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BOARD OF PHARMACY PUBLIC SESSION MINUTES UNION CONFERENCE ROOM, 3rd FLOOR May 6, 2015

I. CALL TO ORDER

The Open Session of the New Jersey Board of Pharmacy was called to order by the Board President, Mr. Thomas F.X. Bender, at 124 Halsey Street, Union Conference Room, 3rd floor, on May 6, 2015 at 9:08 a.m. All members were duly notified of the time, place and all pertinent materials were provided to the members.

II. SUNSHINE LAW ANNOUNCEMENT

President Thomas F.X. Bender 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, PL1975/C.10:4-8.

III. ROLL CALL

Thomas F.X. Bender, R.Ph.	President
Richard Palombo, R.Ph.	Vice President
Margherita Cardello, R.Ph.	Excused Absence
Edward G. McGinley, R.Ph.	
Mahesh Shah, R.Ph.	
Stephen Lieberman, R.Ph.	Excused Absence
Calliope Alexander	Excused Absence
Carol Jacobson, Esq.	
Linda Witzal, R.Ph.	
Mitch Sobel, R.Ph.	

OTHERS IN ATTENDANCE

Anthony Rubinaccio, R.Ph.	Executive Director, Board of Pharmacy
Megan Cordoma	Deputy Attorney General
Jodi Krugman	Deputy Attorney General
Jessica Kelley	Board Staff

IV. UPDATES BY EXECUTIVE DIRECTOR

N/A

V. OLD BUSINESS

1) Mitigation Request – Heena Dhiren Patel, RPIC

Following an inspection revealing a violation related to the pharmacist/pharmacy technician ratio, a UPL was issued seeking a fine for this, other violations, and a letter of corrective action.

Heena Dhiren Patel, RPIC provided an explanation that while proper documentation wasn't provided, all pharmacy technicians present during the inspection have completed the approved CVS in-house Pharmacy Technician Training Program, addressing the violation. Ms. Patel requested that the Board mitigate the fine.

The item was tabled at the April 22, 2015 meeting, allowing Ken Taraska of CVS an opportunity to provide appropriate documentation to the Board within two weeks.

Mr. Taraska provided supplemental information which provided support to the claim that all technicians on duty were certified.

Richard Palombo moved, seconded by Mahesh Shah, to remove the citation for violation of N.J.A.C. 13:39-6.15(d)(e)(f) from the UPL. **Motion passed 7-0.**

VI. NEW BUSINESS

1) American Custom Compounding Pharmacy, Dallas, TX – Sterile compounding pharmacy applicant

Chair Direct: The Board office is to request training documents, an updated RPIC, clarification of hours of operation, an updated Texas Permit and CDS registration, an updated application, and an explanation as to why the RPIC turnover rate is so high.

2) IV Solutions of Lubbock, Lubbock, TX – Sterile compounding pharmacy applicant

Edward McGinley moved, seconded by Linda Witzal to approve this out-of-state application. **Motion passed 7-0.**

3) **MedicoRx Specialty** – Van Nuys, CA – Sterile compounding pharmacy applicant

Chair Direct: The Board office is to request that the pharmacy correct the date on the internet affidavit, provide a verification of the RPIC, and an explanation for answering “no” to question #2 (does the pharmacy fully comply with all standards in USP 797) on the New Jersey compounding questionnaire.

4) **North Beaches Pharmacy, Jacksonville Beach, FL** – Out-of-state pharmacy with discipline

Chair Direct: The Board office is to request: an explanation of how North Beaches Pharmacy receives prescriptions from New Jersey (prescriber vs. patient), an updated inspection report, an affidavit stating they will not fill internet prescriptions, and the results from the 2000 administrative complaint.

5) **Cara Paluchovic, Pharmacy Technician** – Finalization of POD

On 09/19/13, Ms. Paluchovic admitted to diversion of Oxycontin from Robert Wood Johnson University Hospital for personal use. Her pharmacy technician registration expired in August of 2014 and the POD was issued in November of 2014.

Edward McGinley moved, seconded by Carol Jacobson, to issue a FOD, withdrawing the POD, based on the inability to confirm service delivery and retain the right to take action if Ms. Paluchovic reapplies. **Motion passed 7-0.**

6) **Tara Tomasello, Pharmacy Technician** – Finalization of POD

On 10/17/13, Ms. Tomasello was arrested by Woodbine State Police for possession of CDS. On 10/23/13, she was arrested by the Atlantic County Sheriff's Office and charged with unlawfully and knowingly or purposely possessing heroin with intent to distribute. Ms. Tomasello's pharmacy technician registration expired in August of 2014 and the POD was issued in November of 2014.

Edward McGinley moved, seconded by Carol Jacobson, to issue a FOD, withdrawing the POD, based on the inability to confirm service delivery and retain the right to take action if Ms. Tomasello reapplies. **Motion passed 6-0. Richard Palombo was recused as he appointed the judge who presided over Ms. Tomasello's case in Upper Township.**

7) **Ellen Finnegan, Pharmacy Technician** – Finalization of POD

On 11/03/13, Ms. Finnegan was arrested by the Ocean Township Police Department for simple assault. Service of the POD was effectuated, but no

response was received.

Mahesh Shah moved, seconded by Linda Witzal to finalize the POD as written.
Motion to support 7-0.

8) Eric Gonzalez, Pharmacy Technician – Finalization of POD

On 7/22/14, Mr. Gonzalez was arrested by the Trenton Police Department for theft of movable property, possession of CDS, and manufacture/distribute CDS. Service of the POD was effectuated and signed for by Mr. Gonzalez, but no response was received.

Richard Palombo moved, seconded by Mahesh Shah to finalize the POD as written. **Motion to support 7-0.**

9) Shanne M. Fraguada, Pharmacy Technician – Finalization of POD

On 02/20/01, Mr. Fraguada was arrested for possession of CDS. His pharmacy technician registration expired in August of 2014 and the POD was issued in November of 2014.

Edward McGinley moved, seconded by Linda Witzal, to withdrawal the POD, based on the inability to confirm service delivery and retain the right to take action if Mr. Fraguada reapplies. **Motion passed 7-0.**

10) Mark Cardis, R.Ph. – Request for modification of Consent Order

The Board received and reviewed Mr. Cardis' request to modify his Consent Order filed on July 14, 2011, following diversion of CDS by creating fictitious pharmacy records. Mr. Cardis has complied with the stipulations of his Consent Order, remains in progressive recovery with PAP, and is currently working as a pharmacist.

Mitch Sobel moved, seconded by Linda Witzal, to deny the request for modification of the Consent Order. **Motion did not carry 4-3.**

Upon further discussion, Carol Jacobson moved, seconded by Richard Palombo, to inquire if PAP can unconditionally support Mr. Cardi's return as a pharmacist and specifically address if he can practice as a RPIC, a preceptor, an owner, and engage in unrestricted practice. **Motion passed 7-0.**

11) Town Total Health Pharmacy, Newark, NJ – MTM Call Center

Item tabled pending receipt of additional information from licensee.

12) Partners Pharmacy – Potential waiver requests

Mr. John Walker of Partners Pharmacy appeared before the Board to request a waiver for the countertop requirements and hot water requirements while operating in a temporary location. The temporary space is needed while the pharmacy transitions from Omnicare to Partners Pharmacy at Ancora Psychiatric Hospital, Trenton Psychiatric Hospital, and Greystone Park Psychiatric Hospital. Appropriate measures have been taken to maintain the integrity of the temporary space as a pharmacy and the continuity of care during the transition.

Mitch Sobel moved, seconded by Richard Palombo, to approve a 30-day waiver for countertop space and hot water. If the transition extends beyond 30 days, Partners Pharmacy must notify the Board and request an extension of the waiver. **Motion passed 6-0. Linda Witzal is recused due to a previous affiliation with Partners Pharmacy.**

13) Jeffrey Skuraton – Request to waive \$17,000 cost associated with his Consent Order

The Board received and reviewed Mr. Skuraton's request to waive the \$17,000 cost associated with his Consent Order. The Board reviewed all documentation in his case and history in its consideration.

Edward McGinley moved, seconded by Mitch Sobel to abide by the original terms of the signed Consent Order, and to not waive the \$17,000 cost. **Motion passed 7-0.**

Chair Direct: The Board staff is to advise the Division of Consumer Affairs to not accept a reduced payment or waiver for Mr. Skuraton's debt, based on this motion.

VII. MITIGATION/HEARING REQUEST

The Board reviewed this bill as informational.

VIII. INFORMATIONAL

Review of S2372

The Attorney General shall [establish a Statewide Opioid Law Enforcement Coordinating Task Force within the Department of Law and Public Safety, which shall have its purpose] coordinate and direct the Statewide efforts of law enforcement agencies, the Division of Consumer Affairs, and professional licensing boards to: identify, investigate, and prosecute the illegal sources and distribution of prescription opioid drugs; take appropriate steps to enhance the oversight by professional licensing boards relating to the administration and dispensing of controlled dangerous substances by regulated professionals; and provide training for law enforcement officials [,] and recommend

training for physicians, pharmacists, and other health care professionals in state-of-the-art methods to detect prescription drug diversion and related abuses. The Attorney General shall issue appropriate directives, establish such task forces, and implement such other measures as the Attorney General deems necessary to carry out the purposes of this paragraph, and may call to his assistance the services of employees of any State, county, or municipal department, board, bureau, commission, or agency as may be required and as may be available for these purposes.

The Board accepted this Bill as informational.

IX. COMMITTEE REPORTS

N/A

X. APPROVAL OF MINUTES

Edward McGinley moved, seconded by Mahesh Shah to approve the April 22, 2015 Public Session Minutes as amended. **Motion passed 7-0.**

XI. ADJOURNMENT

Mahesh Shah moved, seconded by Linda Witzal, to move into the Executive Session for review of 0 Complaints, 3 Old Business Items, 19 New Business Items, the Secretary's Report and Recommendation on Inspection Reports from, and the approval of the Executive Session Minutes. **Motion passed 7-0.**

At 10:52 a.m., Mitch Sobel moved, seconded by Carol Jacobson, to adjourn the Public Session. **Motion passed 7-0.**