

# **CHARTER OF THE COMPENSATION COMMITTEE OF THE BOARD OF DIRECTORS OF AUXILIUM PHARMACEUTICALS, INC.**

## **Purpose**

The Compensation Committee (the "Committee") of the Board of Directors ("Board") of Auxilium Pharmaceuticals, Inc. (the "Company") is appointed by, and generally acts on behalf of the Board. The Committee's purposes shall be:

1. To establish and periodically review the company's compensation philosophy and the adequacy of compensation plans and programs for executive officers and other company employees;
2. To establish compensation arrangements and incentive goals for executive officers;
3. To administer the Company's incentive compensation equity plans; and
4. To prepare the report on executive compensation for inclusion in the Company's annual proxy statement in accordance with applicable rules and regulations.

## **This charter governs the operations of the Committee membership**

1. The Committee shall be composed of at least two directors, each of whom must be independent. A director shall qualify as independent if the Board has affirmatively determined that such director is independent, consistent with the basic independence criteria set forth in the Company's Corporate Governance Guidelines. In addition, for purposes of meeting the requirements of Section 162(m) of the Internal Revenue Code of 1986, as amended (the "Code"), or any successor Code section, the Committee, or a subcommittee (each of which shall consist of at least two directors) approving the performance goals to which certain of the executive compensation is tied in making such performance-based awards, shall consist solely of "outside" directors, as defined in Treasury Regulation 1.162-27(e)(3) promulgated under the Code. Moreover, for the purpose of Rule 16b-3 under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), the Committee, or a subcommittee (each of which shall consist of at least two directors) approving grants and awards of Company securities (each of which shall be deemed to include, for purposes of this sentence, "phantom" securities), shall consist solely of "non-employee directors," as defined in Rule 16b-3(b)(3)(i) under the Exchange Act.
2. The members of the Committee shall be nominated by the Nominating and Corporate Governance Committee and appointed by the Board. Unless a Chair is designated by the Board, the Nominating and Corporate Governance Committee may designate a Chair by majority vote of the full Committee. The members of the Committee shall serve for one-year terms or until their successors are duly appointed, subject to their earlier resignation, retirement or removal by the Board. No member of the Committee shall be removed except by majority vote of the independent directors of the full Board then in office.

## **Meetings and Procedures**

1. The Committee shall meet as often as it deems necessary, but in no event less than annually. A majority of the members of the Committee shall constitute a quorum.
2. The Chair of the Committee or any member of the Committee or the Board may call a meeting of the Committee.
3. The Committee may delegate authority to one or more members of the Committee where appropriate under applicable law, regulations or listing standards.
4. The Committee may request that any directors, officers or employees of the Company or other persons whose advice and counsel are sought by the Committee, attend any meeting to provide such information as the Committee requests.
5. The Committee shall report its findings to the Board and shall keep written minutes of its meetings.
6. The Committee shall fix its own rules of procedure which shall be consistent with the By-laws of the Company and this Charter.

## **Duties and Responsibilities**

To fulfill its responsibilities and duties, the Committee shall:

1. Review and approve corporate goals and objectives relevant to compensation of the CEO, evaluate the CEO's performance in light of those goals and objectives and establish and approve the appropriate level of base compensation and all bonus and other incentive compensation for the CEO based on this evaluation. In determining the long-term incentive component of CEO compensation, the Committee should consider the Company's performance and relative stockholder return, the value of similar incentive awards to CEOs at comparable companies, and the awards given to the Company's CEO in past years;
2. Evaluate the performance of the Company's executive officers and establish and approve the appropriate level of base compensation and all bonus and other incentive compensation for such officers;
3. Review and approve, for the CEO and the other executive officers of the Company, (1) employment agreements and change in control agreements, when and if appropriate, and (2) special or supplemental benefits;

4. Seek, retain and terminate accounting, legal, consulting or other expert advice from a source independent of management, at the expense of the Company, with notice to the Board and the CEO. In furtherance of the foregoing, the Committee shall have the authority to retain and terminate any compensation consultant to be used to assist in the evaluation of director, CEO or executive officer compensation and shall have the sole authority to approve the consultant's fees and other retention terms;
5. Review the terms and conditions of the compensation plans, determine the eligibility requirements applicable to participants in each such plan as may be required by the terms of a plan; approve and recommend to the full Board for its approval the initial adoption of any equity-based plan and any material modifications to such plan (such as an increase in the number of shares available under such plan);
6. Approve incentive, including any equity-based compensation plans to allow the Company to attract and retain personnel and align the pay of such personnel with the long-term interests of shareholders. Submit each equity-based compensation plan and each material modification thereof to the Board for its approval and take actions that may be necessary or advisable to implement and administer the Company's incentive compensation plans, all in accordance with the terms of such plan.
7. Oversee and periodically review the operation of the Company's 401k plan.
8. Evaluate and recommend to the full Board the appropriate level of director compensation and take primary responsibility for ensuring that any payments to directors other than in their capacity as directors are fully and properly disclosed;
9. Make this Charter and any amendments thereto, public;
10. Produce an annual report on executive compensation for inclusion in the Company's proxy statement in accordance with applicable rules and regulations of the Regulatory Bodies;
11. Oversee the Company's compliance with rules prohibiting loans to officers and directors of the Company; and
12. Exercise such additional powers as may be reasonably necessary or desirable, in the Committee's discretion, to fulfill its responsibilities and duties under this Charter.