

Maryland Board of Pharmacy

Public Board Meeting – September 12, 2001

President Ades called the Public Session of the September 12, 2001, Board meeting to order at 9:10 a.m.

Attendance:

Commissioners Present: Stanton Ades, President; W. Irving Lottier, Jr., John Balch; Laura Schneider; Melvin Rubin; Donald Yee; Ramona McCarthy-Hawkins; Raymond Love; Jeanne Furman; Wayne Dyke; and Rev. William Johnson.

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; Shirley Costley, Personnel/Fiscal Officer; and Angela Hamlin, Executive Secretary

Absent: Barbara Faltz-Jackson, Commissioner

Guests: Cathy Putz (Division of Drug Control); Laurie Mohler (PEAC); Janet Mighty (MSHP); Howard Schiff (MPhA); and Jennifer Pierce (Pharmacy Student); and Austin Ladic (Uof Md Pharmacy Student)

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

Page 1, under Guests, Phil's last name is spelled *Cogan*

Page 3, under Upcoming Conferences, Board Action, Mr. Dyke was absent, the vote came from "*Mr. Balch*"

Page 5, top of the page, 2nd sentence should read "*Dr. Love made a suggestion at the Committee meeting that they*"

Board Action

Ms. McCarthy-Hawkins moved for acceptance of the August 15, 2001, Public meeting minutes as amended. The motion was seconded by Ms. Furman and passed by the Board.

President/Executive Committee Report

Drug Therapy Management Workgroup

Mr. Ades reported that representatives of the Drug Therapy Management Workgroup gave a presentation before the Environment Matters Committee on August 28, 2001. Mr. Ades, Mr. Slade and Ms. Naesea represented the Board of Pharmacy, George Voxakis represented the pharmacy community, Irv Pinder and Marie Savage represented BPQA and Jay Schwartz represented MedChi. Mr. Ades mentioned that the Committee Chair, Del. Hurson, was concerned about the legality of Drug Therapy Management in institutions and facilities (hospitals & long term care) and recommended a request to the Office of Attorney General for a legal opinion. Mr. Ballard is drafting an advice of counsel. Dr. Love suggested that when Mr. Ballard completes the advice of counsel, that it be distributed to the board members.

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Chairman Hurson reiterated to representatives of the workgroup that they should continue working together for resolution. Mr. Ades said he would convey Chairman Hurson's message at the next Drug Therapy Management meeting. The next Drug Therapy Management meeting is scheduled for September 21, 2001 @ 10:00a.m. The workgroup has arranged for a representative from North Carolina to discuss Drug Therapy Management in her state.

Pharmacy Shortage Task Force

Mr. Ades reported that the Pharmacy Shortage Task Force will meet in October, and Secretary Georges Benjamin will chair the meeting. At this time, the Office of Appointments for Nominations is accumulating biographies from the invited participants.

NCCMERP – Workshop

Mr. Ades mentioned that the National Coordinating Council for Medication Error Reporting and Prevention is holding a conference on October 10, 2001, in Washington, D.C. and requested that Ms. Furman attend the conference. Ms. Furman will attend and mentioned that the conference would be panel discussion with different groups and representatives from different pharmacies and organizations.

Board Hearings

Mr. Ades addressed board members regarding concerns related to scheduling hearings. Mr. Ballard provided two suggestions for scheduling hearings: 1) If the Board anticipates a hearing lasting longer than one day, than the board may want to delegate it to an administrative law judge to hear the case and issue a proposed decision. The Board would have to hold an exception hearing regarding the administrative law judge's proposed decision and that exception hearing would probably last a hour or less, possibly the day of the Board meeting. 2) As an alternative, regulations or legislations could be proposed to hold a hearing with panels of 3 to 5 board members (less than a quorum). They would issue a decision for the entire Board. The Board could only have exception to decisions made. This is not something that could occur before 2003 since it requires legislation.

Dr. Love asked what the financial implications would be if an administrative law judge was used. Ms. Naesea and Mr. Ballard indicated that it would be very expensive, approximately \$10,000 per hearing.

Dr. Love asked Mr. Ballard if the Board has the ability to charge for court cost as part of a verdict. Mr. Ballard replied that the cost of the proceeding could be assessed and charged to the licensee, but it would take statutory amendment. Dr. Love recommended that the Board put on its legislative agenda to anticipate a future cost and have that cost recovered if any individual is found guilty. Mr. Ballard indicated that the cost for hearings is determined by what was charged previous year.

Mr. Balch asked whether other boards are having the same difficulty scheduling hearings. Ms. Naesea replied yes, and Mr. Ballard implied that the Boards of Psychology and Physical Therapy (PT) are having these difficulties. Mr. Ballard mentioned that the PT board members use panels of three, which is less than a quorum.

Ms. Andoll indicated her concern that the Board may not initially have a good sense as to how long a hearing will last because the witness list is not exchanged until later. She asked if at that point, it would be too late to delegate the case to the administrative law judge.

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Mr. Balch questioned whether Board members could come on additional Wednesdays. Ms. Andoll responded that hearings are always scheduled on a board meeting day first. She indicated that if there is a hearing scheduled on the Board day, a Non-Board meeting day is selected. Initial efforts are made to schedule hearings on Board meeting days.

Dr. Love recommended that the Board consider Mr. Ballard's first suggestion, but review all the financial ramifications. Also, that the Board develop language to create legislation for Board hearings with less than a quorum, as well as language to recover estimated cost for court hearings from respondents, if found guilty.

Medication Error Task Force

Mr. Ades reported that the Medication Errors Task Force work is coming to an end. Mr. Slade and Ms. Andoll will be completing a final report. They will submit the report to the Practice Committee for review, then to the full Board. A task force briefing to the Maryland legislature will be held on October 23, 2001. Ms. Furman reported that representatives from the Task Force would present at the briefing to Environmental Matters. Ms. Furman will contact different organizations to attend. Mr. Ades also mentioned that thank you letters and certificates would be presented to participants on the Medication Errors Task Force. It was also suggested that similar appreciation documents be presented to the automation and unlicensed personnel Committees.

Ms. Furman proposed that the Board change the setup structure of Task Forces and create specific goals. She feels it has been difficult to conduct meetings with people coming in/out of the Task Force and not being sure who is on the Committee.

Board Re-Appointed

Mr. Ades mentioned that Ms. Ramona McCarthy-Hawkins, Dr. Raymond Love and Mr. Melvin Rubin have been re-appointed to the Board for four more years, beginning May 1, 2000.

Secretary/Budget Report

Mr. Lottier presented the proposed FY 2003 Budget estimates to the Board. The Budget Committee proposed three options on how it can adjust the income in order to meet the deficits and to make sure that the Board is operating on a fiscal basis. The Budget Committee recommended Option 3, which outlines the following fee increases to meet the Board's budget deficit:

Option 3 - Proposed Fee Increases:

<u>Pharmacists</u>	<u>Current</u>	<u>New</u>
New (Exam)	\$ 50.00	\$100.00
Renewal	\$ 95.00	\$200.00
Reciprocity	\$200.00	\$250.00
Reinstate		
(up to 2 yrs)	\$ 65.00	\$ 65.00
Reinstate		
(after 2 yrs)	\$175.00	\$175.00
<u>Pharmacies</u>		
New	\$150.00	\$300.00
Renewal	\$150.00	\$250.00
Late	\$ 75.00	\$150.00

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Other Establishments

Distributors New	\$250.00	\$500.00
Distributors Renew	\$250.00	\$500.00
Distributors Late	\$ 75.00	\$150.00
Manufacturers New	\$300.00	\$500.00
Manufacturers Renew	\$250.00	\$500.00
Manufacturers Late	\$ 75.00	\$150.00

Board Action

Following a lengthy discussion regarding the license renewal increase, Mr. Balch moved to adopt the above Option 3 budget plan with an amendment to change the renewal fee from \$150 to \$200 every two years. The motion was seconded by Dr. Love and passed by the Board.

Board Action

The Board approved an increase in fees beginning January 2002 or soon thereafter. Ms. Schneider moved to accept the increase of fees effective date. The motion was seconded by Ms. McCarthy-Hawkins and passed by the Board.

Mr. Lottier mentioned that this fiscal years travel expenses were over budget \$10,000 and per diem expenses were over budget \$12,000, which contributed to deficit in the Budget. He also mentioned that approval for travel allocations should be decided by a case on case basis and reviewed by Mr. Ades, Ms. Naesea, Mr. Lottier and Ms. Costley.

Mr. Lottier asked that all Board members complete the expense report with time start/end filled in and explanations of the expense. Generally, the Budget Committee will not pay for business conducted on behalf of the Board for less than 2 hours. The expense has to be a related organized Committee; task force, meetings, hearings or official business visits in order to be approved. Mr. Ades, Mr. Lottier, Ms. Naesea and Ms. Costley will review the explanation of all per diems, if necessary.

Executive Director's Report

Sunset Review

Ms. Naesea reported that the Board should be getting a verbal report via conference call with Robyn Elliott on Friday, September 14, 2001, as well as a written report by the end of September. The Board will have an opportunity to respond before it goes into final draft.

Strategic Plan Goals.

Ms. Naesea mentioned that she is planning to reconvene, one last time, the Strategic Plan Committee to begin reviewing the goals committed to for the next five years and develop a system to implement them. The Committee will be contacted within the next couple of weeks.

Board/Staff Expense Protocols

Ms. Naesea presented the following recommendation regarding budget policy changes. The recommendations were based on this year's budget. She recommended that they be carried into subsequent years.

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- ❑ Per diem reimbursement only for attending Board task force or Committee meetings and office visits that require more than two hours.
- ❑ \$7,000 for Board and staff in-state travel; \$1,624 for Public Relations activities; \$600 for Board conference registration and \$1,000 miscellaneous expenditures.
- ❑ Move \$5,000 from the instate travel to out of travel for two Board members to attend the regional and national conferences and for Board staff to have 8 conference registrations for continuing education in their respective areas of responsibility.
- ❑ \$1,200 for Board members designated training activities
- ❑ Board staff individual allocations of \$350 for their education and training needs that are identified throughout the year

Ms. Naesea mentioned that two staff persons went to Chicago for training. All expenses were paid by NABP, but the Board covered the transportation costs.

Ms. Naesea mentioned that Mr. Lottier would present a full budget report in the near future.

Mr. Rubin reiterated Ms. Naesea's comments regarding the per diem policy. He indicated that the Board needs guidelines pertaining to per diem items.

Board Action

Ms. Furman moved to accept the recommendations to change budget policy. The motion was seconded by Mr. Rubin and passed by the Board.

Staffing Updates

Ms. Naesea reported that Ms. Lakeya Davis is now a contractual employee, working in the Licensing Department. She has been with the Board since January, as a temporary employee. Ms. Naesea indicated that the Board used the pin number that was assigned to the Licensing Secretary to fill Vladimir Konstantinov's position, which is now a permanent employee as a Database Specialist. Personnel is working on retrieving another pin number to make Ms. Davis' position permanent.

Lunch Fund

Mr. Rubin reported that the lunch fund is low and its time to collect from each of the Board members. The Board pharmacist members are to contribute \$100 and consumer members \$50.

2002 Meeting Dates

Ms. Naesea reported that Board members were polled regarding changing the meeting dates from the 3rd Wednesday of every month to another date. The majority voted not to change the Wednesday Board meeting day. There are three Board meeting dates throughout the year that have to be changed; which are April, May and October. Ms. Naesea will keep the Board abreast of any additional changes. Ms. Andoll asked members if they would consider not having a meeting during the month of August. The Board will consider that at a later date.

Legislative/Regulations Report

Regulatory Review

Mr. Slade reported that the Regulations Review has been filed and the Board is anticipating a response in the next couple of weeks.

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Summary of AHRQ Workshop

Mr. Slade presented a summary of the workshop he attended during the week of June 24th, 2001. It was entitled “Using Policy Analysis and Research More Effectively in Decision Making.” He also attached a program logic model that was used at the workshop. Mr. Slade said the model might be helpful in the future when reviewing health policy issues, including the shortage of pharmacists.

Committee Reports

Pharmacy Practice Committee

Dr. Love reported that the Practice Committee reviewed the proposed information for publication on pharmacy technician and provided suggestions to Mr. Rubin.

Dr. Love mentioned that the Committee reviewed the brochure regarding the complaint procedure and made some suggestion for changes.

Dr. Love reported that the Committee responded to a request from Kaiser Permanente regarding their retail system and found that as long as the pharmacist approves the prescription prior to dispensing and following the laws required for appropriateness, than their system is okay.

Dr. Love discussed the newest update of the Automation Medication Systems Regulations. There have been several changes that were not substantial but reorganized based on some suggestions received. The big section where there were substantial changes was on page 4. Dr. Love explained that the section on page 4 was previously negotiated with MSHP and other interested parties pertaining to eliminating the matrix drawers and forming a task force or Committee to create standards to govern things. Mr. Ballard reviewed the proposed regulations and found that having a task force create standards would not be an acceptable approach. If the Committee needs standards, they should be in regulation. The Practice Committee developed some language, which would give them the ability to make judgments without prescribing specific systems. The Committee came up with section B on page 4 of the automation regulations stating that the Committee does not want, in the near future, matrix drawers to be in used because they have been repeatedly documented as major sources of medication errors. Instead, the Committee wants a system, which limits simultaneous access of multiple drugs strengths or entities and minimizes the potential for medication errors.

Dr. Love discussed the automation regulations with Bob Ferroli, who is a MSHP representative on the Automation Committee. Dr. Love asked Mr. Ferroli to discuss the changes with the appropriate people at MSHP. Dr. Love suggested that the Board review the changes and when Mr. Ferroli provides his comments, the Board may vote at the next Board meeting.

Ms. Furman suggested that the Medication Errors Task Force review the regulations, as well, for recommendations.

Unlicensed Personnel/Technicians

The Board approved placing on the website a guide on the documentation required for utilization of unlicensed personnel in pharmacies. The Board members were asked to let Mr. Rubin know within a week of any changes they might suggest and Mr. Rubin will make the adjustments.

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Reciprocity – List of Candidates

Mr. Dyke reported that the Reciprocity meeting was held on September 11, 2001. He presented the names of the candidates for licensure for Reciprocity in Maryland. There were 16 candidates scheduled to take the examination, two (2) candidates were pending oral competency and one (1) did not pass.

Candidates - Passed

Sandra Bryson	Van Bui	Sherrise Cumberlander
Raymond Farmer	Ronnie Geathers	Michael Giusto
Samuel Yeboah	Mitchell Kromsky	Kelly Michallis
Aisha Muhammed	Alpha Patel	Emelie Paul
Lonnie Rose	Joseph Rowe	Richard Wartick

Board Action

Ms. Furman moved to license the 15 candidates, with the exception of the 2 candidates who did not pass the oral competency exam. The motion was seconded by Mr. Balch and passed by the Board. Two candidates were approved pending passing the oral competency exam.

Wet Lab Exam

Mr. Dyke reported that the Wet Lab examination is scheduled for October 3, 2001. The Board is requesting volunteers to proctor the exam and a form was passed around to solicit volunteers.

Following careful review, the Licensing Committee determined that compounding skills are important and should continue to be evaluated in Maryland. The Committee developed a pilot written exam format and is evaluating the results to determine whether a 'dry lab' exam might be a preferable approach to test candidates compounding knowledge in the future. Thus far, the pilot has resulted in including more written questions with actual compounding during the examination. Mr. Dyke mentioned that the licensing Committee spent a lot of time over the past year discussing a possible written replacement for the wet lab exam.

Mr. Austin Ladic, Student from University of Maryland asked the Board if there would still be a wet lab exam by the year 2003, because a rumor around the campus is that the wet lab will be abolished in the year 2003. Mr. Dyke replied unless the Board makes a total reversal of opinion, there will still be a wet exam in 2003.

The Board agreed that Mr. Ades should send out a letter to the Deans of pharmacy colleges regarding the wet lab exam still existing.

Renewal vs. Reinstatement

Mr. Rubin reported that the regulations and possibly the statute concerning reinstatement of pharmacy licenses needs to be reviewed by the Licensing Committee. Technically, the Board cannot reinstate a licensee, since the statute says that you must meet all requirements of the renewal requirements and one of those requirements is a timely application for the renewal. The Disciplinary Committee, as well as the Licensing Committee should recommend a Board response when pharmacists continue to work after they have allowed their licenses to expire.

PEAC

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Ms. Laura Mohler reported on behalf of PEAC that PEAC is planning an all day seminar on October 25, 2001. PEAC's brochure notifications about its upcoming seminar have been distributed. PEAC had a meeting last week with Board representatives to discussed ways to increase communication with the Board of Pharmacy.

She also reported that PEAC has 11 Board referred cases and 13-20 self-referred cases.

Public Relations

Ms. Lawrence reported that Ms. Naesea and she met with Ryan White Planning Council on September 6, 2001 regarding the logistics for the HIV/AIDS Seminar sponsored between ABC/Ryan White Planning Council and MPhA. They include:

- Date: Wednesday, November 7, 2001, 6:00-9:00pm – Dinner Meeting
- Charge for attending
- Located at the Mariott, Waterfront
- Cost of the event
- Number of attendees

Ms. Lawrence mentioned that as of the Board meeting date, Ryan White had received \$6,000 in sponsorship. They will be mailing the invitations in September. The PR Committee will insert this event in the Newsletter. The Committee proposed Dr. Peter Beilesen, Baltimore Health Commissioner to speak, pending his availability on that date. The Committee is working to recruit presenters from the University of Maryland and/or Johns Hopkins.

Ms. Lawrence mentioned that Ryan White has concerns regarding the timeframe and being able to raise funding. They suggested that the attendees be reduced from 200 to 100. Ryan White will get back to the Board early next week with updates of the event. Ms. Lawrence will keep the Board informed of any additional changes.

Ms. Lawrence reported that the PR Committee discussed the Consumer Focus 2002 brochure and a number of items were presented. The Committee accepted the title "Be An Informed Consumer".

Ms. Lawrence reported that the strategic plan requires that the PR Committee conduct a survey for distribution in the October Newsletter. Ms. Lawrence presented the survey for Board approval.

Board Action

Following a lengthy discussion regarding the context of the survey, Ms. Furman moved to accept the Board's vote to have the PR Committee produce two separate surveys. The first survey should entail information requesting consumer satisfaction with the Board and mailed via Newsletter in October. The second survey will address specific pharmacist concerns and will go out in the January Newsletter. The motion was seconded by Mr. Balch and passed by the Board.

The Board will forward any information they want to see in these surveys.

Technology and Automation Report

No report was presented. Ms. Naesea mentioned that Ms. Banks is recuperating well that the Board staff sent her flowers and she should be returning back to work the first week of October.

President Ades adjourned the Public Board Meeting at 11:16am.