

# **New Jersey State Board of Pharmacy**

## **Minutes of The Open Session of June 12, 2002**

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

The open meeting of the New Jersey State Board of Pharmacy was called to order by Board President Anthony Alexander, in the Hudson Room, 6th Floor at 124 Halsey Street, Newark, New Jersey on June 12, 2002 at 9:30 A.M. All members were duly notified of the time and place and all pertinent materials had been provided.

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

Anthony Alexander 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. 10:4-6.

### **III. ROLL CALL**

#### **PRESENT:**

Anthony Alexander, RP, President  
Pamela Allen, RP  
Ira Katz, RP-arrived at 9:45 A.M.  
Sophie Heymann  
Richard Palombo, RP  
Edith Tortora Micale, RP  
Mona Doyle, RP - left at 2:50 P.M. (Executive Session)

#### **EXCUSED:**

Robert Kowalski, RP  
Edward McGinley, RP

#### **OTHERS IN ATTENDANCE**

Marianne Greenwald, Deputy Attorney General  
Debora Whipple, Executive Director  
Marie Wondeh, Principal Clerk Stenographer  
Kathryn Pierce, Secretarial Assistant

### **IV. APPROVAL OF OPEN SESSION MINUTES OF APRIL 24, 2002 AND MAY 8, 2002**

Edith Micale moved, seconded by Sophie Heymann to accept the minutes of April 24, 2002 and May 8, 2002 as amended. The motion passed unanimously.

### **V. SECRETARY'S REPORT AND RECOMMENDATION FOR APPLICATION BY EXAMINATION AND GRADE TRANSFER**

Richard Palombo moved, seconded by Mona Doyle to approve the report for Application by Examination. Edith Micale moved, seconded by Sophie Heymann to approve the report for Grade Transfer. The motion passed unanimously.

## **VI. SECRETARY'S REPORT AND RECOMMENDATION FOR APPLICATION FOR REGISTRATION BY RECIPROCITY**

Edith Micale moved, seconded by Sophie Heymann to approve the report. The motion passed unanimously.

## **VII. VIOLATIONS PAID FOR THE MONTHS OF APRIL AND MAY 2002**

Sophie Heymann moved, seconded by Richard Palombo to accept the report for violations paid.

## **VIII. OLD BUSINESS**

### **(I).David Schwed / WOODRUFF DRUGS**

The Chair directed the Executive Director to send a letter to David Schwed relaying the answers to the questions passed in his letter. The letter and answers are attached.

### **(2)Article - USE OF PHARMACIES BY DRUG MAKERS TO PUSH PILLS DRUGS**

Sophie Heymann moved, seconded by Pamela Allen to communicate with NABP to state the Board's objection to NABP's letter to Congress due to fact that it lacked consultation with member Boards. The motion passed unanimously.

## **IX. NEW BUSINESS**

### **(I). Albertson's, Inc. - Correspondence informing the Board of their intention to deploy an internally designed electronic prescription processing and record keeping system called "ARX."**

The Chair directed the Executive Director to invite them to appear before the Board and ask that they have a representative of "ARX" come with them to demonstrate this new system and provide their policies and procedures. The Board will ask Enforcement to attend.

### **2. SAV-ON Contacts, Inc.- Inquiry regarding being in compliance with New Jersey law. Procedures followed are included.**

The Chair directed the Executive Director to send a letter notifying them that presently dispensing contact through pharmacies is not permitted in this state. We will direct this to the Rules and Regulations Committee . Rules would have to be drafted and adopted to allow this procedure.

### **3. IPA/John Giampolo-request for reconsideration or approval for CDS to be written on same script with non-controlled drugs.**

The Chair directed the Executive Director to forward this letter to the NJ Board of Medical Examiners and to direct IPA to NJAC 13:35-7.2 (h).

### **4. Glen Rock Medical Pharmacy re: Request for courtesy inspection designating Clinton Spaar as investigator**

The Chair directed the Executive Director to send a letter advising them to file a remodeling application under the first permit and that the Enforcement Bureau will conduct an inspection when Glen Rock notifies us that they are ready. .

### **5. CQI Committee Report - Board input requested to develop the form making it useful for compiling and tracking med errors.**

The Board discussed this but took no action at this time.

**6. Bancroft/Mark Mintz, MD, re: Uniform Prescription Blank protocol for two offices (same physician)**

Referred to NJPB unit.

**7. Bejay Drugs - Board's direction**

The Chair directed the Executive Director to ask him "who" is asking him to compound and "what specifically" is he being asked to compound.

**8. NJ Association of Long Term Care Pharmacy Providers - Request for clarification on procedure at facility - Bob Fusco**

The Board is assigning it to the Rules and Regulations Committee for drafting of Regulations.

**9. Hope Collins re: legality of discounts, free samples, etc.**

The Chair directed the Executive Director to send her the statute on "samples and discounts." She will be sent a copy of the statute.

**10. Foodtown re: Request to award S & H Greenpoints to customers for cash portion of prescriptions**

Pamela Allen moved, seconded by Ira Katz to advise them that it is not allowed as it is in violation of NJSA 45:14-12 (f) as the Board does not consider it to be equivalent to another trading stamp program. Mona Doyle and Sophie Heymann voted against the motion. The motion passed, 5-2.

**11. Dr. Thomas Ortiz - Request three PA'S to be listed on a single prescription blank The Chair directed Executive Director to refer this matter to the New Jersey Prescription Blank Unit for a decision.**

**12. Sally "Anita Andjei Poku-Requests Board to exercise privilege to allow her past internship to be considered acceptable due to misinformation regarding being exempt as a British National.**

- Registered pharmacist in the UK
- Completed our 12-month internship.

This item was moved from Executive Session.

Sophie Heymann moved, seconded by Edith Micale, to accept the recommendation of her preceptor. The motion passed unanimously.

**X. WAIVERS**

**Paula J. Walker**

This waiver was tabled to the next available meeting.

**Jabeen Ahmed**

Ira Katz moved, seconded by Pamela Allen to deny the requested waiver of the 500 hour practicum .The motion passed unanimously.

**XI. FINAL ORDERS**

Edith Micale moved, seconded by Sophie Heymann, to accept the Final Orders as presented. The motion passed unanimously. A list of the Final Orders is attached.

Edith Micale moved, seconded by Sophie Heymann, that after ten days of not responding to the Final Orders for medication errors, the licensee will be requested to appear before the Board. The motion passed unanimously.

## **XII. SETTLEMENT OF DEBT/REINSTATEMENT REQUEST (Moved from Executive Session)**

### **1. Marvin Becker - \$3,000 settlement offer (of \$4,500 debt)**

Tabled . The Board requested additional information, i.e. up what the original fine was based.

### **2. Harry Richman - \$32,000 settlement offer of \$37,798.05 debt, plus request for reinstatement of license**

Sophie Heymann moved, seconded by Mona Doyle, to inform Mr. Richman that the Board will consent to reinstate his license to inactive status only after payment of the full amount of his fine. The motion passed unanimously.

## **XIII. LEGISLATION**

### **1. SCR25**

This concurrent resolution memorializes the United States Senate and the United States House of Representatives to enact legislation and memorializes the President to sign legislation which would provide all Medicare-eligible recipients with the opportunity to obtain outpatient prescription drug coverage.

Pamela Allen moved, seconded by Edith Micale, to support this bill. The motion passed unanimously.

### **2. AI90**

This bill requires that certain boards, councils and committees submit proposed regulations to the Attorney General for approval prior to adoption. The bill also mandates that a law enforcement agency notify the appropriate board, council or committee when a criminal complaint is filed against a person licensed by that entity; that a prosecutor's office notify the appropriate board, council or committee when an indictment is filed against a person licensed by that entity; and that a clerk of the court notify the appropriate board, council or committee when a conviction is entered by that court against a person licensed by that board, council or committee.

Edith Micale moved, seconded by Mona Doyle, to support the concept but oppose the language. It is too broad. The motion passed unanimously.

### **3. S549**

This bill would allow eligible "Pharmaceutical Assistance to the Aged and Disabled" (PAAD) recipients freedom of choice in selecting a pharmacy. Thus, the legislation would, in effect, prohibit the Commissioner of Human Services from contracting with a pharmacy benefits manager to administer the PAAD program and limit the number of pharmacies that participate in the program. Furthermore, the legislation would prohibit implementation of a mail order drug purchasing system, either voluntary or mandatory.

Ira Katz moved, seconded by Richard Palombo to support this bill. The motion passed unanimously.

### **4. AI631**

This bill would provide an economic assistance program for pharmacists for the acquisition and upgrade of security and computer systems.

Sophie Heymann moved, seconded by Pamela Allen, to take no position on this bill. The motion passed unanimously.

## **5. A1635**

This bill permits pharmacists to distribute premiums or rebates in connection with the sale of drugs and medications.

The motion to support this bill failed due to lack of a second. The motion failed by a vote of four in favor, two opposed and one abstention.

## **6. A1639**

This bill establishes a Pharmacist Loan Redemption Program within the Higher Education Student Assistance Authority, now in, but not of, the Department of State. The program is to provide for the redemption of a portion of the eligible student loan expenses of qualified pharmacy students for each year of service in an underserved area of the State as designated by the Commissioner of Health and Senior Services. The bill directs the Higher Education Student Assistance Authority to annually apply to the federal government for any federal funds which may be available to implement the loan redemption program and to make use of available State funds.

Anthony Alexander moved, seconded by Richard Palombo, to take no position on this bill. The motion passed unanimously

## **7. A1682**

This bill requires that a registered pharmacist or assistant pharmacist report to the State Board of Pharmacy information that reasonably suggests that there is a probability that a prescription drug, which was dispensed by the pharmacist or assistant pharmacist, has caused or contributed to the death, or to the substantial bodily injury as defined by the board, of a customer or patient, in accordance with guidelines adopted by regulation of the board. The report is to be made no later than 14 days after discovery of this information by the pharmacist or assistant pharmacist.

The intent of this bill is to require the reporting by pharmacies of medication errors that result in serious adverse health consequences for patients in order to facilitate systematic improvements that will reduce the possibility of such errors recurring in the future.

Pamela Allen moved, seconded by Ira Katz, to oppose this bill. Edith Micale voted nay. The motion passed with six ayes and one nay.

## **8. S1224**

This bill provides for fingerprinting of certain applicants or employees and exchange of criminal history records.

Richard Palombo moved, seconded by Pamela Allen to support this bill. The motion passed unanimously.

## **9. S1197**

This bill would provide for prompt notification to health care licensing boards when health care practitioners are suspected of injuring a patient or accused of other wrongdoing.

Pamela Allen moved, seconded by Sophie Heymann, to support paragraph 1. "A law enforcement agency or other government agency which receives a complaint alleging that a State licensed health care practitioner caused injury or death to a patient while practicing within the scope of that practitioner's profession shall promptly report the information contained in the complaint to the appropriate licensing board having jurisdiction over the health care practitioner" but oppose the remaining bill. The motion passed unanimously.

## **10. A587**

This bill establishes the New Jersey Prescription Drug Cost Reduction Study Commission in the Department of Health and Senior Services. The commission shall determine ways of easing the impact of increasing prices of prescription drugs on consumers and assess the feasibility of regulating price increases of prescription drugs in the State.

Pamela Allen moved, seconded by Mona Doyle, to oppose this bill. The motion passed unanimously.

## **II. S1502**

This bill provides that a pharmacist shall receive full payment and shall not be penalized for dispensing a fraudulent prescription that has been approved by the State Medicaid program, the "Pharmaceutical Assistance to the Aged and Disabled" (PAAD) program or the "Senior Gold Prescription Discount Program", unless the pharmacist or his employee or agent has committed the fraud.

The bill also provides that the State Medicaid program, the PAAD program or the Senior Gold program shall make every reasonable effort to identify an individual who commits prescription drug fraud under the program and collect from the individual the amount paid by the program for the dispensed prescription, in addition to any other penalties that may apply. If the fraud involves the misuse or theft of a Medicaid, PAAD or Senior Gold eligibility identification card, the card shall be recalled.

Ira Katz moved, seconded by Anthony Alexander to support this bill. The motion passed unanimously.

## **12. A2315**

This bill eliminates the prohibition on pharmacists from distributing premiums, rebates or discounts in connection with the sale of drugs and medications.

The Board voted to take no position on this bill by default. Sophie Heymann moved, seconded by Ira Katz, to place this bill on the next agenda for reconsideration. The motion passed unanimously.

## **13. A2337**

This bill, which is designated the "Pharmacy Benefits Management Company Act," requires that a pharmacy benefits management company (PBM), which manages prescription drug benefits for a health benefits plan covering New Jersey residents, be certified by the Director of the Division of Consumer Affairs in the Department of Law and Public Safety. The certificate would be for a three-year period and would be subject to revocation by the director for a violation of the provisions of the bill.

The bill also provides that the State shall not contract with a health maintenance organization or a PBM to administer the "Pharmaceutical Assistance to the Aged and Disabled" program or the "Senior Gold Prescription Discount Program."

Sophie Heymann moved, seconded by Ira Katz, to support this bill as long as it includes discount cards and the Board wants the definition of a "PBM" enlarged. The motion passed unanimously.

## **14. S380**

The purpose of this bill is to provide local fire departments with notice of the existence of oxygen or oxygen delivery systems at residences within the municipality to enable them to appropriately respond to the special safety hazards posed to the patient, neighboring residents and firefighters in the event of fire at those residences.

Ira Katz moved, seconded by Richard Palombo, to support this bill. The motion passed unanimously.

## **15. A570**

This bill enacts the "New Jersey Pharmacy Act" and repeals the current law providing for the regulation and licensure of pharmacists. The Board wants added back all of the amendments the Board had approved to this version.

Edith Micale moved, seconded by Richard Palombo, to support this bill. The motion passed unanimously.

#### **XIV. RECESS TO EXECUTIVE SESSION**

At 12:15 P.M., Sophie Heymann moved, seconded by Edith Micale, for the Board to enter Executive Session to review 18 retail and IV permits, 18 inspections and 15 consumer complaints. The motion passed unanimously

#### **XV. ADJOURNMENT**

Pamela Allen moved, seconded by Sophie Heymann, to move to adjourn the meeting at 4:00 P.M. The motion passed unanimously.

Respectfully submitted,

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Debora C. Whipple  
Executive Director