DISCUSSION AND DETERMINATION
APRIL – 2011

At the request of Mr. Macdonald, the following topics with regard to discipline are put forth for discussion:

1) Case Settlement:

   It appears to be somewhat disconcerting to gear up and prep for a hearing only to be asked to sit for 30-45 minutes at the time of hearing while the attorneys negotiate in the hallway for a settlement. Is it not feasible for that process to take place prior to the hearing date, or for that process to be limited to 10-15 minutes?

   As you all are aware, the settlement process is somewhat complex and certainly not "cut and dried" by any means. When the actual time of hearing nears, often the parties begin to think differently, including the complainant. General Counsel will discuss this in more detail.

2) Witness Credibility:

   Are the claims made by the patient who has ingested a wrong medication at the fault of the pharmacy, realistic, feasible, credible? How do you determine that?

   This is complex. As a Board member, you all need to remember why you are here and who you are charged with protecting. If a patient claims harm, staff must allow that patient their "day in court" to air their complaint. They want to tell you what happened to them and how they feel about it. To substantiate their claims through the hiring of expert witnesses would not only be cost prohibitive, but would draw the hearing process out to unacceptable lengths. That process is for the civil courts to sort out. Your immediate job is to listen and make your own determination.

3) Discipline guidelines:

   Consistency in your rulings:

   Staff is proposing the following for consideration:

   a) Designate "The Matrix" a tool, rather than a solid guideline. The matrix was originally developed some time ago to do simply what you are asking, namely bring consistency to discipline as well as give staff a guideline in bringing cases to you. It has served us well over the years, but in reality, binds staff, not you as the Board. It should not be totally discarded, but if designated not binding on staff, it would allow staff more leeway in the settlement process.

b) Develop a "Perpetual Discipline Document" to be included in every Board book along with the disciplinary guidelines and matrix that are already included, showing what your rulings have been over the past dozen or so cases. Staff has prepared a sample for your consideration.

Staff appreciates the difficulty and often discomfort you all face and experience during the very complex disciplinary process. Making decisions that affect the careers and lives of your peers is never an easy task, nor is it ever easy to order discipline for your current employers. In reality, you as Board members, the pharmacists and techs that we regulate, and the pharmacies that we regulate, all have the same goal, that being the safe practice of pharmacy for the citizens of Nevada. None of us ever want to see that patient harmed. The reality however is that patients do suffer harm on occasion, and that fact then becomes your problem. Upon acceptance of your appointment, you essentially promised to take on the task of dealing with that patient's experience and above all, figure out some way to correct the cause of the problem to prevent others from similar injury. Not easy . . .

Following, for the new Board members, is the press release regarding our Board's recent recognition nationally by NABP for our safety initiatives. Our work over recent years through discipline, the inspection process, and the development and utilization of "Your Success" has not gone unnoticed.

FOR IMMEDIATE RELEASE

May 26, 2010

NATIONAL ASSOCIATION OF BOARDS OF PHARMACY HONORS LEADERS AT THE FOREFRONT OF PUBLIC HEALTH PROTECTION AT THE ASSOCIATIONS 106TH ANNUAL MEETING

The Nevada State Board of Pharmacy has been chosen by the Executive Committee of the National Association of Boards of Pharmacy (NABP) to receive the prestigious Fred T. Mahaffey Award for 2010 because of Nevada's recent initiative of "inspecting for safety", which focuses on continuous quality improvement and patient safety. The Board's initiative included a retooling of its inspection process to include the safety of the patient as the primary inspection goal. The Board's goal with inspecting for safety is to keep all pharmacies in Nevada compliant with the law and to emphasize patient safety. The impressive team effort took the support of all Board members as well as the cooperation of the Board's investigators, staff and inspectors.

The Fred T. Mahaffey Award is named after the late NABP Executive Director Emeritus who held the executive director position from 1962 to 1987. The National Association of Boards of Pharmacy represents the state boards of pharmacy in all 50 states, the District of Columbia, Guam, Puerto Rico, the Virgin Islands, New Zealand, eight Canadian provinces, two Australian states and South Africa. It is an extremely high honor for our state to be recognized for its exemplary performance in advancing the protection of the public health. Incidentally, this is the second Fred T. Mahaffey Award bestowed upon the Nevada Board of Pharmacy in five years.

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2010 Fred T. Mahaffey Award

Two state boards of pharmacy were honored with the 2010 Fred T. Mahaffey Award for their exemplary service and dedication to NABP's mission of protecting the public health. The Nevada State Board of Pharmacy was recognized because of its recent initiative of "inspecting for patient safety," which focuses on continuous quality improvement and patient safety. Larry L. Pinson, PharmD and Donald Fey, RPh (above left) accepted the award on behalf of the Nevada Board. The Iowa Board of Pharmacy was recognized for its efforts related to the eventual outcome of the September 2003 action against Union Family Pharmacy in Dubuque, IA, which had unlawfully dispensed prescription pain, diet, and psychiatric medications for two Internet pharmacies. The Board was also recognized for its continuous efforts to regulate medical marijuana. Lloyd K. Jessen, RPh, JD and Vern Benjamin, RPh (above right) accepted the award on behalf of the Iowa Board.

2010 John F. Atkinson Service Award

William T. Winsley, MS, RPh, executive director, Ohio State Board of Pharmacy and 2010-2011 NABP president, accepted the 2010 John F. Atkinson Service Award on behalf of Joanne D. Predina, MBA, RPh, who could not be in attendance at the 106th Annual Meeting. Predina was recognized for her efforts in protecting the public health through her work as a compliance specialist for the Ohio Board.

Biographies Available Online

A full biography of each award recipient is available in the May 26, 2010 NABP news release "NABP Honors Leaders at the Forefront of Public Health Protection at the 106th Annual Meeting." News releases may be accessed on the NABP Web site at *www.nabp.net/news*.

FINDING	HARM	DISCIPLINE RPH – TECH	DISCIPLINE PHARMACY
Misfill – ingested (Synthroid for Zoloft)	Alleged psychological symptoms	$1,000 fine	P & P augmentation with Your Success Rx
Theft – Controlled Substances (Tech)		Revocation	
Misfill – ingested (Fluoxetine for Paroxetine)	Alleged psychological symptoms	$1,000 fine	$1,000 fine
Failure to counsel (Fluoxetine for Paroxetine)	Alleged psychological symptoms	Your Success Rx	
Misfill – ingested (Prednisone for Provera)	Alleged dizziness and headache	Fees and Costs	Letter of admonition
Theft – Controlled Substances (Tech) (Two Cases)		Revocation	
Theft – Controlled Substances (RPh)	No Contest Plea	Revocation	
Misfill (Enalapril for Estradiol)	Hot flashes	$500 fine	Work with Your Success Rx for P & P on multiple bottles for one Rx
Failure to investigate patient concerns	Hot flashes	$1,000 fine – Your Success Rx with emphasis on communication	
Intoxicated at work (RPh)		Suspended 4 mos. Probation 1 year PRN-PRN	
Theft – Cash (Tech)		Revocation	
Theft – Controlled Substances (Tech) (Two Cases)		Revocation	
Unlicensed Wholesaler/Manufacturing Activity (Compounding pharmacy) (RPh)		5 yrs probation- no managing RPh, no ownership interest, notify employer, Bd staff approve potential employment, sell pharmacy.	
Misfill – Ingested Keflex to penicillin allergic wrong patient and metoprolol 50mg. for metoprolol 25 mg.	None	Your Success Rx	Fees and Costs
Shred pharmacy records (Tech)		Revocation	

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