



JON S. CORZINE
Governor

New Jersey Office of the Attorney General

Division of Consumer Affairs
Board of Pharmacy
124 Halsey Street, 6th Floor, Newark, NJ 07102



ANNE MILGRAM
Attorney General

DAVID SZUCHMAN
Director

Mailing Address:
P.O. Box 45013
Newark, NJ 07101
(973) 504-6450

NEW JERSEY STATE BOARD OF PHARMACY MINUTES OF THE OPEN SESSION November 19, 2009

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 Essex Conference Room 7th Floor at 124 Halsey Street, Newark, New Jersey on October 14, 2009 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 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
Peter Halecky, R.Ph.	
Margherita LaFragola, R.Ph.	(Arrived at 9:20 a.m.)
Elvy T. Paiva, R.Ph.	(Left at 11:00 a.m.)
Richard Palombo, R.Ph.	

OTHERS IN ATTENDANCE

Joanne Boyer, R.Ph.	Executive Director
Jodi Krugman, Esq.	Deputy Attorney General
Maria Bertorelli	Administrative Assistant

EXCUSED

Marc Sturgill, R.Ph.

IV. UPDATE BY EXECUTIVE DIRECTOR

The Executive Director reported that \$27,693.00 was collected in fines and penalties during October 2009.

The following permits/licenses/registrations were issued during the month of September 2009:

- Technicians - 159
- Pharmacists - 41 (38 by examination/score transfer, 3 by reciprocity)
- Out of state pharmacies - 21
- In state pharmacies - 8
- Pharmacists receiving immunization approval - 76
- Interns (foreign graduates) - 13

On Monday, November 16, 2009 the proposed **Collaborative Practice** regulations were posted for public comment in the New Jersey Register. All comments are to be submitted by January 15, 2010.

V. OLD BUSINESS

1) Kholoud A. Ali – Foreign graduate requesting a waiver of TOEFL/iBT

Thomas Bender moved, seconded by Elvy Paiva to deny the request for a waiver since Ms. Ali has not demonstrated any hardship, physical impairment or disability. **The motion passed unanimously.**

2) Sanjay Patel – Regarding the Board’s decision not to modify his Consent Order

Peter Halecky moved, seconded by Margherita LaFragola to deny his request for an appearance before the Board to reconsider their decision to deny modification to his Consent Order. The acts that resulted in Mr. Patel’s discipline occurred in New York and New Jersey’s disciplinary action was based on action taken against his New York license. Mr. Patel agreed to terms that would require him to reinstate his license in New York before reinstatement in New Jersey. Although the Board appreciates the costs associated with that reinstatement, the Board finds no compelling reason to modify the Consent Order. **The motion passed unanimously.**

3) Karen Littman, R.Ph. – POD Filed in Board office 9/9/2009; 30 days have lapsed with no response from Ms. Littman

Margherita LaFragola moved, seconded by Richard Palombo to issue a Final Order of Discipline with the same conditions as in the Provisional Order of Discipline. **The motion passed unanimously.**

VI. NEW BUSINESS

1) Mariana Eldabh – Foreign graduate requesting a waiver of TOEFL iBT

Elvy Paiva moved, seconded by Margherita LaFragola that after reviewing the test scores and hearing Ms. Eldabh’s explanation, the Board determined to deny the request for a waiver since Ms. Eldabh has not demonstrated any hardship, physical impairment or disability. **The motion passed unanimously.**

2) Kathleen Colatrella – Requesting a waiver of \$225 reinstatement fee (NJAC 13:39 – 3.8(a)3

Richard Palombo moved, seconded by Elvy Paiva to deny the request for a waiver. It is Ms. Colatrella’s responsibility to renew in a timely manner. **The motion passed unanimously.**

3) Joint Rule – Prescription Drug Price Registry – 2008 Reproposal Draft

Elvy Paiva moved, seconded by Margherita LaFragola to approve the language in the reproposal draft for N.J.A.C. 13:39-5.13(a) & (b). **The motion passed unanimously.**

4) Mark Spal, R.Ph. – Request for removal of restrictions from license

Thomas Bender moved, seconded by Elvy Paiva to move this matter into executive session for advice of counsel. **The motion passed unanimously.**

At 11:27 am, Richard Palombo moved, seconded by Peter Halecky to go back into Open session. **The motion passed unanimously.**

Richard Palombo moved, seconded by Peter Halecky to remove restrictions on Mr. Spal's license to practice Pharmacy in the State of New Jersey with authority to CDS. **The motion passed unanimously.**

At 11:29 am, Richard Palombo moved, seconded by Peter Halecky to go back into executive session. **The motion passed unanimously.**

5) Milton Gordon – Foreign graduate requesting a waiver of TOEFL/iBT

Thomas Bender moved, seconded by Peter Halecky to deny the request for a waiver since Mr. Gordon has not demonstrated any physical impairment or disability, his financial hardship is not enough cause for waiver. **The motion passed unanimously.**

6) Ronald Sorr – Request for modification to Consent Order

Richard Palombo was recused due to his recommendation of the expert witness for this case. (At the time of the recommendation Mr. Palombo was not a Board Member)

Edward McGinley moved, seconded by Elvy Paiva to deny the request for the payment plan as outlined in the correspondence from Angelo Cifaldi, legal counsel for Mr. Sorr. His license will remain in active suspension status until he complies with items 3 & 4 of his existing Consent Order. **The motion passed unanimously.**

7) Regarding Board proposed language NJAC 13:39 – 4.19(d)4i and 7.12(a)3 in response to amended C.24:6E – 9 which becomes effective 1/2010.

Richard Palombo moved, seconded by Peter Halecky to have DAG Krugman explore whether a Special Advisory Opinion, issued by the Board, can be utilized as a suitable mechanism to give advice and guidance to licensees regarding this matter until additional, clarifying regulations are adopted. **The motion passed unanimously.**

VII. MITIGATION/ HEARING REQUESTS

1) Woomi Kim, R.Ph. – regarding ce audit

**Board of Pharmacy
Open Minutes
November 19, 2009
Page 4**

Richard Palombo moved, seconded by Margherita LaFragola to deny the request for mitigation of the \$2,000.00 fine imposed pursuant to N.J.S.A. 45:14-54 and N.J.A.C. 13:39-3A.1(a). **The motion passed unanimously.**

2) Faramarz F. Latai, R.Ph. – regarding ce audit

Richard Palombo moved, seconded by Margherita LaFragola to have Mr. Latai submit applications for Request by Pharmacist for Approval of a non-ACPE Program for Continuing Education Credit for the continuing education programs given by Sephardic American Medical Society and for which he attended. Along with the application, he is also to submit the corresponding fee of \$10.00 dollars, a certificate of attendance and a copy of the program or course brochure including a list of the speakers, the topics presented and the length of the program. If he does submit the requested information, then the \$1,800.00 fine imposed pursuant to N.J.S.A. 45:14-54 and N.J.A.C. 13:39-3A.1(a) will stand. **The motion passed 5 – 1.**

3) Agathe M. Valcourt, R.Ph. – regarding ce audit

Elvy Paiva moved, seconded by Thomas Bender to deny the request for mitigation of the \$1,100.00 fine imposed pursuant to N.J.S.A. 45:14-54 and N.J.A.C. 13:39-3A.1(a). Ms. Valcourt's request to place her license to inactive status is granted. However, she is still responsible for payment of the fine. **The motion passed unanimously.**

4) Vishal Sood, RPIC, Home Drug Store, Asbury Park, NJ

Thomas Bender moved, seconded by Margherita LaFragola to deny the request for mitigation of the \$500.00 fine imposed pursuant to N.J.A.C. 13:39-6.6(b). **The motion passed 4 – 2..**

5) Yunhye C. Cho, RPIC, Walgreens, Colonia, NJ

Thomas Bender and Elvy Paiva were recused do to their affiliation with Walgreens.

Peter Halecky moved, seconded by Richard Palombo to mitigate the \$150.00 fine imposed pursuant to N.J.A.C. 8:65-7(a), 8:65-7.8(a) and 8:65-7.13(a). Al Carter, Manager, Pharmacy Affairs, Walgreens, was present to further clarify the stickerless initiative previously approved by the Board. **The motion passed unanimously.**

6) Sylvia Nissenbaum, R.Ph., – regarding ce audit

Richard Palombo moved, seconded by Thomas Bender to place her license to practice pharmacy in New Jersey in inactive status, and to mitigate the \$600.00 fine imposed pursuant to N.J.S.A. 45:14-54 and N.J.A.C. 13:39-3A.1(a) due to medical hardship. **The motion passed unanimously**

7) Niloufar Masheghani, R.Ph., – regarding ce audit

Thomas Bender moved, seconded by Margherita LaFragola to deny the request for

**Board of Pharmacy
Open Minutes
November 19, 2009
Page 5**

mitigation of the \$2,250.00 fine imposed pursuant N.J.S.A. 45:14-54 and N.J.A.C. 13:39-3A.1(a). **The motion passed unanimously**

8) Ansel Esomonu, RPIC, Roxy Pharmacy, Newark, NJ

Richard Palombo moved, seconded by Elvy Paiva to mitigate the \$400.00 fine imposed pursuant to N.J.A.C. 13:39-5.11. **The motion passed unanimously**

9) Khoren Nalbandian, RPIC, Junction Drug & Surgical, Fort Lee, NJ

Richard Palombo moved, seconded by Thomas Bender to deny the request for mitigation of the following:

- the \$300.00, \$175.00, \$550.00, \$750.00, 25.00 & 50.00 fines imposed pursuant to N.J.A.C. 13:39-7.18 N.J.A.C. 13:39-6.2(f)7 and N.J.A.C. 13:39-7.16(c)2, 3 & 4
- the \$250.00 fine imposed pursuant to N.J.S.A. 45:14-80(h) and N.J.A.C. 13:39-6.3
- the \$250.00 fine imposed pursuant to N.J.A.C. 13:39-5.9
- the \$100.00 fine imposed pursuant to N.J.A.C. 13:39-5.6
- the \$1,000.00 fine imposed pursuant to N.J.A.C. 8:65-5.7
- the \$25.00 fine imposed pursuant to N.J.A.C. 8:65-7.5(a), N.J.A.C. 8:65-7.8(a) and N.J.A.C. 8:65-7.13(a)
- the warning issued pursuant to N.J.A.C. 8:65-7.5(a)
- the \$25.00 fine imposed pursuant to N.J.S.A. 45:14-5

In addition, the pharmacy is to be reinspected. **The motion passed unanimously.**

VIII. COMMITTEE REPORTS

The Compounding Committee will meet on 12/16/2009 and the Rules & Regs Committee will meet on 1/6/2010.

IX. APPROVAL OF MINUTES

1) October 14, 2009

Elvy T. Paiva moved, seconded by Margherita LaFragola to approve the minutes as amended. **The motion passed unanimously.**

X. ADJOURNMENT

At 11:00 a.m. Margherita LaFragola moved, seconded by Elvy T. Paiva to move into Executive Session for the review of 14 Complaints, 4 Old Business items, 4 New Business items, Secretary's Report and Recommendation on Retail and Institutional Permits, Secretary's Report and Recommendation on Inspection Reports, and approval of minutes. **The motion passed unanimously.**