

Maryland Board of Pharmacy

Public Board Meeting – May 8, 2002

President Ades called the Public Session of the meeting to order at 9:10 a.m.

Attendance:

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

Absent: None.

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

Board Staff: LaVerne Naesea, Executive Director; James Slade, Legislative/Regulations Officer; Doris James, Licensing Supervisor; Shirley Costly, Fiscal/Personnel Officer; Joan Lawrence, Public Education Officer; Deitra Gale, Compliance Specialist; Tamarra Banks, Information Services Manager; and Angela Long, Executive Secretary

Guests: Howard Schiff (MPhA); Larry Friedman (DDC); Kathryn Lavriha, (Barr Labs); Richard Rumrill (PEAC) and Nathan Gruz

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 (04/10/02)

Page 2, under Meeting with DDC, the word “developing” should be “develop” There were no other corrections offered.

Board Action

Ms. Faltz-Jackson moved for acceptance of the April 10, 2002, public meeting minutes with the correction. The motion was seconded by Ms. Schneider and passed by the Board.

President/Executive Committee Report

Bio-Terrorism Task Force

Mr. Rubin reported that the bio-terrorism task force meeting was held on April 26, 2002. The Task Force completed participation in the first round of training by the state for local health departments throughout MD.

Pres. Ades mentioned that an exercise retreat for Maryland and Virginia for emergency personnel would be held on June 2 thru 4, 2002, in Montgomery County. Mr. Joey Scarletta asked a representative(s) of the task force to attend. Ms. Naesea mentioned that statutory authority related to the Governor’s emergency power during a catastrophic event was passed during the last legislative session, however regulations still need to be written.

The next Task Force meeting is scheduled on May 17, 2002, at 8:30am.

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Shortage of Pharmacists Task Force

Pres. Ades reported that the Shortage of Pharmacists Task Force meeting was postponed and rescheduled for Monday, May 13, 2002. He presented a draft pharmacist survey that was developed by Dr. Beardsley. The Board reviewed the survey and recommended minor revisions. Pres. Ades will take the survey back to the Task Force for final edits.

Board Action

Dr. Love moved that the Board endorse the pharmacist survey with the revisions. The motion was seconded by Ms. Schneider and passed by the Board.

Pharmacy Inspection Form – Update

Pres. Ades reported that the Board met with DDC several weeks ago. He is waiting for the draft revised inspection form from DDC. DDC's charged is to develop some tools to adequately assess quality assurance within pharmacies as per the Sunset Review requirements.

Ms. Banks reported that DDC and the Board agreed at the last meeting to proceed with automating the inspection form; which has been completed. They also agreed that the Computer Unit would develop the automated system based on the current inspection form to allow DDC staff an opportunity to become accustomed to the new system. The next steps for the Board's Information & Technology Unit is to install the application onto DDC's laptops and to complete components of the Board's database for DDC to access. DDC and the Board will meet within the next month to finalize the revised questions on the inspection form.

Ms. Naesea mentioned that Mr. Jack Freedman is revising the survey questions for the controlled substance abuse and Ms. Andoll has completed the draft questions for the Board. She stated that the idea of creating this automated inspection form is a part of the Sunset Review requirements.

Executive Director's Report

State Staffing Cuts

Ms. Naesea stated that DHMH was informed that the Department is required to eliminate a number of positions of which a portion will need to be absorbed by the Boards and Commissions during the first round of cuts. DHMH stated that if any Boards have vacancies and a person to fill it, they would not take that position away. Boards and Commission have to eliminate 9 vacancies.

The Board of Pharmacy has not been required to eliminate any vacancies during the first round. Ms. Naesea stated that the pharmacy compliance position was not affected by the cuts because it was not vacant at the time cuts were being made. Ms. Furman asked whether the position could be filled. Ms. Naesea replied that a request for an exception to hire a replacement for Ms. Andoll upon her resignation has been submitted but a response has not been received. A question was raised regarding whether the Boards and Commission would have the use of Administrative Judges if they cannot hire compliance officers. Ms. Naesea replied this has not been addressed by the state.

Ms. Naesea reported that representatives from the Board of Social Work Examiners are scheduled to meet with Mr. Ades and herself in early June to discuss Mr. Slade becoming a permanent employee for the Pharmacy Board. Ms. Naesea suggested that the Board offer the Licensing Secretary's contractual position in exchange for Mr. Slade's position.

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Managing for Results

Ms. Naesea reported that the Managing for Results (MFR) report was mailed after sending a copy to Board members for review and comment. She stated that the Board did not meet the MFR projections for processing pharmacist renewal applications for Licensing. The Board projected processing completed applications within 3 days in the 2002 MFR plan. According to the most recent MFR report, the Board averaged nine days to process applications. Ms. Naesea noted that the delay in processing applications was due to unfilled vacancies as well as absences related to illnesses. She stated that the projection for processing licenses has been increase from 3 to 6 days and will remain at that rate until the state-hiring freeze is lifted.

Board/Staff Conference Participation

Ms. Gale will be attending the National Association of Drug Diversion Investigators Conference on June 20 & 21, 2002; and Ms. Furman, Ms. Naesea and Mr. Rubin will be attending the NABP Annual Conference on May 17 - 22, 2002. Mr. Rubin, Ms. Faltz-Jackson and Ms. Lawrence will be attending the MPhA Conference on June 8 – 11, 2002; at which the Board will host a booth. Mr. Rubin agreed to make a brief presentation on Board activities and updates at the MPhA Conference.

PEAC

On behalf of PEAC, Mr. Richard Rumrill reported that PEAC met on May 1, 2002. It has 31 cases; of which 10 cases are Board referred. PEAC continues to discuss the need for funding a Program Director. The PEAC group had a lengthy discussion about improving their communication with the Board. PEAC's desire is to have Board members present at their meetings.

Ms. Furman reported that the Disciplinary Committee invited PEAC to its last meeting to discuss concerns about a few cases. PEAC will now attend some Disciplinary Committee meetings to discuss disciplinary issues.

PEAC is working on a CE program to be conducted on Saturdays in order to attract more pharmacists. The PEAC Annual Retreat will be held in July 2002. The Board had much discussion related to a Board representative attending PEAC Administrative section meetings and a PEAC representative to attend the Board's meetings. Melvin Rubin volunteered to represent the Board by attending a portion of each PEAC's meetings.

Board Action

Ms. Furman moved that the Board send a Board representative to attend PEAC Administrative meeting and PEAC would continue to attend the Board's monthly meetings to discuss non-disciplinary issues. The motion was seconded by Ms. Schneider and passed by the Board.

Legislative/Regulations Report

Legislation Report

Pharmacy Profile

Mr. Slade reported that the pharmacy profiles currently tracking 74 bills. He reviewed the bills that have been signed and presented those bills that are of interest to the Board and may have an impact on pharmacy practice:

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SB 22 – Osteoporosis Prevention and Education Task Force.

SB 265 – Access to Public Services - Individuals with Limited English Proficiency. Mr. Slade stated that the Board would have to translate certain documents into another language; which will probably just be Spanish.

SB 421 – Medical Review Committees. Mr. Slade reported that MHCC incorporated their bill (HB1259) into this bill because their original bill was not going anywhere.

SB 269 – Health Care – Programs and Facilities – Pain Management.

SB 418 – Board of Pharmacy – Sunset Extension. The bill was signed and it could include Medication Error Task Force legislative language.

SB 481 – DHMH – Reimbursement Rate. Mr. Slade indicated that this bill is for Board information and that this bill may or may not address reimbursement for Drug Therapy Management.

HB 676 – Physicians and Pharmacists – Therapy Management Contracts. Mr. Slade stated that APHA contacted the Board to do an article on Maryland's new Drug Therapy Management law to be inserted in their Pharmacy Today magazine.

HB 303 – Governor's Emergency Powers. For Board information.

HB 329 – Health Care Worker Whistleblower Protection Act. Boards and Commissions submitted a veto request on this bill. Mr. Slade has not heard the status of the request.

HB 1228 – Health Insurance Safety Net Act of 2002.

Regulations Report

BoP Regulation Status Report

Mr. Slade disseminated and summarized the Board of Pharmacy regulation status report dated April 24, 2002.

Fee Reinstatement of Expired Licenses for Pharmacies Regulations

Mr. Slade presented the Fee Reinstatement of Expired Licenses for Pharmacies Regulations to the Board to approve for publishing. He noted that language had been added in the regulations related to late pharmacist fees and also deleted the word "manufacturer" from the fee regulations.

Board Action

Ms. Faltz-Jackson moved that the Board approve the regulations to be published with the amendments. The motion was seconded by Mr. Yee and passed by the Board.

Monetary Penalties Regulations

Mr. Slade asked the Board to re-vote to publish the proposed Monetary Penalties Regulations.

Board Action

Ms. Faltz-Jackson moved that the Board approve the regulations to be published. The motion was seconded by Mr. Yee and passed by the Board.

Automation Regulations

Mr. Slade reported that the Board received one comment on the Automation Regulations from MACDS.

MFR Survey

Mr. Slade mentioned that he inserted a survey related to the Board's Managing For Results plan in the Board packet to be completed by non-board member recipients.

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Committee Reports

Pharmacy Practice Committee

Patient Safety Regulations

Dr. Love reported that the Practice Committee met on May 1, 2002 and discussed several issues. The Committee reviewed the Patient Safety regulations and made substantive changes to the regulations in light of the passage of the discovery protection statute. The Committee will present the revisions at the next Practice Committee meeting.

The Committee also reviewed the responses to the comments on the Patient Safety regulations. Dr. Love stated that most of the issues to the comments were addressed as a result of the legislature action on discoverability. The next Practice Committee meeting is scheduled for June 5, 2002 @ 1:30pm.

Question to the Committee

Dr. Love reported that a question was raised during the Committee meeting as to whether a pharmacist can accept verbal orders from another pharmacist acting as an agent of the prescribing physician. The Committee recommended that Board adopt the opinion that it is legal for a pharmacist to accept verbal medication order from a physician through another pharmacist.

Board Action

Dr. Love moved that the Board accept the opinion that a pharmacist accepts a verbal order from a physician through another pharmacist acting as an agent of the prescribing physician. The motion was seconded by Ms. McCarthy-Hawkins and passed by the Board.

Unlicensed Personnel

Dr. Love reported that the remaining of the Committee meeting dealt with the issue of regulating pharmacy technicians. At the last Board meeting, the Board agreed to start working towards recognizing a health occupation called "Pharmacy Technician". The Board had instructed the Practice Committee to begin developing changes in the law/regulations in order to proceed. Dr. Love stated that the Committee debated the pros and cons of recognizing technicians in statute and concluded that almost all pharmacy technicians are out of compliance with the current statute and that there is no regulatory method to resolve this issue. The Committee decided that the only way the Board could regulate pharmacy technician is to revise a number of sections of the Pharmacy Practice Act.

Board Action

Dr. Love moved that the Board charge the Practice Committee to amend the Pharmacy Act to establish a health occupation called "pharmacy technicians"; allow the Board the authority to establish minimum qualifications for pharmacy technicians; allow the pharmacists to delegate specific tasks to pharmacy technicians; and discipline pharmacy technicians. The Board passed the motion.

LTC Task Force

Mr. Balch reported that the LTC task force met on May 1, 2002. The Task Force established seven (7) Long Term Care Members from a list of 13 applicants. Stanton Ades, Donald Yee and Mr. Balch are Board representatives on the Task Force. The Task Force will begin meeting on the 3rd Tuesday of every month, starting at 3:30pm. Mr. Balch stated that the first meeting would start on June 18, 2002, and the agenda would include distributing regulations from surrounding states; which will give the task force members some resources to review; circulating copies of the Board's regulations; discussing the Task Force "Charge;" and establishing a timeline. Mr. Ades, Mr. Yee and Mr. Balch will report back to the

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Board. Ms. Naesea asked if Board staff support is needed since Ms. Andoll will be leaving. He said Board staff would be needed for logistical arrangements, but that his Secretary would prepare the minutes.

Drug Therapy Management

Dr. Love reported that Mr. Stanton, Mr. Slade and Ms. Naesea and he are scheduled to meet on May 16, 2002, to brainstorm the Drug Therapy Management regulations. They will forward a draft of the regulations to the Practice Committee for review and discussion with BPQA.

Nurse Dispensing Task Force

Mr. Yee reported that the Nurse Dispensing Task Force met on April 16, 2002. He stated that the Task Force acknowledged Mr. Yee's complaints in the minutes related to patient safety and safety of nurses dispensing in place of a pharmacist. Mr. Yee asked the Task Force to respond in writing, however, he has not received a response.

Mr. Yee mentioned that he forwarded via email to Ms. Andoll, the Board's concerns to be issued in writing to the Task Force. Mr. Yee also reported that the Task Force discussed the train-the-trainer and training nurses to dispense and review each section of the regulations. The meeting concluded with discussing the credentials for training exam. The Task Force wanted to establish a 15 minutes exam and Mr. Yee suggested that the exam be an hour or more.

Mr. Yee spoke to Dr. Moyer and Dr. Moyer reiterated that the Board follows every aspect of the Nurse Dispensing regulations. Dr. Love reiterated that the Board negotiated with the Health Department and that the Board was under the impression that the Nurse Dispensing Task Force was to adhere to the agreement. The Board decided that a written letter be forwarded to the Health Department requesting a response as to how the Task Force should abide to the agreement and request in the letter a deadline date to respond. If the Health Department is not willing to respond in writing, it was decided that the Board needs to speak directly with representatives of the Task Force. It was also suggested that the Health Department come before the Board to discuss this matter.

Board Action

Dr. Love moved that the Board via written letter, request a representative from the Nurse Dispensing Task Force to provide the Board with an update on how they would comply with the agreement that was negotiated with the Board. The Board suggested that they be invited at the next Board meetings. The motion was seconded by Ms. Faltz-Jackson and passed by the Board.

Licensing Committee

Reciprocity – List of Candidates

Mr. Dyke reported that the Reciprocity meeting was held on May 7, 2002. He presented the names of candidates for licensure for reciprocity in Maryland. Thirteen (13) candidates took the examination; ten (10) passed the exam; and three (3) applicants; Dosung Jung, Jiyeon Jung and Vivian Park are pending passage of the oral competency exam.

Candidates - Passed

| | |
|----------------|------------------|
| Edna Asongwe | Agnes Feemster |
| Tina Firestone | Anthony Gesualdo |
| Joseph Jones | Don Krueger |
| Hea Lim | LaDonna Moore |
| Joyce Robbins | Amir Tabatabai |

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Board Action

Ms. Faltz-Jackson moved to license the ten (10) candidates who passed the exam and to approve the three (3) candidates pending their meeting oral competency requirements. The motion was seconded by Ms. McCarthy-Hawkins and passed by the Board.

Wet Lab Examination

Mr. Dyke reported that the spring wet lab examination is currently scheduled for the June 12, & 13, 2002; three (3) session on the first day and two (2) session on the second day. Approximately 200 candidates are scheduled to take the exam. Mr. Dyke stated that he will re-design the wet lab exam this week and forward it to the Licensing Committee for review.

CE Audit Processing

Mr. Dyke mentioned that the Licensing Committee discussed reviewing CE audits differently. He stated that usually, a Board member on the licensing committee performed the audits of renewal application. However, recently a Board member has not always been available on a regular basis despite that fact that applications for audit are received through the mail everyday. Mr. Dyke proposed that a staff person review the CE audit under the supervision of the Licensing Committee or the Executive Director. Ms. Naesea mentioned that Mr. Dyke has agreed to work closely with her and Ms. James, Licensing Supervisor to do training on the CE audit process.

Board Action

Mr. Rubin moved that the Board approve a licensing staff person to review the CE audits and forward them to the appropriate person for approval. The motion was seconded by Ms. Furman and passed by the Board.

Reciprocity Processing

Mr. Dyke asked the Board to consider not requiring reciprocity candidates to appear in person to sit for the reciprocity exam, possibly allowing them to take a MPJE-type exam over the computer in their home states. He also proposed that oral competency requirements be retrieved from the Berlitz that is a national organization. He mentioned that with these changes every requirement could be met without traveling to Maryland. Dr. Love addressed his concerns that the process is slightly delayed due to pharmacists having to travel to the State. He indicated his support of changing the reciprocity process.

Mr. Dyke will research how candidates would be able to take the oral competency section of the exam in other states.

Disciplinary Committee Report

Guidelines for Continuing Education Violations/Unlicensed Practice

Ms. Gale distributed a draft copy of the guidelines for continuing education violations/unlicensed practice to the Board for use as a guideline for disciplinary action. Based on the Board concerns and questions related to the form, Ms. Gale was directed to forward the form to the Disciplinary Committee to reformat.

The next Disciplinary Committee meeting will be held on May 23, 2002 at 9:00am.

Technology and Automation Report

On Line Renewal System

Ms. Banks reported Board staff met with the Maryland Health Care Commission (MHCC), on May 1, 2002. She will send MHCC the Board's Memorandum of Understanding (MOU) to make modifications in
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the specifications. Ms. Banks mentioned that BPQA's on-line renewal system start date is July 1st and the Board will follow immediately afterwards. The launch date for testing the Board's renewal system will be October 2002.

Ms. Banks and Ms. Konstantinov met with Maryland State Archives to host the Board's new on-line renewal system. She stated that the one-time setup fee would be \$3,000, subsequently, \$1,000 per month to host the site. Ms. Banks will develop a contract for approval by the Board once State Archives develops the specifications for the agreement. She also mentioned that it would cost an additional \$1,000 to set up the on-line electronic check processing. At this time, the system will be developed to only accept electronic checks (not credit cards).

Information Technology Security Policy

Ms. Banks reported that the State developed a new draft security policy. The Information & Technology Unit plans to implement the new practices over the next six (6) months. Mr. Konstantinov and Ms. Banks will send out a letter to all Board members to make adjustments to their laptops.

Posting NAPLEX Scores on the Internet

Ms. Banks reported that the Board wrote to NABP commenting on their letter stating that Mississippi Board was the first to post on the Internet NAPLEX Scores. The Board received an apology letter from NABP acknowledging the error.

Pharmacy Inspection Form Automation

Ms. Banks reported that the Laboratory Administration Computer Unit developed the Pharmacy Inspection form. As part of this process, the Board is developing a database on its network for access by DDC to review licensure or disciplinary actions taken by the Board. She asked the Board to review the pharmacy inspection form for changes or corrections.

Web Site Statistics

Ms. Banks reported that DHMH has launched a new website and asked the Board to review the site.

Public Relations Committee

Ms. Faltz-Jackson reported that the Committee met on May 1, 2002 and discussed the upcoming Flower Mart and the Board's 100th year.

Flower Mart

Ms. Lawrence reported that the Flower Mart is scheduled on May 15, 2002 with a rain date of May 16, 2002. The Board received lots of giveaway donations from several companies, and 22 pharmacists have volunteered to assist at the Board's booth. Ms. Lawrence acknowledged the volunteers from MPHA, ASCP, University of Maryland, School of Pharmacy and especially thanked MSHP, in particular Ms. Furman who worked tirelessly on behalf of the Board and MSHP on the Flower Mart. Ms. Lawrence also thanked Mr. Balch for donating a wreath as the prize for the raffle.

The Committee agreed to order an additional canopy to accommodate space needs, at a cost of \$110. Ms. Lawrence presented the Medication Safety and Consumer Information brochures to the Board for distribution at the Flower Mart.

Board's 100th Year

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Ms. Lawrence reported that the PR Committee discussed the feasibility of having a press conference for the 100th year celebration at the State Office Building. Ms. Lawrence recommended that the press conference be held in October 2002.

Ms. Furman reported that instead of creating a booklet, the October issue of the newsletter could be dedicated to the Board's 100th Year milestones. Two options were presented; Option 1: 3-4 pages of the newsletter listing the milestones and recognitions; or Option 2: create a 4-page insert (printed in old newspaper print). It was also suggested that each Board member take a section relating to the Board's 100th year. (i.e. consumer section – Barbara Faltz-Jackson).

Pres. Ades recommended a luncheon be held instead of a dinner and would combine the press conference, luncheon and Board meeting at the State Office building on October 16, 2002.

Board Action

Ms. Furman moved that the Board approve the press conference and luncheon to be held at the State Office building on October 16, 2002. They also approved the October issue of the newsletter being dedicated to the Board's milestones during the past 100 years.

The Board suggested that an article be sent to NABP after the 100th year celebration.

BoP Letterhead

Ms. Lawrence presented the new Board of Pharmacy letterhead with the 100th year seal.

The next Public Relations Committee meeting is scheduled for June 12, 2002.

Council of the Boards

Ms. Faltz-Jackson stated that the Council of the Boards will meet sometime in June.

Informational

Ms. Naesea stated that NABP is requesting volunteers who are interested in becoming members of a committee or task force to forward their resumes directly to NABP.

Pres. Ades mentioned that he will be the Board's representative at the NACDS Technology Conference in August 2002.

The Public Session adjourned at 12:20 p.m.