

**BOARD MEETING MINUTES**  
**Oregon State Board of Pharmacy**  
**800 NE Oregon, Suite 150**  
**Portland, OR 97232**  
**Tuesday, August 21, 2007**

**Tuesday, August 21, 2007 at 1:00pm Conference Call**

On August 21, 2007 the Board met by conference call to address the need to establish definitions for Tamper Resistant Prescription Form and adopt these definitions by Temporary Rule to facilitate the implementation of the Federal Medicaid requirement that goes into effect October 1, 2007. Permanent rules will be adopted within the next six months as required.

**Tuesday, August 21**

**1:00pm OPEN SESSION, Ann Zweber, RPh. Presiding**

Roll Call

The following Board Members were present either in person or by phone for all or part of the meeting:

Ann Zweber, President  
Marc Watt  
Lee Howard  
Dianna Pimlott  
Linda Howrey

The following staff were present either in person or by phone for all or part of the meeting:

Gary Schnabel, Executive Director  
Gary Miner, Compliance Director  
Karen MacLean, Administrative Director  
Tony Burt, Project Manager  
Paige Clark, Pharmacist Consultant  
Katie Baldwin, Inspector  
Jennifer Hess, Management Secretary

Tom Cowan, Board Counsel

Agenda Review and Approval

Executive Director Gary Schnabel requested that the words "Tamper Proof Prescription Form" and Tamper Proof Definitions be changed to "Tamper Resistant Prescription Form" and Tamper Resistant Definitions respectively.

**MOTION**

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

DISCUSSION ITEM

Review Temporary Rule on Tamper Resistant Definitions

Executive Director Gary Schnabel led the discussion and gave an over view of the letter received from the Center for Medicaid and State Operations (CMS) which offers guidance to State Medicaid agencies on section 7002(b) of the US Troop Readiness, Veteran's Care, Katrina Recovery and Iraq Accountability Appropriations Act of 2007, regarding the use of tamper-resistant prescription pads which was signed into law on May 25, 2007.

At its regularly scheduled Board Meeting on August 7 – 8, 2007 the Board became aware of the recent amendment to the Social Security Act, which adds language stating that payment shall not be made for amounts expended for medical assistance for covered outpatient drugs for which the prescription was executed in written (and non-electronic) form unless it was executed on a tamper-resistant pad.

On Tuesday, August 21, during a public meeting held by conference call, the Oregon Board of Pharmacy reviewed language for adoption as a temporary rule including definitions of "electronically transmitted prescription" and "tamper-resistant prescription". The rule will become effective upon filing with the Secretary of State and is expected to be filed Friday, August 24, 2007. Because of the short time remaining for prescribers to come into compliance with the tamper-resistant prescription requirement, the Board is choosing to adopt a temporary rule. It was deemed important that these definitions be in place as soon as possible to facilitate prescribers' and pharmacists' understanding of the terms and to facilitate implementation of the requirement. The Board plans to adopt permanent rules including these definitions within the next six months pursuant to the state's established rulemaking procedures.

In discussing the temporary rule, Board Member Marc Watt stated that the DEA doesn't allow controlled substances to be transmitted electronically, and asked the Board if anything needed to be added to the rule to reflect this. Through discussion, the Board came to the conclusion that schedule 2, and schedule 3 through 5 drugs will be a problem, but that they cannot let this Temporary Rule violate another agency rule regarding controlled substances.

The Board then discussed Letter C of the rule, and asked if there is a need to reflect all the requirements for a prescription. Compliance Director Gary Miner suggested adding it to Division 41 when the Board staff gets to that revision.

Brian Cook from BiMart had a question directed to Pharmacist Consultant Paige Clark asking if the Board has considered that the vendor of the Tamper Resistant Prescription Forms must be pre-approved. Paige responded that she will bring this up in her meeting with DMAP, and under these circumstances, the answer will most likely be yes.

Jackson Leong directed a question to the Board regarding Long Term Care Facilities, if this rule would fit into the Code of Federal Regulations, Compliance Director Miner answered that it would under the Oregon Board of Pharmacy rules and regulations. Jackson went on to inquire how a prescription called in would work under item 1b on the rule. Executive Director Schnabel replied that if a prescription is faxed from prescriber to facility, it is exempt.

The Board went on to further discuss the issue of exemptions, and discussed if faxed prescriptions were exempt if they went to a nursing facility. Gary Miner shared that this issue is still under review, as is if a prescription is faxed to the pharmacy. Gary Miner also shared that anything that is missing or in need of correction, could be fixed with the permanent rule filing.

John Dixon from BiMart asked the Board how this requirement works with pharmacies right on the Oregon and Washington border, Gary Schnabel responded that this was not a Oregon Board of Pharmacy requirement, it is a Federal requirement for reimbursement.

The Board limited its rulemaking to these specific definitions and is aware that the recent amendments to the Social Security Act relate to issues of reimbursement for Medicare and Medicaid services. The Board has not, as of this date, established any requirement for the use of tamper-resistant prescriptions. However, the Board's newly adopted rule which applies to pharmacies and pharmacists, does contain language that states, "When the use of a tamper-resistant prescription is required by any federal or state law or rule, the term "tamper-resistant" shall have the meaning as defined in OAR 855-006-0015.

**MOTION**

**Motion to approve to adopt the temporary rule as revised was made and unanimously carried. (Motion by Howrey, second by Watt)**

**MOTION**

**Motion to adjourn at 1:40pm was made and unanimously carried. (Motion by Watt, second by Howrey)**

Minutes Accepted By:



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