

# Maryland Board of Pharmacy

## Public Board Meeting – March 20, 2002

President Ades called the Public Session of the meeting to order at 9:15 a.m.

### **Attendance:**

**Commissioners Present:** Stanton Ades, President; John Balch; Melvin Rubin; Donald Yee; Ramona McCarthy-Hawkins; Raymond Love; Jeanne Furman; Rev. William Johnson; and Barbara Faltz-Jackson

**Absent:** Laura Schneider, Wayne Dyke, W. Irving Lottier, Jr., (Jury Duty)

**Board Counsel:** Paul Ballard, Assistant Attorney General, and Linda Bethman, Staff Attorney

**Board Staff:** LaVerne Naesea, Executive Director; Michelle Andoll, Pharmacist Compliance Officer; James Slade, Legislative/Regulations Officer; Joan Lawrence, Public Education Officer; Tamarra Banks, Information Services Manager; Doris James, Licensing Supervisor; Deitra Gale, Compliance Specialist and Angela Long, Executive Secretary;

**Guests:** Ben Steffen, (MHCC); David Mitchell (MHCC); Leslie Labrecque, (MHCC); Howard Schiff (MPhA); Jack Freedman (DDC); Bethany DiPaula (PEAC); Janet Mighty (MSHP); Rbert Vlk (Purdue); and Kathryn Lavriha, (Barr Labs);

### **Introduction**

President Ades asked each guest to introduce him or herself.

### **Recusals**

There were no recusals of members due to conflicts of interest.

### **Corrections and Approval of Minutes (02/20/02)**

Page 2, under Board Action, 1<sup>st</sup> sentence should read “Dr. Love moved that Ms. Furman be named Delegate and Mr. Rubin alternate at the Delegate’s Certificate NABP annual meeting.”

Page 3, under Budget Hearing, 2<sup>nd</sup> paragraph, 5<sup>th</sup> sentence, add “apostrophe s” to the word “Board”

Page 3, under Meeting with DDC, 4<sup>th</sup> sentence, add “d” to “Freeman”

Page 4, under Board Staff, should read “Ms. Banks” not “Mr. Banks”

Page 5, under Legislative Report, under HB 1059, should read “Task Force on Medicaid Disease Management Program”, HB 781, should read “Therapy Management Contracts”, HB 1015 should read, “Health Care Records – Ex Parte Communications with Health Care Providers”, SB 44 should read “Controlled Dangerous Substances – Prescription Drug Monitoring Program”

Page 4, under Legislative Report, under HB 781, should read “meet” opposed to “met”

Page 5, under Long Term Care Task Force, second paragraph, should read “meet” opposed to “met”

Page 5, under MD Patient Safety Coalition, delete “ed” from the word “informed”

Page 7, under HIV/AIDS Survey Results, delete “ed” from the word “re-presented” and delete the word “if”

Page 7, under Complaint Brochure, 5<sup>th</sup> sentence, delete the word “in”

Page 8, under MD Health Care Cost Commission, delete the 3<sup>rd</sup> “C” from the letters “MHCCC”

Page 8, under Informational, 1<sup>st</sup> sentence, add at the end of the paragraph, “as a consumer representative”

Page 8, under Informational, add “d” to the word “re-convene”

### **Board Action**

Ms. Faltz-Jackson moved for acceptance of the February 20, 2002, public meeting minutes, with amendments. The motion was seconded by Ms. Furman and passed by the Board.

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**Pres. Ades amended the agenda until a quorum was established.**

### **Guest Presenters**

#### On-Line Licensing System Design Presentation

Ms. Naesea and Ms. Banks met with Ben Steffen and David Mitchell from Maryland Health Care Commissioner (MHCC) a week earlier to discuss the feasibility of MHCC developing the Board's on-line licensing system. The MHCC representatives gave an audio-visual presentation of a 'mock-up' system. Mr. Steffen indicated that MHCC could assist Boards in developing on-line licensure applications and that it currently has an agreement with BPQA to do so. He referenced the 2000 legislative mandate for all state departments government to offer on-line Internet access services by 2004. Ms. Naesea mentioned that MHCC could develop the system and 'troubleshoot' problems for up to a year. Mr. Mitchell stated it could take up to a year to address all of the glitches the on-line system that may occur. He also stated that there would be a \$2,000 one-time bank charge for developing up to three financial interfaces (e.g., debit card, electronic checks, credit card).

Ms. Banks reported that she met with the MD State Archives representative to discuss the possibility of their hosting the on-line system. They currently host the Board's website. She indicated that the new on-line system would be relatively inexpensive, however, the Licensing Committee need to meet with them to discuss the details. Ms. Banks stated that MHCC could also develop an on-line system for pharmacy establishments, however different processes would be required.

Ms. Banks reported that the next process in accepting the new on-line system is to ensure that everything complies with the law. After the system is developed, Ms. Banks and Mr. Konstantinov would have to determine if they could handle the system maintenance or use State Archives support. State Archives could provide a basic packet for \$1,000 per month, which includes, posting, providing a secure server, etc., to the Board. Another alternative mentioned was that the Board could rent services from another entity at a cheaper rate (i.e. Yahoo), but the Board would have less control over the system when problems occurred. During the meeting, MHCC stated that they could launch the new on-line system for testing in October 2002, following the development of a Memorandum of Understanding.

#### **Board Action**

Ms. Faltz-Jackson moved to accept the proposal for the on-line licensure registration application; pending adoption of the Memorandum of Understanding and that the Executive Committee should review and approve the financial arrangements. The motion was seconded by Mr. Balch and passed by the Board.

### **Technology and Automation Report**

#### BoP Re-Design Website

Ms. Banks gave a presentation of the re-design website for the Board to review and approve. She mentioned that the website would be launched on April 1, 2002 and Ms. Lawrence will announce it in the April's newsletter. The Board reviewed the website and was in agreement with the re-design.

#### **PEAC Update**

On behalf of PEAC, Ms. Bethany DiPaula reported that PEAC has 29 cases, 7 of the current cases are Board referred. PEAC has a new website, [www.peacmaryland.org](http://www.peacmaryland.org). The Board asked PEAC to submit an article for the Board's newsletter. PEAC is working with Neighbor Care and Giant to secure funding to support a new Director position.

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Ms. DiPaula reported that Mr. Tommasello has engaged in discussions about the relationship between the legislature, and the Board of Pharmacy in each state working with the Rehab Committee to help obtain additional funding and support. Board members suggested a meeting with PEAC to discuss further issues. Pres. Ades mentioned that he met with Milton Moskowitz regarding the Board's concerns and Mr. Moskowitz would address them to PEAC.

### **President/Executive Committee Report**

#### Drug Therapy Management (DTM) Workgroup Update

Pres. Ades and a number of workgroup representatives testified in Annapolis on HB 781 and SB 676 (Therapy Management Contract), in support of both bills. Mr. Slade stated that SB 676 second reading passed with an amendment of the effective date of regulations. HB 781 was also amended to add sponsors to the bill and it passed out of the House to the Senate. Pres. Ades thanked Mr. Slade for his hard work in implementing the bills. He also thanked members of the Board who participated in the workgroup. The Board recommended that the bill announcement be placed in the newsletter. Mr. Slade also thanked other staff and the attorney general's office for their input and hard work in the bill's passage.

#### Bio-Terrorism Task Force

Pres. Ades reported that the Bio-terrorism Task Force met last Friday, March 15, 2002. Jim "Smokey" Stanton from Maryland Institute Emergency Medicaid Service Systems (MIEMSS), provided an overview of the state's bio-terrorism efforts and the status of MIEMSS' activities. Pres. Ades thanked Ms. Lawrence and the task force for developing an excellent interim report regarding the Board's mission and the road map on the bio-terrorism. Mr. Rubin and Ms. Naesea also attended the meeting.

The next Task Force meeting is scheduled for March 29, 2002, at 8:30am.

#### Shortage of Pharmacists Task Force

Pres. Ades reported that the next Shortage of Pharmacists Task Force meeting would be held on Monday, March 25, 2002 at 5:00pm, at the Board office. Pres. Ades reported that the School of Pharmacy developed a draft survey to help provide the Task Force with a better understanding of why pharmacists' leave or stay in Maryland. Ms. Naesea stated that the Board plans to circulate the survey to 15 pharmacists to determine if it is workable, than distribute it to 300 pharmacists to receive a minimum response.\* Ms. Naesea indicated that the difficulty would be putting this survey information into a database because many of the questions are open ended. The Board is concerned about the survey being circulated to a limited amount of pharmacists. Ms. Furman recommended that the survey be disseminated to chain stores, hospitals as well as community pharmacies. The Board suggested some changes be made to the survey. Pres. Ades will take the survey back to the Task Force to discuss the Board's concerns.

*\*After the meeting, Ms. Naesea provided a corrected figure of 600 pharmacists that will receive the survey.*

### **Executive Director's Report**

#### CE Discussion Group

Ms. Naesea stated that the Board received a letter from Delegate Morhaim regarding CE requirements. Delegate Morhaim asked all of the Board Administrators to meet to determine whether requiring continuing education was the only method of assessing competence of practitioners. The Board Administrators met with Delegate Morhaim to share and exchange how their CE methods are evaluated. The Boards re-affirmed their commitment to retain the system that already exists. The Board of Nursing

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will write a letter to Delegate Morhaim to outline the deliberations among the Boards and their recommendation to continue requiring practitioners to earn CE.

### Board Staff

Ms. Naesea reported that the Legislature seems to be leaning towards rejecting all of the recommendations of the Budget Analyst regarding cutting positions. Ms. Naesea indicated that Mr. Slade is tracking the related budget bills.

Ms. Naesea announced the resignation of Ms. Andoll and thanked her for her dedication and hard work to the Board.

### Board Action

Ms. McCarthy-Hawkins motioned for Ms. Andoll to receive a Commendation. The motion was seconded by Ms. Faltz-Jackson, and passed by the Board.

Ms. Costley reported that she had requested a hiring exception to replace Ms. Andoll, but has not received a response.

### Meeting with DDC

A meeting has been scheduled to meet with Jack Freedman, Division of Drug Control, on April 2, 2002. Pres. Ades, Ms. Naesea, Ms. Andoll, and Ms. Banks will attend the meeting to discuss updating DDC's inspection forms and development of a database.

### MD Board of Education Bio-Science Meeting

Ms. Naesea reported that the State Board of Education asked the Board to send a representative to attend a meeting to discuss Bio-Science education for high school students. The Board of Education is developing a curriculum for students interested in becoming pharmacists, pharmacist technicians and working in other science professions. Ms. Naesea attended the meeting and indicated that participants reviewed different categories of actions (i.e., treatment, counseling, technical support, and clerical/administrative) required for different professions to assist high school students in determining the types of courses required for particular science professions. Ms. Faltz-Jackson recommended that Ms. Naesea ask Ms. Mattie Simms to represent the Board at the meetings because she is a pharmacist responsible for preparing students for pharmacy technician careers at one of the local high schools.

### Emergency Operations Communications Device

Ms. Naesea reported that the Board's efforts have been recognized for their emergency response activities by being included as a part of DHMH's Emergency Response Team (ERT). ERT will provide Ms. Naesea with a mobile pager to facilitate contact with DHMH. Ms. Naesea indicated that BPQA and the Board of Nursing are the only other Board's that have been included in the system. She also noted that plans are to also include the Boards of Professional Counselors and Psychology at a later date. Ms. Naesea recommended that the Bio-terrorism Task Force develop an internal emergency response system for use by Board members and staff. Dr. Love suggested that this issue be added to of the Bio-Terrorism agenda.

## **Board Counsel Report**

Mr. Ballard stated that he was asked by the Board to provide advice regarding whether the SB 234's definition of "Health Care Provider" would include a licensed pharmacist. He reported that SB 234 would authorize the Governor and the Secretary of Health and Mental Hygiene to take certain actions during "catastrophic health emergencies". SB 234 defines "Health Care Provider" as a "Health Care Practitioner" as that term is currently defined in Health-General Article ("HG"), Section 19-114(e)1. An individual

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licensed by the Board to provide pharmacy services would be included within the above definition of “Health Care Practitioners.” Such an individual would meet the definition’s requirements of being both licensed under the Health Occupations Article and of providing health care services. Mr. Ballard stated that the bill does not include pharmacies. Dr. Love asked that Howard Schiff from MPhA include this item on their agenda.

### Legislative/Regulations Report

#### Legislation Report

Mr. Slade reported that regarding the pharmacy profiles, he is currently tracking 75 bills. He reviewed those bills that may have an impact on pharmacy practice:

**SB 22. – Osteoporosis Prevention and Education Task Force.** Bill was amended to include “pharmacy.”

**SB 44 – CDS – Prescription Drug Monitoring Program.** The bill died.

**SB 265 – Persons with Limited English Proficiency.** Spanish and Asian might be the two languages that would be translated. The definition of Asian would have multiple languages.

**HB 329 – Health Care Worker Whistleblower Protection Act.** Waiting for the Committee to accept the amendment.

**SB 418 – Board of Pharmacy – Sunset Extension.** This bill passed in the Senate and forwarded to the House.

**HB 462 – Board of Pharmacy – Sunset Extension.** This bill passed in the House and forwarded to the Senate.

**HB 561 – Income Tax Credit for Services Donated by Health Care Professionals.** This bill would allow tax credits for donated services, but does not include credits for pharmacy or pharmacist. The Governor’s office pulled all the Boards off the bill.

**SB 611 – MD Pharmacy Assistance Program – Reimbursement – Diabetes Test Strips.** This bill is in second reading with amendment in the Senate.

**HB 676 – Physicians and Pharmacists – Therapy Management Contracts.** This bill passed the third reading in the Senate.

**SB 781 – Physicians and Pharmacists – Therapy Management Contracts.** This bill passed the third reading in the House.

**HB 1015 – Health Care Records – Ex Parte Communications with Health Care Providers.** This bill has not moved.

**HB 1059 - Environmental Matters.** Withdrawn on March 11, 2002.

**HB 1141 – State Advisory Council on Quality Care at the End of Life.** Ms. Furman testified to amend the bill to include pharmacist. The Committee took the amendment to include pharmacist.

**HB 1259 – Health Occupations – Medical Review Committees – Civil Immunity.** A letter of support was prepared by the Boards to support the bill.

#### Regulations Report

Mr. Slade reported that he received two comments from CVS and MACDS raising questions and objecting to the licensure fee increase. Mr. Slade stated that the Board should wait until the licensure fee increase regulations become effective before filing the reinstatement regulations. He will re-submit the reinstatement regulations to the Board before filing them.

#### 10.34.11 Monetary Penalties

Mr. Slade reported that the Disciplinary Committee reviewed the Monetary Penalties Regulations. The Board reviewed the regulations and agreed to publish them.

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### Board Action

Ms. Furman moved to publish the Monetary Penalties regulations with one amendment to alter the “Imposition of Penalties on Pharmacy Permit Holders” section stating a penalty from \$5,000 to \$7,000. The motion was seconded by Ms. McCarthy-Hawkins and passed by the Board.

### **Committee Reports**

#### **Pharmacy Practice Committee**

##### Secure Pharmacy Plus

Ms. Andoll gave the Practice Committee report on behalf of Dr. Love. Ms. Andoll stated that the Board received an inquiry from Secure Pharmacy, a provider that services correctional facilities. In the inquiry, Secure Pharmacy described their procedure for checking blister packages and asked whether a non-pharmacist could perform the final check of the finished products. The Practice Committee’s opinion was that the pharmacist must continue to perform the final check. Ms. Andoll was also instructed to inform Secure Pharmacy that changes in the unlicensed personnel regulations may be forthcoming that affect this practice. She also stated that she would ask the Director of Pharmacy if he had any interest in being on the LTC Task Force to address the needs of correctional facilities.

##### Labeling of Prescription for Certain Facilities - expiration dates

Ms. Andoll reported that Ms. Gale received a call from a pharmacist regarding prescription labels for residential DDA facilities. The pharmacist’s routine practice was to change the expiration date by hand on labels if the computer printed date was beyond the actual product date. DDA cited the facility for having “altered” labels and the pharmacy was told not to “alter” the expiration date. The pharmacist asked for guidance from the committee on how to comply with the DDA requirements and the expiration dating requirements.

Ms. Andoll stated that the Committee felt that the pharmacist’s practice was not incorrect and the more appropriate manner to address this issue was to contact DDA to find out what they consider “alteration” of the label and explains that this pharmacist’s practice was acceptable. Dr. Love stated that he is willing to work with DDA on some of these issues. Ms. Naesea noted that the Office of Health Care Quality is the entity that surveys these facilities and that Ms. Carol Benner was probably the best person to contact to discuss the issue.

##### Filing of Medication Planners

Ms. Andoll reported that she received an inquiry from a pharmacist in Easton, MD asking who can legally fill medication organizers. The pharmacist reported that the local health department was using social workers, nurses and other unlicensed employees to fill medication planners for patients. The Committee acknowledged that this issue has come up many times before and the Board’s position is that filling medication planners is an act of dispensing that may only be performed by a pharmacist or other person permitted by law to dispense. The Committee directed Ms. Andoll to contact someone at the community health department of DHMH to reiterate the Board’s position and concerns over this practice.

##### Long Term Care Task Force

Ms. Andoll reported that Ms. Furman briefly discussed a list of ideas on how to conduct a task force. Ms. Furman stated that she would forward her ideas to Ms. Naesea. Ms. Andoll drafted a letter attached with the LTC task force “Charge,” and requesting participants to be a part of the task force. Ms. Andoll asked the Board to review the draft letter and the “Charge” for approval.

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### Board Action

Dr. Love moved to adopt the LTC “Charge” and approved the draft letter. The motion was seconded by Ms. Furman and passed by the Board.

The Board recommended that Ms. Andoll send the letter to Infusion & Waiver Pharmacies, MPhA, other professional pharmacy organization, OHCQ, and the Board of Nursing, in addition to LTC pharmacies and pharmacists. Pres. Ades volunteered to be a part of the task force.

### Unlicensed Personnel Task Force

Mr. Rubin reported that he received some comments on the unlicensed personnel regulations from Ms. Andoll and Board members. He distributed the draft unlicensed personnel regulations to the committee members for comments. He plans to meet with Mr. Slade to discuss legislation and regulations on this issue.

### Nurse Dispensing Committee

Mr. Yee reported that the Nursing Dispensing Committee met on last Monday, March 18, 2002 regarding the formulary and categories of drugs that were disseminated at the last meeting. He stated that the Committee reduced the list of items on the formulary. Mr. Yee also reported that he spoke to Dr. Russell Moyer concerning some of the medications that were on the list. Dr. Moyer was receptive of his concerns and suggested that the Board follow every aspect of the Nurse Dispensing regulations. Mr. Yee stated that Richard Proctor is also concerned about the cost incurred with mismanagement of medications. Dr. Moyer stated that he would contact Mr. Proctor to discuss safety issues, mismanagement of medications and lack of training. Mr. Yee indicated that he would meet with Mr. Proctor as well.

Mr. Yee reported that at the previous Nurse Dispensing meeting, a revision was made to allow nurse practitioners to delegate their dispensing authority, instead of the physicians delegating dispensing authority to nurses. Dr. Love requested Board Counsel to issue an opinion on whether this type of delegation is legal.

The next Nurse Dispensing Committee meeting will be held on April 16, 2002, at 10:00am. Dr. Love recommended that the meeting dates go out to all Board members and if the meeting is open to the public, he suggested that Howard Schiff from MPhA attend the meeting, as well as any other interested parties. The Board directed that a letter be formulated before the next Nurse Dispensing meeting, which outlines specific issues that requires a response to the Board. Mr. Yee said he would work with Ms. Andoll in developing a letter to Mr. Richard Stringer.

### **Licensing Committee**

#### Reciprocity – List of Candidates

Mr. Rubin reported on behalf of Mr. Dyke, that the Reciprocity meeting was held on March 19, 2002. He presented the names of candidates for licensure for reciprocity in Maryland. Thirteen (13) candidates took the examination, four (4) applicants; Edna Asongwe, Tracy Love, Rhoda Onokala, and Samuel Wetherill IV, are pending oral competency and three (3) applicants; Edna Asongwe, Tracy Love, and Samuel Wetherill, II, failed the examination.

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### Candidates - Passed

Eun Hee Cha	Maria Taddeo
Donald Iakatos, Jr.	William Tegethoff, Jr
Sunny Lee	Jennifer Uphold
Debra Marks	Rhoda Onokala
Stephanie Messenger	Edward Ward
Cheryl Rinovato	

### Board Action

Ms. Furman moved to license the 10 candidates who passed the exam and to approve the other four candidates pending their meeting oral competency requirements and successfully retaking the reciprocity examination. The motion was seconded by Ms. Faltz-Jackson and passed by the Board.

### Wet Lab Examination

Ms. James reported that the spring wet lab examination is tentatively scheduled for the June 12, & 13, 2002. She will be contacting Board members to request their assistance to be proctors for the testing. The laboratory review course is scheduled for June 4 & 5, 2002.

### **Disciplinary Committee Report**

#### Complaint Form

Ms. Andoll reported that the complaint form has been revised and asked that the Board review and approve.

### Board Action

Ms. McCarthy-Hawkins moved to accept the revised complaint form. The motion was seconded by Ms. Faltz-Jackson and passed by the Board.

The next Disciplinary Committee meeting will be held on March 28, 2002 at 9:00am.

### **Public Relations Committee**

#### Consumer Survey

Ms. Lawrence presented the revised consumer survey. She thanked Dr. Love for his input and suggestions regarding the survey. Ms. Furman stated that the survey questions were not relevant to the mission of the Board (i.e., have you filed a complaint against a pharmacist and how would you rate the services you received from a pharmacy, etc.). Ms. Lawrence identified the reason that the Board requires the information asked by each questions on the survey. Dr. Love re-iterated that the survey was not projecting the Board's mission.

### Board Action

Dr. Love moved that the consumer survey not be distributed at the Flower Mart. The motion was seconded by Ms. McCarthy-Hawkins and passed by the Board.

#### HIV/AIDS Survey Results

Ms. Lawrence re-presented the HIV/AIDS survey results for the Board to review.



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### Board 100<sup>th</sup> Year Celebration

Ms. Furman stated that there is not enough interest at the Board's level to plan a big 100<sup>th</sup> celebration event. Pres. Ades informed the Board that he and Ms. Naesea will look into the planning of the event and get back to the Board.

### **Brochures**

#### Consumer Information

Ms. Lawrence presented the revised consumer information brochure. Pres. Ades was thanked for his revisions to the brochure. The brochure was reviewed and approved by the Board. Ms. Furman recommended that the brochure be distributed at the Flower Mart.

#### Medication Safety

Ms. Lawrence presented the Medication Safety brochure for review and approval.

#### PR Concerns

Ms. Faltz-Jackson stated that the Board should re-examine the Public Relation "Charge." She feels it is off track. Ms. Furman stated that Ms. Lawrence works 30 hours per week and feels that 50% of that time goes towards the Board and 50% to PR. Ms. Furman also stated that the PR Committee is not getting the support at the PR meetings from the committee members and that the Board needs to identify specific activities that PR can accomplish using the limited resources available.

### **Council of the Boards**

Ms. Naesea attended the Council of the Boards' meeting on March 4, 2002. They discussed the use of the old Montgomery building as leverage with owners of the current building (Patterson Ave.) leaseholder. Ms. Naesea stated that the Patterson Avenue building lease expires in February 2003. She also mentioned that an Assistant Attorney General discussed Boards' responsibility not to violate anti-trust laws. Mr. Ballard stated that the federal government has indicated that it will be reviewing Boards' hearing practices to insure that there are no anti-trust violations and that all Boards need to be careful to ensure fair and equitable case evaluations and subsequent orders.

**The Public Session adjourned again at 12:47 p.m.**