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BOARD OF PHARMACY PUBLIC SESSION MEETING MINUTES MONMOUTH CONFERENCE ROOM, 7th FLOOR October 2, 2013

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 Monmouth Conference Room at 124 Halsey Street, Newark, New Jersey on October 2, 2013, at 9:09 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 ANNOUNCEMENT

President Thomas Bender read a statement that the newspapers and appropriate elected officials have 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 9:19 a.m.
Marc Sturgill, PharmD	Late Arrival 9:19 a.m.
Mahesh Shah, R.Ph.	
Stephen Lieberman, R.Ph.	
Edward McGinley, R.Ph.	

OTHERS IN ATTENDANCE

Anthony Rubinaccio, R.Ph.	Executive Director
Rachel Glasgow	Regulatory Analyst
Matthew Wetzel	Government Representative
Jodi Krugman	Deputy Attorney General

IV. UPDATES BY EXECUTIVE DIRECTOR

The Executive Director reported for the month of August, \$ 3,050 in fines and penalties were collected. The following permits, licenses, and registrations were issued during the month of August:

- Technicians - 156
- Pharmacist - 179 (165 by examination/score transfer and 14 by reciprocity)
- Out-of-state pharmacies – 8
- In-state pharmacies - 6
- Pharmacists receiving immunization approval - 104
- Interns – 1

The Executive Director provided a summary of items that were discussed at the NABP Executive Officers Interactive Forum, which was held on September 24th and 25th in Illinois.

Some topics of interest included:

1) An overview of Federal and state (Virginia, Nebraska and Minnesota) Regulatory updates regarding Sterile Compounding. Bills were introduced in both the House and Senate to address this issue.

The Executive Directors of all the states discussed the need for some commonality between the format and types of information captured on inspection reports. The participants agreed it would be valuable for NABP to try and create a common template that could be shared between all the states so there would be some uniformity when reviewing other state's inspection reports.

2) PMP Interconnect:

- 42 states have functioning programs
- 16 PMPs are currently sharing data
- 7 additional states should be sharing data by the end of 2013. New Jersey is working on sharing collected data with other states.

3) NABP purchased the internet Top Level Domain name of ".PHARMACY". This will assist by allowing consumers to be able to help distinguish valid pharmacy internet sites from rogue sites. Some statistics presented include:

- 10,533 websites were reviewed by NABP
- 10,181 were in conflict with federal/state laws
- 288 appeared to be valid sites
- 94 were NABP VIPPS (Verified Internet Pharmacy Practice Sites) accredited.

V. OLD BUSINESS

1) Public Orders Filed

- a. Alan Kay, R.Ph., Order Granting Unrestricted Licensure, 8/28/2013
- b. Jesse Munsick, Final Order of Discipline, 8/28/2013
- c. Jennifer Miller, Final Order of Discipline, 8/28/2013
- d. Maritza M. Mieles, Final Order of Discipline, 8/28/2013
- e. Helen S. Chavarriaga, R.Ph., Provisional Order of Discipline, 8/28/2013
- f. Mary Ann Solomon, Provisional Order of Discipline, 8/28/2013
- g. Dennis Kelly, Provisional Order of Discipline, 9/18/2013
- h. Angela Sarrazola, Provisional Order of Discipline, 9/18/2013
- i. Philip L. Alvarez, Final Order of Discipline, 9/18/2013
- j. Tiffany L. Thomas, Final Order of Discipline, 9/18/2013
- k. Robinson C. De Leon, Order of Summary Suspension, 9/18/2013
- l. Daniel L. Garvey, R.Ph., Order of Summary Suspension, 9/18/2013

2) Jose Maltez - Pharmacy Technician - POD for finalization

Service was effective, there was no response received. Edward McGinley moved, seconded by Stephen Lieberman, to finalize the order without modification by default for diversion of CDS. **Motion passed 5-0.**

VI. NEW BUSINESS

1) Proposed Rules for Adoption for Veterans with Substantially Equivalent Training

Rachael Glasgow provided an overview of this rule (P.L. 2013, c.49), which requires professional boards to provide credits toward requirements for licensure for veterans with substantially equivalent training.

Edward McGinley moved, seconded by Richard Palombo, to refer this to the Rules and Regulations committee for review and changes. **Motion passed 7-0.**

2) NABP/AACP District I & II Meeting - Draft Tobacco Resolution (PA BOP)

The Pennsylvania Board of Pharmacy submitted a draft of a Resolution they propose to submit at the NABP District I & II meeting to be held in Maine on October 17-19. The resolution calls for the National Association of Boards of Pharmacy to revise the *Model State Pharmacy Act and Model Rules of the National Association of Boards of Pharmacy* to include language which would prohibit the licensure of pharmacies that sell tobacco products and pharmacies that are located in facilities that sell tobacco products.

The Board appreciates the inherent dangers associated with tobacco products. However, there is a concern that prohibiting the sale of tobacco products may have a negative economic impact on independent pharmacies. If adopted, this would update the NABP Model Act, which is a guide for states to refer to. It may not ultimately change any laws in New Jersey.

Richard Palombo moved, seconded by Marc Sturgill, to nominate Thomas Bender as the representative for New Jersey to vote proposed resolutions at the District Meeting. **Motion passed 7-0.**

3) Morristown Medical Center - Request for Opinion on Licensure of Infusion Center

Atlantic Health Systems (AHS) owns an Infusion Center at 435 South St., which houses numerous physician practices, that is operated by Morristown Medical Center (MMC), a member of AHS. The Infusion Center is located within one of the physician practices, currently owned by AHS, and is an extension of services provided by MMC. The infusion center is considered an outpatient department of MMC and patients seen in the infusion center are registered as outpatients of MMC.

When the physician practice operated the infusion center privately there was not a pharmacy license associated with the practice and medications were prepared and administered on site under the supervision of the physician. Medications were not dispensed for consumption outside the center. The infusion center at 435 South Street will function in the same manner. Medications will be prepared and administered on site under the supervision of the physician and medications will not be dispensed for consumption outside the center.

Currently, the infusion center does not have a pharmacy license and they would like the Board's recommendation on whether a pharmacy license would be required.

Chair Direct: The Board office is to request additional information regarding who will be performing the compounding (the physician's office or the pharmacist in the pharmacy), how the product will be delivered to the center, and how the billing handled (is the infusion office being reimbursed for the product, administration or both). Once supplied, this information will be presented to the Board for consideration.

4) AtlantiCare Regional Medical Center - Request for Pilot Program Approval For Remote Processing of Prescriptions - Work At Home

Director Rubinaccio received a request from Andrew Karcsh, Director of Pharmacy for AtlantiCare Regional Medical Center, seeking pilot approval from the New Jersey Board of Pharmacy to service their own facilities through remote processing of prescriptions - work from home. The remote processing of prescriptions pilot would allow AtlantiCare flexibility in addressing peak order demand as well as enabling some of their pharmacists to focus solely on order verification. Throughout the day, pharmacists have multiple tasks and can be interrupted while trying to perform order verification. They believe remote processing can better limit some of these distractions and produce more quality outcomes. Addressing peak demand will allow them flexibility to allocate their pharmacists for more clinically based tasks such as discharge counseling, pain management and ICU rounding. The facilities participating in the pilot would be:

AtlantiCare Regional Medical Center #28RS00065700

Atlantic City Campus
1925 Pacific Avenue
Atlantic City, NJ 08401

AtlantiCare Regional Medical Center #28RS00233100

Mainland Campus
65 W Jimmie Leeds Road
Pomona, NJ 08205

Richard Palombo moved, seconded by Marc Sturgill, to request that AtlantiCare send their SOPs, and Policies and Procedures to the Board for review, in advance of appearing before the Board, to explain their ideas for a pilot program.

Motion passed 7-0.

5) Request for Advisory Opinion on the Use of Prescription Medication Drop-Boxes

Angelo Cifaldi, on behalf of an unnamed client, respectfully requested an advisory opinion regarding the use of an off-site drop-box by a New Jersey pharmacy. In particular, one of his clients seeks to place a drop-box in a senior residential center after receiving numerous requests from its residents. Although the Board of Pharmacy regulations specifically allow for the use of drop-off devices, they are silent with respect to the placement of one at a remote location, which prompted this request for an advisory opinion.

Chair Direct: The Board does not offer advisory opinions, and there are concerns from the Board based on the limited information provided.

Would this drop box be implemented in lieu of picking up a prescription from a patient ? Security is a concern that needs to be addressed on both the picking up of the prescription and delivery/drop off of the filled prescriptions. There are questions relating to the type of facility that would be utilizing this drop box, how counseling would be accomplished, etc.

6) William E. Mattioli, R.Ph. - Request for Reinstatement of Pharmacist License

On October 20, 2010, William E. Mattioli, R.Ph. was arrested, charged, and subsequently convicted of shoplifting from the store at which he worked as a pharmacist. On November 2, 2010, he was again arrested and charged with burglary, theft and trespass at the same location through the use of a key he had failed to return after his termination from employment. On December 7, 2010, Mr. Mattioli was severely injured in a one-car motor vehicle crash. He was charged with Driving Under the Influence of drugs. These facts established a basis for disciplinary action pursuant to N.J.S.A. 45:1-21 (b), (e), (f), (i) and (I). On March 22, 2011, he was evaluated, and began treatment with the Professional Assistance Program of New Jersey (PAPNJ) for polysubstance abuse and opiate dependence.

On November 9, 2011, Mr. Mattioli entered into a Consent Order to immediately surrender his license to practice pharmacy in the State of New Jersey with no re-application until at least June 30, 2012, and pending further Order of the Board.

Edward McGinley moved, seconded by Stephen Lieberman, to go into Executive Session for advice of counsel.

Edward McGinley moved, seconded by Stephen Lieberman, to schedule Mr. Mattioli for an Investigative Inquiry after the Board office receives all required material, including proof of required live continuing Education credits.

Motion passed 7-0.

7) Adebowale Oyenusi, R.Ph. - Request for Reinstatement of Pharmacist License

On March 18, 2004 Mr. Oyenusi (respondent) was convicted of the crimes of Medicaid Fraud and Theft by Deception in Superior Court Essex County, New Jersey. Specifically, Mr. Oyenusi submitted fraudulent claims to Medicaid seeking reimbursements he was not authorized to receive. The following sentence was ordered: pay a \$ 75,000.00 civil penalty, \$152,215.00 in restitution and serve incarceration for a term of five (5) years.

The above conviction provided grounds for the suspension of his license to practice pharmacy in New Jersey pursuant to N.J.S.A. 45:1-21(f) in that the crime of which Mr. Oyenusi was convicted was one of moral turpitude and/or related adversely to the practice of pharmacy. Based on the foregoing findings and conclusions a Provisional Order of Discipline suspending respondent's license to practice pharmacy in the State of New Jersey was entered on July 29, 2004 and a copy was forwarded to respondent's last known address by means of both regular

and certified mail. The Provisional Order was subject to finalization by the Board at 5: 00 p.m. on the 30th business day following entry unless respondent requested a modification or dismissal of the stated Findings of Fact or Conclusions of Law by submitting a written request for modification or dismissal setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting respondent's request for consideration and reasons therefor. Although the record reflects that the Provisional Order was served upon respondent, no response was received by the required date. Accordingly, the Board considered the matter, determined that further proceedings were not necessary and the Provisional Order should be made final. On December 17, 2004, Mr. Oyenu's license to practice pharmacy in the State of New Jersey was revoked.

Edward McGinley moved, seconded by Stephen Lieberman, to deny Mr. Oyenu's request for reinstatement at this time based on the egregiousness of the incident, the restitution paid to date, and the financial documentation presented to support this application. **Motion passed 7-0.**

8) Mounir N. Youssef - Request for Waiver of TOEFL Exam

Mr. Youssef has taken the TOEFL examination approximately 18 times. He is having difficulty passing the Speaking section, although he has come close to achieving a passing score many times. When he did obtain a passing score for the Speaking section, he did not pass the Writing section. He has been unable to pass all required sections at the same time. He is asking the Board to grant him a waiver to not require him to pass the TOEFL examination as part of the licensing requirements to become a pharmacist in New Jersey.

Margherita Cardello motioned, seconded by Richard Palombo, to deny this request as no extenuating circumstances were presented, and because speaking is a critical component of working in pharmacy. Thomas Bender was recused due to his affiliation with Walgreens. **Motion passed 6-0.**

9) Catherine Verme-Giboney, PharmD - Request for Inactive Status of Pharmacist License

Ms. Verme-Giboney is a pharmacist licensed in Pennsylvania and New Jersey, and has been unable to work for the last five years due to a specific medical disability. She was able to obtain the necessary CE credits to renew her New Jersey license during the first renewal period, but because of her medical condition, and having experienced financial hardship due to her disability, she was not able to renew her license during this most recent renewal period. Consequently, her license has since lapsed to a status of 'expired'. Ms. Verme-Giboney is asking the Board to allow her to have the status of her license changed to 'inactive', in hopes of overcoming this illness in the future, and being

able to return to practicing pharmacy without being required to retake the NAPLEX examination.

Edward McGinley moved, seconded by Thomas Bender, for DAG Krugman to offer a Consent Order to allow Ms. Verme-Gibboney to activate her license, waive any fees and CE credits, and change her license status to 'inactive'. The Consent Order will itemize actions necessary for her to return to practice in the future (ie. physician reports on physical competence, required examinations, etc.). The Consent Order will indicate that this is a non-disciplinary action. **Motion passed 7-0.**

VII. MITIGATION/HEARING REQUEST

1) **Manilal A. Patel, R.Ph., PIC - Arlington Pharmacy, Kearny, NJ**

Mr. Patel asked the Board to mitigate a cite for violation of N.J.A.C.13: 45H-S.5 and N.J.A.C.13: 45H-S.7. The CDS biennial inventory could not be located at the time of inspection; he explained that a few documents were misplaced. The inspection occurred on October 16, 2012; Inspection Report #8-1866-12-X. Mr. Patel indicated that the documents were found on site later that day, and that they were faxed to the Board office.

Edward McGinley moved, seconded by Marc Sturgill, to mitigate the fines for violations of N.J.A.C.13: 45H-S.5 and N.J.A.C.13: 45H-S.7 if the Board office can confirm that the proofs that were sent to the Board. If receipt of the proofs cannot be verified, the mitigation request will be denied. **Motion passed 7-0.**

VIII. INFORMATIONAL

1) **High-Yield MedReviews – Availability of NAPLEX Review Course**

The Board took this item as informational.

IX. COMMITTEE REPORTS

Thomas Bender provided an overview of the MPJE Committee report. Annually, states are required by NABP to review the pool of questions that may be used for the Multistate Pharmacy Jurisprudence Examination. Mr. Bender thanks the committee members, Margherita Cardello, Edward McGinley, Richard Palombo, Marc Sturgill for assisting him in reviewing the pool of approximately 2500 existing and new questions in a timely manner.

Edward McGinley reported that the Rules and Regulations Committee continued its work on finalizing the format of a “Pre-approval” application for those pharmacists wishing to enter into Collaborative Practice agreements with physicians. The committee also compiled a list of changes that pharmacists are allowed to make to prescriptions for schedule II medications. This document will be made available to New Jersey pharmacists after final review by the Board, the Division of Consumer Affairs Director’s Office, and the Drug Enforcement Agency.

X. APPROVAL OF MINUTES

August 28, 2013 Public Session Minutes

Marc Sturgill moved, seconded by Richard Palombo, to approve the August 28, 2013 Public Session Minutes as amended. **Motion passed 7-0.**

Margherita Cardello moved, seconded by Edward McGinley, to adjourn the Public session and move to Executive session at 11:36 a.m. **Motion passed 6-0.**