

**NEW JERSEY STATE BOARD OF PHARMACY
MINUTES OF THE OPEN SESSION
May 13, 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 Somerset Room, 6th Floor at 124 Halsey Street, Newark, New Jersey on May 13, 2009 at 9:08 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
Pamela Allen, R.Ph.
Peter Halecky, R.Ph.
Margherita LaFragola , R.Ph.
Elvy T. Paiva, R.Ph.
Richard Palombo, R.Ph.
Marc Sturgill, R.Ph.

OTHERS IN ATTENDANCE

Joanne Boyer, R.Ph. Executive Director
Megan Cordoma, Esq. Deputy Attorney General
Jodi Krugman, Esq. Deputy Attorney General

IV. UPDATE BY EXECUTIVE DIRECTOR

The Executive Director reported that \$14, 503 was collected in fines and penalties during April, 2009. The following permits/licenses/registrations were issued during the month of April, 2009:

- Technicians – 250
- Pharmacists – 35 (13 by examination/score transfer, 22 by reciprocity)
- Out of state pharmacies – 14
- In state pharmacies –9
- Pharmacists receiving immunization approval – 23

May 22, 2009 has been designated as a furlough day for the Division of Consumer Affairs, so the office will be closed.

V. OLD BUSINESS

1) Noha Faltas – Requesting an explanation of denial of waiver of TOEFL/iBt Pamela Allen was recused due to her previous work relationship with the author of a letter of recommendation for Ms. Faltas.

Thomas Bender moved, seconded by Elvy Paiva that upon review of the facts presented, Ms. Faltas has not demonstrated any hardship except her inability to pass the TOEFL examination 18 times. She has not

demonstrated any type of disability, requested re-evaluation of her scores or been denied any request for additional accommodations to take the test. Ms. Faltas should proceed with taking the TOEFL/iBt. The motion passed unanimously.

VI. NEW BUSINESS

1) Brian Przyzycki, R.Ph., Group Pharmacy Relations, Walgreens, Deerfield, IL –Pharmacy concierge program Elvy Paiva and Thomas Bender were recused due to their affiliation with Walgreens.

Richard Palombo moved, seconded by Pamela Allen that the concierge program as presented is not in violation of any rules and regulations of the Board. The motion passed unanimously.

2) Bill Irvin, Director, Regulatory Compliance, CVS, Woonsocket, RI – Centralized pharmacy call center

Elvy Paiva moved, seconded by Marc Sturgill that in order to proceed with the call center, CVS should submit a Central Fill application and Out of State Pharmacy application. The motion passed unanimously.

3) Eric Peterson, Dorsey & Whitney LLP, Minneapolis, MN – Requesting Board review of marketing plans and whether in violation of NJSA 45:14 – 65(e)

Thomas Bender moved, seconded by Peter Halecky that the offering of gift cards to employees of the pharmacy who refer friends and family members to fill prescriptions at the pharmacy is in violation of NJSA 45:14 – 65(e) because it is in connection with the sale of a drug.. The motion passed unanimously.

Peter Halecky moved, seconded by Marc Stugill to have DAG Krugman to do further research as to whether matching competitors' prescription drug pricing, which could result in a reduction in the price for certain prescription drugs for certain pharmacy customers is in violation of NJSA 45:14 – 65(e). The motion passed unanimously.

4) John L. Colaizzi, Jr., District Pharmacy Supervisor, Walgreens – Request for a waiver of inspection of the pharmacies acquired from Drug Fair that have been inspected in the past six months Elvy Paiva and Thomas Bender were recused due to their affiliation with Walgreens. Edward McGinley was recused due to his affiliation with Drug Fair. Margherita LaFragola called into Board Meeting via telephone and participated in the discussion and voting of this matter.

Richard Palombo moved, seconded by Peter Halecky that for those Drug Fair Pharmacies that have been inspected in the past six months, a new inspection will not have to be conducted at the time of transfer of ownership. However, an affidavit is to be submitted by Walgreens to the Board documenting the transfer and inventory of CDS. In addition, the Board approves the issuance of new permit numbers to those pharmacies that do require an inspection, prior to the pharmacy inspections. The motion passed unanimously.

VII. MITIGATION/ HEARING REQUESTS

1) Zoltan Deak, RPIC, Duane Reade, Maywood, NJ

Peter Halecky moved, seconded by Marc Sturgill to mitigate the \$100 fine issued pursuant to NJAC 13:39 – 7.19(c)1. The motion passed unanimously.

2) Stephen Schreyer, RPIC, Somerset Park Pharmacy, Somerset, NJ

Peter Halecky moved, seconded by Elvy Paiva to mitigate the \$1,000 fine issued pursuant to NJAC 8:65 – 5.7 to a warning for not separating the CII's from the CIII – CV's. The motion passed unanimously.

3) Chinwe Okafor, RPIC, Avon Pharmacy, Irvington, NJ

Thomas Bender moved, seconded by Elvy Paiva to deny the request for mitigation of the \$250 fine issued pursuant to NJAC 13:39 – 7.12(a). The motion passed unanimously.

4) Hetal Amin, RPIC, Midland Pharmacy, Garfield, NJ

Richard Palombo moved, seconded by Peter Halecky to mitigate the \$250 fine imposed pursuant to NJAC 13:39 – 7.12(a)13, the \$50 fine imposed pursuant to NJAC 13:39 – 6.2(f)7 & 7.18 and the warning imposed pursuant to NJAC 13:39 – 6.2(f)7 & 7.18. The motion passed unanimously.

5) Teresa Febles-Valente, RPIC, Pathmark, North Bergen, NJ

Pamela Allen moved, seconded by Peter Halecky to mitigate the \$450 fine imposed pursuant to NJAC 13:39 – 6.2(f)7, 7.16(c)2 & 3 and 7.18. The motion passed unanimously.

6) Hemanth K. Sambaraju, RPIC, Rite Aid, Berlin, NJ

Thomas Bender moved, seconded by Richard Palombo to mitigate the \$50 fine imposed pursuant to NJAC 13:39 – 4.3. The motion passed unanimously.

7) Samuel Hu, RPIC, Rite Aid, Whiting, NJ

Pamela Allen moved, seconded by Marc Sturgill to mitigate the \$200 fine imposed pursuant to NJSA 45:14 – 48(10) and NJAC 13:39 – 5.8(a)1 to a warning. The motion passed unanimously.

8) Deepa Garg, RPIC, Drug Fair, North Arlington, NJ Request for Formal Administrative Hearing Edward McGinley was recused due to his affiliation with Drug Fair.

The Chair (Thomas Bender) directs that DAG Jodi Krugman follow-up with Ms. Garg.

9) Toral Patel, RPIC, Rite Aid, Edison, NJ

Thomas Bender moved, seconded by Pamela Allen to mitigate the \$300 fine imposed pursuant to NJAC 13:39 – 6.2(f)7 & 7.18 to \$50 and to deny the request for mitigation of the \$200 fine imposed pursuant to NJSA 45:14 – 48(a)10 and NJAC 13:39 – 5.8(a)1. The motion passed unanimously.

10) Marvin Goldstein, RPIC, Northfield Pharmacy, Livingston, NJ

Pamela Allen moved, seconded by Thomas Bender to mitigate the \$250 fine imposed pursuant to NJAC 13:39 – 7.12(a)1 and to deny the request for mitigation of the \$1,000 fine imposed pursuant to NJAC 13:39 – 7.6(c). The motion passed unanimously.

11) Purnima Shah, RPIC, DeRosa Pharmacy, Newark, NJ
Request for a Formal Administrative Hearing

Elvy Paiva moved, seconded by Pamela Allen that the Board would be willing to mitigate all fines contingent upon Ms. Shah re-submitting the Certification Form and requesting mitigation. The motion passed unanimously.

12) Sashi Dondapati, RPIC, Town & Country Pharmacy, Maplewood, NJ

Pamela Allen moved, seconded by Peter Halecky to mitigate the \$1,000 fine imposed pursuant to NJAC 13:39 – 7.6(c) to a warning since this is a prior owner issue. The motion passed unanimously.

13) Ting F. Liu, RPIC, Duane Reade, Hackensack, NJ

Pamela Allen moved, seconded by Thomas Bender to deny the request for mitigation of the \$200 fine

imposed pursuant to NJSA 45:14 – 48(a)10 and NJAC 13:39 – 5.8(a)1. The motion passed unanimously.

VIII. COMMITTEE REPORTS

N/A

IX. APPROVAL OF MINUTES

1) April 22, 2009

Thomas Bender moved, seconded by Elvy Paiva to approve the minutes as amended. The motion passed unanimously.

X. ADJOURNMENT

At 11:03 am Elvy Paiva moved, seconded by Marc Sturgill to move into Executive Session for the review of 12 Complaints, 1 Old Business item, 1 New Business item, Secretary's Report and Recommendation on Retail and Institutional Permits, Secretary's Report and Recommendation on Inspection Reports, conduct two Investigative Inquiries and approval of minutes. The motion passed unanimously