

**NEW JERSEY STATE BOARD OF PHARMACY  
MINUTES OF THE OPEN SESSION FOR  
SEPTEMBER 12, 2007**

**I. CALL TO ORDER**

The Open Meeting of the New Jersey Board of Pharmacy was called to order by Board President Edward McGinley, R.Ph. in the Somerset Room, 6th Floor at 124 Halsey Street, Newark, New Jersey on September, 12, 2007 at 9:15 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**

Mr. 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  
Pamela Allen, R.Ph.  
Jennifer D. DeVenio Government Member  
Margherita Lafragola, R.Ph. (Left at 2:30 pm)  
Axel Miranda Public Member (Arrived at 9:32 am)  
Elvy T. Paiva, R.Ph. (Left at 2:03 pm)  
Peter Halecky, R.Ph.

**OTHERS IN ATTENDANCE**

Joanne Boyer, R.Ph. Executive Director  
Marianne Greenwald, Esq. Deputy Attorney General (Left at 2:40 pm)  
Adele L. Stacey Typist/Clerk

**EXCUSED**

Marc Sturgill, R.Ph.  
Richard Palombo, R.Ph.

**IV. UPDATE BY EXECUTIVE DIRECTOR**

The Executive Director announced that \$26,830.00 was collected in fines and penalties during August, 2007.

There were 111 pharmacists licensed during the month of August, 2007. Ten by reciprocity and 101 by examination/score transfer.

Stephen B. Nolan, Acting Director of the Division of Consumer Affairs, has resigned his position as of Friday, September 14, 2007. Larry DeMarzo will replace Mr. Nolan as Acting Director.

**V. CONTINUING EDUCATION REPORT**

Pamela Allen was recused.

Elvy Paiva moved, seconded by Peter Halecky to accept the continuing education report. The motion passed unanimously.

## **VI. OLD BUSINESS**

1) Geriscript Pharmacy, Totowa, NJ – Requesting a waiver to maintain same permit number upon transfer of ownership and to not have an inspection

Elvy Paiva moved, seconded by Peter Halecky to approve the request for a waiver to maintain the same permit number. An inspection will not have to be conducted since the pharmacy was last inspected in January, 2007, but a CDS inventory will need to be completed. There are no new owners, one of the previous owners has transferred his shares to an existing owner. The motion passed unanimously.

## **VII. NEW BUSINESS**

1) Maine Board of Pharmacy action This provided as an FYI.

2) Cheryl Ann Lawrence McDaniel, President, Direct Success, Farmingdale, NJ – Regarding pharmacy permit application to distribute Metopirone This item was last before the Board on 3/28/07 at which time the Board requested additional information Jennifer DeVenio moved, seconded by Pamela Allen to approve the specialized permit, as allowed in NJAC 13:39 –4.15(b), to dispense metopirone. Direct Success is to provide a copy of the final label to be used showing the "use by date" and direct phone number. The motion passed unanimously. Marianne Greenwald, Deputy Attorney General, noted that this is only the second specialized permit issued by the Board to meet a limited public need for pharmaceutical services.

3)Roberto Pulver, Quarles Brady & Streich, Inc, Phoenix, AZ – regarding the filling of syringes by pharmacist for a physician

The Chair directs that based on the recommendation of Marianne Greenwald, Deputy Attorney General, Mr. Pulver be offered an opportunity to appear before the Board in an Investigative Inquiry in Executive Session since the Board cannot offer an opinion based on the information provided.

4) Nino Paradiso – Request for reinstatement

Peter Halecky moved, seconded by Margherita LaFragola to schedule Mr. Paradiso for an Investigative Inquiry. The motion passed unanimously.

5) Joseph Pucci – Request for modification of Reinstatement Order

Pamela Allen moved, seconded by Elvy Paiva to modify item 2b in Mr. Pucci's Reinstatement Order to now read " Respondent shall be barred from dealing with any programs administered in whole or in part by the Federal or State government including, but not limited to, any dispensing, consulting or billing activity, or management of a pharmacy until such time as the Federal or State government reinstates respondent in its programs". The motion passed 7 - 1.

6) Arun Patel, R.Ph., Director, Pharmacy Administration, Duane Reade – Requesting to utilize permit number of closed pharmacy for new pharmacy that will open at a different location in the future

Thomas Bender moved, seconded by Peter Halecky to deny Mr. Patel's request to utilize the permit number of the Duane Reade Pharmacy which closed in Newark in July, 2007 for a new Duane Reade pharmacy which will open in Jersey City in the near future. The permit number of the pharmacy in Newark was cancelled as noted in NJAC 13:39 – 4.8(a). The motion passed 7-1. Elvy Paiva was opposed to the Board's decision.

7) David Dare, R.Ph. – Requesting a modification to his Consent Order

Pamela Allen moved, seconded by Peter Halecky to modify item #6 of Mr. Dare's Order of Reinstatement to allow him to be pharmacist in charge for the Cigna Medical Services Pharmacy in Atlantic City only. In addition, Mr. Dare is to show his Order to his employer (Cigna) and the employer is to notify the Executive Director of their receipt of the Order. Mr. Dare is to notify the Board if this pharmacy stocks any C-II medications during the course of his probation. The motion passed unanimously.

8) Nehru Gaddipati – Request for waiver of FPGEC certificate

Elvy Paiva was recused due to her affiliation with Walgreens.

Pamela Allen moved, seconded by Thomas Bender to deny Mr. Gaddipati's request for a waiver of FPGEC certificate due to insufficient cause. Motion passed unanimously.

9) Divakar Kanakagiri – Request for waiver of TOEFL iBT

Elvy Paiva moved, seconded by Margherita LaFragola to deny Mr. Kanakagiri's request for a waiver of TOEFL iBT since he continues to fail multiple parts of the test and has failed to show good cause as to why a waiver should be granted. The motion passed unanimously.

Chair directs that the Executive Director obtain a response from Avery L. Spunt, Competency Assessment Director, NABP regarding the letter sent to him by Mr. Kanakagiri expressing concerns with the testing practices of the Educational Testing Service (ETS).

10) Suja Somasekharan Pillai – Request for waiver of FPGEC

Thomas Bender moved, seconded by Elvy Paiva to deny Ms. Pillai's request for a waiver of FPGEC due to insufficient cause. The motion passed unanimously.

11) Jae Suk Ahn – Request for waiver of TOEFL iBT

Pamela Allen moved, seconded by Thomas Bender to deny Mr. Ahn's request for a waiver of TOEFL iBT due to insufficient cause. The motion passed 7 – 1.

12) Notice of acquisition of Option Care by Walgreens

Elvy Paiva was recused due to her affiliation with Walgreens.

Peter Halecky moved, seconded by Jennifer DeVenio that based upon advice of counsel, Walgreens is to comply with NJAC 13:39-4.5. The motion passed unanimously.

## **VIII. MITIGATION/ HEARING REQUESTS**

1) Martin S. Rosenberg, RPIC, Pathmark Pharmacy, Middlesex, NJ

Edward McGinley was recused due to his affiliation with Pathmark.

Elvy Paiva moved, seconded by Axel Miranda to approve request for mitigation of NJAC 13:39 – 5.11 and NJAC 8:65 – 5.7. The motion passed unanimously.

## **IX. COMMITTEE REPORTS**

N/A

## **X. APPROVAL OF MINUTES**

1) August 8, 2007

Jennifer DeVenio moved, seconded by Elvy Paiva to approve the minutes as amended. The motion passed unanimously.

## **XI. ADJOURNMENT**

At 10:54 am Thomas Bender moved, seconded by Axel Miranda to move into Executive session for the review of 4 complaints, 2 Old Business items, 5 New Business items, Secretary's Report and recommendation on Retail and Institutional Permits, Secretary's Report and Recommendation on Inspection Reports, approval of minutes, and to conduct 1 Investigative Inquiry. The motion passed unanimously.