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Governor

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# New Jersey Office of the Attorney General

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



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## NEW JERSEY STATE BOARD OF PHARMACY MINUTES OF THE OPEN SESSION January 25, 2012

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### 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 Somerset Room 6<sup>th</sup> Floor at 124 Halsey Street, Newark, New Jersey on January 25, 2012 at 9:05 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 that the newspapers and appropriate elected officials had been notified of the meeting according to the requirement of the Open Public 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 Cardello, R.Ph.	
Marc Sturgill, R.Ph.	
Mahesh Shah, R.Ph.	
Stephen Lieberman, R.Ph.	
Richard Palombo, R.Ph.	Excused

### OTHERS IN ATTENDANCE

Anthony Rubinaccio	Executive Director
Susan Gartland	Manager, CDS Unit
Jodi Krugman	Deputy Attorney General
Maria Bertorelli	Administrator Assistant

### IV. UPDATE BY EXECUTIVE DIRECTOR

1. The Executive Director reported that \$18,800.00 was collected in fines and penalties during the month of December 2011. The following permits/licenses/registrations were issued during the month of December 2011:

- Technicians - 152
- Pharmacists - 40 (30 by examination/score transfer, 10 by reciprocity)
- Out of state pharmacies - 14
- In state pharmacies - 4
- Pharmacists receiving immunization approval - 67
- Interns (foreign graduates) - 6

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2. Executive Director, Anthony Rubinaccio addressed the Board regarding the Pharmacy Summit. He reported that in attendance were many representatives from the pharmaceutical industry, several large chains, and small pharmacy owners, as well as the DEA and Enforcement Bureau. Board Vice-President Thomas Bender also attended. The meeting focused on the theft and loss of CDS in New Jersey, and how best to reduce or prevent those losses. In addition to trying to develop best practices for pharmacies, it was also mentioned that physicians' prescribing habits should be reviewed to ensure that they are not overprescribing or prescribing unnecessarily.

**V. OLD BUSINESS - Updates**

**1) Public Orders filed:**

- a) **Myron F. Lesh, R. Ph.**
- b) **Kenneth Grossett, II, R. Ph.**
- c) **Ariane Saunders, Pharmacy Technician**

The Board reviewed public orders filed, and accepted as informational.

**2) Finalization of Provisional Orders of Discipline:**

- a) **Jeffrey R. Simon - Provisional Order of Discipline mailed 11/21/11 returned to Board (unable to deliver).**

Item tabled to the March meeting. Provisional Order of Discipline needs to be mailed to Mr. Simon at the correctional facility.

**3) Mark McKinney, R.Ph., 28RI103258500 - Request for unrestricted license**

The Board reviewed correspondence from the Texas State Board of Pharmacy advising that as of June 3, 2011 Mr. McKinney holds an unrestricted license to practice pharmacy in that State.

Thomas Bender moved, seconded by Marc Sturgill to remove all restrictions from Mr. McKinney's New Jersey pharmacist license. **Motion passed unanimously.**

**4) Harriette Paradiso/Phormula Pharmacy – Requesting a settlement amount on the Certificate of Debt filed**

Item moved to Executive.

**VI. NEW BUSINESS**

**1) Rajiv Janjikhel - Applicant requesting partial waiver to NJAC 13:39-2.1 (b)4**

The Board reviewed correspondence relating to applicant's request.

Mahesh Shah moved, seconded by Marc Sturgill that based on his current work experience,

partial waiver will be granted. Mr. Janjikhel must complete 750 internship hours out of the 1440 hours required pursuant to NJAC 13:39-2.1(b)4. **Motion passed 5-1 with Board Member Bender opposed.**

- 2) **Venkateswar Jarugula - Applicant requesting partial waiver to NJAC 13:39-2.1(b)4**

The Board reviewed correspondence relating to applicant's request.

Margherita Cardello moved, seconded by Thomas Bender that based on his extensive work experience in varying areas, partial waiver will be granted. Mr. Jarugula must complete 440 internship hours out of the 1440 hours required pursuant to NJAC 13:39-2.1(b)4. **Motion passed unanimously.**

- 3) **DME Questions: Are DME providers required to be registered or licensed to provide products to customers in New Jersey:**

- a) **Apria Healthcare**
- b) **Consumer, Melanie Harshman**
- c) **Carolina Medical Sales**
- d) **Todd Moody, Testing Facility**
- e) **Healthcare DME**

Item tabled to allow DAG Krugman to further research and provide the Board information regarding whether providers need to be registered/ licensed for the handling of certain durable medical equipment.

- 4) **Morristown Memorial Hospital - Request for institutional permit #28RS00549200 (Morristown Memorial Hospital, Institutional Pharmacy) to be expanded to cover retail pharmacy on 120 Dorsa Ave, Livingston, NJ.**

The Board reviewed correspondence relating to a request to approve an expansion in the scope of their institutional permit to include a retail pharmacy (Atlantic Health Employee Pharmacy) currently at another location, and that if approved Atlantic Health Employee Pharmacy would surrender their retail pharmacy permit.

Margherita Cardello moved, seconded by Stephen Lieberman to deny the request. **Motion passed unanimously.**

- 5) **Millers of Wycoff, INC. - Request for second Permit number for compounding area (question regarding requirement for separate entrance).**

Item tabled, to further research his application request for a second permit number.

- 6) **Christopher Dang - Department store 'Loyalty' cards in regards to NJSA 45:14-65(e).**

The Board reviewed correspondence regarding the use of a loyalty card to obtain discounts for the purchase of prescription drugs.

Thomas Bender moved, seconded by Stephen Lieberman, that the use of a loyalty card as an incentive to obtain a discount for the purchase of a prescription drug would be in violation of the statute if the customer is below the age of 60. **Motion passed unanimously.**

**7) Shirley Harrison - Questions regarding Walgreen's 'TransferSafe' program and if this electronic tool comply with NJAC 13:39-7.8 Transfer of prescriptions between pharmacies.**

Thomas Bender recused, due his affiliation with Walgreens.

The Board reviewed correspondence relating to questions regarding compliance with electronic prescription transfers.

Margherita Cardello moved, seconded by March Sturgill that pursuant to NJAC 13:39-7.8, the transfer of prescriptions can be done by electronic means. The Board noted that Walgreens must comply with all aspects of the regulation, including recordkeeping, and requested that a copy of the regulation be sent to Walgreens with the Board's reply. **Motion passed unanimously.**

**VII. MITIGATION/ HEARING REQUESTS**

**1) Alan Zampieri, R.Ph. - CE (UPL)**

The Board reviewed the proof of the completion of the required continuing education credits.

Thomas Bender moved, seconded by Stephen Lieberman to remove the Uniform Penalty Letter (UPL) and the \$1,400.00 fine issued. **Motion passed unanimously.**

**2) Boutros Barkachi, R.Ph. - Prime Aid Pharmacy - Inspection Report**

The Board reviewed correspondence received requesting mitigation relating to the fine issued to the dispensing pharmacist for dispensing Schedule II CDS medication in quantities greater than prescribed.

Thomas Bender moved, seconded by Stephen Lieberman to deny mitigation of the \$100.00 fine imposed pursuant to N.J.A.C. 13:39-6.2(f)3. The scripts were originally issued in May 2011 but the pharmacy did not have the revised scripts provided to the Board at the time of the November 2011 inspection. **Motion passed unanimously.**

**VIII. INFORMATIONAL**

**1) NABP - Legislation to require valid prescription for Non-CDS Prescription Drugs ordered online**

The Board accepted as informational.

**2) Adoption of amendment: NJAC 13:45H-7.5 Manner of Issuance of Prescriptions (90 day CII prescriptions)**

The Board accepted as informational.

**3) Board Meeting Dates - Rescheduled**

The meeting dates of May 23 and September 26, 2012 have been rescheduled as follows:

**May 30, 2012 - Hudson Conference 6<sup>th</sup> Floor  
October 3, 2012 - Monmouth Conference 7<sup>th</sup> Floor**

The Board accepted as informational.

**IX. COMMITTEE REPORTS**

**X. APPROVAL OF MINUTES**

**December 14, 2011**

Margherita Cardello moved, seconded by Marc Sturgill to approve the December 14, 2011 Open Session Minutes as amended. **Motion passed unanimously.**

**XI. ADJOURNMENT**

At 10:30 a.m. Margherita Cardello moved, seconded by Marc Sturgill to move into Executive Session for the review of 5 complaints, 5 Old Business Items, 9 New Business Items, the Secretary's Report and Recommendation on Retail and Institutional Permits, the Secretary's Report and Recommendation on Inspection Reports, 2 Investigative Inquiries and the Approval of Minutes.