

NEW JERSEY STATE BOARD OF PHARMACY
MINUTES OF THE OPEN SESSION
March 26, 2008

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 March 26, 2008 at 9:07 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

Mr. 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.
Jennifer DeVenio Government Member<
Peter Halecky, R.Ph.
Margherita Lafragola, R.Ph. (Arrived at 12:45 pm)
Elvy T. Paiva, R.Ph.
Marc Sturgill, R.Ph.

OTHERS IN ATTENDANCE

Joanne Boyer, R.Ph. Executive Director
Marianne Greenwald, Esq. Deputy Attorney General

EXCUSED

Richard Palombo, R.Ph.
Axel Miranda Public Member

IV. UPDATE BY EXECUTIVE DIRECTOR

N/A

V. CONTINUING EDUCATION REPORT

N/A

VI. OLD BUSINESS

1) Purnima Shah, R.Ph., 50% owner, DeRosa Pharmacy, Newark, NJ – Regarding the ability to have a podiatrist or physician practice within the pharmacy premises this matter was last before the Board on 2/27/08 at which time the Board determined to have Ms. Shah appear before the Board to further explain her proposal

At 9:59 am Peter Halecky moved, seconded by Jennifer DeVenio to move into Executive Session for advice of

counsel. The motion passed unanimously. At 10:30 am Elvy Paiva moved, seconded by Peter Halecky to go back into Open session. The motion passed unanimously.

Thomas Bender moved, seconded by Jennifer DeVenio to inform Ms. Shah that:

- a) that she can have a physician practice in the pharmacy, but not in the permitted area
 - b) a remodeling application would need to be submitted to include how the security of PLD and CDS items is to be maintained, pursuant to NJAC 13:39 – 6.2(f)4 and a detailed drawing of the entire pharmacy and physician office area
 - c) at a minimum, the proposed elevator must be secured, locked and not allowed access to the pharmacy when the pharmacy is closed
 - d) she is to submit a copy of the lease with the landlord
- The motion passed unanimously.

In addition, the Board advised Ms. Shah that there may be additional items such as zoning requirements and Stark Laws that Ms. Shah would be required to be in compliance with. The Board further suggests that the prescription and compounding areas may be secured with a gate and then designated as a pharmacy department. If Ms. Shah were to convert the pharmacy into a pharmacy department, then the department would have to be in compliance with NJAC 13:39 – 4.14.

2) Ronald Sorr – Requesting clarification of Consent Order

Pamela Allen moved, seconded by Thomas Bender that in addition to those areas shown in the diagram Mr. Sorr cannot be in the display case area or at the cash register behind the waiting counter. He can be in the front store area, the office area and the bathrooms. He is permitted to walk from the front of the store to the office area as long as he does not pass through the prescription filling area. In addition:

- a) Mr. Sorr may not be permitted to call insurance companies with regard to authorizations and payments,
- b) his restriction does exclude him from handling the bag with the completed product and ringing up the final sale,
- c) he is not permitted to act as a translator between customers and staff; there are other options available to him such as utilizing the AT&T language line,
- d) he is not permitted to provide advice on over the counter medications.

Mr. Sorr is to submit a detailed, complete floor plan of the pharmacy, clearly labeled to show the adjacent areas of the prescription filling area. The Board emphasizes that Mr. Sorr is not permitted to be in the prescription area whether the pharmacy is opened or closed. The motion passed unanimously.

VII. NEW BUSINESS

- 1) Yu Ping Lee – Reciprocity candidate requesting a waiver of NJAC 13:39 – 3.2(a)3 and be allowed to complete her internship in a 2 years instead of 1 year and a waiver of NJAC 13:39 – 8.4(a)1 and be allowed to work less than 20 hours per week

Elvy Paiva moved, seconded by Peter Halecky to approve Ms. Lee's request for a waiver of NJAC 13:39 – 3.2(a)3 and NJAC 13:39 – 8.4(a)1. The internship period is extended thru 8/21/09. The motion passed unanimously.

< VIII. MITIGATION/ HEARING REQUESTS

- 1) Deepika Mathur, R.Ph. – Regarding UPL issued for not completing the required CE for the May 1, 2005 thru April 30, 2007 biennial renewal period

Peter Halecky moved, seconded by Elvy Paiva to deny Ms. Mathur's request for mitigation due to failure to show good cause. The motion passed unanimously.

2) Rene DeHombre, RPIC, Health Center Pharmacy, West New York, NJ

Pamela Allen moved, seconded by Marc Sturgill to mitigate the fine imposed pursuant to NJAC 8:65 – 5.7 from \$1,000 to a warning (the inventory did not include the time of day) and to deny the request for mitigation of the \$100 fine imposed pursuant to NJAC 13:39 – 7.19(b)2 & NJSA 45:14 – 68(b)2. The motion passed unanimously.

3) Stanley Reuben, RPIC, University Medical Center at Princeton, Princeton, NJ Pamela Allen was recused due to her business relationship with Stanley Ruben and University Medical Center at Princeton.

Thomas Bender moved, seconded by Elvy Paiva to deny the request for a mitigation of the \$100 fine imposed pursuant to NJAC 13:39 – 7.19c and to mitigate the \$1,000 fine imposed pursuant to NJAC 8:65 – 5.4(a). At the time Statute 24:21 et seq was passed perpetual inventories were not anticipated Mr. Reuben should designate a biennial date and produce a document from the Pyxis machine for their biennial inventory. The motion passed unanimously.

IX. COMMITTEE REPORTS

1) Rules & Regs Committee

Edward McGinley, Committee Chairperson reported that the Rules & Regs Committee meeting for April will held on April 30th instead of April 16th

X. APPROVAL OF MINUTES

1) March 12, 2008

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

XI. ADJOURNMENT

At 11:10 am Elvy Paiva moved, seconded by Jennifer DeVenio to move into Executive Session for the review of 3 complaints, 3 Old Business items, 1 New Business item, conduct 2 Investigative Inquiries, Secretary's Report and Recommendation on Retail and Institutional Permits, Secretary's Report and Recommendation on Inspection Reports and approval of minutes. The motion passed unanimously