

**Meeting Minutes
DEPARTMENT OF HEALTH
BOARD OF PHARMACY
FULL BOARD MEETING
June 7-8, 2011
10:00 A.M.**

**Hilton Ft. Lauderdale Airport
1870 Griffin Road
Dania Beach, FL 33004**

Board Members:

Fritz Hayes, BPharm, Chair, Miami
Cynthia Griffin, PharmD, Vice Chair, Jacksonville
Michele Weizer, PharmD, Boca Raton,
Albert Garcia, BPharm, MHL, Miami
Amy Jones, JD, Consumer Member, Tallahassee
Steve Melvin, PharmD, Panama City
Lorena Risch, Consumer Member, Bradenton
Ron Salem, PharmD, Jacksonville
Robert Wilson, BPharm, Pensacola

Board Staff:

Mark Whitten, Executive Director
Tammy Collins, Program Operations Administrator
Dinah Skrnich, Program Manger, CDDP

Board Counsel:

Allison Dudley, Assistant Attorney General

Department of Health Staff:

Adrienne Rodgers, Assistant General Counsel
David Bibb, Assistant General Counsel

TUESDAY, June 7, 2011

10:00 a.m. Call to Order by Fritz Hayes, BPharm, Chair

Mr. Hayes called the meeting to order and advised the audience that the meeting is being recorded. Mr. Hayes informed the Board and the audience that there have been two board members replaced. The new board members are Deanna Mullins and Gavin Meshad. Mr. Hayes thanked Ms. Jones and Mr. Wilson for their service to the Board over the years.

**TAB 1 PETITION FOR DECLARATORY STATEMENT / VARIANCE OR WAIVER -
Allison Dudley, Assistant Attorney General**

1. Edward White Hospital, Joe Haynes, R.Ph.

Petitioner was not present. Petitioner was not represented by counsel.

The Pharmacist shall be on the premises and readily available. The dispensing must be done by a licensed pharmacist.

Motion: by Garcia, seconded by Melvin to approve the declaratory statement.
Motion carried.

2. Target Pharmacies, Kay Hanson

Mr. John Grey, Pharmacist leader for Target Corporation was present and sworn in by the court reporter. Petitioner was not represented by counsel.

Mr. Grey gave a presentation on physician and pharmacist practice plan to conduct medication therapy management by a pharmacist away from the pharmacy dispensing area in a private exam room.

Motion: by Dr. Griffin, seconded by Mr. Garcia to approve the declaratory statement.
Motion carried.

TAB 2 REPORTS

A. Chair's Report – Fritz Hayes, BPharm

Mr. Hayes reported on outreach activities and association meetings he has attended.

1. Professional Outreach activity regarding pharmacy technicians. Mr. Hayes stated he has attended several association meetings and tried to educate on the pharmacy technicians.
2. NABP Annual Meeting they are working on different phases and inter-connect plan for the PDMP programs. They passed 4 resolutions at this meeting. 1. Technology Task Force, 2. Controlled Substance Task Force, 3. Task Force with pharmacist in primary care services. 4. Continued development of PMP "Interconnect" clearing house program. They are looking for volunteers to serve on the task force. Staff will forward the email to the board members if anyone is interested.
3. NABP has a new e-mail News distribution system Board members can subscribe too at no charge. NABP will be doing a massive data information load from 1904 to today's date to update the NABP profiles.
4. NABP is moving forward with the Retail pharmacy accreditation.

Mr. Hayes informed the Board of future meeting dates and events.

August 7-9, 2011 in Biloxi NABP Meeting
Sept. 18-20, 2011 MALTAGON Meeting in Savannah, Georgia
September 27, 2011 DOH Long Range Planning
September 21- 22, 2011 NABP Executive Officer Meeting
December 1-2, 2011 NABP Compliance officer forum perhaps someone from inspection services could attend the meeting. This is paid by grant money.
May 19-22, 2012 NABP Meeting in Philadelphia.

Motion: by Mr. Garcia, seconded by Dr. Melvin that Mr. Whitten attends the NABP Executive Officer meeting. Motion carried.

B. Rule Discussion and Review – Albert Garcia, BPharm

Mr. Garcia thanked Dr. Melvin for chairing the rules committee.

Mr. Garcia gave a review of the rules committee stated the only rules in process are the record keeping rule and central fill. Mr. Garcia stated that Ms. Dudley would give further details under her report.

Mr. Mike McQuone, Florida Society of Health System Pharmacist stated they would like to participate in the subject of Central Fill rule writing.

Mr. Garcia stated that he has a guest from the DEA regarding HB 7095 and introduced Ms. Gayle Layne.

Gayle Layne, DEA gave a presentation and some information on what they are working on with pain clinics and the oxycodone issue in Florida.

- 15-20% of babies born in Florida are born addicted.
- More oxycodone being issued in Florida than all the other 49 states.
- People are coming in buses to Florida for these drugs.
- These doctors are writing thousands of prescriptions for the same drug, the same diagnosis for multiple patients.
- All cash transactions none filed with insurance.
- They are advertising on Craig's list on how to open a pharmacy.
- DEA has issued 50 emergency suspension orders on doctors.
- Pharmacist need to check doctor's DEA number.

Ms. Layne stated that in visiting these pharmacies that pharmacist don't know where to find the DEA website.

Mr. Whitten asked that Ms. Layne notify the Board office when they issue the ESO so the Board office could take action also.

Mr. Whitten stated that there has been an increase in pharmacy permits and there maybe a trend to this that we could find.

Dr. Salem stated he commended Ms. Layne on what they are doing.

Mr. Garcia stated he wanted the Board to hear just how much of an issue this problem is in Florida. This is a serious situation that is affecting Florida.

Mr. Hayes stated that this is very important information and thanked Mr. Garcia and Ms. Layne for the presentation.

C. Executive Director's Report – Mark Whitten

1. ACPE Approved Medication Errors Course

Mr. Whitten stated this issue was brought up and he wanted the board's opinion.

Mr. Hayes stated that medication errors must be board approved. Ask CE broker to change their logic program at the end of this biennium. And they make that announcement on their website.

Motion: by Dr. Griffin, seconded by Dr. Melvin to approve the change to CE Broker. Motion carried.

2. Long-Range Policy Planning and Survey – 456.005

Mr. Whitten stated this was sent to the Board members for responses. He thanked the members for their participation and encouraged more members to respond.

3. Jim King Keep Florida Working Act

Mr. Whitten gave update on this and asked that if any board member is aware of a situation where individuals are being disqualified for licensure. Other than 456.035 application questions are there any other issues that would prohibit this.

Motion: by Mr. Garcia, seconded by Dr. Melvin that the board does not have any laws and rules that prevent licensure other than the SB 1986 questions under 456. Motion carried.

4. 2011 Legislation – HB 7095

Mr. Whitten gave a high level overview of the bill passed by the legislation.

Section 2

456.42 Florida Statutes

Prescriptions are to be written on counterfeit resistant pads for practitioners will be handled by purchasing and Board of Medicine.

Section 10

465.015 Florida Statutes

Pharmacist must report suspected activity within 24 hours in which a person tried to obtain a controlled substance to law enforcement. Punishable by a first degree misdemeanor.

Section 12

465.018 Florida Statutes

Additional grounds for permit denial or discipline. Applicant's to make payment arrangements. May suspend or revoke if any permit if any person has been discipline or abandoned can be denied. If they have outstanding fines that have not been paid or made payment arrangement can be denied.

Section 13 Defines the new legislation for pharmacies.

If a community pharmacy intends to continue dispensing scheduled II and III controlled substances they must apply to obtain licensure by July 1, 2012 and meet the new requirements.

Section 14

465.022 Florida Statutes

General requirement pharmacies require the Department of Health to adopt rules relating to the procedures for dispensing controlled substances. This section expands on affiliated persons and financial disclosure and policy and procedures. Every affiliated person will need to be fingerprinted with a 5% interest they will need to be fingerprinted annually.

Mr. Garcia asked that the pharmacy permit number not change because this will affect the DEA, Medicare and Medicaid licenses that take months to obtain.

Mr. Whitten explained that the number will not change that the board office will add a different modifier on the license number.

Mr. Whitten stated that he has applications he would like the board to review.

Mr. Kahan stated he has been receiving many phone calls and following the legislative process closely. Should they be sending in fingerprints now or should they wait for the new application.

Mr. Whitten stated he would like to have a formal process in place once the application is approved then they can apply with all the information sent in at one time.

Mr. Jackson stated he wanted to commend the board of putting a plan in place to handle this new legislation. Will the Department meet the July 1, 2012 deadline and get permits issued? Mr. Jackson stated the association will be here to help in any way possible. The Florida Pharmacy association has already put draft guidelines together for policy and procedures.

The association would like to be involved with rule development on disciplinary guidelines.

Mr. Mike Ayotte with CVS stated he would like to offer his help and assistance in doing multiple locations at one time. Mr. Ayotte recommended the board be very specific in their rule language and requirements.

Mr. Ayotte asked if new applicants applying in June have the new requirements instead of having to reapply after the July 1, 2012 deadline.

Mr. Hayes stated there are three applications that Mr. Whitten would like for the Board to review.

Dr. Salem asked if it is just the pharmacy manager that will be fingerprinted.

Mr. Whitten explained that it clearly defines who the affiliated parties are that need to be fingerprinted. He would send the information to the board members to review. The fingerprints have to be rechecked every year that's why the live scan would be more convenient and cost effective.

Dr. Griffin asked if fingerprints came back with a hit would happen with that application.

Mr. Whitten said they would be notified with a deficiency letter and they would need to replace that person.

Motion: by Dr. Salem, seconded by Ms. Risch, there will be no application fee. Applicants will be paying a fee for fingerprinting. Motion carried

Motion: by Dr. Melvin, seconded by Mr. Garcia to approve the community application with adding the word abandoned. Motion carried

Motion: by Dr. Salem, seconded by Mr. Garcia to accept section 465.022 with the discussed changes to the language. Motion carried

Motion: by Dr. Melvin, seconded by Dr. Griffin to accept the Special application and Institutional Application with the discussed language. Motion carried.

Ms. Dudley said that these applications are included in the permitting rule 64B16-28.100. She has to update this rule as well due to the new legislation.

Ms. Dudley asked that the board grant her authority to make changes to this rule as Mr. Whitten moves through these applications.

Motion: by Dr. Salem, seconded by Dr. Griffin to approve with the chair's review and approval.

Motion: by Mr. Garcia, seconded by Dr. Melvin that this will not increase regulatory cost. Motion carried.

D. Attorney General's Report – Allison Dudley, Assistant Attorney General

1. Rules Report- February 2011

Motion: by Mr. Hayes. seconded by Mr. Garica to correct the rules report. Motion Carried unanimously.

Ms. Dudley stated the Governor's office wanted a list of the rules that will be discussed in the coming year and wanted the Board to review for approval.

Motion: by Dr. Salem, seconded by Dr. Melvin to approve the list as presented by Ms. Dudley.

2. Wiley vs. Governor Rick Scott.

Ms. Dudley gave an overview of this and suggested that the board still go ahead and send the rules to the office of OFFAR for approval.

Motion: by Dr. Melvin, seconded by Mr. Garcia to continue to send the rules through to office of OFFAR. Motion carried.

3. Valliammai Natarajan, Ravichandran Sokkan,
MD.A. Samad Mridha vs. Board of Pharmacy

Ms. Dudley gave overview of the case status of these applicants to the board. They are asking for attorney's fees from the board. Ms. Dudley asked if the board wanted to cut the amount off now. Estimated the fee is about fifteen thousand. Still would have a right to hearing at DOAH.

Ms. Dudley said it would be very helpful for her to have someone she could ask questions and suggestions in regards to the negotiations process. Dr. Salem and Mr. Garcia volunteered to help with any questions Ms. Dudley may have.

Motion: by Mr. Garcia, seconded by Dr. Salem to pursue the appeal and ask for a settlement agreement. Then bring it back to the board for approval. Motion carried

4. Jaemin Hwang vs. Board of Pharmacy

Ms. Dudley gave overview of the file that he is asking for his petition to be withdrawn. She requested that the board deny the petition for variance and waiver.

Motion: by Mr. Garcia, seconded by Dr. Melvin to deny the variance and waiver.

5. Petition to Intervene – Blood Alliance

Ms. Dudley stated there is no action needed just for the board's review of the petition.

E. Prosecuting Attorney Report – David Bibb, Assistant General Counsel

1. Prosecution Report

Motion: by Dr. Salem, seconded by Dr. Griffin to continue prosecuting with cases older than 1 year.

F. Statewide Inspection Program Manager Report

1. Bonnie Summer, South District Manager

- Ms. Summer gave update of the inspections completed.
- Pharmacy inspections 87.89% completed,
- Pain management clinics are 86.56% complete
- Dispensing practitioners 60.06% complete
- Pharmacies 7, 645 completed

- Pain clinics 4, 502

Dr. Salem discussed and issue with nursing home consultants and pharmacist issue.

Ms. Summer stated she will bring the issue to the district supervisor for a response.

Mr. Whitten stated he did discuss this issue with the statewide inspector and prosecution services. Mr. Whitten suggested putting a workgroup together to discuss these issues and come to some resolutions. He asked for a volunteer from the board to help with these issues. Mr. Garcia suggested that the member be the expert of the what ever the subject matter is that will be discussed.

G. Tripartite Committee Report – Steve Melvin, PharmD

1. Guardian Pharmacy of Jacksonville, LLC

Petitioner was present. Petitioner was not represented by counsel.

Ms. Laura Grimsby, Pharm D. was sworn in by the court reporter.

Dr. Melvin stated he reviewed the application and didn't see any reason on why the application should not be approved.

Dr. Salem suggested that the board staff route the application through the Tripartite committee. Only come to the board for review with more complicated issues.

Motion: by Dr. Salem, seconded by Dr. Griffin to approve the application. Motion carried.

1. Venice HMA, Inc., Venice Regional Medical

Petitioner was not present. Petitioner was not represented by counsel

Motion: by Mr. Hayes, seconded by Dr. Salem to approve the application. Motion carried.

TAB 3 BUSINESS – Fritz Hayes, BPharm, Chair

A. Ratification of Issued Licenses/Certificates & Staffing Ratios

1. Pharmacist (Licensure) (Client 2201) – 119
2. Pharmacist (Exam Eligibility) (Client 2201) – 97
3. Pharmacist Interns (Client 2202) – 107
4. Registered Pharmacy Technicians (Client 2208) – 756
5. Consultant Pharmacist (Client 2203) – 50
6. Nuclear Pharmacist (Client 2204) – 4
7. Pharmacies/Facilities (Client 2205) – 34
8. Registered Pharmacy Technician Ratios (2:1 or 3:1)- 96
9. Pharmacy Technician Training Program (Client 2209) - 34
10. CE Providers – 39
11. CE Courses - 3

12. CE Individual Requests – 1

Motion: by Dr. Salem, seconded by Dr. Melvin to approve the ratifications. Motion carried.

B. Review and Approval of Minutes

1. December 14-15, 2010 Full Board Meeting

Mr. Hayes stated a correction to the Tech Training rule clarified that the same language that was added to the Non Employer program applied to the Employer based program. The part that was missing was the clinical instruction language needed to be there too.

Ms. Dudley stated she would add that to the language.

Mr. Hayes also corrected the Walgreen's student shadowing. It was not a technician it was high school student.

Motion: by Mr. Hayes. seconded by Mr. Garica to correct the minutes with the following changes. Motion carried

Public Comments:

Mr. McQuone of Florida Society of Health System pharmacist. Tab 1 for Edward White Hospital. Should not be limited to the consultant of record but assume it would be and activity that would be allowed by any pharmacist.

Ms. Dudley stated it should not be limited to the consultant pharmacist and she would make the correction and change it to pharmacist.

Meeting Adjourned. 12:30

WEDNESDAY, June 8, 2011

8:00 a.m. Call To Order by Fritz Hayes, BPharm, Chair

TAB 4 DISCIPLINARY CASES – Adrienne Rodgers and David Bibb, Assistant General Counsel and Fritz Hayes, BPharm, Chair

A. SETTLEMENT AGREEMENT – NON APPEARANCE CASES

**NA-1 Susan K. Biernot, RPH, Virginia Beach, VA
Case No. 2010-02441 - PC: Melvin/Risch**

Respondent was not present. Respondent was not represented by counsel.

The Administrative Complaint charges Respondent with violating Section 465.016(1) (r), Florida Statutes by violating a rule of the Board, through a violation of Rules 64B16-26.103(1) and 26.603, Florida Administrative Code.

Motion: by Dr. Salem, seconded by Mr. Garcia to accept the settlement agreement, assess an administrative fine of 500.00 to be paid within 90 days from the date the final order is filed with the department. Cost in the amount of 533.64 shall be paid within 90 days from the date the final order is filed with the department. Completion of sixteen hours of general continuing education credits to be completed within 18 months of entry of the Final Order. Motion carried.

B. SETTLEMENT AGREEMENT– APPEARANCE REQUIRED CASES

**SA-1 Delores A. Green, RPH, Clermont, FI – PS 18778
Case No. 2010-16479 – PC Salem/Griffin**

Respondent was present. Respondent was represented by Tim Koch with Wal-Mart District Offices.

Respondent violated Section 465.016(1) (i), Florida Statutes (2009), by dispensing a legend drug other than in the course of the professional practice of pharmacy

Respondent must be present for this settlement agreement. Fine of 250.00 to be paid within 90 days of filing of final order, cost in the amount of 1,050.30 shall be paid within 90 days from the date the final order is filed with the department. Complete 8 hour medication error course within 1 year of the filing final order in addition to regular ce hours.

Motion: by Dr. Weizer, seconded by Dr. Melvin to accept the settlement agreement. Motion carried

**SA-2 Jack E. Morgan, Jr., RPH, Destin, FI - PS 18852
Case No. 2009-23332 – PC Garcia/Weizer**

Respondent was present. Respondent was not represented by counsel.

Respondent violated Section 465.016(1) (f), Florida Statutes (2009), by having been convicted or found guilty of a crime that directly relates to the practice of pharmacy or to the ability to practice pharmacy

The settlement agreement requires appearance before the Board, payment of a \$5,000 fine and costs not to exceed \$1,931.51 prior to the end of Respondent's probationary period; Respondent's pharmacist license will be suspended for one year; at the end of 1 year will appear before the board with PRN advocate for him that he is safe to return to practice. Following the period of suspension, Respondent's pharmacist license shall be on probation for two years or a period concurrent with his PRN contract if any.

Dr. Rivenbark gave her report that Mr. Morgan is in compliance with his contract.

Motion: by Dr. Salem, seconded by Dr. Griffin to reject the settlement agreement as presented.

Motion: by Dr. Salem, seconded by Dr. Griffin to accept the settlement agreement as amended. Motion carried.

**SA-3 John C. Ward, RPH, Estero, FI PS 9307
Case No. 2009-23183 – PC Melvin/Wilson**

Respondent was present. Respondent was represented by William Furlow.

Respondent violated Section 465.016(1) (i), Florida Statutes (2006-2008), dispensing outside the professional practice of pharmacy.

Respondent shall be present for this agreement, fine in the amount of 10,400 to be paid within 90 days of filing of final order, cost in the amount of 7,898.33 to be paid within 90 days of filing. 1 year suspension of license must petition the board for reinstatement.

Motion: by Dr. Salem, seconded by Mr. Garcia to accept the settlement agreement. Motion carried

**SA-4 Susan M. MacDonald, RPH, Clearwater, FL
Case No. 2010-17902 – PC Garcia/Weizer**

Respondent was present. Respondent was represented by Ed Bayo.

Respondent violated 465.016(1) (f), Florida Statutes (2009), by having been convicted or found guilty of a crime that directly relates to the practice of pharmacy.

Respondent shall be present for this agreement, fine in the amount of 1000.00 to be paid at the end of her probationary period. Cost in the amount of 1,427.25 to be paid prior to the end of Respondent's probationary period. Probation to run concurrent with PRN contract.

Dr. Rivenbark gave report that Ms. MacDonald self reported is in full compliance and safe to practice. She has been practicing in a clinical environment.

Motion: by Dr. Salem seconded by Dr. Griffin to accept the settlement agreement

**SA-5 Karl Henry Walter, Ocala, FI – PU 3276
Case 2010-16783 – PC Wilson/Jones**

Respondent was present. Respondent was not represented by counsel.

Respondent violated Section 465.016 (1) (r), FS, by violating any provision of Chapter 456, FS through a violation of Section 456.072 (1) (q), FS, by violating lawful order of the department or board.

Respondent shall be present for this agreement. Fine in the amount of 1000.00 to be paid within 90 days of filing. Cost of 332.00 to be paid within 90 days of filing. Consultant pharmacist license suspended until he meets all the terms of final orders.

Motion: by Mr. Garcia, seconded by Dr. Weizer to accept the settlement agreement.

C. DETERMINATION OF WAIVER

DOW-1 Adams Pharmacy Services, Inc., Milton, FL Case No. 2009-22415 – PC Melvin/Risch

Respondent was not present. Respondent was not represented by counsel.

Respondent violated Section 465.023(1) (c), Florida Statutes (2009), by violating a rule of the Board, through violation of Rule 64B16-28.202, Florida Administrative Code, by failing to properly close a pharmacy

Motion: by Dr. Griffin, seconded by Dr. Weizer to find that Respondent was properly served, did not the election of rights, and has waived his right to be heard. Motion carried.

Motion: by Dr. Griffin, seconded by Dr. Weizer to adopt the findings of fact as alleged in the Administrative Complaint. Motion carried

Motion: by Dr. Griffin, seconded by Dr. Weizer to adopt the conclusion of law including that Respondent has violated the statutes and rules as alleged in the Administrative Complaint. Motion carried

Motion: by Dr. Griffin, seconded by Dr. Weizer to accept into evidence the investigative file and requests an opportunity to make a penalty recommendation. Motion carried

Motion: by Dr. Griffin, seconded by Dr. Weizer to Revoke. Motion carried

Motion: by Dr. Weizer, seconded by Dr. Griffin to access cost in the amount of \$1038.47 to be paid within ninety (90) days of the filing of the final order. Motion carried.

DOW-2 Raechelle E. Mathis, RPT, Ocoee, FL Case No. 2010-04061 – PC Griffin/Salem

Respondent was not present. Respondent was not represented by counsel.

Respondent Violated 456.072(1) ©, F.S., for pleading guilty or nolo contendere to a crime which relates to the practice of the profession of the licensee.

Motion: by Dr. Weizer, seconded by Dr. Melvin to find that Respondent was properly served, did not the election of rights, and has waived his right to be heard. Motion carried

Motion: by Dr. Weizer, seconded by Dr. Melvin to adopt the findings of fact as alleged in the Administrative Complaint. Motion carried

Motion: by Dr. Weizer, seconded by Dr, Melvin to adopt the conclusion of law including that Respondent has violated the statues and rules as alleged in the Administrative Complaint. Motion carried

Motion: by Dr. Wezier seconded by Dr. Melvin to accept into evidence the investigative file and requests an opportunity to make a penalty recommendation. Motion carried

Motion: by Dr. Melvin, seconded by Dr. Weizer to Revoke. Motion carried

Motion: by Dr. Weizer, seconded by Dr. Melvin to access cost in the amount of \$3,915.15 to be paid within ninety (90) days of the filing of the final order. Motion carried.

**DOW-3 Robert Adams, RPH, Milton, FL
Case No. 2009-22502 – PC Melvin/Risch**

Respondent was not present. Respondent was not represented by counsel.

Respondent violated Section 465.016(1) (r), Florida Statutes (2009), for violating a rule of the Board, through violation of Rule 64B16-28.202, Florida Administrative Code, by failing to properly close a pharmacy.

Motion: by Dr. Salem, seconded by Dr. Griffin to find that Respondent was properly served, did not the election of rights, and has waived his right to be heard. Motion carried

Motion: by Dr. Griffin, seconded by Mr. Garcia to adopt the findings of fact as alleged in the Administrative Complaint. Motion carried

Motion: by Dr. Griffin, seconded by Dr. Salem to adopt the conclusion of law including that Respondent has violated the statues and rules as alleged in the Administrative Complaint. Motion carried

Motion: by Dr. Griffin seconded by Dr.Salem to accept into evidence the investigative file and requests an opportunity to make a penalty recommendation. Motion carried

Motion: by Dr. Salem seconded by Dr. Weizer to accept 1,500.00 fine and complete 12 hour law and rules course within 1 year. Motion carried

Motion: by Dr. Weizer, seconded by Dr. Griffin to access cost in the amount of \$990.74 to be paid within ninety (90) days of the filing of the final order. Motion carried.

**DOW-4 Sheila R. Powers, RPT, Port Richey, FL
Case No. 2010-14855 – PC Jones/Wilson**

Respondent was not present. Respondent was not represented by counsel.

Respondent violated Section 465.016(1) (e), Florida Statutes (2009), through a violation of Section 893.13(7) (a) 9, Florida Statutes (2009), by acquiring or obtaining, or attempting to acquire or obtain, possession of a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge

Motion: by Dr. Weizer, seconded by Dr. Melvin to find that Respondent was properly served, did not the election of rights, and has waived his right to be heard. Motion carried

Motion: by Dr. Weizer, seconded by Dr. Griffin to adopt the findings of fact as alleged in the Administrative Complaint. Motion carried

Motion: by Dr. Weizer, seconded by Dr. Melvin to adopt the conclusion of law including that Respondent has violated the statutes and rules as alleged in the Administrative Complaint. Motion carried

Motion: by Dr. Griffin, seconded by Dr. Melvin to accept into evidence the investigative file and requests an opportunity to make a penalty recommendation. Motion carried

Motion: by Dr. Griffin, seconded by Dr. Weizer to Revoke Motion carried

Motion: by Dr. Weizer, seconded by Dr. Melvin to access cost in the amount of \$3,183.40 to be paid within ninety (90) days of the filing of the final order. Motion carried.

**DOW-5 Vicki L. Compton, RPH, Pensacola, FL
Case No. 2009-18705 – PC Melvin/Wilson**

Respondent was not present. Respondent was not represented by counsel.

Respondent Violated: The Administrative Complaint alleges that Respondent violated Section 465.016(1) (r), Florida Statutes, by violating a rule of the Board or Department, through a violation of Rules 64B16-26.103(1) and 64B16-26.603, Florida Administrative Code.

Motion: by Dr. Griffin, seconded by Dr. Weizer to find that Respondent was properly served, did not the election of rights, and has waived his right to be heard. Motion carried

Motion: by Dr. Weizer, seconded by Dr. Griffin to adopt the findings of fact as alleged in the Administrative Complaint. Motion carried.

Motion: by Dr. Weizer, seconded by Dr. Griffin to adopt the conclusion of law including that Respondent has violated the statutes and rules as alleged in the Administrative Complaint. Motion carried.

Motion: by Dr. Weizer, seconded by Dr. Griffin to accept into evidence the investigative file and requests an opportunity to make a penalty recommendation. Motion carried.

Motion: by Dr. Weizer, seconded by Dr. Salem to accept the penalty recommendation of \$1,000 fine and actual costs to be paid within 90 days of entry of the Final Order, and submission of proof of completion of 60 hours of general continuing education credits within 18 months of entry of the Final Order. 20 live and 4 medication errors and remainder to be general CE to be completed within 1 year. Motion carried

Motion: by Dr. Weizer, seconded by Dr. Griffin to access cost in the amount of \$1,346.38 to be paid within ninety (90) days of the filing of the final order. Motion carried.

**DOW-6 Pirifer Medical Supplies, Inc., Hialeah, FL
Case No. 2010-12247 – PC Hayes/Salem**

Respondent was not present. Respondent was not represented by counsel.

Respondent violated Section 465.023(1) (c), Florida Statutes (2009), by violating a rule of the Board of Pharmacy, through a violation of Rule 64B16-28.202 (3) (a), Florida Administrative Code, by failing to follow proper procedure for closure of a pharmacy by failing to notify the Board of the closure and failing to return the pharmacy permit to the Board upon closure.

Motion: by Dr. Weizer, seconded by Dr. Melvin to find that Respondent was properly served, did not the election of rights, and has waived his right to be heard. Motion carried.

Motion: by Dr. Melvin, seconded by Dr. Weizer to adopt the findings of fact as alleged in the Administrative Complaint. Motion carried.

Motion: by Dr. Weizer, seconded by Dr. Melvin to adopt the conclusion of law including that Respondent has violated the statutes and rules as alleged in the Administrative Complaint. Motion carried.

Motion: by Dr. Melvin, seconded by Dr. Weizer to accept into evidence the investigative file and requests an opportunity to make a penalty recommendation. Motion carried

Motion: by Dr. Weizer, seconded by Dr. Melvin to Revoke. Motion carried

Motion: by Dr. Weizer, seconded by Dr. Melvin to access cost in the amount of \$764.86 to be paid within ninety (90) days of the filing of the final order. Motion carried.

**DOW-7 Patient Care DME, Inc., Miami, FL
Case No. 2009-21614 – PC Powers/Jones**

Respondent was not present. Respondent was not represented by counsel.

Respondent violated Section 465.023(1) (c), Florida Statutes (2008-2009), by failing to follow proper procedure for closure of a pharmacy by failing to notify the Board of the closure

Motion: by Dr. Griffin, seconded by Dr. Melvin to find that Respondent was properly served, did not the election of rights, and has waived his right to be heard. Motion carried

Motion: by D. Salem seconded by Dr. Melvin to adopt the findings of fact as alleged in the Administrative Complaint. Motion carried

Motion: by Dr. Melvin, seconded by Dr. Griffin to adopt the conclusion of law including that Respondent has violated the statutes and rules as alleged in the Administrative Complaint. Motion carried

Motion: by Dr. Weizer, seconded by Dr. Melvin to accept into evidence the investigative file and requests an opportunity to make a penalty recommendation. Motion carried.

Motion: by Dr. Griffin, seconded by Dr. Weizer to Revoke. Motion carried

Motion: by Dr. Weizer, seconded by Dr. Griffin to access cost in the amount of \$666.85 to be paid within ninety (90) days of the filing of the final order. Motion carried.

**DOW-8 Mia Pharmacy Discount Corp., Miami, FL
Case No. 2009-13221 – PC Griffin/Risch**

Respondent was not present. Respondent was not represented by counsel.

Respondent violated Section 465.023(1) (c), Florida Statutes (2009), by failing to follow proper procedure for closure of a pharmacy by failing to notify the Board of the closure

Motion: by Mr. Garcia, seconded by Dr. Melvin to find that Respondent was properly served, did not the election of rights, and has waived his right to be heard. Motion carried.

Motion: by Dr. Melvin, seconded by Dr. Weizer to adopt the findings of fact as alleged in the Administrative Complaint. Motion carried

Motion: by Dr. Melvin, seconded by Dr. Weizer to adopt the conclusion of law including that Respondent has violated the statutes and rules as alleged in the Administrative Complaint. Motion carried

Motion: by Dr. Melvin, seconded by Dr. Weizer to accept into evidence the investigative file and requests an opportunity to make a penalty recommendation. Motion carried

Motion: by Dr. Melvin, seconded by Dr. Weizer to Revoke. Motion carried

Motion: by Dr. Melvin, seconded by Dr. Weizer to access cost in the amount of \$3,715.47 to be paid within ninety (90) days of the filing of the final order. Motion carried.

**DOW-9 Arti N. Bhavsar, RPH, Orlando, FL
Case No. 2010-16465 – PC Jones/Wilson**

Respondent was not present. Respondent was not represented by counsel.

Respondent violated Section 465.016(1) (n), Florida Statutes (2010), by violating an order of the Board previously entered in a disciplinary hearing.

Motion: by Dr.Griffin, seconded by Dr. Weizer to find that Respondent was properly served, did not the election of rights, and has waived his right to be heard. Motion carried

Motion: by Dr. Griffin, seconded by Dr. Weizer to adopt the findings of fact as alleged in the Administrative Complaint. Motion carried

Motion: by Dr. Melvin, seconded by Dr. Weizer to adopt the conclusion of law including that Respondent has violated the statutes and rules as alleged in the Administrative Complaint. Motion –carried

Motion: by Dr. Griffin, seconded by Dr. Weizer to accept into evidence the investigative file and requests an opportunity to make a penalty recommendation. Motion carried

Motion: by Dr. Weizer, seconded by Dr. Melvin for a fine in the amount of 1, 500 and her license is suspended until she fulfills all prior orders. All fines and cost are to be paid in full and new fine payable within 90 days. Motion carried

Motion: by Dr. Weizer, seconded by Dr. Melvin to access cost in the amount of \$507.55 to be paid within ninety (90) days of the filing of the final order. Motion carried.

D. VOLUNTARY RELINQUISHMENTS

**VR-1 Jorge Rodriguez, RPT, S.W. Ranches, FL
Case No. 2010-23052 – PC Jones/Wilson**

Respondent was not present. Respondent was not represented by counsel.

Respondent violated Section 456.072(1)(II), Florida Statutes (2010), by pled guilty to and being convicted to one felony count of Medicaid Fraud, a crime relating to health care fraud.

Motion: by Dr. Salem, seconded by Dr. Melvin to accept the voluntary relinquishment. Motion carried.

**VR-2 William S. Melnich, RPH, Boynton Beach, FI
Case No. 2011-00623 – PC Waived**

Respondent was not present. Respondent was not represented by counsel.

Respondent was suspected of having violated Sec.465.016(1)(d), Florida Statutes, by being unfit or incompetent to practice pharmacy, because he reintroduced 15 Oxycodone/APAP tablets back into stock after he had learned the inventory was off by 15 tablets.

Motion: by Dr. Griffin, seconded by Dr. Weizer to accept the voluntary relinquishment. Motion carried.

**VR-3 Thomas P. O’Callaghan, RPH, St. Petersburg, FI
Case No. 2009-17537 – PC Garcia/Griffin**

Respondent was not present. Respondent was not represented by counsel.

Respondent violated Section 465.016(1) (f), Florida Statutes (2009) by having been convicted or found guilty of a crime that directly relates to the practice of pharmacy.

Motion: by Dr. Melvin, seconded by Dr. Weizer to accept the voluntary relinquishment. Motion carried.

E. BOARD ACTION BY HEARING NOT INVOLVING DISPUTED ISSUES OF MATERIAL FACT

**I-1 Rosa M. Mahiquez, RPH, Benson, N.C.
Case No. 2009-22681 – PC Salem/Hayes**

Mr. Bibb informed the Board that Ms. Mahiquez has contacted them in regards to settlement agreement. Case continued until August meeting.

Motion: by Mr. Garcia, seconded by Dr. Melvin to continue until the August meeting. Motion carried.

**I-2 Sarah J. Thompson, PSI, Wesley Chapel, FL
Case No. 2008-16035 – PC Garcia/Griffin**

Mr. Bibb informed the Board that Ms. Thompson would like continuance until the August Meeting.

License went Null and Void in 2008.

Motion: by Mr. Garcia, seconded by Dr. Melvin to continue to August. Motion carried.

**I-3 Agnes S. Bergeron, RPH, Palm Beach Gardens, FL
Case No. 2009-20958 – PC Melvin, Risch, Wilson and Jones**

Respondent was present. Respondent was represented by Brian Khan.

Respondent violated Section 465.016(1) (r), Florida Statutes (2009), for violation of Rule of the Board 64B16-28.109, Florida Administrative Code

Motion: by Dr. Griffin, seconded by Dr. Weizer to find that Respondent has filed a motion of hearing by disputed issue of material fact. Motion carried.

Motion: by Dr. Griffin, seconded by Dr. Weizer to adopt the findings of fact as alleged in the Administrative Complaint. Motion carried.

Motion: by Dr. Griffin, seconded by Dr. Weizer to adopt the conclusion of law including that Respondent has violated the statutes and rules as alleged in the Administrative Complaint. Motion carried.

Motion: by Dr. Griffin, seconded by Dr. Weizer to accept into evidence the investigative file and requests an opportunity to make a penalty recommendation. Motion carried.

Motion: by Dr. Salem, seconded by Dr. Weizer to dismiss the case. Motion carried.

**I-4 Andy Ungerleider, RPH, Staten Island, N.Y.
Case No. 2010-09374 – PC Melvin/Risch**

Respondent was / was not present. Respondent was / was not represented by counsel.

Respondent violated Section 465.016(1)(r), Florida Statutes (2009), by violating Rule 64B16-26.103(1) and 64B16-26.603, Florida Administrative Code by failing to submit proof of satisfactory approved continued education courses

The Department suggests the Board entertain a Motion to Proceed by Hearing Not Involving Disputed Issues of Material Fact.

Motion: by Griffin, seconded by Weizer to adopt the findings of fact as alleged in the Administrative Complaint. Motion carried.

Motion: by Griffin, seconded by Weizer to adopt the conclusion of law including that Respondent has violated the statutes and rules as alleged in the Administrative Complaint. Motion carried.

Motion: by Griffin, seconded by Salem to accept into evidence the investigative file and requests an opportunity to make a penalty recommendation. Motion carried.

Motion: by Salem, seconded by Weizer to assess an administrative fine in the amount of \$1000.00 to be paid within ninety (90) days of the filing of the final order. Dr. Salem suggested that he complete 36 general, 20 live and 4 medication errors for total of 60 hours continuing education hours within 18 months of filing final order. Motion carried.

Motion: by Griffin, seconded by Weizer to assess costs in the amount of \$728.24 to be paid within ninety (90) days of the filing of the final order. Motion carried.

F. PROFESSIONALS RESOURCE NETWORK CASES

PRN - INFORMALS

TAB 5 APPLICATIONS REQUIRING BOARD REVIEW– Allison Dudley, Assistant Attorney General and Cynthia Griffin, PharmD

A. Endorsement Candidates

1. Eugene Michael Park, File 39391

Applicant was not present nor represented by counsel.

Applicant answered yes to disciplinary action being taken against license

Motion: by Dr. Griffin, seconded by Dr. Weizer to approve with condition that he has a PRN evaluation and comply with any recommendations. Delegate the board chair review the evaluation for approval. Motion carried.

2. Deborah Tolland, File 39725

Applicant was present and sworn in by the court reporter she was not represented by counsel.

Applicant answered yes to disciplinary action being taken against license

Motion: by Dr. Griffin, seconded by Dr. Melvin to approve with a PRN contract and comply with all terms and conditions of the evaluation. Be placed on probation at a minimum to run with PRN contract. Once the evaluation is complete must reappear before the board for terms and conditions of probation or PRN recommendations. Cannot practice until she appears back before the board. Motion carried.

3. Robert McGory, File 39365

Applicant was present and sworn in by the court reporter. Applicant was not represented by counsel.

Applicant submitted documentation for his endorsement application that does not meet the requirements for licensure.

Motion: by Dr. Griffin to deny based on the documents he submitted does not meet the requirements for endorsement. Motion failed.

Motion: by Dr. Melvin, seconded by Dr. Garcia to approve the application. Motion carried with Dr. Griffin opposing.

B. Registered Pharmacy Technician

1. David Harvey

Applicant was not present. Applicant was not represented by counsel.

Applicant was denied at the December 8, 2010 meeting for not supplying criminal history documents. Applicant has supplied them and is being sent to board due to multiple DUI convictions.

Motion: by Dr. Weizer, seconded by Dr. Melvin to Deny the application. Motion carried

C. Registered Pharmacy Technician Reconsideration

1. Deborah June Adams

Applicant was not present nor represented by counsel.

Applicant was denied at December 27, 2010 meeting for failing to supply criminal history documents.

Motion: by Dr. Weizer, seconded by Dr. Melvin to Deny the reconsideration. Motion carried

2. David W. Smith

Applicant answered yes to criminal history, however failed to provide documentation. He was denied at December 27, 2010 meeting for failing to supply criminal history documents. On April 14, 2011 submitted his material.

Motion: by Dr. Melvin, seconded by Dr. Weizer to reconsider.

Motion: by Dr. Melvin, seconded by Dr. Weizer to approve. Motion carried

3 Joyce Ann Stratman

Applicant answered yes to health history questions. However failed to provide documentation. On April 27, 2011 submitted a written statement she answered those questions in error. Dr. Weizer asked that the documentation she submitted be a permanent part of her file.

Motion: by Dr. Weizer, seconded by Dr. Melvin to reconsider.

Motion: by Dr. Weizer, seconded by Dr. Melvin to approve. Motion carried

4. Sandra Jordon

Applicant was denied due to multiple convictions on her background

Motion: by, Dr. Weizer, seconded by Dr. Melvin waived right to hearing.

Motion: by Dr. Griffin, seconded by Dr. Melvin continue until next meeting pending copies of certified court documents and release date from probation.

D. Examination Candidates

1. Benjamin Louis Levy, File 39960

Applicant was present was not represented by counsel.

Applicant answered yes to criminal history and entered into a PRN contract.

Dr. Rivenbark stated he has signed a 5 year contract and he is safe to practice at this time in full compliance.

Motion: Dr. Griffin, seconded by Dr. Melvin to sit for the exam and that he continue with his PRN contract and remains in compliance. Before the license is issued have a report from PRN that he is compliant and that the Board chair review for approval.

E. Null and Void Pharmacy Technicians

1. Rachel Atchison

Applicant was present was represented by manager of the pharmacy Larry King.

Applicant asking for reconsideration of her null and void technician license.

Motion: by, Dr. Melvin, seconded by Mr. Garcia to reconsider

Motion: by, Dr. Melvin, seconded by Mr. Garcia to approve. Motion Carried

2. Jessica Ramos

Applicant was present was represented by manager of the pharmacy Larry King

Applicant asking for reconsideration of her null and void technician license.

Dr. Rivenbark stated Ms. Ramos entered into a contract in June 2010 and is in full compliance with her contract.

Motion: by, Dr. Weizer, seconded by Dr. Melvin to reconsider

Motion: by, Dr. Weizer, seconded by Dr. Melvin to approve. Motion carried.

3. Kelly Marie Hicks

Applicant was present was not represented by legal counsel.

Applicant asking for reconsideration of her null and void technician license. She admits in her letter that she did not send the documentation on time for her application. Also has criminal history.

Motion: by, Dr. Melvin, seconded by Mr. Garcia to reconsider.
Dr. Weizer opposed Motion carried.

Motion: by, Mr. Garcia, seconded by Dr. Melvin to approve
Dr. Weizer opposed Motion carried

F. Non-Resident Pharmacy Application

1. Curascript Inc.

Applicant was not present nor represented by counsel.

Applicant answered yes to being disciplined in another state.

Motion: by Dr. Griffin, seconded by Dr. Melvin to approve. Motion passed with Dr. Weizer and Ms.Risch opposed

TAB 6 LICENSURE ISSUES – Allison Dudley, Attorney

A. Termination of Probation

1. John O. Moses, R.Ph.

Applicant was present and sworn in by the court reporter. Applicant was represented by Ed Bayo.

Applicant is asking for termination of probation. Once probation terminated he will remain in PRN has a licensure long contract.

Dr. Rivenbark stated he is in complete compliance and have no problem with random drug screens.

Motion: by Dr. Melvin, seconded by Mr. Garcia to approve the removal of probation.

B. Request for Extension of Time

1. Shafali Data, PS 25758

Applicant was not present nor represented by council.

Applicant asking for extension of time to complete CE.

Motion: by Dr. Weizer, seconded by Dr. Melvin to approve. Motion carried.

C. Reconsideration of Probation

1. Erik DeSimone

Applicant was not present applicant was represented by Ed Bayo.

Ms. Dudley drafted the order incorrectly and in fact he was on probation. The Georgia probation is tolled because he is located in Florida.

Dr. Rivenbark stated he completed his PRN contract with PRN.

Motion: by Dr. Melvin, seconded by Mr. Garcia to approve the removal of probation. Motion carried.

Public Comment:

Mr. Jackson gave update of what Florida Pharmacy association was working on in the 2011 legislative session. Also commented on the upcoming meeting and they will be giving 50 year pharmacist certificates and invited the members to attend.

Meeting adjourned at 12:11 p.m.