

## BOARD MEETING MINUTES

Oregon Board of Pharmacy  
800 NE Oregon Street  
Portland, OR 97232  
December 13-14, 2011

### TUESDAY, DECEMBER 13, 2011

Larry Cartier, R.Ph. Board President, called the meeting to order at 8:30 AM.

The following Board Members were present:

Larry Cartier, President	Ann Zweber
Ken Wells, Vice President	Lee Howard
Christine Chute	Penny Reher

\*Dianna Pimlott participated by telephone for part of the meeting.

The following staff members were present for all or part of this session:

Gary Schnabel, Executive Director	Karen MacLean, Administrative Director
Gary Miner, Compliance Director	Chrisy Hennigan, Office Manager
Courtney Frank, Acting Project Manager	Joe Ball, Chief Investigator
Fiona Karbowicz, Inspector	Gregg Hyman, Inspector
Katie Baldwin, Inspector	Michele Cale, Inspector
Annette Gearhart, Compliance Secretary	Kim Oster, Compliance Assistant

Thomas Cowan, Board Counsel

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Agenda Review and Approval

### **MOTION**

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

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Approve Consent Agenda\*

\*Items listed under the 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 item will be removed from the consent agenda and placed on the regular business agenda.

1. NAPLEX Scores (May 1, 2011-August 31, 2011)
2. MPJE Scores (none)
3. Executive Director Report
4. Project Manager Report
5. License/Registration Ratification (October 8, 2011-December 9, 2011)
6. Intern Extensions (none)
7. NABP Memos

8. Approval of Board Meeting Minutes (October 11-12, 2011)

**MOTION**

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

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**MOTION**

**Motion to enter Executive Session pursuant to ORS 192.660(1) (2) (f) (k) at 8:33 AM was made and unanimously carried (Motion by Wells second by Howard).**

**MOTION**

**Motion to resume Open Session a 4:00 PM was made and unanimously carried (Motion by Zweber second by Reher).**

**MOTION**

**Motion to adjourn at 4:02 PM was made and unanimously carried (Motion by Howard second by Reher).**

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**WEDNESDAY, DECEMBER 14, 2011**

Larry Cartier, Board President, called the meeting to order at 8:30 AM.

The following Board Members were present:

Larry Cartier, President	Ann Zweber
Ken Wells, Vice President	Lee Howard
Christine Chute	Penny Reher

\*Dianna Pimlott participated by telephone for part of the meeting.

The following staff members were present for all or part of this session:

Gary Schnabel, Executive Director	Karen MacLean, Administrative Director
Gary Miner, Compliance Director	Chrisy Hennigan, Office Manager
Courtney Frank, Acting Project Manager	Joe Ball, Chief Investigator
Fiona Karbowicz, Inspector	Gregg Hyman, Inspector
Katie Baldwin, Inspector	Michele Cale, Inspector
Annette Gearhart, Compliance Secretary	Kim Oster, Compliance Assistant

Thomas Cowan, Board Counsel

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Motions for Disciplinary Action - Please see Motions for Disciplinary Cases at the end of this document.

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President Cartier welcomed the pharmacy students that were present, asked them to introduce themselves and thanked them for attending the meeting.

## ISSUES/ACTIVITIES

### Reports:

President Larry Cartier reported that he attended the November 8, 2011 Professional Practice Roundtable (PPR) meeting. At the meeting there was discussion relating to non pharmacist dispensing, Medicare/Medicaid funding and the Oregon Health Care Reform Taskforce. The next PPR meeting is scheduled for January 10, 2012. November 29, he attended the Pharmacy Coalition meeting at which topics such as potential legislation for non pharmacist dispensing, Pharmacy Benefit Management (PBM) audits and transparency as well as processes and procedures for manufacturer recalls were discussed. Larry also attended the Board's November 22 Rulemaking Hearing. Larry shared that Legacy Health System will be hosting its first literacy health conference on March 9 2012 at the Multnomah Athletic Club. The name of the conference is "Making it Clear". He asked that staff add a link for this event on the Board's website. Larry also commented that the Oregon Patient Safety Commission is working with pharmacists on capturing medication errors. The Commission is hoping to work collaboratively with the profession to establish better reporting mechanisms.

Vice President Ken Wells reported that he had also attended the PPR and Pharmacy Coalition meetings in addition to the Board's November 22 Rulemaking Hearing.

Ann Zweber reported that she received the minutes from the last Governor's Advisory Committee meeting on DUIIs at which they again discussed proposing legislation during the 2013 Session to revise Oregon's DUII statutes to incorporate an impairment violation for some non-controlled prescription and non-prescription medications. She plans to attend the next meeting in January. Ann also shared that she is a member of the Oregon State Pharmacist Association (OSPA) Continuing Education Committee and that they are planning to hold the fall annual convention in Portland.

Lee Howard had nothing to report.

Christine Chute had nothing to report.

Penny Reher reported that she had attended the American Society of Health-System Pharmacists (ASHP) meeting earlier this month. It was a good meeting. One of the sessions she attended was specifically for Board Members serving on State Boards of Pharmacy. About 20 other state's Board Members participated in the meeting. They discussed items such as reciprocity of technician licensure, medication errors, how to regulate central fill processes in multiple sites within the hospital setting. Other items discussed include: computerized physician order entry, drug shortages and pedigrees. Penny will summarize her notes and provide them to the other Board Members.

Board Counsel Tom Cowan reported that he has been working with staff on rule drafting and contested cases.

Compliance Director Gary Miner reported that he and Interim Project Manager Courtney Frank have been reviewing drugless pharmacy applications and that they are starting to see models that appear to be functioning as central fill sites. He suggested that the Board add central fill to its future list of rules to develop. Gary also indicated that the Board currently has referred 14 individuals to the Health Professionals Service Program (HPSP) and that there are three self referrals. In October all inspectors went through the Council on Licensure, Enforcement and Regulation (CLEAR) training. Gary shared that 93% of the pharmacy inspections have been

completed for this year and he expects that 100% will be completed before the end of the year. He also reported that the statistic for the 120 day statutory requirement where the Board receives a compliant, it is investigated and presented to the Board is on average 104 days.

Compliance Director Gary Miner and Chief Investigator Joseph Ball attended the National Association of Boards of Pharmacy (NABP) Compliance Officers Forum earlier in December. Travel expenses for the Compliance Director were paid by NABP.

Administrative Director Karen MacLean reported that as of December 9, 65% of non-prescription drug outlets have renewed their registrations. These registrations expire January 31<sup>st</sup> annually. She also shared that as a result of a statutory update effective January 1<sup>st</sup> the non-sufficient funds fee for all returned checks will become \$35.00 rather than \$25.00.

As requested by the Board, Karen and Office Manager Chrisy Hennigan reviewed data relating to Certified Pharmacy Technician and Pharmacy Technician licensure. They found 75% of the licensed Certified Pharmacy Technicians previously held a Pharmacy Technician license with the Board prior to becoming licensed as a Certified Pharmacy Technician.

Also in response to the Board's request, Karen shared that staff developed an updated memo that is now being mailed with every new Pharmacy Technician (PT) license that is issued which explains that their license is valid for one year and is not renewable, as well as the requirements of how to obtain national certification and obtain their new Certified Oregon Pharmacy Technician License (CPT). Additionally, a postcard has been developed to be mailed four to six months before a PT license is about to expire that reminds them of the same information. She hopes that these extra reminders will reduce the number of PT's that work with an expired license and that this will result in a reduction in cases of non-compliance. Staff evaluated the timing of the first letter's effectiveness and found it to be very useful and we received a good response for new applications for CPT. This information will also be sent to the PIC list-serve to advise them of the new process and help them to monitor PT license expiration dates. The Board was very pleased with these new tools and looks forward to additional updates.

Karen reported that in November, staff sent letters to Pharmacy Technician schools located in Oregon and other interested parties. The letter contained answers to some questions that the Board was asked by another Pharmacy Technician school earlier in the year. The letter also requested that each school provide the name of the contact representative for their pharmacy technician program and invited them to share some of their enrollment policies in relation to criminal background checks. Staff hopes that this outreach will encourage more communication between the Board and technician schools.

Karen provided an update on fingerprint statistics. She indicates that the average number of days that it takes for the Oregon State Police (OSP) to provide the Board with criminal background check results is about nine; this is an improvement, but varies month to month depending on OSP's workload. It is taking applicants about 13 days to provide the Board with all information needed to send fingerprint cards to OSP and the full process for licensure is approximately 31 days.

For informational purposes Karen reported that staff received notification from the NABP that an individual received no score for the North American Pharmacist Licensing Exam (NAPLEX). This occurs when an individual does not answer at least 162 of the 185 questions. This is highly unusual and Executive Director Gary Schnabel wanted the Board to be aware of this example since it's another way that requires an individual to retake the exam.

Karen reported that the Project Manager recruitment is in progress and expects that the position will be filled soon.

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### **2012 Board Meeting Dates**

- February 14-15, 2012 Portland
- March 13 -14, 2012 Silverton Strategic Planning
- April 10 - 11, 2012 Portland
- June 5 - 6, 2012 Portland
- August 7 - 8, 2012 Portland
- October 9 -10, 2012 Portland
- December 11 - 12, 2012 Portland

### **Proposed 2012 Rulemaking Hearing Dates**

- March 22, 2012
- May 24, 2012
- November 29, 2012

As requested, Karen reported that she secured a location for the 2012 Strategic Planning Meeting. The meeting will be held at the Oregon Garden. Karen also reported that she will have proposed dates for the 2013 Board Meetings to consider at the February meeting.

### **MOTION**

**Motion to approve the proposed Rulemaking Hearing dates for 2012 was made and unanimously carried (Motion by Wells, second by Howard).**

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### **Board Member/Staff Presentations**

- Professional Practice Roundtable – 11/8/11
- OSPA Lane County Mid-Winter CE Seminar - 2/25-26/12

As previously mentioned, Board members and staff attended or will attend the above meetings.

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### **Committees/Meetings**

#### **NABP Meetings**

Executive Director Gary Schnabel reported that he participated in a November conference call meeting of the NABP EPIC Committee. The Committee is comprised of the immediate five past NABP Presidents. Information on NABP's AWARxE Program was shared at the meeting and topics such as the Joint Commission of Pharmacy Practitioners JCPP Vision for 2015 as well as the Community Pharmacy Accreditation Program were discussed. Gary also reminded the Board that invitations for the NABP Taskforces will be coming out in May. This is a way for selected Board Members to participate on a national level researching specific issues. President Larry Cartier applauded the contributions that Gary has made to NABP on behalf of the Oregon Board of Pharmacy and believes the Oregon Board's participation at a National level has been exceptional.

On October 21 Gary presented at the National Association of State Controlled Substances Authorities (NASCSA) 2011 Educational Conference in Portland, Maine. At this conference he presented an a program called “Hot Topics out West” and provided an update on Oregon’s pseudoephedrine (PSE) law. Gary continues to receive questions from all over the country from Boards of Pharmacy and legislatures about Oregon’s PE law. NASCSA paid all the expenses for travel associated with this presentation.

In November Gary received a synthetic cannabis “Kush” packet from a reporter at Channel 6 and the Oregon Partnership. The “Kush” product is being sold in Oregon and is advertised as being not illegal. Gary sent the packet to the Oregon State Police Forensic Laboratories to be analyzed. The results have not yet been received.

**Research Councils – none**

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## **GENERAL ADMINISTRATION**

### **APPEARANCES**

The individual from the **Oregon Health Licensing Agency** who was to appear regarding Direct Entry Midwives never arrived. This appearance will be rescheduled.

### **Talbot, Korvola & Warwick Introduction**

Brad Rafish and Anne Nottingham from Talbot, Korvola & Warwick Consulting Firm appeared to introduce themselves to the Board and provide a brief overview of how they will be conducting the Operational Review of the Board of Pharmacy as required by the Board’s 2011-13 Budget Note.

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### **Administrative Rule Writing Policy**

Executive Director Gary Schnabel introduced an Administrative Rule Writing Policy. The policy has been established to ensure that a consensus amongst Board members is made on policy decisions and to ensure that staff understands the intent of the policy prior to developing rules. The policy is intended to help streamline the rule writing process. The Board agreed that this policy is good and agreed that it should help the Board and staff be more deliberate in rule writing endeavors. The Board also discussed having a Board Member participate in rule development by reviewing draft rules prior to presentation to the Board to minimize revisions and word-smithing during a Board meeting.

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### **Rules Updates**

Interim Project Manager Courtney Frank and Compliance Director Gary Miner provided information on the following:

### **Review Rulemaking Hearing Report**

Courtney provided an overview of the Rulemaking Hearing Report. We received comments and technical suggestions on proposed rules in Division 019, 031, 041, 060 and 080. There were no comments for the proposed rules in Division 110.

### **Consider Adoption of Proposed Rules**

Courtney and Gary led a discussion on the following final proposed rules and the Board determined which rules to permanently adopt.

- Division 019 Collaborative Drug Therapy Management and Immunizations
- Division 031 Interns
- Division 041 Pharmacy Depot
- Division 060 Manufacturers
- Division 080 Animal Euthanasia
- Division 110 Fees

The Board reviewed and accepted minor revisions that staff incorporated. Staff also recommended suspending the Division 080 Animal Euthanasia temporary rules as the Oregon Veterinary Medical Examining Board reinstated the certification of Animal Euthanasia Technicians. Board will continue to work with the Veterinary Board to finalize our Board's storage and security requirements for sodium pentobarbital.

#### **MOTION**

**Motion to adopt rules in OAR Chapter 855, Division 019, OAR 855-019-0260 was made and unanimously carried (Motion by Howard, second by Zweber).**

#### **MOTION**

**Motion to adopt rules in OAR 855-019-0280 through 855-019-0290 as revised was made and unanimously carried (Motion by Wells, second by Zweber).**

#### **MOTION**

**Motion to adopt rules in OAR Chapter 855, Division 031 was made and unanimously carried (Motion by Zweber, second by Wells).**

#### **MOTION**

**Motion to adopt rules in OAR Chapter 855, Division 041 as revised was made and unanimously carried (Motion by Reher, second by Zweber).**

#### **MOTION**

**Motion to adopt rules in OAR Chapter 855, Division 060 as revised was made and unanimously carried (Motion by Wells, second by Howard).**

#### **MOTION**

**Motion to suspend OAR 855-080-0100(T) and 855-080-0103(T) and amend OAR 855-080-0100 by Temporary Rule was made and unanimously carried (Motion by Reher, second by Wells).**

#### **MOTION**

**Motion to adopt rules in OAR Chapter 855, Division 110, was made and unanimously carried (Motion by Wells, second by Reher).**

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#### **Unsafe Work Environment**

As requested, Executive Director Gary Schnabel and Compliance Director Gary Miner worked with Board Counsel Tom Cowan to provide another draft of rules for the Board to consider that pertains to unsafe work environments. The Board requested to have rules developed in

response to the working conditions survey results received earlier this year. One of the clear concerns repeatedly circled back to unsafe work environments and patient safety. The Gary's talked through the draft and the Board Members decided that it was ready to send to rule making for comment. Tom commented that this draft does what the Board needs in a measured way. It's a workable solution and addresses the types of cases the Board sees on a regular basis.

## **MOTION**

**Motion to send to Rule Making Hearing, was made and unanimously carried (Motion by Wells, second by Reher).**

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### **Long Term Care Rules Update**

Gary Miner provided an update on the long term care rules. He indicates that staff will be working on re-establishing the long term care workgroup and that he expects to have policy questions relating to the development of these rules for the February meeting.

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### **Technician Validation Program Update**

Courtney provided an update on the Technician Checking Validation Program work-group. She indicates that the next work-group meeting is scheduled for January 19<sup>th</sup>. The Board requested that the proposed rules be ready for the Board to review at its February meeting.

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### **Technician Duties Work-Group**

Courtney indicated that a technician duties work-group has been established and that their first meeting is scheduled for January 17<sup>th</sup>.

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### **Five Year Rule Review**

Courtney provided an overview of the Division 021 Pain CE and Division 065 Wholesaler Five Year Rule Review. All questions as required by statute were answered and revision suggestions were made for the Board to consider next time rules are amended in Division 021 or Division 065.

## **MOTION**

**Motion to accept the 5 Year Rule Review for Pain CE and Wholesalers was made and unanimously carried (Motion by Howard, second by Zweber).**

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### **Future Rulemaking & Policy Discussion**

Gary Miner presented an outline of upcoming rulemaking development. He indicates that there needs to be more policy discussion relating to ER Dispensing. He anticipates that the Division 041 reorganization to consulting pharmacies, drug rooms and retail outlets will be presented to the Board at the April meeting.

- |   |                        |
|---|------------------------|
| a. ER Dispensing  | <i>Rulemaking 6/12</i> |
| b. Reorganization   | <i>Rulemaking 6/12</i> |
| (Includes: Consulting Pharmacies, Drug Rooms and Retail Drug Outlets, etc.) |                        |
| c. Non-Prescription Drug Outlets  | <i>Rulemaking 6/12</i> |

**Outlet Waiver Request**

Compliance Director Gary Miner presented two outlet waiver requests to the Board for their consideration.

**MOTION**

**Motion to deny Apollo Ophthalmics request to waive OAR 855-065-0006(6)(7) was made and unanimously carried (Motion by Howard, second by Reher).**

**MOTION**

**Motion to approve Summit Anesthesia's request to waive registration as a Wholesaler Class I Drug Outlet was made and unanimously carried (Motion by Reher, second by Zweber).**

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**Practitioner Dispensing Update**

Executive Director Gary Schnabel provided an update on practitioner dispensing. He indicated that he and Compliance Director Gary Miner met with the Directors of the Medical, Nursing and Dentistry Boards to discuss a variety of topics including practitioner dispensing. Gary Miner, Gary Schnabel and Board Counsel Tom Cowan also met in November to review and discuss the Board's authority to register and regulate various types of drug outlets.

In December Gary Schnabel met with the Coalition and ZoomCare to discuss proposed legislation. Gary reported that a bill will be carried in the February 2012 Legislative Session to allow ZoomCare, and others who want to follow the model, to use Nurse Practitioners and Physician Assistants to dispense from a limited supply of common pre-packaged drugs. ZoomCare is asking the Board of Pharmacy and the Coalition to support the Bill. The Board did not take a position at this time.

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**Prescription Fraud Meeting Update**

Interim Project Manager Courtney Frank and Compliance Director Gary Miner provided an update on the prescription fraud work-group meeting held on November 3, 2011. The work-group suggests that the Board consider drafting rules that requires positive identification for controlled substance prescriptions and requires mandatory reporting for fraudulent prescriptions. The Board indicated that they are not ready to consider adopting rules at this time. However, they would like to see some draft language for positive identification in the near future. Courtney presented a prescription fraud and robbery brochure that the work-group helped develop. Also shared was a voluntary prescription fraud documentation form and list of non-emergency phone numbers by County throughout the State that staff developed. These documents will be posted on the Board's website and will be a resource for pharmacy staff. OHA's Prescription Drug Monitoring Program coordinator, Todd Beran attended the meeting. This provided an opportunity for law enforcement to establish a relationship with PDMP.

Executive Director Gary Schnabel connected with a member from the Federal Bureau of Investigations. This individual will be participating in future work-groups and is a welcomed addition. The next work-group meeting will be scheduled in early 2012.

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### **Workplace Survey Update**

Administrative Director Karen MacLean provided an overview of the survey data reports that Office Manager Chrisy Hennigan created. She asked the Board if they had any questions about the reports and if they would like to further analyze the workplace survey results. The Board's immediate priority is to focus on getting the unsafe work environment draft rules moving through the rulemaking process and implemented. Member Ann Zweber and Executive Director Gary Schnabel will work on preparing a poster presentation for the May 2012 NABP Annual Meeting Poster Session. There was some discussion about putting together a one page summary of the survey and results, some members thought that would be a useful tool especially for the Legislature.

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### **PARE Exam**

There was discussion at the October Board meeting about requiring the PARE exam as part of pharmacist discipline. Executive Director Gary Schnabel checked with the NABP and the exam is not yet ready. NABP would like to know if the Board is interested in participating in their pilot project for the exam. The Board stated that they would like to receive more information about the requirements of the pilot project before making a decision.

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### **Patient Education**

Executive Director Gary Schnabel shared that materials for NABP's AWAxRxE Program have been received. These materials will be distributed to pharmacies during the 2012 inspection process and were made available to the Board by courtesy of NABP.

Gary indicated that an area in the Portland State Office Building lobby has been reserved for the Board to display prescription drug safety and other information to the public. The display will be available January 30<sup>th</sup> through February 17<sup>th</sup>.

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### **Sale of Pharmacy Records**

Christine Chute led the discussion of the sale of pharmacy records. A consumer had contacted her with a question relating to the sale of pharmacy records and she had asked for the topic to be put on the agenda. Executive Director Gary Schnabel developed a historical summary for the Board to review, provided an overview and a discussion ensued around the requirements for the sale of a pharmacy including maintenance and transfer of pharmacy records, who owns the records, how and when and where the records may be transferred and how these may impact the consumer as well as the pharmacy. The Board took no action and asked Gary to contact the person who brought the issue to Board Member Chute to educate them on this process.

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### **Board Successes and Accomplishments**

At the request of Board President Larry Cartier, Executive Director Gary Schnabel presented a list of the Board's recent significant successes and accomplishments. The list included 25 key events or actions that the Board has participated in over the last six years including things like:

- Established Pseudoephedrine as a controlled substance in response to Oregon's methamphetamine epidemic effective July of 2006.

- Scheduled Synthetic cannabis (Spice) and substituted cathinones (pond cleaner, potpourri) as a C-1 on state CSA list in 2011.
- Established the first and so far the only BOP Pharmacist –In-Charge (PIC) Class in the country in 2007. Over 818 have attended to date.

Board members noted some additional activities such as Expedited Partner Therapy and the Board's Considering Moral and Ethical Objections position statement. Several commented that it demonstrates that the Board collaborates with a lot of organizations. Staff will continue to identify and track this information. Larry asked that we sort the information chronologically and highlight activities in the last two years. This will be a good resource for the legislature.

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### **Council on Optometric Non-Topical Formulary Appointment**

Administrative Director Karen MacLean shared that the Board's appointed member for the Council on Optometric Non-Topic Formulary will expire on December 31. The Oregon Board of Optometry is in support of having Bill Boyce continue on this formulary. Executive Director Gary Schnabel spoke to Bill Boyce and he expressed an interest in continuing on the Formulary. The Board did not receive any other candidates interested in this position.

### **MOTION**

**Motion to appoint Bill Boyce for another term on the Council on Optometric Non-Topical Formulary was made and unanimously carried (Motion by Reher, second by Wells).**

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### **Financial/Budget Report**

Administrative Director Karen Maclean shared that the Board was on target for its September financials. She indicates that 2013-15 budget process will be very different. She expects to obtain more instruction sometime in early January. Karen also stated that the Board's operational review is in progress and that the final report will be submitted to the Legislative Fiscal Office by February 1, 2012.

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### **Legislative Session Update**

Administrative Director Karen MacLean shared that the 2012 Legislative Session will start of February 1<sup>st</sup> and will end February 29<sup>th</sup>. Staff will be tracking bills throughout the Session.

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### **Topics for Future Discussion**

President Larry Cartier reiterated that the following topics will be discussed in the future.

- Best Practices for Retail Settings
  - Prescriptive Authority for OTC's
  - Rural Access to Pharmacy Services
  - Prescription Drug Abuse
  - Pharmacist roles in ACO/CCO organizations
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### **Strategic Planning Update & Topics for March 2012 Meeting**

Administrative Director Karen MacLean reported on some logistics for the upcoming meeting. She asked the Board to clarify some of the topics that have accumulated since the last strategic planning meeting.

- ACPE CE Monitoring
- Non-Pharmacy Dispensing
- Application Question Review
- Pharmacists and Medical Marijuana Use
- Case Review Evaluation
- Case Presentation Review

For the case review and case presentation topics, the Board indicated that it wants to ensure that each case is consistently evaluated and presented and that discipline is consistently applied.

- Medication Errors

The Board wants to ensure that they are consistent in the way medication error cases are handled. They want to evaluate: Is there patient harm? Is it a Letter of Concern? Should discipline be applied for a clerical lapse in procedures? Are cases being handled from a “just culture” perspective?

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### **Public Member Lee Howard’s Last Board Meeting**

Lee Howard stated that it has been a pleasure to serve on the Board and that he has enjoyed working with such a high caliber group of people. Lee was acknowledged for his years of service at the June meeting since his Term ended 6/30/11. The Board is especially grateful that Lee continued to serve through the end of the year. He will be missed.

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### **VIII. OPEN FORUM**

President Larry Cartier invited comments from the public Pharmacist Jackson Leong asked when the Pharmacy Depot Rules will go into effect. Staff indicated that they will most likely be effective January 1, 2012. Former Board Member and Pharmacist, Blake Rice acknowledged Lee Howard’s years of service.

### **Adjourn MOTION**

**Motion to adjourn at 2:37 PM was made and unanimously carried (Motion by Howard, second by Zweber).**

Accepted by:



Karen S. MacLean,  
Administrative Director

**Oregon Board of Pharmacy**  
800 NE Oregon Street  
Portland, OR 97232  
Larry Cartier, R.Ph., Presiding

Tuesday, December 13, 2011 @ 8:30 AM, Conference Room 1A  
Wednesday, December 14, 2011 @ 8:30 AM, Conference Room 1A

An Executive Session of the Board to discuss Compliance was held on December 13, 2011 at 800 NE Oregon Street in Portland. Motions were held in public session on December 14, 2011.

Board Members present for all or part of compliance sessions:

Larry Cartier, R.Ph., President	Dianna Pimlott, R.Ph. via teleconference
Kenneth Wells, R.Ph., Vice President	Penny Reher, R.Ph.
Christine Chute, Public Member	Ann Zweber, R.Ph.
Lee Howard, Public Member	

Staff present for all or part of compliance session:

Gary Schnabel, R.Ph., R.N., Executive Director	Annette Gearhart, Compliance Secretary
Gary Miner, R.Ph., Compliance Director	Kim Oster, Compliance Assistant
Joe Ball, R.Ph., Chief Investigator	Karen MacLean, Administrative Director
Meg Aulerich, R.Ph., Board Inspector	Courtney Frank, acting Project Manager
Katie Baldwin, R.Ph., Board Inspector	Thomas Cowan, Senior AAG
Michele Cale, R.Ph., Board Inspector	
Gregg Hyman, R.Ph., Board Inspector	
Fiona Karbowicz, R.Ph., Board Inspector	

**Case 2011-0283 Motion to reinstate pharmacist license with 5 year HPSP probation.**

*Motion by: Penny Reher; seconded by: Lee Howard. Motion was carried with Ken Wells and Dianna Pimlott opposed.*

**Case 2010-0147 Motion to reduce probationer's number of UAs to 12 annually.**

*Motion by: Ken Wells; seconded by: Lee Howard. Motion unanimously carried.*

**Dianna Pimlott excused for the remainder of the meeting on Dec. 14, 2011.**

**Case 2010-0289 Motion to reduce probationer's number of UAs to 12 annually.**

*Motion by: Penny Reher; seconded by: Ken Wells. Motion unanimously carried.*

**Case 2009-0268 Motion to reduce probationer's UAs to 24 annually and schedule probationer for an appearance before the Board.**

*Motion by: Ken Wells; seconded by: Lee Howard. Motion carried with Ann Zweber recused.*

**Case 2011-0338 Motion to approve probationer's request to float between two stores on occasion and allow him to work 2 hours alone on Saturdays and during technician breaks.**

*Motion by: Penny Reher; seconded by: Christine Chute. Motion unanimously carried.*

**Case 2011-0249 Motion to deny pharmacist's request.**

*Motion by: Ken Wells; seconded by: Lee Howard. Motion carried with Ann Zweber opposed.*

**Case 2011-0419 Motion to deny pharmacist's request.**

*Motion by: Penny Reher; seconded by: Ken Wells. Motion unanimously carried.*

**Case 2010-0056 Closed case; no action needed.** (Previously closed case reviewed with receipt of new information. Case originally closed case as Unable to Substantiate at June 2010 Board Meeting.)

*Motion by: Ann Zweber; seconded by: Ken Wells. Motion unanimously carried.*

**Case 2011-0553 Motion to revoke technician license and impose \$1,000 civil penalty per violation, issue letter of concern to pharmacy to review procedures.**

*Motion by: Penny Reher; seconded by: Ken Wells. Motion unanimously carried.*

**Case 2011-0441 Motion to revoke pharmacist license and impose \$1,000 civil penalty per violation.**

*Motion by: Ken Wells; seconded by: Lee Howard. Motion unanimously carried.*

**Case 2011-0599 Motion to impose \$10,000 civil penalty per violation against outlet; and**

**Case 2011-0601 Motion to issue letter of concern to Pharmacist-in-Charge; and**

**Case 2011-0600 Motion to issue letter of concern to Residency Director/pharmacist; and**

**Case 2011-0529 Motion to deny Intern and Pharmacist license applications and impose \$1,000 civil penalty per violation.**

*Motion by: Ken Wells; seconded by: Christine Chute. Motion carried with Penny Reher recused.*

**Case 2011-0468 Motion to revoke technician license.**

*Motion by: Ken Wells; seconded by: Penny Reher. Motion unanimously carried.*

**Case 2011-0562 Motion to revoke technician license.**

*Motion by: Ann Zweber; seconded by: Ken Wells. Motion unanimously carried.*

**Case 2011-0530 Motion to revoke pharmacist license and impose \$1,000 civil penalty per violation.**

*Motion by: Ann Zweber; seconded by: Ken Wells. Motion unanimously carried.*

**Case 2011-0389 Motion to revoke technician license and impose \$1,000 civil penalty per violation.**

*Motion by: Penny Reher; seconded by: Lee Howard. Motion unanimously carried.*

**Case 2011-0449 Motion to revoke technician license and impose \$1,000 civil penalty per violation.**

*Motion by: Ken Wells; seconded by: Lee Howard. Motion unanimously carried.*

**Case 2011-0332 Motion to revoke pharmacist license and impose \$1,000 civil penalty per violation.**

*Motion by: Lee Howard; seconded by: Ken Wells. Motion unanimously carried.*

**Case 2011-0418 Motion to accept Stipulated Consent Order surrendering technician license.**

*Motion by: Ann Zweber; seconded by: Penny Reher. Motion unanimously carried.*

**Case 2011-0427 Motion to revoke technician license and impose \$1,000 civil penalty per violation.**

*Motion by: Lee Howard; seconded by: Ken Wells. Motion unanimously carried.*

**Case 2011-0435 Motion to revoke technician license and impose \$1,000 civil penalty per violation.**

*Motion by: Penny Reher; seconded by: Ken Wells. Motion unanimously carried.*

**Case 2011-0414 Motion to revoke technician license and impose \$1,000 civil penalty per violation.**

*Motion by: Ken Wells; seconded by: Christine Chute. Motion carried with Larry Cartier opposed.*

**Case 2011-0364 Motion to revoke technician license and impose \$1,000 civil penalty per violation.**

*Motion by: Ann Zweber; seconded by: Christine Chute. Motion unanimously carried.*

**Case 2011-0563 Motion to deny technician application.**

*Motion by: Lee Howard; seconded by: Ann Zweber. Motion unanimously carried.*

**Case 2011-0386 Motion to deny technician application.**

*Motion by: Ken Wells; seconded by: Lee Howard. Motion unanimously carried.*

**Case 2011-0521 Motion to deny technician application and impose \$1,000 civil penalty per violation.**

*Motion by: Ken Wells; seconded by: Lee Howard. Motion unanimously carried.*

**Case 2011-0519 Motion to deny technician application.**

*Motion by: Ken Wells; seconded by: Lee Howard. Motion unanimously carried.*

**Case 2011-0498 Motion to deny applicant a technician license, impose \$1,000 civil penalty per violation.**

*Motion by: Penny Reher; seconded by: Ken Wells. Motion unanimously carried.*

**Case 2011-0433 Motion to grant technician license.**

*Motion by: Christine Chute; seconded by: Penny Reher. Motion unanimously carried.*

**Case 2011-0091 Motion to issue Certified Pharmacy Technician license.**

*Motion by: Ken Wells; seconded by: Lee Howard. Motion unanimously carried.*

**Case 2011-0520 Motion to grant technician license.**

*Motion by: Lee Howard; seconded by: Penny Reher. Motion carried with Ken Wells recused.*

**Case 2011-0596 Motion to impose \$5,000 Civil Penalty per violation against drug outlet; and**

**Case 2011-0595 Motion to impose \$1,000 Civil Penalty per violation against Pharmacist-in-Charge; and**

**Case 2011-0528 Motion to impose \$1,000 Civil Penalty per violation against technician.**

*Motion by: Ken Wells; seconded by: Ann Zweber. Motion unanimously carried.*

**Case 2011-0540 Motion to revoke outlet license.**

*Motion by: Ken Wells; seconded by: Lee Howard. Motion unanimously carried.*

**Case 2011-0522 Motion to issue letter of concern to technician.**

*Motion by: Ken Wells; seconded by: Christine Chute. Motion unanimously carried.*

**Case 2011-0555 Motion to suspend pharmacist license.**

*Motion by: Ann Zweber; seconded by: Penny Reher. Motion carried with Ken Wells recused.*

**Case 2011-0115 Motion to impose \$1,000 civil penalty per violation against drug outlet.**

*Motion by: Ken Wells; seconded by: Penny Reher. Motion unanimously carried.*

**Case 2011-0469 Motion to impose \$10,000 civil penalty per violation against drug outlet; and issue Letter of Concern to Pharmacist-in-Charge.**

*Motion by: Christine Chute; seconded by: Penny Reher. Motion unanimously carried.*

**Case 2011-0331 Motion to issue Letters of Concern to technician and pharmacist-in-charge recommending 3 hours of CE in patient safety/medication error prevention to be done within 30 days; and**

**Case 2011-0476 Motion to Impose \$10,000 Civil Penalty per violation against pharmacy.**

*Motion by: Ken Wells; seconded by: Penny Reher. Motion unanimously carried.*

**Case 2011-0304 Motion to impose \$10,000 civil penalty per violation against outlet; issue Letter of Concern to Pharmacist-in-Charge.**

*Motion by: Christine Chute; seconded by: Ken Wells. Motion unanimously carried.*

**Case 2011-0443 Motion to impose \$1,000 civil penalty against technician.**

*Motion by: Ken Wells; seconded by: Penny Reher. Motion unanimously carried.*

**Case 2011-0464 Motion to impose \$10,000 civil penalty per violation against drug outlet; and issue Letter of Concern recommending CE in patient safety/medication error prevention to pharmacist; CC drug outlet and PIC.**

*Motion by: Lee Howard; seconded by: Ken Wells. Motion unanimously carried.*

**Case 2011-0471 Motion to issue Letter of Concern to Pharmacist; and CC letter to Pharmacist-in-Charge and outlet.**

*Motion by: Penny Reher; seconded by: Ken Wells. Motion unanimously carried.*

**Case 2011-0495 Motion to issue Letter of Concern recommending CE in patient safety/medication error**

**prevention to pharmacist and technician.**

*Motion by: Ken Wells; seconded by: Penny Reher. Motion unanimously carried.*

**Case 2011-0453 Motion to issue Letter of Concern recommending CE in patient safety/medication error prevention to pharmacist and technician.**

*Motion by: Christine Chute; seconded by: Ken Wells. Motion unanimously carried.*

**Case 2011-0537 Motion to issue Letter of Concern recommending CE in patient safety/medication error prevention to pharmacist; and**

**Case 2011-0577 Motion to issue Letter of Concern recommending CE in patient safety/medication error prevention to technician.**

*Motion by: Ken Wells; seconded by: Penny Reher. Motion unanimously carried.*

**Case 2011-0437 Motion to issue Letter of Concern recommending CE in patient safety/medication error prevention to pharmacist; and issue Letter of Concern to pharmacist-in-charge and copy letter to outlet.**

*Motion by: Ken Wells; seconded by: Ann Zweber. Motion unanimously carried.*

**Motion to accept the items on the consent agenda with the following cases moved to case review: 2011-0555, 2011-0495, 2011-0453. 2011-0537 and 2011-0437.**

*Motion by: Ken Wells; seconded by: Penny Reher. Motion unanimously carried..*

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**LETTERS OF CONCERN CASES:**

**2011-0463 PIC/RPH:** Letter of Concern recommending 3 hours Law and emphasizing that the emergency supply must be brand while awaiting the provider's answer if substitution is allowed; **CC Outlet**

**RPH:** Letter of Concern recommending 3 hours Law and emphasizing that the emergency supply must be brand while awaiting the provider's answer if substitution is allowed; **CC Outlet.**

**2011-0491 RPH:** Letter of Concern recommending CE in patient safety/medication error prevention; **CC Pharmacist-in-Charge and Outlet.**

**2011-0571 CPT:** Letter of Concern recommending CE in patient safety/medication error prevention; **CC Pharmacist-in-Charge and Outlet.**

**2011-0505 RPh:** Letter of Concern to RPh recommending CE in patient safety/medication error; **CC Pharmacist-in-Charge and Outlet.**

**2011-0576 CPT:** Letter of Concern to CPT recommending CE in patient safety/medication error; **CC Pharmacist-in-Charge and Outlet; Complainant:** letter with recommendations.

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**DEFICIENCY NOTICES:**

**Cases:** 2011-0339, 2011-0362, 2011-0394, 2011-0431, 2011-0436, 2011-0459, 2011-0460, 2011-0461, 2011-0462, 2011-0472, 2011-0473, 2011-0474, 2011-0475, 2011-0477, 2011-0478, 2011-0479, 2011-0480, 2011-0481, 2011-0483, 2011-0484, 2011-0486, 2011-0487, 2011-0488, 2011-0489, 2011-0500, 2011-0510, 2011-0511, 2011-0512, 2011-0513, 2011-0514, 2011-0515, 2011-0516, 2011-0517, 2011-0532, 2011-0533, 2011-0534, 2011-0538, 2011-0539, 2011-0541 and 2011-0548.

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**UNABLE TO SUBSTANTIATE:**

**Cases:** [2011-0423](#) and 2011-0445.

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**NO VIOLATION:**

**Cases:** 2011-0238, 2011-0301, 2011-0375, 2011-0388, 2011-0409, 2011-0417, 2011-0424, 2011-0447, 2011-0482, 2011-0496, 2011-0504, 2011-0506 and 2011-0556.

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**NO JURISDICTION:**

**Case:** 2011-0552

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**UNSWORN FALSIFICATION (INTENT UNKNOWN)-CE LETTERS:**

By authority delegated to Oregon Board of Pharmacy Staff by the Board, the following applicants and licensees have been issued CE in lieu of discipline letters:

**Cases:** 2011-0466 and 2011-0531.

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**DENIAL OF TECHNICIAN APPLICATION ORDERS:**

By authority delegated to Oregon Board of Pharmacy Staff by the Board denial of technician licenses notices have been issued in:

**Case:** 2011-0546

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**DENIAL OF PHARMACIST APPLICATION ORDERS:**

By authority delegated to Oregon Board of Pharmacy Staff by the Board denial of pharmacist licenses notices have been issued in:

**Case:** 2011-0467

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

By authority delegated to Oregon Board of Pharmacy Staff by the Board, the following technician licenses have been granted with probation, or have been issued proposed Consent Orders:

**Cases:** 2011-0451 and 2011-0524.

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**UPDATES:**

**Surrendered licenses:**

**Case:** 2011-0310 Pharmacist

**Case:** 2011-0543 Pharmacist