

**Case 2009-0082**

**Motion to revoke certified pharmacy technician's license and impose \$1,000 civil penalty per violation. Motion by Linda Howrey, seconded by Ann Zweber. Motion was accepted with Cathryn Lew abstaining due to conflict of interest.**

**Case 2009-0054**

**Motion to revoke certified pharmacy technician license and impose \$1,000 civil penalty per violation. Motion by Ann Zweber, seconded by Linda Howrey. Motion was unanimously accepted.**

**Case 2009-0117**

**Motion to impose \$5,000 civil penalty against pharmacy; and in**

**Case 2009-0131**

**Motion to issue Letter of Concern to PIC.**

**Motion by Linda Howrey, seconded by Ann Zweber. Motion was unanimously accepted.**

**Case 2009-0089**

**Motion to impose a \$10,000 civil penalty per violation against the pharmacy; and in**

**Case 2009-0150**

**Motion to issue Letter of Concern to pharmacist.**

**Motion by: Ann Zweber, seconded by: Larry Cartier. Motion was unanimously accepted.**

**Case 2009-0034**

**Motion to impose \$1,000 civil penalty per violation against pharmacist and suspend pharmacist license.**

**Motion by: Dianna Pimlott, seconded by: Ann Zweber. Motion was unanimously accepted.**

**Case 2009-0024**

**Motion to suspend R.Ph. license and impose \$1,000 civil penalty per violation. Issue Letter of Concern to Pharmacist-in-Charge.**

**Motion by: Dianna Pimlott, seconded by: Lee Howard. Motion was accepted with Linda Howrey and Ann Zweber abstaining due to conflict of interest.**

**Case 2009-0060**

**Motion to impose \$10,000 civil penalty per violation against pharmacy; and in**

**Case 2009-0198**

**Motion to suspend R.Ph. license and impose \$1,000 civil penalty per violation.**

**Motion by: Linda Howrey, seconded by: Ann Zweber. Motion was unanimously accepted.**

**Case 2008-0621**

**Motion to revoke pharmacist license and impose \$1,000 civil penalty per violation.**

**Motion by: Dianna Pimlott, seconded by: Larry Cartier. Motion was accepted with Ann Zweber and Linda Howrey abstaining due to conflict of interest.**

**Case 2008-0626**

**Motion to revoke outlet license and impose \$10,000 civil penalty per violation against pharmacy; and in**

**Case 2009-0027**

**Motion to issue Letter of Concern to Pharmacist-in-Charge; and in**

**Case 2009-0028**

**Motion to suspend pharmacist license and impose \$1,000 civil penalty against pharmacist.**

**Motion by: Linda Howrey, seconded by: Ann Zweber. Motion was unanimously accepted.**

**Case 2008-0602**

**Motion to impose \$5,000 civil penalty per violation against pharmacy; and in**

**Case 2009-0044**

**Motion to impose \$1,000 civil penalty per violation and suspend technician license; and in**

**Case 2009-0045**

**Motion to issue Letter of Concern to pharmacist.**

**Motion by: Ann Zweber, seconded by: Dianna Pimlott. Motion was unanimously accepted.**

**Case 2008-0647**

**Motion to impose \$10,000 civil penalty per violation against pharmacy; and in**

**Case 2009-0047**

**Motion to impose \$1,000 civil penalty per violation against Pharmacist-in-Charge; and in**

**Case 2009-0048**

**Motion to impose \$1,000 civil penalty per violation against lapsed technician.**

**Motion by: Linda Howrey, seconded by: Larry Cartier. Motion was unanimously accepted.**

**Case 2008-0430**

**Motion to revoke pharmacist license and impose \$1,000 civil penalty per violation against pharmacist; and in**

**Case 2009-0133**

**Motion to impose \$10,000 civil penalty per violation against pharmacy.**

**Motion by: Linda Howrey, seconded by: Larry Cartier. Motion was unanimously accepted.**

**Case 2009-0076**

**Motion to impose \$1,000 civil penalty per violation and suspend license against certified pharmacy technician; and in**

**Case 2009-0138**

**Motion to impose \$10,000 civil penalty per violation against pharmacy.**

**Motion by: Linda Howrey, seconded by: Ann Zweber. Motion was unanimously accepted.**

**Case 2009-0119**

**Motion to accept surrender of certified pharmacy technician license.**

**Motion by: Linda Howrey, seconded by: Ann Zweber. Motion was unanimously accepted.**

**Case 2009-0010**

**Motion to deny certified pharmacy technician license and impose \$1,000 civil penalty per violation.**

**Motion by: Linda Howrey, seconded by: Larry Cartier. Motion was unanimously accepted.**

**Case 2008-0640**

**Motion to impose \$5,000 civil penalty per violation against Pharmacy; and in**

**Case 2009-0142**

**Motion to suspend certified pharmacy technician license and impose \$1,000 civil penalty per violation; and in**

**Case 2009-0143**

**Motion to suspend certified pharmacy technician license and impose \$1,000 civil penalty per violation.**

**Motion by: Ann Zweber, seconded by: Dianna Pimlott. Motion was unanimously accepted.**

**Case 2008-0620**

**Motion to revoke certified pharmacy technician license and impose \$1,000 civil penalty per violation.**

**Motion by: Lee Howard, seconded by: Larry Cartier. Motion was unanimously accepted.**

**Case 2008-0614**

**Motion to revoke pharmacist license and impose \$1,000 civil penalty per violation.**

**Motion by: Linda Howrey, seconded by: Dianna Pimlott. Motion was unanimously accepted.**

**Case 2009-0097**

**Motion to impose \$1,000 civil penalty per violation against PIC; and in**

**Cases 2008-0497 and 2009-0041**

**Motion to impose \$10,000 civil penalty per violation against pharmacy.**

**Motion by: Lee Howard, seconded by: Dianna Pimlott. Motion was accepted with Larry Cartier abstaining due to conflict of interest.**

**Case 2009-0031**

**Motion to deny technician application and impose \$1,000 civil penalty per violation.**

**Motion by: Ann Zweber, seconded by: Linda Howrey. Motion was unanimously accepted.**

**Case 2008-0590**

**Motion to impose \$10,000 civil penalty per violation against pharmacy.**

**Motion by: Linda Howrey, seconded by: Lee Howard. Motion was unanimously accepted.**

**Case 2009-0005**

**Motion to impose \$1,000 civil penalty per violation and suspend certified pharmacy technician license; and in Case 2009-0112**

**Issue letter of concern to Pharmacist-in-Charge.**

**Motion by: Linda Howrey, seconded by: Ann Zweber. Motion was accepted with Dianna Pimlott abstaining due to not being available during review.**

**Case 2009-0026**

**Motion to impose \$5,000 civil penalty against pharmacy; and in Case 2009-0144**

**Motion to impose \$1,000 civil penalty against pharmacy intern; or earn 3 hours of CE in medication error prevention in lieu of civil penalty.**

**Case 2009-0145**

**Motion to impose \$1,000 civil penalty per violation against Pharmacist-in-Charge; or earn 3 hours of CE in medication error prevention in lieu of civil penalty.**

**Motion by: Ann Zweber, seconded by: Lee Howard. Motion was accepted with Dianna Pimlott abstaining due to not being available during review.**

**Case 2009-0065**

**Motion to impose \$5,000 civil penalty against pharmacy.**

**Motion by: Linda Howrey, seconded by: Larry Cartier. Motion was accepted with Dianna Pimlott abstaining due to not being available during review.**

**Case 2009-0046**

**Motion to impose \$10,000 civil penalty per violation against outlet.**

**Motion by: Ann Zweber, seconded by: Lee Howard. Motion was accepted with Dianna Pimlott abstaining due to not being available during review.**

**Case 2009-0137**

**Motion to revoke certified pharmacy technician license, and impose \$1,000 civil penalty per violation.**

**Motion by: Lee Howard, seconded by: Larry Cartier. Motion was accepted with Linda Howrey and Ann Zweber abstaining due to conflict of interest.**

**Case 2009-0040**

**Motion to issue no violation letter to pharmacy; and in Case 2009-0070**

**to impose \$1,000 civil penalty per violation against pharmacist or 3 hours of CE in medication error prevention in lieu of civil penalty; and in**

**Case 2009-0072**

**to impose \$500 Civil Penalty against technician; or earn 1 hour of CE in medication error prevention in lieu of civil penalty.**

**Motion by: Linda Howrey, seconded by: Lee Howard. Motion was unanimously accepted.**

**Case 2009-0012**

**Motion to impose \$1,000 Civil Penalty against pharmacist; or earn 3 hours of CE in medication error prevention within 60 days in lieu of civil penalty. CE is not eligible for CE requirements for renewal purposes. Letter of Concern to PIC and CC: pharmacy**

**Case 2009-0013**

**Motion to impose \$1,000 Civil Penalty against pharmacist; or earn 3 hours of CE in medication error prevention within 60 days in lieu of civil penalty. CE is not eligible for CE requirements for renewal purposes. Letter of Concern to PIC and CC: pharmacy**

**Motion by: Lee Howard, seconded by: Ann Zweber. Motion was accepted with Linda Howrey abstaining due to conflict of interest.**

**COMPLIANCE CONSENT AGENDA:**

*\*Cases listed under the compliance consent agenda are considered to be routine agency matters and will be approved by a single motion of the Board without separate discussion. If separate discussion is desired, that case will be removed from the compliance consent agenda and placed on the regular compliance agenda.*

**Pulled cases 2009-0001, 2009-0057, 2009-0040, 2009-0070, 2009-0072, 2009-0012 and 2009-0013 for discussion.**

**Motion to accept the items on the consent agenda as published minus the above noted cases. Motion by: Linda Howrey, seconded by: Ann Zweber. Motion was unanimously accepted.**

**MEDICATION ERRORS CASES (Civil Penalty or CE in lieu):**

**Case 2009-0078**

**Impose \$1,000 Civil Penalty against pharmacist; or earn 3 hours of CE in medication error prevention and report error to ISMP within 60 days in lieu of civil penalty. CE is not eligible for CE requirements for renewal purposes. Letter of Concern to PIC and CC: pharmacy.**

**Case 2009-0016**

**Impose \$1,000 Civil Penalty against pharmacist; or earn 3 hours of CE in medication error prevention and report error to ISMP within 60 days in lieu of civil penalty. CE is not eligible for CE requirements for renewal purposes. Letter of Concern to pharmacy.**

**Case 2009-0104**

**Impose \$1,000 Civil Penalty against pharmacist; or earn 3 hours of CE in medication error prevention and report error to ISMP within 60 days in lieu of civil penalty. CE is not eligible for CE requirements for renewal purposes. Letter of Concern to pharmacy.**

**LETTERS OF CONCERN:**

**Case: 2008-0607**

**Issue Letters of Concern to R.Ph. and technicians; CC: Letter of Concern to PIC and pharmacy.**

**DEFICIENCY NOTICES:**

**Cases: 2008-0309, 2008-0549, 2008-0594, 2008-0596, 2008-0600, 2008-0601, 2008-0625, 2008-0631, 2008-0634, 2008-0648, 2009-0002, 2009-0017, 2009-0020, 2009-0029, 2009-0035, 2009-0036, 2009-0037, 2009-0039, 2009-0058, 2009-0061, 2009-0064, 2009-0069, 2009-0094, 2009-0101, 2009-0111, 2009-0114 and 2009-0130.**

**UNABLE TO SUBSTANTIATE:**

**Cases: 2008-0513, 2008-0615, 2008-0630, 2008-0649, 2009-0004, 2009-0052, 2009-0075 and 2009-0088.**

**NO JURISDICTION:**

**Case: 2009-0079**

**NO VIOLATIONS:**

**Cases: 2008-0423, 2008-0547, 2008-0593, 2009-0014, 2009-0042, 2009-0121 and 2009-0147.**

**UNREGISTERED OUTLET CASES:**

**By authority delegated to Oregon Board of Pharmacy Staff by the Board on 2/7/2008 and amended on 4/17/2008, notices to impose \$1,000 civil penalty notices have been issued to:**

**Case: 2008-0542, 2008-0597, 2009-0062 and 2009-0080.**

**NSF CASES (misrepresentation of proper payment):**

By authority delegated to Oregon Board of Pharmacy Staff by the Board on 12/6/2006 and confirmed on 2/7/2008, notices to revoke licenses issued under the misrepresentation of proper payment of fees via non-sufficient funds have been issued to:

**Case: 2009-0033 Default (revoked) issued 3/5/2009; 2009-0122 reinstate on probation Consent.**

**“NO PIC” CIVIL PENALTY ORDERS and/or Letters of Concern :**

By authority delegated to Oregon Board of Pharmacy Staff by the Board on Jan. 26, 2005 and amended on 8/9/2005 and confirmed on 2/7/2008, [Grant staff authority to issue discipline in no PIC cases: Five days or less (to allow for holiday weekends) = Letter of Concern; More than five days with no PIC = \$1,000 civil penalty for first month, additional \$1,000 civil penalty per week thereafter up to \$5,000. (PIC gaps lasting more than two months are to be presented to the Board for discipline.)] The following notices with Historical orders and/or Letters of Concern have been issued:

**Case: 2009-0025**

**“NO PIC SELF INSPECTION” CIVIL PENALTY ORDERS:**

By authority delegated to Oregon Board of Pharmacy Staff by the Board on August 9, 2005 and confirmed on 2/7/2008, [grant staff authority to issue discipline in the form of \$1,000 Civil Penalty stay \$700 pending no further violations of OAR 855-041-0020(1)(f) for three years when PIC Self Inspection Form not completed or not available as required] the following notices with Historical orders have been issued:

**Cases: 2008-0535, 2008-0589, 2008-0646, 2008-0653, and 2009-0059.**

**“NO CS INVENTORY” CIVIL PENALTY ORDERS:**

By authority delegated to Oregon Board of Pharmacy Staff by the Board on August 9, 2005 and confirmed on 2/7/2008, [grant staff authority to issue discipline in the form of \$1,000 Civil Penalty stay \$700 pending no further violations of OAR 855-080-0070 for three years when controlled substance inventory not completed or not available as required] the following notices with Historical orders have been issued:

**Case: 2008-0635**

**DENIAL OF TECHNICIAN APPLICATION ORDERS:**

By authority delegated to Oregon Board of Pharmacy Staff by the Board on December 1, 2004 and amended on 4/17/2008, the following \$1,000 civil penalty and denial of technician licenses notices have been issued:

**Cases: 2008-0643, 2009-0009, 2009-0068, 2009-0091, 2009-0092, 2009-0098, 2009-0099, 2009-0135 and 2009-0136.**

**TECHNICIAN LICENSES: PROPOSED DENY / GRANT WITH PROBATION:**

By authority delegated to Oregon Board of Pharmacy Staff by the Board on October 11, 2005 and confirmed on 2/7/2007, the following technician licenses have been granted with probation, or have been issued proposed Consent Orders:

**Cases: 2008-0511, 2008-0641, 2008-0642 and 2009-0067.**

**DEFAULT ORDERS:**

By authority delegated to Oregon Board of Pharmacy Staff by the Board on August 12, 2004 and confirmed on 2/7/2008, the following default orders have been issued:

**Cases: 2008-0168 and 2008-0321.**

**UPDATES / For Board’s Information:**

**Compliance Director Miner**

Update of cases Open under Investigation; Closed under Investigation; Hearings Requested and Scheduled.