



# New Jersey Office of the Attorney General

Division of Consumer Affairs

Board of Pharmacy

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## **BOARD OF PHARMACY OPEN SESSION MINUTES MONMOUTH CONFERENCE ROOM, 7<sup>TH</sup> FLOOR June 25, 2014**

### **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, Monmouth Conference Room, 7<sup>th</sup> floor, on June 25, 2014 at 9:05 a.m. All members were duly notified of the time, place and all pertinent materials were provided to 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, PL 1975/C.10:4-8.

### **III. ROLL CALL**

Thomas F.X. Bender, R.Ph.	President
Richard Palombo, R.Ph.	Vice President
Margherita Cardello, R.Ph.	Late Arrival 9:20 a.m.
Edward G. McGinley, R.Ph.	
Mahesh Shah, R.Ph.	
Stephen Lieberman, R.Ph.	Absent
Calliope Alexander	Absent
Carol Jacobson, Esq.	
Linda Witzal, R.Ph.	
Mitch Sobel, R.Ph.	

### **OTHERS IN ATTENDANCE**

Anthony Rubinaccio, R.Ph.	Executive Director
Linda Brodie	Board Staff
Matthew Wetzel	Board Staff
Megan Cordoma	Deputy Attorney General

### **IV. UPDATES BY EXECUTIVE DIRECTOR**

The Executive Director reported for the month of May, \$12,150 were collected in fines

and penalties. The following permits, licenses, and registrations were issued during the month of May:

- Technicians registered - 168
- Pharmacists Licensed - 32 (21 by examination and 11 by reciprocity)
- Out-of- State Pharmacies registered –10
- In State Pharmacies licensed –6
- Pharmacists receiving immunization approval – 1
- Interns (foreign graduates) licensed – 3

## V. OLD BUSINESS

### 1) Orders Filed

- a. Jalkia Dorsey Huggins, Pharmacy Technician – POD (5/28/14)
- b. Candyce Craig, Pharmacy Technician – POD (5/28/14)
- c. Kimberly Davis, Pharmacy Technician – Order of Summary Suspension (5/28/14)
- d. Sarah Murrar, Pharmacy Technician – Order of Summary Suspension (5/28/14)
- e. William Maltoioli, R.Ph. – Consent Order (5/30/14)
- f. Dawn Mahoney, R.Ph. – POD (6/3/ 4)
- g. Stephen Matthews, Pharmacy Technician – POD (6/3/14)
- h. John Hussey, Pharmacy Technician - POD (6/3/14)

### 2) Meditech Laboratories Inc. – Response to Board’s Letter

*This item originally appeared before the Board on March 26, 2014. Meditech Labs were asked to explain the discrepancy between the hours of operation noted on the application versus those listed on the inspection report. The Board also requested an updated certification and dynamic testing result for the Laminar flow hood, as a result from the May 2013 inspection report.*

Meditech Labs cleared up the discrepancy in hours of operations and supplied an updated certification and dynamic testing results for the Laminar Flow Hood.

Edward McGinely moved, seconded by Richard Palombo to approve application for processing. **Motion passed 7-0.**

### 3) New Aces Pharmacy – Business Plan

*This item originally appeared before the Board on March 26, 2014. Mr. Wong submitted an application which would relocate his existing pharmacy from Jersey City, to a unit in an office complex in Denville. The space would be shared with a podiatrist. The Board had some outlined concerns about with this application.*

New Aces sent in clarification of their business plan.

Edward McGinley moved seconded by Mahesh Shah that all items had been addressed favorably and they can proceed with permit and inspection processes.

**4) Bergen Point Pharmacy, Bayonne, NJ – Mitigation Request (Reconsideration)**

*The last time this item appeared before the Board was on January 29, 2014, when Pamela Mandel, Esq., presented a mitigation request for Ms. Mars to the Board. Much of the request was based on change of ownership issues related to the sale of the business to Ms. Mars, and the incorrect name being placed on the change of ownership application for the pharmacist in charge. The Board reviewed all explanations presented and determined all actions had been corrected. Thomas Bender moved, seconded by Edward McGinley, to deny all mitigation requests.*

***Motion passed 6-0.***

Today Mandel, Esq. is requesting that the Board reconsider the denial request because she sent in the letter of Correction Action. She indicated that the RPIC cited for the violation was not responsible for the alleged violation of NJAC 13:39-6.2(f) concerning the number of hours worked by the RPIC for which a \$500 penalty was imposed.

Edward McGinley moved, seconded by Mitch Sobel to table this item and ask the Board Office to pull initial application for change in ownership, in order to see who the RPIC was.

**Motion passed 8-0.**

**VI. NEW BUSINESS**

**1) Assembly Bill No. #3203 – Prohibits Pharmacies from Charging Additional Fee for Processing Prescriptions Transmitted by Telephone or Electronic Means**

Edward McGinley moved, seconded by Thomas Bender to oppose the Bill. The Board sees this bill as a business decision, and not something that should be regulated by the Board. As per 45:14-48 the Board's responsibilities speak to establishment of professional standards and rules of conduct but does not give the authority to establish business rules and practices.

**Motion passed 7-1.** Carol Jacobson opposed, she is in support of the bill.

**2) Disposition of Open Agenda Items**

Thomas Bender moved, seconded by Carol Jacobson to move items 2- 6 on the Open Agenda to the Executive Session for advice of counsel.

**Motion passed 8-0.**

**3) Robert Marcinko, R.Ph. - Reactivation Request / Answered no to Continuing Credits being completed**

N.J.A.C. 13:39- 3.9A: At least 30 credits shall have been completed within the

two years immediately prior to the date of application to return to active status. Mr. Marcinko has submitted current CE credits to cover the period he missed.

N.J.A.C. 13:39- 2.18(a): A pharmacist may, upon application to the Board, choose inactive status. A pharmacist electing inactive status shall not engage in the practice of pharmacy in New Jersey for the entire biennial registration period.

Edward McGinley moved, seconded by Richard Palombo to waive regulation N.J.A.C. 13 ;39-2.18(a) to allow reinstatement, given Mr. Marcinko provision of CE credits has now been received by the Board. Credits that have been taken to satisfy previous licensure period cannot be used to satisfy current licensure period. He did not misrepresent lack of CE credits. **Motion passed 8-0.**

**4) Emergency University – CPR/AED Programs**

Emergency University is a nationally recognized CPR/AED training program provider that has constituents in New Jersey who utilize their training programs and is seeking official approval from the Board of Pharmacy.

**Chair Direct:** The Board office is to send a letter referring Emergency University to N.J.A.C.13:39 - 4.21(b)(2), to self-evaluate to see if their course meet the regulations, and complies with the ILCOR. The Board do not independently approve programs. The New Jersey Board of Pharmacy currently do not require pharmacy technician to take any course.

**5) Rutgers New Jersey Medical School – Centers for Disease Control and Prevention (CDC) is establishing a triage hotline to be used in case of a Pandemic Influenza Outbreak**

Rutgers would like to determine if under existing rules and regulations if it's Nurses and Pharmacists in New Jersey can work as physician extenders and if pharmacies in the state are allowed to fill such prescriptions, either faxed or emailed.

**Chair Direct:** In a State of Emergency the Commission of The Department of Health is in charge. The current Board of Pharmacy statutes do not allow pharmacists to be extenders. N.J.A.C. 13:35-7.1A, requires examination of patient's condition required prior to prescription.

**6) Mohammed Moustafa – Requesting waiver for internship hours/ No FPGE Certificate**

Mr. Moustafa completed 1,500 internship hours in North Carolina and was under the impression they would be transferrable to New Jersey.

This was heard at the May 28, 2013 Open Session Meeting it was voted to re-agenized when the Board receives the evaluation from the preceptor.

**Chair Direct:** This item is tabled until the Board receives an Affidavit from his North Carolina Preceptor; providing an evaluation of the internship.

7) **Alan Aronovitz, R. Ph.** – Collaborative Practice Pre-Approval Application

Mr. Aronovitz would like to be approved for collaborative practice in the field of Diabetes.

Edward McGinley moved, seconded by Thomas Bender for Mr. Aronovitz to send in a CV and any other current proofs that he is current in the field of Diabetes. The certificate he sent is dated 1996; 13:39-3.3(c) states that pharmacist authorization to engage in collaborative drug therapy management shall complete a minimum of 10 credits of continuing education every biennial renewal period in each disease(s) or condition(s) covered by the collaborative practice agreement(s). **Motion passed 8-0.**

8) **Thom Kim Nguyen-** Collaborative Practice Pre-Approval Application

Mr. Nguyen has two post graduate residency years in Pharmacotherapy and a certification from Addiction Professionals, need clarification if it is ACPE approved.

Richard Palombo moved, seconded by Mitch Sobel for Mr. Nguyen to send in clarification of what field he wants pre-approval for smoking cessation, or anticoagulants therapy or both. If it is for anticoagulants therapy there is no additional information needed, for smoking cessation clarification is needed regarding if the course is ACPE approved. **Motion passed 8-0.**

In addition the Board would like for the Board Office to update the Collaborative Practice Pre-Approval Application, so that it is clear to what field(s) the pharmacist is applying for.

9) **Haregewein Assefa, R. Ph.** – Reciprocity Applicant with Less than Two Years Pharmacy Retail Experience (Waiver Request)

Ms. Haregewein holds a Ph.D. in Medicinal Chemistry and a B.S. in Pharmacy, she is extensively published and has been teaching at Touro College of Pharmacy since 2010.

Edward McGinley moved, seconded by Mahesh Shah to approve Ms. Haregewein waiver providing she completes 200 hours of internship in retail pharmacy, waived based on her active academic experience of teaching and research roles. **Motion passed 8-0.**

10) **Harold Ross, Pharmacy Technician** – POD to be Finalized

A POD was filed on April 7, 2014 for his arrest of Assault on 12/08/2012 by the West Orange Police Department.

Edward McGinley moved , seconded by Carol Jacobson to finalize by default, but allow 30 days to reopen if he submits a response, due to when the Order went out if it was not signed or dated. **Motion passed 8-0.**

**11) Oliver Alvarez, Pharmacy Technician – POD to be Finalized**

A POD was filed on April 17, 2014 for an arrest of Theft of Movable Property, Manufacture/Distribute CDS, and Process Prescription Legend Drug or Stramonium Preparation on 12/21/2013 by the Bloomfield Police Department.

Edward McGinley moved, seconded by Mahesh to finalize by default, due to certified mail was delivered, and time has expired.

**Motion passed 7-0.** Thomas Bender recused due to his affiliation with Walgreens.

**12) Board Elections**

Richard Palombo moved, seconded by Mahesh Shah to re-elect Thomas Bender as President of the Board of Pharmacy. **Motion passed 8-0.**

Edward McGinley moved, seconded by Mitch Sobel to re-elect Richard Palombo as Vice President of the Board of Pharmacy. **Motion passed 8-0.**

**13) Guidance for Pharmacist on Making Changes to Schedule II Prescriptions**

Richard Palombo moved, seconded by Edward McGinley to accept the Document **Motion passed 8-0.**

**14) Home Solutions, Livingston NJ – Request to Exceed Pharmacist Technician Ratio based on in house training**

Thomas Bender moved, seconded by Margherita Cardello to approve the training program, based on they have meet all the criteria. **Motion passed 8-0.**

**15) Express Scripts, Florence, NJ - Request to Exceed Pharmacist Technician Ratio based on in House Training**

Thomas Bender moved, seconded by Margherita Cardello to approve the training program, based on they have meet all the criteria. **Motion passed 7-0.**  
Richard Palombo recused due to his affiliation with Express Scripts.

**I. MITIGATION REQUEST**

**1. Guoyu Chen, RPIC - CVS Pharmacy, Clementon, NJ**

RPIC Chen wrote in to request mitigation for N.J.A.C. 13:39-7.21(d), no systems in place to offer counsel specifically for prescriptions 103329, N1055878, and C1056125.

Edward McGinley moved, seconded Thomas Bender to mitigate the \$1,000 fine, to a warning. A system was in place, however the monogram omitted store hours. **Motion passed 8-0.**

## II. INFORMATIONAL

### 1. **Sum of Us** – Participation in Executions

The Sum of Us opposition to the Death Penalty. The Board accepted this item as informational only.

### 2. **Walgreens** – Response to Change to Win opposition to Walgreens Well Experience Pharmacy Model

Change to Win wrote in opposing the Walgreens model where pharmacist is outside the pharmacy department and monitor technicians on video.

Walgreens response, include they have followed proper channels to work within the regulations and statutes. The Board accepted this item as informational only.

### 3. **NABP** – 2014 MPJE State Item Pool Review Notification

MPJE State-Specific Review. NABP is looking for volunteers from each jurisdiction to participate in the 2014 State Item Pool Review Notification. Thomas Bender urged Board members to participate in the review.

### 4. **Pharmacy Library** – Reference should be Deleted

Edward McGinley moved, seconded by Thomas Bender that the General Practice of Pharmacy reference should be removed from the list under section II and section V should be amended to include Wollers Klower Health as part of acceptable patient counseling texts.

**Motion passed 8-0.**

### 5. **The State has a You Tube Channel, which will be used to host the Red Flags for pharmacist's video.**

The Board took this as informational only.

### 6. **Attorney General's Award for Lifetime Service.**

Richard Palombo announced that the Board of Pharmacy (Anthony Rubinaccio, and Matthew Wetzel) was recognized for their quick responses during the MedPrep Consulting contamination incident which occurred in March 2013. Other team members included:

- Edward Tumminello
- Michael Westenberger
- Tony Qi
- Leida Martinez
- David Menendez
- Jodi Krugman
- Kim Ringler

## **XI. COMMITTEE REPORTS**

### **Matthew Wetzel, Prescription Blank Committee**

Mr. Wetzel update the Board to the facts that the New Jersey Prescription Blanks, Board of Pharmacy mailed a letter to every pharmacy regarding changes and dates of the implementation and colored samples of the new prescription blank. Everyone should update the Board with any address changes. There will be a link on the BOP web page until August 2014. There are additional copies available for educational purposes only.

## **X. APPROVAL OF MINUTES**

May 28, 2014

Edward McGinley moved, seconded by Richard Palombo to approved May 28, 2014, Open Session Minutes as amended. **Motion passed 8-0.**

## **XI. ADJOURNMENT**

At 11:40 a.m. Carol Jacobson moved, seconded by Margherita Cardello to adjourn the Public Session and move into the Executive Session for review of 2 Complaints, 4 Old Business Items, 16 New Business Items, the Secretary's Report and Recommendation on Retail and Institutional Permits, the Secretary's Report and Recommendation on Inspection Reports, and the approval of the May 28 Executive Session Minutes.