



**CHRIS CHRISTIE**  
Governor

**KIM GUADAGNO**  
Lt. Governor

# New Jersey Office of the Attorney General

Division of Consumer Affairs  
Board of Pharmacy  
124 Halsey Street, 6<sup>th</sup> Floor, Newark NJ 07102



**JOHN J. HOFFMAN**  
Acting Attorney General

**STEVE C. LEE**  
Acting Director

**Mailing Address:**  
P.O. Box 45013  
Newark, NJ 07101  
(973) 504-6450

## **BOARD OF PHARMACY PUBLIC SESSION MEETING MINUTES UNION CONFERENCE ROOM, 3rd FLOOR May 28, 2014**

### **I. CALL TO ORDER**

The Open Session Meeting of the New Jersey Board of Pharmacy was called to order by the Board President Thomas Bender in the Union Conference Room at 124 Halsey Street, Newark, New Jersey on May 28, 2014, at 9:06 a.m. All members were duly notified of the time and place and all pertinent materials were provided to the Board Members.

### **II. SUNSHINE LAW ANNOUNCEMENT**

President Thomas Bender read a statement that the newspapers and appropriate elected officials have been notified of the meeting according to the requirements of the Open Public Meetings Act N.J.S.A. Chapter 231, P.L.1975, C.10:4-8

### **III. ROLL CALL**

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

### **OTHERS IN ATTENDANCE**

Anthony Rubinaccio, R.Ph.	Executive Director
Rachel Glasgow	Regulatory Analyst
Matthew Wetzel	Government Representative
Linda Brodie	Board Staff
Jodi Krugman`	Deputy Attorney General

#### IV. UPDATES BY EXECUTIVE DIRECTOR

Director Rubinaccio reported for the month of April \$ 38,050 in fines and penalties were collected. The following permits, licenses, and registrations were issued during the month of March:

- Technicians - 206
- Pharmacist - 46 (26 by examination/score transfer and 20 by reciprocity)
- Out-of-state pharmacies – 19
- In-state pharmacies - 8
- Pharmacists receiving immunization approval - 58
- Interns – 4 (foreign graduates)

#### **NABP Fred T. Mahaffey Award:**

Director Rubinaccio announced that he accepted the Fred T. Mahaffey Award, on behalf of the New Jersey Board of Pharmacy, at the NABP 110<sup>th</sup> annual meeting, which was held in Phoenix, AZ from May 17-20, 2014. NABP created the Fred T. Mahaffey Award in 1995 to recognize member boards of pharmacy that substantially contribute to the protection of the public health and welfare through the enforcement of state and federal laws and regulations.

Director Rubinaccio thanked the Board members, members of the Board staff, Enforcement Bureau, Division of Law and the Director's Office for contributing to this significant accomplishment. He indicated that the Board's initiative to inspect sterile compounding pharmacies for compliance with New Jersey regulations and compliance with USP <797> has gotten off to a solid start, and he is sure that the Board's good work will continue and improve our efforts to protect the public moving forward. He also thanked the various pharmacy organizations, NJPhA, IPA and GSPO for their assistance in helping to keep their constituents informed relating to Board announcements and requests.

He also commended the pharmacists in New Jersey for their consistent diligence and hard work to help provide services to, and promote the general health of, the patients in New Jersey.

#### **Red Flags Video:**

Director Rubinaccio played the Red Flags video for the Board members and all those in attendance during the Open Session. The National Association of Board of Pharmacy (NABP) organized a coalition of Stakeholders to address the prescription drug abuse epidemic. One of the agreed upon tasks of the coalition was the identification of "red flags" for pharmacists and prescribers. The red flags are warning signs that a pharmacist and prescriber should utilize in determining the appropriate course of action in prescribing and dispensing medications in order to comply with federal and state laws and regulations, particularly corresponding responsibilities.

To help educate pharmacists about the red flags, NABP agreed to assist with the development of a video developed by the Anti-Diversion Industry Working Group (ADIWG). The ADIWG is a consortium of pharmaceutical manufacturers and distributors of controlled substances who work collaboratively to address the complex problems of prescription drug diversion and abuse. The video is intended to educate pharmacists and increase their awareness of potential red flags when filling controlled substance prescriptions.

A copy of the video will be made available on the Board website, and Director Rubinaccio will email a link to that page to our pharmacy organizations, chain drug stores, and other key contacts, for further dissemination to licensees within our state.

**NABP Annual Meeting:**

New Jersey was represented by Board President Thomas Bender, Vice President Richard Palombo, Edward McGinley, Margherita Cardello and Anthony Rubinaccio at the 110<sup>th</sup> NABP Annual Conference held in Phoenix, Arizona May 17-20.

Edward McGinley was elected to serve as the President-Elect of NABP for 2014-2015. The Board wished Mr. McGinley much success in this position.

Some of the topics covered during the meeting included:

- DQSA Title II: Drug Supply Chain Security and Federal-State Cooperation
- Educational Poster Session – Partnering to Protect the Public Health
- Compounding for Office Use and Outsourcing Facilities
- Cannabis Is Here to Stay–Regulatory Update
- Emerging Paradigms–Physician Dispensing and Pharmacist Compounding in Physician Offices
- Diversion Prevention Tools –Working Together to Prevent Loss
- Medication Synchronization –Boards' Role in Helping Pharmacists Increase Adherence

**V. OLD BUSINESS**

**1) Public Orders Filed**

- a) Harold Ross, Pharm. Tech. - POD (4/7/14)
- b) Michael Jaffe, R.Ph. - Order Granting Unrestricted License (4/9/14)
- c) Oliver Alvarez, Pharm. Tech. - POD (4/17/14)
- d) Kira Fedorenko, RPh. - Order Granting Unrestricted License (4/16/14)

- e) Nick Stamatidis, RPh. - Consent Order (4/21/14)
- f) Kamal Moorjani, RPh. - Consent Order of Reinstatement of License (4/23/14)
- g) Francisco Marc;os, RPh. - Consent Order (4/29/14)
- h) Brianne Canto, Pharm. Tech. - POD (5/6/14)
- i) Jeffrey Strougo, RPh. - Consent Order of Reinstatement of License (5/6/14)
- j) Plainfield Drugs Corp. - FOD (5/01/14)
- k) Candice Gianettino, Pharm. Tech. - POD (5/9/14)
- l) Pharmacy Creations - Interim Consent Order (5/14/14)

## VI. NEW BUSINESS

- 1) **Bill Comment - A3007, Requires practitioners prescribing schedule II drugs to check prescription monitoring program prior to issuing prescription and to report prescriptions for Schedule II drugs to program: expands access to program.**

Summary:

*"This bill would require practitioners to check the prescription monitoring program prior to issuing prescriptions for Schedule II controlled dangerous substances to certain patients and would require practitioners to submit to the prescription monitoring program certain information concerning all prescriptions issued for Schedule II controlled dangerous substances. The bill would also expand access to prescription monitoring information ..."*

- 2) **A3008 Strengthens requirements regarding prescription monitoring program and broadens access to prescription monitoring program by law enforcement agencies.**

Summary:

*"This bill would make various revisions to the prescription monitoring program in order to strengthen its role in prevention and enforcement efforts related to prescription drug diversion, implementing Recommendation 5 from the State Commission of Investigation's July 2013 report, "Scenes from an Epidemic..."*

- 3) **A3010 Requires pharmacies to report dispensation of Schedule II drugs to prescription monitoring program at least once every five days.**

Summary:

*"This bill would revise the requirement for pharmacy permit holders to report to the Division of Consumer affairs certain information concerning dispensation of prescription drugs as part of the prescription monitoring program. Specifically, the bill would require pharmacy permit holders to submit information concerning*

*prescriptions for Schedule II controlled dangerous substances at least once every five days, instead of once every 30 days as required under current law...*"

**4) S1948 - Revises certain provisions of New Jersey Prescription Monitoring Program concerning reporting of and access to information, and mandatory use by practitioners and pharmacists.**

**Summary:**

*"This bill revises various statutory provisions related to the Prescription Monitoring Program (PMP), including implementing the recommendations of the Task Force on Heroin and Other Opiate Use by New Jersey's Youth and Young Adults, convened by the Governor's Council on Alcoholism and Drug Abuse. The PMP is an electronic system for monitoring controlled dangerous substances dispensed in or into the State in outpatient settings, administered by the Division of Consumer Affairs in the Department of Law and Public Safety. The bill requires that pharmacies submit prescription monitoring information to the PMP on a real-time basis. Currently, pharmacies submit information every 14 days. As of March 2014, New York, and Oklahoma are the only two states that require real-time reporting to their state PMPs..."*

**5) S1998 - Revises provisions of New Jersey Prescription Monitoring Program**

**Summary:**

*"This bill revises various statutory provisions related to the Prescription Monitoring Program (PMP), which was established in the Division of Consumer Affairs in the Department of Law and Public Safety pursuant to P.L.2007, c.244 (C.45:1-45 et seq.). The PMP is an electronic system for monitoring controlled dangerous substances dispensed in or into the State in outpatient settings. The bill requires that the director conduct educational programs concerning controlled dangerous substances for the general public and various health care professionals specified in the bill...."*

The Board of Pharmacy reviewed S1998, S1948, A3007, A3008, and A3010 which all relate to changes to the PMP. Overall, the Board supports the bills if amended as follows:

**Pharmacist Reporting**

Frequency

Should be required every 24 hours. This is consistent with neighboring states and allows for delays in delivery or pick up of prescriptions. If pharmacies have to change software to accommodate neighboring states' requirements it makes sense to make the changes to the software once.

The Board opposes real-time reporting because it would be difficult to accomplish, would be costly without improving the effectiveness of the PMP, it's unclear whether the PMP has the capability to accept data on a real time basis. Also, real-time reporting would be problematic for situations in which the prescription was filled but not picked up.

The Board opposes 5 days because of the confusion to pharmacists as to which day each week the reporting would be required. Pharmacists need to be establish a specific day/time of day for reporting.

#### Data

The Board opposes in S1998 the requirement to report identifying information of the person picking up the prescription, if different from the patient [see Section 25 (10)]. The Board believes that this requirement would pose logistical issues because the pharmacies do not have the system capability to capture this information and the Board believes that there is little benefit to this information. The Board also notes that 40% of prescriptions are picked up by someone other than the patient, and that those who legitimately need the medications are the least likely to pick up the medications themselves.

#### **Mandatory Look Up**

Physicians/Practitioners - the Board supports mandatory look up when prescribing C-II and C-III controlled substances and believes that it should be discretionary for all other prescriptions. The Board also believes that ER doctors should not be exempted from the mandatory look up.

Pharmacists - The Board believes that because of its existing corresponding duty, pharmacists should not be mandated to check the PMP. Instead, pharmacists should rely on their professional judgment when to use the PMP.

The Board believes it would be overly cumbersome to require practitioners and pharmacists to conduct a PMP search before prescribing/dispensing all controlled substances. In addition, the Board believes that some flexibility and reliance on the professional's judgment is needed.

#### **Prescriber Reporting**

The Board does not support mandating reporting by the prescriber. Prescribers will not have knowledge of the National Drug Code. If prescribers are mandated to look up at time of prescribing, the reporting will be done by pharmacists at the time of dispensing.

#### **Mandatory Registration**

The Board believes that only those pharmacists (doctors) who are practicing must have PMP access so it should only be a condition of prescribing/dispensing controlled substances.

#### **Access to PMP**

The Board believes in retaining the existing requirement for Law Enforcement to access the PMP based on a subpoena or court order.

#### **Delegation**

The Board supports delegation to health care professionals in order to make using the PMP more user-friendly and encourage use of the PMP.

The Board also recommends the ability to delegate to pharmacy technicians access to the PMP to look up patients and print the information for the pharmacist's review (only the robotics not the assessment would be delegated). This would save time in the filling of prescriptions.

The Board believes it is critical to maintain the requirement that the physician/pharmacist is ultimately responsible for its delegates' access to and use of the PMP.

Also, if there is delegation to non-professionals, the Board recommends the use of a power of attorney and ensure that non-professionals under their responsibility have been delegated authority to access the PMP.

### **Sharing of Information**

The Board supports interoperability with other states (Interconnect through the NABP) and eliminating the requirement to sign individual Memorandum of Understanding as it will lessen the burden on the PMP.

Thomas Bender moved, seconded by Stephen Lieberman, to support the Bills with the suggested modifications. **Motion passed 8-0.**

### **6) AR113 Urges FDA to make Naloxone available over the counter**

With respect to AR113, Richard Palombo moved, seconded by Stephen Lieberman, to oppose the Resolution; not to prevent access but to ensure that the dispensing of naloxone is handled through health care professionals and recipients are counseled on the use of it. The Board refers to the existing policy regarding the distribution of naloxone. **Motion passed 9-0.**

### **7) A3201 Permits Pharmacists to Offer Customers Purchasing Prescription Drugs Discounts and Rebates**

Carol Jacobson moved, seconded by Edward McGinley that it is best if patients get all prescriptions filled in one place. **Motion 5-4. No consensus was reached by the Board.**

### **8) USPC Is adding a new chapter on Hazardous Drugs - Open Comment Period**

The Compounding Expert Committee is proposing new General Chapter <800> Hazardous Drugs-Handling in Healthcare Settings. The purpose of the new proposed General Chapter is to provide standards to protect personnel and the environment when handling hazardous drugs (HDs). Each year, approximately 8 million U.S. healthcare workers are potentially exposed to HDs. The new proposed General Chapter defines processes intended to provide containment of HDs to as low as a limit as reasonably achievable.

The Board took this as informational. Item to be printed for Board members participating in the Rules and Regulation Committee for discussion.

### 9) Meridian Health - Compounding Aseptic Containment Isolator Question

From an email sent to the Board by Robert Palmisano, RPh Director of Pharmacy for Meridian Health:

*“In reviewing the Board of Pharmacy regulations, NJ 13:39-11.8 allows for the use of a CACI located outside of a clean room, provided the CACI can provide isolation from the room and maintain ISO Class 5 air conditions under dynamic working conditions. NJ 13:39-11.9(c) 2 further states that a CACI located outside of a negative pressure clean room shall be vented to the outside air.*

*The CACI we are considering is by definition a closed negative pressure unit and will be totally exhausted to the outside air. Since CACI’s are by design, a closed environment which provides isolation from the room in which it is located and also provides for a negative pressure environment, can we locate this CACI into our existing positive pressure room in lieu of building a separate room for the CACI. Again, the unit would be totally exhausted to the outside air and would be certified initially and once every 6 months to insure that it meets ISO Class 5 air quality conditions under dynamic working conditions. And since it represents a closed system, the placement of a CACI in a positive pressure room would not contaminate nor have a negative impact on the air quality or pressure gradients within our positive pressure room nor would it cause any more environmental or exposure hazard to healthcare employees than the same unit located outside of a clean room. There would be no impact on the positive pressure nature of our existing clean room. The requirements cited above, NJ 13:39-11.8 and also NJ 13:39-11.9(c)2, are both met when placing the CACI within our existing positive pressure room.*

*Some background information pertaining to this inquiry. We have recently signed a 1 year lease renewal on our current pharmacy location, but are not sure if we will need the same spatial allocations in the future as some of our business was recently lost to Medicare competitive bidding. A CACI is more portable than building a modular negative pressure room and having to possibly relocate this room should the need arise. Placing the CACI within our existing positive pressure clean room would represent less of a financial hardship to relocate if necessary. A CACI would also cause minimal disruption to our compounding schedule, would allow for minimal disruption to patient care and would expedite our compliance with Board of Pharmacy regulations.*

*This is my thought process. Please contact me to let me know if this makes sense and can be done with the Board’s Approval. Depending upon your answer I can start pursuing either my purchase options or construction options. Thank you for your time and consideration of these issues.”*

Thomas Bender moved, seconded by Edward McGinley that information is covered in Chapter 800 of the USPC. The waiver request is denied based on current rules and

regulations, N.J.A.C.13:39.11.9(C)(1) & (2). The CACI must be externally vented if performing hazardous compounding. **Motion passed 9-0.**

**10) Bingham - Seeking a formal opinion, On Advertisement Options to Customers 60 years of age and Older**

From correspondence received from Alison K. Eggers:

*"I am writing to submit the following inquiry to the New Jersey Board of Pharmacy in order to obtain a formal opinion from the Board.*

*We represent a number of pharmacies with operations in New Jersey that are currently reviewing various promotional and advertising options that would offer customers who are 60 years of age or older savings opportunities on non-pharmacy purchases when they have prescriptions dispensed. One possible promotion involves offering a coupon for \$25 (or another amount) in savings on a customer's next non-pharmacy purchase when the customer transfers or fills a new prescription. Another possible promotion would involve the awarding of reward points or credits for savings on the purchase of non-pharmacy products. As noted, all promotion would be restricted to customers 60 years of age and older in accordance with N.J.S.A. 45:14-65. We seek an opinion regarding what constitutes a "premium" under N.J.S.A. 45:14-65 and whether or not these types of promotions would violate N.J. S.A. 45: 14-65, which provides that it is unprofessional conduct for a pharmacist to offer the "distribution of premiums or rebates of any kind whatsoever in connection with the sale of drugs and medications" except where provided to "any person who is 60 years of age or older."*

Chair Direct: The Board does not give opinions, if there is something more specific in terms of an example, the Board will be willing to address it. The Board recommends that the requestor check N.J.S.A. 45:14-65 for premiums and under N.J.A.C. 13:39-7.14 for advertising.

**11) Mohammed Moustafa , Applicant for Pharmacy Intern - Requesting waiver for internship; would like to transfer hours he completed in North Carolina**

From correspondence received from Mr. Moustafa:

*"Allow me to introduce myself, My Name is Mohammed Aly Moustafa, I'm a newimmigrant and a foreign pharmacy grade, June 2002. Throughout all my career I have been working in American Pharmaceutical companies, Eli Lilly and MSD between the period of 2004 to 2012 . Being a new alien resident, I have worked so hard on' my FPGEC certification , so I moved to the United Sated and I settled in NC throughout 2013 just for me to be able to complete my FPGEC and 1500 Internship hours before my family moves permanently with me , you know how hard a move could be.*

*By the beginning of 2014, My wife got an offer in new Jersey, so I had to move*

*here to .help my family settle down and to prevent the family disruption that my wife , kids and myself have been suffering from for a complete full year, especially it is the first time for my family to leave home . Before moving here I was under the impression that my intern hours will be accepted by the board of NJ, nevertheless, this was not the case and I have been informed that the board is not accepting internship hours done outside the state. so I had only two options either to redo the hours in NJ and start searching for intern position or I have to leave my family and work in NC for a year before transferring my licenser to NJ .*

*Based on the above situation . copy of my resume and an official copy of my NC 1500 hours internship certificate - sent directly by NC Board of Pharmacy. I was hoping that I was able to illustrate my situation and to ask for your kind consideration of waiving the required 1440 hours by the state or at least some of them as this will help me a lot into supporting my family and prevent further family disruption . ”*

Edward McGinley moved seconded by Richard Palombo, for Mr. Moustafa to provide the Board with an evaluation of the North Carolina internship and reagentize. He will not be allowed to work in pharmacy unless he registers as a technician. **Motion passed 9-0.**

**12) Phung Phan-Geneblazo, R.Ph. - Collaborative Practice Pre-Approval Application**

This was the first Collaborative Practice preapproval application received by the Board, and as such, was placed on the agenda for Board review.

Richard Palombo moved, seconded by Edward McGinley approved the application to move forward. **Motion passed 9-0.**

**13) Capital Pharmacy, Pennington, NJ - New Pharmacy Application, Supplemental Information in question**

Edward McGinley moved seconded by Thomas Bender that Capital Pharmacy will need a retail permit if they are expanding beyond their employees and both pharmacies need a central fill agreement. Need additional reference text to be supplemented. **Motion passed 9-0.**

**14) Apex Rx, Lakewood, NJ - New Pharmacy Application, would like to open within another Retail Pharmacy**

Devora Silberman RPh is requesting to open a second pharmacy in a storage area which is currently located within Refua Pharmacy. The purpose of this pharmacy would be to service adult care and assisted living facilities. This pharmacy would not have its own security system, patient record system, and would share the same PIC for Refua Pharmacy (Devorah Silberman), for 21 hours per week.

Thomas Bender moved, seconded by Margherita Cardello to allow Apex Rx, to withdraw their application within 30 days due to several deficiencies, insufficient

physical plan, and the RPIC can only be in charge of one pharmacy at a time N.J.A.C. 13:39 – 16.2(c) and must work at least 35 hours.

**Motion passed 9-0.**

**15) Unite Here Health Pharmacy, Atlantic City, NJ - New Pharmacy Application, Waiver Request for a Closed Door Pharmacy**

Michelle Mazzango, Team Lead license administration for Walgreens, submitted a waiver request for a new pharmacy in Atlantic City. She writes:

“There was some miscommunication during the application process that I will address in this letter. We are asking for a waiver on the following items because:

- \* The building is owned by Local 54 Union;
- \* This is a closed door pharmacy that only services Local 54 Union members and their families;
- \* The pharmacy is operated by Walgreen Eastern Co., Inc. but does business as Unite Here Health Pharmacy;
- \* The scale is only used for checking product and not for weighing product;
- \* There will be no compounding done at this pharmacy; and
- \* There will be no external signage

Richard Palmobo moved, seconded by Linda Witzal to proceed with the application for this closed door pharmacy; it only for local 54 Union members and their family in Atlantic City; no compounding and no CDS. Walgreens will be acting as Pharmacy Manager. Thomas Bender recused due to his work affiliation with Walgreens. **Motion passed 8-0.**

**16) Princeton HealthCare System - Implementation of a Dispensing Discharge Program**

Correspondence received from Jacqueline White, Director of Pharmacy Services University Medical Center of Princeton at Plainsboro

*“The University Medical Center of Princeton at Plainsboro (UMCPP) would like to implement a Dispensing Discharge Program for multi-dose medications. The purpose of this service is to increase patient satisfaction, facilitate care transitions, and reduce pharmaceutical waste. The multi-dose medications that we are considering for this program include inhalers, topical preparations, insulin pens, and ophthalmic/ otic drops when ordered by the physician for continued use upon discharge. These medications will be labeled in accordance with New Jersey Board of Pharmacy Outpatient labeling requirements (NJAC 13:39-7.12) which include:*

- *Pharmacy Name and address*
- *Patient Name*
- *Pharmacy Telephone #*
- *Practitioner's Name*

- *Brand name or generic*
- *Prescription #*
- *Strength of med*
- *Directions for Use*
- *Qty dispensed*
- *The phrase "Use by"*
- *Date upon which medication is dispensed*
- *Auxilliary Labeling*

*Medications that are considered for our program will:*

- 1. Be identified on a pre-approved list that is signed off by organizational leadership*
- 2. Have received physician authorization for continued use upon patient discharge*
- 3. Be limited to non-scheduled medications (i.e. non-controlled drug substances)*
- 4. Occur only after patient/family have been offered and if accepted, received education*

*Our proposed process:*

*When a multi-dose medication is ordered, the inpatient pharmacy will apply both an outpatient and inpatient label prior to delivery of the medication to the care unit. These medications will be in a distinct container and will have instructions for the nurse to identify the medication as eligible for dispensing upon discharge. Pursuant to a: physician order on the discharge medication reconciliation form and in compliance with NJBOP requirements for counseling, the nurse will offer counseling by a pharmacist and document acceptance or refusal in the electronic medical record. If counseling is accepted, then a pharmacist will educate the patient and document the session in the patient chart, which may be used to audit counseling compliance.*

*We are excited to pioneer this process as our research has identified that we may be the first to implement this type of program in the state of New Jersey. To ensure we are in accordance with state labeling and dispensing requirements, your approval of our program is requested. We would appreciate input or suggestions and look forward to hearing from you. “*

**Chair Direct:** The pharmacy needs to clarify whether the balance of the prescription is being dispensed, or if new prescriptions are being dispensed. The Board requires additional information describing the process; once that is received, the item will be reagendaized.

## II. MITIGATION/HEARING REQUEST

- 1) Henry Gialanella, RPIC - Andover Pharmacy, Andover, NJ; No response to Board letter**

On July 3, 2013, the Board sent Mr. Gialanella a letter asking for information relating to Inspection Report #8-1167 -12-X, Date of Inspection: March 12, 2012. The Board requested additional information on how he was able to prepare the DEA 106 report without the most recent inventory report being available.

Service was effectuated, however no response was received by the Board office.

Edward McGinley moved, seconded by Mahesh Shah to issue a Final Order for failure to provide further information to the Board. **Motion passed 9-0.**

**2) Rania AI-Milli, RPIC - Walgreens , Lincoln Park, NJ**

Rania AI-Milli, RPIC for Walgreens asked the Board for the following mitigations:

*"I would ask the Board of Pharmacy to consider mitigating the items from the above referenced inspection report, specifically N.J.A.C .13:39-7.18 and: N.J.A.C. 13 :39-6.29(f) )7. During the above referenced inspection the inspector alleges that 9 misbranded medications were found in the active drug inventory. I would ask that the Board please review the pictures enclosed of the medications that the inspector identified. All of the returned to stock medication was held in labeled container in which it was repackaged. You will find that the name, strength, NDC and manufacturer of the drug are included on the label. You will also find the date the bottle was filled and in all nine cases this less than the 6 months allowed pursuant to: 13:39-7.16 RETURN OF PRESCRIPTION MEDICATION: which states:*

*4) In those circumstances in which prescription medications cannot be properly returned to the original manufacturers' stock containers, the medication shall be held in the pharmacy in the labeled container in which it has been repackaged; ...  
6) Medications held for re-dispensing shall be used as soon as possible. Such medications, lacking original lot numbers and expiration dates, shall not be dispensed to patients beyond six months from the date the medications were originally prepared for dispensing. Re-dispensed medications shall be marked with the same use by date as the medication which was originally prepared for dispensing.*

*We do not believe that there was any violation based on the labels on the vials of medications and that they were all less than the 6 months allow and would therefore ask the Board to consider this explanation and fully mitigate this allegation."*

Edward McGinley moved, seconded by Stephen Lieberman to remove the citation. **Motion passed 8-0.** Thomas Bender recused due to his work relation with Walgreens.

**3) Jesus Suarez, RPIC - Angelo Pharmacy, Newark, NJ**

Mr. Suarez, RPh and President of Angelo Pharmacy, wrote asking for the following consideration for Inspection Report #8-5216-13- X from January 25, 2013.

*“Yes, a prescription was filled with the incorrect physician's information. MI pharmacists and supportive staff, i.e. technicians', have been made aware of the incident and proper procedure for filling and checking prescriptions has been subsequently reviewed.*

*I have no issue paying the \$25 fine, and though I do acknowledge that this is technically a board violation, I request that it be expunged from our permanent record. It was a simple mistake that did not cause the consumer any harm and was easily corrected.*

*Again, my only concern is for the public image of Angelo Pharmacy which myself and my staff work very hard to maintain at the highest of standards.”*

Edward McGinley moved, seconded by Richard Palombo that there is no legal provision for expungement in administrative proceeding. **Motion passed 9-0.**

**4) Derek Billetdoux, RPIC - Walmart Pharmacy Dept #10, West Berlin, NJ**

The following mitigation request was received from Derek Billetdoux:

*“Re: Inspection Report # 8-3922A.1-12-1572, Date of Inspection: May 30, 2013*

*Mr. Rubinaccio & Ladies and Gentlemen of the Board:*

*Thank you for extending the opportunity to settle this matter and avoid the initiation of disciplinary proceedings. I respectfully accept this offer. I take this matter very seriously and have plans in place to prevent similar situations from occurring in the future. As the RPIC of Walmart Pharmacy 10-1807, I will cease and desist in engaging in the following alleged conduct outlined on Attachment A of the violations letter issued by the Board:*

- *Citation: For those instances when the patient or caregiver is not physically present, there was, no system to notify the patient of the offer to counsel.*
- *Resolution: For those instances when the patient or caregiver is not physically present Walmart pharmacies include prescription information documents (leaflet) with each NEW prescription(s). Our leaflet currently does not contain the pharmacy's hours of operation. The Home Office has been notified and is working on a solution to include the missing information on the leaflet. In the meantime each pharmacist will include his/her business card with the leaflet. The Pharmacist's business card includes the hours of operation*

- *Request: We respectfully request that you re-consider and rescind the penalty imposed on the above Walmart Pharmacy during the inspection that occurred on May 30, 2014. As mentioned in the above resolution, Walmart Home Office is working on a long term solution and in the meantime, we have a process in place that is being executed at store level that fulfills this requirement.*

*Thank you again for this opportunity to respond to the Board with this Letter of Corrective Action. As pharmacist-in-charge I know that I am responsible for the entire operation of my pharmacy. I will continue to monitor my staff to ensure compliance with company policy and board regulation.”*

Edward McGinley moved, seconded by Richard Palombo to modify the citation 13:39 – 7.21(d) by removing the \$1,000 and replacing it with a warning.

**Motion passed 9-0.**

**5) Haresh Patel, RPIC - Medicap Pharmacy, Galloway, NJ**

On May 5, 2014, the Board issued a Final Order to Mr. Patel for failing to respond to penalty letter dated November 18, 2013. In regards to inspection report #8-5775-13-X dated June 10, 2013.

Ms. Mandel, attorney for Mr. Patel, asked the Board for consideration after receiving the Final Order:

*“Dear Mr. Rubinaccio:*

*Enclosed please find a Certification signed by Mr. Patel requesting that the matter be presented to the Board for mitigation. The Inspection of June 10, 2013 confirms that inspections were being done as there were "No deficiencies Noted". Mr. Patel acknowledges that a record was not kept of these Inspections, but records are now being maintained.*

*In view of the perfect condition of the pharmacy, it is respectfully urged that the Board simply CAUTION or ADMONISH Mr. Patel so that he does not have to indicate in the future that he has been the subject of disciplinary action.*

*Thank you for presenting this Letter in Mitigation to the Board of Pharmacy Members and for their consideration and courtesies.”*

Edward McGinley moved, seconded by Mahesh Shah to remove citation and rescind the Final Order. **Motion passed 9-0.**

**6) Aatif Alhout, RPIC - The Medicine Shoppe, Saddle Brook, NJ**

The following is a reconsideration request of a previously heard mitigation request (by the Board) from Renata Alhout, RPh:

*“Re: Inspection Report #8-4321-13-X, May 7, 2013*

*Dear Mr. Rubinaccio,*

*Thank you for your e-mail. I have attached all the documentation pertaining to this audit in chronological order. Enclosed is the original letter from you outlining the findings of the inspection dated May 7, 2013. Following is a signed letter if appeal from us dated December 14, 2013, outlining all corrective measures and request for leniency with explanations for each of the three violations cited. The final letter from the Board of Pharmacy dated April 3, 2014, denied our appeal and requested full payment.*

*After speaking with you on April 21 regarding this denial, you explained that once the board denies the mitigation request there is usually no other course of action. You also indicated that you would look into why the board denied #3 of our appeal which addresses online resources vs. hard copy. We were fined \$600 for not having the necessary resource library but we explained and showed the inspector that we have on-line access to all the required resources. These are the same resources we have used for the past several years and have been acceptable in previous NJ Board of Pharmacy inspections by Robert Lake and Lee Gladstein.*

*In our appeal we explained this and included pages from the websites, (I am including those with this packet as well) as evidence that we do have access to these websites, but we were still denied by the Board. You asked for a copy of the appeal letter which I e-mailed to you and also included in this packet, along with the website pages, for your review.*

*Please help us resolve this matter favorably and as soon as possible. We would like to start making payments on the final amount due as soon as we hear back. Thank you for your help.”*

Margherita Cardello moved, seconded by Stephen Lieberman to deny the mitigation request. **Motion passed 9-0.**

7) **Joseph Vidal, RPIC - Bert's Pharmacy, Elizabeth, NJ/ Would like to Mitigate Public Record**

Mitigation request received from Mr. Vidal:

*“I have received your letter regarding inspection Report #8-3713-13-X dated March 25,2014 Date of inspection Jan 23,2013. I apologize for the late response to your letter but I sold the pharmacy in Aug 2013. Between the forwarding of the letter and trying to get supporting paperwork to respond it took a little longer to respond, since I'm no longer at the pharmacy.*

*I have read your letter and feel that the penalty amount of 3375.00 is a little excessive and would like to explain my side and hope you reconsider that Amount before you make a final decision. I'll try to address each violation 1st of all the outdated products.*

*We always tried to maintain a clean inventory by hiring Return Solutions to come in physically and do the returns. I've included the returns done in Nov of 2012 only 2 months before the inspection and I done a few weeks after the inspection as corrective measures.*

*2) It's true that I forgot to do a narcotic inventory May 2012, but that was a tough time for me. My dad passed away suddenly in late April 2012 in Spain and had to close the pharmacy and fly to Europe. When I returned, I just forgot about the narcotic inventory but right after the inspection I did do it to correct it.*

*3) No running hot water. This problem began May 2012 with Hurricane Sandy. The basement became flooded and the landlord explained the pilot on the hot water tank kept going out. Since that time the landlord has replaced the hot water tank.*

*4) Name tags; I was wearing my name tag, but the clerks would forget to wear them I accept that and spoke to them about not taking them home.*

*5) My lunch in the fridge, also something I accept because it's one of the rules we know about but fudge.*

*I've included supportive documents to show that I tried to do the best I could, and hope you reconsider. I always tried to do things in an ethical manner. (Never carried Oxycontin or other highly abused drugs because I rarely saw a legitimate prescription for them).*

*Thank you for your time and I'll abide by whatever decision the board makes. However I hope in the event that I must pay the whole amount? Please allow me to pay in monthly installments because I am unemployed at the moment, although I am searching for work."*

Margherita Cardello moved, seconded by Mahesh Shah to remove citation 13:39-6.3, 13:39-5.8(a) 7, and 13:39-5.6 and reissue UPL against Joseph Vidal. The Board authorizes the use of a payment plan. Motion passed 8-0. Thomas Bender recused due to his affiliation with Joseph Vidal, who is a former classmate.

## **VIII. INFORMATIONAL**

### **1) Pharmacy Library Reference Texts**

The Board took this as informational.

### **2) 2014 Report Governor's Council on Alcoholism & Drug Abuse**

The Board took this as informational.

## **IX. COMMITTEE REPORTS**

**X. APPROVAL OF MINUTES**

Stephen Lieberman moved, seconded by Mahesh Shah to approved April 26, 2014 Public Session Minutes as amended. **Motion passed 9-0.**

**XI. ADJOURNMENT**

At 1:07 p.m. Edward McGinley moved, seconded by Margherita Cardello to adjourn the Public session and move into Executive Session for the review of: 7 Complaints, 4 Old Business Items, 5 New Business Items, the Secretary's Report and Recommendation on Retail and Institutional Permits, the Secretary's Report and Recommendation on Inspection Reports, and approval of the April 28, 2014 Executive Session Minutes **Motion passed 9-0.**