

**NEW JERSEY STATE BOARD OF PHARMACY  
OPEN SESSION MINUTES MARCH 8, 2006**

**I. CALL TO ORDER**

The open meeting of the New Jersey Board of Pharmacy was called to order by Board President Pamela Allen in the Somerset Room, 6th floor at 124 Halsey Street, Newark, New Jersey on March 8, 2006 at 9:08 a.m. All members were duly notified of the time and place and all pertinent materials had been provided.

**II. SUNSHINE LAW ANNOUNCEMENT**

Pamela Allen read a statement that the newspapers and appropriate elected officials had been notified of the meeting according to the requirements of the Open Public Meetings Act N.J.S.A. Chapter 231, PL 1975,/C. 10:4-18.

**III. ROLL CALL**

Pamela Allen, R.Ph President  
Edward McGinley, R.Ph Vice-President  
Jennifer Barron Government Member  
Thomas Bender, R.Ph  
Thomas Egan, Pharm.D  
Peter Halecky, R.Ph.  
Margherita Lafragola, R.Ph  
Elvy T. Paiva, R.Ph  
Marc Sturgill, Pharm. D

**OTHERS IN ATTENDANCE:**

Joanne Boyer Executive Director  
Marianne Greenwald Deputy Attorney General  
Kiran Shamlall Clerk Typist

**EXCUSED:**

Sy Larson Public Member  
Axel Miranda Public Member

**IV. SECRETARY'S REPORT AND RECOMMENDATION FOR REGISTRATION BY RECIPROCITY, EXAMINATION AND GRADE TRANSFER**

Elvy Paiva moved, seconded by Marc Sturgill, to accept the Secretary's Report and Recommendation for Registration by Reciprocity, Examination and Grade Transfer. The motion passed unanimously.

**V. CONTINUING EDUCATION REPORT**

Jennifer Barron moved, seconded by Thomas Egan, to accept the Continuing Education Report of March 8, 2006. The motion passed unanimously.

**VI. VIOLATIONS PAID FOR THE MONTH OF FEBRUARY**

Edward McGinley moved, seconded by Margherita Lafragola, to accept the Violations Paid for the month of February. The motion passed unanimously.

## **VII. OLD BUSINESS**

N/A

## **VIII. NEW BUSINESS**

1) Brian Pinto, RPIC, part owner, Tiffany Natural Pharmacy, Westfield, NJ – Transfer of ownership and requesting a waiver to keep same permit number Edward McGinley moved, seconded by Marc Sturgill, to approve the respondent's request to retain the same pharmacy permit number. The motion passed 6 to 2.

Elvy Paiva moved, seconded by Jennifer Barron, to have the Executive Director notify Medicaid of all current and future changes of ownership that involve a new owner regardless of the status of their pharmacy permit number, whether it is retained or changed. The motion passed unanimously.

2) Bimal C. Patel, RPIC, part owner, Panther Valley Pharmacy, Allamuchy, NJ – Transfer of ownership and requesting a waiver to keep same permit number

Elvy Paiva, who is affiliated with Walgreens, is the supervisor at his pharmacy. Edward McGinley moved, seconded by Jennifer Barron, to approve the respondent's request to retain the same pharmacy permit number. The motion passed 6 to 1.

3) David J. DeCarlo, R.Ph., Medicine to Go Pharmacies, Lakewood, NJ – Transfer of ownership and requesting a waiver to keep same permit number

Edward McGinley, who is affiliated with Pathmark, was recused from this item since he knows Tom Kelly, the transferer which was the previous owner. Elvy Paiva moved, seconded by Thomas Egan, to approve the respondent's request to retain the same pharmacy permit number. The motion passed 7 to 1.

4) Frank Marcos, PharmD., President, Sicomac Pharmacy, Wyckoff, NJ – Requesting a second license for pharmacy

Marc Sturgill moved, seconded by Elvy Paiva, to await the outcome of the Enforcement Bureau inspection, prior to taking any action on this matter. The motion passed unanimously.

5) Maximus C. Nwozuzu – Requesting a waiver of reinstatement fees Edward McGinley moved, seconded by Thomas Bender, to deny the respondent's request for a waiver of the reinstatement fees based on the fact that the Board has no authorization to waive a statutory requirement, (specifically, N.J.S.A.45:1-7.1(d) and N.J.S.A.45:1-7.2(b)). The motion passed unanimously.

6) Medhat Bokotor – Requesting waiver of TSE

Thomas Bender moved, seconded by Elvy Paiva, to deny the respondent's request for a waiver of the TSE since he has failed to demonstrate good cause for not passing the test and he must pass the IBT (Internet-based Testing) exam. The motion passed unanimously.

7) Vimalkumar A. Patel – Requesting a waiver of TSE

Edward McGinley moved, seconded by Marc Sturgill, to deny the respondent's request for a waiver of the TSE since he has failed to demonstrate good cause for not passing the test and he must pass the IBT (Internet-based Testing) exam. The motion passed unanimously.

8) Angelo Cifaldi, Esq, Representing Garden State Pharmacy Owners – Regarding Caremark claim of "superior service and greater convenience" and whether this in violation NJAC 13:39 – 7.14(f) Per advise of counsel this item was moved to the Executive Session.

9) Solutions Healthcare and Partners Pharmacy submission of Joint Application to Conduct a Centralized

Prescription Handling Pharmacy Service The Board needs additional information on this matter in order to render an appropriate decision. The Chair directed the Executive Director to obtain the following: clarification of ownership, type of licensure and detailed information on the relationship between the two entities.

10) Mary Dickson, Associate Executive Director, NABP – Communication regarding technician certification programs The Board accepts this item as informational and going forward will attempt to ascertain NABP'S stance on testing pharmacy technicians.

11) David A. Reskof, M.D., President, NJ Psychiatric Association – Communication to the Governor regarding the Horizon BCBSNJ "Dispensing Limit program" The Board accepts this item as informational and currently there are no pharmacy regulations that address this matter. This is an insurance-related issue, which is not under the Board's jurisdiction.

12) Pharmacy Permit Application- Changes/Corrections Edward McGinley moved, seconded by Peter Halecky, to approve the following changes to Item 11 in the pharmacy permit application: Caption above 4 "Names and addresses of all officers and owners of any percent of stock." 11. Does any equity holder in this pharmacy have any percentage of ownership, by blood or marriage, in any other pharmacy in this State.

The motion passed unanimously.

Peter Halecky moved, seconded by Marc Sturgill, to inform the Enforcement Bureau that going forward on all inspections, they are to pose the following questions: How many pharmacies do you operate or own in New Jersey? Do you or any other pharmacists have any percentage of ownership in the pharmacy, by blood or marriage, in any other pharmacy in this State? The motion passed unanimously.

## **IX. MITIGATIONS**

1) Daniela Imperato, R.Ph. – Regarding CE audit

Edward McGinley moved, seconded by Elvy Paiva, to deny her request for mitigation and to change the wording in the final orders to state "misrepresentation" as opposed to "fraud, deception, and misrepresentation." The motion passed unanimously.

2) Howard Isaacs, R.Ph. – Regarding CE audit

Marc Sturgill moved, seconded by Margherita Lafragola, to deny his request for mitigation. The motion passed 7 to 2.

3) Jack Kalmus, R.Ph. – Regarding CE audit

Margherita Lafragola, who is affiliated with Rite Aid, was recused from this item since the respondent is a Rite Aid employee. Elvy Paiva moved, seconded by Jennifer Barron, to deny his request for mitigation. The motion passed 6 to 2.

4)Kari Leff, R.Ph. – Regarding CE audit

Edward McGinley moved, seconded by Thomas Bender, to deny her request for mitigation and request that the Executive Director provide information to the respondent regarding when and where the continuing education announcements were made. The motion passed 6 to 2.

5) Anthony Longo, R.Ph. – regarding CE audit

Thomas Bender moved, seconded by Thomas Egan, to deny his request for mitigation. The motion passed unanimously.

6) Rushmi Mathur, R.Ph. – Regarding CE audit

Marc Sturgill moved, seconded by Margherita Lafragola, to deny her request for mitigation. The motion passed 7 to 2.

7) Alka Mehta, R.Ph. – Regarding CE audit

Edward McGinley moved, seconded by Jennifer Barron, to deny her request for mitigation. The motion passed unanimously.

8) Kalyani Nagappan, R.Ph. – Regarding CE audit

Margherita Lafragola was recused from this item since the respondent was previously employed by Rite Aid. Elvy Paiva moved, seconded by Thomas Egan, to deny her request for mitigation. The motion passed 7 to 1.

9) J.G. Nestler, R.Ph. – Regarding CE audit

Thomas Bender was recused since the respondent contacted him regarding this matter. Edward McGinley moved, seconded by Elvy Paiva, to allow the respondent to submit any additional continuing education credits within the next thirty (30) days and upon the receipt of said information, his fine will be adjusted accordingly. If he does not comply with the Board, then his request for mitigation will be denied. The motion passed 8 to 1.

10) Stanislaw C. Niemiec, R.Ph. – Regarding CE audit

Mr. Niemiec has recently submitted proof of 12 live credits that he took in 3/04 and 8/04 which would lower his fine to \$2,800.

Jennifer Barron moved, seconded by Marc Sturgill, to mitigate his total fine of \$5,000. The motion passed unanimously.

11) Emeka Obinnakwelu, R.Ph. – Regarding CE audit

Elvy Paiva was recused from this item since the respondent was previously employed by Walgreens. Edward McGinley moved, seconded by Marc Sturgill, to deny her mitigation. The motion passed unanimously.

12) Bibiana Ogubunka, R.Ph. – Regarding CE audit

Edward McGinley moved, seconded by Thomas Egan, to mitigate the total fine of \$1,200. The motion passed 7 to 2.

13) Michael M. O'Hara, R.Ph. – Regarding CE audit

Jennifer Barron moved, seconded by Edward McGinley, to deny his mitigation. The motion passed unanimously.

14) Stephen T. Orosz, R.Ph. – Regarding CE audit

Jennifer Barron moved, seconded by Marc Sturgill, to mitigate his fine from \$2300 to \$1300. The motion passed 7 to 2.

15) Leo Palmer, R.Ph. – Regarding CE audit

Marc Sturgill moved, seconded by Edward McGinley, to deny his mitigation and to inform him that he may become inactive and he may set up a payment plan. The motion passed unanimously.

## **X. CONFERENCES**

N/A

## **XI. COMMITTEE REPORTS**

### 1) Collaborative Practice and Immunization Committees

Both Committees met on February 22, 2006 following the Executive meeting to further discuss the regulations.

### 2) Compounding Committee

The Compounding Committee held a telephone conference on March 1, 2006.

## **XII. APPROVAL OF MINUTES**

### 1) February 8, 2006

Marc Sturgill moved, seconded by Thomas Egan, to approve the draft minutes of February 8, 2006 as amended. The motion passed unanimously.

## **XIII. ADJOURNMENT**

At 11:00 a.m., Marc Sturgill moved, seconded by Jennifer Barron, to move into the Executive Session to review (6) consumer complaints, (2) Old Business items, (5) New Business items, (19) Retail IV Permits, and (13) Inspection Reports. The motion passed unanimously.