

**NEW JERSEY STATE BOARD OF PHARMACY  
OPEN SESSION MINUTES NOVEMBER 30, 2005**

**I. CALL TO ORDER**

The open meeting of the New Jersey Board of Pharmacy was called to order by Board President Pamela Allen in the Hudson Room, 6th floor at 124 Halsey Street, Newark, New Jersey on November 30, 2005 at 9:08 a.m. All members were duly notified of the time and place and all pertinent materials had been provided.

**II. SUNSHINE LAW ANNOUNCEMENT**

Pamela Allen read a statement that the newspapers and appropriate elected officials had been notified of the meeting according to the requirements of the Open Public Meetings Act N.J.S.A. Chapter 231, PL 1975,/C. 10:4-18.

**III. ROLL CALL**

Pamela Allen, R.Ph President  
Edward McGinley, R.Ph Vice-President  
Margherita Lafragola, R.Ph  
Thomas Bender, R.Ph  
Marc Sturgill, Pharm. D  
Sy Larson, PH.D Public Member  
Elvy T. Paiva, R.Ph  
Ira Katz, R.Ph  
Jennifer L. Barron Government Member  
Thomas Egan, Pharm.D

**OTHERS IN ATTENDANCE:**

Joanne Boyer Executive Director  
Michelle Weiner Deputy Attorney General  
Susan Flores Principal Clerk  
Kiran Shamlall Clerk Typist

**EXCUSED:**

Axel Miranda  
Marianne Greenwald Deputy Attorney General

**IV. SECRETARY'S REPORT AND RECOMMENDATION FOR REGISTRATION BY RECIPROCITY, EXAMINATION and GRADE TRANSFER**

Edward McGinley moved, seconded by Elvy Paiva to accept the Secretary's Report and Recommendation for Registration by Reciprocity, Examination and Grade Transfer. The motion passed unanimously.

**V. CONTINUING EDUCATION REPORT**

Edward McGinley moved, seconded by Jennifer Barron to accept the Continuing Education Report for November 9, 2005. The motion passed unanimously.

**VI. VIOLATIONS PAID FOR THE MONTH OF OCTOBER**

N/A

## **VII. OLD BUSINESS**

1) Heidi Stokes, Director of Government Affairs, Independent Pharmacy Alliance of America, Inc – Requesting Board to reconsider their position on Senate Bill 1884 This item was before the Board on 10/26/05 at which time the Board requested the corresponding assembly Bill, the sponsors of the Bill and the status of the Bill

Ira Katz moved, seconded by Thomas Bender to support the bill with the provision that a number other than the DEA number be used to identify the prescriber. The motion passed 8 to 2.

2) Daniel Shack – Request for modification of Provisional Order of Discipline

This item was before the Board on 9/14/05 at which time the Board decided to await making a final determination in this matter until the final outcome of his sentencing

Edward McGinley moved, seconded by Elvy Paiva that his license be suspended for three years and be concurrent with his three year court imposed probation and he is to report to the Board any changes to the terms of his probation and he may not request reinstatement until successful completion of his court imposed probation period. At the conclusion of his probation he may appear before the Board. The motion passed unanimously.

3) Thomas Clancy – Request for reinstatement

This item was before the Board on 4/13/05 at which time the Board determined that his request for reinstatement would not be considered until the conclusion of his PTI, which was scheduled for October, 2005.

Sy Larson moved, seconded by Marc Sturgill to follow all items from Dr. Baxter's recommendations; to follow Dr. Washton's recommendation for one on one therapy every two weeks with an addiction psychologist or and addiction psychiatrist and Dr. Fernandez' recommendation that his work be supervised by another pharmacist if Mr. Clancy has access to medications. Also, he may not be an owner, pharmacist in charge or preceptor. He can apply for modification of any of the aspects of the Order after one year. The motion passed 7 to 3.

4) Joseph DeMarinis, Jr., R.Ph. – Requesting removal of restrictions placed on license as stated in Modified Order of Reinstatement filed on 1/22/04

Thomas Bender moved, seconded by Sy Larson to remove the remaining restrictions on Mr. DeMarinis' license as requested and to continue to have his license with no restrictions. The motion passed 8 to 2.

5) Jong Pak – Request for reinstatement

This item was previously before the Board on 5/25/05 at which time the Board determined that Mr. Pak was to undergo an outpatient treatment program before a decision would be rendered regarding his request for reinstatement

Edward McGinley moved, seconded by Marc Sturgill to reinstate Mr. Pak's license with Dr. Baxter's recommendation and to continue marriage counseling until July 2006. Additionally, Mr. Pak may not request modifications of the order for one year. The motion passed 8 to 2.

6) Caroline Sim, R.Ph. – Requesting clarification of Item # 7 in Board Order

Elvy Paiva moved, seconded by Marc Sturgill to modify the Board Order that she must provide a copy of the Order based on her position and in the course of her employment and for change of employment that she must notify her employer if her employment allows any access to prescription medications. The motion passed unanimously.

7) Pharmacy Technician Regulatory Proposal

Elvy Paiva moved, seconded by Thomas Egan to delete the phrase "in the last 5 years. The motion passed unanimously.

## **VIII. NEW BUSINESS**

1) Jason P. McManus – "Contact the Governor" communication regarding no smoking in drive thru window area of pharmacies

The Chair directed that a letter be sent to Mr. McManus stating that we currently do not have a regulation regarding this issue. The matter will be referred to the Rules & Regulations Committee. In the mean time, the pharmacy may post a sign for no smoking in the drive thru window. Margherita Lafragola recused due to her affiliation with Rite Aid.

2) Waiver requests

a) Kym M. McAuley – Requesting a waiver of NJAC 13:39 – 8.4(a)1 and be allowed to have hours count for internship that were acquired prior to meeting all requirements for FPGEC

Ira Katz moved, seconded by Elvy Paiva to deny her request for waiver since she has had adequate time to complete the 1000 hours. The motion passed unanimously.

b) Nitin Patel – Requesting a waiver of NJAC 13:39 – 8.4(a)1

Edward McGinley moved, seconded by Elvy Paiva to deny his request for waiver inasmuch as the Board needs additional work history and he does not have a valid reason for requesting the waiver. The motion passed unanimously.

c) Emenike Kwesiaku – Requesting a waiver of NJAC 13:39 - 8.4a(1)

Thomas Bender moved, seconded by Elvy Paiva to deny his request for waiver inasmuch as he failed the writing section of TOEFL. The motion passed unanimously.

d) Sheetal Kulkarni – Requesting a waiver of NJAC 13:39 – 8.4(a)

The Chair directs to have Ms. Kulkarni submit proof of employment with Wyeth to the Executive Director. If this is deemed acceptable the request for a waiver will be approved.

3) Request from Enforcement Bureau for Board of Pharmacy to address 21 CFR 1301.17(c) which requires retail pharmacies who service Long Term Care facilities and utilize automated dispensing systems at such facilities to obtain a separate DEA registration for the system

The Chair directs that this be referred to the CDS unit for the writing of regulations. The Board of Pharmacy has regulations outlined in Subchapter 10 that deal with automated medication systems. Pamela Allen moved, seconded by Ira Katz that the current letter of approval will suffice as a notice of certification for the automated medication systems. The motion passed 9-1.

4) Robert A. Delaney – Reinstatement applicant requesting a waiver of reinstatement fee due to hardship as a result of Hurricane Katrina

Elvy Paiva moved, seconded by Jennifer Barron to approve his request for waiver of reinstatement fee. The motion passed 7 to 3.

(5) Bill A3494 - Emergency Contraceptive

The Board opposes this bill as it is currently written.

## **IX. MITIGATIONS**

N/A

## **X. CONFERENCES**

N/A

## **XI. COMMITTEE REPORTS**

N/A

## **XII. APPROVAL OF MINUTES**

1) November 9, 2005 - This matter has been tabled.

## **XII. ADJOURNMENT**

At 12:45 p.m., Edward McGinley moved, seconded by Thomas Egan to break for lunch.

At 1:14 p.m., Marc Sturgill moved, seconded by Sy Larson to enter into Executive Session to review (11) consumer complaints, (5) New Business, (8) Retail IV Permits and (5) Inspection Reports. The motion passed unanimously.