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Governor

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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 August 11, 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 7th Floor at 124 Halsey Street, Newark, New Jersey on August 11, 2010 at 9:16 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.
Thomas Bender, R.Ph.
Margherita LaFragola, R.Ph.
Elvy T. Paiva, R.Ph.
Richard Palombo, R.Ph.
Marc Sturgill, R.Ph.

President
Vice President

Excused

Peter Halecky, R.Ph.

OTHERS IN ATTENDANCE

Joanne Boyer, R.Ph.
Megan Cordoma
Jodi Krugman
Maria Bertorelli

Executive Director
Deputy Attorney General
Deputy Attorney General
Administrator Assistant

IV. UPDATE BY EXECUTIVE DIRECTOR

1. The Executive Director reported that \$147,431.29 were collected in fines and penalties during the month of July 2010.

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

- Technicians - 167
- Pharmacists - 121 (111 by examination/score transfer, 10 by reciprocity)
- Out of state pharmacies - 7
- In state pharmacies - 13
- Pharmacists receiving immunization approval - 231
- Interns (foreign graduates) - 9

V. OLD BUSINESS

1) Finalization of Provisional Orders of Discipline

a) Jennifer Bacsenko, technician

Marc Sturgill moved, seconded by Thomas Bender to approve the issuance of a Final Order of Discipline. **Motion passed unanimously**

b) Mark McKinney, R.Ph.

Thomas Bender moved, seconded by Richard Palombo to approve the issuance of a Final Order of Discipline. **Motion passed unanimously**

c) George Palias, technician

Thomas Bender moved, seconded by Margherita LaFragola to approve the issuance of a Final Order of Discipline. **Motion passed unanimously**

d) Stacey Bompardre, technician

Thomas Bender moved, seconded by Marc Sturgill to approve the issuance of a Final Order of Discipline. **Motion passed unanimously**

e) Yumiko Pitman, R.Ph.

Richard Palombo moved, seconded by Margherita LaFragola to approve the issuance of a Final Order of Discipline. DAG Cordoma will communicate with counsel for Ms. Pitman regarding the question posed in the June 25, 2010 correspondence regarding demonstration of fitness to practice pharmacy. **Motion passed unanimously**

f) Kevin Weston, technician

Thomas Bender moved, seconded by Richard Palombo to approve the issuance of a Final Order of Discipline. **Motion passed 5 – 1.**

g) Eileen Burkett, technician

Marc Sturgill moved, seconded by Thomas Bender to approve the issuance of a Final Order of Discipline. **Motion passed unanimously**

h) Christopher Helvitson, technician

(both regular and certified mail returned)

DAG Cordoma advised that a new address is available and will resend the Provisional Order of Discipline .

i) Marcus Lonky, R.Ph.

Thomas Bender moved, seconded by Elvy Paiva to approve the issuance of a Final Order of Discipline. Also, Mr. Lonky is to advise the Board when his license to practice pharmacy in New York is unrestricted. **Motion passed unanimously**

VI. NEW BUSINESS

1) Board review and approval of draft Resolution Regarding Board Action Between Meetings

The Board of Pharmacy hereby moves to designate the Board President to function as Head of the Board of Pharmacy authorized to take emergent action regarding certain events arising between Board meetings, where time is of the essence. Such actions would include:

1. Issuing an Order to Show Cause upon the filing by the Attorney General of a Verified Complaint seeking emergent relief;
2. Call a meeting of a committee of the Board to conduct an emergent Temporary Suspension hearing based upon such Complaint and issuing a provisional Order to be approved by the Board at its next meeting and having immediate effect, or call a meeting of the full Board to conduct an emergent Temporary Suspension hearing based upon such Complaint and issuing an Order having immediate effect.
3. Determining settlement terms of a disciplinary case pending review and approval of the full board, including those cases where a final determination by the board must be made on short notice to effectuate global settlement with other civil or criminal authorities.

Each of the above actions is subject to review by the full Board at the next meeting at which such review can be scheduled. The full Board may then ratify, modify or vacate the emergent action taken by the President.

In the absence, unavailability or ineligibility of the President to address the matter, said authority is conferred upon the Vice President of the Board, acting as President pro tempore.

Richard Palombo moved, seconded by Elvy Paiva to adopt resolution with changes noted. **Motion passed unanimously.**

2) Target Pharmacy and OptumHealth Diabetes Protocol

Elvy Paiva moved, seconded by Richard Palombo that the protocol as described in the correspondence is within the scope of practice of pharmacy. Any further expansion of the protocol will need to be reviewed by the Board.

Motion passed 5-1

**3) Elizabeth Guida, R.Ph., Director of Pharmacy, Partners Pharmacy, Cranford, NJ
Regarding label verification by technicians and pharmacist work at home capabilities**

Chair direct that in regards to the label verification request that Ms. Guida provide error rates on mismatches as described in the handout and the protocol for retraining. For the work at home proposal, Ms. Guida is to submit a list of the eligible pharmacists, the criteria for the home environment, security of the computer & home site and the hours and anticipated volume.

4) Patrick DenBoer, CEO, Qpharma, Morristown, NJ – Participation in Patient Assistance Programs and Coupon, Rebate and Voucher Programs.

Chair direct that QPharma representatives, to include Patrick DeBoer and RPIC Merry Saba, are to attend the next scheduled Board meeting on September 8, 2010 to discuss their application.

VII. MITIGATION/ HEARING REQUESTS

1) James D. Dean, RPIC, Lindenwold Hometown Pharmacy, Lindenwold, NJ

Thomas Bender moved, seconded by Margherita LaFragola to deny mitigation request of the \$250.00 fine imposed pursuant to N.J.A.C. 13:39-7.12(a)13i. **Motion passed 5-1**

2) Foram Mehta, RPIC, Walgreens, Port Monmouth, NJ

Elvy Paiva and Thomas Bender recused, due to their affiliation with Walgreens

Richard Palombo moved, seconded by Margherita LaFragola to mitigate the \$50.00 fine imposed pursuant to NJAC 8:65-1.2(c), NJAC 8:65-1.5(e) and NJSA 13:39-24:21-10.

Motion passed unanimously

3) Yousuf Munnan-Ur-Rehman, RPIC, Variety Drug, Garfield, NJ

At 11:37 a.m. Elvy Paiva moved, seconded by Margherita LaFragola to Executive Session for Counsel advise.

At 11:57 a.m. Richard Palombo moved, seconded by Marc Sturgill to move back into Open Session.

Elvy Paiva moved, seconded by Richard Palombo to consider Variety Drug's most recent submission as a motion for reconsideration of the Final Order entered in this matter on April 20, 2010. The Board notes that counsel's submission of 12/4/09 (even if submitted and

considered in mitigation) would not have changed the terms of the Final Order. The Board considered new materials submitted and determined to amend its prior Order and mitigate the \$1,250 fine issued pursuant to NJAC 8:65 – 5.5 (a), NJAC 8:65 – 5.7 & NJAC 13:39 – 6.2(d) to \$1,000 (an inventory of C-II was taken but an inventory of C-III thru C-V was not taken) and to deny the request for mitigation of the \$25 fine issued pursuant to NJAC 24:6E – 7 since at the time of adjudication DAW1 was utilized instead of DAW2. **Motion passed unanimously.**

VIII. COMMITTEE REPORTS

N/A

IX. APPROVAL OF MINUTES

1) July 14, 2010

Thomas Bender moved, seconded by Marc Sturgill to approve the July 14, 2010 Open Session Minutes as amended. **Motion passed unanimously.**

X. ADJOURNMENT

At 12:04 p.m. Elvy Paiva motioned, seconded by Richard Palombo to move into Executive Session for the review of 12 complaints, 2 Old Business Items, 1 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.