

**NEW JERSEY STATE BOARD OF PHARMACY
MINUTES OF THE OPEN SESSION
JANUARY 28, 2009**

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, 6th Floor at 124 Halsey Street, Newark, New Jersey on January 28, 2009 at 10:03 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
Pamela Allen, R.Ph.
Peter Halecky, R.Ph. (Arrived at 10:15 am)
Margherita LaFragola, R.Ph. (Arrived at 10:10 am)
Elvy T. Paiva, R.Ph.
Richard Palombo, R.Ph.
Marc Sturgill, R.Ph.

OTHERS IN ATTENDANCE

Joanne Boyer, R.Ph. Executive Director
Megan Cordoma, Esq. Deputy Attorney General

EXCUSED

IV. UPDATE BY EXECUTIVE DIRECTOR

Executive Director Joanne Boyer reported to the Board that DAG Jodi Krugman was still researching the matter of free antibiotics being offered at various pharmacy chains through out the State and anticipated that she would discuss this matter at the February 11, 2009 Board Meeting.

V. OLD BUSINESS

1) Noha Faltas– Regarding request for a waiver of TOEFL/iBT

This matter was last before the Board on 8/13/08 when the Board denied her request for failure to show good cause Pamela Allen was recused since Ms. Faltas submitted a letter of recommendation from someone who had previously worked for her.

Thomas Bender moved, seconded by Richard Palombo to deny Ms. Faltas's request for a waiver due to failure to show hardship or good cause for the granting of such a waiver. The motion passed unanimously.

VI. NEW BUSINESS

1) Loretta Weinberg, Senator, 37th Legislative District – Regarding Federation of State Medical Boards

Model Policy for the Use of Controlled Substances for the Treatment of Pain

Pamela Allen moved, seconded by Thomas Bender that at this time the Board of Pharmacy does not choose to take an official position on this matter for the following reasons:

- The Board does currently have in place regulations that a pharmacist utilize professional judgement in dispensing medication (NJAC 13:39 – 7.13).
- The current Board of Medical Examiner regulations do appropriately address this issue and provide guidance on the treatment of pain (NJAC 13:35 – 7.6).
- The Board of Pharmacy does not have jurisdiction over prescribers and in a retail setting, pharmacists do not have access to patient records.

These comments are to be forwarded to the Board of Medical Examiners. The motion passed 7 – 1.

2) Haroun Karass – Requesting a waiver of TOEFL/iBt

Thomas Bender moved, seconded by Margherita LaFargola to deny Mr. Karass's request for a waiver for failure to show good cause. The motion passed unanimously.

3) NABP – MPJE State-specific Review for October, 2009

The Board accepted this as informational.

4) NABP – Official Delegate Certificate and Travel Grant Program for NABP's 105th Annual Meeting, May 16 – 19, 2009, Miami, FL

Elvy Paiva moved, seconded by Pamela Allen to nominate Edward McGinley as the official voting delegate and Thomas Bender as the alternate delegate at NABP's 105th Annual Meeting. The motion passed unanimously.

5) Robert Fusco Sr., R.Ph., CCP, FASCP – Regarding authority given to nurses in Assisted Living Facilities with respect to verbal prescription orders from the prescribing practitioner

Peter Halecky moved, seconded by Elvy Paiva that DAG Cordoma research this matter further and report back to the Board at a later date. The motion passed unanimously.

6) Stefan Merlo – Reciprocity candidate requesting that his work experience as Associate Director, US Managed Markets, Trade/Retail Marketing, Novartis Pharmaceuticals be accepted for NJAC 13:39 – 3.2(a)3

Elvy Paiva moved, seconded by Thomas Bender to approve Mr. Merlo's request that his work experience at Novartis satisfies the requirements of NJAC 13:39 -- 3.2(a)3. The motion passed unanimously.

7) Shilpa Patel, R.Ph., owner/RPIC, Feinstein's Pharmacy, Newark, NJ – Requesting approval to maintain same permit number upon transfer of ownership

Margherita LaFragola moved, seconded by Richard Palombo to approve Ms. Patel's request to maintain the same permit number. The motion passed unanimously.

8) Michael Hertz, R.Ph., Elmore Healthcare, Elizabeth, NJ – Regarding his inability to provide refills for Caremark PBM customers

Pamela Allen moved, seconded by Elvy Paiva that this is a billing issue which is not under the Board's jurisdiction. Mr. Hertz's correspondence is to be referred to the Division of Banking and Insurance. The motion passed unanimously.

9) Mitch Sobel, R.Ph., System Director of Pharmacy Services, St. Joseph Health Care System, Paterson, NJ
– Regarding an automated prescription dispensing machine for the emergency department

Elvy Paiva moved, seconded by Peter Halecky to have DAG Cordoma conduct further investigation of this matter to determine who has jurisdiction over this process, who is responsible for the end product and should there be any other restrictions than those outlined in NJAC 13:39 – 9.17 and NJAC 13:39 Subchapter 10. DAG Cordoma may contact Mr. Sobel for any additional information she may need. The motion passed unanimously.

VII. MITIGATION/ HEARING REQUESTS

1) Michael Akanbi, RPIC, New Victory Pharmacy, Irvington, NJ Pamela Allen was recused due to a past employment relationship with Mr. Akanbi.

Thomas Bender moved, seconded by Margherita LaFragola to deny Mr. Akanbi's request for mitigation since all changes were done post inspection. The motion passed unanimously.

VIII. COMMITTEE REPORTS

1) Immunization

Richard Palombo moved, seconded by Peter Halecky that in regards to the "academic and practical curriculum" referred to in proposed new rule NJAC 13:39 – 4.20 (b)1, the Board will not need to provide additional review and approval of these programs. The motion passed unanimously.

IX. APPROVAL OF MINUTES

1) January 14, 2009

Pamela Allen moved, seconded by Margherita LaFragola to approve the minutes as amended. The motion passed unanimously.

X. ADJOURNMENT

At 12:30 pm Margherita LaFragola moved, seconded by Elvy Paiva to move into Executive Session for the review of 5 Complaints, 4 Old Business items, 1 New Business item, Secretary's Report and Recommendation on Retail and Institutional Permits, Secretary's Report and Recommendation on Inspection Reports, conduct 1 Investigative Inquiry and approval of minutes. The motion passed unanimously