

**Maryland Board of Pharmacy
Public Board Meeting
July 16, 2003**

President Stanton G. Ades called the Public Board Meeting to order at 9:00 a.m.

Attendance

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

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

Board Staff: LaVerne G. Naesea, Executive Director; James Slade, Legislative Officer; Catherine S. Putz, Compliance Officer; Deitra Gale, Compliance Specialist; Tamarra Banks, Information Technology Officer, and Latonya Dickerson, Board Secretary

Guests: Kathryn Lavriha, Barr Labs, Jack Freedman, DDC, Howard Schiff, MPhA, Mark Levi, EPIC, Ruth Walker, Rite Aid, Mayer Handelman, Neighborcare, Matthew Gainey, Perdue and Gil Cohen, PEAC

Recusals

President Ades asked Board members to indicate if they had any conflicts of interest with agenda items.

Corrections and Approval of Minutes (6/18/03)

Page 1, heading Guests, change “Freeman” to “Freedman”. Change “Gill” to “Gil”.

Page 3 - 4, under heading Bio Training Funds, second sentence should read, “ One grant is for training all volunteer health care practitioners and the second grant is specifically for training about the national pharmaceutical stockpile. Over a \$100,000 was received for National Pharmaceutical Stockpile Training.” Under the heading PEAC, change “Phil” to “Gil”.

Page 8, heading Canadian Pharmacies, second sentence, delete “we actually” add an “s” to the word “licenses”. Delete the third sentence.

Dr. Love moved to accept the June 18, 2003 meeting minutes as amended. Mrs. Jeanne Furman seconded the motion. Motion passed.

President/Executive Committee Report

University of Maryland School of Pharmacy/Board of Pharmacy Meeting

President Ades, Dr. Love, Mr. Dyke, and Ms. Naesea attended the University/Board meeting on July 8, 2003. The meeting was held at the University of Maryland School of Pharmacy. Items discussed included an update on the bioterrorism task force, new appointments to the Board and Board staffing, updates on the Shortage of Pharmacists Task Force and electronic licensing activities and a discussion regarding the pharmacy technicians planned proposal. The next Shortage of Pharmacy Task Force meeting is July 29, 2003. The University described its fiscal situation, which will involve increasing tuition due to a significant budget reduction during the last legislative session (nearly 1/3 of the school's funding was cut). The Pharmacy School also completed plans to allow students to electronically apply for admission through a new national system that allows applying to multiple schools through one process.

Bio-terrorism and Emergency Preparedness Task Force

The next Bioterrorism Meeting is scheduled for Friday, July 18, 2003. Ms. Naesea stated that Baltimore City had a bio drill earlier in the month and the Board was directed to be on alert for a request for assistance. Assistance was not requested, however the Board used the drill to test calling the newly assigned Team Leaders to also place them on alert.

Long Term Care Task Force

John Balch, Stanton Ades, LaVerne Naesea and James Slade met with Carol Benner of the Office of Health Care Quality (OHCQ), to discuss the Board and (OHCQ) working together with regard to pharmacy services under the Assistant Living Regulations. Mr. Ades will attend the Assistant Living Advisory Workgroup meeting on July 22, 2003. The OHCQ agreed that oversight of pharmacy services in Assisted Living Facilities is necessary and that regulations should be reviewed.

Board Appointments/Reappointments

President, Stanton Ades, introduced and welcomed Mr. Christiaan Blake, who is the newly appointed Consumer Member. Mr. Blake is originally from Miami Florida, attended Morgan State University, and earned his MBA from Carnegie Mellon. Mr. Blake served as Executive Director of the Maryland Legislative Black Caucus and is employed as a Program Finance Manager for the Development Training Institute.

Executive Director Report - LaVerne Naesea

Staff Updates

Ms. Naesea announced that Department of Budget and Management (DBM) approved a freeze exemption request to hire an Administrative Specialist II to work with the Disciplinary Unit. Recruitment for this position will begin immediately.

National Association of Boards of Pharmacy

The Fall Legislative Conference will be held September 14-16, 2003 at the Renaissance Mayflower Hotel, Washington, D.C. The program is included in the Board packet. Ms. Naesea requested the Board to allow Board managers to attend the meeting. Ms. Furman agreed to determine from NABP whether one-day attendance would be allowed. Board members were asked to inform Ms. Naesea of their interest in attending.

4th Quarter Budget Report

Ms. Shirley Costley, Personnel/Fiscal Officer, prepared the attached fourth Quarter Budget Overview. Ms. Naesea indicated that the report is not final for the year, because General Accounting is still processing invoices and revenue adjustments. The FY 03 closeout date is July 18, 2003.

Workforce Investment Board

Ms. Naesea will be working with the Governor's Workforce Investment Board's (GWIB) Healthcare Steering Committee. Ms. Naesea, who attended the first meeting with several other Board Administrators, reported that the Steering Committee's charge is to address critical skill shortages in Maryland's healthcare industry. The GWIB has begun a process that is planned to ultimately result in implementing strategies to reduce labor shortages in numerous disciplines. Ms. Naesea noted that GWIB was aware of the Board of Nursing's Task Force, but not of the Board of Pharmacy's. She promised to send information about the Task Force later. A second meeting is planned on July 17 at which Mr. Slade will attend and then a Summit is planned on August 28, 2003 to which Ms. Naesea and Mr. Slade are invited.

Pharmacist Rehabilitation – Update

The Request for Proposal (RFP) for the Pharmacist Rehabilitation contract is complete. The Board will schedule a pre-bid conference soon. The Board is expected to award the bid in mid-September 2003. PEAC's will be operating without a contract effective July 30, 2003.

Survey of Pharmacists – State Advisory Council on Pain management SACPM)

Mr. Howard Schiff, of MPhA, attended the SACPM meeting on July 15, 2003. He updated the Board on plans to survey of pharmacists. Ms. Naesea noted that the Board had been asked to meet with a representative of SACPM to discuss endorsing and disseminating to pharmacists in Maryland. Board members reviewed the survey and determined that specific changes should be made and that the survey should be disseminated to pharmacy permit holders rather than pharmacists. Ms. Jeanne Furman

volunteered to identify a representative from MSHP for the meeting. Mr. Donald Yee volunteered to represent the Board and guest participants Howard Schiff and Mark Levi volunteered to attend as representatives for Community pharmacy.

PEAC

Mr. Gil Cohen presented the Board with a Data Extraction Form. The Form summarizes seventy-three (73) cases handled by PEAC over several years (attachment).

Jeanne Furman, LaVerne Naesea, and Catherine Putz attended the PEAC Retreat. Mr. Cohen thanked the Board representatives for attending the retreat. Among the items discussed at the retreat were PEAC extending their treatment base, documentation needed for reinstatement, upgrading fees to help PEAC function more effectively, and confidentiality.

Mark Levi, President of EPIC – Medication Administration

Mark Levi reported that thirty-nine (39) states allow pharmacists to practice medication administration in the U.S. EPIC will be implementing three phases in order to obtain Medication Administration in Maryland. The first phase includes EPIC contacting the Dean of Nursing for support. The second involves the current request from EPIC to the Maryland Board of Pharmacy to contact the Maryland Board of Nursing to begin a dialogue regarding medication administration. The third phase will entail Mr. Levi working with Epic's lobbyist to support the Drug Therapy Management (DTM) regulations and explain the issues to legislators using bioterrorism and 1st responders to point to their current readiness to administer medications (vaccines). A broader goal is to request a pilot study from the Secretary of DHMH to train pharmacists and provide flu and pneumonia vaccines.

Board Action

Ray Love moved that EPIC provide the Board with a written proposal of issues it wants the Board to address with the Board of Nursing. Jeanne Furman seconded the motion. The Board passed the motion.

Regulations/Legislative Officer Report

Regulations Status Report of 6/9/03

Mr. Slade reviewed the Regulation Status Report dated July 3, 2003. The report is included in the Board Packet.

Tax Compliance Regulations

Mr. Slade discussed the Tax Compliance Regulations. He requested the Board to vote to publish the regulations as emergency regulations effective July 1, 2003, and as a standard

proposal. He also asked the Board if they want to join other Health Occupations Boards in promulgating one set of regulations for several Boards. The Board agreed.

Board Action

Mel Rubin moved to publish the regulations, with the agreed upon changes, for comment and to promulgate them as emergency regulations effective July 1, 2003. He also moved to join the other Boards in promulgating one set of regulations. The agreed upon changes, which included adding a definition of the term “board” so that stakeholders would know which Boards were promulgating the regulations as one chapter. Don Yee seconded the motion. The Board passed the motion.

Drug Therapy Management

The Drug Therapy Management Regulations from the Maryland Register dated June 27, 2003 are provided in the Board packet. The deadline for final comments for the regulations is July 28, 2003.

Legislative Proposals for the 2004 Session

The Board discussed preliminary legislative proposals for DHMH departmental sponsorship. Among the items discussed was the Registration of Pharmacy Technicians. The Board of Pharmacy would submit the initial proposal for a bill regulating pharmacy technicians.

The Board is also joining other Boards in a joint bill relating to altering certain Health Occupations practice acts and a related statute, in relation to certain disciplinary matters and violations of the practice acts.

Formal Hearings – Disciplinary Proceedings – Response to Comments

The Board received a copy of correspondence addressed to Michele Phinney, Regulations Coordinator for the Department of Health and Mental Hygiene (DHMH), from Joseph Kaufman, Counsel to the Maryland Pharmacists Association. Mr. Kaufman protested against Disciplinary Proceedings, COMAR 10.34.01. as published in the Maryland Register dated April 18, 2003. He felt that all Board proceedings are required to be open to the public.

In response, the Board drafted two separate letters, one to Joseph Kaufman, Esquire and the second to The Honorable John F. Fader II, Judge. Both letters document the Board’s position that disciplinary proceedings are not legally required to be held in open forums.

The Board questioned Mr. Schiff as to whether Mr. Kaufman’s position represented that of the Maryland Pharmacist Association. Mr. Kaufman indicated that he would respond at a later time.

Board Action

Mrs. Furman moved that the Board accept and mail the two letters regarding Proposed COMAR 10.34.01 Disciplinary Proceedings addressed to The Honorable John F. Fader II, Judge and Joseph Kaufman, Esquire. The Board will carbon copy Michelle Phinney, Howard Schiff, MPHA and the Board of Trustees. Dr. Ray Love seconded the motion. The Board passed the motion.

Pharmacy Practice Committee

The minutes of the June 4, 2003 Pharmacy Practice Committee were included in the Board packet.

The Committee met on July 2, 2003, jointly with the Long Term Care Task Force. Both Committees reviewed and revised the Pharmaceutical Services to Residents in Long-Term Care Facilities section of the regulations.

The Pharmacy Practice Committee revised the current draft of the Dispensing/distributing from a site without a pharmacy permit/temporary pharmacy permit proposal during the meeting.

The Committee also revised the current draft of the Pharmacy Technician bill

Licensing Committee

Mr. Wayne Dyke reported on the Licensing Unit Statistics for FY 2003 (attachment).

The Licensing Unit will begin testing payment online August and September 2003.

Canadian Pharmacies

On June 11, 2003, the North Carolina Board of Pharmacy announced the issuance of Cease & Desist Orders to 5 businesses that are forwarding prescriptions to Canada to be filled and then returned to the United States. Orders were sent to:

- Discount Drugs of Canada, Gastonia
- Canada Drug Outlet, Inc., Concord
- Rx Price is Right, Inc., Winston-Salem
- Canada Drugs, Asheboro
- Prescription Care of North Carolina, Banner Elk

The Board's International Drug Sales and Re-Importation Task Force will develop a letter of education for consumers and pharmacists to indicate that it is illegal to obtain medication from Foreign Pharmacies. The literature will be distributed at the Maryland State Fair in August.

Disciplinary Committee

Colin Bayliss

Ms. Putz presented a letter to the Board received from Mr. Bayliss. According to the letter, Mr. Bayliss is seeking licensure in Maryland despite his conviction for Medicare and Medicaid fraud. Mr. Bayliss served approximately five (5) years in Federal prison as a result. Mr. Ballard recommended inviting Mr. Bayliss to appear before the full Board for review.

Board Action

The Board passed a motion to obtain records before making a determination of which action to pursue.

Rema Anton

Ms. Gale reported that Ms. Anton submitted a written petition for reinstatement of her license to practice pharmacy. Ms. Gale will contact Ms. Tommasello to ensure the Board has received all the documentation needed for review. The committee recommended inviting Ms. Anton to appear before the full Board for consideration.

Board Action

The Board passed a motion to invite Ms. Anton to appear for a reinstatement hearing at the September 2003 Public Board Meeting.

Public Relations

State Fair

DHMH has designated August 28, 2003, 10:00 a.m. - 10:00 p.m. for the Board to use its booth at the Maryland State Fair. MSHP has volunteered to assist in manning the booth and assist with giveaway items.

Annual Report

The 2002 Annual Report will be mailed out this month.

Newsletter

The Maryland Board of Pharmacy newsletter for July 2003 has been mailed. Copies of the newsletter were available at the Board meeting.

Local Brokers for Foreign Pharmacies

Board Action

Dr. Ray Love made a motion to close the public session under State Government Article Section 10-508(a)(7) to discuss legal advice from Board Counsel regarding local brokers for foreign pharmacies. Don Yee seconded the motion. The Board passed the motion.

The meeting adjourned at 12:45 p.m.

Page 4, above Board Action; pneumonia

Page 5 under Board Action, (Know)

Page 6, Check with LaVerne, above Board Action, Should be Mr. Shifflet.