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BOARD OF PHARMACY PUBLIC SESSION MINUTES MONMOUTH CONFERENCE ROOM, 7th FLOOR March 25, 2015

I. CALL TO ORDER

The Public Session of the New Jersey Board of Pharmacy was called to order by the Board President, Mr. Thomas F.X. Bender, at 124 Halsey Street, Monmouth Conference Room, 7th floor, on March 25, 2015 at 9:16 a.m. All members were duly notified of the time, place and all pertinent materials were provided to the members.

II. SUNSHINE LAW ANNOUNCEMENT

President Thomas F.X. Bender 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, PL1975/C.10:4-8.

III. ROLL CALL

Thomas F.X. Bender, R.Ph.	President
Richard Palombo, R.Ph.	Vice President
Margherita Cardello, R.Ph.	
Edward G. McGinley, R.Ph.	
Mahesh Shah, R.Ph.	
Stephen Lieberman, R.Ph.	
Calliope Alexander	
Carol Jacobson, Esq.	
Linda Witzal, R.Ph.	Excused absence
Mitch Sobel, R.Ph.	

OTHERS IN ATTENDANCE

Anthony Rubinaccio, R.Ph.	Executive Director
Matthew Wetzel	Board Staff
Jodi Krugman	Deputy Attorney General
Jessica Kelley	Board Staff

IV. UPDATES BY EXECUTIVE DIRECTOR

The Executive Director reported for the month of February: \$29,750 was collected in fines and penalties. The following permits, licenses, and registration were issued during the month:

- Pharmacy Technicians registered – 249
- Pharmacists licensed – 52 (25 by examination/score transfer and 27 by reciprocity)
- Out-of-State Pharmacies registered – 3
- In-State Pharmacies licensed – 4
- Pharmacists receiving immunization approval – 21
- Interns (foreign graduates) licensed - 13

V. OLD BUSINESS

1) Public Orders Filed

- a. Ahmed F. Aly, R.Ph. – Consent Order – Voluntary Surrender (02/25/15)
- b. Peter J. Riccio, R.Ph. – Consent Order – Cease and Desist (02/04/15)
- c. Arnold Epstein, R.Ph. – Consent Order – Suspension (02/06/15)
- d. Raul R. Ruiz, R.Ph./ Gilmore Pharmacy – Consent Order – (02/18/15)
- e. John. W. Kakowski, R.Ph. – Consent Order – Voluntary Surrender (02/19/15)

2) Ehab Attia, Pharmacist Applicant – Request to take NAPLEX for 6th time

Mr. Attia appeared before the Board and requested to take the NAPLEX for the 6th time. At the Board's request, Mr. Attia provided the Board with a plan to prepare for the NAPLEX exam, including an Rx prep online course, Kaplan NAPLEX prep course, and a 2-day program through the Long Island University.

Mahesh Shah moved, seconded by Stephen Lieberman, to allow Mr. Attia to take the NAPLEX a 6th and final time. **Motion passed 7-1. Thomas Bender was opposed.** Margherita Cardello was recused due to her affiliation with Rite Aid.

3) Noha Amar, Pharmacy Technician POD

On October 21, 2014, the New Jersey Attorney General sought to suspend Noha Amar's registration to practice as a pharmacy technician in the State of New Jersey until such time that she cooperated with the Board investigation by answering an inquiry into her arrest on May 25, 2014 by the North Haledon Police Department for violating N.J.S.A. 2C:12-1A (Simple Assault). The Provisional Order of Discipline also sought a \$250 penalty for Ms. Amar's failure to cooperate with the Board's request.

The Prosecution letter stated that she did respond, but not to the extent requested. DAG Jodi Krugman clarified that the Attorney General's position was to impose a civil penalty of \$250, and finalize the POD. The 02/04/15 Open Session Minutes

need to be corrected.

VI. NEW BUSINESS

1) **Temperature control monitoring regulations**

The Board reviewed an amended regulation proposal addressing temperature control and monitoring of drugs and chemicals.

Edward McGinley moved, seconded by Carol Jacobson, to approve the draft, allowing it to move forward to publication for public comments. **Motion passed 9-0.**

2) **Tamer Ahmed, Ph.D.** – Request for waiver of internship

The board received and reviewed Mr. Ahmed's request for a waiver of the 1,440 hour internship required of foreign graduates by N.J.A.C. 13:39-2.1(e)4. Mr. Ahmed provided his educational background, professional background, and intern hours for his Ph.D. as cause for the waiver request.

The Board determined Mr. Ahmed needs clinical and patient exposure through an internship. Thomas Bender moved, seconded by Margherita Cardello, to require Mr. Ahmed to complete a 1000 hour internship. **Motion passed 9-0.**

3) **Jeffrey Strougo, R.Ph.** – Request for modification of consent order

The Board received and reviewed Mr. Strougo's request for modification of his consent order. Mr. Strougo successfully completed his PAP program and requested the probationary status of his license be removed and an unrestricted license be granted. Mr. Strougo was arrested in 2010 and convicted of diversion of CDS. He has been practicing pharmacy since May 2014.

Chair direct- the Board office is to send Mr. Strougo a letter, inquiring about the extent of his practice of pharmacy since his reinstatement. Margherita Cardello was recused.

4) **Brian E. Walters, R.Ph.** – Request for Reinstatement

The Board received and reviewed Mr. Walters' request for reinstatement. After review of the information provided, the Board is concerned that only 7 out of 120.5 Continuing Education credits earned were live.

Edward McGinley moved, seconded by Mahesh Shah, to request all inpatient and outpatient treatment records, proof of restitution and fines are paid in full, and require Mr. Walters to correct the deficiency of live Continuing Education credit. As a condition of Mr. Walters' Consent Order, he must appear before the Board for an Investigative Inquiry. **Motion passed 9-0.**

5) **Atlantic Pharmacy & Compounding, Pompano Beach, FL** – Out-of-State Pharmacy (Sterile) Compounding

The Board received and reviewed Atlantic Pharmacy & Compounding's out-of-state pharmacy application and affidavit stating they will not send compounded sterile products to New Jersey.

Edward McGinley moved, seconded by Richard Palombo, to proceed with the out-of-state pharmacy registration. **Motion passed 9-0.**

6) **Partners Pharmacy, Edison, NJ** – Pharmacy Applicant, Request for external signage (N.J.A.C. 13:39-5.3a) waiver

The Board received and reviewed Partners Pharmacy's request for a waiver of N.J.A.C. 13:39-5.3a. John Walker, a representative of Partners Pharmacy, was present and addressed the Board. Mr. Walker explained that the pharmacy will be located within an institution, serving only that institution, and is applying for an institutional permit.

Edward McGinley moved, seconded by Rich Palombo, that based on the information provided in the testimony, in the particular case of this facility, an institution permit signage waiver is not needed. **Motion passed 9-0.**

7) **Partners Pharmacy, Vineland, NJ** – Pharmacy Applicant, Request for external signage (N.J.A.C. 13:39-5.3a) waiver

The Board received and reviewed Partners Pharmacy's request for a waiver of N.J.A.C. 13:39-5.3a. John Walker, a representative of Partners Pharmacy, was present and addressed the Board. Mr. Walker explained that the pharmacy will be located within an institution, serving only that institution, and is applying for an institutional permit.

Edward McGinley moved, seconded by Rich Palombo, that based on the information provided in the testimony, in the particular case of this facility, an institution permit signage waiver is not needed. **Motion passed 9-0.**

8) **Sandra Ann Tarallo, R.Ph** – Collaborative Practice Pre-Approval Application

The Board received and reviewed Ms. Tarallo's collaborative practice pre-approval application.

Edward McGinley moved, seconded by Margherita Cardello, to approve the MTM portion of the application. Approval of the immunization portion of the application is pending receipt of proof that it is an ACPE approved certificate program. **Motion passed 8-0.** Thomas Bender was recused due to a personal affiliation as a former classmate.

9) **Joseph P. Tarallo, R.Ph.** – Collaborative Practice Pre-Approval Application

The Board received and reviewed Mr. Tarallo's collaborative practice pre-approval application.

Edward McGinley moved, seconded by Margherita Cardello, to approve the MTM portion of the application. Approval of the immunization portion of the application is pending receipt of proof that it is an ACPE approved certificate program. **Motion passed 8-0.** Thomas Bender was recused due to a personal affiliation as a former classmate.

10) **Jeanne Castillo – Pharmacy Technician, finalization of POD**

Ms. Casillo was arrested on 09/12/14, by Hillsborough Township Police Department, for 2C:20-2B(1) (C), Theft of Controlled Dangerous Substance. Agency Case #14-1850.

In a voluntary statement given to her employer pharmacy, Respondent admitted "since June 2014, I have taken Oxycodoen 30mg (8) bottles; Oxycodone 20 mg (3) bottles; Oxycodoen 15mg (3) bottles."

Ms. Castillo failed to respond to the Board's POD.

Edward McGinley moved, seconded by Richard Palombo, to finalize the POD as written. **Motion passed 8-0.** Thomas Bender was recused to his affiliation with Walgreens.

11) **Guidance on Schedule II liquid medications** – Matthew Wentzel

Mr. Wetzel, Executive Director of CDS presented the Board with guidance on schedule II liquid medication guidelines.

Margherita Cardello moved, seconded by Steven Lieberman, to approve the schedule II liquid guidelines as presented. **Motion passed 9-0.**

VII. MITIGATION/HEARING REQUEST

1) **Tammy Lynn Ferguson, RPIC** – Walgreens Pharmacy, Toms River, NJ

Following an inspection revealing a violation related to hot water, a UPL was issued seeking a fine for this, other violations, and a letter of corrective action.

Tammy Lynn Ferguson, RPIC of the pharmacy, provided an explanation for the violation and requested that the Board mitigate the fine.

Stephen Lieberman moved, seconded by Mahesh Shah, to mitigate this request. **Motion did not carry 4-4, the penalties stand.** Thomas Bender was recused due to his affiliation with Walgreens.

2) **Arthur Schuman, RPIC** – Direct Meds of Dover, Dover , NJ

Following an inspection revealing a violation related to the security of the pharmacy department after a pharmacy technician asked hospital security to open the pharmacy to receive an order, a UPL was issued seeking a fine for this and a letter of corrective action.

Arthur Schuman, RPIC of the pharmacy, provided an explanation for the violation and requested that the Board mitigate the fine.

Thomas Bender moved, seconded by Mitch Sobel, to mitigate this request to a warning. **Motion passed 9-0.**

3) **Amit R. Sheth, RPIC** – Ace Pharmacy, Long Branch, NJ

Following an inspection revealing a violation related to pharmacy security and stock inventory, a UPL was issued seeking a fine for this, other violations, and a letter of corrective action.

Amit R. Sheth, RPIC of the pharmacy, provided an explanation for the violation and requested that the Board mitigate the fine.

Edward McGinley moved, seconded by Stephen Lieberman, to accept Mr. Sheth's request for mitigation as informational, as he did not offer any new information that would change the UPL. **Motion passed 9-0.**

4) **Melissa Florentino, RPIC** – Walgreens Pharmacy, Clifton, NJ

Following an inspection revealing a violation related to a prescription date, a UPL was issued seeking a fine for this, other violations, and a letter of corrective action.

Melissa Florentino, RPIC of the pharmacy, provided an explanation for the violation and requested that the Board mitigate the fine. The prescription provided appears to be a different prescription than the prescription reference in the inspection report.

Vice Chair Direct: The documents provided don't correspond with the exemplars for the C-II and C-IV prescriptions referenced in the inspection report. Walgreens is to provide the Board with exact copies related to the mitigation request. Thomas Bender was recused due to his affiliation with Walgreens.

5) **Mahnaz Kelliher, RPIC** – Walgreens Pharmacy, Colonia, NJ

Following an inspection revealing a violation related to pharmacy technician registration, a UPL was issued seeking a fine for this, other violations, and a letter of corrective action.

Mahnaz Kelliher, RPIC of the pharmacy, provided an explanation for the violation and requested that the Board mitigate the fine. Upon review of application records, the pharmacy technician applicant started the process June 26, 2013. The Board received the paper application in August 2013 and the birth certificate in May 2014. The applicant had 180 days to complete the registration process.

Stephen Lieberman moved, seconded by Mitch Sobel, to deny mitigation. **Motion passed 8-0.** Thomas Bender was recused due to his affiliation with Walgreens.

6) **Amit Kumar Patel, RPIC** – Pharmacy Plus & Surgical Supplies, Harrison, NJ

Following an inspection revealing a violation related to CDS inventory, a UPL was issued seeking a fine for this, other violations, and a letter of corrective action.

Amit Kumar Patel, RPIC of the pharmacy, provided an explanation for the violation, requested a formal hearing and has since withdrawn a request for a hearing, and requested mitigation.

Chair Direct: DAG Jodi Krugman will contact Mr. Kumar and discuss the formal hearing request. If a hearing is not requested, she will explain the Board's decision to deny the request.

7) **Anthony Cappuccio, RPIC** – CVS Pharmacy, Egg Harbor Township, NJ

Following an inspection revealing a violation related to Script Pro documentation, a UPL was issued seeking a fine for this, other violations, and a letter of corrective action.

Anthony Cappuccio, RPIC of the pharmacy, provided an explanation for the violation and requested that the Board mitigate the fine.

Edward McGinley moved, seconded by Thomas Bender, to remove the citation and fine. **Motion passed 9-0.**

8) **Vivek Bhatt, RPIC** – Drug Mart Pharmacy, South Plainfield, NJ

Following an inspection revealing a violation related to CDS inventory, a UPL was issued seeking a fine for this, other violations, and a letter of corrective action.

Vivek Bhatt, RPIC of the pharmacy, provided an explanation for the violation and requested that the Board mitigate the fine.

Thomas Bender moved, seconded by Richard Palombo, to deny this mitigation request as the documentation provided was without signature. **Motion passed 9-0.**

9) **Jeffery Pepiak, RPIC** – CVS Pharmacy, Mullica Hill, NJ

Following an inspection revealing a violation related to a pharmacist to pharmacy technician ratio, a UPL was issued seeking a fine for this, other violations, and a letter of corrective action.

Jeffery Pepiak, RPIC of the pharmacy, provided an explanation for the violation and requested that the Board mitigate the fine.

Thomas Bender moved, seconded by Stephen Lieberman, to remove the citation and fine associated with N.J.A.C. 13:39-6.15(f). **Motion passed 9-0.**

10) **Sejal Patel, RPIC** – Rite Aid Pharmacy, Newton, NJ

Following an inspection revealing a violation related to security system back up, a UPL was issued seeking a fine for this, other violations, and a letter of corrective action.

Sejal Patel, RPIC of the pharmacy, provided an explanation for the violation and requested that the Board mitigate the fine.

Edward McGinley moved, seconded by Stephen Lieberman, to remove the citation and fine. **Motion passed 9-0.**

11) **Franklin Breve, RPIC** – Baxter Healthcare Corporation, Logan, NJ

Following an inspection revealing a violation related to PIC security, a UPL was issued seeking a fine for this, other violations, and a letter of corrective action.

Christy Kim, manager of the pharmacy, provided an explanation for the violation and requested that the Board mitigate the fine.

Stephen Lieberman moved, seconded by Edward McGinley, to deny mitigation due to the lack of previous waiver addressing PIC office area. **Motion passed 8-0.** Mitch Sobel was recused due to a previous association with Mr. Breve.

12) Catherine Fee, RPIC – Pharmex Pharmacy, Lakewood, NJ

Following an inspection revealing a violation related to inventory, a UPL was issued seeking a fine for this, other violations, and a letter of corrective action.

Catherine Fee, RPIC of the pharmacy, provided an explanation for the violation and requested that the Board mitigate the fine.

Thomas Bender moved, seconded by Mitch Sobel, to deny mitigation as inventory was submitted late and not signed. **Motion passed 9-0.**

13) Brian Burdey, RPIC – Acme/Sav-On Pharmacy, Lakewood, NJ

Following an inspection revealing a violation related to re-dispensing labeling, a UPL was issued seeking a fine for this, other violations, and a letter of corrective action.

Brian Burdey, RPIC of the pharmacy, provided an explanation for the violation and requested that the Board mitigate the fine.

Edward McGinley moved, seconded by Margherita Cardello, to deny this mitigation request based on the evidence that policy was not being followed. **Motion passed 9-0.**

14) Warren B. Bell, RPIC – Sterling Medical Services, Moorestown, NJ

Following an inspection revealing a violation related to “use by”, a UPL was issued seeking a fine for this, other violations, and a letter of corrective action.

Warren B. Bell, RPIC of the pharmacy, provided an explanation for the violation and requested that the Board mitigate the fine.

Edward McGinley moved, seconded by Margherita Cardello, to deny the request for mitigation of N.J.A.C. 13:39-7.12(a)12 due to a similar violation occurrence in 2006. **Motion passed 9-0.**

15) Frank Papa, RPIC – ShopRite Pharmacy, Jackson, NJ

Following an inspection revealing a violation related to key security, a UPL was issued seeking a fine for this, other violations, and a letter of corrective action.

Frank Papa, RPIC of the pharmacy, provided an explanation for the violation and requested that the Board mitigate the fine.

Edward McGinley moved, seconded by Mahesh Shah, to deny the request for mitigation. **Motion passed 9-0.**

16) Polly Cheplick, RPIC – ShopRite Pharmacy, Manchester, NJ

Following an inspection revealing a violation related to key security, a UPL was issued seeking a fine for this, other violations, and a letter of corrective action.

Polly Cheplick, RPIC of the pharmacy, provided an explanation for the violation and requested that the Board mitigate the fine.

Edward McGinley moved, seconded by Mahesh Shah, to deny the request for mitigation. **Motion passed 9-0.**

VIII. INFORMATIONAL

1) Health Care Pharmacy, Paterson, NJ – Changing pharmacy practice

The Board Received a letter indicating a change in the pharmacy practice. Taken as informational as it is not the purview of the Board to go into this matter.

2) Clarification of A4087- Anthony Reznik response to Board's concern

“A pharmacy, chain pharmacy distribution center, or pharmacy member of an affiliated group may return to a wholesale distributor any prescription drug that is on the specific list of susceptible products if the prescription drug is no more than six months past its expiration date.”

S1753 defined the list as – “Specified list of susceptible products” meaning a specific list of prescription drugs, to be determined by the commissioner, that are considered to be potential targets for adulteration, counterfeiting or diversion, which the commissioner shall provide to wholesale distributors as prescription drugs are added to or removed from the list, along with notification of those changes.

The connection of the list to A4087 is a drafting error. The list was never created and will never be created. When the bill was drafted, they simply took the previous statute dealing with returns and drafted A4087 as an amendment to S1753. Mr. Reznik contacted Assemblyman Diegnan's office and informed them that A4087 was connected to a list that doesn't exist and requested that the bill be amended. Mr. Reznik states he is “confident that it will be amended in committee or the sponsor may reintroduce a new bill which will not include any language regarding the specified list.”

The Board accepted the clarification as informational.

IX. COMMITTEE REPORTS

N/A

X. APPROVAL OF MINUTES

Mitch Sobel moved, seconded by Mahesh Shah to approve the February 25, 2015 Open Session Minutes as amended. **Motion passed 9-0.**

XI. ADJOURNMENT

At 11:58 a.m., Mitch Sobel moved, seconded by Stephen Lieberman, to adjourn the Public Session. **Motion passed 9-0.**

Stephen Lieberman moved, seconded by Margherita Cardello, to move into the Executive Session for review of 5 Complaints, 4 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 the Executive Session Minutes. **Motion passed 9-0.**