

BOARD MEETING MINUTES
Oregon State Board of Pharmacy
Portland State Office Building (PSOB)
800 NE Oregon Street
Portland, OR 97232

Tuesday, August 7, 2007 @ 8:30am, PSOB Conference Room 1A Wednesday August 8, 2007 @ 8:30am, PSOB Conference Room 1A

Tuesday, August 7, 2007

8:30am OPEN SESSION, Ann Zweber R.Ph. Presiding

Roll Call

The following Board Members were present for all or part of the meeting

Ann Zweber, President
Cathy Lew, Vice-President
Marcus Watt
Lee Howard
Bernie Foster
Linda Howrey

Board Member Dianna Pimlott was absent. Board Member Bernie Foster left early.

The following staff were present for all or part of the meeting

Gary Schnabel, Executive Director
Karen MacLean, Administrative Director
Gary Miner, Compliance Director
Tony Burt, Project Manager
Paige Clark, Pharmacist Consultant
Ed Schneider, PRN Director
Joe Ball, Chief Inspector
Gregg Hyman, Inspector
Jennifer Zannon, Inspector
Michele Cale, Inspector
Meg Aulerich, Inspector
Katie Baldwin, Inspector
Annette Gearhart, Compliance Secretary
Jennifer Hess, Management Secretary

Tom Cowan, Board Counsel

Agenda Review and Approval

MOTION

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

Consent Agenda Approval

Board reviewed consent agenda items and approved with the exception of the Board Meeting Minutes, which were removed for minor revisions

MOTION

Motion to approve consent agenda as revised was made and unanimously carried. (Motion by Foster, second by Howrey)

MOTION

Motion to approve February 5 - 7, April 3, April 17 – 19, and June 6 – 7, 2007 Board Meeting minutes as revised was made and unanimously carried. (Motion by Howrey, second by Watt)

MOTION

Motion to move into Executive Session at 8:40 was made and unanimously approved. (Motion by Lew, second by Watt)

MOTION

Motion to exit Executive Session at 4:30 and into Open Session was made and unanimously carried. (Motion by Howrey, second by Lew)

Motions for Disciplinary Action
See Compliance Minutes.

“Best Practices” Performance Measure Discussion

In accordance with the new legislative requirement for “Best Practices”, the Board reviewed the neutral responses to the 15 questions which included:

- ❖ Executive Director's performance expectations are current
- ❖ The Board is appropriately involved in review of agency's key communications
- ❖ Executive Director receives annual performance feedback
- ❖ The agency's mission and high-level goals are current and applicable
- ❖ The Board reviews the Annual Performance Progress Report
- ❖ The Board is appropriately involved in policy-making activities
- ❖ The agency's policy option packages are aligned with their mission and goals
- ❖ The Board reviews all proposed budgets
- ❖ The Board periodically reviews key financial information and audit findings
- ❖ The Board is appropriately accounting for resources
- ❖ The agency adheres to accounting rules and other relevant financial controls
- ❖ Board Members act in accordance with their roles as public representatives
- ❖ The Board coordinates with others where responsibilities overlap
- ❖ The Board Members identify and attend appropriate training sessions
- ❖ The Board reviews its management practices to ensure best practices are utilized

The individuals who responded all generally agreed that these best practice items were being followed with the exception of having the Board members identify and attend appropriate training sessions, which up until a couple of years ago wasn't regular practice. The Board members and staff all agreed that implementing a training session for new Board members would be helpful.

Administrative Director Karen MacLean was asked to draft the results of the online survey and send it out for Board Member approval.

MOTION to adjourn at 5:30 was made and unanimously carried. (Motion by Watt, second by Howrey)

Wednesday August 8, 2007

8:30 OPEN SESSION, Ann Zweber, R.Ph. Presiding

Roll Call

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

Ann Zweber, President

Cathy Lew, Vice President

Marc Watt

Lee Howard

Linda Howrey

Board Member Bernie Foster arrived late, and Board Member Dianna Pimlott was absent for this meeting.

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

Gary Schnabel, Executive Director

Karen MacLean, Administrative Director

Gary Miner, Compliance Director

Tony Burt, Project Manager

Paige Clark, Pharmacist Consultant

Joe Ball, Chief Inspector

Gregg Hyman, Inspector

Michele Cale, Inspector

Jennifer Zannon, Inspector

Meg Aulerich, Inspector

Katie Baldwin, Inspector

Annette Gearhart, Compliance Secretary

Jennifer Hess, Management Secretary

Tom Cowan, Board Counsel

ISSUES/ACTIVITIES

Reports

Board Member Linda Howrey reported on the latest Immunization Practices Advisory Team (IPAT) meeting.

Board Member Bernie Foster - No report

Board Member Lee Howard – No report

Pharmacist Consultant Paige Clark reported on the latest status of SB 34 which stalled in Ways and Means just before session closed. She shared that although many people, both in and out of the pharmacy profession, worked hard the last few days of June, they could not get the bill passed through the Committee in time for a House vote, even though the bill had the votes in both the Senate and House. Paige reported that discussions continue about how to best promote the bill at the next opportunity. Some ideas include placing a “non-government entity” as the head promoter of the bill to overcome the challenge in perception of having a regulatory agency house and monitor the data.

Paige further reported that Senator Bates has accepted an invitation made on behalf of the Board, to speak at the NABP / AACP District VII & VIII Annual Meeting in October. The Board and staff are pleased to add him to the introduction session on Thursday morning. He will talk about Health Care Access for 30 minutes at the start of the program.

Pharmacist Consultant Clark reported on the July PIO Council Meeting, at which a full overview of the Top Officials 4 (TOPOFF) Exercise was presented. The exercise will be conducted in Oregon, Arizona and Guam October 15-24, 2007. The “dirty bomb” event will occur in Portland and the entire state and all state agencies and the Federal agencies will participate in response.

In addition Paige reported on SB-715 regarding Prescription Repackaging Issues. The Board was directed to take up consideration of repackaging of prescriptions filled by one pharmacy, and being repackaged by another. The proposed legislation was stopped, and the issue was handed to the Board by the Senate Health Care Committee, Chaired by Senator Morrisette. The Board is directed to gather interested stakeholders for discussion and review of the challenges and possibilities and report back to the Senate committee in the interim. Paige along with Compliance Director Gary Miner will conduct the first stakeholder meeting on August 9th.

Compliance Director Gary Miner reported that the Portland State University Health Clinic is now in compliance. The Compliance staff has been working with the Board of Nursing, Board of Medical Examiners, PSU physicians, nurse practitioners and administration to bring the clinic into compliance.

Gary shared that the Chiloquin Open Door Family Practice has informed the Board that all the prescriptions prescribed by the clinic physicians will be filled by a nearby pharmacy and held at the clinic. However, prescriptions prescribed by physicians outside of the clinic will not be held at the clinic.

Gary further discussed the new law test that has been developed for Pharmacy Technicians. In addition, Gary reported the latest Pharmacy law test statistics; of 358 tests received, 15% did not pass and 7 % received perfect scores. Gary also shared that the inspection rate is at 20% to date.

Additionally, Gary reported that the Compliance Department spent a day working on strategic planning as well as working with the new inspectors.

Compliance Director Miner also shared with the Board that the compliance staff was recently invited to a workshop presented by Pacific University which included CE presentation preparation. Gary will put the tools introduced at the workshop to use in developing the presentations for the PIC Training Sessions.

Administrative Director Karen MacLean reported on the NACDS meeting. The Board had originally elected to send Marc Watt, but due to scheduling conflicts he is unable to go. Board President Ann Zweber and Vice-President Cathy Lew looked at the cost of the meeting and travel expenses and elected to save the money for a future meeting and not send anyone this year.

Karen reviewed travel, hotel and registration plans for the 2007 NABP / AACP District VII & VIII Annual Meeting with the Board Members. Only three individuals had responded to Management Secretary Jennifer Hess' request for confirmation of attendance. Karen requested that the remaining Board Members contact Jennifer with their travel plans as soon as possible so adjustments can be made if needed.

Karen shared that Board staff is still in the process of trying to pin down a hotel for the 2008 Board meeting in Eugene. The hotels have been very unresponsive to staff's request for information. Board staff will continue to contact hotels in the area, and hopefully have an update at the October Board meeting.

In addition Administrative Director MacLean stated that the rules adopted in June have been filed and have become effective as of June 29th. Updated rules will be mailed to the Board members within the next few weeks.

Karen further reported on the status of the latest recruitments that opened on July 27th for the new part time Compliance Assistant and part time PRN Assistant. At this point there are not enough candidates and the recruitment will be reopened.

PRN Director – No report

Board Counsel – No report

2007 Board Dates

- October 03, 2007 Ashland (General Business)
- October 16, 2007 Salem (Compliance)

The Board Members and staff discussed the impact that the TOPOFF 4 exercise, happening in Oregon that week, might have on Board Members and Board Staff's schedules. A date change was suggested. Staff will look into setting a date later in the month for compliance.

- November 01, 2007 Portland (Rulemaking Hearing)

It was suggested that Board staff combine the Rulemaking Hearing and Compliance Day, and have one meeting in Salem. The Rulemaking Hearing could be held in the morning and then move to the compliance agenda. Board Members and staff will look at the calendar and work to pick a day that works for everyone.

- December 4 – 5, 2007 Portland

Other Dates of Interest

- October 3 - 6, 2007 Ashland NABP/AACP District VII/VIII Meeting

Board Meeting Dates 2008

- January 29 – 30, 2008 Corvallis

- April 15 – 16, 2008 Portland / Hillsboro
- June 10 – 11, 2008 Portland
- August 12 – 13, 2008 TBA
- October 14 – 15, 2008 TBA
- December 9 – 10, 2008 Portland
- January 20-21, 2009 Corvallis

Strategic Planning Meeting

- March 19 - 20, 2008 Welches

Board Vice-President Cathy Lew has a schedule conflict with the current dates for the 2008 Strategic Planning Meeting. It was suggested that we move the dates up a day to the 18th and 19th. Board Staff will contact Welches as well as meeting facilitator Sue Disciple to inform them of the date change.

COMMITTEES AND MEETINGS

POP Roundtable June 12

Board Member Marc Watt reported on the second meeting of the POP Roundtable. The group continues to struggle with content. Marc talked to Jim Thompson of Oregon State Pharmacy Association, and he informed Marc that he has another group that meets during legislature and it has a lot of overlap of participants. It was decided that Pharmacist Consultant Paige Clark and Jim will take over conducting the meetings, and will start to actively solicit topics from participants.

NABP District Planning Meetings June 6, 15

Karen MacLean reported that the committee is continuing to work towards finalizing speakers and schedule. Karen shared that staff are starting to receive registrations and that staff is working hard to get the conference materials and gift bags together.

OSPA Fall Meeting – Salem, September 14 – 16

Pharmacist Consultant Paige Clark reported on the OSPA Fall Meeting. Paige reported that in collaboration with OSPA, and OSPA member George Gerding, she will be hosting a roundtable discussion on emergency preparedness, and Board Member Marc Watt and she will be presenting the Law Update on Saturday afternoon. This will also give an opportunity to introduce the three new Compliance staff as well as conduct a Q & A session at the close of the CE session. Marc will also be hosting a roundtable discussion on robbery prevention. The Board will be well represented at the largest annual pharmacy convention in Oregon.

NABP Meetings:

Strategic Planning Retreat July 18 - 24

Executive Director Gary Schnabel reported on the NABP Executive Committee Strategic Planning Retreat held in New York. Executive Director Schnabel is the current NABP Treasurer and attended the meeting with Board Vice-President and NABP Executive Committee Member Cathy Lew. Gary shared that they did strategic planning as well as team building activities. All expenses were covered by NABP.

Interim Budget and Finance Meeting – September 6 and 7

Executive Director and NABP Treasurer Gary Schnabel will attend the Interim Budget and Finance Meeting and report back to the Board at the October Board Meeting. This is the Treasurers first official function. Gary will work with NABP Staff to present the annual financial report and proposed budget.

NABP Fall Conference – September 14 - 18

Executive Director and NABP Treasurer Gary Schnabel and Board Vice President and NABP Executive Committee Member Cathy Lew are scheduled to attend the NAPB Fall Conference in Washington DC. Gary reported that Fall Conference will be a good opportunity to meet with US state legislators, and that the staff is in the process of making the arrangements. As Executive Committee Members, NABP will pay for all of Gary and Cathy's travel expenses.

Fred Meek Annual Seminar – Portland, November 4

Compliance Director Gary Miner reported that Pharmacy Inspector Gregg Hyman will be presenting at the Seminar. Gary shared that there was a request for the Compliance staff to do CE on updates on the Laws and Rules. Gregg will report back at the December Board meeting.

NACDS/HDMA RFID/Track and Trace Washington DC, November 11–13

Board Member Marc Watt brought this meeting to the attention of Executive Director Gary Schnabel. It was decided that this was an important meeting to attend and Executive Director Gary Schnabel volunteered Pharmacy Inspector Michele Cale, and the Board all agreed that she should attend.

Drug Destruction Meeting

Project Manager Tony Burtt reported on the recommendations for Oregon's Drug Take Back Program proposal. Tony presented the Board members and staff with a handout with the committee's recommendations. Tony shared that unless there was anything the Board would like to change, he should have a final proposal at October's Board Meeting.

RESEARCH COUNCILS

Project Manager Tony Burtt reported on the status of the Boards Research Councils.

Electronic Transmission/Signatures

Tony reported that the final report will go to the Board in August, but that there may be a need for a follow up committee.

Medication Therapy Management Service

Board Member Linda Howrey is working with Project Manager Tony Burtt and has a committee put together. There are representatives from long term care, hospital's, clinic's, retail, and compounding pharmacies, along with Board Members and staff. Linda shared that for the first meeting she and Tony will send out a questionnaire and have the participants research the items. They will meet in January to discuss.

Position Papers

Tony shared that although there is not a current need for a Research Council; position papers continue to be an ongoing topic.

Research Council Policy

The Board reviewed their policy and affirmed Research Councils are still useful.

GENERAL ADMINISTRATION

Staff Policy Questions

Compliance Director Gary Miner reviewed staff policy questions with the Board.

Compliance Director Gary Miner presented the question of whether a pharmacist can increase the quantity on a prescription refill from a 30 day supply to a 90 day supply if the patient requests and insurance will pay. The Board discussed and decided that they approved, but wanted the Board staff to check with the Board of Medical Examiners. In addition, they decided that the pharmacist is responsible if something goes wrong.

Gary then asked a question regarding Walgreens. On occasion an out of state pharmacy will scan in a prescription for a non-controlled specialty item and an Oregon Pharmacy will fill the prescription. Can the prescription remain with the out of state pharmacy for the 120 days? The Board discussed and decided that yes, the prescription can stay with the out of state pharmacy.

Compliance Director Miner then presented a situation where some pharmacies keep their records of CII purchases electronically, and questioned if the Board would want to allow them to do this; the Board discussed and decided that if there was no alternative then it is ok for the pharmacy to keep the records electronically.

RULES DISCUSSION

Project Manager Tony Burt led the Rulemaking Discussion with help from Compliance Director Gary Miner. The purpose of the rulemaking discussion was to move the rules discussed at the August Board Meetings on to Rulemaking. Tony spent time reviewing each rule, making note of changes the Board had requested, and any non-substantive last minute changes that the Board Members requested. Board President Ann Zweber then entertained motions to send the group of rules by Division as discussed on to rulemaking with the exceptions noted below.

Division 6 Definitions

Project Manager Tony Burt reviewed the proposed amendment to Division 6. The amendment would add the definition of Consultant Pharmacist that was formerly in Division 41 as the term is now used in several Divisions. In addition, the proposed change would amend the definition of "Unprofessional Conduct". Executive Director Gary Schnabel questioned if the Board thought the definition of "Unprofessional Conduct" was complete. The Board discussed and decided to add something about safety, security and or logistics to the definition. After a lengthy discussion, it was determined that Tony and Compliance Director Gary Miner will rework and bring back in October.

MOTION

**Motion to send Division 6 to rulemaking as revised was made and unanimously carried.
(Motion by Watt, second by Lew)**

Division 010 Criminal Background Checks

Project Manager Tony Burttt reviewed the proposed rule on criminal background checks and fingerprinting. This rule is required to implement legislation passed in 2005. Tony shared that this proposed rule is based on rules adopted by other health licensing Boards and the Department of Administrative Services.

Division 19 Pharmacists

Division 19 includes a number of issues currently addressed in Division 41 as well as new material based on prior guidance from the Board and suggestions from the Advisory Group which has been meeting since January. Tony and Compliance Director Gary Miner took time to extensively review outstanding policy questions with the Board. Some topics discussed include: Pharmacists in Charge (PIC), Counseling, Medication Therapy Management (MTM), the definition of Unprofessional Conduct, as well as requirements for receipt of prescriptions which include prescription formats such as oral, written, fax or electronic. Tony and Gary will take their notes from the Board and have a final draft rule during the September Board Conference Call.

Division 35 Food Bank Request

Tony Burttt reviewed with those present the proposed changes to the rules on Non-prescription Drug Outlets, Division 35, in order to accommodate the Oregon Food Bank's desire to distribute free OTC medications such as Advil and Excedrin, to the clients of its charitable services. There are 21 qualifying organizations that would need to register under this rule. If it proposes to adopt this rule, the Board will also have to decide if they want to charge a fee for licensure. There are advantages and disadvantages associated with both assessing a fee, and not charging a fee.

Division 041 - Pharmacies

Project Manager Tony Burttt discussed with the Board revisions to Division 41. These revisions would remove rules and material that will be in the revised Division 19 and new Division 45. The Board Members discussed some of the proposed changes, but came to the conclusion that the Division still needs some work, and directed the staff to work with Board Counsel on language development.

MOTION

Motion to direct staff to work with Board Counsel Tom Cowan for final draft of Division 41 was made and unanimously carried. (Motion by Foster, second by Watt)

Division 45 – Sterile & Non-Sterile Compounding

Tony Burttt discussed with the Board, Division 45 which is a very technical group of rules that addresses both sterile and non-sterile compounding. The intent has been to balance the need for public safety with recognition that an absolute adherence to USP 797 guidelines could have a devastating financial impact on some facilities. A Rules Advisory Group has been working on this Division since late 2006 and the members believe that an appropriate balance has been achieved. Tony reviewed the latest version of the drafted rules and received guidance on outstanding questions. Tony also reviewed with the Board Members the draft position paper. The Board Members discussed the draft rule at length and were able provide valuable input to Tony and Gary Miner as they move closer to a final draft version of Division 45.

Division 55 DMSO Repeal

Project Manager Burttt proposed repealing this Division completely as the Board no longer has statutory authority to regulate this product; it was removed from the Board's regulatory authority

during the 2003 legislative process. The Board Members discussed the repeal and agreed with Tony that to keep up to date, it is necessary to repeal this Division.

MOTION

Motion to send Division 10, Division 19, Division 35, Division 45, and Division 55 to a proposed rulemaking hearing was made and unanimously carried. (Motion by Watt, second by Foster)

The Board will schedule a conference call to review outstanding revisions for review prior to September 14 filing deadline.

Oregon Board of Pharmacy Website Update

Office Manager Chrisy Hennigan reported on recent updates to the Oregon Board of Pharmacy Website. Chrisy distributed a list of proposed links to resources to help reduce medication errors and improve patient safety to all the Board Members. The Board Members approved the list, and the links will be added to the Board's website.

Chrisy also reviewed the Board's Website statistics with the Board Members, regarding active visits trend on which day of the week individuals are most likely to visit the Board's website. In addition, the hand out included the number of visitors for the week the report was pulled, how long they stayed, and how many pages they viewed. She shared that this is just a snapshot of the website activity, but she can include more or less information as requested by the Board.

Safe Syringe Access & Disposal in Oregon

Executive Director Gary Schnabel reported on a letter from Ann Shindo, Oregon's State Hepatitis C Coordinator and HIV Harm Reduction Specialist requesting continued pharmacist participation in a Safe Syringe Access and Disposal Program.

Gary met with Ann to discuss this issue, and believes he has effectively communicated the Board's position on this topic for her program.

OSU Immunization Program Update

Board President Ann Zweber reviewed with the Board the Oregon State University College of Pharmacy Immunization Delivery Certification Program. Ann is working with Roberto Linares, RPh on the currently approved program.

This program will prepare OSU first year Pharm.D. candidates to work with immunization certified pharmacists while completing coursework in the OSU College of Pharmacy. Upon graduation, these students will be prepared to effectively deliver comprehensive immunization services in a variety of practice settings.

Ann shared that the program consists of self study preparation using texts to complete learning objectives and self assessment questions for each chapter, as well as on-site lecture and lab activities to review immunization science and protocols and instruct students on pharmacy specific issues with vaccine provision. These lectures and labs will be used to highlight legal and regulatory concerns, program implementation, safety, and administrative technique.

A handout outlining the Certification Program was given to the Board Members and Board Staff for review. The Board agreed these were good updates to their program.

Board Member Activity Reimbursement Policy

Topic Tabled until October Board Meeting

Expedited Partner Therapy

Dr. Beth Epstein and Dr. Sean Schafer made a presentation to the Board regarding Expedited Partner Therapy. Expedited Partner Therapy (EPT) is the practice of treating the sex partners of persons with sexually transmitted diseases (STD) without an intervening medical evaluation or professional prevention counseling. EPT has been proven to be an effective strategy to increase rates of partner treatment and reduce re-infection rates. Oregon State Public Health's Program and Office of Family Health are working together to identify interest in, and barriers to implementing an EPT program in the State of Oregon.

Dr. Epstein and Dr. Schafer presented statistics to the Board regarding infection rates, and treatment rates for infected individuals in the state, and how that compares to infection rates and treatment rates in states with an EPT program.

The Board thoroughly discussed the statutory restrictions limiting the implementation of an EPT program in Oregon, as well as some barriers which would inhibit the program. These barriers include DUR adverse affects, insurance billing issues, and the Oregon Board of Pharmacy's requirement for counseling on all new prescriptions.

In the end the Board decided to form a work group to work through these barriers, and to help determine how to best move forward with implementing an EPT program in Oregon. Board Member Linda Howrey will serve as the Board representative.

MOTION

Motion to accept Expedited Partner Therapy (EPT) in concept and to direct staff to establish a work group to identify barriers and how to best move forward was made and unanimously carried. (Motion by Watt, second by Lew)

Optometric Formulary Council Appointment

Topic tabled to October Board Meeting.

Pacific University Experiential Site Approval

Administrative Director Karen MacLean reported on the compilation of preceptors and sites that Pacific University proposes to use. The Board discussed their submission, and decided that Pacific University School of Pharmacy needs to control flow of students to the stores and facilities. The Board is also concerned on placement of students and stated that Pacific needs to be cooperative and considerate of locations. In the discussion, the Board Members suggested coordinating the on-site clerkship schedules between the two schools.

MOTION

Motion to approve Pacific University's proposed Experiential Sites with the exception of non-licensed and lapsed preceptors, and with letter of request to coordinate with stores and Oregon State University College of Pharmacy (Motion by Watt, second by Howard)

Pharmacy Technician Licensing Update

Administrative Director Karen MacLean presented the Board two questions regarding Pharmacy Technician licensing. The first was if the Board would approve continuing a Pharmacy Technician's license into October if an exam score is pending. The Board discussed and decided no. The second question was if the Technician will have to pay a late 'renewal' fee after August 31st if renewing into a Certified Technician License and the tech hasn't yet received their exam score. The Board discussed and decided that yes, they would have to pay the delinquent

fee. The Board has communicated that they have to renew into one of the two categories, either a standard or certified tech license, by August 31 to avoid the late fees.

Karen and Executive Director Gary Schnabel presented a letter from ICPT requesting the Board to submit a letter of support for the ExCPT exam. Gary Schnabel communicated directly with ICPT that the Board would need to approve a response and we could not meet their deadlines. Karen shared the current statistics regarding technician certification with the Board, including how many are certified now, and how many have requested to lapse their certified license. Karen also shared statistics she received from PTCB regarding technician testing, of 2597 technicians who tested in Oregon, 94% have passed, and 150 individuals have failed. Of those 2597, 1970 are still certified, the rest have lapsed.

Wholesale Licensing Renewal Update

Compliance Director Gary Miner and Licensing Representative Courtney Frank presented the Board with an update on the Wholesale Licensing Renewal process. Courtney stated that there are currently two Class 1 Wholesaler Renewal Applications which request to have a designated representative at more than one registered outlet. In addition, three other outlets submitted applications, which are using the same Designated Representative at more than one outlet without Board approval.

Gary and Courtney are working to develop a disciplinary grid similar to other compliance grids to help determine disciplinary action for these actions.

MOTION

Motion to approve disciplinary grid was made and unanimously approved. (Motion by Watt, second by Howrey)

Tamper Resistant Prescription Pads

Pharmacist Consultant Paige Clark reported on the proposed implementation of 7002(b) of the US Troop Readiness, Veteran's Care, Katrina Recovery, and Iraq Accountability Appropriations Act of 2007 (P.L. 110-28) which reads: "Effective October 1, 2007; Medicaid outpatient drugs will reimbursable only if non-electronic written prescriptions are executed on a tamper-resistant pad."

Paige presented the Board with a handout of issues and questions that the Board might have in considering this new law, as well as samples of what a tamper resistant prescription would look like and its security features.

The Board discussed the issue in depth and directed the Board staff to start drafting a temporary rule on this topic.

Action Items Update

Topic tabled to October Board meeting.

Financial Update

Administrative Director Karen MacLean gave the Board a Financial Update regarding the 2007 – 2009 Biennium. She shared that the estimated budget is just over \$4 million, the Board is still waiting on final numbers from Salem. The agency came in under budget approximately \$270,000; Karen shared that she will be able to give final numbers after the month 13 figures are received.

Overall the agency overspent on Services and supplies, but was under budget on Personnel Services due to the vacancies in compliance. Key areas where the agency overspent were: instate travel, out of state travel, general office supplies, Attorney General fees, telecommunications and IT expendable property.

2009 Legislative Concepts

Table topic until October Board Meeting

MOTION

Motion to enter into Executive Session pursuant to ORS 192.660(h) at 3:35 was made and unanimously carried. (Motion by Watt, second by Howrey)

MOTION

Motion to exit out of Executive Session and into Open Session at 3:45 was made and unanimously carried. (Motion by Howard, second by Watt)

In Executive Session pursuant to ORS 192.660(h), the Board discussed the latest updates regarding OAH case number 131999 and agency case number 2006-0061. The Board considered a late submission in Case 2006-0061 and determined that no additional action was necessary.

MOTION

Motion to grant the Board's motion to compel discovery dated May 23, 2007 and instruct staff to prepare an interim order articulating the Board's rational was made and unanimously carried. (Motion by Howrey, second by Howard)

Open Forum

Jackson Leong from Payless Drug stated that he had three questions for the Board Members. The first, regarding patient safety, asked if the Board has noticed a decrease in patient complaints of medication errors since the implementation of the Product Identification Label (PIL). Compliance Director Gary Miner stated that they currently have no data showing a lowering of complaints because no numbers had been tracked before the implementation of the program, just after.

Jackson's second question regarding Pharmacy Technician Certification asked how long it took to process certification exams and license applications, and if the Board anticipated any delays with next years renewal cycle. Administrative Director answered that once the completed applications and certification certificates were received, licenses would be mailed out within a week to two weeks.

Jackson's final question to the Board was regarding insurance companies and tablet splitting. In some instances the insurance company will only pay for a certain dosage, and it becomes necessary to split a tablet so the patient takes the correctly prescribed dosage. The problem comes when the pill isn't meant to be split and it is impossible to ensure correct dosage when the pill isn't scored. Jackson questioned if splitting pills that weren't scored and putting the pieces in a bubble pack would be ok with the Board. Compliance Director Gary Miner responded that for patient safety the insurance company cannot make a pharmacist cut a tablet in half if it isn't meant to be cut, i.e. it isn't scored. The Board decided to question the Board of Medical Examiners and the Oregon Medical Association on this issue.

MOTION

Motion to adjourn at 4:45 was made and unanimously carried. (Motion by Watt, second by Howrey)

Minutes Accepted By:

A handwritten signature in black ink that reads "Gary A. Schnabel". The signature is written in a cursive style with a large initial 'G'.

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

BOARD COMPLIANCE MINUTES

**Oregon State Board of Pharmacy
800 NE Oregon Street #150
Portland, OR 97232
August 7, 2007 @ 8:30 a.m.
Ann Zweber, RPh. Presiding**

An Executive Session of the Board to discuss Compliance was held on August 7, 2007 at the Board of Pharmacy in Conference Room 140.

Board Members present: Bernie Foster (8:30am to 3:00pm), Lee Howard, Linda Howrey, R.Ph., Cathryn Lew, R.Ph., Marc Watt, R.Ph. and Ann Zweber, R.Ph.. Staff present: Executive Director Gary Schnabel, Administrative Director Karen MacLean, Project Manager Tony Burt, Consultant Pharmacist Paige Clark, Compliance Director Gary Miner, Board Investigators Meg Aulerich, Katie Baldwin, Joe Ball, Michele Cale, Gregg Hyman and Jennifer Zanon, Administrative Secretary Jennifer Hess and Compliance Secretary Annette Gearhart. Senior AAG Thomas Cowan and PRN Program Director Ed Schneider also present.

Board Members absent: Dianna Pimlott, R.Ph. and Bernie Foster (left at 3:00pm, absent for voting).

Working lunch held.

BOARD APPEARANCES:

Case: 2007-0085

Motion to issue Letter of Concern to pharmacist was unanimously accepted. Motion by: Marcus Watt; Seconded by: Lee Howard.

Case 2007-0200

Motion to reinstate pharmacist license with conditions. Take the P Sam exam, take and pass the MPJE, 5 year probation with PRN was unanimously accepted. Motion by: Marcus Watt; Seconded by: Lee Howard.

Case: 2007-0204

Motion to reinstate pharmacist license with conditions. Take the P Sam exam, take and pass the MPJE, 5 year probation with PRN was unanimously accepted. Motion by: Marcus Watt; Seconded by: Lee Howard.

CASE REVIEW:

Case: 2007-0189

Motion to revoke pharmacist license and impose \$50,000 Civil Penalty was unanimously accepted. Motion by: Linda Howrey; Seconded by: Lee Howard.

Case: 2007-0190

Motion to revoke technician license and impose \$3,000 Civil Penalty was unanimously accepted. Motion by: Linda Howrey; Seconded by: Marcus Watt.

Case: 2007-0240

Motion to revoke outlet license and impose \$100,000 Civil Penalty was unanimously accepted. Motion by: Linda Howrey; Seconded by: Marcus Watt.

Case: 2007-0207

Motion to issue Letter of Concern was unanimously accepted. Motion by: Linda Howrey; Seconded by: Marcus Watt.

Case: 2007-0157

Motion to revoke technician license and impose \$1,000 civil penalty per violation was unanimously accepted. Motion by: Marcus Watt; Seconded by: Lee Howard.

Case: 2007-0243

Motion to impose \$6,000 civil penalty and suspend pharmacist license was unanimously accepted. Motion by: Linda Howrey; Seconded by: Marcus Watt.

Case: 2007-0215

Motion to impose \$1,000 civil penalty per violation against pharmacy was unanimously accepted. Motion by: Linda Howrey; Seconded by: Marcus Watt.

Case: 2007-0117

Motion to impose \$1,000 civil penalty against Pharmacist-In-Charge was unanimously accepted. Motion by: Marcus Watt; Seconded by: Lee Howard.

Case: 2007-0107

Motion to revoke pharmacist license was unanimously accepted. Motion by: Marcus Watt; Seconded by: Lee Howard.

Case: 2007-0188

Motion to suspend pharmacist license was unanimously accepted. Motion by: Marcus Watt; Seconded by: Linda Howrey.

Case: 2007-0182

Motion to revoke technician license and impose \$1,000 civil penalty was unanimously accepted. Motion by: Marcus Watt; Seconded by: Cathryn Lew.

Case 2007-0193

Motion to revoke technician license and impose \$1,000 civil penalty was unanimously accepted. Motion by: Lee Howard; Seconded by: Marcus Watt.

Case 2007-0203

Motion to revoke pharmacy technician license and impose \$1,000 civil penalty was unanimously accepted. Motion by: Marcus Watt; Seconded by: Cathryn Lew.

Case: 2007-0148

Motion to revoke technician license and impose \$1,000 civil penalty was unanimously accepted. Motion by: Marcus Watt; Seconded by: Cathryn Lew.

Case: 2007-0146

Motion to revoke pharmacist license was unanimously accepted. Motion by: Marcus Watt; Seconded by: Cathryn Lew.

Case: 2007-0149

Motion to impose \$1,000 civil penalty and suspend technician license was unanimously accepted. Motion by: Marcus Watt; Seconded by: Lee Howard.

Case 2007-0184

Motion to grant Technician license with matching 1 year probation of Washington Board was unanimously accepted. Motion by: Marcus Watt; Seconded by: Lee Howard.

Case: 2007-0185

Motion to issue Letter of No Violation to outlet was unanimously accepted. Motion by: Linda Howrey; Seconded by: Marcus Watt.

Case: 2007-0176

Motion to impose \$1,000 per violation civil penalty against pharmacy; *or* submit QA plan acceptable to the Board documenting staff training on counseling in lieu of discipline was unanimously accepted. Motion by: Linda Howrey; Seconded by: Marcus Watt.

Case: 2007-0242

Motion to impose \$1,000 Civil Penalty against pharmacist; *or* earn 3 hours of CE within 60 days in lieu of civil penalty. Letter of Concern to PIC and CC: pharmacy was unanimously accepted. Motion by: Linda Howrey; Seconded by: Cathryn Lew.

Case: 2007-0173

Motion to impose \$1,000 Civil Penalty against pharmacist; *or* earn 3 hours of CE and report error within 60 days in lieu of civil penalty. CE is to be in the area of medication error reduction and is not eligible for CE requirements for renewal purposes. Letter of Concern to PIC and CC: pharmacy was unanimously accepted. Motion by: Linda Howrey; Seconded by: Lee Howard.

Case 2007-0076

Motion to revoke technician license was unanimously accepted. Motion by: Linda Howrey; Seconded by: Marcus Watt.

Case: 2007-0191

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

Case: 2007-0279

Motion to impose \$1,000 Civil Penalty against technician; *or* earn 3 hours of CE was unanimously accepted. Motion by: Marcus Watt; Seconded by: Linda Howrey.

Case 2007-0194

Motion to 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 was unanimously accepted. Motion by: Marcus Watt; Seconded by: Cathryn Lew.

Case 2007-0178

Motion to impose \$1,000 Civil Penalty against pharmacy; or QA plan was unanimously accepted with Linda Howrey abstaining due to conflict of interest. Motion by: Marcus Watt; Seconded by: Cathryn Lew.

ADMINISTRATIVE DISCUSSION:

Cases 2007-0235

Motion to deny request for termination of probation was unanimously accepted. Motion by: Marcus Watt; Seconded by: Lee Howard.

Case 2007-0247

Motion to refund application fee from incomplete technician application was unanimously accepted. Motion by: Marcus Watt; Seconded by: Lee Howard.

Case 2007-0234

Motion to grant waiver for 2 key exception was unanimously accepted. Motion by: Marcus Watt; Seconded by: Linda Howrey.

Case 2005-0345

Motion to close case under investigation was unanimously accepted. Motion by: Linda Howrey; Seconded by: Marcus Watt.

Case 2007-0237

Motion to deny initial technician application was unanimously accepted. Motion by: Marcus Watt; Seconded by: Linda Howrey.

Motion to add the “arrest language” to the theft portion of the staff’s authority grid was unanimously accepted. Motion by: Cathryn Lew; Seconded by: Marcus Watt.

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.*

Motion to accept the items on the consent agenda as published was unanimously accepted. Motion by: Marcus Watt; Seconded by: Linda Howrey.

LETTERS OF CONCERN CASES:

Case 2007-0216

Motion to issue Letter of Concern to pharmacy intern.

Case: 2007-0187

Motion to issue Letter of Concern to pharmacist, CC: PIC and pharmacy.

WARNING NOTICES:

Case: 2007-0170 and 2007-0198.

UNABLE TO SUBSTANTIATE:

Case: 2007-0147, 2007-0153, 2007-0195, 2007-0196, 2007-0205 and 2007-0219.

NO VIOLATION:

Case: 2006-0188, 2006-0403, 2007-0119, 2007-0141, 2007-0171 and 2007-0210.

UNREGISTERED OUTLET CASES:

By authority delegated to Oregon Board of Pharmacy Staff by the Board Members on 2/7/2007 and amended on 4/17/2007, notices to impose \$1,000 civil penalty notices have been issued to:

Case: 2007-0122, 2007-0125, 2007-0127, 2007-0129, 2007-0130 and 2007-0175.

UNSWORN FALSIFICATION (INTENT UNKNOWN)-CE LETTERS:

By authority delegated to Oregon Board of Pharmacy Staff by the Board Members on 8/8/2006 and confirmed on 2/7/2007, the following applicants and licensees have been issued CE in lieu of discipline letters: **Case: 2007-0186 and 2007-0202.**

DENIAL OF TECHNICIAN APPLICATION ORDERS:

By authority delegated to Oregon Board of Pharmacy Staff by the Board Members on December 1, 2004 and amended on 4/17/2007, the following \$1,000 civil penalty and denial of technician licenses notices have been issued: **Case: 2007-0168, 2007-0179 and 2007-0212.**

DEFAULT ORDERS:

By authority delegated to Oregon Board of Pharmacy Staff by the Board Members on August 12, 2004 and confirmed on 2/7/2007, the following default orders have been issued: **Case: 2007-0082.**