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Governor

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New Jersey Office of the Attorney General

Division of Consumer Affairs
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NEW JERSEY STATE BOARD OF PHARMACY MINUTES OF THE OPEN SESSION November 9, 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 November 9, 2011 at 9:10 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 that the newspapers and appropriate elected officials had been notified of the meeting according to the requirement of the Open Public 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.	
Marc Sturgill, R.Ph.	
Mahesh Shah, R.Ph.	

OTHERS IN ATTENDANCE

Susan Gartland	Acting Executive Director
Megan Cordoma	Deputy Attorney General
Maria Bertorelli	Administrator Assistant

IV. UPDATE BY EXECUTIVE DIRECTOR

- The Executive Director reported that \$12,500.00 were collected in fines and penalties during the month of October 2011.
The following permits/licenses/registrations were issued during the month of October 2011:

- Technicians - 129
- Pharmacists - 76 (59 by examination/score transfer, 17 by reciprocity)
- Out of state pharmacies - 8
- In state pharmacies - 8
- Pharmacists receiving immunization approval - 98
- Interns (foreign graduates) - 9

V. OLD BUSINESS

1) Finalization of Provisional Orders of Discipline

a) Nick R. Coleman, Technician

Margherita LaFragola was recused due to her affiliation with Rite Aid.

Recognizing that no response was submitted to the Provisional Order of Discipline issued in this matter, Thomas Bender moved, seconded by Stephen Lieberman to finalize the Provisional Order of Discipline without modification. **Motion passed unanimously.**

b) Ariane R. Saunders, Technician

Recognizing that no response was submitted to the Provisional Order of Discipline issued in this matter, Thomas Bender moved, seconded by Margherita LaFragola to finalize the Provisional Order of Discipline without modification. **Motion passed unanimously.**

2) Claudia Cece, R.Ph (Expired status) – Regarding her requirements for reinstatement

(This item was last seen before the Board on 8/10/11, at that time the Board determined to accept her Pharmacy Technician application. However, the hours worked as a technician would not count toward the required internship hours pursuant to NJAC 13:39-2.1(b)4, for the reinstatement of her expired pharmacist license).

Thomas Bender moved, seconded by Margherita LaFragola to table this matter to allow DAG Cordoma to further research and reach out to Ms. Cece to better understand her concerns. **Motion passed unanimously.**

3) Michael J. Massaro, R.Ph., Director Pharmacy, Underwood Memorial Hospital, Woodbury, NJ – Regarding the providing of a 30-day supply of medications upon discharge to indigent patients enrolled in Robert Wood Johnson Foundation Grant for Transitions in Patient Care program

At the Board's request, Mr. Massaro appeared with three representatives of Underwood Memorial Hospital to explain procedure and provide further details for the Transition in Patient Care Program proposal.

Richard Palombo moved, seconded by Steven Lieberman that Underwood Memorial Hospital should submit an application for a retail license, the Board will expedite the approval process. **Motion passed unanimously.**

VI. NEW BUSINESS

1) Kan Solanki, PharmD – requesting a waiver of N.J.A.C. 13:39-2.1(a)4

Marc Sturgill was recused based upon a teacher/student relationship.

The Board reviewed correspondence requesting a waiver of the requirement that applicants for initial licensure more than two years following his or her graduation from pharmacy school complete a Board-approved internship. Thomas Bender moved, seconded by Margherita LaFragola to deny waiver request of N.J.A.C. 13:39-2.1(a)4. **Motion passed unanimously.**

**2) Bob Colonna - Dept. of Superintendent Middlesex County Weights & Measures
Regarding NJAC 13:39-5.8(a)5**

Chair Direct that the Board office research the origin of “code S4.44 (Graduates)” mentioned in the correspondence and place this matter on the December agenda.

3) Kenneth W. Grossett II, R.Ph. – Request for an unrestricted license

Richard Palombo moved, seconded by Mahesh Shah to deny Mr. Grossett’s request for an unrestricted license but to counter-offer an amendment to the Consent Order regarding paragraph 3. **Motion passed unanimously.**

4) Amethyst Pharmacy

The Board reviewed correspondence regarding the storage and sale of outdated and opened prescription medications pending and post sale of that pharmacy. Margherita LaFragola moved, seconded by Mahesh Shah to send Ms. Mandel a letter informing her that the Board determined to allow inventory to remain at its current location, but all drugs are to remain sealed, until a permit is issued and then they should be disposed of appropriately. **Motion passed unanimously.**

5) Board Meeting dates, calendar year 2012.

Richard Palombo moved, seconded by Margherita LaFragola to accept the meeting dates to be on the fourth Wednesday of every month for the 2012 calendar year, with the exception of December, and that meeting will be on December 12, 2012. **Motion passed unanimously.**

6) Kenneth M. Taraska - CVS - Regarding “ Loyalty card “

The Board reviewed correspondence from Kenneth Taraska regarding the use of a loyalty card as an incentive to obtain a discount on the flu vaccine. Thomas Bender moved, seconded by Stephen Lieberman, that the use of a loyalty card as an incentive to obtain a discount for the purchase of a flu vaccine would be in violation of the regulations, for someone below the age of 60. **Motion passed unanimously.**

7) Zeitoun/Rami S. - requesting a waiver of NJAC 13:39-2.1(a)4

Thomas Bender moved, seconded by Richard Palombo to deny waiver request. Mr. Zeitoun must obtain 1440 internship hours, prior to taking the NAPLEX and the MPJE exams. **Motion passed unanimously.**

8) Pitts/Cornelius D. - requesting a waiver of NJAC 13:39-2.1(a)4

Richard Palombo moved, seconded by Stephen Lieberman to send Mr. Pitts a letter advising him that the Board will accept his work experience, specifically the adjunct instructor and past industry experience, as meeting the requirements of NJAC 13:39-2.1(a)4. **Motion passed unanimously.**

- 9) **S-2987** (Permits reuse of returned prescription drugs within licensed health care facilities; directs Commissioner of Health and Senior Services to evaluate feasibility of reuse for treatment of indigent persons).

The Board reviewed and discussed bill **S-2987**.

Stephen Lieberman moved, seconded by Thomas Bender that the Board supports the intent of the bill and looks forward to working with the Department of Health and Human Services. **Motion passed unanimously.**

VII. MITIGATION/ HEARING REQUESTS

1) Jason Wood, R. Ph. - Walgreens Pharmacy

Thomas Bender was recused, due to his affiliation with Walgreens.

The Board reviewed correspondence submitted in response to a Uniform Penalty Letter. Margherita LaFragola moved, seconded by Richard Palombo to remove from inspection report #8-1767-11-X the \$350.00 fine issued pursuant to CFR1301.21, CFR1301.44B and the warning issued pursuant to NJAC 13:39-5.11. **Motion passed unanimously.**

2) Oyinkan C. Odumosun, R. Ph. - Shalom Pharmacy, Inc.

The Board reviewed correspondence submitted in response to a Uniform Penalty Letter. Thomas Bender moved, seconded by Margherita LaFragola to deny mitigation request to the fines incurred during a pharmacy inspection (report #8-5122-11-X), the Board will however remove from the report the \$50.00 fine issued pursuant to NJAC 13:39-7.19(b)2 and NJSA 45:14-68(b)2. **Motion passed unanimously.**

3) John C. Bellitti, R. Ph. - HB Pharmacy

The Board reviewed correspondence submitted in response to a Uniform Penalty Letter. Marc Sturgill moved, seconded by Mahesh Shah to deny mitigation request to the fines imposed during a pharmacy inspection (report #8-188-11-X). **Motion passed unanimously.**

4) Mohamed Shalaby, R. Ph. - Rite Aid Pharmacy

Magherita LaFragola was recused, due to her affiliation with Rite Aid.

The Board reviewed correspondence submitted in response to a Uniform Penalty Letter. Thomas Bender moved, seconded by Marc Sturgill to mitigate the \$100.00 fine imposed pursuant to NJAC 13:39-2.10(b) during a pharmacy inspection (report #8-4519-11-X), to a warning. **Motion passed unanimously.**

5) Patrick Phat Duong, R. Ph.

The Board reviewed correspondence submitted in response to a Uniform Penalty Letter. Margherita LaFragola moved, seconded by Thomas Bender to deny a mitigation request of the \$1,300.00 fine imposed pursuant to NJSA 45:14-54 and NJAC 13:39-3A.1(a) and also to advise Mr. Duong to place his pharmacist license on inactive status. **Motion passed unanimously.**

6) Alan J. Zampieri, R.Ph.

The Board reviewed correspondence submitted in response to a Uniform Penalty Letter. Thomas Bender moved, seconded by Margherita LaFragola to move into closed session for advice of counsel. Upon return to open session Stephen Lieberman moved, seconded by Thomas Bender to table this matter until the December 14, 2011 meeting.

7) Peter J. Weremedic, R. Ph.

The Board reviewed correspondence submitted in response to a Uniform Penalty Letter. Thomas Bender moved, seconded by Margherita LaFragola to deny mitigation request of the \$300.00 fine imposed pursuant to NJSA 45:14-54 and NJAC 13:39-3A.1(a). **Motion passed unanimously.**

8) Anita Gorukanti, R. Ph.

The Board reviewed correspondence submitted in response to a Uniform Penalty Letter. Margherita LaFragola moved, seconded by Mahesh Shah to deny mitigation request of the \$300.00 fine imposed pursuant to NJSA 45:14-54 and NJAC 13:39-3A.1(a). **Motion passed unanimously.**

9) John C. Kim, R. Ph. - Hebert's Pharmacy

The Board reviewed correspondence submitted in response to a Uniform Penalty Letter. Thomas Bender moved, seconded by Richard Palombo to remove the following fines imposed during a pharmacy inspection from report #8-1007-11-X:
the \$500.00 fine imposed pursuant to NJAC 13:39-6.15(d), NJSA 45:14-80(d);
the \$500.00 fine imposed pursuant to NJAC 13:39-6.6(b)&(c), and
to reduce the \$300.00 fine imposed pursuant to NJAC 13:39-7.18, NJAC 13:39-6.2(f)7 (outdated from 1 day to 4 months) to \$200.00. **Motion passed unanimously.**

10) Song Min Hong, R. Ph.

Margherita LaFragola was recused, due to her affiliation with Rite Aid.

The Board reviewed correspondence submitted in response to a Uniform Penalty Letter. Thomas Bender moved, seconded by Richard Palombo to mitigate the \$3,000.00 fine issued pursuant to NJSA 45:14-54 and NJAC 13:39-3A.1(a) to \$200.00, since the proof provided shows a deficiency of only 2 continuing education (live) credits. **Motion passed unanimously.**

11) Matthew Piskadlo, R. Ph. - Plymouth Park Pharmacy

The Board reviewed correspondence submitted in response to a Uniform Penalty Letter. Thomas Bender moved, seconded by Richard Palombo to deny mitigation request of the fines imposed during a pharmacy inspection, (report #8-840-11-X). **Motion passed unanimously.**

12) Roy C. Putrino, R. Ph.

The Board reviewed correspondence submitted in response to a Uniform Penalty Letter. Thomas Bender moved, seconded by Margherita LaFragola to deny mitigation request of the \$600.00 fine imposed pursuant to NJSA 45:14-54 and NJAC 13:39-3A.1(a). **Motion passed unanimously.**

13) Richard P. Tedeschi, R. Ph.

The Board reviewed correspondence submitted in response to a Uniform Penalty Letter. Thomas Bender moved, seconded by Edward McGinley to mitigate the \$3,000.00 fine imposed pursuant to NJSA 45:14-54 and NJAC 13:39-3A.1(a) to \$1,100.00, since the proof provided is deficient of 10 continuing education (live) credits and 1 (law) credit. **Motion passed unanimously.**

14) Thomas A. Moleski, R. Ph.

The Board reviewed correspondence submitted in response to a Uniform Penalty Letter. Thomas Bender moved, seconded by Margherita LaFragola to move into closed session for advice of counsel. Upon return to open session Stephen Lieberman moved, seconded by Thomas Bender to table this matter until the December 14, 2011 meeting.

15) Won-Yol Chang, RPIC, Rite Aid Pharmacy

Magherita LaFragola was recused, due to her affiliation with Rite Aid.

The Board reviewed correspondence submitted in response to a Uniform Penalty Letter. Richard Palombo moved, seconded by Thomas Bender to remove from inspection report #8-4313-11-X the \$400.00 fine imposed pursuant to NJSA 45:14-48(a)10, NJAC 13:39-5.8(a)1. **Motion passed unanimously.**

16) Mourad S. Ayad, R. Ph.

The Board reviewed correspondence submitted in response to a Uniform Penalty Letter. Margherita LaFragola moved, seconded by Richard Palombo to request Mr. Ayad to submit proof of the continuing education credits completed for the May 1, 2009 thru April 30, 2011 biennial renewal period. **Motion passed unanimously.**

17) Kathryn M. Woge, RPIC - Walgreens Pharmacy

Thomas Bender was recused, due to his affiliation with Walgreens.

This matter was tabled to the December 14, 2011 meeting.

17) Chour Chang, RPIC - Peterson Pharmacy, South Amboy, NJ

The Board reviewed correspondence submitted in response to a Uniform Penalty Letter. Thomas Bender moved, seconded by Stephen Lieberman to deny mitigation request of the fines imposed during a pharmacy inspection, (report #8-2949-11-X) but to allow the pharmacist to pay the fines at a rate of \$381 per month, with the entire amount paid within one year. **Motion passed unanimously**

18) Douglas Watson, RPIC - Walgreens Pharmacy, Jersey City, NJ

Thomas Bender was recused, due to his affiliation with Walgreens.

The Board reviewed correspondence submitted in response to a Uniform Penalty Letter. Mahesh Shah moved, seconded by Richard Palombo to remove from inspection report #8-5400-11-X the \$350.00 fine imposed pursuant to CFR1301.21. **Motion passed unanimously.**

VIII. COMMITTEE REPORTS

There were no committee reports for this meeting.

IX. APPROVAL OF MINUTES

1) October 12, 2011

Stephen Lieberman moved, seconded by Thomas Bender to approve the October 12, 2011 Open Session Minutes as amended. **Motion passed unanimously.**

X. ADJOURNMENT

At 11:50 a.m. Margherita LaFragola moved, seconded by Stephen Lieberman to adjourn Public Session and move into Executive Session for the review of 8 complaints, 3 Old Business Items, 5 New Business Items, the Secretary's Report and Recommendation on Retail and Institutional Permits, the Secretary's Report and Recommendation on Inspection

**Board of Pharmacy
Open Session Minutes
November 9, 2011
Page 8**

Reports, and the Approval of Minutes.