

The 2006 District Meetings and the Significance of Bill 41

Agenda of Meeting

The Council of the Manitoba Pharmaceutical Association (MPhA) recently finished hosting a series of 2006 District Meetings throughout the province, with pharmacists from all areas of the province able to teleconference through the Gimli meeting. The interest generated from “**Bill 41: The new *Pharmaceutical Act***”, created additional interest in the meetings this year. The other items discussed at the meeting were the **2007 Pharmacist License Application**, the *Advertising Principles* document and issues around “**Entry to Practice: Pharm. D.**”. Clearly, the majority of the time was spent on the Bill 41: The Pharmaceutical Act.

Status of Bill 41

Bill 41 is poised to receive third and final reading once the Legislature reconvenes this fall. The Premier announced the Legislature will reconvene on November 15th, 2006. The Bill will be presented for third reading and be passed by the government with the support of the opposition party. The new *Pharmaceutical Act* will not be proclaimed or become law until the regulations, bylaws and Code of Ethics are developed and ready to be set in place.

Bill 41 will shape the practice of pharmacy for many years to come. The new *Pharmaceutical Act* will be the last full practice act to be passed by government before a government imposed moratorium on all practice acts and amendments while “Health Discipline Legislation” is created.

Support for the Bill and Consultation

Petitioners and a few pharmacists have identified some doubt and misunderstanding of the overall content and value of the new legislation during the District Meetings. The discussion at the District Meetings enhanced the knowledge and understanding of the new act. Bill 41 is an important stage in the evolution of enhancing the care that patients receive from pharmacists in Manitoba and the authority and role of the MPhA (or College of Pharmacists of Manitoba) to ensure safe, legal and ethical practice. As pharmacists gained a greater understanding of Bill 41, they became more supportive.

MPhA first consulted pharmacists regarding the direction of legislative and regulatory changes at special General Meetings in 2001. The changes approved by the members at the two meetings were forwarded to the Government of Manitoba. Soon afterwards it became the preference of government to draft a new pharmaceutical act, rather than making extensive changes to the existing act of 1992. Pharmacists were kept informed of the changes over the years through annual reports and newsletter items. At the 2004 and 2005 District Meetings, as well as the Annual Pharmacy Conference in 2005, pharmacists were shown proposed sections of the draft act and were advised of the significant changes that were contained in an August 2005 draft. Any draft legislation is not a public document. The MPhA was only able to provide copies of the draft act to Council and advise pharmacists of the concepts contained in the draft. When Bill 41 was presented in the 38th Legislature in May 2006, this was the first opportunity for the public, pharmacists, Council and MPhA staff to see the final document.

Poignant Discussion at the Meetings

Many pharmacists view Bill 41 as progressive legislation and it is really second to none in North America regarding the role of the pharmacists and protection of the public. However, it is important to highlight the concerns expressed at the District Meetings, in order to understand and support Bill 41. These are:

- Pharmacists will no longer vote on regulations and can only amend or repeal by-laws and Code of Ethics.

True, the new act makes these changes. Pharmacists were advised of these specific changes at the District Meetings in 2004 and 2005 and the Annual Conference presentation in 2005. When the government suggested that we draft a new act, reference was made to the recently passed Nurses Act and Physiotherapy Act to use as templates. When these significant changes were highlighted in the meetings of 2004 and 2005, there was little or no concern or opposition. Under Bill 41, all pharmacists will receive draft copies of any proposed regulations and Code of Ethics and Council must consider all comments received before forwarding regulations to Government for approval or the adoption of Code of Ethics. Members will have ultimate authority over by-laws and Code of Ethics. In the three recent separate special general meetings convened to pass regulation changes for the Manitoba Prescribing Practices Program, the sale of Pseudo-ephedrine and the Standards of Practice, MPhA was at risk of not having a quorum (5% of members, roughly 65 pharmacists) in order conduct business. However, the new process will insure that all pharmacists have input and not just those who can attend a special general meeting or an annual general meeting.

- The new act gives additional powers to the Registrar.

Bill 41 will bring some consistency to the authority of the Registrar regarding matters of pharmacists and pharmacies. Under the current act, the Registrar can suspend a pharmacy license where there is significant risk to the public and can add conditions to the issuance of a pharmacy license. This authority will be extended to pharmacists under Bill 41. Presently, the Registrar can refer matters involving a pharmacy directly to Discipline Committee, where matters involving a pharmacist must be referred to the Complaints Committee. Under Bill 41, both referrals will be through the Complaints Committee. All actions of suspension must be referred to the Complaints Committee and can be appealed to the Courts. The Registrar is and will be responsible to Council and will use the authority provided by Council and under the act as appropriate for the protection of the public.

- The new act raises the minimum percentage of members required to support a petition for a general meeting from 5% to 10% and the petition must specify the resolution to be debated and voted on.

Bill 41 does increase the minimum percentage of petitioners to 10%. Clearly, matters of significance should garner at least 10% of the membership as Special General Meetings create additional workload and cost to the MPhA. They should only be called when a significant number of members require it and for a clear and defined purpose.

- Maximum fines that can be imposed by the Discipline Committee have increased from \$10,000 to \$25,000 for a pharmacist and \$25,000 to \$50,000 for a pharmacy.

True, Bill 41 does provide for an increase in the maximum fines that can be imposed by a Hearing Panel of the Discipline Committee after a finding or a pleading of guilt. In the early 1980's there were no maximums on the amount that could be imposed by the Discipline Committee. Shortly thereafter, maximums were listed in the Pharmaceutical Act. The maximum fine has never been imposed. These new maximums reflect the changes in earning and billing capacities of pharmacists and pharmacies in the province. Under Bill 41, all appeals of the decisions of the Discipline Committee will now be directly to the highest Court in the Province, bypassing the appeal to Council. This will reduce the cost and process that becomes the usual fate of the appeal process under the current act.

- Complaints Committee not required to hold a hearing or provide a copy of the complaint.

Under the current act, the Complaints Committee is not required to hold a hearing or provide a copy of the complaint. This will be clearly described under Bill 41. Also, the Complaints Committee cannot subject their decision on the investigated person. In other words, the investigated person would need to agree with any decision the Complaints Committee (with the exception of suspension because of risk to the public or referral to the Discipline Committee) in order for the decision to be in effect. There are no hearings at the Complaints Committee now and there will be no hearings under Bill 41. Bill 41 will clarify the Complaints Committee does not have to show the investigated person a copy of the complaint. Under typical investigations, the investigated person gets a copy. However, there may be matters where there is personal information in the complaint that the investigated person does not need to know, or, there may be risk that evidence will be compromised if the investigated person sees a copy of the complaint. Should the matter be referred to the Discipline Committee, the information and evidence will be protected, and then released to the investigated person (if not done so during the investigation).

- Powers of investigators and inspectors are enhanced placing the pharmacists and pharmacy at a disadvantage.

There will be consistency between the authority to do an investigation and an inspection and will take into consideration the new technologies involved in pharmacy practice and the "multi- and tele- locations" for a pharmacy as permitted under Bill 41. The new act will not appreciably increase the authority of the inspectors and investigators, but will increase the access to wherever records and information are stored.

- Bad faith versus good faith of MPhA Council, Committees and staff.

Bill 41 places the onus on an aggrieved party to prove that MPhA acted in bad faith. Under the current act, MPhA must prove "good faith" with every affront claiming that MPhA acted in bad faith. With Bill 41, the "innocent until proven guilty" concept is extended to the MPhA and as long as the MPhA acts in good faith, it is

immune from prosecution. Any accuser would have to provide evidence of “bad faith” and then the MPhA will be able to provide a defense.

Further information

It is not possible to provide a brief, but thorough, summary of Bill 41 in just a few pages. It is important for all pharmacists to review the legislation through the government website at: <http://web2.gov.mb.ca/bills/sess/b041e.php> .

Also, please go to the MPhA website to see a brief describing the highlights of Bill 41. Over the next couple of weeks, the MPhA will try to develop the ability to post questions at the website for all to see and also to see the answer (stay aware for further information).

Is this a good change and can there be amendments?

Whenever change occurs, the response tends to be somewhat of concern or fear of the unknown and next steps. Rest assured that if the practice of pharmacy does not seize this opportunity to evolve and enhance the role of the pharmacists in the health care system, the opportunity might be lost for many years. Under Bill 41, Pharmacists will have the enabling legislation to enhance their practice, specialize, prescribe and administer drugs and interpret and order tests in order to enhance patient care. The details of pharmacy practice and the impact of Bill 41 will be clearly described within the regulations. The development of regulations will provide an opportunity for every pharmacist to provide input and suggestions directly to Council.

We are advised there is no opportunity for amendments at this stage. However, the Government supports this Bill. Notwithstanding, Health Discipline Legislation in Manitoba is coming very soon and we are not certain what patient care roles will be included for pharmacists. Although Bill 41 may not be perfect, it is a “glass over half full”. Pharmacists should not be satisfied with the status quo under the existing Pharmaceutical Act and, more importantly, neither should the public. There are too many needs and pressures for pharmacists to enhance their scope of practice to fill in some of the gaps in the health care system and to use the critical knowledge and training they possess.

In closing....

The District Meetings proved most valuable once again. They heighten the importance of all pharmacists knowing what is happening in the MPhA and the profession in Manitoba. Thank you for attending the meetings.

Pat Trozzo, B.Sc.Pharm.
President

October 11, 2006