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Division of Consumer Affairs
Board of Pharmacy
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**BOARD OF PHARMACY
OPEN SESSION MINUTES
HUDSON CONFERENCE ROOM, 6TH FLOOR
JULY 24, 2013**

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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 Hudson Conference Room at 124 Halsey Street, Newark, New Jersey on July 24, 2013, at 9:05 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

President Thomas 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, P.L.1975, C.10:4-8

III. ROLL CALL

Thomas Bender, R.Ph.	President
Richard Palombo, R.Ph.	Vice President
Margherita Cardello, R.Ph.	Late Arrival 9:17 a.m.
Marc Sturgill, PharmD	
Mahesh Shah, R.Ph.	
Stephen Lieberman, R.Ph.	
Edward McGinley, R.Ph.	

OTHERS IN ATTENDANCE

Anthony Rubinaccio, R.Ph.	Executive Director
Linda Brodie	Customer Service Rep.
Matthew Wetzel	Government Rep.
Jodi Krugman	Deputy Attorney General
Rachel Glasgow	Regulatory Analyst

IV. UPDATES BY EXECUTIVE DIRECTOR

The Executive Director reported for the month of June, \$22,675 in fines and penalties were collected. The following permits, licenses, and registrations were issued during the month of June:

- Technicians - 139
- Pharmacist - 32 (21 by examination/score transfer and 11 by reciprocity)
- Out-of-state pharmacies - 16
- In-state pharmacies - 4
- Pharmacists receiving immunization approval - 45
- Interns - 7

V. OLD BUSINESS

- 1) Orders Filed
 - a) Jennifer Peralta - FOD (5/29/13)
 - b) Denise Roman - FOD (6/6/13)
 - c) Mark Tyrell - Consent Order (6/7/13)
 - d) Dia Woodford - FOD (6/7/13)
 - e) Lois Ferri - Voluntary Surrender (6/10/13)
 - f) Jennifer Miller - POD (6/17/13)
 - g) Jesse Munsick - POD (6/26/13)

- 2) **Mena M. Mekhael, Pharmacy Technician** - Interim Consent Order to be finalized

An Interim Consent Order of Voluntary Surrender of Registration was filed on 9/12/12 pending outcome of charges for Mr. Mekhael's arrest on 6/1/12 (for theft of CDS from his employer, possession of CDS, distribution of CDS), and for his arrest on 2/25/12 (possession of marijuana/hash under, and possession of drug paraphernalia).

On 3/11/13, he pled guilty to charges from 6/1/12, received a \$1,000 penalty for a 3rd degree drug enforcement crime, \$105 in other fees, and \$1,080 for restitution. On 4/26/13, he was sentenced to a two year criminal probationary period. Conditions included: maintaining employment, remaining drug free, random urine monitoring, and counseling as required. At 9:16 a.m., Marc Sturgill moved, seconded by Stephen Lieberman, to move this item to the end of the open session for advice of counsel and further discussion. At 11:34 a.m., Richard Palombo moved, seconded by Stephen Lieberman, to go into executive session. At 11:38 a.m. the item went back into open session. Chair Direct: Table this item until and unless he applies for reinstatement.

- 3) **Tiffany L. Thomas, Pharmacy Technician** - Provisional Order of Discipline to be finalized

A Provisional Order of Discipline was filed on 5/29/13 for an arrest of 9/15/12, receiving stolen property and theft by deception. Charges were administratively dismissed on 1/23/13. Ms. Thomas was sent correspondence from the Board on 10/29/12 and 2/14/13; to date she has not responded to the Board's request for information. This is a violation of N.J.S.A. 45:1-21(e) and (h) in that she has failed to cooperate with the Board's investigation in contravention of N.J.A.C. 13:45C-1.2 and 1.3. She is suspended until she cooperates with the Board, and is fined a civil penalty of \$250.

Marc Sturgill moved, seconded by Stephen Lieberman, to finalize the Provisional Order,

which includes cease and desist from engaging in the practice of pharmacy as a Pharmacy Technician. **Motion passed 6-0.**

- 4) **Miaritza M. Mieles, Pharmacy Technician** -Provisional Order of Discipline to be finalized

A Provisional Order of Discipline was filed on 5/29/13 for Ms. Mieles' arrest on 2/14/12 for possession of marijuana/hash under. The Board sent correspondences on 4/20/12 (in which she partially replied to information requested), and 2/12/13. To date, she has not fully responded to the Board's request for information. She is in violation of N.J.S.A. 45:1-21(e) and (h) in that she has failed to cooperate with the Board's investigation in contravention of N.J.A.C. 13:45C-1.2 and 1.3. She is suspended until she cooperates with the Board, and fined a civil penalty of \$250.

Stephen Lieberman moved, seconded by Mahesh Shah, to finalize the Provisional Order, which includes cease and desist from engaging in the practice of pharmacy as a Pharmacy Technician. **Motion passed 7-0.**

- 5) **Phillip L. Alvarez, Pharmacy Technician** - Provisional Order of Discipline to be finalized

A Provisional Order of Discipline was filed on 5/29/13 for Mr. Alvarez's arrest on 6/9/11 for possession of a weapon, and his arrest of 8/12/12 for drug paraphernalia and possession of CDS. The Board sent correspondence on 7/13/11 and 7/29/13, regarding the 6/9/11 arrest, and on 8/23/12 and 2/13/13 for the 8/12/12 arrest. To date, he has not responded to the Board's request for information. He is in violation of N.J.S.A. 45:1-21(e) and (h) in that he has failed to cooperate with the Board's investigation in contravention of N.J.A.C. 13:45C-1.2 and 1.3. He is suspended until he cooperates with the Board, and fined a civil penalty of \$250.

Marc Sturgill moved, seconded by Stephen Lieberman, to finalize the Provisional Order, which includes cease and desist from engaging in the practice of pharmacy as a Pharmacy Technician. **Motion passed 7-0.**

- 6) **Jennifer Miller, Pharmacy Technician** - Provisional Order of Discipline to be finalized

A Provisional Order of Discipline was filed on 6/17/13 for Ms. Miller's conviction of fencing. On 2/22/13, she was sentenced to a 7 year term of confinement and assessed \$2,205 in fines and fees. She is provisionally suspended. She can not apply for reinstatement for a period of seven years to coincide with her criminal sentencing terms.

Chair Direct: This item is to be tabled until next month's Board meeting. She was served her POD on July 8, 2013, and has not had a full 30 days to respond.

7) **Pharmcare USA of Edison** - Pharmacy Technician Training Manual

At the June 2013 meeting, Marc Sturgill was given Pharmcare's Pharmacy Technician Training Manual, along with a checklist outlining the law relating to Pharmacy Technicians, to evaluate and report his findings at July's meeting.

Marc Sturgill found the training manual to be complete. Pharmcare does not use any automated systems so no training is currently required for them in that area. If they begin using automated systems, training will be required in that area. Marc Sturgill moved, seconded by Edward McGinley, to approve the training manual. **Motion passed 7-0.**

VI. NEW BUSINESS

1. **Bill Comment Request- A4297** (Asm. Diegnan, Jr.) Restrictions on sale of products containing Dextromethorphan

The bill imposes certain restrictions on the sale of any over-the-counter drug product that contains dextromethorphan as one of its active ingredients.

Stephen Lieberman moved, seconded by Edward McGinley, for the Board to oppose the bill for the following reasons: It will deprive the public of easy access to an effective medication; it will drive up the cost of health care; record keeping will be difficult to impose; no age limit mentioned; and this will create spatial challenges for the pharmacists to secure these medications; and there are no provisions for monitoring the sales of these products. **Motion passed 7-0.**

2. **CVS New Jersey Pharmacy Technician Training Program**

CVS has replaced their 2004 Program Management Guide with the LearnRx Program Guide v2 jan2013 document. It is an online Pharmacy Technician training program.

Marc Sturgill moved, seconded by Richard Palombo, to approve the new online training guide. The Board finds the guide meets the on-the-job training prerequisites. **Motion passed 7-0.**

3. **Regional Cancer Care Associates Pharmacy** - In-state pharmacy applicant, there is a concern about steering

Regional Cancer Care Associates Pharmacy is a pharmacy owned and operated by 92 physicians who want to be able to provide prescription service for their cancer patients. Eileen Peng (PIC), and Terrill Jordan (house counsel), appeared before the Board, but there was some concerns that needed to be clarified.

Marc Sturgill moved, seconded by Richard Palombo, to table this item until the next board meeting to give DAG Krugman and the Regional Cancer Care house counsel time to clarify certain items regarding this application. **Motion passed 7-0.**

4. **Walgreen Co.** - Out-of-state closed door pharmacy (waiver request)

Walgreen Co., is a non-dispensing pharmacy call center who's tasks include prescription refill processing, prescription status questions, general pharmacy questions, prescription transfer processing, prescription intake, and consultation questions.

Edward McGinley moved, seconded by Richard Palombo, to approve the application once it has been brought up to date to include checking the notary seal, and changing the attestation. Thomas Bender was recused due to his affiliation with Walgreens. **Motion passed 6-0.**

5. **Ravi Lattupally** - Requesting a waiver request to retake for NAPLEX

Effective 3/1/13, candidates are required to obtain approval from respective state Boards of Pharmacy in order to retake the NAPLEX for a final attempt if they have appeared five times or more. Ms. Lattupally is asking for a sixth and final chance to retake the exam.

Marc Sturgill moved, seconded by Mahesh Shah, to allow her to retake the test and waive 13:39-2.2(c) for her to take remedial courses at an approved school of pharmacy. Upon passing she must retake the MPJE and her license will be restricted (in that she will be unable to apply for reciprocity). Thomas Bender and Stephen Lieberman opposed. **Motion passed 5-2.**

6. **Mohanbabu Vodoor, R.Ph.** - Answered 'yes' to professional discipline during renewal

Mr. Vodoor was disciplined in New York State in the amount of \$500 for misconduct for not adequately supervising the pharmacy while employed by Riverside Pharmacy, NY as Pharmacist In Charge, on or about 1/16/2010 thru 2/15/2011.

Richard Palombo moved, seconded by Edward McGinley, that no further action is required. **Motion passed 7-0.**

VII. MITIGATION /HEARING REQUEST

1) **Eugene Ragazzo, RPIC** - Hopewell Pharmacy, Hopewell, NJ

Presented to the Board in March 2013, the Board requested Hopewell Pharmacy provide documentation of annual training in aseptic technique for all personnel from 2011 -2012. Hopewell was also to provide documentation of the types of sterile compounds that are being made.

Marc Sturgill moved, seconded by Edward McGinley to mitigate and remove cites N.J.A.C. 13:39-11.5(a) in the amount of \$1,000 and N.J.A.C. 13:39-11.5(b)(5) for the amount of \$2,500. The Board further noted that everyone must be trained in aseptic testing skills but not necessarily tested, and should have didactic training and fingertip

testing. **Motion passed 7-0**

2) **Robert Palmisano, RPIC** - Median at Home Infusion Pharmacy, Eatontown, NJ

Edward McGinley moved, seconded by Marc Sturgill, to mitigate and remove cite N.J.A.C. 13:39- 11.10(a)2 in the amount of \$25. **Motion passed 7-0.**

3) **Thomas Visco, RPIC** - K-Mart Pharmacy, Somers Point, NJ

Edward McGinley moved, seconded by Marc Sturgill, to mitigate and remove cite N.J.A.C. 13:39-7.12(a) 12 in the amount of \$250. **Motion passed 7-0.**

4) **Morton Barnett, R.Ph.** - Bear Apothecary, Inc., Lambertville, NJ

Stephen Lieberman moved, seconded by Mahesh Shah, to deny the mitigation for cite N.J.A.C. 13:39- 7.12(a)11 in the amount of \$200 and 2 CE credits.
Motion passed 7-0.

5) **Marianna Rofail, RPIC** - CVS Pharmacy, Edgewater, NJ

Kenneth Taraska from CVS appeared before the Board to explain CVS' return to stock procedure. Edward McGinley moved, seconded by Marc Sturgill, to mitigate and remove cites N.J.A.C. 13:39-7.18 and 13:39-6.2(f)7 in the amount of \$750.
Motion passed 7-0.

6) **Elizabeth Van Pelt, RPIC** - Rite Aid Pharmacy, Jackson, NJ

Marc Sturgill moved, seconded by Edward McGinley, to mitigate and remove cite N.J.A.C. 13:39 -7.12 (a)11 in the amount of \$200 and two CE credits.
Margherita Cardello was recused due to her affiliation with Rite Aid.
Motion passed 6-0.

7) **Francisco Corzo, Jr., R.Ph.** - Framacia Santa Maria, Union City, NJ

At 11:07 a.m. Edward McGinley moved, seconded by Richard Palombo, to move this item to the end of open session to go into executive session for advice of counsel. Motion passed 7-0. At 11:40 a.m., the item went into executive session and moved back into open session at 11:55 a.m. Richard Palombo moved, seconded by Marc Sturgill, to deny the mitigation request for cite N.J.A.C. 13:39-6.2(f)2,3 in the amount of \$200 and 2 CE credits.
Motion passed 7-0.

VIII. INFORMATIONAL

1) NABP/AACP District I & II annual meeting October 17-19, 2013

The Board accepted this as informational

- 2) Affiliated Monitors, Inc. - A company providing independent monitoring of licensed professionals who face disciplinary action by licensing boards

The Board accepted this as informational, but thought it may be useful in the future.

- 3) Thomas Bender presented Edward McGinley with a plaque for his outstanding service and dedication to the Board of Pharmacy (11 years as Board President).

IX. COMMITTEE REPORTS

On 7/9 and 7/10, Thomas Bender participated on the task force for NABP/ TOEFL. There were 6 representatives from ETS who administer the test, (English as a foreign language). The testing is to identify the minimal acceptable standards of speaking, writing, reading, and listening skills. The speaking and written skills scores were on target, but the reading and listening skills should be higher. The taskforce will make recommendations to NABP. The test is primarily for use by colleges and universities, but is a good tool to utilize for judging potential licensee's competencies with the English language.

Edward McGinley announced there is a Rules and Regulations meeting on 7/25, with topics of the collaborative practice agreement application and the use of API ingredients in compounds which are not FDA approved.

X. APPROVAL OF MINUTES

Richard Palombo moved, seconded by Margherita Cardello, to approve the June 26, 2013 Open Session Minutes as amended. **Motion passed 7-0.**

XI. ADJOURNMENT

At 11:57 a.m. Edward McGinley moved, seconded by Stephen Lieberman, to adjourn the Public Session and for the Board to move into Executive Session for the review of 7 Complaints, 1 Old Business item, 11 New Business items, the Secretary's Reports and Recommendation on Inspection Reports and the approval of June 26, 2013 Executive Session Minutes. **Motion passed 7-0.**