



CHRIS CHRISTIE  
Governor

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Lt. Governor

# New Jersey Office of the Attorney General

Division of Consumer Affairs  
Board of Pharmacy  
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## NEW JERSEY STATE BOARD OF PHARMACY MINUTES OF THE OPEN SESSION July 14, 2010

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### 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 Monmouth Room 7<sup>th</sup> Floor at 124 Halsey Street, Newark, New Jersey on July 14, 2010 at 9:10 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

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
Margherita LaFragola, R.Ph.	
Elvy T. Paiva, R.Ph.	
Richard Palombo, R.Ph.	
Marc Sturgill, R.Ph.	
Peter Halecky, R.Ph.	

### OTHERS IN ATTENDANCE

Joanne Boyer, R.Ph.	Executive Director
Jodi Krugman	Deputy Attorney General
Maria Bertorelli	Administrator Assistant

### IV. UPDATE BY EXECUTIVE DIRECTOR

- The Executive Director reported that \$16,284.85 were collected in fines and penalties during the month of June 2010.

The following permits/licenses/registrations were issued during the month of June 2010:

- Technicians - 222
- Pharmacists - 38 ( 19 by examination/score transfer, 19 by reciprocity)
- Out of state pharmacies - 8
- In state pharmacies - 7
- Pharmacists receiving immunization approval - 52
- Interns (foreign graduates) - 11

2. Pharmacy Technician are currently undergoing their first registration renewal process. As of today, out of the 13,000 that are registered only about 3,000 have renewed. Many renewal letters that were sent out have been returned by the U.S. postal service as undeliverable due to moved/address unknown. It is the registered technicians obligation to notify and update the Board of any changes. Technicians should be made aware that if not renewed by August 31, 2010 a \$25.00 late fee will apply. In addition, if not renewed after the 30 day late period allowed (September 30, 2010), the registration will be suspended. Technician will need to apply for a reinstatement and will be assessed reinstatement and additional fees.
3. The New Budget Guidelines for Reimbursement of Board members has been capped at \$100.00 per month for all Board meeting related expenses ( meeting attendance, meals, tolls, parking, mileage, etc.)

## **V. OLD BUSINESS**

### **1) Finalization of Provisional Orders of Discipline**

- a) **Whitley King**
- b) **Robert Thompson**
- c) **Michael Fussell**

Margherita LaFragola moved, seconded by Peter Halecky to approve the Final Orders of Discipline for Ms. King, Mr. Thompson and Mr. Fussell. **Motion passed unanimously.**

## **VI. NEW BUSINESS**

### **1) Raymond Rapkin – Requesting a waiver of NJAC 13:39 – 3.8(a)5 for the period when he was incarcerated**

Thomas Bender moved, seconded by Peter Halecky to deny Mr. Rapkin's request for a waiver but to allow Mr. Rapkin six (6) months to complete the continuing education requirement pursuant to N.J.A.C. 13:39-3.8(a)5. The completion of these modules will not be considered as part of the current biennial continuing education requirement. **Motion passed unanimously.**

### **2) Ronald Sorr – Requesting modification of Consent Order**

Richard Palombo recused.

Thomas Bender moved, seconded by Margherita LaFragola to deny Mr. Sorr's request to modify Consent Order allowing him to be a Pharmacist in Charge. The Board will not entertain any further requests to modify the Consent Order signed and filed with the Board on 6/18/2007. **Motion passed unanimously.**

### **3) Correspondence from the 9<sup>th</sup> District Legislative Offices (Senator Christopher J.**

**Connors, Assemblyman Brian E. Rumpf & Assemblywoman Dianne C. Gove) and Stephen Brandt, Executive Director, Garden State Pharmacy Owners (GSPO) regarding Shop Rite's free diabetic medication program**

At 9:40 a.m. Thomas Bender motioned, seconded by Marc Sturgill to move into Executive Session for advice of Counsel. **Motion passed 4-2.**

At 10:20 a.m. Thomas Bender motioned, seconded by Marc Sturgill to move back into Public Session. **Motion passed unanimously.**

Per the advice of Deputy Attorney General Krugman, the Board determined to send a letter to the 9<sup>th</sup> District Legislative Office, Senator Connors, Assemblyman Rumpf and Assemblywoman Gove, advising that this matter is beyond the Board of Pharmacy's jurisdiction since the Board does not regulate the pricing of prescriptions. It is recommended that Commissioner of Health and Senior Services be contacted to determine if the advertising is harmful to public health, safety and welfare as stated in NJSA 45:14 – 65f.

The correspondence received by Stephen Brandt, R.Ph., of Garden State Pharmacy Owners, Inc., will be treated as a formal complaint and sent to Shop Rite for a reply.

Shop Rite will be contacted regarding the use of the word “discount” as stated in the ShopRite Free Antibiotics & New Free Diabetes Medication Program (Frequently Asked Questions).

**4) Angelo Cifaldi, Esq. representing Healthialist, Inc. – Regarding proposed services and practice of pharmacy as defined in NJSA 45:14 – 41 and pharmaceutical services as defined in NJAC 13:39 – 1.2**

The Board determined that the proposed services as define in the material submitted reflect a very fine line between the Practice of Pharmacy and providing of Pharmaceutical Care. The Board requests additional information in regards to the “answer user questions” as stated in the submitted correspondence.

**5) Nevada State Board of Pharmacy Self Assessment Form**

*This matter is placed on the agenda at the request of Board member Richard Palombo*

Richard Palombo moved, seconded by Peter Halecky to request the CQI Committee to review and modify for potential use by Enforcement Bureau as a self assessment tool for pharmacies. **Motion passed unanimously.**

**6) Salvatore Anselmi Jr., RPh, Director of Pharmacy Practice, Medco Health Solutions, Franklin Lakes, NJ – Update on Technician Work at Home Pilot Program**

Richard Palombo recused due to his affiliation with Medco.

Medco will submit the next progress report of the pilot program for review at the September 8, 2010 meeting. Medco did not request to increase number of participants in the program.

## **VII. MITIGATION/ HEARING REQUESTS**

**1) Yousry Macksoud, RPIC, Plainsboro Pharmacy, Plainsboro, NJ**

Elvy Paiva recused

Chair directs that DAG Krugman contact Mr. Macksoud regarding his request for an Administrative Hearing.

**2) Lynda J. Doremus, RPIC, Medco Health, Willingboro, NJ**

Richard Palombo recused due to his affiliation with Medco Health.

Marc Sturgill moved, seconded by Thomas Bender to reassign the \$25.00 fine to the out of state pharmacy permit holder Medco in Columbus, Ohio. Also, to request Medco to provide the name of the pharmacist who entered the prescription to be dispensed for Mr. Jeff Hutchinson of Marshallville, New Jersey. **Motion passed unanimously.**

**3) Robert McNulty, RPIC, Wal-Mart, Whitehouse Station, NJ**

Edward McGinley moved, seconded by Margherita LaFragola to deny mitigation request of the \$1,000.00 fine imposed pursuant to NJAC 13:39-7.19(e)3, NJSA 45:14-68(b)10 and NJSA 45:14-68(c). **Motion passed 5-2**

**4) John Yanoschak, RPIC, Robert Wood Johnson University Hospital Pharmacy, New Brunswick, NJ**

Marc Sturgill recused due to his affiliation with Robert Wood Johnson University hospital.

Elvy Paiva moved, seconded by Richard Palombo to mitigate the \$400.00 fine imposed pursuant to NJAC 13:39-5.8(a)1 & 9.20. **Motion passed unanimously**

## **VIII. COMMITTEE REPORTS**

N/A

## **IX. APPROVAL OF MINUTES**

**1) June 9, 2010**

Marc Sturgill moved, seconded by Elvy Paiva to approve the June 9, 2010 Open Session Minutes as amended. **Motion passed unanimously.**

## **X. ADJOURNMENT**

At 11:45 a.m. Richard Palombo motioned, seconded by Thomas Bender to move into Executive Session for the review of 9 complaints, 2 Old Business Items, 9 New Business Items, the Secretary's Report and Recommendation on Retail and Institutional Permits, the Secretary's Report and Recommendation on Inspection Reports, 1 Investigative Inquiry and the Approval of Minutes.

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