

# Maryland Board Of Pharmacy Public Minutes - February 16, 2000

Public Session called to order at 8:45 A.M.

## Attendance

Commissioners Present: Stanton Ades, President, Irving Lottier, Secretary, Wayne Dyke, Ramona McCarthy-Hawkins, Jeanne Gilligan-Furman, Donald Yee, Barbara Faltz-Jackson, John Balch, Laura Schneider, and Dr. Raymond Love

Commissioners absent: Rev. William Johnson and Melvin Rubin

Board Counsel: Paul Ballard, Esq.

Board Staff: LaVerne G. Naesea, Executive Director, Michelle Andoll, Pharmacy Compliance Officer, and Wendy Wilson, Secretary

Guests Present: Nathan Gruz, Kathryn Lavriha, Mike Nicholson, Dorothy Levi, Robert Feroli, Carly Yale, Catherine Putz, Howard Schiff, Gary Flax, Dr. Robert Beardsley, David Knapp, Milton Moskowitz, Robert VlK, Marty Eng, Dan Thomas, Geraldine Valentino and Karen Nishi.

## Introductions

President Stanton Ades introduced the Board's new Executive Director LaVerne G. Naesea.

## Recusals

Members of the Board with a conflict of interest relating to an item on the agenda were asked to notify the Board. There were no recusals.

## Approval of Minutes

A motion was made by Ms. McCarthy-Hawkins to approve the January 19, 2000 minutes. Mr. Yee seconded the motion and the Board unanimously voted to approved the minutes.

## Executive Director's Report/Executive Committee Report

### Status of Hires

Ms. Naesea introduced the Board's new Legislative Officer James Slade, Esq., who is also assigned to work with the Board of Social Work.

- Compliance Analyst - Position Advertised .

Ms. Andoll reported that this position was originally planned as a fifty (50%) percent pharmacist that would assist with the Board's disciplinary activities. The position was later reclassified as a Compliance Analyst/Health Occupation Investigator. The position was advertised in the Sun Paper on February 2, 2000 with a closing date of February 21, 2000. Several responses were submitted and Ms. Andoll will begin interviews on the week of February 28, 2000.

- Fiscal Affairs Officer and Data Entry Clerk

The Board submitted requests to fill the new positions in its FY 2001 Budget Request. The specific request included converting the contractual Data Entry/Verifier position to a permanent position and for a new contractual position to manage fiscal and administrative functions. The legislative analyst report received from the State Office of Legislative Review in Annapolis recommended that both positions not be approved. The report indicated that the analyst felt that

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the Board has the internal capacity to meet the needs of both positions. The Board has challenged the recommendations in writing and Ms. Naesea will also testify day before the Senate Sub-committee on Economic and Environmental Matter on February 17, 2000. An update will be provided to the Board at the March meeting.

Ms. Naesea indicated that the legislative analyst report also criticized the health professional boards' Managing for Results plans. She stated that the Board of Pharmacy would revise its plan to so it will more comprehensively reflect the its mission, vision and measurable goals and outcomes.

Finally, Ms. Naesea reported that the analyst report stated that the majority of the health boards have excessive fund balances. She indicated that the Board of Pharmacy has implemented a plan to reduce licensing fees in order to reduce the Board=s surplus. This plan has been submitted in written testimony to the Senate Sub-committee.

### Office Space

Ms. Naesea reported that the Board is scheduled to move into the space (previously occupied by the Dental Board) on Thursday, February 17, 2000.

### Board Composition

A summary of the Board membership and their terms was distributed. This item was provided for informational purposes only.

### Guest Presenters

- Dean David Knapp and Dr. Robert Beardsley – University of MD School of Pharmacy

Mr. Knapp and Dr. Beardsley appeared before the Board, to discuss the current and anticipated manpower shortage problem in the pharmacy profession. Mr. Knapp reported that for the last few years the School of Pharmacy has been meeting with representatives from the Board on a quarterly basis regarding issues of work force and pharmacist shortages. Mr. Knapp stated that due to the unexpected introduction of new drugs driven by user fees, there has been a surge in prescription volumes. Mr. Knapp also stated that there has been a rapid growth in third-party payments where consumers receive prescription drugs for only a small co-payment. Mr. Knapp stated that the prescription volume has been estimated at a four billion prescriptions annually. He indicated that School of Pharmacy staff and faculty have engaged in discussions to address the need to increase the University's pharmacist enrollment. Several avenues have been considered regarding the increase in demand for filling prescriptions. One avenue may include revising the course curriculum to provide training about the increase productivity demands of pharmacists. The training would provide methods for students to better utilize supportive personnel, provide better oversight and supervision of technicians, and teach more about drug distribution systems (e.g., automated dispensing systems), while ensuring that public safety is maintained.

A second avenue described by Mr. Knapp, for the school to meet the pharmacist shortage, is to increase enrollment. He said that the school would recruit for a class of one hundred and fifteen (115) students this fall, which would increase the class size by fifteen (15) percent. Mr. Knapp deferred further comments to Dr. Beardsley, who stated the school is also working on strategies to increase people's awareness of the role of the pharmacist. He stated the school is currently in its cycle of admissions and all indications show that they are recruiting at a higher rate than last year.

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In conclusion, Mr. Knapp stated that the school plans on implementing a very aggressive recruiting program and suggested that the Board continue to dialogue with the school to develop strategies for addressing the pharmacist shortage. Several Board members supported Mr. Knapp's suggestion during the ensuing discussion, recommending sources for recruiting potential students (i.e., local high schools, etc.)

### Board Counsel Report - Paul Ballard

Mr. Ballard stated that he did not have a prepared report.

### Committee Reports -

#### Licensing Committee - Wayne Dyke

- Mr. Dyke reported that seven (7) candidates attended the reciprocity meeting held on February 15, 2000. The names are as follows: Chloe Chau, Gina Cohenour, Amy Graham, Godwin Okoye, Paul Pham, Diane Powderly, Poh Tam. Four (4) additional candidates were scheduled to attend the reciprocity meeting on the date of the Board meeting (February 16, 2000), they were: Kristine Leahy, Ruth Swann, Piotr Cymbalski and Rola El-Siblan. Mr. Dyke motioned to have candidates, who attended the reciprocity meeting held on February 15 and 16, 2000, approved for licensure in the State of Maryland. Mr. Yee seconded the motion, and the Board voted to unanimously support the motion.
- The Licensing Committee is scheduled to meet on Thursday, February 24, 2000, at 9:00 a.m., at 4201 Patterson Avenue, Baltimore, MD 21234. Representatives from the Division of Drug Control (DDC) will be invited to attend the meeting.
- The June examination is scheduled for the week of June 12, 2000.

#### Regulation and Legislation Update

- Mr. Slade, Board's Legislative Officer, stated that final changes were made to *the Format of Prescription Transmission* regulation. These changes are as follows:
  - < .01 Scope B, the word "do" was changed to "does".
  - < .03 Prescription Records A. (1) the words "and accurately" were added.
- Senate Bills 649/621 and House Bill 178

*Senate Bills 649* requires pharmacies to participate in the Maryland Medical Assistance Program and to charge Medicare beneficiaries the medicaid allowable price for prescriptions. Mr. Slade stated that the bill might not allow Medicare beneficiaries to use program reimbursement rates for over-the-counter and compounded prescriptions.

*Senate Bill 621* will increase the maximum income level through the Maryland Pharmaceutical Assistance Program in order to make more people eligible. It will also increase the co-pay from five (\$5) to six (\$6) dollars. Further, the bill requires a study and proposal for a buy in program that will allow people who are not illegible under the income requirements to buy into the program. Mr. Slade stated that he would like to draft a letter of support for this bill.

*House Bill 178*, entitled the Drug Dealer Liability Act, will make persons liable in a civil action who manufacture, distribute, dispense, bring into, or transport in the State of Maryland a Controlled Dangerous Substance (CDS). Mr. Slade stated that this bill does not exclude pharmacists. Mr. Slade stated that what is most interesting about this bill is that it prohibits a

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third party from paying damages awarded under a proceeding. The bill has another interesting clause which states that a person entitled to bring a civil action under this subtitle may seek damages from a defendant who manufactured, distributed, dispensed, brought into, or transported in the State a CDS that was actually used by the individual user.

The bill further indicates that a third party may not pay damages or provide money for defense on behalf of an insured under a contract of insurance or indemnification. Mr. Slade stated that this bill appears to allow for personal liability and stated that he does not agree with this clause.

Two (2) similar bills were introduced in 1996 and 1998 that were not passed. Mr. Slade stated that he spoke with Vice Chair Dorry, an aid at the School of Pharmacy, who stated that the bills had been amended to add to word *unlawfully* to cover those who are licensed. Mr. Slade stated that he was informed that the bill will be voted on by the week ending February 18, 2000 and recommended faxing a letter to legislation listing the concerns in respect to House Bill 178.

- Comments from Legislative Representative

Ms. Geraldine Valentino, lobbyist for Maryland Assurance Chain Drug Stores (MACDS), reported on several Bills as follows:

- < House Bill 178, Drug Dealer Liability Act - though the word *unlawfully* has been added to the bill, it could be interpreted as the prescription possibly having come from a stolen drug pad or as an unlawful prescription from a pharmacist. She stated that upon discussion with counsel, MACDS decided that the word *unlawfully* would be deleted.
- < House Bill 783, Prescription Drug Requiring Labeling - the bill, submitted by Delegate Morhaim and Shirley Nathan-Pulliam, requires consumers to be notified if a prescription is to be filled as a generic. The bill has not been scheduled for a hearing.
- < House Bill 813, Narrow Therapeutic Index Drugs - the bill was put in to create a class of drugs called Narrow Therapeutic Index Drugs. The bill would not allow a pharmacist to change the prescription on refills. Ms. Valentino stated that Delegate Elliott is the bill sponsor and that thus far, North Carolina is the only state that has passed this bill.
- < House Bill 895, Prescription Drug Cards - the bill requires a uniform prescription drug card. This bill has been submitted to legislation in Virginia. Ms. Valentino stated that this bill is expected to have a lot of opposition. It requires that the card have a certain number of uniform elements based on the recommendation of the National Council for Prescription Drug Programs (NCPDP) acceptable to the Maryland Insurance Commissioner.
- < House Bill 896, Equitable Reimbursement for Prescription Drugs – the bill contains language that disallows bias between drugs that are filled in a pharmacy and drugs that are filled by mail order.
- < Senate Bill 649, Pharmacies discount for Medicare Beneficiaries - the bill will allow Medicare beneficiaries to have prescriptions filled at the Medicaid rate.

### Board Action

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Dr. Love motioned that the Format of Prescriptions regulations as presented by Mr. Slade for publication for the Maryland Register be forwarded to regulation for publication in the Maryland Register. The motion was seconded by Mrs. Faltz-Jackson, with a unanimous decision from the Board.

### PEAC (Pharmacists Education and Assistance Committee) Update - Milton Moskowitz

- Mr. Moskowitz stated that no report can describe the pain and anguish of an impaired recovering pharmacist and his family. He said that he wanted to emphasize that the Committee members' emotions are involved in these types of impairments. Mr. Moskowitz stated that PEAC currently has twenty-seven (27) cases of which eight (8) cases are Board referred under Consent Orders and four (4) are new clients since last years report. He said that the Committee is at the beginning of a marketing campaign to establish a comprehensive approach for a greater presence in the pharmacy community.
- The Committee is planning a day long seminar and solicited the Board's and the School of Pharmacy's support.
- The Board was requested to consider including some of the Committee's activities on its website.
- The Committee is attempting to secure additional private funds to enable the Committee to handle more cases and develop a computer database that is compatible with the Board's format.
- Committee members will attend the Utah School of Alcoholism and Substance Abuse Program on June 18 to 23, 2000. The Committee will also sponsor some students to attend the program.

### Pharmacy Practice Committee - Ray Love

The Committee met on February 2, 2000 at which time the issuance of regulations regarding the transfer of medication between pharmacies was discussed. Dr. Love stated that some suggestions were made by DDC and were placed in a format for the Committee to consider. He said that the Committee was not able to discuss this issue, but will address it at its meeting on Thursday, March 2, 2000, at 4:30 p.m., at 4201 Patterson Avenue, Room 215, Baltimore, MD 21215.

- Unlicensed Personnel Task Force

No report was made.

- Automation Task Force

Dr. Love stated that Ms. Furman has chaired the Automation Task Force for the past year. This task force has dealt with several issues regarding automated medication distribution systems. Dr. Love stated that the Board had several concerns regarding this issue. Dr. Love stated that several systems were in use, that may be illegal according to current regulations and status.

#### *Report by Jeanne Furman on Draft Regulations:*

The Task Force had a cross of good representation of different practice settings. The majority of the Task Force consisted of those in the area of acute care hospitals. The most controversial use of the automated dispensing systems are uses in the acute care hospitals and long term care settings. Other states' regulations were solicited as a starting point for the Task Force. The language in the circulating draft regulations is not final.

Following Ms. Furman's opening statements, several meeting participants expressed concerns

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regarding the use of only one medication in each automated dispensing system. Ms. Furman thanked participants for their input and invited them to submit concerns, along with alternative solutions in writing.

### Medication Error Prevention Project -- Donald Yee

The Task Force will meet on February 23, 2000, at 4:30 p.m., at 4201 Patterson Avenue, Baltimore, MD 21234, room 215. Bruce Gordon of Becton Dickinson will make a presentation at the meeting.

### Public Relations Committee/Counsel of Boards Report - Barbara Faltz-Jackson

- Members of the Committee suggested that a public relations person be hired to perform extensive research regarding consumer issues. Ms. Furman stated that Ms. Banks is preparing a RFP to present to the Board for a media consultant. Mrs. Faltz-Jackson stated that she would like the contract to become effective as soon as possible because she anticipated the Board being called upon more frequently to address consumer concerns. Mrs. Faltz-Jackson stated that she wants the Committee to become more involved with different related events that will be taking place in and around Maryland.
- Media Campaign - Mrs. Faltz-Jackson reported that a representative from WBAL Television interviewed Ms. Andoll regarding the advantages for patients to use one pharmacy. Mrs. Faltz-Jackson reported that the committee discussed progress of the media campaign. The Reeves Agency has submitted summaries of the type of media that they plan to present to the Oversight Committee. Mrs. Faltz-Jackson stated that at the Committee's next meeting, The Reeves Agency will present and detail their ideas on handouts, radio spots, print ads and television opportunities regarding media relations. Mrs. Faltz-Jackson stated that The Reeves Agency expects to present their ideas in funding proposals on Thursday, February 23, 2000.

### Budget Committee – Irv Lottier

Mr. Lottier distributed copies of the Budget Committee Report.

### **Question(s) for the Board**

#### Giant Food - request to require brand name on label of generic prescriptions.

Gary J. Wirth, Assistant Director, Managed Care Programs of Giant Food, Inc., wrote to the Board requesting the Board's assistance in reducing the confusion of patients when receiving generic drugs. Ms. Andoll stated that the Board's concern was how copyright trademark laws would prohibit the Board from requiring the use of the trade names. Ms. Andoll stated that she and Board Counsel, Paul Ballard researched the issue.

### Renewal Reminders

Dr. Love motioned to have the Executive Director, Ms. Naesea develop a mechanism of mailing out reminder notices for licensees. The motion was seconded by Mrs. Faltz-Jackson, with a unanimous decision from the Board.

#### Request to support a model bill mandating the use of a uniform prescription drug card for insurance claims.

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The National Association of Chain Drug Stores (NACDS), The American Pharmaceutical Association (APHA) and the National Community Pharmacists Association (NCPA) have developed a model bill mandating the use of a uniform prescription drug card for processing insurance claims. No decision was made concerning this issue.

### **Informational**

- Board Offices will be closed on Monday, February 21, 2000 in Observance of Washington=s Birthday
- Maryland Pharmacist=s Association Mid-Year Meeting Conference Report
- Ms. Naesea will attend a New Director Orientation Training in Chicago on Thursday 24, and Friday 25, 2000.

### **Follow - Up Letters/Meetings**

Nurse Midwives Formulary - Don Yee

Physician Delegation of Duties to Persons Not Authorized - Ray Love

Meeting Adjourned at 12:00 noon.

Respectfully submitted,

W. Irving Lottier, Jr.  
Secretary

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