



**CHRIS CHRISTIE**  
Governor

**KIM GUADAGNO**  
Lt. Governor

# New Jersey Office of the Attorney General

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



**PAULA T. DOW**  
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Acting Director

## **NEW JERSEY STATE BOARD OF PHARMACY MINUTES OF THE OPEN SESSION December 8, 2010**

**Mailing Address:**  
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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 Monmouth Room 7<sup>th</sup> Floor at 124 Halsey Street, Newark, New Jersey on December 8, 2010 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
Richard Palombo, R.Ph.	
Margherita LaFragola, R.Ph.	
Marc Sturgill, R.Ph.	
Stephen Lieberman, R.Ph.	
Mahesh Shah, R.Ph.	

### **OTHERS IN ATTENDANCE**

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

### **IV. UPDATE BY EXECUTIVE DIRECTOR**

1. The Executive Director reported that \$42,250 were collected in fines and penalties during the month of November 2010.

The following permits/licenses/registrations were issued during the month of November 2010:

- Technicians - 250
- Pharmacists - 42 (29 by examination/score transfer, 13 by reciprocity)
- Out of state pharmacies - 9
- In state pharmacies - 4
- Pharmacists receiving immunization approval - 99
- Interns (foreign graduates) - 7

## V. OLD BUSINESS

### 1) Finalization of Provisional Orders of Discipline

#### a) Jeremiah Burgert, R.Ph.

Thomas Bender moved, seconded by Richard Palombo to approve the final Order of Discipline. **Motion passed unanimously.**

**At 9:35 a.m. Thomas Bender motioned, seconded by Marc Sturgill to move into Executive Session for Counsel guidance in the matters of William Schobert and Peter Mikhail.**

**At 10:07 a.m. Marc Sturgill motioned, seconded by Thomas Bender to move back into public session.**

#### b) William Schobert, R.Ph.

Richard Palombo, recused due to his affiliation with Medco.  
DAG John Hugelmeyer counseled the Board on this matter.

Marc Sturgill moved, seconded by Thomas Bender to issue Mr. Schobert a Consent Order for reinstatement of his license pending successful completion of either the Probe or Prime ethics course. In addition, he is to submit proof to the Board, on a quarterly basis, of payment of restitution as required by the criminal judgement of conviction.. If he defaults on his payment plan, fails to provide proof of payment or declines the Board offer of reinstatement, then the Board will move forward with the issuance of the Final Order of Discipline consistent with the terms in the POD. **Motion passed unanimously.**

#### c) Peter Mikhail, R.Ph.

Margherita LaFragola, recused.  
DAG John Hugelmeyer counseled the Board on this matter.

Thomas Bender motioned, seconded by Marc Sturgill that after considering Mr. Mikhail's letter in response to the Provisional Order of Discipline issued, the Board moved to file a Final Order of Discipline. **Motion passed unanimously.**

## VI. NEW BUSINESS

### 1) Division of Consumer Affairs, Controlled Dangerous Substance – Proposed Amendment NJAC 8:65 – 7.5

*At the request of Mr. McGinley, Regulatory Analyst Maryann Sheehan appeared before the Board to speak regarding the Division's proposed amendments to NJAC 8:65-7.5 and the proposed New Rule NJAC 13:45E.*

Thomas Bender moved, seconded by Marc Sturgill to submit comments on the proposed amendment:

The Board of Pharmacy appreciates the action being taken to eliminate the current

confusion that exists with respect to filling prescriptions for Schedule II controlled substances issued under the new requirements of N.J.S.A. 45:9-22.19, and is hopeful the Division will take proactive steps to notify all affected Boards and their licensees of N.J.S.A. 45:9-22.19, N.J.A.C. 13:35-7.6(c) and N.J.A.C. 8:65-75 upon final adoption. The Board notes that throughout the proposal and in the amendments to N.J.A.C. 8:65-7.5, only physicians are permitted to issue multiple prescriptions authorizing a patient to receive a total of up to 90-day supply of a Schedule CII controlled dangerous substances, and not other prescribers with Schedule CII controlled substance prescriptive authority such as APNs. Since the enabling statute N.J.S.A. 45:9-22.19 applies only to physicians, the Board of Pharmacy requests that this distinction, and the subsequent limitations of this prescriptive authority, be clearly communicated to all affected Boards, and all affected licensees.

Due to the comment period ending December 31, 2010, the Board agreed to allow Executive Director Boyer to submit comment prior to the ratification of meeting minutes. **Motion passed unanimously.**

**2) Division of Consumer Affairs, Proposed New Rules, NJAC 13:45E**

Richard Palombo moved, seconded by Marc Sturgill to request the implementation on the Board of Pharmacy web site a new link "Related Regulations" that would list any and all current NJ State regulations that would impact the practice of pharmacy. **Motion passed unanimously.**

**3) Avi King, Owner, Kings Pharmacy, Lakewood, NJ – Regarding the placement of desk, phone and fax machine in a pediatrician's office**

Chair advised that if Mr. King was to place a desk, phone and fax machine in a pediatrician's office that the Board would consider this in violation of NJAC 13:39 – 4.17.

**4) Tamer Girgis, R.Ph. – Request for modification of Consent Order**

Marc Sturgill, recused.

Richard Palombo moved, seconded by Stephen Lieberman to modify the Consent Order based on the recommendation received on his behalf from the Professional Assistance Program of New Jersey (PAPNJ) to reduce his urine screens from twice a week to once weekly for a period of six (6) months with further reductions thereafter, consistent with his duration in recovery. **Motion passed unanimously.**

**5) Pamela Mandel, Esq. – Regarding the Operation of a Drop In Center**

Richard Palombo, recused at request of Ms. Mandel.

Ms. Mandel appeared with her client, Vladimir Kleyman, R.Ph.

Chair directed that Mr. Kleyman familiarize himself with NJAC 13:39 – 4.19 and submit the necessary applications. He may request waivers depending on activities of the 2 separate pharmacies but he would need to have a pharmacist in charge at each pharmacy.

**6) Madhu S. Vodapalli – Foreign graduate who completed internship in December, 2004 and would now like to move forward with application for licensure as a pharmacist**

Thomas Bender moved, seconded by Stephen Lieberman to advise Mr. Vodapali that pursuant to NJAC 13:39 – 2.1(b)4 he needs to complete an additional 1,440 hour internship. **Motion passed unanimously.**

Richard Palombo moved, seconded by Margherita LaFragola that any such requests as above are to be denied and the applicant must comply with NJAC 13:39 – 1.7 and 2.1(b)4. **Motion passed unanimously.**

**7) Teresita Weiss, Ph.D., J.D., VP of Regulatory Affairs, Compliance & Quality Assurance, J. Knipper & Co. – Regarding a specialized permit**

Chair advised J. Knipper & Co. that they work directly with existing pharmacies in regards to providing drugs to patients who have damaged or defective drug products or devices rather than setting up a new pharmacy. Ms. Weiss was provided guidance regarding Subchapters 5 & 7 of NJAC 13:39 and made aware of some of the pitfalls they might encounter in regards to patient care with the model they are proposing.

## **VII. MITIGATION/ HEARING REQUESTS**

**1) Jeen Joseph, RPIC, Pinto's Pharmacy, Jersey City, NJ**

Richard Palombo moved, seconded by Marc Sturgill to mitigate the \$100.00 fine issued pursuant to NJAC 13:39-4.14(a), the \$500.00 fine issued pursuant to NJAC 13:39-7.19(b) 8(I), the \$200.00 fine issued pursuant to NJAC 13:39-6.2(f)2&3 and the request to complete 2 continuing education modules. **Motion passed unanimously.**

At 11:33 am Marc Sturgil moved, seconded by Margherita LaFragola to move into executive session for advice of counsel. **Motion passed unanimously.**

At 12:25 pm, Richard Palombo, seconded by Stephen Lieberman to move back into Open Session. **Motion passed unanimously.**

**2) Shameem Kamra, RPIC, One Stop Pharmacy, Newark, NJ**

Marc Sturgill moved, seconded by Margherita LaFragola to mitigate the warning issued pursuant to NJSA 45:14 – 68(b)2 & NJAC 13:39 – 7.19(b)2 and to mitigate the \$250 fine issued pursuant to NJAC 13:39 – 7.12(a)12 to a warning. An amended Final Order will be issued. **Motion passed unanimously.**

**3) Vinatha Vukanti, RPIC, Summer Avenue Pharmacy, Newark, NJ**

Stephen Lieberman moved, seconded by Marc Sturgill to mitigate the \$500 fine issued pursuant to NJAC 13:39 – 7.19(b)9i to a warning and to mitigate the \$250 fine issued pursuant to NJAC 13:39 – 5.8© to a warning. **Motion passed unanimously.**

**4) Amir Tadros, RPIC, Five Corners Pharmacy, Jersey City, NJ**

Mahesh Shah moved, seconded by Richard Palombo to mitigate the \$2,000.00 fine imposed pursuant to NJAC 13:39-4.8(a), the \$550.00 fine imposed pursuant to NJAC 13:39-4.8(b) and the \$250.00 fine imposed pursuant to NJAC 13:39-4.9(a) if Mr. Tadros agrees to place the pharmacy permit in an “inactive” status, provide the Board documentation as to the disposition of the drugs in the pharmacy, and copies of DEA forms listing transfer of schedule II drugs. **Motion passed unanimously.**

**5) Dharmareddy Seri, RPIC, BMC Pharmacy, Bayonne, NJ**

Edward McGinley moved, seconded by Margherita LaFragola to deny the request for mitigation. **Motion passed unanimously.**

**VIII. COMMITTEE REPORTS**

N/A

**IX. APPROVAL OF MINUTES**

**1) November 10, 2010**

Margherita LaFragola moved, seconded by Marc Strugill to approve the November 10, 2010 Open Session Minutes as amended. **Motion passed unanimously.**

**X. ADJOURNMENT**

At 12:38 p.m. Margherita LaFragola motioned, seconded by Mahesh Shah to move into Executive Session for the review of 11 complaints, 2 Old Business Items, 10 New Business Items, the Secretary’s Report and Recommendation on Retail and Institutional Permits, the Secretary’s Report and Recommendation on Inspection Reports and the Approval of Minutes.