

BOARD MEETING MINUTES
Oregon State Board of Pharmacy
800 NE Oregon Street, Suite 150
Portland, OR 97232
April 15-16, 2008

Tuesday, April 15, 2008 @ 8:30 AM, Conference Room 1A Wednesday, April 16, 2008 @ 8:30 AM, Conference Room 1A
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Tuesday, April 15, 2008

Ann Zweber, Board President, called the meeting to order at 8:34 AM.

Roll Call

The following Board Members were present:

Ann Zweber, President
Cathryn Lew, Vice President
Linda Howrey
Dianna Pimlott
Lee Howard
Bernie Foster
Marc Watt

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

Gary Schnabel, Executive Director	Michele Cale, Inspector
Karen MacLean, Administrative Director	Jennifer, Zannon, Inspector
Gary Miner, Compliance Director	Meg Aulerich, Inspector
Joe Ball, Chief Inspector	Katie Baldwin, Inspector
Tony Burt, Project Manager	Ed Schneider, PRN Director
Paige Clark, Pharmacist Consultant	Pam Aldersebaes, PRN Assistant
Annette Gearhart, Compliance Secretary	Loretta Glenn, Management Secretary
Gregg Hyman, Inspector	Tom Cowan, Board Counsel

MOTION

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

MOTION

Motion to enter Executive Session at 8:40 AM for the purpose of review and deliberation of compliance cases pursuant to ORS 676.175 and ORS 192.660 was made and unanimously carried (Motion by Lew, second by Howrey).

MOTION

Motion to exit Executive Session and resume Open Session at 2:25 PM and hear questions from PRN Director was made and unanimously carried (Motion by Watt, second by Howrey).

PRN Director, Ed Schneider, requested additional information from the Board about the type of report the Board would like in June. Ed shared the following kinds of statistical information he tracks. PRN enrollment records indicate the outcome by gender is 70% men and 30% women. The recovery ratio is 50-50. There are currently 80 individuals in the program. Success is defined as anyone actively progressing through recovery. The Board members asked Ed for clarification on how long people are in the program. He is getting "contract clarifications" together regarding this information and how PRN deals with those who relapse. Ed will report additional information on the PRN program at the June Board meeting.

The PRN contract is for 5 years. According to PRN statistics, recovery after the first five years becomes higher. Ed reports that fourth and fifth years usually have a spiritual connection for the recovering person. Currently there are 42 "potential" clients, this includes incoming pharmacy student Interns. He and PRN Assistant, Pam Aldersebaes, are actively working with about half that number. Board members asked Ed how many licensees are in these programs around the country and he stated about 10%. Other states share information with us concerning their recovery programs.

Board Counsel, Tom Cowan, said that our program has better lines of accountability than programs in other states. Tom complimented Ed and the Board for conducting an effective PRN program, especially with regard to the difficult parameters involved. He added that our definition of success in the PRN program is a really good definition. People should not be forced back into the profession; their focus needs to be on recovery.

Ed provided the Board with some information on the "Snitch Law" to discuss. Board has a rule that if a pharmacist suspects that someone is impaired on the job, they should report the individual to the Board. The PRN Council would like to establish protocols, which would include but not be limited to:

1. Client to obtain an immediate drug/alcohol evaluation at a PRN recommended site.
2. Must follow through with PRN recommendations.
3. Lack of follow through with PRN will result in immediate referral to the Board.

Ed would like to see an interpretation which states the procedures involved with making anonymous calls mandating that these calls be directed to him instead of the Board. Board member, Marc Watt, expressed a concern that it may possibly appear to be a form of harassment. Public member, Lee Howard, asked Ed, "What is the potential for abusing the program?" Ed explained that if there is suspected activities, he requires UA's on a weekly basis. Board Counsel, Tom Cowan, asked if PRN clients sign confidentiality waivers; Ed answered that they do. Ed explained to the Board the exact procedures involved with how the PRN program works when someone in the program has an on-the-job issue occur. Public member, Lee Howard, expressed concern that the public perceives our agency may be protecting "our own." Board Counsel, Tom Cowan, discussed "Sanctuary Programs" versus programs in lieu of discipline. Then the Board makes an informed decision to allow the individual to get help when he or she wants to take steps to correct their situation. Our model incorporates both a "sanctuary" model and "in lieu of" or "in addition to" discipline model. The Board agreed that this area is a work in progress. Board member, Bernie Foster, brought up concern that there is nothing in place to prevent a vengeful person from maliciously reporting someone. PRN Director, Ed Schneider, asked the Board if they would like to see the current PRN contract. The Board requested that he provide them with this as a mailing for the June Board meeting. Along with this, Ed will update the statistical information and report back in June.

At 3:25 President, Ann Zweber, asked Vice President, Cathryn Lew, to take over the meeting as she had to leave early.

MOTION

Motion to enter into Executive Session at 3:30 PM was made to resume consideration of cases and unanimously carried (Motion by Howrey, second by Howard).

MOTION

Motion to resume Open Session at 4:55 PM was made and unanimously carried (Motion by Howrey, second by Howard).

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

MOTION

Motion to adjourn at 5:20 PM was made and unanimously carried (Motion by Watt, second by Foster).

Wednesday, April 16, 2008

Ann Zweber, Board President, called the meeting to order at 8:40 AM.

Roll Call

The following Board Members were present:

Ann Zweber, President
Cathryn Lew, Vice President
Linda Howrey
Dianna Pimlott
Lee Howard
Bernie Foster
Marc Watt

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

Gary Schnabel, Executive Director	Michele Cale, Inspector
Karen MacLean, Administrative Director	Jennifer Zannon, Inspector
Gary Miner, Compliance Director	Meg Aulerich, Inspector
Joe Ball, Chief Inspector	Katie Baldwin, Inspector
Tony Burt, Project Manager	Loretta Glenn, Management Secretary
Paige Clark, Pharmacist Consultant	Tom Cowan, Board Counsel
Gregg Hyman, Inspector	

Michele Cale, Inspector
Jennifer Zannon, Inspector
Meg Aulerich, Inspector
Katie Baldwin, Inspector
Loretta Glenn, Management Secretary
Tom Cowan, Board Counsel

MOTION

MOTION to approve consent agenda was made and unanimously carried (Motion by Lew, second by Howrey).

Reports: Board President/Members

Board member, Lee Howard, reported that he participated in the Interim House Health Committee Hearing in February by phone.

Board member, Dianna Pimlott, reported that she attended a meeting sponsored by the Oregon Association of Hospital and Health Systems (OAHHS) on medication reconciliation to discuss what can be done at the state level. She briefed the Board about this topic which compares what herbal products and other over-the-counter supplements patients take on a daily basis with their prescribed medication(s). Emphasis is on educating patients on the importance of keeping an up-to-date list of all their medications and supplements. Patients must give their Primary Care Provider (PCP) the complete list so that this information is entered into their medical records. The list should also be shared with all pharmacies and other places where they receive medical care/ medications.

Board member, Linda Howrey, attended the IPAT meeting with the Oregon Pediatric Immunization Coalition. There was an interesting discussion on reimbursement.

Linda requested the Board consider participating in the Oregonian Pharmacist Month Supplement again this year. The Board would like an appearance at the June meeting.

Linda and Board Counsel, Tom Cowan, attended the Expedited Partner Therapy meeting. Shawn Schafer from DHS was also there. Draft language for ORS 676 has been prepared to consider allowing practitioners to prescribe for patients they have not examined. Tom offered to prepare the draft and expects it to be revised. One of the ideas is to allow for practitioners to prescribe antibiotics to non-patients. Policy language was discussed during the meeting to allow legislative statements to include language such as "notwithstanding other conditions under Chlamydia and Gonorrhea." This would allow physicians to work within a certain framework.

Board member, Marc Watt, stated several retail pharmacists have expressed frustration over the discount coupons. The problem is regarding continuity of care as people may be going from one pharmacy to another and losing the continuity of having all pharmacy records complete at a single pharmacy. Executive Director, Gary Schnabel, suggested an education effort through the Patient Safety Research Council. Board member, Linda Howrey, added that "Medical Home" could be part of this discussion.

Board Vice President, Cathryn Lew, participated in a teleconference for OMAP MTM Guideline Requirements along with Kathy Ketchum and will brief on this at a later time.

Board Counsel, Tom Cowan, told the Board that Compliance Director, Gary Miner, is a negotiator of settlements and allows the Board's resources to be used in a very exemplary way. He added his thanks and appreciation to Gary for his good work. Gary discussed the Texas Apothecure case which the Board was included in. The civil penalty imposed is \$100,000 and the Board will receive \$40,000 in about six weeks. \$60,000 goes into a special fund for patient recovery for people having been affected.

Tom added that the public was well served. Gary Miner added, "The Board was served through the Attorney General's Office." This cooperative effort significantly established a clear consequence of doing business in Oregon without a license.

Compliance Director, Gary Miner, reported on the status of pharmacy compliance inspections as of April 8th. 16% were completed with a 73% compliance rate which is good considering new rules. 86 pharmacists, students and interns have completed the PIC training class. The inspectors will be taking the class on the road as they are inspecting around the state.

A number of staff met with a representative from Hewlett Packard, who is working on electronic pedigree bar coding software. Forgery is third or fourth largest industry in the world. Each barcode on each bottle of product will have the new 3-d bar coding to assist with fraud identification issues. California has passed electronic pedigree rules to be implemented in 2011. Staff will continue to research this technology and report back as it may relate to our wholesaler rules.

Gary asked the Board for clarification about two items:

1) Pseudoephedrine; does it fall under the e-prescribing federal regulations? Division 19 talks about electronic prescriptions, if the Board were to insert "Not for a federally controlled substance," it will clarify this requirement.

2) "Green Sticker" requirement. The Board discussed the issue involving notification of patients about a change in manufacturer. The Board clarified this issue as follows: Discussing the "Green Sticker" with a patient is counseling.

If a pharmacy has a system or method to notify the patients of a change in manufacturer, a label on the prescription, signage for the labels used other method, the pharmacist does not have to counsel. The technician may point out the label to the patient but cannot tell them what it says. If the patient has any questions about the label, they must be directed to the pharmacist. The pharmacist can decide whether or not to counsel a patient when there is a change in manufacturer.

Administrative Director, Karen MacLean, reported on the following: National Certification for pharmacy technicians – ICPT reports 174 sat for the March 9th test in Portland, they have 65 registered for the April 6th dated in Medford. The passing rate for the Portland exam was 88%. PTCB reports 125 candidates sat for the Feb/March testing window. 99 passed, 26 failed, the passing rate is 79% for this window. They have 429 candidates signed up for the May/June '08 testing window.

Karen also discussed the upcoming work load needs association with the Pharmacy Technician renewal/transition process. The Intern Oregon Program run through DAS is a 15-week program for college students to get government work experience and is paid out of the Board's budget. Board member, Bernie Foster, asked if we have defined how many student employees the Board needs. Karen said that there is a need for about 2 to 3 people. The Board supports getting additional help through this program.

Interviews were completed for the Compliance Assistant; however, none of the candidates were selected. The recruitment announcement will be re-opened.

A pharmacist wanting to reinstate her lapsed license is requesting an MPJE waiver. The new Division 19 rules do not allow for an exception. The Board agreed and Karen will send a letter.

Board member, Bernie Foster, requested that Karen provide a report on the Board's website activity. Karen will ask Office Manager, Chrisy Hennigan, to prepare this information for each Board meeting.

The Board IT Consultant, Grant Moyle, will attend the June Board meeting to discuss network document security with the Board.

Finally, Karen provided the Board with information on where our agency meets in the case of an emergency evacuation from the building.

Board Meeting Dates 2008

June 10-11, 2008	Portland
August 12-13, 2008	Portland
October 14-15, 2008	Eugene
December 9-10, 2008	Portland

Board President, Ann Zweber, discussed Board meeting dates. The Board will work on a possible change in dates for December by email. Administrative Director, Karen MacLean, will check on availability of meeting rooms.

Committees/Meetings

National Association of Boards of Pharmacy (NABP) Meetings

Board Vice President, Cathryn Lew, reported on the Executive Committee teleconference she and Executive Director, Gary Schnabel, attended. It was regarding the annual and district meetings. They also attended the Executive Committee meeting in Scottsdale, Arizona. This was Cathryn's first meeting; she found it to be very interesting, with lots of topics and there is so much happening at the national level. As the NABP Treasurer, Gary Schnabel, reported about his responsibilities. Issues include property tax and the NAPLEX breach. The cost for investigating and prosecuting the NAPLEX breach is \$500,000 in legal fees so far. The Annual Meeting is scheduled for May in Baltimore. Gary passed around the program flyer for Board members to see. The final budget meeting will be in the fall.

OSPA CE Programs – February - April 2008

Lane County, Spring OSPA (Medford/Portland)

Board member, Marc Watt, Vice President, Ann Zweber, Pharmacist Consultant, Paige Clark, Board Counsel, Tom Cowan, and the OBOP Compliance Inspectors participated at these events. It was good for the meeting attendees to see the staff. Paige Clark gave a presentation. There were about 70 to 80 technicians; many took the certification exam. Board Inspectors, Katie Baldwin, and Meg Aulerich, were at the table and received a lot of good questions. They have been invited to the Fred Meek and OSPA events in the fall. Board Counsel, Tom Cowan, gave a Pharmacy Law Continuing Education (CE) class in Portland. There was good feedback on the CE session. A pain management CE was also offered. Donna Horn of the ISMP will be at the fall OSPA meeting to give a presentation on medication errors.

DEA National Conference June 17-19, 2008

Executive Director, Gary Schnabel, would like to attend the DEA meeting scheduled on June 17-19, 2008 in Charleston, South Carolina. In the past, Gary has attended this meeting annually, however, schedules have not allowed for several years. The Board President and members support his attendance.

Practice of Pharmacy Roundtable Meeting

Board member, Marc Watt, and Pharmacists Consultant, Paige Clark, reported on the Roundtable Meeting held on March 11, 2008. There were 23 attendees and the group is getting active. The topics included Antivirals, DEA Compliance; Tamper Resistant Prescription Tablets; and New Rules. There was a request to establish an email group to quickly share urgent issues with the profession. Board staff will work with OSPA on this issue. Board member, Marc Watt, has been representing the Board at these meetings. After he transitions off of the Board in June, we need another Board member to take his place. Board member, Linda Howrey, would like to attend these meetings. She will discuss this with her employer and get back to the Board. Board member, Bernie Foster, would also be willing to attend. Marc plans to continue his participation in the meetings after his departure from the Board.

Oregon Health Care Workforce Initiative Committee

Executive Director, Gary Schnabel, reported that the Senate Health Care Committee requested health care licensing Boards work together concerning the workforce shortage initiative. They are currently gathering the data on nursing numbers and are looking at ways to post common questions with license renewal forms. Gary and Karen will continue to report back on committee developments.

General Administration

Staff Policy Questions

Compliance Director, Gary Miner, discussed the following policy questions.

1. Can a clerk take an oral authorization from a practitioner/practitioner's agent for a refill? The following guidelines are identified in rule and the Newsletter regarding what the clerk or technician can do.

The Certified Pharmacy Technician and Pharmacy Technician Tasks Guidelines are as follows:

(1) Non-licensed pharmacy personnel may enter non-prescription information into a computer record system and may perform clerical duties such as filing prescriptions, delivery, housekeeping and general record keeping, but the responsibility for the accuracy of non-licensed pharmacy personnel's work lies with the pharmacist.

(2) Only persons licensed with the Board as a Pharmacy Technician or Certified Pharmacy Technician acting in compliance with all applicable statutes and rules, under the supervision of a pharmacist, may assist in the practice of pharmacy by the following:

(e) Initiating or accepting oral or electronic refill authorization from a practitioner or practitioner's agent, provided that nothing about the prescription is changed, and record the medical practitioner's name and medical practitioner's agent's name, if any.

Answer: A clerk can take prescription numbers or names of specific drugs from a patient for a refill request but cannot take refill authorization from a practitioner's office. The clerk or technician may not take the name of a drug class or use such as "blood pressure" medication.

2. If a technician has access to pass through DUR, (no hard halt) but the policy and procedure is to call a pharmacist over to address DURs, does this meet the requirement?

Answer: Must be able to identify who did the DUR.

3. When a compounding pharmacy performs the quarterly CII audit, do all bulk powders need to be weighed out?

Answer: Bulk powders must be weighed quarterly. This may be accomplished by weighing the bulk powder and container to establish a tare weight for the container.

The Board discussed the need to re-state and update topics that have been in past newsletters that are older than three years for ongoing rule clarification.

State Corrections security policy review

Compliance Director, Gary Miner, described the way Corrections is handling security of the prescription area. The Board reviewed their policy and decided it was reasonable.

MOTION

Motion to approve State Correction's Security Policy was made and unanimously approved (Motion by Watt, second by Howard).

Disclosure of Disciplinary Records

Board President, Ann Zweber, requested additional information on what other Boards are doing. Previous reports had records tied with licensees. Some options for the Board to consider are about: timeliness; type of public documents; threshold and how/where to disclose this information, i.e. newsletters, website or Minutes. The Texas Board of Pharmacy has a good website with useful links. Ann asked for staff members, Tony Burt and Karen MacLean to assist with gathering additional information and report back at the June Board meeting.

PMP

Executive Director, Gary Schnabel, stated that OSPA will submit a legislative concept on prescription monitoring programs and has asked the Board to assist with the language. There has been some discussion about extending the current grant, but the Board does not think it will be approved. The Board will reapply for a new grant when available. Gary, Karen, and Paige had a teleconference regarding budget and possible federal grant technical assistance to facilitate an education program this fall. The program would include a CE on Pain Management. At this time, the funding piece is still up in the air. Gary stated that this year it is an OSPA bill, and the Board will need to pay close attention to how the legislation proceeds. None of the grant resources can be used for lobbying. Pharmacist Consultant, Paige Clark, said that there are about 150 physicians who are interested in this legislation.

Intern Research Council Report and discussion

Board President, Ann Zweber thanked Project Manager, Tony Burt for his work on the report. The Council discussed the ACPE requirements and recommends the Board may want to consider licensing interns within the first year. The Board has some concern about this and Ann would like to know what the Board would like to do, item by item. Regarding the compensation piece, Board member, Marc Watt, asked what is being done concerning preceptors. Project Manager, Tony Burt, has two issues for discussion: 1) controlling the students' academic clerkship and 2) employment would take students away from their studies. Compliance Director, Gary Miner, stated that the students should have a controlled environment. Board member,

Linda Howrey, said that the term "compensation" was a concern due to conflict of interest and being paid for ACPE hours. Ann Zweber discussed requiring pharmacist preceptors to cover training opportunities such as flu clinics; where a pharmacist is not present to directly supervise the intern. Board member, Marc Watt, said that the Board needs to know where the practice sites are. Compliance Director, Gary Miner, said that the intern is responsible to know if the preceptor is certified or licensed. Board President, Ann Zweber, requested that Juancho Ramirez provide some additional information to the Board. Tony will follow-up with the Council and report back at the next meeting.

Medication Error/Patient Safety Research Council

Vice President, Cathryn Lew, reported for the Council. The first meeting was held February 15, 2008. Board member, Dianna Pimlott, gave a report on patient and hospital safety. The Board realizes that this issue is huge and will break it down. Pharmacist Consultant, Paige Clark, is working on public education outreach. Joe Schnabel discussed a system that the aviation industry uses which is administered by NASA. Pilots and maintenance crews report safety information into the reporting system and it generates a receipt. The NTSB can use this information to recommend actions based on safety reports. Aviation has kept this information system outside of the regulatory system, encouraging people to report mistakes or errors. Jim Dameron from the Patient Safety Commission appeared with Joe and they are talking with ISMP to establish a system or provide a consultant to help the Commission. Currently, hospitals are reporting, however, retail pharmacy outlets are not choosing to participate. The role of the Commission is to be voluntary, and the question is, how does that work with the Board's role?

Cathryn thanked Joe and Jim for all they are doing. The Committee will report back more thoroughly in June with information on how other states are handling this issue and best practice recommendations.

Medication Therapy Management Research Council

Board member, Linda Howrey, gave the Board a presentation on Medication Therapy Management (MTM). MTM is when the pharmacist meets with the patient to make sure that he/she is not under or over medicated.

Key Concepts to consider are:

- CMS did not mandate MTM be restricted to pharmacy or pharmacists
- CMS correlated it to specific patient criteria..."pilot patient care"
- CMS allowed many of the initial models to be defined by Pharmacy Benefit Management plans.
- Practice settings for pharmacy vary widely.

Linda described two different types of settings that are currently utilizing MTM successfully: Towncrest MTM and Humana MTM. There are software programs that are designed to show the client's data with an access code to get into the data and patient's medical records. Both organizations are using technology to facilitate MTM and are following current guidelines.

There are a number of issues to be considered; what about the pharmacy and patient relationship? The pharmacy information needs to be a part of the patient's records; there are paper and electronic records. In Oregon, pharmacists need a separate license to order labs, etc. The Board's Division 19 rules do not include complete MTM related regulations although it is not clear what regulations are needed.

Kathy Ketchum from the DHS Medicaid office appeared to request clarification for their guidelines on MTM provided by pharmacists from the Board. Current Medicaid guidelines

identify requirements that a pharmacist must possess in order to be credentialed as an MTM provider. These requirements include:

- 1) A current, unrestricted license to practice as a pharmacist in Oregon;
- 2) One of the following qualifications:
 - a. certification from the Board of Pharmaceutical Specialties;
 - b. certified Geriatric Practitioner;
 - c. completion of an accredited residency program with two years clinic experience approved by the Board;
 - d. holds a Pharm D and has three years of clinical experience and has completed an ACPE certificate in the area of practice; or
 - e. has successfully completed a Bachelor of Science in Pharmacy degree and has five years of clinical experience and has completed two ACPE approved certificate programs with at least one in the area of practice.
- 3) Services must be provided based on referral form from a physician or licensed provider;
- 4) Documentation must be provided for each consultation must reflect collaboration with the physician or licensed provider. Documentation should model SOAP charting.

The Board is concerned that these guidelines are too restrictive and requests that they are revised to consider a MTM certificate program or is modeled after the Minnesota model possibly. Kathy indicated that she would report back with possible revised guidelines and thanked the Board for their input.

Division 41

Compliance Director, Gary Miner, provided a brief report on Division 41 revision development. Gary presented the framework for the revision of Division 41. The revised Division 41 will start with rule numbers in the 1,000 series which will allow for a reorganization of the division. The Division will be divided into four sections including a general section, ambulatory patient section, residential patient section and a miscellaneous or other section. The ambulatory and residential sections will use the DEA model for ambulatory services being generated by a prescription and the residential services being generated by an order for administration. The Board discussed this model and accepted the discussed framework. The Board would prefer to adopt the changes at one time and will review sections as they are prepared.

Board Newsletters - paper/electronic

Administrative Director, Karen MacLean, provided information on the cost of the Board's newsletter. At the current rate, the Board is exceeding its budget due to increased mailing costs. NABP is encouraging Boards to consider moving towards the electronic newsletter format and will help facilitate the collection of email addresses for subscribing purposes.

The Board's only hesitation is the current rule requirement that pharmacies retain three years of the newsletter on site. Karen pointed out that the Board could maintain a percentage of copy in paper and those could be mailed to pharmacy outlets. The Board also discussed the need to make available paper copy for those pharmacists that do not have computer access. Overall the Board supports this transition and asked Karen to provide additional information at the June Board meeting.

Pacific University School of Pharmacy Request

Administrative Director, Karen MacLean presented the Pacific University School of Pharmacy Advance Clinical Experiential Sites. The Board reviewed and approved the sites.

MOTION

Motion to approve Pacific's request was made and unanimously carried (Motion by Lew, second by Howard).

Financial Update

Administrative Director, Karen MacLean, provided the Board a current financial picture of the Board's expenditures as of February 2008. The Board expressed interest in also getting revenue information. Karen will provide this information at the June Board meeting.

09-11 Budget Policy packages & Performance Measures - Karen and Gary are continuing to work on budget development and will provide additional information in June.

Legislative Issues

Legislative Concepts for 2009 - Compliance Director, Gary Miner, discussed two additional issues that should be considered as housekeeping along with the OSPA issues. These include the topic of the "administration of drugs" and "a pharmacist ability to possess drugs" within the scope of practice. The Board agreed and asked staff to speak with OSPA leadership.

The following topics will be discussed at the June Board meeting:

1. Emergency Planning - Antivirals (Gary Miner/Paige Clark); 2. Criminal Background Checks - (Tony Burt/Karen MacLean); and 3. CE Meeting and Travel reimbursement - (Ann Zweber).

Strategic Planning

Administrative Director, Karen Maclean, asked the Board to review the draft Strategic Planning document between now and the June Board meeting and let her know if there are any revisions.

OPEN FORUM

Alan Dulwick from Kaiser asked for clarification regarding the new July 1 requirement to document counseling. Can they use video systems to document? Every prescription sold is time and date stamped. How long would the video have to be retained? The Board agreed this was good documentation and it would need to be retained for three years as defined by the rule.

Marc Watt pointed out that with the number of diversion cases in the past few years there is no methodology to share how employers can train to look for drug diverters. Dianna Pimlott indicated that she could provide some resources that already exist and would email it to the office for distribution.

Lee Howard suggested the Board obtain a student intern to help gather statistical information to be reported annually on medication errors, etc. Karen advised this information is required as part of the Board's budget information and our summer interns can assist with this project.

Bernie Foster reported he is working with the city and county on a communication piece specific to disaster or emergency information within the first 72 hours.

Motion was made to adjourn the meeting at 4:00 PM and unanimously carried (Motion by Howard, Second by Lew).

Minutes accepted by:

SIGNATURE ON FILE

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

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

April 15, 2008 @ 8:30 a.m.
800 NE Oregon Street, Conference Room 1A
Portland, OR 97232
Ann Zweber, RPh. Presiding

An Executive Session of the Board to discuss Compliance was held on April 15, 2008 at 800 NE Oregon Street Conference Room 1A in Portland.

Board Members present for all or part of compliance session:

Ann Zweber, R.Ph., President (Absent for motions and voting)
Cathryn Lew, R.Ph., Vice President
Bernie Foster, Public Member
Lee Howard, Public Member
Linda Howrey, R.Ph.
Dianna Pimlott, R.Ph.
Marc Watt, R.Ph.

Staff present for all or part of compliance session:

Gary Schnabel, Executive Director

Gary Miner, Compliance Director
Meg Aulerich, Board Investigator
Katie Baldwin, Board Investigator
Joe Ball, Board Investigator
Michele Cale, Board Investigator
Gregg Hyman, Board Investigator
Jennifer Zanon, Board Investigator
Annette Gearhart, Compliance Secretary

Karen MacLean, Administrative Director
Paige Clark, Consultant Pharmacist
Loretta Glenn, Administrative Secretary
Thomas Cowan, Senior AAG
Ed Schneider, PRN Program Director
Pam Aldersebaes, PRN Assistant

Working lunch held.

Executive session for consideration of public records 192.502 of a confidential nature under ORS 660(2)(f).

Request for testing accommodations handled under general business.

BOARD APPEARANCE:

Case 2003-0158

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

CASE REVIEW:

Case 2007-0379

Motion to revoke technician license and impose \$1,000 civil penalty per violation; and issue letter of concern and request for appearance of pharmacy representative to present QA Plan, was unanimously accepted. Motion by: Bernie Foster; Seconded by: Marc Watt.

Case 2007-0253

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

Case 2007-0493

Motion to revoke technician license and impose \$1,000 civil penalty, with letter of concern thanking corporation was unanimously accepted. Motion by: Marc Watt; Seconded by: Bernie Foster.

Case 2008-0048

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

Case 2007-0444

Motion to revoke technician license and impose \$1,000 civil penalty was unanimously accepted. Motion by: Linda Howrey; Seconded by: Bernie Foster.

Case 2007-0334

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

Case 2008-0037

Motion to revoke pharmacist license was unanimously accepted. Motion by: Lee Howard; Seconded by: Linda Howrey.

Case 2008-0006

Motion to impose \$1,000 civil penalty *or earn 3 hours of CE in lieu of discipline against pharmacist*; and in

Case 2008-0107: impose \$1,000 civil penalty per violation and earn 3 hours of CE against PIC; and in

Case 2008-0108: impose \$1,000 civil penalty per violation was unanimously accepted. Motion by: Lee Howard; Seconded by: Bernie Foster.

Case 2008-0021

Motion to indefinitely suspend pharmacist license, after one year suspension, pharmacist may petition for reinstatement in accordance with OAR 855-019-0320 was unanimously accepted. Motion by: Bernie Foster; Seconded by: Dianna Pimlott.

Case 2007-0483

Motion to revoke pharmacist license was unanimously accepted. Motion by: Linda Howrey; Seconded by: Dianna Pimlott.

Case 2008-0064

Motion to deny technician application was unanimously accepted. Motion by: Linda Howrey; Seconded by: Dianna Pimlott.

Case 2008-0023

Motion to indefinitely suspend pharmacist license. After one year suspension, pharmacist may petition for reinstatement in accordance with OAR 855-019-0320 was unanimously accepted with

Marc Watt abstaining due to conflict of interest. Motion by: Lee Howard; Seconded by: Dianna Pimlott.

Case 2008-0084

Motion to revoke technician license and impose \$1,000 civil penalty was unanimously accepted. Motion by: Linda Howrey; Seconded by: Dianna Pimlott.

Case 2008-0016

Motion to indefinitely suspend technician's license and impose \$1,000 civil penalty; and in Case 2008-0150 impose \$1,000 civil penalty against pharmacy was unanimously accepted. Motion by: Bernie Foster; Seconded by: Linda Howrey.

Case 2008-0040

Motion to impose \$1,000 civil penalty per violation against pharmacist and suspend pharmacist license for one year was unanimously accepted. Motion by: Lee Howard; Seconded by: Dianna Pimlott.

Case 2008-0055 Motion to impose \$1,000 civil penalty per violation or 3 hours of CE in medication error reduction in lieu of discipline against pharmacist; and in Case 2008-0152 Motion to impose \$1,000 civil penalty or earn 3 hours of CE in medication error reduction in lieu of civil penalty against PIC, and in Case 2008-0151 Motion to impose \$5,000 civil penalty against pharmacy was unanimously accepted with Linda Howrey abstaining due to conflict of interest. Motion by: Bernie Foster; Seconded by: Lee Howard.

Case 2008-0004

Motion to impose \$1,000 civil penalty or earn 3 hours of CE in medication error reduction was unanimously accepted. Motion by: Bernie Foster; Seconded by: Dianna Pimlott.

Case 2008-0041

Motion to impose \$1,000 civil penalty per violation and earn 3 hours CE in medication error reduction against pharmacist A.E.; and in

Case 2008-0110

Motion to impose \$500 Civil Penalty against technician; or earn 1 hour of CE in medication error prevention within 60 days in lieu of civil penalty. CE is not eligible for CE requirements for renewal purposes; and in

Case 2008-0111

Motion to impose \$1,000 Civil Penalty against pharmacist B.A.; 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; and in

Case 2008-0112

Motion to impose \$5,000 civil penalty and require pharmacy conduct ISMP evaluation with documentation of completion to Board; and issue Letter of Concern to PIC was unanimously accepted. Motion by: Bernie Foster; Seconded by: Dianna Pimlott.

Case 2007-0479

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. Letter of Concern to PIC and CC: pharmacy; and in

Case 2008-0024

Motion to impose \$500 Civil Penalty against technician; or earn 1 hour of CE in medication error prevention and report error to ISMP within 60 days in lieu of civil penalty. CE is not eligible for CE requirements for renewal purposes. Letter of Concern to PIC and CC: pharmacy was unanimously accepted with Linda Howrey abstaining due to conflict of interest. Motion by: Marc Watt; Seconded by: Lee Howard.

Case 2008-0042

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

Case 2007-0499

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. Letter of Concern to PIC and CC: pharmacy; and in Case 2008-0154

Motion to impose \$5,000 civil penalty against pharmacy was unanimously accepted. Motion by: Marc Watt; Seconded by: Lee Howard.

Case 2008-0085

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. Letter of Concern to PIC and CC: pharmacy was unanimously accepted. Motion by: Bernie Foster; Seconded by: Linda Howrey.

Case 2008-0090: 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; and in

Case 2008-0117: Motion to impose \$500 Civil Penalty against technician; or earn 1 hour of CE in medication error prevention within 60 days in lieu of civil penalty. CE is not eligible for CE requirements for renewal purposes. Letter of Concern to PIC and CC: pharmacy. Motion by: Linda Howrey; Seconded by: Dianna Pimlott.

ADMINISTRATIVE DISCUSSION:

Case 2006-0376, 2006-0609, 2006-0610, 2007-0310, 2007-0023 and 2008-0108

Motion to accept QA plan as presented to Board was unanimously accepted. Motion by: Marc Watt; Seconded by: Linda Howrey.

Case 2004-0304

Motion to remove PIC restriction on probation was unanimously accepted. Motion by: Linda Howrey; Seconded by: Dianna Pimlott.

Case 2006-0100

Motion to revoke technician license was unanimously accepted. Motion by: Lee Howard; Seconded by: Bernie Foster.

Case 2007-0461

Motion to amend December 2007 Board motion to revoke outlet registration and impose \$1,000 per violation was unanimously accepted. Motion by: Linda Howrey; Seconded by: Lee Howard.

Case 2006-0442

Motion to accept Administrative Law Judge's Proposed Order was unanimously accepted. Motion by: Linda Howrey; Seconded by: Marc Watt.

CONSIDERATION OF CONTESTED CASES:

Entered into contested case deliberation under ORS 192.690(1).

Case: 2005-0240

Motion to accept Administrative Law Judge's Proposed Order was unanimously accepted. Motion by: Linda Howrey; Seconded by: Dianna Pimlott.

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 was unanimously accepted. Motion by: Linda Howrey; Seconded by: Lee Howard.

LETTERS OF CONCERN CASES:

Case: 2007-0417 Letter of Concern to pharmacy and copy letter to PIC.
Case: 2007-0478 Letter of Concern to pharmacist and PIC; copy letter to pharmacy
Case: 2008-0020 Letter of Concern to pharmacist
Case: 2008-0033 Letter of Concern to pharmacist, copy letter to PIC and pharmacy

WARNING NOTICES:

Cases: 2008-0045, 2008-0046, 2008-0052, 2008-0053, 2008-0058, 2008-0072, 2008-0074, 2008-0078, 2008-0079, 2008-0080, 2008-0081, 2008-0082, 2008-0083, 2008-0088, 2008-0118 and 2008-0121.

UNABLE TO SUBSTANTIATE:

Cases: 2007-0466, 2007-0480, 2008-0017, 2008-0018, 2008-0019, 2008-0043 and 2008-0076.

NO VIOLATION:

Cases: 2008-0014, 2008-0022, 2008-0056, 2008-0059, 2008-0065 and 2008-0094.

C.E. AUDIT CASES:

Authority delegated to the Compliance Director by the Board Members on August 8, 2006, [grant staff authority to issue LOC if CE completed in June or to take and pass MPJE (in lieu of discipline) within 120 days if CE not completed by end of June]. Authorize staff (2/7/2007) to issue NPDA to suspend pharmacist license if MPJE not taken and passed within 120 days.

Cases: 2007-0406 and 2007-0407.

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: 2007-0415.

NSF CASES (misrepresentation of proper payment):

By authority delegated to Oregon Board of Pharmacy Staff by the Board Members on 12/6/2006 and confirmed on 2/7/2007, notices to revoke licenses issued under the misrepresentation of proper payment of fees via non-sufficient funds have been issued to:

Cases: 2008-0044, 2008-0047 and 2008-0066.

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:

Cases: 2007-0442, 2008-0031, 2008-0068, 2008-0069 and 2008-0116.

“NO PIC SELF INSPECTION” CIVIL PENALTY ORDERS:

By authority delegated to Oregon Board of Pharmacy Staff by the Board Members on August 9, 2005 and confirmed on 2/7/2007, [grant staff authority to issue discipline in the form of \$1,000 Civil Penalty stay \$700 pending no further violations of OAR 855-041-0020(1)(f) for three years when PIC Self Inspection Form not completed or not available as required] the following notices with Historical orders have been issued:

Case: 2008-0073

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:

Cases: 2008-0012, 2008-0027, 2008-0034, 2008-0050, 2008-0067 and 2008-0089.

TECHNICIAN LICENSES GRANTED WITH PROBATION:

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

Cases: 2007-0432, 2007-0439, 2008-0013, 2008-0026 and 2008-0035.

“SHORT COUNT” Letters of Concern:

By authority delegated to Oregon Board of Pharmacy Staff by the Board Members on December 7, 2005 and confirmed on 2/7/2007, letters of concern have been issued in the following cases involving allegations of 'short counts' where pharmacist admits to violation:

Case: 2008-0051

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:

Cases: 2006-0338, 2007-0276, 2007-0289, 2007-0353 and 2007-0400.

UPDATES / For Your Information:

Update of cases under investigation.
Report dates 1/10/2008 – 3/25/2008

Compliance Director Miner

Open cases under investigation.

Cases that have been opened and then “Closed Under Investigation” to preserve incoming complaint information should future action be necessary.

Hearings Requested
Hearings Scheduled