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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 OCTOBER 12, 2011

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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 Somerset Room 6th Floor at 124 Halsey Street, Newark, New Jersey on October 12, 2011 at 9:05 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.	President
Thomas Bender, R.Ph.	Vice President
Margherita LaFragola, R.Ph.	
Stephen Lieberman, R.Ph.	
Richard Palombo, R.Ph.	Excused
Marc Sturgill, R.Ph.	Excused
Mahesh Shah, R.Ph.	Excused

OTHERS IN ATTENDANCE

Susan Gartland	Acting Executive Director
Jodi Krugman	Deputy Attorney General
Maria Bertorelli	Administrator Assistant

IV. UPDATE BY EXECUTIVE DIRECTOR

- The Executive Director reported that \$39,900.00 were collected in fines and penalties during the month of September 2011.
The following permits/licenses/registrations were issued during the month of September 2011:

- Technicians - 224
- Pharmacists - 129 (111 by examination/score transfer, 18 by reciprocity)
- Out of state pharmacies - 11
- In state pharmacies - 7
- Pharmacists receiving immunization approval - 138
- Interns (foreign graduates) - 11

V. OLD BUSINESS

1) Finalization of Provisional Orders of Discipline

a) Nick R. Coleman, technician

Due to lack of a quorum, item tabled to the November Meeting.

VI. NEW BUSINESS

1) Julianna K. Koczona – Foreign graduate requesting a waiver of NJAC 13:39-2.7(c)

Thomas Bender moved, seconded by Margherita LaFragola to deny waiver request of NJAC 13:39-2.7(c). **Motion passed unanimously.**

2) Irene Hass – Consumer with comments regarding the picking up of prescriptions

The Board considered material as informational.

3) Steve Skariah Panichiyil – Pharmacist applicant, completed internship 2005; wants to proceed with licensure

Stephen Lieberman moved, seconded by Margherita LaFragola to deny request. Applicant must complete the full internship hours pursuant to NJAC 13:39-2.1(b)4. **Motion passed unanimously.**

4) Shawn Lynch, Discover Rx Pharmacy, Newark Beth Israel Medical Center, Newark, NJ – Regarding the placement of a pharmacy technician in a clinic building lobby

(Mr. Lynch addressed and handed out information about policies and procedures, lay out of the location in the lobby where they will move into, security, etc. He spoke regarding the Federal 340B Drug Pricing Program, he answered questions/concerns that members of the Board had, specifically regarding the possibility to the steering of patients, storage of medication as well as the transportation of the filled prescription from the pharmacy to the lobby area.)

At 11:00 a.m. Thomas Bender motioned, seconded by Margherita LaFragola to move into Executive Session for advice of Counsel.

At 11:40 a.m. Thomas Bender motioned, seconded by Margherita LaFragola to move back into Public Session.

Stephen Lieberman moved, seconded by Margherita LaFragola that prior to approving a pilot program, the following must be submitted:

1) Amendments to the pharmacy application submitted relating to the extension permit area as follows:

a) Diagram of Mobile location.

- b) List of equipment used at mobile site.
- c) Hours of Operation.
- d) Policies addressing:
 - 1) HIPPA compliance.
 - 2) Storage and Security of prescription stock.
 - 3) Patient counsel
 - 4) Data verification/quality control/privacy screening
 - 5) Security of prescription documents.

Once all submitted material is reviewed and if approved, Discover RX Pharmacy will be required to submit every three (3) months a report to the Board containing the number of patients serviced and the breakdown of the percentage of prescriptions filled for: a) 340B federal drug pricing program, b) other federal programs, c) private insurance companies and d) hospital employees. Furthermore, Discover RX Pharmacy agrees that the Board at its discretion can withdraw the pilot program agreement at anytime. **Motion passed unanimously.**

5) Mark Szarszewski, R.Ph. – Request for modification of Consent Order

Stephen Lieberman moved, seconded by Thomas Bender to send a letter to Mr. Szarszewski's attorney Ms. Mandel, advising her that all remaining restrictions on the Consent Order including the appearance request before the Board are removed. However, the Board is requesting that your client submit the continuing education credits completed from September 24, 2008 to July 8, 2011. **Motion passed unanimously.**

6) Franck's Pharmacy, Ocala Fl – US District Judge ruling

This is for informational purposes only

The Board considered material as informational.

7) Pascal Osei, R.Ph. – Request for early reinstatement

Thomas Bender moved, seconded by Margherita LaFragola to schedule Mr. Osei for an investigative inquiry to determine his fitness to practice pharmacy. **Motion passed unanimously.**

8) Mark Pyatak, R.Ph. – Request for modification of Consent Order

Due to lack of a quorum, item tabled to the November Meeting.

9) Chirag Patel, R.Ph., MobiVax, Hawthorne, NJ – Regarding mobile vaccination program.

(Mr. Patel addressed the Board and answered questions/concerns that the members of the Board had relating to operational procedures of the proposed mobile vaccination program.)

Chair Direct to send a letter to Mr. Mark Makhinson of MobiVax that prior to the Board considering this concept, he must apply for a pharmacy permit, provide information on the

overall policies and operational procedures, if he is asking for a special license relating to the pharmacy practice site regulations, which regulation is he requesting waivers of, once received, the Board and the Deputy Attorney General will do further research.

VII. MITIGATION/ HEARING REQUESTS

1) Christopher Papazian, R.Ph.

Margherita LaFragola moved, seconded by Stephen Lieberman to deny mitigation request of the \$1,300.00 fine incurred pursuant to NJAC 13:39-3A.1(a). If he did not complete the required continuing education credits during the May 1, 2009 thru April 30, 2011 biennial renewal period, he is still mandated to make them up. **Motion passed unanimously.**

2) Esther Brown, R.Ph.

Chair direct for DAG Krugman to speak or send a letter to licensee regarding waiving any rights she may have to a hearing and to outline a less burdensome way of resolving matter.

3) Mourad S. Ayad, R.Ph.

Due to lack of a quorum, item tabled to the November Meeting.

4) Stephen A. Kloss, R.Ph.

Item tabled to the November Meeting.

5) Joel Lichter, R.Ph.

Thomas Bender moved, seconded by Stephen Lieberman to deny mitigation request of the \$1,200.00 fine incurred pursuant to NJAC 13:39-3A.1(a). Since his license is in an active status and because he did not complete the required continuing education credits for the May 1, 2009 thru April 30, 2011-biennial renewal period he is still mandated to make them up. To avoid future violations of the Board's enabling act and/or regulations, a less burdensome path would be to consider placing his license on inactive or retired status. **Motion passed unanimously.**

6) Michelle Jacobson-Malek, RPIC, Omnicare of Woodbridge, Woodbridge, NJ

Thomas Bender moved, seconded by Stephen Lieberman to remove the \$200.00 fine incurred pursuant to NJAC 13:39-5.8(a)1 from the pharmacy inspection report #8-5547N-11-X.

7) Won-Yol Chang, RPIC, Rite Aid, East Orange, NJ

Due to lack of a quorum, item tabled to the November Meeting.

8) Kathryn M. Woge, RPIC, Walgreens, Penns Grove, NJ

Due to lack of a quorum, item tabled to the November Meeting.

9) Chris M. Castagna, RPIC, Pennington Apothecary, Pennington, NJ

This matter was last before the Board on 6/8/11 at which time the Board requested that Mr. Castagna submit the syllabus of the course he completed with the National Association of Compounding Pharmacist, "Inhalation Compounding Certificate Program," March 25-26, 2006.

Stephen Lieberman moved, seconded by Thomas Bender to mitigate the \$500.00 fine issued pursuant to N.J.A.C. 13:39-6.6(b)&(c). **Motion passed unanimously.**

VIII. COMMITTEE REPORTS

Rules & Regulations Committee reported that no response was received from NABP regarding their request for information relating to the doctor/patient relation affidavit.

IX. APPROVAL OF MINUTES

1) September 28, 2011

Stephen Lieberman moved, seconded by Margherita LaFragola to approve the September 28, 2011 Open Session Minutes as amended. **Motion passed unanimously.**

X. ADJOURNMENT

At 11:50 a.m. Margherita LaFragola motioned, seconded by Stephen Lieberman to move into Executive Session for the review of 7 complaints, 1 Old Business Items, 7 New Business Items, the Secretary's Report and Recommendation on Retail and Institutional Permits, the Secretary's Report and Recommendation on Inspection Reports, 2 Investigative Inquiries and the Approval of Minutes.