

**NEW JERSEY STATE BOARD OF PHARMACY
MINUTES OF THE OPEN SESSION
NOVEMBER 14, 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 November 14, 2007 at 9:07 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
Margherita Lafragola, R.Ph. (Arrived at 9:15 am)
Elvy T. Paiva, R.Ph. (Left at 12:35 pm)
Marc Sturgill, R.Ph.

OTHERS IN ATTENDANCE

Joanne Boyer, R.Ph. Executive Director
Carmen Rodriguez, Esq. Deputy Attorney General

EXCUSED

Axel Miranda Public Member
Richard Palombo, R.Ph.
Pamela Allen, R.Ph.
Jennifer DeVenio Government Member
Peter Halecky, R.Ph.

IV. UPDATE BY EXECUTIVE DIRECTOR

There were 81 pharmacists licensed during the month of October, 2007. Nine by reciprocity, 72 by examination/score transfer. There were 28 pharmacy permits issued during the month of October, 2007. These were issued as the result of transfer of ownership or new pharmacies opening. The Division of Consumer Affairs is still working the technician registration process. They anticipate that the system will be ready for us to register technicians in January, 2008.

V. CONTINUING EDUCATION REPORT

N/A

VI. OLD BUSINESS

1) Abdul Anayoor – Request for reinstatement

Mr. Anayoor appeared before the Board on 6/13/07 at which time the Board requested additional information. The requested information was placed before the Board on 9/12/07 and reinstatement was approved. The conditions for reinstatement need to be determined.

The Committee recommended to reinstate Mr. Anayoor's license to practice pharmacy with the following conditions:

- a) no preceptor, RPIC or ownership of pharmacy for 1 year from Filing of Reinstatement Order
- b) completion of ProBE Program (professional problem based ethics course)
- c) show copy of order to employer until removed from OIG disbarment list Upon Board review and approval of ethics course evaluation, Mr. Anayoor may petition Board for removal of above stated conditions with the exception of item C above.

2) Oxana Tsyndra – Regarding her request for a waiver to begin internship prior to obtaining FPGEC (NJAC 13:39 – 8.4(a)1) This matter was last before the Board on 7/11/07 at which time the Board denied her request. Ms. Tsyndra is asking that the Board reconsider her request

The Committee recommended to deny Ms. Tsyndra's request for a waiver due to failure to show good cause.

VII. NEW BUSINESS

1) Acquisition of Critical Care by Accredo Health

Based on advice of counsel the Committee determined that this acquisition qualifies as a change of ownership and that NJAC 13:39 – 4.5 needs to be followed.

2) Jennifer Factor, Sr. VP of Operations, Partners, Cranford, NJ – Regarding the ability of a pharmacist to enter orders from home instead of the pharmacy

The Chair directed to have Partners provide the following information:

- a) the number of pharmacists that could potentially participate in this program
- b) criteria for selecting what pharmacists would participate
- c) what systems are in place to assure the integrity and privacy of records
- d) diagram of workflow now and workflow once process would be implemented
- e) requirements for home work environment (to assure work environment is free from distraction)
- f) audit trail controls to ensure safety and security at home
- g) what customers could potentially be serviced by this program
- h) Quality Assurance policy

3) Nihal H. Zeidy – Requesting waiver of NJAC 13:39 – 8.4(a)1 & 3 As of 11/7/07 Ms. Zeidy has not submitted an application

The Committee recommended to deny Ms. Zeidy's request for a waiver due to failure to show good cause.

4) Diana Messina Hieb – Licensed expired in 1999; claims to have informed Board office of change of address, but has no proof; in order to reinstate would have to take NAPLEX and MPJE Elvy Paiva and Thomas Bender were recused due to their affiliation with Walgreens.

The Committee recommended to deny Ms. Heib's request to waive the requirement to retake the NAPLEX and MPJE exams as stated NJSA 45:1 –7.1(d).

5) Michael A. Scicutella – Requesting waiver of reinstatement fee Thomas Bender was recused.

The Committee recommended to deny Mr. Scicutella's request for a waiver since per his license record there

were no online renewal capabilities until February, there is no record of any renewal fees being paid, and the proof of mailing submitted is not legible.

6) Perry Bernocchi, Executive Vice President, Byram Healthcare, White Plains, NY – Regarding request for a specialized permit for their New Jersey distribution center

The Chair directed that Byram Healthcare submit a proposal which will include the activities of a pharmacist for all those products/items that require a prescription. The proposal is to be submitted within 30 days. Until such time Byram Healthcare may continue to service patients.

7) Senate Bill 1195 which establishes pharmacy's duty to fill prescriptions for in-stock drugs or devices without delay, notwithstanding sincerely held moral, philosophical or religious beliefs of pharmacist – Signed into law by Governor on 11/2/07

The Committee accepted this as informational since the law is self explanatory and no further regulations are needed.

VIII. MITIGATION/ HEARING REQUESTS

1) Kirk Stephan, RPIC, Walgreens, Bridgeton, NJ Elvy Paiva and Thomas Bender were recused due to their affiliation with Walgreens.

The Committee requested additional information.

2) Nancy Negm, RPIC, Duane Reade, Newark, NJ

The Committee recommended to mitigate the \$300 fine imposed pursuant to NJAC 13:39 – 5.11.

3) Kamlesh Patel, RPIC, Forest Hill Pharmacy, Newark, NJ

The Committee recommended to mitigate the \$200 fine imposed pursuant to NJAC 13:39 – 5.11

4) Richard A. Skultety, RPIC, Elmer Hometown Pharmacy, Elmer, NJ

The majority of the Committee recommended to mitigate the \$250 fine imposed pursuant to NJAC 13:39 – 7.12(a)13 and the \$250 fine imposed pursuant to NJAC 13:39 – 5.6

IX. COMMITTEE REPORTS

1) Rules & Reg Committee

a) Edward McGinley, Committee Chairperson, reported on the request of Essex County Community College to have their pharmacy technician program be approved by the Board as a pharmacy technician training program as outlined in NJSA 45:14 – 80(2). The Rules & Regs Committee recommends that the Board approve the Essex

County Community College program for use as the didactic component of a training program that a permit holder may utilize to satisfy the practice site specific training program requirements delineated in NJAC 13:39 – 6.12(f)2iii. DAG Marianne Greenwald is to review the committee's recommendation and report back to the Board.

b) Edward McGinley reported that the Board of Pharmacy regulations will sunset on 12/10/2009. The Committee will begin to review the regulations for updating no later than 6/2008.

2) Compounding Committee

Thomas Bender, Committee Chairperson reported that the committee is awaiting the release of the final version

of USP Chapter 797 which is scheduled for 12/3/2007 in order to complete their revision of NJAC 13:39 - Subchapter 11. The committee is scheduled to meet again on 12/19/2007 at 11 am.

X. APPROVAL OF MINUTES

1) October 10, 2007

This item was rescheduled

XI. ADJOURNMENT

At 11:10 am Marc Sturgill moved, seconded by Margherita LaFragola to move into Executive session for the review of 2 complaints, 3 Old Business items, 9 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.