

**NEW JERSEY STATE BOARD OF PHARMACY
MINUTES OF THE OPEN SESSION FOR
SEPTEMBER 26, 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 26, 2007 at 9:08 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
Peter Halecky, R.Ph.
Margherita Lafragola, R.Ph. (Left at 2:00 pm)
Elvy T. Paiva, R.Ph. (Left at 1:45 pm)
Richard Palombo, R.Ph. (Left at 4:05 pm)
Marc Sturgill, R.Ph.

OTHERS IN ATTENDANCE

Joanne Boyer, R.Ph. Executive Director
Marianne Greenwald, Esq. Deputy Attorney General
Adele L. Stacey Typist/Clerk

EXCUSED

Axel Miranda Public Member

IV. UPDATE BY EXECUTIVE DIRECTOR

N/A

V. CONTINUING EDUCATION REPORT

N/A

VI. OLD BUSINESS

1) Satish Shah, R.Ph. –Requesting modification of Consent Order

The Chair directed that a chronological history of Mr. Shah's activities related to the Consent Order be brought back before the Board for review.

2) Jay Stuman, R.Ph., Manager, Baxter Pharmacy Affairs, McGaw Park, Il – Follow-up correspondence regarding their request for a special permit for Baxter’s Renal Dialysis program

Marc Sturgill moved, seconded by Jennifer DeVenio to have Mr. Stuman address the following items: Define the duties of the dispensing pharmacist; How and when is the dispensing pharmacist available to the patient/caregiver; When does a prospective DUR occur and who is performing this task; At what point does the pharmacist interact with the order; Define real time activity of the pharmacist’s work flow and dispensing effort to ascertain that the correct medication is dispensed. A time frame of 30 days will be given to provide the requested information. Baxter may proceed with their current renal dialysis program for home patients until the Board has been able to review the additional requested information. The motion passed unanimously.

VII. NEW BUSINESS

1) Madura Pharmacy, South Amboy, NJ – Requesting waiver to maintain same permit number upon transfer of ownership

Thomas Bender moved, seconded by Marc Sturgill to approve the waiver request to maintain the same permit number. The motion passed unanimously.

2) Barrie Levine, R.Ph., Vice President of Pharmacy Operations, Drug Fair Group, Somerset, NJ – Regarding promotional program and compliance with NJSA 45:14–65

Thomas Bender moved, seconded by Richard Palombo to refer this matter to the Division of Law for an informal opinion of NJSA 45:14 – 65. The motion passed unanimously.

3) Dilipkumar G. Naik – Request for modification of Provisional Order of Discipline

Thomas Bender moved, seconded by Elvy Paiva to move this issue to the Executive Session for deliberative process. The motion passed unanimously.

Following deliberations the Board moved back into Open Session at 1:00 pm.

Elvy Paiva moved, seconded by Jennifer DeVenio to deny the request for modification of the Provisional Order of Discipline based on court judgement. The motion passed unanimously.

At 1:05 pm, Elvy Paiva moved, seconded by Jennifer DeVenio to move back into Executive Session. The motion passed unanimously.

4) Edward A. Jergens, R.Ph., MBA, Director Medicare Part D Pharmacy services, Omnicare, Englewood, NJ – Regarding facility specific formulary procedure

Thomas Bender moved, seconded by Elvy Paiva that it appears from the information provided that Omnicare is in compliance with NJAC 13:39-9.1 et seq. The motion passed unanimously.

5) David Miller, R.Ph., Millers of Wyckoff, Wyckoff, NJ – Requesting a waiver of NJAC 13:39 – 11.19

The Chair directs Mr. Miller to submit a new plan for the compounding area which addresses the 100 square foot requirement for a clean room as noted in NJAC 13:39 – 11.19.

VIII. MITIGATION/ HEARING REQUESTS

1) Donald Loyas, RPIC, Target Pharmacy, East Hanover, NJ

Elvy Paiva moved, seconded by Marc Sturgill to mitigate the \$350 fine imposed pursuant to CFR 1301.21. The motion passed unanimously.

2) Theodore Pomarico, RPIC, Pomarico Pharmacy, Jersey City, NJ

Pamela Allen moved, seconded by Marc Sturgill to deny the request for mitigation. The motion passed unanimously.

3) James Cammarata, RPIC, Valley Pharmacy, Pluckemin, NJ

Elvy Paiva moved, seconded by Jennifer DeVenio to deny the request for mitigation. The motion passed unanimously.

4) Purima Shah, RPIC, DeRosa Pharmacy, Newark, NJ

Jennifer DeVenio moved, seconded by Thomas Bender to deny the request for mitigation. The motion passed unanimously.

5) Sozan W. Samuel, RPIC, Drug Fair of Plainfield, Plainfield, NJ

This item is to be rescheduled.

6) William Lynch, RPIC, Good Health Pharmacy, Belleville, NJ

Pamela Allen moved, seconded by Jennifer DeVenio to deny the request for mitigation. The motion passed unanimously.

IX. COMMITTEE REPORTS

N/A

X. APPROVAL OF MINUTES

1) September 12, 2007

Elvy Paiva moved, seconded by Jennifer DeVenio to approve the minutes of September 12 as amended. The motion passed unanimously.

XI. ADJOURNMENT

At 11:50 a.m. Pamela Allen moved, seconded by Elvy Paiva to move in to Executive session for the review of 15 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 2 Investigative Inquiries. The motion passed unanimously.