

FINAL

**NEW JERSEY STATE BOARD OF PHARMACY  
MINUTES OF THE OPEN SESSION OF MARCH 10, 2004**

**I. CALL TO ORDER**

The Open meeting of the New Jersey State 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 March 10, 2004 at 9:12 a.m. All members were duly notified of the time and place and all pertinent materials had been provided.

**II. SUNSHINE LAW ANNOUNCEMENT**

Edward McGinley read a statement that 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**

**Present:**

Edward McGinley, R.Ph. President  
Edith Micale, R.Ph. Treasurer  
Anthony Alexander, R.Ph.  
Pamela Allen, R.Ph.  
Mona Doyle Public Member (Left at 2:45 p.m.)  
Sophie Heymann Public Member (Left at 4:30 p.m.)  
Ira Katz, R.Ph. (Left at 4:00 p.m.)  
Robert Kowalski, R.Ph. (Left at 3:20 p.m.)  
Richard Palombo, R.Ph (Left at 4:05 p.m.)

**OTHERS IN ATTENDANCE:**

Marianne Greenwald Deputy Attorney General  
Joanne Boyer, R.Ph. Executive Director  
Shonnette Messiah Principal Clerk Stenographer  
Kiran Shamlall Assistant Clerk Stenographer

**IV. APPROVAL OF MINUTES**

**(1) DRAFT OF February 11, 2004 MINUTES**

Robert Kowalski moved, seconded by Sophie Heymann, to approve the draft minutes of February 11, 2004 as amended. The motion passed unanimously.

**(2) FINAL OF January 14, 2004 MINUTES**

Sophie Heymann moved, seconded by Edith Micale, to approve the minutes of January 14, 2004 as amended. The motion passed unanimously.

**V. SECRETARY'S REPORT AND RECOMMENDATION FOR REGISTRATION BY**

## **RECIPROCITY, EXAMINATION AND GRADE TRANSFER**

Robert Kowalski moved, seconded by Mona Doyle to approve the Secretary's Report and Recommendation For Registration By Reciprocity, Examination and Grade Transfer. The motion passed unanimously.

### **V.1 SECRETARY'S REPORT AND RECOMMENDATION FOR REGISTRATION BY RECIPROCITY, EXAMINATION AND GRADE TRANSFER- From the February 25, 2004 meeting**

Sophie Heymann moved and seconded by Robert Kowalski to accept the ratification of Secretary@s Report and Recommendation for Registration By Reciprocity, Examination and Grade Transfer for February 25, 2004. The motion passed unanimously.

## **VI. CONTINUING EDUCATION REPORT**

Robert Kowalski moved, seconded by Sophie Heymann to accept the Continuing Education Report. The motion passed unanimously.

## **VII. VIOLATIONS PAID FOR THE MONTH OF FEBRUARY, 2004.**

Mona Doyle moved, seconded by Sophie Heymann to accept the Violations Paid for the month of February 2004. The total paid was \$51, 850. The motion passed unanimously.

Sophie Heymann moved, seconded by Richard Palombo to issue a follow-up letter, if the respondent fails to submit a letter of corrective action to the Board. The follow-up letter will state that failure to cooperate with the Board directive may result in disciplinary action. The motion passed unanimously.

## **VIII. OLD BUSINESS**

### **(1) Woodruff Pharmacy Agreement**

Pamela Allen moved, seconded by Robert Kowalski to accept the Woodruff Pharmacy Agreement as amended. Three months from the signing of the agreement and the start of operations the Board will review procedures at Woodruff Pharmacy in order to determine if Woodruff Pharmacy is in compliance with the agreement.

This item will be placed on the Board agenda in 3 months time for Board review. The motion passed unanimously.

### **(2) DURC Formulary**

Update from Marianne Greenwald, DAG, regarding questions proposed by Ed McGinley, Board President. As of this date Ms. Greenwald has not had a response to the questions she posed (see attached questions).

Ed McGinley reviewed the Division of Medical Assistance and Health Services NJAC 10:51 readoption with amendment. The Chair directed the Executive Director to send a letter to the Department of Health & Senior Services stating that the Board does not have the statutory authority to approve the Orange Book, but the Board is in favor of its usage.

### **(3) Duane Reade Pharmacy Kiosk Proposal**

This item was placed before the Board at the 11/19/03 Board meeting. Further information has been provided by Duane Reade.

Deborah Holzman, Counsel for Duane Reade, presented the Kiosk proposal. Ms. Holzman addressed the issue of steering

and will provide further documentation addressing the issue regarding electronic transmission. This item was moved to the Executive session for further discussion and advice of counsel.

The DAG informed Ms. Holzman that she is to contact the BME in writing regarding the placement of the Kiosk System in the physician's office.

#### **(4) Role of Technicians**

This item was placed before the Board at the 11/19/03 Board meeting at which time the Chair directed Richard Palombo to draft a policy in regards to the role of the pharmacy technician.

Robert Kowalski moved, seconded by Edith Micale to refer this item to the Rules and Regulations committee be discussed in the Rules and Regulations meeting on March 16, 2004 and to seek avenues to repeal or amend the statute as it pertains to technicians. The motion passed unanimously.

#### **(5) Board of Pharmacy meeting to be held at College of Pharmacy**

Robert Kowalski moved, seconded by Anthony Alexander to approve holding the April 14, 2004 meeting at Rutgers University College of Pharmacy in New Brunswick, NJ. The motion passed unanimously.

#### **(6) Board Member Retreat: March 23 and 24, 2004**

The Board discussed the agenda for the upcoming meeting at the Seaview Marriott, Galloway Township, NJ.

### **IX. NEW BUSINESS**

#### **(1) John Giampolo, IPA-Letter issued by CVS regarding Medicate supplies**

This item has been moved to the Executive Session.

#### **(2) Frank Manicone, R.Ph., Duane Reade-Letter issued by CVS regarding gift card**

The Board did not view the issuing of the CVS Gift Card as a violation of any Board of Pharmacy regulations, because it was not in association with dispensing a prescription.

#### **(3) Nicholas Tedeschi, Purdue Pharma-RxPatrol Program**

Allan Geiwitz, Medical Liaison, Purdue Pharma gave a brief overview of the RxPatrol program. This item was treated as an FYI.

#### **(4) Tony Alexander-ASAP Conference report**

This item has been treated as an FYI. The Board thanked Mr. Alexander for his excellent report on the ASAP Conference. Sophie Heymann suggested that each year a different Board member be encouraged to attend this conference.

#### **(5) Robert Kowalski-Enforcement Bureau Committee report**

This item has been moved to the Executive Session.

#### **(6) Board of Pharmacy-Proposed Sunset-Final Draft**

This item will be mailed to each Board member for review and comment.

#### **(7) Geeta Sanjay-Requesting a waiver of 134.5 hours**

Ira Katz moved, seconded by Pamela Allen to waive the remaining 134.5 hours needed to fulfill the 1000 hour requirement for reciprocity. She had completed 865.5 hours.

### **(8) Smallpox vaccination**

The Board acknowledged that New Jersey Department of Health is training pharmacists to administer smallpox vaccinations and that the regulations needed to support the Pharmacy act should be priority.

### **(9) Live CE Credits**

The Board stated that preceptors will be given 3 live CE credits instead of supportive credits for internship/externship. This item will be placed in the newsletter.

### **(10) Assembly Bill No. 2439**

The Board voted to support the bill because, it believes that issuing prescriptions over the Internet, without an underlying examination of the patient, is a dangerous practice. The Board, however, expressed concern that the bill did not allow for the issuance of prescriptions in certain situations where examination of the patient's condition would not be practical, such as in emergency or when a physician is providing coverage for another practitioner. The Board believes that the bill should provide exceptions which would authorize the issuance of a prescription in these limited situations.

### **(11) Assembly Bill No. 1870**

The Board reviewed this bill today and had the same objection as it did to the related (A1631). The Board supports the concept espoused in the bill but the members continue to believe that the \$500,000 annual gross income threshold for participation in the program is unreasonable and will severely limit the number of pharmacies that will be able to participate. The Board believes that if the \$500,000 annual gross income threshold is changed to \$500,000 gross margin, more pharmacies will be able to participate in the program. The Board explained that, generally speaking, a pharmacy must generate 2.5 million dollars in gross sales in order to meet overhead expenses and stay in business. Two million dollars of that sum goes to covering the cost of goods. The remaining \$500,000 defined as gross margin, is the sum of money that the pharmacy must use to pay all other expenses. The lack of a definition for "gross annual income" is confusing. If annual gross income refers to gross sales, as several Board members believe, then almost no pharmacist in the State would be eligible for participation in the program.

## **IX. 1 PRESIDENT'S COMMENTS**

President Edward McGinley, thanked Joanne Boyer, Pamela Allen and Robert Kowalski for their contributions to the April, 2004 newsletter.

## **X. ADJOURNMENT**

At 11:33 a.m., Anthony Alexander moved, seconded by Robert Kowalski to move into the Executive session to review (19) complaints, (20) inspection reports, (10) I.V. retail permits and (4) mitigation reports. The motion passed unanimously.

At 11:44 a.m., Robert Kowalski moved, seconded by Edward McGinley to move back into the Open session to discuss the Board member Retreat, Assembly Bill No. 2439, Assembly Bill No. 1870, Assembly Bill No. 2322 and a waiver for reciprocity. The motion passed unanimously.

At 12:37 p.m., Robert Kowalski moved, seconded by Mona Doyle to move back into the Executive session. The motion passed unanimously.

At 4:50 p.m., Pamela Allen moved, seconded by Edith Micale to adjourn the Executive session. The motion passed.

