



Michael Jackson, BPharm, Editor June 6, 2011

## Lynn Haven Pharmacist Appointed to Board of Pharmacy

Governor Rick Scott announced the appointments of Gavin W. Meshad and DeAnn M. Mullins to the Board of Pharmacy. Meshad, of Sarasota, is the vice president of JWM Management Inc. He succeeds consumer member Amy Jones and is appointed for a term beginning June 3, 2011, and ending October 31, 2013. Mullins, of Lynn Haven, is the owner of Mullins Pharmacy Inc. and is appointed for a term beginning June 3, 2011, and ending October 31, 2013. These appointments are subject to confirmation by the Florida Senate. The Board of Pharmacy has a meeting scheduled next Tuesday and Wednesday in Fort Lauderdale.

## HB7095 Relating to Pharmacy Permits and Dispensing Errors Signed Into Law

Governor Scott has signed into law House bill 7095. This bill is scheduled to take effect on July 1, 2011 and includes the following issues:

- Creates additional penalties for inappropriate prescribing of controlled substances and non-compliance with F. S. 456.44.
- Requires physical examination prior to prescribing controlled substances in pain clinics.
- Requires controlled substance prescriptions to be written on counterfeit-proof prescription blanks.
- Prohibits physician dispensing of Schedule II and Schedule III controlled substances and creates penalties if a physician dispenses such controlled substance in violation of dispensing practitioner laws.
- Provides following exceptions to ban on physicians from dispensing Schedule II &
- Schedule III controlled substances:
  - A labeled sample;
  - Within the Department of Corrections;
  - After an approved surgical procedure (not to exceed 14 day supply);
  - Pursuant to a clinical trial;
  - Through licensed opiate treatment facilities; or
  - Through licensed opiate treatment facilities; or
  - Through licensed hospices.
- Grants authority for the Department of Health to deny or to revoke a license for prescription processing errors.
- Create new grounds for denying a pharmacy permit (including being on the OIG list).
- Requires all community pharmacies to have a new permit issued by 7/1/2012 in order to dispense Schedule II and Schedule III controlled substances and establishing new standards so as to significantly restrict the issuing of this permit only to those persons who are qualified to receive one.
- Further defines precisely who a pharmacy permit may be issued to.
- Establishes new policies, procedures and penalties to minimize dispensing based upon fraud.
- Provides that the department "may" deny a permit for violations of sections 465, 499, 893, etc., by the pharmacy owners. This may also include denying the pharmacy permit application if the prescription department manager or consultant of record has a "disqualifying offense" as specified by the statute.
- Requires comprehensive reports to be filed when wholesaling drugs listed under F. S. 893.02.
- Makes it unlawful for a pharmacist to fail to report to the sheriff within 24 hours (or after the close of the next business day whichever is later) after learning of a person attempting to obtain a controlled substance from a pharmacy fraudulently.
- Clarifies that law enforcement and the Department of Health shall have access to controlled substance dispensing records upon request and that a subpoena or search warrant is not required to obtain access to, or copies of, records related to controlled substances.
- Adds consultant pharmacist of record to the list of those who must be fingerprinted as part of the pharmacist and pharmacy background check procedures.
- Requires the permittee to notify the Department of a change in prescription department manager within 10 days of any such change.
- Defines certain duties of the prescription department manager.
- Requires prescription department managers to notify the Board of Pharmacy of significant theft or loss of controlled substances by the business day following any such theft or loss.
- Increases recordkeeping requirements for controlled substance prescription and dispensing records from two years to four years.
- Prohibits the transferring of pharmacy permits.
- Require pharmacy controlled substance records to be immediately retrievable.
- Requires wholesalers to undergo and conduct background screening and credentialing of customers and clients.
- Requires wholesalers to review and analyze controlled substance orders greater than 5,000 unit doses per month.
- Requires wholesaling data to be collected and reported to the Governor, Senate President and House Speaker by November 1, 2011.
- Enhances possession and trafficking offenses relating to controlled substances.
- Retains the prescription drug monitoring program that was objected to by the Governor and the Florida House of Representatives leadership early in the session and enhances the reporting and functionality requirements.

- Reduces the deadline for a pharmacy's reporting to the prescription drug monitoring program of controlled substances drugs dispensed by a pharmacy from 15 days to 7 days
- Creates buy-back and returns program for Schedule II and Schedule III drugs in physician offices so that physicians who are no longer permitted to dispense such drugs will be able to return unused inventory.
- Provide a \$3 million in budgetary funding to facilitate the buy-back program
- Grants authority for law enforcement to "quarantine" and "seize" Schedule II & III controlled substance inventory in physician offices that is not returned.

### **FPA Represented at Meeting of the Pharmacy Quality Alliance**

Your state pharmacy association was represented last week by the National Alliance of State Pharmacy Associations (NASPA) and many of your national pharmacy organizations at a meeting of the Pharmacy Quality Alliance (PQA) in Washington DC. Please see excerpt of a message below from NCPA Executive Vice President and CEO, Doug Hoey in his June 3 Executive Update. We couldn't agree more with Doug's comments!

"PQA may be the organization that you are not completely familiar with, but someday have the greatest impact on your business. PQA establishes quality measures for health plans and pharmacies, some of which are used by CMS to measure the quality of Medicare plans.

That's all well and good, but where PQA's quality measures might have the most relevance to you is in the Medicare plan star ratings. CMS was at the conference and they spent a lot of time talking about the star rating system.

Next year, Medicare Advantage plans rated 3.5 stars or higher get a quality bonus payment. The star ratings system has been applied toward other HHS programs, such as nursing homes, and it shows up on the Medicare Part D plan finder. Listening to the presentations from CMS about the emphasis on tying payment to quality measures it's no stretch of the imagination to see part of pharmacy's reimbursement being tied to quality measures in the near future. "

Please be on the lookout for future messaging regarding PQA and these important quality measures.

### **Congress Considering Several Bills of Interest to Pharmacy (From NCPA)**

The Pharmacy Competition and Consumer Choice Act (S. 1058/H.R. 1971), sponsored by Senators Mark Pryor of Arkansas and Jerry Moran of Kansas; Congresswoman Cathy McMorris Rodgers of Washington and Congressman Anthony Weiner of New York

- This bill would increase PBM transparency, provide protections from certain abusive and burdensome audit practices by PBMs as well as allow any willing pharmacy to participate in a network, so long as it is eligible to participate in a federal or state health plan. By allowing more pharmacies to participate in health plan networks, patients would have greater say in where they could go to fill their prescriptions and could choose the pharmacy and pharmacist that best suits their needs. This bill would also prohibit PBMs from using discriminatory copays to induce your patients to use the PBMs' own retail or mail order pharmacies - as CVS Caremark and others have done! Finally, it would help community and long term care pharmacists better understand how plans set MAC rates and require more frequent updating to reflect our costs of providing these medications.

The Medicare Access to Diabetes Supplies Act (H.R. 1936) introduced by Congressmen Aaron Schock of Illinois and Peter Welch of Vermont

- This bill would exempt small pharmacies (10 or more pharmacy locations under common ownership) from the Medicare DME competitive bidding program for diabetes testing supplies. This will help community pharmacies continue to manage the care of Medicare patients with diabetes and not force beneficiaries to use mail order to obtain their supplies.

Pharmacy Negotiations Bills: The Community Pharmacy Fairness Act -introduced by Congressman Anthony Weiner (H.R. 1839) and the Preserving Our Hometown Independent Pharmacies Act of 2011 introduced by Congressman Tom Marino of Pennsylvania (H.R. 1946)

- The bills would create a more competitive marketplace for the delivery of pharmacy services by enhancing the ability of independent community pharmacies to negotiate with pharmacy benefit managers (PBMs). Specifically, the bills would allow independent community pharmacies to collectively negotiate the terms and conditions of insurance contracts to produce plan designs that better protect the patient's choice of pharmacy and are fairer to pharmacy providers.

### **Results of the April 30, 2011 DEA Prescription Drug Take Back Program**

MAY 06 – (WASHINGTON, D.C.) – Americans participating in the United States Drug Enforcement Administration's (DEA's) second National Prescription Drug Take-Back event on April 30th turned in more than 376,593 pounds (188 tons) of unwanted or expired medications for safe and proper disposal at the 5,361 take-back sites that were available in all 50 states. This is 55 percent more than the 242,000 pounds (121 tons) the public brought in during last September's event.

### **HHS Proposes Changes to HIPAA Privacy Rule (From APhA)**

On May 31, the Department of Health and Human Services released a proposed rule that would amend HIPAA to provide individuals with the right to receive a report detailing who has accessed their protected health information. This could include data that is shared with insurers for claims adjudication and

information that is accessed to "read only" such as looking up a patient's name but not using the data to file a claim or fill a prescription. Because of the costs of storing the data and other logistical hurdles, the requirements could pose significant challenges for pharmacy if enacted.

HHS is accepting public comment until August 1, 2011.

**AHRQ Pharmacy Survey on Patient Safety Culture (From APhA)**

Agency for Healthcare Research and Quality (AHRQ) has submitted a request to the Office of Management and Budget (OMB) to approve a survey to measure community/retail pharmacy staff perceptions about organizational priorities and patient safety attitudes/behaviors. The survey is intended to help such pharmacies determine strengths/weaknesses of the patient safety culture within their individual pharmacies. Comments can be submitted via email to [OIRA\\_submission@omb.eop.gov](mailto:OIRA_submission@omb.eop.gov) through June 23, 2011.

**FPA Convention Right around the Corner**

The 121<sup>st</sup> annual Meeting and Convention of the Florida Pharmacy Association will take place June 22 – 26, 2011 with a host of quality educational programs. The last day to register is June 10, 2011. Remember that the House of Delegates will be meeting for one day on Thursday of the convention. Plan to attend the awards reception and see Florida pharmacy stakeholder stars honored at the Saturday evening event. The awards reception is a ticketed event with limited seating so make sure that you reserve your seat. The PACCE will be hosting a great fund raising golf tournament. You don't have to be a golf "pro" to participate. Actually anyone holding a pro card is ineligible for the prize. A \$10,000 prize will be available for a hole in one on the targeted hole. The Foundation will also be conducting a "Casino Night" fundraiser event on June 23, 2011. You must be 21 years or older to participate.

**Agency for Health Care Administration Cancels Medicaid Mail Order Solicitation**

The FPA has learned that the Agency for Health Care Administration has cancelled the solicitation for mail order for 20,000 chronically diseased Medicaid patients. As you are aware the Florida Pharmacy Association and the Prescription Place of Defuniak Springs, Florida filed a formal written protest and unadopted rule challenge against the Agency. This action in effect will make our case against the Agency moot given that the nature of our complaint has now ceased to exist. The Florida legislature did include home delivery services in this year's action however there is no mandate for the Agency to move forward with the program and it appears that there are no plans to do so. Given this new development and positive outcome FPA leadership will be meeting at the FPA meeting in Aventura to discuss the next steps to take on the assault on pharmacy providers.

**AHCA Schedules Public Hearings on Medicaid Managed Care - TAKE ACTION!**

The Agency for Health Care Administration (AHCA) is holding meetings across the state starting on June 10th and finishing on June 17th. If you are or know of a Medicaid consumer or provider, please make every effort to attend and share your opinions on Medicaid Managed Care. This is especially critical for independent pharmacy owners to be present in a coordinated effort. The meeting venues, dates and times are as follows:

<p>June 10, 2011</p> <p>1:00pm - 4:00pm</p> <p>Agency for Health Care Administration, Bldg 3, Conf. Rm A, 2727 Mahan Drive, Tallahassee, FL, 32308</p>	<p>June 13, 2011</p> <p>1:00pm - 4:00pmCT</p> <p>City Hall, Hagler/Mason Auditorium 2nd floor, 222 W. Main St., Pensacola, FL 32502</p>	<p>June 14, 2011</p> <p>9:00am – 12:00pm</p> <p>Department of Children and Families, 5920 Arlington Expressway, Jacksonville, FL 32211, Main Auditorium</p>	<p>June 14, 2011</p> <p>9:00am -12:00pm</p> <p>Hilton Palm Beach Airport, 150 Australian Avenue, West Palm Beach, FL 33406</p>	<p>June 14, 2011</p> <p>2:30pm – 5:30pm</p> <p>Alachua Regional Service Center, 14107 US Highway 441, Conf Rm 190-A, Alachua, FL 32615</p>	<p>June 15, 2011</p> <p>9:00am -12:00pm</p> <p>Mary Grizzle Building, Rooms 136 &amp; 137, 11351 Ulmerton Road, Largo, FL 33778-1629</p>
<p>June 16, 2011</p> <p>9:00am – 12:00pm</p> <p>Florida Department of Transportation, Auditorium, 11201 N. McKinley Dr., Tampa, FL 33612</p>	<p>June 16, 2011</p> <p>9:00am – 12:00pm</p> <p>Marriott Fort Lauderdale North, 6650 North Andrews Avenue, Ft Lauderdale, FL 33309</p>	<p>June 16, 2011</p> <p>2:00pm – 5:00pm</p> <p>El Palacio, 21485 NW – 27th Avenue, Miami Gardens, FL 33056</p>	<p>June 16, 2011</p> <p>2:00pm – 5:00pm</p> <p>Medicaid Program Office, 400 West Robinson St., Hurston Building, Conference Rooms A&amp;D – 1st Floor Orlando, FL 32801</p>	<p>June 17, 2011</p> <p>2:00pm – 5:00pm</p> <p>Joseph D'Alessandro Bldg., 2295 Victoria Avenue, Rm. 165, Fort Myers, FL 33901</p>	

**New Notice Required for Medicare Part D Patients**

CMS announced that pharmacies will now be required to provide a written standardized notice to Part D beneficiaries when their prescription cannot be filled. The purpose of this notice is to provide enrollees with information about how to contact their Part D plans to request a coverage determination, including a request for an exception to the Part D plan's formulary. The notice reminds enrollees about certain rights and protections related to their

Medicare prescription drug benefits, including the right to receive a written explanation from the drug plan about why a prescription drug is not covered. Previously, it was sufficient for pharmacies to post a sign in the pharmacy with such a notice. This is very similar to what Florida Medicaid patients must receive from pharmacies when a prescription cannot be filled because of coverage limitations.

#### **FPA Meets With South Florida Independents**

The Florida Pharmacy Association traveled to South Florida on Sunday and met with independent pharmacy owners to discuss various issues affecting small businesses. The meeting was coordinated by FPA member Steven Nelson. Steven has been appointed to the FPA's Legislative Committee as its chair for 2011 – 2012. Also presenting at this meeting was former State Senator Aronberg who was appointed by Florida Attorney General Pam Bondi as a special counsel in her administration. Senator Aronberg will be responsible for leading a comprehensive anti-pill mill initiative within the Office of the Attorney General. Senator Aronberg's presentation focused on efforts by the state to prepare for the prescription drug monitoring program and also to bring under control the illegal use of legal drugs.

*Courtesy of PPSC*