

Maryland Board of Pharmacy  
Public Board Meeting Minutes  
March 15, 2006

Attendance:

*Officers:* John Balch, President; Mark Levi, Treasurer; Jeanne Furman, Secretary

*Commissioners:* Margie Ann Bonnett, David Chason, Joseph DeMino, Donald Taylor, Michael Souranis, and Don Yee *Absent:* Mayer Handelman, and Rodney Taylor

*Staff:* Linda Bethman, Board Counsel; Colin Eversley, Compliance Investigator; Shirley Costley, Licensing Manager; Summar Goodman, Public Information and Education Officer; and Alicia Carter, Executive Secretary *Absent:* LaVerne Naesea

*Guests:* Howard Schiff, Maryland Pharmacist's Association; Georgette P. Zoltani, Division of Drug Control; Stephen Riggin, CVS; Milton Moskowitz, PEAC; Tony Tommasello, PEAC; Michael Swarner, Target Pharmacy

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**I. Call to Order/Record of Conflict of Interest**

President Balch called the Public Meeting to order at 9:10 am. There were no conflict of interest declarations. Guest attendees were asked to introduce themselves. LaVerne Naesea, Executive Director, was not in attendance at this month's meeting because of bereavement leave (mother's death).

**II. Corrections of Minutes 2/15/06**

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- Under #3, 2<sup>nd</sup> sentence – change spelling of “Ashville” to “Asheville”. “Del” spell out “Delegate”.
- Under #3, 3<sup>rd</sup> sentence – “Pharmacists” change to “pharmacists”.
- Under #3, 5<sup>th</sup> sentence – “U.M.” change to “University of Maryland”.
- Under #3, 5<sup>th</sup> sentence – “Pharmacists” change to “pharmacists”.
- Under #3, 8<sup>th</sup> sentence – “MphA” change to “MPhA”.
- Under #3, 10<sup>th</sup> sentence – “Pharmacist” change to “pharmacist”.
- Under Board of Elections – “Pres.” change to “President”.
- Under Board of Elections, 2<sup>nd</sup> paragraph, 2<sup>nd</sup> sentence – “Don” spell out “Donald”.
- Under #4, Introduction, 1<sup>st</sup> sentence – “Pharmacy” change to “pharmacy”.

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- After Motion – “Don” spell out “Donald”.
- Under HB 1444, 1<sup>st</sup> sentence – “Insert the word The and change “Pharmacist” to “pharmacist”.
- Under HB 1444, 3<sup>rd</sup> sentence – Insert the word “or”.

- Under USP 797 – Take out Cindy Anderson – replace with “AAG Linda Bethman”.
- Under USP 797, 3<sup>rd</sup> sentence – add “and is being revised by Cynthia Anderson and David Chason”.
- Under Drug Repository Task Force, 1<sup>st</sup> sentence – add “The Medbank of Maryland has been proposed to administer the...”.
- Under Drug Therapy Management Committee, 4<sup>th</sup> sentence – add “ protocols from the Joslin Diabetes Center”. Change “joint” to “Joint”.

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- 1<sup>st</sup> sentence – include LaVerne’s last name, “Naesea”.
- 2<sup>nd</sup> sentence, add “is now the responsibility of”.
- Under District I/II Meeting, 4<sup>th</sup> sentence – add “the University of Maryland”.
- Under District I/II Meeting, 5<sup>th</sup> sentence – add “the University of Maryland ”.
- Under Emergency Preparedness Committee, 1<sup>st</sup> sentence – change “Don” to “Donald”.
- Under #8, 1<sup>st</sup> sentence – include Tamara’s last name “Banks”.
- Under #8, 4<sup>th</sup> sentence – After the deadline date insert the date ???

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- Under #9, Board Action – change “The Board voted that back-up should reflect what was sent last month” to “The Board confirmed that the question had been answered the previous month”.
- Under 2<sup>nd</sup> Board Action – “The Board voted to approve...” insert the word “the” after the word “approve”.
- Under Licensing Committee, 1<sup>st</sup> sentence - add “asked that the applications for reciprocity by...”.
- Under Licensing Committee, 2<sup>nd</sup> sentence – add “be referred to the...”.
- Under Licensing Committee, 3<sup>rd</sup> sentence – change “disciplinary” to “Disciplinary” - change “committee” to “Committee”.
- Under Licensing Committee, last sentence – add “procedure continues” after the word “Vaccine.”
- Under Licensing Committee, last sentence – add “be brought” after and will and add the word “the” after the word to.

Mr. David Chason reviewed the minutes and will forward corrections to Alicia Carter. Jeanne Furman reported that to avoid interference while taping meetings, side conversations should be kept to a minimum and items to be voted on should be restated.

**Motion:** Mark Levi moved to accept the minutes with changes.

**Board Action:** The Board voted unanimously to accept the minutes with corrections.

### **III. President/Executive Committee Report – John Balch**

John Balch postponed the re-vote for the office of Treasurer until next month’s meeting because some Commissioners were excused for Board business. Mr. Balch reported that

he would remain as President of the Board of Pharmacy unless the Governor decides not to reappoint him to the Board. Donald Taylor has been elected Secretary. The executive committee will continue to meet on the 1<sup>st</sup> Wednesday of every month. The Officers' new terms will begin on May 1<sup>st</sup>, although the transition will begin sooner.

#### **IV. Legislation and Regulation Manager Report – Anna Jeffers**

Ms. Jeffers provided the Board with a new legislation status chart. Ms. Jeffers had previously e-mailed the Prescription Repository Program bill to the Board members. Hearings for this bill are scheduled on March 22, 2006 in the Senate and on March 23, 2006 in the House. An additional packet of pharmacy bill profiles currently being tracked by the Board was distributed, which included:

##### **Legislation Update**

*HB 41/SB 774 Controlled Dangerous Substances – Pseudoephedrine Products – The Board submitted a Letter of Education – The bill failed.*

*SB 774 Controlled Dangerous Substances – Pseudoephedrine Products – The Board submitted a Letter of Education – The hearing date was 3/9/06 – Anna Jeffers met with Delegate Gladden. Delegate Gladden realized that the bill would fail and agreed with restricting sales to pharmacies only.*

*SB 333 Prescription Drug Monitoring Program – The Board submitted a Letter of Support – The hearing date was 2/15/06.*

*HB 1287 Prescription Drug Monitoring Program – The Board submitted a Letter of Support. The bill was heard on 3/9/06.*

*SB 371 State Board of Pharmacy – Registration of Pharmacy Technicians – The Board testified in support of the bill. The hearing date was 2/21/06.*

*HB 493 Pharmacy Benefit Managers Regulation Act of 2006 – The Board submitted a Letter of Support. The hearing date was 2/15 /06.*

*SB 516 State Government – Administrative Procedure Act – Scope of Judicial Review – The Board will send a Letter of support.*

*SB 568 Prescription Drugs – Canadian Mail Order Plan – The Board submitted a Letter of Concern.*

*HB 626 Prescription Safety Act – The Board supported with amendments.*

*SB 624 Maryland Medical Assistance Program – Prescriptions may be written or oral. The Board submitted a Letter of Support.*

*HB 1190 Prescription Drug Safety Act – The Board supported with amendments.*

*HB 1098 Criminal Law – “Meth Precursors” – Restrictions on Sale and Purchase – The Board submitted a Letter of Education.*

The Board approved position papers to legislative committees as prepared distributed by Ms. Jeffers. They included:

1. A Letter of Support for HB 1214, Health Care Malpractice – Emergency Medical Care Good Samaritan Immunity;
2. A Letter of Education regarding HB 1459 Health Occupations – Pharmacists – Return of Unfilled Prescription to Retail Customers – Required; and

3. A Letter of Concern for HB 1510 – Public-Private Partnership for Health Coverage for All Marylanders.

Anna Jeffers and Donald Taylor will attend the hearing on the Repository Prescription Drug Program in Annapolis. Ms. Jeffers also plans to attend a hearing on the Wholesale Distributor bill (Prescription Drug Safety Act) and will testify on HB 516 – State Government Administrative Procedure Act – Scope of Judicial Review.

Howard Schiff asked if the Board had taken a position on HB 1404 – Conscience Clause bill. The Board responded that it took no position. In answer to SB 568 – Canadian Mail Order Plan, the Board submitted a Letter of Concern.

John Balch and Board members applauded Anna on doing a good job!

#### **IV. PEAC Update**

Tony Tommasello provided the Board with a packet outlining several PEAC campaigns. PEAC is ready to launch a poster campaign and has requested a support letter from the Board. The poster “Duty to Report” along with the poster letter is planned to be distributed to pharmacy owners and hospital pharmacies in Maryland. A draft poster letter from the Board and a letter requesting contributions were presented. Mr. Tommasello informed the Board that MPhA agreed to fund printing for the project. A two-week timeframe is expected to complete printing.

#### **Staffing Issues**

Mr. Tommasello reported on PEAC staff changes. PEAC plans to hire an Addictions Counselor whose duties would include monitoring both Board referred and non-Board referred cases. Included in the packet was a job announcement for the Addictions Counselor position. The Program Coordinator would supervise the new position.

#### **Educational information on non-Board referred cases**

Mr. Tommasello referenced various forms used during the “intake process” for non-Board referred cases. Mark Levi inquired about the qualifications for the Addictions Counselor’s position. Mr. Tommasello explained that counselors are State certified through the State of Maryland Drug and Alcohol Administration. Mr. Tommasello responded that in addition to bi-annual, face-to-face meetings, the Addition Counselor would have scheduled weekly phone contacts with specific questions. Pharmacists under contract will have a pharmacist monitor that they can contact when needed. Mr. Handelman has suggested a location to use for the PEAC office space. Mr. Tommasello said that other possibilities are being researched within Baltimore County. Mr. Tommasello noted that when pharmacists refuse to agree to stop working, PEAC could bring the case before the Board because confidentiality would not be guaranteed.

Mr. Tommasello stated the concern about the turn-around time for urine test results was discussed during the disciplinary committee meeting. Friend's lab currently tests PEAC's urine specimens and now has drop-off sites throughout the state to improve turn around times. In addition, special labels would be placed on specimens for PEAC clients at clinic sites. As a result of these changes, PEAC should receive test results within 3 days. Mr. Balch reminded PEAC of their meeting on April 19, 2006 after the public meeting.

## **V. Task Forces Reports**

### **USP 797**

Don Yee reported that work on the hospital inspection form is pending. The inspection form will be submitted at the next Practice Committee meeting. Jeanne Furman asked if training would be provided for inspectors. Currently the task force does not have a guide for inspectors to use when conducting inspections. Ms. Georgette Zoltani, Director of Drug Control, stated that it would be good to have in-service training for Drug Control inspectors. Ms. Zoltani agreed to have inspectors attend a mock inspection provided by the Board of Pharmacy.

Howard Schiff asked whether the USP 797 sterile compounding rules would apply to independent and community pharmacists. John Balch stated that if a pharmacist performed sterile compounding, the rules would apply.

## **VII. Administration and Public Support – Patricia Gaither**

Patricia Gaither provided an update on new personnel and open positions. Ms. Gaither reported that Alicia Carter accepted the Office Secretary III position and that Linda Prince Garrison is no longer employed with the Board of Pharmacy, effective March 7, 2006.

### **District I & II Meeting**

Ms. Goodman presented a sample of "Save the Date" card that she plans to send to Board members and school faculties in District I & II, and a Venue Comparison Chart for the planned reception and dinner. The chart provided price, catering, decorating, parking, and time availability information. Ms. Goodman recommended that the Board select Camden Yards because of its location near the hotel and also because Camden Yards has affiliations with past Oriole players and the capability to work with Sports Legends. Guest attendance is expected to be about 150.

John Balch inquired about a report from the School of Pharmacy. Ms. Goodman informed the Board that the School of Pharmacy is working with consultant, Anna Leonhardt. The School of Pharmacy informed Ms. Goodman that it would send a first-draft of sponsorship letters to potential contributors.

**Motion:** Jeanne Furman moved to accept the Camden Yards proposal.

**Board Action:** The Board voted unanimously to accept the Camden Yards proposal.

### **Flower Mart Update**

Ms. Goodman will be asking for participants to work booths at this year's Flower mart. The date for this year's Flower mart is Friday, May 5<sup>th</sup> and Saturday May 6, 2006. The Board of Pharmacy was scheduled to staff a booth at the Flower Mart Friday. Jeanne Furman recommended that an additional booth be reserved. John Balch will supply a wreath for booth decoration and to be given as a door prize.

### **Newsletter**

Newsletter articles are due to Ms. Goodman Friday, March 24<sup>th</sup>.

## **VIII. Committee Reports**

### **Practice Committee**

#### *A. Drug Therapy Management*

The first Drug Therapy Management application and protocol has been approved by the Boards of Physicians and Pharmacy. Mark Levi raised a concern about section E in the Metabolic Syndrome (second application protocol), asking whether pharmacists are allowed to call another pharmacist about a prescription. Jeanne Furman stated that while a pharmacist could not independently write prescriptions, the law does allow a pharmacist to verbally call in prescriptions for a delegating physician.

#### *B. Constituent Response Letters*

##### *1. Pyxis Automated Dispensing Machine*

Howard Robinson wrote the Board regarding whether Maryland regulations allow for some select oversized items to be stored in an open-matrix drawer of a Pyxis automated dispensing machine, please refer to (COMAR) 10.34.28.04.

**Motion:** Mark Levi moved to accept the Practice Committee's letter to Howard Robinson.

**Board Action:** The Board voted unanimously that no, Maryland regulations do not allow for several items to be stored in an open-matrix drawer of a Pyxis automated dispensing machine. Reference was made to (COMAR) 10.34.28.04.

##### *2. Repackaging Medication*

Shelly Bishop wrote the Board to ask whether COMAR restricts a pharmacy from repacking medication if they are aware of the manufacturer or distributor and are willing to assign a lot number and expiration date.

**Motion:** Mark Levi moved to accept the Practice Committee's letter to Shelly Bishop.

**Board Action:** The Board voted unanimously that, according to COMAR 10.34.23.08D, a pharmacy can assign its own lot number and expiration date if the repacking is being done by a pharmacy.

### *3. Delegating Nurse May Dispense from Medication Carts*

Ann Dudley wrote the Board inquiring whether a delegating nurse might dispense from medication carts to families or residents if they are being discharged or taking leave for one day.

**Motion:** Mark Levi moved to accept the Practice Committee's letter to Ann Dudley.

**Board Action:** The Board voted unanimously that nurses may not dispense from medication carts to families or residents if they are being discharged or taking leave for one day.

### *4. Check-off Boxes*

Sandra T. Zieve, M.D. wrote the Board asking whether check-off boxes are acceptable on re-printed prescriptions for indicating "brand medically necessary".

**Motion:** Mark Levi moved to accept the Practice Committee's letter to Sandra T. Zieve, M.D.

**Board Action:** The Board voted unanimously to approve the Practice Committee's recommendation that check-off boxes on a prescription form are problematic, because a non-authorized person could check them. The check-off boxes, also, do not meet the spirit of Health Occupations Article §12- 504(c)(1).

### *5. Practice of Pharmacy in Maryland*

Sarah G. Benator inquired whether an internet service, where pharmacists provide general information by email responses about prescription medications, non-prescription medications, and dietary supplements, constitutes the practice of pharmacy in Maryland. Ms. Benator also inquired whether an out-of-state pharmacist may communicate by phone with a Maryland resident at home regarding a change in medication pursuant to a Drug Therapy Management agreement from out-of-state.

**Motion:** Mark Levi moved to accept the Practice Committee's letter to Sarah Benator.

**Board Action:** The Board voted unanimously to approve the response that both emailing medication information and calling Maryland residents at home regarding changes in medication constitute the practice of pharmacy in Maryland and the pharmacist must be licensed in Maryland.

*6. Certify a Pharmacist on USP 797*

Aki K' Singam wrote the Board to ask whether Maryland law allows a technician to certify a pharmacist on USP 797 matters such as aseptic techniques.

**Motion:** Mark Levi moved to accept the Practice Committee's letter to Aki K' Singam.

**Board Action:** The Board voted unanimously that Maryland law allows a technician to certify a pharmacist on USP 797 matters such as aseptic techniques.

*7. The Practice Committee Corner*

Ms. Oyalowo wrote the Board concerning the discrepancy between the first Question in the recent Fall 2005 Newsletter column "The Practice Committee Corner" and the brief article in the October 2004 Newsletter column "Fast Bytes – Can You alter a CII Prescription?"

**Motion:** Mark Levi moved to accept the Practice Committee's letter to Ms. Oyalowo.

**Board Action:** The Board voted unanimously that the patient's name, prescriber's signature, name of the controlled substance prescribed (except for generic substitution where allowed by the State) and the date may not be altered or added by the pharmacist and a new prescription would be required.

*8. Electronic Signatures*

Judge John Fader wrote the Board regarding filling prescriptions sent with electronic signatures.

**Motion:** Mark Levi moved to accept the Practice Committee's letter to Judge Fader.

**Board Action:** Board voted unanimously that pharmacists may fill electronically sent prescriptions if they possess a bonafide signature.

*9. Long Term Care Task Force Report – John Balch*

John Balch reported that there was a request from the Office of Health Care Quality concerning the purchase of an automated machine. The Office of Health Care Quality bought the concerns from the Torchary care unit before the Long Term Care task force. The Long Term Care task force cautioned the unit about the machine. The Unit asked the



committee's advice on whether to go with a 24-hour unit dosage system instead. The Long Term Care task force plans to make a recommendation on the automated machine, send it to the Practice Committee for approval and then send it to the Board.

Mr. Balch announced that the Office of Health Care Quality would meet with hospitals Tuesday, April 18, 2006, at 2:00 p.m., in the Lane Bryant Building. A joint letter from the Office of Health Care Quality and the Board of Pharmacy was sent out last year about discharge errors. The purpose of the meeting would be to discuss pharmacists becoming involved in patients' discharges. David Chason plans to attend that meeting.

### **Licensing Committee – Joe DeMino**

Joe DeMino reported on the February statistics. The influenza vaccine requirements will be posted on Maryland Board of Pharmacy's website Friday, March 17, 2006. The statement "would you like to volunteer for the Emergency Preparedness Volunteer Corps" will be added to the Maryland Board of Pharmacy License Renewal form. Linda Bethman informed Mr. DeMino that an added check box would need to be included to ask if pharmacists are registered to administer the influenza vaccine. If so, separate CE's will need to be completed.

### **Plantex USA**

The Plantex USA's Maryland license expired in 2002. The company submitted an distributor permit renewal application for 2006. The company's license appears to have lapsed for three years. Mr. DeMino asked the Board whether Plantex USA should reapply as a new distributor or be charged a late fee of \$150, for each year they did not renew. Ms. Bethman advised the Board to require Plantex to reapply as a new distributor. She also suggested that the Board should require the company to submit a statement saying that they have not distributed in Maryland. The Board will consider disciplinary action if it learns that the company's statement is false.

Mr. DeMino questioned the length of time that the Division of Drug Control inspectors use to conduct inspections of pharmacies. Mr. Balch mentioned the pre-inspection form that inspectors can use and note that five hours is an unreasonable amount of time to inspect stores. Ms. Zoltani, Director of Drug Control, will look into the amount of time necessary to conduct pharmacy inspections.

Jeanne Furman suggested that the Board consider requiring continuing education courses that are submitted for approval by the Board of Pharmacy to be professionally related rather than allowing the approval of any course. Mark Levi suggested that licensing draft a letter explaining that course submitted by providers/instructors for Board approval should be professionally related.

The Public Session adjourned at 11:08 am