

**Maryland Board of Pharmacy  
Public Board Meeting – Draft  
April 16, 2003**

Mr. Stanton Ades, President called the Public Board Meeting to order at 9:30 a.m.

**Attendance**

**Commissioners Present:** Stanton G. Ades, W. Irving Lottier, Jr., John Balch; Melvin Rubin; Raymond Love, and Ramona McCarthy Hawkins.

**Commissioners Absent:** Jeanne Furman; Rev. William Johnson, Donald Yee

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

**Board Staff:** LaVerne Naesea, Director, James Slade, Legislative Officer, Catherine Putz, Compliance Officer, Deitra Gail, Compliance Specialist, Joan Lawrence, Public Relations, Shirley Costley, Administrator and Latonya Dickerson, Board Secretary

**Guests:** Jack Freeman, Drug Control; Gilbert Cohen, PEAC; Corey Johnson, HCL; Shawn Settles, HCL, Harry Crawford, HMC, and Howard Schiff, MPHA

**Recusals**

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

**Corrections and Approval of Minutes (3/19/03)**

Page 2, under Phase I Training, second sentence should read “ There were approximately, 140 attendees and at this time close to 500 pharmacists have trained out of over 800 that have volunteered.

Page 2, 3<sup>rd</sup> sentence, change the word “organizational” to “organization”.

Page 2, under Dirty bomb Radiation Risk and Response Seminar, last sentence should read, “ Representatives were present from the police department and bomb squad.

Throughout the minutes, correct the spelling of Opiod to Opioid.

Page 3, under NABP Annual Meeting, paragraph starting with NABP, next to the last line, the sentence should read, “The Board supports the proposed constitutional amendment to allow each district to elect their own representative”.

Page 3, at the bottom, Senate/House budget Hearings, the last sentence should read, “ The total budget amount for per diem payment for Board Members is \$7,000 per year.

Page 5, second line add a comma after Prohibited; under HB 883 Practitioners should read Practitioners; under HB 684 should read the bill passed the House with amendments as of today; under BOP Regulations Status, 3<sup>rd</sup> line add drug therapy management before the word regulations; under the title PEAC last sentence add the word whether after questioned.

Page 6, under Authorized Prescriber, last sentence should read “ The Committee and Board Council felt the law was clear that a pharmacist could not be employed by an entity that is owned wholly or substantially by an authorized prescriber. Under the title Long Term Care last sentence delete “the Long Term Care Committee”.

Wayne Dyke passed a motion to accept the minutes as amended. Ramona McCarthy Hawkins seconded the motion. The Board approved the motion.

### **President/Executive Committee Report – Stanton Ades**

President Ades asked meeting guests to introduce themselves and their affiliation

#### **Bioterrorism Task Force Update**

Minutes from the March 14, 2003 Bioterrorism Task Force meeting were provided. Subsequently, at another meeting on March 28, 2003, Mr. Ades stated that the Committee would send an original letter from the Task Force to the Governor, Secretary and Thomas Lockwood, Director of Maryland Homeland Security. The letter was forward to Richard Proctor with a letter of explanation. The Task Force is currently, awaiting further communication from Mr. Proctor’s office before distribution of the letter. The Task Force discussed the possible venues for the next training session. There was initial discussion on Phase II training. The Board’s 800 number is working. The Board members and staff received the script and access information for the 800 number. Dr. Love stated that the Task Force identified key board members who will be activated and deployed to the Command Center. The Task Force also discussed responsibilities of Board Members during an emergency. Essentially, a Board member from the Committee will be present at the DHMH Emergency Command Center during an emergency. In addition, Board members and staff will go to a designated location to contact volunteers. President Ades announced the next Task Force meeting is Friday, April 18, 2003.

#### **Canadian Importations**

Movement was on the way within the past week by NADCS to contact members of Congress with talking points regarding this problem. Federal Bills have been introduced and are based on the premise that it is not a legal practice to import these into the country and a number of other reasons why importation of these Canadian drugs are excused. Ms. Naesea stated that it was recommended that the Board contact Elijah Cummings and other Congress members in Maryland to participate in resolving Canadian importation issues. Ms. Naesea referred the task to Mr. Ades.

HB 423 – “Health Care- Programs and Facilities – Pain Management”

The first Health Care- Programs and Facilities – Pain Management meeting is April 23, 2003, 3:30 pm to 5:30 pm in Lobby Level Conference Room L2 at the Maryland Department of

Health and Mental Hygiene, 201 W. Preston Street, Baltimore, Maryland. There are pharmacists on the panel. Judge Fader is also on the panel, not as a pharmacist. Ms. Naesea noted the material the panel will discuss at the meeting is in the conference room on the bookshelf or you can ask Latonya Dickerson, Board Secretary for this information.

## **Executive Director's Report**

### **Nominations/Elections**

Ms. Naesea opened Nominations/Elections. Ms. Naesea asked if there are any other nominations from the floor. The President nominee is Stanton Ades. The Secretary nominee is Mel Rubin. The Treasurer nominee is Jeanne Furman. Ms. Naesea closed the nominations. Ms. Dickerson passed out the election ballots for the term from July – June 30, 2004. There was only one nominee for each office. The Board members completed the official ballots. Ms. Dickerson collected the ballots, counted them. Ms. Naesea announced the results of the election.

### **Managing for Results 2003 Projections**

A draft of the 2003 Managing for Results report will be submitted to Board members upon its completion. Ms. Robin Elliott of the Executive Office at DHMH has been assigned to track the Board's progress in meeting projected objectives through use of a spreadsheet (draft handed out at the Board meeting). The actual report is due on April 18, 2003, with revisions to be submitted in October 2003. Some of the Board's objectives reflect those that were included in the Board's original Strategic Plan. Through the third quarter, the turn around time from receiving a complete application (with all required information) to sending out the license is 8 days; despite a projection of six days. Ms. Naesea noted that some of the delay was related to vacancies in the Licensing Unit and she asked the Licensing Committee to begin reviewing statistics quarterly. The number of complaints investigated through the third quarter was 52. Mr. Slade noted that the Public Packet goes out to 30 interested individuals and that he is working on a survey to be completed by them before the end of the fiscal year. A second survey was to be issued to consumers, however, following Dr. Love's suggestion that it not be issued due to resource and budgetary constraints, the Board members agreed not to survey consumers in FY 2003.

### **2003 3<sup>rd</sup> Quarter Budget Report – Irv Lottier**

Irv Lottier reviewed the FY 2003 3<sup>rd</sup> quarter budget report (See attachment). The Board accepted the report. Ms. Naesea noted that when the Board begins on-line licensing, there will be a charge of approximately \$4.00 for each individual fee charged on a credit card. She suggested that the Board pay the fee for the credit card debits rather than additionally charging the applicants. Mr. Lottier move for the Board to absorb the credit card fee of \$4 for each on-line registration. Mrs. McCarthy seconded the motion, which was passed by the full Board.

## **Regulations/Legislative Officer Report**

### **BOP Regulations Status**

The formal hearing regulations are expected to be published in April 18, 2003 Maryland Register. Mr. Slade filed the re-proposal for Patient Safety Improvements Regulations. Mr. Slade also filed the publication packet for Drug Therapy Management.

### Legislative Profile – Pharmacy

The profile was printed April 7, 2003. Changes have occurred since then. At the next meeting, the final profile will be included. The False, Fictitious, or Fraudulent Representations to the Legislative Branch Units failed again. The Higher Education-Moratorium on New Programs failed. The Dispensing Monitoring Program failed.

- HB 69 – Income Tax Credit for Services Donated by Health Care Professionals – This bill did not go anywhere again this year. A pharmacist is still not included.
- HB 143 – Maryland Medbank Program – Administration, Extension, and Funding – passed.
- HB 164 – Health Occupations – Medical Review Committees - passed
- SB 195 – Family law – Child Abuse and Neglect – Failure to Report – Penalty – failed
- SB 224 – Board of Physician Quality Assurance – Office Based, Medication-Assisted Opioid Addiction – passed; BPQA will have to contract with someone to train doctors so they can apply for a SAMHSA waiver.
- HB 354 – Public Health – Licensed Pharmacists – Dispensing Emergency Contraception – failed
- HB 363 – Maryland Medical Assistance Program – Maryland Pharmacy Access Hotline – Medical Assistance will be setting up a hotline for medical assistance patients who cannot get their medication. Passed
- SB 376 – Health – Pharmacies – Electronic Reimbursement by the Department of Health and Mental Hygiene – Passed; which states if pharmacies are required to submit claim for reimbursement to the Department in electronic form, the pharmacy can choose to be reimbursed electronically.
- HB 410 – Health Insurance – Private Review Agents – Examination of Pharmacy Benefit Managers passed; every three years the MIA will examine PBMs to see if they are complying with the private review agent statute.
- SB 500 - Department of Health and Mental Hygiene – State Board of Physicians – Passed. There is a five-year extension. This bill gets rid of their Board members July 31, 2003. They will have a new Board on August 1, 2003. The Board will have to report to the Legislature every year during the five years. Mr. Slade will include in the Board packet next month.
- SB 511 – State Agencies – Managing for Results – failed
- SB 522 – Administrative Procedure Act – Contested Cases – Time Limit for Making Final Decision – passed
- SB 537 – Health Occupations – Gifts from Pharmaceutical Manufacturers or Pharmaceutical Marketers – Prohibited – failed
- SB 553 – Assisted Living Facilities – Certification – Third party Accreditation Programs passed; this bill provides for an evaluation of small and large assisted living facilities. The Board may want to be involved in that evaluation since pharmacy is an issue for assisted living.
- SB 677 – Maryland Health Care Commission – Fees-Health Care Practitioner –

- did not pass
- HB 684 – Pharmacists – Practice Information on Generic Drug Option – passed (will be included in next months Board packet)
  - HB 725 – Senior Citizen Prescription Medicine Relief Act – didn't go anywhere
  - HB 753 – Taxes and Revenues - the bill passed with amendments excluding the Boards
  - HB 761 - Task Force to Study the Reorganization of the Department of Health and Mental Hygiene – passed
  - HB 824 - Health Care Services Disparities Prevention Act – amended in the Senate; passed; Being a part of the task force will be brought up at the Boards and Commissions meeting
  - HB 950 - Maryland Pharmacy Assistance Program – Co-payment – passed; changes co pay of generic or brand drug on the preferred drug list to \$2.50 and if the drug is not on the preferred drug list, the co pay will be \$7.50

Mr. Slade noted that he will provide the bills he spoke about which are not included in the packet next month.

The Pharmacy Reciprocity fee came effective March 3, 2003.

Dr. Love asked that the Board begin thinking about what, if anything, it would like to propose next year. Mr. Slade advised the Board that in order to prepare ahead for next legislative session, usually the Department requires preliminary legislative proposals in June.

Mr. Slade stated that the Senior Pharmacy Association and MSHP ask him to speak at some of their meetings. The Board agreed that he could speak at the meetings.

#### **PEAC (Pharmacists Education and Assistance Committee) – Update**

PEAC has chosen October 16, 2003 for its next pharmacists continuing educational session. The CE program will take place at the Handelman Center. PEAC is presently determining speakers working on a database to enable PEAC to give a history of the number of cases and the outcomes of pharmacists served. The Committee is also in the process of hiring an Executive Director. The number of cases is 27. PEAC will send a representative to the Disciplinary Committee meeting next week. PEAC has a new format for their meetings. During the first month, the agenda will include business items and the second month will be a review of cases. The Board will present at the CE program and a client will be invited to tell their experience of having successfully completing the program. Ms. Naesea will email the final draft of the PEAC RFP to Board Members. The RFP extension is July 31, 2003.

#### **COMMITTEE REPORTS**

##### **Pharmacy Practice Committee**

The Pharmacy Practice Committee did not meet April 5, 2003, so there is no formal report.

The Long Term Care Committee is revising the Long Term Care Regulations that have existed since 1996. Mr. Balch stated that they will address problems that have existed in assisted living facilities and mailed medication issues.

Mr. Slade indicated that SB 553, Assisted Living Facilities - Certification - Third Party Accreditation Programs, passed and that it included a provision stating that an evaluation of assisted living programs in Maryland would be performed. Mr. Slade asked if the Board should ask to be involved in the evaluation. The Board indicated that it would like to be involved. Mr. Slade said that he would draft a letter to the Department requesting to be a part of the evaluation. Dr. Love requested that Mr. Slade include the reasons that the Board wants to be involved in the letter.

Ms. Putz stated that she is in the process of writing a letter to the Office of Health Care Quality regarding improperly or labeled medications dispensed by physicians. This would be educational in nature because the OHCQ may not be aware of this happening.

### **Licensing Committee**

The Licensing Committee met on April 15, 2003. The Licensing Unit Statistics were included in your packets.

### **Reciprocity Candidates**

There were seven (7) new licensees by reciprocity in March. They were issued to James Blake, David McLeland, Hang Nguyen, Joseph Campbell, Nnedinma Ezenwa, Steven Stein, and Batoul Senhaji. Ms. James stated that the BOP received the wall certificates and pointed out changes to the format.

### **Foreign Graduate Requirements**

The FPGEE exam is scheduled to be reinstated beginning June 21, 2003, and again January 2004. The registration for the exam in New York is closed because they have a maximum number of over candidates to be tested. Other states, including Dallas, Chicago and Oakland are still accepting registrations.

The requirements for five years of school for foreign graduate apply despite the fact that Canadian Colleges of Pharmacy and a Lebanese College of Pharmacy are now ACPE accredited.

NABP requested the Board to respond to a survey about how the Board is going to proceed with ACPE recognized schools in Canada or other countries. The Licensing Committee decided that foreign graduates of ACPE accredited schools would be required to meet the same requirements that US graduates must meet. If it is non-ACPE, the foreign graduate equivalence examination and certification requirements apply. Those non-ACPE foreign graduates who take the FPGEE do not take Maryland's Oral Competency examination because they already take an oral examination, the TSE as part of their FPGEE certification process.

### Regulations

The Committee also discussed regulations related to establishments that only change their names. Mr. Slade suggested including something in the regulations to specifically address establishment name changes. Presently, there is not a fee for changing just the name.

### Licensing Questions

The Board packet included a handout addressing Internet Pharmacy Regulations. The Committee will be reviewing the regulations in concert with the NABP model. The committee needs to determine whether the Board should provide a specialty license and develop regulations that specifically address internet pharmacies. State such as California, Montana, Indiana, Ohio, have each addressed the need to regulate the entities from a different angle. The Committee will keep the Board updated.

The Board packet included an email from a veterinarian who asked to open a pharmacy, including a retail shop that will sell pet supplies. The Board asked Mr. Ballard to respond that the veterinarian may only dispense medications to her own patients.

The Board also responded to a letter from Wildlife Pharmaceuticals. The Colorado group has a pharmacy called Zoo Farm that sells one or two shipments of 10 ML vials to the Baltimore Zoo per year. The company did not want to get a non-resident pharmacy permit because of its limited trade in MD. The Board determined that this issue might not be under its jurisdiction

### Inactive Status for Retirees

The Board not to have an inactive status, but to add inactive pharmacists on the mailing list to receive updated information.

### **Disciplinary Committee**

Mrs. Deitra Gale presented a draft of Guidelines for Unlicensed Practice by Pharmacists. The Board suggested changes to the draft. Mrs. Gail will make the changes and take back to the Committee for further review. Mrs. Gail will email the updated draft to Board Members.

### USP

Ms. Furman received an email from Shawn Becker, Director, Patient Safety Initiatives, USP Center for the Advancement of Patient Safety requesting the BOP to submit reports in writing, by fax or by the internet of a Medication Errors Reporting (MER) form and send to USP. The Board decided to request information that is more detailed from Mr. Becker. Ms. Naesea will report to the Board what impact this will have on Staff.

### Privacy Notification

Mr. Mel Rubin will give a report at next months' Board meeting.

### **Public Relations Report**

#### NABP Poster Session

Ms. Lawrence distributed April's newsletter and the Board of Pharmacy Bio-terrorism Emergency Preparedness Deployment Plan to Board members.

At the March Board meeting, the Board asked Ms. Lawrence to create a Poster Board for presentation at NABP Annual Conference Poster Session in May. Ms. Lawrence presented the Poster that highlighted Drug Therapy Management and Bio-terrorism Emergency Preparedness. Ms. Furman, Mr. Rubin, Ms. Putz and Mr. Slade will present the Poster at the Annual Meeting. Ms. Lawrence also stated that handouts of press releases and DTM information would be available.

### **Board Action**

Mel Rubin moved to accept the poster presented for the NABP Conference, Dr. Love seconded the motion, which was passed.

### **HIPAA**

Mr. Dyke asked members what the role the Board had in implementing HIPAA. He stated that HIPAA Regulations requires compliance with patient confidentiality requirements. He provided a scenario regarding whether medication information for an individual under age of 18 who consented to a medical treatment must be protected from a parent; including, the number of prescriptions left for refill. Dr. Love stated that the Board is not responsible for enforcing the HIPAA requirements. However, if there is a complaint about privacy the Board is responsible for responding to the complaint. Mr. Ballard stated that Pharmacy Code of Conduct requires the pharmacist to ensure confidentiality unless they have the patient's consent or unless the disclosure is pursuant to the Medical Records Act. It was determined that the Board is not responsible for educating pharmacists about HIPAA Regulations. The Board directed staff to ensure that it has appropriate procedures in place to safeguard health information collected. Mr. Ballard recommended that reasonable precautions taken by staff would suffice.

### **Council of Boards Report**

The Council of Boards will be holding a welcoming reception for Secretary Nelson J. Sabatini on Monday, May 5, 2003, 4:00 p.m. in Room 109, at 4201 Patterson Avenue, Baltimore, Maryland 21215.

Mel Rubin has been nominated to chair the Council of Boards and Commission.

**Mr. Ades adjourned the Public Session at 12:15 p.m.**

## **PUBLIC SESSION**

### **Board Action**

Dr. Love made a motion to end the Executive Session and open the Public Session at 3:00 p.m. Mr. Balch seconded the motion. The Board passed the motion.

### **Richard Benchoff**

Mr. Benchoff petitioned the Board for reinstatement by sending two letters in December 2002 and March 2003. Ms. Gale included in the packet a Summary of Board Actions/Events for Mr. Benchoff from 1985 – March 2003. The Board denied reinstatement December 2000 until he completed his PEAC contract. To date Mr. Benchoff has completed his PEAC contract as of



November 2002. PEAC has given him a good report. Ms. Gale will question when he attended his last therapy appointment.

Board Action

The Board voted to invite Mr. Benchhoff to attend the Board meeting in June 2003, to obtain additional information.

Moslem Eskandari – Petition for Reinstatement

Mrs. Gale reported that Mr. Eskandari did not submit the proper reports requested of him to comply with the Consent Order. Mr. Rubin made a motion to deny Mr. Eskandari reinstatement until he complies with the order. Mr. Balch seconded the motion; motion passed.

**Meeting Adjourned at 3:35 p.m.**