

Draft Meeting Minutes  
DEPARTMENT OF HEALTH  
BOARD OF PHARMACY  
FULL BOARD MEETING

October 18-19, 2011  
Monroe Street Conference Center  
2714 Graves Road  
Tallahassee, FL 32303

**Board Members:**

Fritz Hayes, BPharm, Chair, Miami  
Cynthia Griffin, PharmD, Vice Chair, Jacksonville  
Michele Weizer, PharmD, Boca Raton,  
Albert Garcia, BPharm, MHL, Miami  
Gavin Meshad, Consumer Member, Sarasota  
Jeffrey J. Mesaros, PharmD, Tampa  
Lorena Risch, Consumer Member, Bradenton  
Ron Salem, PharmD, Jacksonville  
DeAnn Mullins, BPharm, Lynn Haven

**Board Staff:**

Mark C. Whitten, Executive Director  
Tammy Collins, Program Operations Administrator  
Dinah Skrnich, Program Manger, CDDP  
Cara Waldrip, Regulatory Specialist II

**Board Counsel:**

Allison Dudley, Assistant Attorney General  
Dan Biggins, Assistant Attorney General

**Department of Health Staff:**

William Miller, Assistant General Counsel  
David Bibb, Assistant General Counsel

**Tuesday, October 18, 2011 – 10:00 a.m.**

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

The meeting was called to order by the Chair, Mr. Hayes. Absent was Albert Garcia. Dan Biggins was present in Allison Dudley's absence.

**TAB 1 PETITION FOR DECLARATORY STATEMENT / VARIANCE OR WAIVER –  
Dan Biggins, Assistant Attorney General**

**1. Baptist Medical Park Pharmacy-64B16-27.797- Standards of Practice for Compounding Sterile Preparations**

Robert Cummings was present on behalf of Baptist Medical Park Pharmacy and was sworn in by the court reporter.

**Motion:** by Dr. Salem, seconded by Dr. Griffin to find standing. Motion carried.

**Motion:** by Dr. Weizer, seconded by Dr. Griffin to deny request. Motion carried.

## **2. Florida RX Solutions -64B16-28.400 and 465.0265 Centralized Prescription Filling, Delivering and Returning**

Florida RX Solutions was represented by Martin Dix.

**Motion:** by Dr. Salem, seconded by Mr. Meshad to find standing. Motion carried.

**Motion:** by Dr. Salem, seconded by Dr. Weizer to issue a declaratory statement that he can perform what is requested in petition. Motion carried.

### **TAB 2            REPORTS**

#### **A. Chair's Report – Fritz Hayes, BPharm**

##### **1. Presentations**

- a. Recognized Jim Powers and Amy Jones and presented each with a plaque from the Board of Pharmacy for their service on the Board.
- b. Recognized Dinah Skrnich and presented her with a plaque for her service.
- c. Shared his efforts for outreach: in August he spoke with NOVA Southeast P1 class as a welcome to pharmacy presentation during their second week of school. Part of his message to them was that it is important to be active in the profession. Mr. Hayes will be speaking next week with NOVA P3's and discussing Prescription Department Manager responsibilities.
- d. Fritz Hayes reported on the annual long range planning meeting that he attended with Cynthia Griffin and Mark Whitten. He stated it was very informative and the highlight was the communication of the strategic focus for the Department of Health. One point in particular that stood out was the focus on how to improve communication.

##### **2. Third Party Audit**

Michael Jackson, Executive Vice President and CEO of Florida Pharmacy Association, spoke to the Board about the issue of third party audits. He stated that more than 90% of prescriptions filled by community pharmacies are processed by or paid for by healthcare plans. Through their audits, these entities want to ensure that the services being delivered and are accurately billed. There appear to be competing standards by which the health care industry reviews these pharmacies through these third party auditors. Michael Jackson expressed concern that these standards could have impact on patient access to care. He also expressed concern with the confusion around the counterfeit blanks.

Fritz Hayes in response acknowledged confusion around counterfeit blanks from approved vendors and stated that pharmacists are being held responsible when there are discrepancies with the counterfeit blanks that come from approved vendors. He stated this has caused and will continue to cause concern regarding a pharmacists' risk when filling prescriptions and how it may affect the access to patient care.

Ron Salem commented that these third party auditors have an appeals process although ultimately they have all the authority to deduct fees paid based on their audits. He suggested having a standard or some process that will allow pharmacists and insurance entities to come to an agreement on how audits are performed and how issues get resolved. Dr. Salem looked to the Board to help facilitate a rule process or legislation to aid in leveling the playing field for resolving issues when they arise. He also stated that appropriate time needs to also be looked at to allow for sufficient time to gather all information for audits.

After discussion, the Board asked Mr. Whitten to look into how other states have dealt with this issue and to look into how the changes were implemented to have a better idea how to move forward with changes to the third party auditing process.

### **3. Out of State and Country Prescriptions**

Board staff has been receiving many calls regarding the out of state or country prescription pads. The Board would like to see some help from the Department of Health with approved vendors and clarifying who should be held responsible when vendors are operating under contract and when pharmacists fill a prescription from an approved vendor.

**Motion:** by Dr. Griffin, seconded by Dr. Weizer to draft language to be approved by the Board Chair after review to the effect that the Board's position is essentially: if a pharmacist fills a prescription that is coming from an approved vendor the prescription pad is considered by the Board to be an approved blank. Motion carried.

Mr. Biggins will draft language for the Chair's approval to reflect the Board's statement and Dr. Weizer requests this language to be placed on the Board web page.

## **B. Rule Discussion and Review –Fritz Hayes, BPharm**

### **1. Rebecca Poston – Prescription Drug Monitoring Program**

Rebecca Poston was not able to attend the meeting. An update on the Prescription Drug Monitoring program will be added to the December meeting for her to share with the Board.

## **C. Executive Director's Report – Mark Whitten, Executive Director**

### **1. Laura Tipton, R.Ph. University of Florida**

Request for closure during Thanksgiving Holiday

**Motion:** by Dr. Salem, seconded by Dr. Griffin to approve request for closure during holiday. Motion carried.

### **2. Charles E. Justice, PS, 31662, Floresta Pharmacy**

Request for pharmacy manager at 2 locations.

**Motion:** by Dr. Weizer, seconded by Dr. Griffin to deny the request based on no mitigating circumstances provided and the significant distance between the two locations. Motion carried.

### **3. Joe Hoffmann, PS 30268, Bayfront Medical Center**

Request for pharmacy manager at 2 locations.

**Motion:** by Dr. Weizer, seconded by Dr. Mesaros to approve request. After discussion, Motion withdrawn by Dr. Weizer.

**Motion:** by Dr. Griffin, seconded by Dr. Salem to move this request until the December meeting with request for appearance if, prior to that meeting, the communication from the Board staff with the Mr. Hoffman does not otherwise resolve the situation. Motion carried with Dr. Weizer in opposition.

#### **4. Introduce new Board Pharmacist – Allison Tate**

Mr. Whitten introduced Allison Tate as the new Board Pharmacist. Allison Tate was present and spoke briefly about her background in pharmacy and that she looked forward to working with the Board.

#### **5. Review of Community Pharmacy Application – Addendum**

Some changes were made to the paper application as well as the online format of the Community Pharmacy Application.

**Motion:** by Dr. Weizer, seconded by Ms. Mullins to approve the new Community Pharmacy Application. Motion carried.

Mr. Whitten expressed the need for consistency with the Policies and Procedures. The Board, office staff, and the Board attorney will work on writing these Policies and Procedures.

#### **D. Attorney General’s Report – Dan Biggins, Assistant Attorney General**

##### **1. Rule 64B16-30.001 Disciplinary Guidelines**

Dan Biggins introduced the new language proposed under Rule 64B16-30.001 as a result of HB 7095. The disciplinary guideline for a violation of section 465.016(1)(t), Florida Statutes, is created at Rule 64B16-30.001(e)1n, Florida Administrative Code, committing error or omission in performance of a specific function of prescription drug processing.

Mr. Hayes recommends amending the terms of this guideline for the penalty range minimum to be \$250 instead of \$500.

**Motion:** by Mr. Hayes, seconded by Dr. Salem to accept the proposed language with the amendment that the minimum penalty is set at \$250. Motion carried.

Dan Biggins also pointed out that rule 64B16-28.100 needs to be updated to reflect the new application that was approved today for the Community Pharmacy Application.

##### **2. Office of the Governor**

Based on the results of a case in response to how rules are approved, the process has changed to no longer require approval from the Office of Fiscal Accountability and Regulatory Reform (OFARR) but instead requires notification of such rules. The Board will now notify them as rules are being filed for the purposes of evaluation and review. Any comments from these entities will then come back to the Board for review.

##### **3. Rules for Possible Repeal – Addendum**

**Motion:** by Dr. Weizer, seconded by Dr. Griffin to repeal 64B16-25.130 and 64B16-29.003 based on unnecessary redundancy. Motion carried.

**Motion:** by Dr. Weizer, seconded by Dr. Griffin that in response to the matter of estimated regulatory cost there is no financial impact involved in repealing these rules. Motion carried.

#### **4. Settlement Agreement – Addendum**

**Motion:** by Dr. Salem, seconded by Dr. Weizer to accept the Settlement Agreement. Motion carried.

#### **E. Prosecuting Attorney Report –Bill Miller, Assistant General Counsel**

##### **1. Prosecuting Services Report**

Bill Miller shared the current case load for prosecution services for pharmacy cases. He stated that older cases were a focus of their efforts and that there is a reduction in the amount of older cases. Mr. Miller shared that due to new cases, the overall case load grew by 9. They continue to work on eliminating the older cases.

**Motion:** by Dr. Salem, seconded by Dr. Weizer to continue prosecuting old cases. Motion carried.

#### **F. Chief Investigative Services Report- Jeanne Clyne**

Jeanne Clyne shared how the inspections are going. She stated they are concentrating on dispensing practitioner inspections. They are starting pain clinic inspections but it is a slow process since it is an entirely new procedure. By the end of this month, all offices will be doing these inspections. Jeanne Clyne reported she has been having on-going dialogue with Mark Whitten and requests patience in working through this process and getting everyone on the same page.

#### **TAB 3 BUSINESS – Fritz Hayes, BPharm, Chair**

##### **A. Ratification of Issued Licenses/Certificates & Staffing Ratios**

1. Pharmacist (Licensure) (Client 2201) – 724
2. Pharmacist (Exam Eligibility) (Client 2201) – 127
3. Pharmacist Interns (Client 2202) – 100
4. Registered Pharmacy Technicians (Client 2208) – 942
5. Consultant Pharmacist (Client 2203) – 35
6. Nuclear Pharmacist (Client 2204) – 0
7. Pharmacies/Facilities (Client 2205) – 80
8. Registered Pharmacy Technician Ratios (2:1 or 3:1)- 88
9. Pharmacy Technician Training Program (Client 2209) - 49
10. CE Providers – 32
11. CE Courses - 4
12. CE Individual Requests – 0

**Motion:** by Dr. Weizer, seconded by Dr. Griffin to ratify. Motion Carried unanimously.

**B. Review and Approval of Minutes**

**1. August 2-3, 2011**

**Motion:** by Dr. Weizer, seconded by Dr. Salem to approve. Motion carried.

Fritz Hayes opened up the floor for comments or questions.

Dr. Salem inquired about a follow up for compounding controls from the last Board meeting. Mr. Hayes relayed that the Department of Health chose not to do a follow up due to the movement of Drugs, Devices, and Cosmetics to the Department of Business and Professional Regulation (DBPR). DBPR is reviewing the information and at this point they have chosen not to do a presentation or follow up.

Brian Kahan shared a suggestion regarding the Board website. He stated that he has received generally good comments about the new website but one of the concerns that many people have is that regulations are hard to find. If it is possible, create a mechanism for a licensee to better communicate with them regarding all of the regulations. In response, Mark Whitten expressed his efforts to communicate. Mr. Whitten is looking to target the audience and give consistent information. One idea he has is to initiate conference calls to the public and to specific audiences in order to better communicate as well as understand the questions and concerns people have that he can address.

**WEDNESDAY, October 19, 2011**

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

**TAB 4 DISCIPLINARY CASES – William Miller, Assistant General Counsel and David Bibb, Assistant General Counsel and Fritz Hayes, BPharm**

**A. SETTLEMENT AGREEMENT – NON APPEARANCE CASES**

**NA-1 Melissa L. Fox, Gainesville, FL  
Case No. 2011-06728 – PCP Weizer/ Risch**

Respondent was not present nor represented by counsel.

Respondent violated Section 465.016(1)(g), Florida Statutes (2010), by furnishing upon prescription an ingredient or article different in any manner from the ingredient or article.

Respondent shall pay a fine in the amount of \$1,000.00 to be paid within 90 days. Cost of \$982.05 to be paid within 90 days. Respondent shall complete a 2 hour course on medication errors that covers the study of root-cause analysis, error reduction and prevention, and patient safety in addition to standard CE required.

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

**NA-2 Constance Willman, Brooklyn, NY  
Case No. 2009-24410 – PCP Weizer/Risch**

Respondent was not present nor represented by counsel.

Respondent violated Section 465.016(1)(h), Florida Statutes (2008), by having her certificate of registration suspended by a the Nevada State Board of Pharmacy, a regulatory agency in another state, for an offense that would constitute a violation of Section 465.016(1)(m), Florida Statutes.

Respondent shall pay a fine in the amount of \$1,000.00 to be paid within 90 days. Cost of \$841.69 to be paid within 90 days. Respondent's license shall be suspended until PRN or its equivalent for impaired professionals in Nevada recommends to the Florida Board of Pharmacy that respondent is able to practice as a licensed pharmacist competently and with reasonable skill and safety. During the time of suspension respondent shall in no way participate in preparation of medicinal drugs for dispensing or in the actual dispensing. On termination of suspension, respondent shall be placed on probation with the Department for 3 years. During time on probation respondent will comply with all requirements of settlement agreement and ensure compliance with rules and laws.

**Motion:** by Dr. Salem, seconded by Dr. Griffin to accept the settlement agreement with the amended clarification that the Board has the ability to review a recommendation from the Nevada Board prior to removing the suspension. Motion carried.

**NA-3                    Maged Ibrahim Shalaby, Panama City, FL  
Case No. 2011-07073 – PCP Weizer/Risch**

Respondent was not present nor represented by counsel.

Respondent violated Section 465.016(1)(g), Florida Statutes (2010), by furnishing upon prescription an ingredient or article different in any manner from the ingredient or article prescribed.

Respondent shall be present for this agreement. Respondent shall pay a fine in the amount of \$1,000.00 to be payable within 90 days. Cost of \$678.85 to be payable within 90 days from the date the final order is filed. Respondent shall complete, in addition to standard CE requirements, a 2 hour course on medication errors that covers study of root-cause analysis, error reduction and prevention, and patient safety.

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

**B.            SETTLEMENT AGREEMENT– APPEARANCE REQUIRED CASES**

**SA-1                    Christopher Michael Cutolo, Palm Beach Gardens, FL  
Case No. 2011-03036 – PCP Salem/Griffin**

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

Respondent violated Section 465.016 (1)(g) for prescription error.

Respondent shall be present for this agreement. Respondent shall pay a fine in the amount of \$550.00 to be payable within 90 days. Cost of \$597.99 to be payable within 90 days from the date the final order is filed.

**Motion:** by Dr. Weizer, seconded by Ms. Mullins to accept the settlement agreement. Motion carried.

**SA-2                    Tamera Ann Hanson, Naples, Fl**  
**Case No. 2009-24283 - PCP Weizer/Risch**

Respondent was present and sworn in by the court reporter. Respondent was represented by Marty Dix.

Respondent violated Section 465.016 (1) (9) Florida Statute for prescription error.

Respondent shall be present for this agreement. Respondent shall pay a fine in the amount of \$500.00 to be payable within 90 days. Cost of \$1,650.94 to be payable within 90 days from the date the final order is filed. Respondent shall successfully complete an 8 hour prescription error course within one (1) year of filing of the Final Order. CE hours shall be in addition to hours required for license renewal. Within ten (10) days of course completion respondent will mail a copy of CE certificate of completion to Pharmacy Compliance Officer.

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

**SA-3                    Larry Martin Katz, Jacksonville, FL**  
**Case No. 2010-09667 – PCP Weizer/Risch**

Respondent was present and sworn in by the court reporter. Respondent was represented by Edwin Bayo.

Respondent violated Section 465.016(1)(g), Florida Statutes (2010), by furnishing upon prescription an ingredient or article different in any manner from the ingredient or article prescribed.

Respondent shall be present for this agreement. Respondent shall pay a fine in the amount of \$250.00 to be payable within 90 days. Cost of \$1,349.34 to be payable within 90 days from the date the final order is filed. Respondent shall successfully complete a 2 hour CE course on medication errors covering root-cause analysis. CE hours shall be in addition to hours required.

**Motion:** by Dr. Salem, seconded by Ms. Mullins to accept the settlement agreement. Motion carried.

**SA-4                    Alice Sayago, Tamarac, Fl**  
**Case No. 2009-22151 – PCP Weizer/Risch**

Respondent was present and sworn in by the court reporter. Respondent was represented by Maria Arista-Volsky.

Respondent violated Section 465.016(1)(g), Florida Statutes (2009), by furnishing upon prescription, an ingredient or article different in any manner from the ingredient or article prescribed.

Respondent shall be present for this agreement. Respondent shall pay a fine in the amount of \$1,000.00 to be payable within 90 days. Cost of \$2,686.74 to be payable within 1 year from the date the final order is filed. Respondent shall successfully complete an 8 hour prescription error course within 1 year of filing the Final Order. CE hours shall be in addition to hours required for license renewal. Within ten (10) days of completion of course/receipt of certificate of completion, respondent shall mail copy of certificate to Pharmacy Compliance Officer.

**Motion:** by Dr. Salem, seconded by Dr. Mesaros to accept the settlement agreement. Motion carried.

**SA-5                    Anne Michelle Rafidi, Jacksonville, FL**  
**Case No. 2009-01490 – PCP Weizer/Risch**

Respondent was present and sworn in by the court reporter. Respondent was represented by Veronica Clifford.

Respondent violated Section 465.016(1)(i), Florida Statutes (2007), by dispensing a legend drug other than in the course of the professional practice of pharmacy.

Respondent shall be present for this agreement. Respondent shall pay a fine in the amount of \$500.00 to be payable within 90 days. Cost of \$1,722.49 to be payable within 90 days from the date the final order is filed. Respondent shall successfully complete a 12 hour Laws and Rules course within 1 year of filing the Final Order. CE hours shall be in addition to hours required for license renewal. Within ten (10) days of completion of course/receipt of certificate of completion, respondent shall mail copy of certificate to Pharmacy Compliance Officer.

**Motion:** by Dr. Salem, seconded by Ms. Mullins to accept the settlement agreement. Motion carried.

**SA- 6                    Diane Marie Smith, New Smyrna Beach, Fl**  
**Case No. 2010-20808 – Weizer/Risch**

Respondent was present and sworn in by the court reporter. Respondent was represented by Edwin Bayo.

Respondent violated Section 465.016(1)(r), Florida Statutes (2010), through a violation of Section 456.072(1)(a), Florida Statutes (2010), by making misleading, deceptive, or fraudulent representations in or related to the practice of the licensee's profession.

Respondent shall be present for this agreement. Respondent shall pay a fine in the amount of \$2,000.00 to be payable within 90 days. Cost of \$2,745.64 to be payable within 90 days from the date the final order is filed. The license of Respondent shall be placed on 2 year probationary period to commence upon filing of final order. During period of probation, Respondent may not act as prescription department manager for any Florida pharmacy.

**Motion:** by Dr. Salem, seconded by Dr. Mesaros to accept the settlement agreement. Motion carried.

Fritz Hayes added that he recommended respondent take the 12 hour Laws and Rules Continuing Education, though it was not a part of the settlement agreement, he thought it would be a good idea.

**C.                    DETERMINATION OF WAIVER**

**DOW-1                Tamara R. Schulte, Gulf Breeze, FL**  
**Case No. 2010-13563 – PCP Salem/Griffin**

Respondent was not present nor represented by counsel.

Respondent violated Section 456.072(1)(hh), Florida Statutes (2010), by having been terminated from a treatment program for impaired practitioners, which is overseen by an impaired practitioner consultant as described in Section 456.076; for failure to comply, without good cause, with the terms of the monitoring

or treatment contract entered into by the licensee; or for not successfully completing any drug treatment or alcohol treatment.

**Motion:** by Dr. Weizer, seconded by Ms. Risch to accept the investigative report into evidence for the purposes of imposing a penalty. Motion carried.

**Motion:** by Dr. Weizer, seconded by Mr. Meshad to find that Respondent was properly served and has waived the right to a formal hearing. Motion carried.

**Motion:** by Dr. Weizer, seconded by Mr. Meshad to adopt the findings of fact and the conclusions of law set forth in the Administrative Complaint and find that this constitutes a violation of the Pharmacy Practice Act as set forth in the Administrative Complaint. Motion carried.

**Motion:** by Dr. Weizer, seconded by Mr. Meshad to accept the recommendation of indefinite suspension until practitioner completes PRN or is recommended for reinstatement by PRN. Motion carried.

**Motion:** by Dr. Weizer, seconded by Ms. Risch to assess costs in the amount of \$4,296.61 to be paid within 90 days that the respondent comes before Board asking for reinstatement. Motion carried.

**DOW-2            Kimberely Marie Johnson, Baldwin, FL  
                         Case No. 2010-14748 – PCP Weizer/Risch**

Respondent was not present nor represented by counsel.

Respondent violated section 465.014(8), Florida Statutes (2010), through a violation of Section 456.072(1)(a), Florida Statutes(2010), by making misleading, deceptive, or fraudulent representations in or related to the practice of the licensee's profession.

**Motion:** by Dr. Griffin, seconded by Ms. Mullins to accept the investigative report into evidence for the purposes of imposing a penalty. Motion carried.

**Motion:** by Dr. Griffin, seconded by Dr. Salem to find that Respondent was properly served and has waived the right to a formal hearing. Motion carried.

**Motion:** by Dr. Griffin, seconded by Dr. Salem to adopt the findings of fact and the conclusions of law set forth in the Administrative Complaint and find that this constitutes a violation of the Pharmacy Practice Act and 465.014(8), Florida Statutes, as set forth in the Administrative Complaint. Motion carried.

**Motion:** by Dr. Salem, seconded by Dr. Mesaros to suspend license until respondent is evaluated by PRN and appears before the Board. Respondent shall pay a fine in the amount of \$2,500.00 to be paid in a manner to be determined by the Board upon appearing for reinstatement. Motion carried.

**Motion:** by Dr. Salem, seconded by Mr. Meshad to assess costs in the amount of \$1,663.32 to be paid in a manner determined by the Board when the respondent comes before Board for reinstatement. Motion carried.

**DOW-3            Ebony Drugs, LLC, Miami, Fl**  
**Case No. 2010-22375 – PCP Weizer/Risch**

Respondent was not present nor represented by counsel.

Respondent violated Section 465.023(1)(c), Florida Statutes (2010), 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. Griffin, seconded by Dr. Salem to accept the investigative report into evidence for the purposes of imposing a penalty. Motion carried.

**Motion:** by Dr. Salem, seconded by Dr. Griffin to find that Respondent was properly served and has waived the right to a formal hearing. Motion carried.

**Motion:** by Dr. Griffin, seconded by Dr. Salem to adopt the findings of fact and the conclusions of law set forth in the Administrative Complaint and find that this constitutes a violation of 465.023(1)(c), Florida Statutes through a violation of Rule 64B16-28.202(3)(a), Florida Administrative Code as set forth in the Administrative Complaint. Motion carried.

**Motion:** by Dr. Griffin, seconded by Dr. Salem to accept the recommendation to revoke the license. Motion carried.

**Motion:** by Dr. Griffin, seconded by Dr. Salem to assess costs in the amount of \$2,075.88 payable within 90 days. Motion carried.

**DOW-4            George A. Quaye Jr., Sicklerville, NJ**  
**Case No. 2010-16784 – PCP Melvin/Risch**

Respondent was not present nor represented by counsel.

Respondent violated Section 465.016(1)(n), Florida Statutes (2009), by violating an order of the Board previously entered in a disciplinary hearing.

**Motion:** by Dr. Weizer, seconded by Dr. Griffin to accept the investigative report into evidence for the purposes of imposing a penalty. Motion carried.

**Motion:** by Dr. Weizer, seconded by Dr. Salem to find that Respondent was properly served and has waived the right to a formal hearing. Motion carried.

**Motion:** by Dr. Weizer, seconded by Dr. Griffin to adopt the findings of fact and the conclusions of law set forth in the Administrative Complaint and find that this constitutes a violation of Section 465.016(1)(n), Florida Statutes, as set forth in the Administrative Complaint. Motion carried.

**Motion:** by Dr. Weizer, seconded by Dr. Salem to revoke the license citing aggravating factors to include three prior violations, not completing continuing education required, and that he has not paid fines. Motion carried.

**Motion:** by Dr. Weizer, seconded by Dr. Griffin to assess costs in the amount of \$487.69 to be paid in 30 days. Motion carried.

**DOW -5            David Michael Midgett, Oviedo, FL**  
**Case No. 2008-22353, 2008-22248, 2008-27984 – PCP Garcia/Hayes**

Bill Miller informed the Board that this case had been tabled for this agenda.

**C.        VOLUNTARY RELINQUISHMENTS**

The voluntary relinquishments VR-1, VR-2, VR-3, and VR-4 were voted on as a group.

**Motion:** by Ms. Risch, seconded by Ms. Mullins to accept the voluntary relinquishments for agenda items VR-1 through VR-4. Motion carried.

**VR-1                Abby Louise Mcaleney, Plantation, Fl**  
**Case No. 2010-21352 – PCP Garcia/Weizer**

Respondent was not present nor represented by counsel.

Violation: Subject diverted drugs. Violation of 465.016 (1)(e) by violation of Section 893.13(6)(a)

The Department suggests that the Board entertain a Motion Accepting the Voluntary Relinquishment executed by Respondent in resolution of this case.

**VR-2                Yolaine G Pouhe, Harlingen, Texas**  
**Case No. 2010-00865 – PCP Salem/Griffin**

Respondent was not present nor represented by counsel.

Violation: may have violated sections of the Texas Pharmacy Code by entering a plea of guilty to the felony offense of murder and being diagnosed with Major Depressive Disorder and Post Traumatic Stress Disorder.

The Department suggests that the Board entertain a Motion Accepting the Voluntary Relinquishment executed by Respondent in resolution of this case.

**VR-3                Roxann Susen Condone, Tampa, Fl**  
**Case No. 2010-16444 & 2010-23675 - PCP Salem/Griffin**

Respondent was not present nor represented by counsel.

Violation: Respondent has violated Section 456.072(1)(z), Florida Statutes (2010), by being unable to practice as a registered pharmacy technician with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition.

The Department suggests that the Board entertain a Motion Accepting the Voluntary Relinquishment executed by Respondent in resolution of this case.

**VR-4 Betty Lynn Ard, Pensacola, FL  
Case No. 2011-12583 - PCP Waived**

Respondent was not present nor represented by counsel.

Violation: Section 456.072(1)(a)(b)(z), Florida Statutes (2011) Section 465.015(2)(b)(c), Florida Statutes (2011) Section 465.016(1)(d)(e)(i)(m)(r), Florida Statutes (2011)

The Department suggests that the Board entertain a Motion Accepting the Voluntary Relinquishment executed by Respondent in resolution of this case.

**VR-5 Linda R. Eichhorn, Middle Village, NY  
Case No. 2010-05724 - PCP Melvin/Wilson**

Respondent was not present nor represented by counsel.

Violation: Respondent violated Section 465.016(1)(e), FS, by violating a rule of the Board or Department, through a violation of Rule 64B16-026.103(1) and 64B16-26.603, FAC, by failing to submit proof satisfactory to the Board that during the biennial period preceding the renewal period the applicant has participated in not less than 30 hours of approved courses of continued professional pharmaceutical education and failing to retain documents of participation in continuing education programs required for license renewal for not less than two years after the license is renewed for audit purposes.

The Voluntary Relinquishment was withdrawn – see F-1.

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

**I-1 Leomeli Investment Corp, Doral, FL  
Case No. 2009-18896 – PCP Powers/Jones**

Respondent was not present nor represented by counsel.

Violation:

Charge I Respondent violated Section 465.023(1)(c), Florida Statutes, by violating a requirement of Chapter 465, namely, Section 465.018, Florida Statutes (2008-2009), by failing to appoint a successor prescription department manager and/or notify the Board or department of a change in the identity of the prescription department manager.

Charge II Respondent has violated Section 465.023(1)(c), Florida Statutes (2009), by violating 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, failing to return the pharmacy permit to the Board upon closure, failing to advise the Board which permittee was to receive the prescription files.

Charge III Respondent has violated Section 465.023(1)(c), Florida Statutes (2009-2009), by violating Rule 64B16-28.203, Florida Administrative Code, by failing to notify the Board of the name, address, pharmacy permit number and DEA registration number of the transferee entity, the date on which the

transfer will occur, and a complete inventory of all medicinal drugs within the provisions of Section 893.03, Florida Statutes, as of the date of the transfer.

**Motion:** by Dr. Weizer, seconded by Dr. Griffin to accept the investigative report into evidence for the purposes of imposing a penalty. Motion carried.

**Motion:** by Dr. Weizer, seconded by Dr. Griffin to find that Respondent was properly served and that an informal hearing is warranted. Motion carried.

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

**Motion:** by Dr. Weizer, seconded by Dr. Griffin to adopt the findings of fact and the conclusions of law as set forth in the Administrative Complaint and find that this constitutes a violation of the Pharmacy Practice Act as set forth in the Administrative Complaint. Motion carried.

**Motion:** by Dr. Salem, seconded by Ms. Mullins to revoke the license without a fine. Dr. Weizer offered the amendment of a \$2,000.00 fine. The amendment was accepted by Dr. Salem, seconded by Ms. Mullins. Motion carried.

**Motion:** by Dr. Salem, seconded by Dr. Weizer to assess costs in the amount of \$597.56 to be paid in 90 days.

**I-2                    Joseph Brown, RPH, Lake Worth, FL  
Case No. 2011-08871, Salem/Weizer**

Respondent was not present nor represented by counsel.

Violation: Respondent violated Section 465.016, Florida Statutes (2010), by distributing legend drugs, including controlled substances, other than in the course of the professional practice of pharmacy.

The Department requested this case to be withdrawn to be presented at a later time.

**Motion:** by Dr. Griffin, seconded by Dr. Mesaros to withdraw this case from the agenda to present at a later time. Motion carried.

**I-3                    Express RX, Inc., Green Acres, FL  
Case No. 2011-09625 – PCP Salem/Griffin**

Respondent was not present nor represented by counsel.

Violation: Violated Section 465.023(1)(d), Florida Statutes (2010), by violating Rule 64B16-28.109(3).

Express RX, Inc. submitted a Voluntary Relinquishment for the Board's consideration.

**Motion:** by Dr. Weizer, seconded by Ms. Mullins to accept the Voluntary Relinquishment. Motion carried.

**I-4                    E & T Pharmacy, West Palm Beach, FL**  
**Case No. 2011-01321 – PCP Salem/Griffin**

Respondent, represented by Ephrem Degefu, was present and sworn in by the court reporter. Respondent was represented by Brian Kahan.

Violation:

Count I Respondent violated section 465.023(1)(c), Florida Statutes, by filling and dispensing medication from a prescription not prescribed by a duly licensed practitioner authorized by the laws of the state to prescribe such drug in violation of Chapter 893, Florida Statutes.

Count II Respondent dispensed a medicinal drug when the pharmacist knew or had reason to believe that the purported prescription was not based upon a valid practitioner-patient relationship, In violation of section 465.023(1)(h), Florida Statutes (2010).

**Motion:** by Dr. Weizer, seconded by Ms. Risch to accept the investigative report into evidence for the purposes of imposing a penalty. Motion carried.

**Motion:** by Dr. Weizer, seconded by Ms. Mullins to find that Respondent was properly served and has requested an informal hearing. Motion carried.

**Motion:** by Dr. Weizer, seconded by Mr. Meshad to adopt the findings the conclusions of law as set forth in the Administrative Complaint and find that this constitutes a violation of the Pharmacy Practice Act. Motion carried.

**Motion:** by Ms. Mullins, seconded by Ms. Risch to dismiss the case. Motion carried.

**I-5                    Ephrem Degefu, Palm Beach Gardens, FL**  
**Case No. 2011-01326 - PCP Salem/Griffin**

Respondent was present and sworn in by the court reporter. Respondent was represented by Brian Kahan.

Violation: Violated section 465.016(1)(i), Florida Statutes (2010), by dispensing or distributing a controlled substance other than in the course of professional practice of pharmacy.

**Motion:** by Dr. Weizer, seconded by Mr. Meshad to accept the investigative report into evidence for the purposes of imposing a penalty. Motion carried.

**Motion:** by Dr. Weizer, seconded by Mr. Meshad to find that Respondent was properly served and has requested an informal hearing. Motion carried.

**Motion:** by Dr. Weizer, seconded by Mr. Meshad to adopt the conclusions of law set forth in the Administrative Complaint and find that this constitutes a violation of the Pharmacy Practice Act. Motion carried.

**Motion:** by Ms. Mullins, seconded by Ms. Risch to dismiss the case. Motion carried.

**F. Motion to Vacate Final Order**

**1. Linda R. Eichhorn, Middle Village, NY – Addendum  
Case No. 2010-05724 – PCP Melvin/Wilson**

Respondent was not present nor represented by counsel.

Respondent violated Section 465.016(1)(e), FS, by violating a rule of the Board or Department, through a violation of Rule 64B16-026.103(1) and 64B16-26.603, FAC, by failing to submit proof satisfactory to the Board that during the biennial period preceding the renewal period the applicant has participated in not less than 30 hours of approved courses of continued professional pharmaceutical education and failing to retain documents of participation in continuing education programs required for licenser renewal for not less than two years after the license is renewed for audit purposes.

Violation: violation of section 465.016(1)(i), Florida Statutes (2010).

**Motion:** by Dr. Weizer, seconded by Ms. Risch to deny motion to vacate the Final Order. Motion carried.

**Motion:** by Dr. Weizer, seconded by Ms. Risch to allow her to withdraw the Voluntary Relinquishment. Motion carried.

**TAB 5 APPLICATIONS REQUIRING BOARD REVIEW– Cynthia Griffin, BPharm**

**A. Exam Candidates**

**1. Chris Anderson Jacobs, File 40853**

Applicant was present and sworn in by the court reporter. Respondent was represented by Chris Shulte.

Applicant answered “yes” to question 16 on application. Applicant answered “yes” to question 24 on application.

**Motion:** by Dr. Griffin, seconded by Dr. Salem to require applicant to undergo PRN evaluation then personally appear before the Board with the Board acting upon the recommendations of PRN and determining a course of action. Motion carried opposed by Ms. Mullins.

**2. Trenton Treadwell, File 40319**

Applicant was present and sworn in by the court reporter. Respondent was not represented by counsel. Dr. Rivenbark was present on behalf of PRN.

Applicant answered “yes” to two health history questions.

**Motion:** by Dr. Salem seconded by Dr. Griffin to approve his ability to sit for the examination and be licensed as long as remains compliant with his PRN contract. Motion carried.

**4. Lucy Kathryn Cochran, File 41009**

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

Applicant included comment in health history questions (health history noted in South Carolina Board Order).

**Motion:** by Dr. Griffin seconded by Dr. Weizer to approve her request. Motion carried.

**B. Endorsement Candidates**

**1. Robert Karaniewsky, File 39741**

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

Applicant does not meet the minimum requirements outline in Chapter 465.0075(1)(c) requiring proof of active licensed practice of pharmacy. Applicant has requested that his application for endorsement be presented to the Board for consideration of his work experience.

**Motion:** by Dr. Salem, seconded by Dr. Weizer to approve for licensure. Motion carried.

**C. Exemption From Disqualification – Mark Whitten**

**1. Neil Raghoonanan, PS 36315**

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

Applicant has submitted an application for Exemption from Disqualification to seek employment in a health care setting.

**Motion:** by Dr. Salem, seconded by Dr. Mesaros to approve the exemption from disqualification. Motion carried.

**D. Registered Pharmacy Technician Candidates**

**1. Aracelis Llanos, File 39679**

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

Applicant has criminal history listed on application.

**Motion:** by Dr. Griffin, seconded by Dr. Weizer to deny request until probation is completed. Motion failed.

**Motion:** by Dr. Salem, seconded by Ms. Mullins to approve registration without conditions. Motion carried with two in opposition.

**2. Kathryn Janene Welker, File 40148**

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

Applicant answered “yes” to health history question.

**Motion:** by Dr. Salem, seconded by Dr. Griffin to have applicant be evaluation by PRN after which the evaluation will be sent to the Board Chair for the Chair to decide if approvable. Dr. Salem also requests

that the results of these decisions be brought back to the Board to update them on the resolution. Motion carried.

**3. Kevin Mchenry, File 38981**

Applicant was not present nor represented by counsel.

Applicant has criminal history listed on application.

**Motion:** by Dr. Griffin, seconded by Dr. Salem to approve applicant with conditions of remaining in compliance with his current probation. Motion carried.

**4. Walter Charles Nelson, File 39106**

Applicant was not present nor represented by counsel.

Applicant has criminal history listed on application.

**Motion:** by Dr. Griffin, seconded by Dr. Weizer to be evaluation by PRN with the evaluation to be reviewed by the Chair for a decision of approval or referral to the Board. Motion carried.

**E. Pharmacy Permit Candidates**

**1. Florida Pain & Rehab, File 16987**

Applicant Dr. Zipper was present and sworn in by the court reporter. Respondent was represented by Jennifer Leiberman.

Applicant with special Parenteral/Enteral Pharmacy Permit (PH16987) applying for Change of Location and Community Modifier with Discipline History Listed on the Application.

Applicant informed the Board of their withdrawal of the change of location request.

**Motion:** by Dr. Griffin, seconded by Dr. Weizer to approve request for obtaining the community modifier. Motion carried.

**F. Pharmacy Intern Applicant**

**1. Michael James McQuade, File 16286 – Addendum**

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

Applicant with criminal and health history listed on application.

**Motion:** by Dr. Griffin, seconded by Dr. Weizer to approve application. Motion carried.

**2. Stephen Mark Nelson, File 16307**

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

Applicant answered “yes” to question 6.

**Motion:** by Dr. Griffin, seconded by Dr. Weizer to approve application. Motion carried.

**TAB 6 LICENSURE ISSUES – Dan Biggins, Assistant Attorney General**

**A. Request for Reconsideration**

**1. Austin Conner, File 36736**

Applicant was present and sworn in by the court reporter. Respondent was represented by Brian Kahan.

Applicant received notice of intent to deny license. Applicant is requesting reconsideration.

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

**Motion:** by Dr. Weizer, seconded by Dr. Salem to vacate the intent to deny and approve application. Motion carried.

**2. Nancy Dube, RPT 779**

Applicant was not present. Respondent was represented by Marty Dix.

Applicant requests reinstatement of pharmacy technician registration.

**Motion:** by Dr. Salem, seconded by Dr. Weizer to reinstate her license. Motion carried.

**B. Petition for Reinstatement**

**1. John C. Ward, R.Ph.**

Applicant was present and sworn in by the court reporter. Respondent was represented by Bill Furlow.

Applicant requests reinstatement of license.

**Motion:** by Dr. Salem, seconded by Dr. Weizer to reinstate the license. Motion carried.

**2. Anita D. Danna-Grimes, PS 30356**

Applicant was not present nor represented by counsel.

Applicant requests reinstatement of license.

**Motion:** by Dr. Weizer, seconded by Dr. Griffin to deny request based on non-compliance with PRN. Motion carried.

**C. Request to Appear**

**1. David Fish, PS 15079**

David Fish withdrew his request from the agenda.

**D. Extension of Time to pay cost**

**1. Dennis E. George, PS 33810**

Applicant was not present nor represented by counsel.

Applicant requests additional 60 days to pay costs.

**Motion:** by Dr. Weizer, seconded by Dr. Salem to deny request. Motion carried.

**E. Request for Termination of Probation**

**1. Mark David Barron, PS 30561 – Addendum**

Applicant was present and sworn in by the court reporter. Respondent was not represented by counsel. Dr. Rivenbark was present on behalf of PRN.

Applicant requests to be allowed to practice as pharmacy manager. Applicant requests pharmacy probationary status lifted.

**Motion:** by Dr. Salem, seconded by Dr. Weizer to terminate his probation and to terminate his PRN contract. Motion carried.

**Motion:** by Dr. Griffin, seconded by Dr. Weizer to adjourn.