

## **BOARD MEETING MINUTES**

**Oregon Board of Pharmacy  
800 NE Oregon Street  
Portland, OR 97232  
April 6-7, 2016**

***1891- Celebrating 125 Years of Excellence - 2016***

*The mission of the Oregon State Board of Pharmacy is to promote, preserve and protect the public health, safety and welfare by ensuring high standards in the practice of pharmacy and by regulating the quality, manufacture, sale and distribution of drugs.*

### **WEDNESDAY, APRIL 6, 2016**

**Roberto Linares, R.Ph, Board President, called the meeting to order at 8:30AM**

Roll Call

Roberto Linares, President  
Christine Chute  
Brad Fujisaki  
Ken Wells  
Cyndi Vipperman

Kate James, Vice President  
Penny Reher  
Heather Anderson  
Dianne Armstrong

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

Marc Watt, Executive Director  
Karen MacLean, Administrative Director  
Joe Ball, Chief Investigator  
Cheryl Fox, Inspector  
Brienne Efremoff, Inspector  
Laura Elvers, Inspector  
Kim Oster, Compliance Assistant

Gary Miner, Compliance Director  
Chrisy Hennigan, Office Manager  
Fiona Karbowicz, Pharmacist Consultant  
Vicki Wallace, Inspector  
Katie Baldwin, Inspector  
Annette Gearhart, Compliance Secretary  
Jan Dolph, Temporary Assistant

Tom Cowan, Sr., AAG Board Counsel

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### **Introduction & Installation of newly added Pharmacy Technician Board Members:**

Board President Roberto Linares welcomed and introduced the new appointees to the Board of Pharmacy. In his introduction, he stressed the importance of their appointment and their responsibilities. Cyndi Vipperman and Dianne Armstrong were appointed by Governor Kate Brown and confirmed by the Legislative Rules Committee on February 17, 2016 and their four year terms run to February 2020. Cyndi Vipperman has been a Pharmacy Technician since 1998 at Fred Meyer in The Dalles. Vipperman received her Bachelor of Science from Eastern Oregon University and obtained her Pharmacy Technician National Certification in 2008. Dianne Armstrong is a Pharmacy Technician for Kaiser in Tigard. Armstrong obtained her Pharmacy Technician Certificate of Proficiency and National Certification in 2007. Cyndi Vipperman and Dianne Armstrong both expressed their pleasure for being appointed to the Board.

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## **Agenda Review and Approval**

### **MOTION**

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

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Contested Case Deliberation pursuant to ORS 192.690(1) - Not Open to the Public

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### **EXECUTIVE SESSION – NOT OPEN TO THE PUBLIC, pursuant to ORS 676.175, ORS 192.660 (1) (2) (f) (k)**

#### **A. Items for Consideration and Discussion:**

1. Deliberation on Disciplinary Cases and Investigations
2. Personal Appearances
3. Warning Notices
4. Case Review

### **MOTION**

**Motion to enter Executive Session at 8:38AM was made and unanimously carried (Motion by Fujisaki, second by Anderson).**

### **MOTION**

**Motion to resume Open Session at 3:10PM was made and unanimously carried (Motion by James, second by Wells).**

The Board discussed the meeting schedule and possibility of having one meeting a year in the same place (or nearby) just prior to the OSPA and OSHP meetings in order to be more accessible to our licensees that attend these meetings. The Board supported looking into this further. Staff will report back.

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### **Executive Director Performance Update & Review pursuant to ORS 192.660(2)(i)**

### **MOTION**

**Motion to enter Executive Session for the purpose of evaluating employment-related performance per ORS 192.660 at 3:40PM was made and unanimously carried (Motion by Anderson, second by Reher).**

### **MOTION**

**Motion to resume Open Session at 4:52PM was made and unanimously carried (Motion by Anderson, second by Fujisaki).**

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## **Adjourn**

### **MOTION**

**Motion to adjourn at 4:53PM was made and unanimously carried (Motion by Vipperman, second by Armstrong).**

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**THURSDAY, APRIL 7, 2016**

**Roberto Linares, R.Ph, Board President, called the meeting to order at 8:37AM**

Roll Call

Roberto Linares, President

Christine Chute

Brad Fujisaki

Ken Wells

Cyndi Vipperman

Kate James, Vice President

Penny Reher

Heather Anderson

Dianne Armstrong

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

Marc Watt, Executive Director

Karen MacLean, Administrative Director

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Laura Elvers, Inspector

Kim Oster, Compliance Assistant

Gary Miner, Compliance Director

Chrisy Hennigan, Office Manager

Fiona Karbowicz, Pharmacist Consultant

Vicki Wallace, Inspector

Katie Baldwin, Inspector

Annette Gearhart, Compliance Secretary

Jan Dolph, Temporary Assistant

Tom Cowan, Sr. AAG Board Counsel

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### **Introduce New Pharmacy Technician Board Members**

Board President Roberto Linares introduced the two new Board Members and read their biographies to the public.

President Roberto Linares also welcomed pharmacy interns and asked them to introduce themselves. Two pharmacy interns were in attendance.

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**Motions for Contested Cases & Disciplinary Action – Please see Motions for Disciplinary Cases at the end of this document.**

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## **GENERAL ADMINISTRATION**

### **Rules**

#### **Review Rulemaking Hearing Report and Comments:**

Administrative Director Karen MacLean presented the Rulemaking Hearing report. She reported that 16 people attended the hearing on March 23, 2016 regarding proposed rules in Division 019 regarding Pharmacist Prescriptive Authority. The proposed rules would permanently adopt implement administrative rules for 2015 House Bill 2879, previously adopted as Temporary Rules in November 2015. She stated that there was not much feedback and the comments were mainly supportive. She also stated that Oregon State University supported the Board in this rulemaking. Karen stated that comments were received specific to the restriction to make appointments and explained that this is a statutory requirement.

## **MOTION**

**Motion to accept the March 23, 2016 Rulemaking Hearing Report was made and unanimously carried. (Motion by Anderson, second by Wells).**

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## **Consider Adoption of Temporary Rules – None**

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### **Review and Consider Rules for May 24, 2016 Rulemaking Hearing Phase I – Draft Rules Second Review**

#### **Division 006 – Definitions**

Pharmacist Consultant Fiona Karbowicz presented proposed rules in Division 006 to be considered to send to rulemaking. She stated that Division 006 constantly requires updates. Subsequently this affects other rules and other documents, such as cases, notices and orders as definitions and rule numbers are amended. Proposed amendments in Division 006 add the definitions for “quality assurance plan” and “unprofessional conduct.” Compliance Director Gary Miner requested that rules proposed to define “unprofessional conduct” be assigned its own section and number. Board discussed how to define “endanger” and whether or not “could” endanger the licensee or others should be listed in the unprofessional conduct definitions. Board Counsel Tom Cowan stated that was common language and he needs that line to remain as written for cases.

## **MOTION**

**Motion to send revised Definition rules in OAR Chapter 855 Division 006 to rulemaking hearing was made and unanimously carried (Motion by Wells, second by James).**

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#### **Division 019 - Resident PIC rules**

Pharmacist Consultant Fiona Karbowicz presented proposed rule amendments in Division 019 Duties of a Pharmacist-in-Charge (PIC). It was proposed that a Board approved PIC training course offered by an employer be removed from Oregon Administrative Rule 855-019-0300(3). If removed, in order for a Pharmacist to become a PIC, the Pharmacist would be required to complete the Board’s PIC training program either before appointment or within 30 days after appointment. Board President Roberto Linares stated that the Board provides PIC training and staff should explore other avenues for providing training, such as the internet. Fiona stated that staff has been looking into technology to make training more accessible. Board Members also discussed how the rule should be written concerning accurate reconciled inventory of the Schedule II Controlled drugs and how often it should be performed. Compliance Director Gary Miner stated that the inspectors check the drug cabinets and find counts that are far off from the electronic inventory and then those counts were revised manually to match what the actual count is, with no documentation as to who made the change and why. Diversion of these drugs is a concern with staff. Fiona told the Board that staff will make these revisions and bring them back for the Board’s future reconsideration. The Board determined that additional discussion is required and elected not to send this proposed rule to the May 24<sup>th</sup> Rulemaking Hearing.

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## **Division 025 – Certified Oregon Pharmacy Technician Biennial Licensure and Housekeeping**

Pharmacist Consultant Fiona Karbowicz presented proposed rule amendments in Division 025. Proposed rule amendments would make the Certified Oregon Pharmacy Technician license a biennial license that expires June 30<sup>th</sup> in even numbered years. Other changes were primarily housekeeping matters that correspond with requiring renewal on a biennial basis rather than annually. This rulemaking will finalize the implementation of biennial licensure for all individuals.

### **MOTION**

**Motion to send revised Pharmacy Technician and Certified Oregon Pharmacy Technician rules in OAR Chapter 855 Division 025 to rulemaking hearing was made and unanimously carried (Motion by James, second by Fujisaki).**

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## **Division 041 – Pharmacy Operations:**

### **Personnel (Both Retail and Institutional Drug Outlets)**

Pharmacist Consultant Fiona Karbowicz presented proposed changes to the personnel rules in Division 041, Section 1010. Proposed amendments relate to Pharmacist-in-Charge (PIC) requirements for pharmacies located in Oregon. The proposed changes provide additional direction for an outlet requesting a waiver to allow for the absence of a PIC and their reporting requirements. Board Member Christine Chute stated that “absence” as listed in the proposed rules in 855-041-1010(1)(b) was not clear and needs additional clarification.

Compliance Director Gary Miner explained that the outlet would be held responsible for all PIC duties Board Member Ken Wells thought that “serious harm” should be defined. Board members concurred that they would rather use the term “hospitalization.” Board Member Penny Reher had concerns over the ten business day reporting requirement when a medication error occurs that results in the hospitalization or death of a patient. The Board discussed this and decided to amend the language to require notification within ten working days upon event discovery. Board members discussed requiring a pharmacy to report all errors. A consensus was not reached on this subject. Several Board members discussed sending the proposed rule amendments to rulemaking for public input, but that was discouraged by Board Counsel Tom Cowan. Tom advised that there are better mechanisms to obtain the input and the details the Board wants, such as an advisory committee or work group. The Board agreed that the proposed draft amendments needed additional discussion and elected not to send the proposed rule to rulemaking.

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## **Division 041 – Epinephrine**

Pharmacist Consultant Fiona Karbowicz stated that the Oregon Health Authority (OHA) requested that the Board expedite the rulemaking process for the proposed rule so it will correspond to a Public Health law that was passed in 2013. The 2013 law permits an entity with a prescription to acquire and possess epinephrine. The proposed rule identifies what is required for a Pharmacist to dispense epinephrine to an entity and how the drug can be labeled. The intent is for this rule to be a prescription model, not a distribution model. Compliance Director Gary Miner stated that this rule will allow schools to stock epi-pens instead of trying to find a student’s epi-pen. The Board sent the proposed rule to rulemaking.

## **MOTION**

**Motion to send revised Epinephrine rules in OAR 855-041-2320 to rulemaking hearing was made and unanimously carried (Motion by Wells, second by Armstrong).**

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### **Division 041 - Remote Distribution Facility**

Pharmacist Consultant Fiona Karbowicz stated that the only proposed changes were a name correction and minor corrections to the rules cited. The Board sent the proposed rule to rulemaking.

## **MOTION**

**Motion to send corrected Remote Distribution Facility rules in OAR 855-041-4200 to rulemaking hearing was made and unanimously carried (Motion by Fujisaki, second by Vipperman).**

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### **Division 043 - Family Planning / County Health Rules**

Pharmacist Consultant Fiona Karbowicz explained that the proposed rules combine two unique dispensing models into a new outlet model identified as a Community Health Clinic Drug Outlet. The proposed rules will replace OAR 855-043-0110 thru 0130 and OAR 855-043-0300 thru 0310. If the proposed rules are adopted, the County Health Clinic and Family Planning Clinic will be repealed. Staff worked with the Oregon Health Authority on concepts and language to avoid any unintended consequences. Currently a clinic that wants to utilize a Registered Nurse (RN) to dispense drugs or devices to clients for the purpose of birth control, the treatment of amenorrhea, hormone deficiencies, urinary tract infections or sexually transmitted diseases must register as a Family Planning Clinic. Family Planning Clinics require a Registered Nurse or Nurse Practitioner and Consultant Pharmacist. Family Planning Clinics are limited to the formulary previously mentioned. A clinic that utilizes RNs dispenses a drug or device to a client of a health department for the purpose of caries prevention, birth control, or prevention or treatment of a communicable disease must register as a County Health Clinic. County Health Clinics require a Registered Nurse and Health Officer. County Health Clinics are limited to the formulary mentioned. Under current regulations if a clinic wants to provide services using both formularies, the clinic would need to obtain both a Family Planning Clinic and County Health Clinic Registration and follow both sets of rules. The proposed rule establishes a broader formulary and requires a Medical Director to establish policies and procedure and allows a Registered Nurse to dispense drugs listed in or for a condition listed in the formulary. Having a Consultant Pharmacist on staff is not a requirement under the proposed model. Requiring a Consultant Pharmacist is challenging for rural clinics, especially financially. The Medical Director must have dispensing authority. After reviewing the proposed draft rules the Board motioned to send them to rulemaking.

## **MOTION**

**Motion to send revised and combined Family Planning and County Health rules in OAR 855-043-0700 through 0755 to rulemaking hearing was made and unanimously carried (Motion by James, second by Anderson).**

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### **Division 110 – update CPT Biennial and Workforce data collection fee**

Pharmacist Consultant Fiona Karbowicz provided an overview of proposed amendments in Division 110. Wording for the Certified Oregon Pharmacy Technician renewal fee is proposed to reflect that the fee is for a biennial license that expires June 30<sup>th</sup> in even numbered years. Note that the renewal fee remains \$50.00. This will provide a savings to licensees. Other changes

include a one dollar reduction in the workforce data collection fee for both Pharmacists and Certified Oregon Pharmacy Technicians. Board members discussed whether or not fee amendments need to include an effective date in rule. Board Counsel Tom Cowan advised the Board that it is not needed. Therefore the Board did not direct staff to reflect an effective date in rule. Other proposed changes include making the fee for the initial licensure as a Certified Oregon Pharmacy Technician reduced to one half of the biennial rate if the application is received or the mailing date of the application is postmarked within 180 days of expiration. Note that this fee structure was implemented for Pharmacists when their license was changed to a biennial status in 2015. A correction to the title of the Remote Distribution Facility license referenced in the section titled "Fees for Registration for Controlled Substances under ORS 475.095" is also proposed for amendment.

## **MOTION**

**Motion to send revised Fee rules in OAR Chapter 855 Division 110 to rulemaking hearing was made and unanimously carried (Motion by Wells, second by Armstrong).**

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## **Consider Adoption of Rules**

### **Division 019 - Contraceptive Rules**

The Contraceptive Prescriptive Authority rule was adopted as a temporary which became effective January 1, 2016. The Board reviewed this rule and minor proposed amendments for consideration of adoption as a permanent rule. Pharmacist Consultant Fiona Karbowicz reported that she had sent minor edits to the Contraceptive Consultative Workgroup. If more significant changes to the rule need to be considered at a later date the Contraceptive Consultative Workgroup will convene for discussion. Fiona stated that minor changes were also made to the Questionnaire and Algorithm. Vice President Kate James stated that staff is providing good outreach. Fiona stated that staff will continue to provide outreach and will make sure to stress a clarifying point; that appointments cannot be required, however, they may be offered. This may be noted in a future newsletter article for outreach purposes. The Board permanently adopted the Contraceptive Prescriptive Authority rules.

## **MOTION**

**Motion to permanently adopt Prescriptive Authority rules for contraception in OAR 855-019-0400 through 855-019-0435 was made and approved on an 8-0-1 vote (Motion by Anderson, second by Reher). *Ken Wells recused.***

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## **Policy Issues for Discussion**

Pharmacist Consultant Fiona Karbowicz presented issues associated with opiate misuse and overdose in Oregon and the use of Naloxone to treat a narcotic overdose in an emergency situation. 2016 House Bill 4124 allows a Pharmacist the ability to prescribe unit-of-use packages of naloxone and the necessary medical supplies for administration, to a person who meets requirements specified in ORS 689.681(4). This measure was declared an emergency and became effective on passage in February. Staff has been working on draft rules and will be meeting with the Oregon Health Authority to review draft language. Draft rules will be presented to the Board for their review at the August Board Meeting. Board Member Penny Reher stated that pharmacies in southern Oregon are ahead of the process and in an effort to address the opiate problem they are selling Naloxone at cost. Penny stated that she also reached out to the new director at the DEA and told him that that the Board would like to work with them to allow Medical Doctors to provide suboxone to help decrease opiod use in general.

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## Discussion Items

### Waiver/Exception/Extensions/New Application Requests - None

#### **ORS 689 Review for Housekeeping Legislative Concept**

Pharmacist Consultant Fiona Karbowicz reported that staff is working on preparing proposed changes to the Department of Administrative Services and Governor Brown's for consideration. Board Member Heather Anderson suggested that statutes that have changes proposed be separated into two categories controversial items and non-controversial items. The Board approved the submission of the Legislative Concept for proposed housekeeping changes in Oregon Revised Statutes, Chapter 689.

#### **MOTION**

**Motion to submit Legislative Concept for proposed housekeeping changes to ORS Chapter 689 as discussed for Governor Brown's consideration was made and unanimously carried (Motion by Anderson, second by James).**

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#### **Board of Pharmacy Special Records Retention Schedule**

Administrative Director Karen MacLean presented an overview on records retention rules and how it affects the Board of Pharmacy. Karen provided the Board with retention schedules, staff recommendations and proposed that the Board ask the Secretary of State Archivist for an Agency Special Schedule in specified areas. The Board reviewed the schedule and concluded that they would like to retain inactive i.e. lapsed Pharmacist files for 50 years before destruction. Staff had proposed 35 years. Note that the files for all deceased Pharmacists still have a retention period of five years. Staff updated the proposed retention schedule to reflect Pharmacist files to be kept for 50 years after they become inactive and the Board approved the Special Retention Schedule for submission to the Secretary of State Archives Division.

#### **MOTION**

**Motion to submit request for Oregon Board of Pharmacy Special Retention Schedule to Secretary of State Archives was made and unanimously carried (Motion by James, second by Wells).**

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#### **Staff Authority Grid**

At the Board's Strategic Planning Meeting they asked staff to review and make suggested changes to the Delegated Staff Authority Grid for the Board's consideration. Compliance Director Gary Miner explained rather than automatically deny licensure to individuals who are convicted sex offenders or have illegal drug possession convictions the application should be listed on the Consent Agenda for the Board to review. Board members agreed that the date and facts for convictions, such as sex offense or illegal drugs, should be considered. It was determined that further discussion is needed before making this change. However, it was determined that applicants with marijuana related convictions could be placed on the Consent Agenda. There was a lengthy discussion and the Board asked Staff work on the Grid for further discussion at a later date.

Board Counsel Tom Cowan reminded the Board that the purpose of the Delegated Staff Authority Grid is to be a tool to assist staff in working efficiently and to help ensure that the Board can utilize its time most effectively.

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### **Technician Discussion**

Board Counsel Tom Cowan stated that the Board had asked staff to examine Pharmacy Technician requirements and that staff has additional questions for the Board: (1) What is the Board's opinion on current standards and (2) Does the Board want to consider a future where needs not currently met by licensed Technicians will be met thru an unlicensed model?

Tom suggested that it might be possible to construct a way for non-licensed individuals to perform some functions in the future and said his goal conceptualize four to eight ideas. He also said that staff would research other states programs and present that information to the Board for their input. Executive Director Marc Watt stated that staff would present concepts for Board to rank or eliminate. Then staff can move on with the options approved by the Board and determine where the interest is and focus on those areas. Staff will e-mail the Board the two survey questions for them to answer anonymously via SurveyMonkey for the result discussion at the next meeting.

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### **APPEARANCES**

Debbie Mack, R.Ph, CCEP, CHC, Wal-Mart, Senior Director, Corporate Compliance and Tim Koch, R.Ph, CHC, Wal-Mart, Senior Director, Corporate Compliance appeared before the Board to discuss Wal-Mart's Pharmacy Technician Training Program at Executive Director Marcus Watt's request.

Tim Koch led the presentation. He stated that Pharmacy Technicians University (PTU) is a high-quality, cost effective, engaging, self-paced, up-to-date, online program designed to prepare student Technicians for a career in pharmacy. Pharmacy Technicians University is from Therapeutic Research Institute and began in 2012. Wal-Mart, including Sam's Club, provides training to their Pharmacy Technicians via PTU in 49 states and Puerto Rico. North Dakota laws prohibit Wal-Mart from training their Pharmacy Technicians in their state. This training is mandatory and part of the on-boarding process for all new Pharmacy Technicians. He indicates that the Pharmacy Technicians University is a thorough introduction to the practice of pharmacy for aspiring Technicians and provides training in the areas of pharmacy law, billing, medication errors, controlled substances, calculations, medication terminology, and pharmacology. There are 15 levels and a final exam. The 15 levels consist of more than 40 modules and module exams, as well as state specific modules and retail training on the job. This training is on-line, self-paced and trackable. Wal-Mart covers the cost of the training, as well as licensing/renewals and PTCB or ExCPT certifications/renewals. Also, Wal-Mart provides free continuing education to their Pharmacy Technicians. Currently Wal-Mart encourages the national certification, but it will soon be mandatory. Tim stated that the American Society of Health-System Pharmacists (ASHP) and the Accreditation Council for Pharmacy Education (ACPE) will soon require 600 hours of training. At this time, only Louisiana has adopted these requirements. Tim provided a brief description of Wal-Mart's experience with Louisiana's requirements. Tim shared that their Pharmacy Technician Training Program is designed to meet industry training standards and improve outcomes for students, Wal-Mart and the patients they serve. He stated that this program has met their needs.

Tim Koch indicated that requiring certification through the Pharmacy Technician Certification Board (PTCB) raises the bar for job entry. He noted the American Society of Health-System Pharmacists (ASHP) and the Accreditation Council for Pharmacy Education (ACPE) will be

recommending 600 hours of training prior to taking the PTCB exam. Tim stated that some alternatives could include tailoring the training for Pharmacy Technicians to specific positions they might fill, including hospital, LTC, nuclear, home infusion or mail order positions. He also suggested that in the future perhaps there could be multiple levels of Technicians, each that would entail specific training. Tim stated that he expects there will be staffing issues in the future due to people choosing other professions because of the stringent training requirements for Pharmacy Technicians. The Board asked Tim about United States' training requirements in relation to other countries and he stated that the United States requirements are the most stringent.

The Board thanked Debbie and Tim for coming to appear and provide this information.

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## **ISSUES/ACTIVITIES**

### **Reports:**

Board Member Ken Wells welcomed the two new Board members and stated that having Pharmacy Technicians added to the Board has been a long time coming.

Board Member Penny Reher stated that the Food and Drug Administration (FDA) is looking at how pharmacies are inspected and is notifying the Board of any investigations. She thanked Executive Director Marc Watt, Pharmacist Consultant Fiona Karbowicz and Compliance Director Gary Miner for working with the FDA and looking at 503A and 503B rules.

Board President Roberto Linares, Vice President Kate James, Brad Fujisaki, Heather Anderson, Christine Chute, Cyndi Vipperman, and Dianne Armstrong have no reports.

Executive Director Marc Watt provided the Board with an update about the National Traffic Safety Board (NTSB) communication regarding an impaired pilots study and their use of prescription and non-prescription drugs. The NTSB recommended that health care providers discuss with their patients the effect their medical condition and medication use may have on their ability to safely operate a vehicle in any mode of transportation. Marc reported that the Governor had received a complaint about the Board being heavy-handed. He informed the Board that consultant, Donna Silverberg, will be coming back to work with both the Board leadership and staff on how to be more efficient and effective in meetings. Mark reported that Pacific University approached staff to explore the possibility of working with the Board on a two year fellowship in pharmacy in public administration. This would give the Board a part-time employee starting in 2017. It also will be the first program like this in the nation. The cost is estimated to be \$60,000 per year, split between the Board and Pacific University. Marc shared that the Board's budget analyst Anthony Medina, accompanied Inspector Katie Baldwin on an inspection. Anthony conveyed how he appreciates see the importance of a Pharmacist conduction inspections.

Board Counsel Tom Cowan reported that he had been asked by Vice President Kate James for information about rules advisory committees and the two issues of pre-rule making and post rule making. He recommended that the Board and staff read the public law manual and then discuss this at their next meeting. Tom also mentioned that Kate had questions about how the peer review, subject matter experts panel would work, he will provide more information at a later time.

Compliance Director Gary Miner reported that they have completed 20% of inspections and there are 18 individuals in the Health Professionals' Services Program (HPSP).

Pharmacist Consultant Fiona Karbowicz reported that she has made nine outreach presentations and had been invited back to the National Alliance of State Pharmacy Associations (NASPA) meeting in March for input to statewide protocols because of her experience with writing rules for prescribing contraceptives.

Administrative Director Karen MacLean reported that she had a request from the Board President to explain what the Department of Administrative Services (DAS) is and what it does. She said that DAS is the acronym for the Department of Administrative Services, it is part of the executive branch of state government that serves in a policy and services resource for all the executive branch agencies. She reported that the Board contracts with DAS for a variety of services such as personnel, payroll and budget preparation. DAS has the authority to require agencies to follow certain policies and procedures, i.e. budget instructions and process, and procedures for the web or payroll.

Licensing Department Supervisor Chrisy Hennigan reported that the pharmacy license renewals are completed and being scanned, LEDS assignments have started, intern applications are coming in, and staff is being cross-trained so they can cover while people are on vacation.

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

The Pharmacy Coalition meeting was on March 15<sup>th</sup>. Executive Director Marc Watt shared that they discussed expanding pharmacy protocols and reviewed recent legislative session.

At the March 15<sup>th</sup> Professional Practice Roundtable Pharmacist Consultant Fiona Karbowicz reported that they discussed rules for drug take back events and programs. She requested that the Board consider establishing rules and policies for drug take backs. The next meeting is scheduled for May 10<sup>th</sup>.

The Health System Outreach meeting was on April 19<sup>th</sup>. Pharmacist Consultant Fiona Karbowicz stated that potential rules for drug take backs were discussed. Compliance Director Gary Miner shared that the Board has already received two emails from people wanting to set up drug take back events. Gary has directed them to follow the Drug Enforcement Administration's (DEA) regulations. Executive Director Marc Watt reported that he had met with Congressman Earl Blumenauer regarding the high cost of drug take back events and the opiate problem in Oregon. Board Member Heather Anderson asked how many facilities are authorized to destroy drugs in Oregon. Miner told her zero. Anderson suggested that OBOP pay the costs for these events. Watt responded that the drug manufacturers should pay these costs for drug disposal. He said there are three counties in California that have programs that require the drug manufacturers to pay drug take back costs. Board member Penny Reher also attended and said the meeting had good attendance.

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### **Committees/Meetings**

The Oregon State Pharmacy Association Lane County Mid-Winter Meeting was held on February 27<sup>th</sup> and 28<sup>th</sup>. Executive Director Marc Watt stated that it was an excellent meeting.

The Oregon Society of Health-System Pharmacists Annual Seminar will be held on April 22<sup>nd</sup>-24<sup>th</sup> in Sunriver. Pharmacist Consultant Fiona Karbowicz, Director Watt, and Investigator Vicki Wallace will attend the seminar. She shared that the Board will provide two presentations; one about prescribing contraceptives and the other is a law review.

The Linn Benton Pharmacy Association Meeting will be held on April 26<sup>th</sup> in Corvallis. Pharmacist Consultant Fiona Karbowicz will be the speaker at this meeting.

The National Association of Boards of Pharmacy (NABP) Annual Meeting will be held May 14<sup>th</sup>-17<sup>th</sup> in San Diego, California. Executive Director Marc Watt and Vice President Kate James will be attending the meeting. The Board indicated that Board Vice President Kate James and Executive Director Marc Watt could decide on how they would like to vote on resolutions at the meeting. Board Members stated that if either of them has any concerns to feel free to email them. The Board will have a table at the meeting to provide information and handouts about the NABP District 6, 7, & 8 Meeting to be held in Portland September 11-14, 2016.

Executive Director Marc Watt explained to the Board that he has a concept for a resolution regarding probation and fines for the upcoming District meeting. He told the Board that it is getting harder for Compliance Director Gary Miner to negotiate probation and fines with violators because adjacent states will mirror what the amount the Board assesses and that seems to be predatory. He suggested that the financial implications be excluded when mirroring sanctions from other states. The Board agreed with this concept and would support more discussion at the District meeting.

The National Association of Boards of Pharmacy (NABP) District VI-VIII meeting will be held September 11<sup>th</sup> – 14<sup>th</sup> in Portland. Administrative Director Karen MacLean reported that she, Executive Director Marc Watt and Board President Roberto Linares had a planning meeting to discuss a variety of topics for the annual meeting. Those topics will be sent to the Board members. Karen reported that the Portland Spirit is booked for the first night opening reception to celebrate the Board's 125<sup>th</sup> anniversary. Oregon State University will help with Accreditation Council for Pharmacy Education (ACPE) continuing education and programming. Karen shared that staff emailed "save the date" notices to all district members and that notices will also be emailed to all past Board members and past executives to invite them. Sponsorship letters were mailed by the District Treasurer in March. She reported that the actual 125<sup>th</sup> birthday of the Board of Pharmacy was February 21, 1891.

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### Board Meeting Dates

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|-------------------------|----------|-------------------------------------|
| • June 8-9, 2016        | Portland |                                     |
| • August 10-12, 2016    | Portland | (3 day meeting planned)             |
| • September 11-14, 2016 | Portland | NABP District VI-VII annual meeting |
| • October 5-6, 2016     | Portland |                                     |
| • November 2-3, 2016    | TBA      | (Strategic Planning)                |
| • December 7-8, 2016    | Portland |                                     |
| • February 8-10, 2017   | Portland | (3 day meeting planned)             |
| • April 5-6, 2017       | Portland |                                     |
| • June 7-8, 2017        | Portland |                                     |
| • August 9-11, 2017     | Portland | (3 day meeting)                     |
| • October 11-10, 2017   | Portland |                                     |
| • November 8-9, 2017    | TBA      | (Strategic Planning)                |
| • December 13-14, 2017  | Portland |                                     |

As previously mentioned, Board discussed the various options of holding an outreach meeting prior to the Oregon Society of Health-System Pharmacists (OSHP)/Oregon State Pharmacy

Association (OSPA) meetings on alternating years. The Board selected to hold a meeting prior to the OSPA meeting in Eugene on February 17-19, 2017 and the OSHP meeting at Salishan on April 26-29, 2018. The Board also decided they preferred a two day meeting in February for this outreach. The rulemaking schedule may need to be adjusted to accommodate this change.

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### **Rulemaking Hearing Dates**

Proposed Rulemaking Hearing dates for 2016 and 2017 are as follows:

- May 24, 2016
  - November 22, 2016
  - May 25, 2017
  - November 28, 2017
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### **Financial/Budget Report**

Administrative Director Karen MacLean presented the financial reports for January and February 2016 and expenditures remain on target. She stated that the Board's revenue estimate for the 2017-19 budget preparation was due at the end of March. Staff has processed more licenses than expected so revenue has been higher than estimated. Karen also stated that the civil penalty revenues are much higher than anticipated. She indicated that the Legislature wants state agencies to only carry two to three months of ending balance. Therefore staff is proposing some revisions to some fees.

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### **Legislative 2016 Session Update**

Executive Director Marc Watt said that due to time constraints he would not speak to the measures listed below. Board members had previously been sent written reports on the following bills:

- Charitable Pharmacy, SB 1514
  - PSP concept HB 4016
  - Biosimilar, HB 4105
  - Naloxone, HB 4124
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### **Strategic Planning Update**

Due to time limitations the Board opted not to discuss this topic. A strategic planning update will be presented at the Board's June Meeting.

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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, 2015-December 31, 2015
2. MPJE Scores – May 1, 2015 – December 31, 2015
3. License/Registration Ratification - February 9, 2016 – April 5, 2016
4. Extension Requests

**MOTION**

**Motion to approve the consent agenda as revised was made and unanimously carried (Motion by Reher, second by Wells).**

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**OPEN FORUM** At the completion of regular Board Business, any Board licensee or member of the public is invited to meet with the Board to discuss issues of interest (typically the last item of the meeting)

Board President Roberto Linares invited comments from the public. No comments were received.

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**Adjourn**

**MOTION**

**Motion to adjourn at 5:19PM was made and unanimously carried (Motion by Vipperman, second by Armstrong).**

Accepted by:

A handwritten signature in black ink, appearing to read "Watt", with a stylized flourish extending to the left.

Marcus Watt, R. Ph.  
Executive Director

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

Wednesday, April 6, 2016 @ 8:30 AM, Conference Room 1A  
Thursday, April 7, 2016 @ 8:30 AM, Conference Room 1A  
800 NE Oregon Street in Portland, Oregon

Executive Session of the Board was held on 4/6/2016 to discuss Compliance cases, followed by motions on 4/7/2016. Working lunch held.

Board Members present for all or part of compliance session:

|                                 |                       |
|---------------------------------|-----------------------|
| Roberto Linares, RPH, President | Penny Reher, RPH      |
| Kate James, RPH, Vice President | Kenneth Wells, RPH    |
| Heather Anderson, Public Member | Dianne Armstrong, CPT |
| Christine Chute, Public Member  | Cyndi Vipperman, CPT  |
| Brad Fujisaki, R.Ph.            |                       |

Staff present for all or part of compliance session:

|  |   |
|--|---|
| Gary Miner, RPH, Compliance Director   | Marcus Watt, R.Ph., Executive Director        |
| Joe Ball, RPH, Chief Investigator      | Karen MacLean, Administrative Director        |
| Katie Baldwin, RPH, Board Inspector    | Fiona Karbowicz, R.Ph., Pharmacist Consultant |
| Laura Elvers, RPH, Board Inspector     | Chrisy Hennigan, Licensing Program Supervisor |
| Brianne Efremoff, RPH, Board Inspector | Annette Gearhart, Compliance Secretary        |
| Cheryl Fox, RPH, Board Inspector       | Kim Oster, Compliance Assistant               |
| Victoria Wallace, RPH, Board Inspector | Thomas Cowan, Senior AAG                      |
|  | Jan Dolph, Temporary Assistant                |

**CONSIDERATION OF CONTESTED CASES deliberation under ORS 192.690(1):**

**Case 2014-0537 Motion to adopt ALJ Rick Barber's Motion for Summary Determination and Proposed Order in its entirety, and issue Final Order. Roberto Linares recused.**

Motion by: Kenneth Wells; Seconded by: Brad Fujisaki. Motion carried with Roberto Linares recused and Penny Reher opposed.

**EXECUTIVE SESSION:**

**Case 2015-0473 Motion to withdraw Notice in Case 2015-0473 and close with Board direction upon execution of proposed Consent Order 2015-0370.**

Motion by: Heather Anderson; Seconded by: Kenneth Wells. Motion unanimously carried.

**Case 2015-0126 Motion to withdraw Notice of Proposed Disciplinary Action; Answer Required issued in 2015-0126 and close under investigation.**

Motion by: Penny Reher; Seconded by: Kenneth Wells. Motion unanimously carried.

**Case 2014-0202 Motion to reduce UAs to 18 per year.**

Motion by: Kate James; Seconded by: Dianne Armstrong. Motion unanimously carried.

**Case 2012-0374 Motion to grant request.**

Motion by: Penny Reher; Seconded by: Cyndi Vipperman. Motion defeated with Kate James, Christine Chute, Brad Fujisaki, Dianne Armstrong, Kenneth Wells and Heather Anderson opposed.

- Case 2014-0195 Motion to grant request with hours capped at 45 hours per week.**  
Motion by: Brad Fujisaki; Seconded by: Kate James. Motion carried with Kenneth Wells and Penny Reher opposed.
- Case 2015-0654 Motion to deny pharmacist license.**  
Motion by: Heather Anderson; Seconded by: Kenneth Wells. Motion unanimously carried.
- Case 2015-0502 Motion to revoke pharmacy license.**  
Motion by: Heather Anderson; Seconded by: Penny Reher. Motion unanimously carried.
- Case 2015-0630 Motion to revoke pharmacist license and impose \$1,000 civil penalty per violation.**  
Motion by: Heather Anderson; Seconded by: Kenneth Wells. Motion unanimously carried.
- Case 2016-0012 Motion to impose \$1,000 civil penalty per violation and revoke technician license.**  
Motion by: Kenneth Wells; Seconded by: Heather Anderson. Motion carried with Kate James recused.
- Case 2015-0668 Motion to deny technician license.**  
Motion by: Heather Anderson; Seconded by: Brad Fujisaki. Motion unanimously carried.
- Case 2015-0645 Motion to deny technician license.**  
Motion by: Brad Fujisaki; Seconded by: Kenneth Wells. Motion unanimously carried.
- Case 2015-0586 Motion to deny technician license and impose \$1,000 civil penalty per violation.**  
Motion by: Penny Reher; Seconded by: Dianne Armstrong. Motion carried with Heather Anderson opposed.
- Case 2015-0646 Motion to impose \$1,000 civil penalty per violation.**  
Motion by: Kate James; Seconded by: Brad Fujisaki. Motion carried with Kenneth Wells, Christine Chute and Roberto Linares opposed.
- Case 2016-0008 Motion to reinstate \$10,000 civil penalty stayed in Case 2014-0474 and impose \$10,000 civil penalty per violation against outlet in current case and close case with Board direction.**  
Motion by: Kenneth Wells; Seconded by: Brad Fujisaki. Motion unanimously carried.
- Case 2016-0082 Motion to reinstate \$15,000 civil penalty stayed in Case 2014-0526 and impose \$10,000 civil penalty per violation against outlet, close case with Board direction; and**  
**Case 2016-0030 Motion to revoke and impose \$1,000 civil penalty per violation against technician.**  
Motion by: Kenneth Wells; Seconded by: Heather Anderson. Motion unanimously carried.
- Case 2016-0061 Motion to impose \$10,000 civil penalty per violation against the outlet; and**  
**Case 2016-0111 Motion to impose \$1,000 civil penalty per violation against the Pharmacist-in-Charge.**  
Motion by: Brad Fujisaki; Seconded by: Heather Anderson. Motion unanimously carried.
- Case 2016-0021 Motion to impose \$10,000 civil penalty per violation against outlet;**  
**Case 2016-0042 Motion to impose \$1,000 civil penalty per violation against pharmacist; and**  
**Case 2016-0041 Motion to impose \$1,000 civil penalty per violation against technician.**  
Motion by: Kenneth Wells; Seconded by: Kate James. Motion unanimously carried.
- Case 2016-0062 Motion to impose \$1,000 civil penalty per violation against Pharmacist-in-Charge.**  
Motion by: Heather Anderson; Seconded by: Brad Fujisaki. Motion unanimously carried.

**Case 2016-0024, 2016-0045 and 2016-0046 Motion to close with Board direction.**  
Motion by: Kenneth Wells; Seconded by: Heather Anderson. Motion unanimously carried.

**Motion to accept the items on the consent agenda with combined case 2016-0024, 2016-0045, 2016-0046 pulled for discussion.**  
Motion by: Kenneth Wells; Seconded by: Penny Reher. Motion unanimously carried.

**Cases Closed With Board Direction:**

Cases 2015-0526; 2015-0612; 2016-0005; 2016-0065; 2016-0020; 2015-0564; 2015-0598; 2015-0576; 2015-0575; 2015-0581; 2015-0591; 2015-0611; 2015-0618; 2015-0624; 2015-0631; 2015-0633; 2015-0651; 2015-0656; 2015-0664; 2016-0007; 2016-0014; 2016-0033; 2016-0035; 2016-0043; 2016-0044; 2016-0053; 2016-0057; 2015-0536; 2015-0597; 2016-0016; 2016-0038 and 2016-0090.

**Notice to revoke technician license or close per Board direction.**  
Cases 2016-0002; 2016-0085; 2016-0086; 2016-0087 and 2016-0088.

**Notice to impose \$10,000 civil penalty per violation against outlet.**  
Case: 2015-0491

**Notice to deny technician license and impose \$1,000 civil penalty per violation.**  
Case: 2015-0632 and 2015-0653.

**Notice to impose \$1,000 civil penalty per violation, or close per Board direction.**  
Case: 2016-0023

**Notice to deny technician license.**  
Case 2015-0643; 2015-0644; 2015-0647 and 2016-0051.

**Close case with Board direction.**  
Case: 2016-0032

**Cases closed under investigation to preserve incoming complaint information should future action be necessary.**  
Case: 2015-0478 and 2016-0047.

**Cases Closed With Board Direction:**

Cases 2015-0092; 2015-0497; 2015-0662; 2015-0657; 2015-0658; 2015-0659; 2015-0660; 2015-0661; 2015-0665; 2016-0001; 2016-0004; 2016-0010; 2016-0013; 2016-0018; 2016-0019; 2016-0027; 2016-0028; 2016-0029; 2016-0034; 2016-0048 and 2016-0095.

**Licensee surrendered license.**  
Case: 2016-0071

**CASES CLOSED:**

Board motions with report of case conclusions for the previous four meetings.

**UPDATES / For Your Information:**

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**Updates:**

1. Open cases under investigation.
2. Hearings Spreadsheet
3. Historical Data