



JON S. CORZINE
Governor

New Jersey Office of the Attorney General

Division of Consumer Affairs
Board of Pharmacy
124 Halsey Street, 6th Floor, Newark, NJ 07102



ANNE MILGRAM
Attorney General

DAVID SZUCHMAN
Director

Mailing Address:
P.O. Box 45013
Newark, NJ 07101
(973) 504-6450

NEW JERSEY STATE BOARD OF PHARMACY MINUTES OF THE OPEN SESSION JANUARY 13, 2010

I. CALL TO ORDER

The Open Meeting of the New Jersey Board of Pharmacy was called to order by Board President Edward McGinley in the Monmouth Room 7th Floor at 124 Halsey Street, Newark, New Jersey on January 13, 2010 at 9:00 a.m. All members were duly notified of the time and place and all pertinent materials were provided to the members.

II. SUNSHINE LAW ANNOUNCEMENT

Edward McGinley, President read a statement to the effect that the newspapers and appropriate elected officials had been notified of the meeting according to the requirement of the Open Meetings Act N.J.S.A., Chapter 231, PL 1975, /C. 10:4-8.

III. ROLL CALL

| | |
|-----------------------------|----------------|
| Edward G. McGinley, R.Ph. | President |
| Thomas Bender, R.Ph. | Vice President |
| Margherita LaFragola, R.Ph. | |
| Elvy T. Paiva, R.Ph. | |
| Richard Palombo, R.Ph. | |
| Marc Sturgill, R.Ph. | |

ABSENT

Peter Halecky, R.Ph.

OTHERS IN ATTENDANCE

| | |
|---------------------|-------------------------|
| Joanne Boyer, R.Ph. | Executive Director |
| Jodi Krugman, Esq. | Deputy Attorney General |
| Maria Bertorelli | Administrator Assistant |

IV. UPDATE BY EXECUTIVE DIRECTOR

1. The Executive Director reported that \$27,966.54 was collected in fines and penalties during December 2009.

The following permits/licenses/registrations were issued during the month of December 2009:

- Technicians - 185
- Pharmacists - 40 (35 by examination/score transfer, 5 by reciprocity)
- Out of state pharmacies - 6
- In state pharmacies - 11
- Pharmacists receiving immunization approval - 35
- Interns (foreign graduates) - 8

V. OLD BUSINESS

N/A

VI. NEW BUSINESS

1) Thomas Kenny – Request for modification of Consent Order

Thomas Bender moved, seconded by Richard Palombo to modify item #3a of the Consent Order and decrease the required urine screens from 2 times per week to one time per week while he is not employed. **The motion passed unanimously.**

Richard Palombo moved, seconded by Margherita LaFragola to allow Mr. Kenny to be employed as a pharmacy technician in order to evaluate his ability to stand for extended periods of time. **The motion passed 4 – 2.**

Thomas Bender moved, seconded by Edward McGinley that Mr. Kenny is to show the Consent Order prior to employment as a pharmacy technician and within 90 days of employment he is to have his supervisor submit an evaluation of his work performance and he is to advise the Board if he is going to a) pursue reinstatement of his pharmacist license, 2) retire from the pharmacy profession including working in a pharmacy as either a pharmacist or a technician, or 3) continue employment as a pharmacy technician, at which time the Board may set further restrictions under whatever terms the Board deems appropriate. **The motion passed unanimously.**

2) Report on Physician Compensation Arrangements

Recommendation 13 pertains to the Board of Pharmacy

Elvy Paiva moved, seconded by Marc Sturgill to refer this matter to the Rules and Regulations Committee for consideration. **Motion passed unanimously.**

3) NABP Notification of Update to NAPLEX Blueprint

The Board considered material informational.

4) Kenneth Rizzo – Request for reinstatement

Margherita LaFragola moved, seconded by Thomas Bender to schedule Mr Rizzo for an Investigative Inquiry. Prior to his appearance, he is to submit documentation of all continuing education credits as required by N.J.A.C. 13:39-3A.1 to 13:39-3A.7 for all the biennial periods beginning with the 2005-2007 biennial period and extending until the present. **Motion passed unanimously.**

5) Pamela Mandel, Esq. – Regarding opening of new pharmacy

Thomas Bender moved, seconded by Margherita LaFragola to send a letter to Ms. Mandel advising her that, to open a new pharmacy her client must comply with Board Regulations in NJAC 13:39 Subchapter 4 especially N.J.A.C. 13:39-4.1(a)-(h), 4.10(a)-(d) and 4.17(a)

and (b). **Motion passed 4-2**

6) Board member Richard Palombo requested an advisory opinion as to whether the Board should explore utilizing the “Doctor of Pharmacy” title for all licensees.

The Chair directed that a committee be formed consisting of Board Members Margherita LaFragola, Richard Palombo and Marc Sturgill to further research this matter. It is noted the Oklahoma and Tennessee Boards of Pharmacy currently do this.

VII. MITIGATION/ HEARING REQUESTS

1) Babak Bamdad, R.Ph.

Edward McGinley moved, seconded by Thomas Bender to deny mitigation of the \$750 fine imposed pursuant to N.J.S.A. 45:14-54 and N.J.A.C.13-39-3A.1(a). **Motion passed unanimously.**

2) Mandeep Kaur, RPIC, Rite Aid, Vernon, NJ

Margherita LaFragola was recused do to her affiliation with Rite Aid.

Thomas Bender moved, seconded by Richard Palombo to mitigate the \$200.00 fine imposed pursuant to N.J.A.C. 13:39-5.8(a)1. **Motion passed unanimously.**

3) Nicole Ardite, RPIC, Target, Sicklerville, NJ

Richard Palombo moved, seconded by Margherita LaFragola to mitigate to a warning the \$350.00 fine imposed pursuant to 21 CFR1301.21 and 21 CFR1301.44B. **Motion passed unanimously.**

4) Badrinath Kumar, RPIC, Rite Aid, Ewing, NJ

Margherita LaFragola was recused do to her affiliation with Rite Aid.

Richard Palombo moved, seconded by Marc Sturgill to mitigate the \$200.00 fine imposed pursuant to N.J.S.A. 45:14-48, N.J.A.C. 13:39-5.8(a)1, N.J.A.C. 13:39-6.2(f)9, and the \$200.00 fine imposed pursuant to N.J.S.A. 45:14-48(a)10, N.J.A.C. 13:39-5.8(a)1 and N.J.A.C.13:39-6.2(f)9. **Motion passed unanimously.**

VIII. COMMITTEE REPORTS

1) Rules & Regs Committee – Reported by Chairperson Edward McGinley

The Committee met January 6, 2010 to prioritize the 20 items that need to be addressed. Top priority was given to writing new regulations in support of Section 10 of P.L. 1977, c.240 (C.24:6E-9), new labeling requirement for generic drugs.

2) Compounding Committee – Reported by Chairperson Thomas Bender

The Committee met on December 16, 2009 to continue work on the proposed non-sterile compounding regulations. These proposed regulations will now be reviewed by Maryann Sheehan, Regulatory Analyst for the Board. The Committee will next meet on February 17, 2010.

IX. APPROVAL OF MINUTES

1) December 9, 2009

Margherita LaFragola moved, seconded by Richard Palombo to approve the December 9, 2009 Open Session Minutes as amended. **Motion passed unanimously.**

X. ADJOURNMENT

At 10:55 a.m. Marc Sturgill moved, seconded by Thomas Bender to move into Executive Session for review of 10 Complaints, 1 Old Business item, 5 New Business items, Secretary's Report and Recommendation on Retail and Institutional Permits, Secretary's Report and Recommendation on Inspection Reports, conduct 2 Investigative Inquiries and Approval of Minutes.