

GROUP 4 (PHARMACY) BOARD DIRECTOR REPORT

May 2011

1.) Board Meetings Scheduled & Held

<u>Board</u>	<u>Scheduled</u>	<u>Held</u>	<u>Date</u>	<u>Reason Cancelled</u>
Pharmacy (Board)	May 9, 2011			Scheduled and Held

2.) # of Verifications Processed & Walk-ins Served

<u>Board</u>	<u># Verifications Processed</u>	<u># Walk-ins</u>
Pharmacy	12	28

3.) # of Complaints and Petitions for Summary Suspensions Filed by OAG

<u>Board</u>	<u># of Complaints</u>	<u># of Petitions for Summary Suspensions</u>
Pharmacy	2	0

4.) # of Full Board & ALJ Hearings and Personal Appearances (Disciplinary & Appeal)

<u>Board</u>	<u># of Full Board</u>	<u># of ALJ</u>	<u>Separate ALJ Day?</u>
Pharmacy	22	no	no
INSPECT	0	no	no
CSR Applications	4	no	no
EDI	0	no	no

5.) # of Discipline Actions Taken During Previous Month

<u>Board</u>	<u># put on Probation</u>	<u># of NPD</u>	<u># Suspended</u>	<u># Reinstated</u>
Pharmacy	5	3	2	1
<u># of Surrender</u>		<u># of Revocation</u>	<u># of Fines (\$ Total)</u>	
1		2	5 (\$2000)	

6.) Concerns & Additional Information

- **Staffing/HR:** We received resumes and applications for the Assistant Director Position at the end of the month and have scheduled 6 interviews for the month of June. Our

intention is to have completed interviews and have the position staffed by the end of June. Amy Phillips has already begun her transition into her new role as the Compliance Officer for the Southern District of Indiana and has started handing off duties as appropriate. With Amy's move into her new role, Eric Percy is continuing to develop in his new role as Diversion Officer. He attended the annual NADDI Conference in Louisville to continue his networking efforts with other law enforcement entities and improve outreach for INSPECT.

The Board still continues to see the need for an additional position to assist with special projects, research, and outreach/stakeholder relations. While our volume has remained steady vis a vis the licensing component of what we do, the regulatory component has increased and become more sophisticated. Unlike many of the other boards within PLA our regulatory and compliance component is just as, if not more, time consuming than our licensing piece (on the whole, facilities are more difficult to deal with than individuals and the demands are very different from a timeliness perspective). We continue to see an increase in the complicated nature of the type of questions and issues that are brought to our attention. We are also finding ourselves more involved with external meetings with both licensed stakeholders and other government agencies. I think the area probably being neglected the most is rulemaking and policy development. While I believe we are staying afloat, we are continuing the band aid approach, and sticking with "whatever works for now." That said, we continue to hit stumbling blocks vis a vis stretching and interpreting the rules. We know what the issues are but don't have the capacity to do much of anything about them.

If I had to succinctly define my need(s) in terms of personnel, I need one additional person in the field, and one additional person in the office. For the individual in the field, we continue to neglect certain parts of the State such as Fort Wayne, Lake County, and Evansville. We are correcting the Evansville issue with the positioning of Amy Phillips in Southwest Indiana. However, we still don't spend nearly enough time in Lake County or Fort Wayne. Part of this is poor geographic positioning and part of it is the complexity of problems in those areas and the number of new pharmacies, distributors, and hospitals in those areas. There is no question we are creating value for the State (both in terms of achieving meaningful regulatory compliance, but also financial return resulting from stopping diversion and fraud). We are also spending significant more time on each inspection as the use of technology and sizes of the various facilities continue to grow – we've seen positive response to these efforts from the regulated community.

For the position in the office, I need one person under one of two scenarios. One, I either need to hire an attorney, do away with my litigation specialist, and hire an administrative position to supplement day to day matters; or two, hire another person at the same level as my assistant director to help coordinate major projects, rulemakings, and the other external relations that the Board participates in and maintains. To that end, this may be the perfect time to strike on this issue. As of the time of submission of this report, my Litigation Specialist, Stacie Barclay, has given me notice that she has accepted a new position with DCS that is the next great step in her career. Her departure gives us an opportunity to reevaluate our staffing in this area and dedicate

more resources to higher an individual capable of more with an expanded portfolio of responsibilities. The Board has multiple issues that require more bandwidth including: handling INSPECT issues, policy development, rulemaking, litigation, and general research for Board initiatives or inquiries.

- **IT Update & Issues:** We continue to successfully update and utilize both our agency website, our Board SharePoint site, and our facebook page. While, I'd like to see more user functionality on our webpage that allowed us to be more unique, we've been able to accomplish a lot with the addition of more detailed instructions, and updated applications, etc.
- **Abandon Rate:** As of the time of this report, I have not been provided with the end of April numbers, but anticipate that we should have relatively low abandon rate given that our call volume has not been that high. That said, we have had several absences among staff and this may impact our rate.
- **Legal/Legislative:** The only real legal issue we have encountered during the past month related to an attorney (who is representing a litigant before the Board) requesting copies of all the board members appointment letters and oaths. Essentially, he is challenging the validity of the Board's make up because I cannot produce and/or do not have knowledge of whether or not they took oaths and I do not have possession of their appointment letters (I do have a spreadsheet of when they were appointed last). I do not have these items because all of the Board members have been with the Board since before me or my predecessor was with the Board. To remedy a part of the situation, we will be having all the Board Members take oaths at the next meeting, prepared by our Advisory Counsel, and I have asked the Board Members to locate their most recent appointment letters so we can make a copy and save them on our shared drive. If they do not have a current appointment letter, I will send a note to the Governor's Office just making them aware of the situation and the challenge. I don't necessarily expect action, but just seek to cover all eventualities and ensure we have taken what action we could if a litigant seeks to overturn a decision.

See the attached document for the April/May Legislative Update.

- **Economic Development:** Assisted a retail chain with meeting the IEDC about the potential for new projects in Indiana and the possibility of the Board to be able to participate in those ongoing discussions. Meetings are arranged for May and June.
- **Board President Meeting:** The Board President, Bill Cover, and I met several times during the past month. We primarily discussed the Walgreens "Project One" visits and plans, but also spent time focusing on the Board's modernization and technology rule.
- **Update on Boxes & Storage:** There is nothing new to report on boxes. We are still making some slow progress on scanning and indexing the remaining renewal boxes still here in the office. I anticipate having these finished by the summer as I would like to have them sent to ICPR/Archives for destruction. Also, now that my litigation specialist

is back, I anticipate she will pick up where she left off and finish off the litigation boxes. Prior to arranging for destruction, I am requesting that she randomly audit a select number of files from each box to insure that the entire record was both scanned and indexed to the licensee's record in ILS.

Following completion of all remaining boxes in the office, I will have my AD assess the situation of what boxes remain to be dealt with over at Mayflower and to devise a plan for how staff can begin to address those boxes over the next year.

- **Renewal Issues/Update:** We do not currently have any pending renewals. Our next renewal period starts in November 2011 for all pharmacy facilities and CSRs.
- **Outreach:** During the month of April, I participated in the following:
 1. I arranged a meeting with the Department of Health and Indiana University Health to work on obtaining one time and standing waivers on construction of new facilities. IU Health was running into issues caused by a conflict of law between updated pharmacy regs and older architecture guidelines at the Dept. of Health. Fortunately, ISDH agreed that the Pharmacy Regs were more up-to-date and is issuing a standing waiver related to USP 797 Compliance and construction standards. They also anticipate updating their regs in the future.
 2. Participated in the DEA National Take Back Day on Saturday April 30th. Members of the staff also participating included Tim Thomas and Zaneta Nunnally.
 3. Worked with the Department of Health to arrange for inspection of their new warehousing facility for their drug supplies.
- **Dept. of Health/Medicaid Workgroups:** I did an interview with the Thomson Reuters team that is designing/implementing the new fraud software being used by Medicaid to track misuse and abuse of Medicaid services and payments by providers and members. We work actively with Medicaid Fraud taskforce to combat fraud in the pharmacy arena. We currently help review pharmacies, provide leads, and help track certain prescription information. We have also helped facilitate the use of INSPECT.