

**MEETING MINUTES
DEPARTMENT OF HEALTH
BOARD OF PHARMACY
FULL BOARD MEETING**

**December 20, 2011
Hilton University of Florida
1714 SW 34th Street
Gainesville, FL 32607
(352) 384-3412**

PLEASE TURN OFF ALL CELL PHONES, PAGERS, AND BEEPERS DURING THE MEETING. THANK YOU.

Board Members:

Fritz Hayes, BPharm, Chair, Miami
Cynthia Griffin, PharmD, Vice-Chair, Jacksonville
Albert Garcia, BPharm, MHL, Miami
Michele Weizer, PharmD, Boca Raton
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 Whitten, Executive Director
Tammy Collins, Program Operations Administrator
Cara Waldrip, Regulatory Specialist II

Board Counsel:

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

Department of Health Staff:

William F. Miller, Assistant General Counsel
David C. Bibb, Assistant General Counsel

Participants in this public meeting should be aware that these proceedings are being recorded and that an audio file of the meeting will be posted to the board's website.

Tuesday, December 20, 2011 – 8:00 a.m.

8:02 a.m. Call to Order by Fritz Hayes, BPharm, Chair

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

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

1. Jennifer Fass, NOVA Southeastern University - 64B16-28.108(2) and Florida Statute 465.003(6) – labels and labeling of medicinal drugs

Respondent was not present, nor represented by counsel.

Motion: by Mr. Garcia, seconded by Dr. Weizer, to not find standing. Motion carried.

TAB 2 REPORTS

A. Chair's Report – Fritz Hayes, BPharm

1. Report
 - i. Mr. Hayes thanked Jeffrey Mesaros for volunteering to represent the Board on the PMP (Prescription Monitoring Program) Advisory

Council. Jeffrey Mesaros shared that the meeting was a collection of people from the pharmacy side, medical side and from law enforcement that resulted in a quality discussion.

- ii. Mr. Hayes thanked Mrs. Mullins for volunteering to be the unlicensed activity liaison for the Board.
- iii. Mr. Hayes thanked all Board members for being here today despite the change in dates.
- iv. As a follow up Mr. Hayes shared that he recently spoke with third year students at NOVA Southeastern University regarding pharmacists' responsibilities and PDMs (Prescription Department Managers).
- v. Mr. Hayes stated that he and Mark Whitten attended the FPA (Florida Pharmacy Association) laws and rules conference and that it was extremely helpful for participants. He stated that it was valuable for the Board to reach out to community.
- vi. Mr. Hayes referred to Mr. Garcia for any updates. Mr. Garcia shared that he has been a member on the Drug Wholesale Advisory Council since 2003. The Council is made up of different representatives in the industry and Mr. Garcia is currently the Board representative. They meet several times a year; the last meeting was held on December 6, 2011. As an advisory council they are working to figure out how to help legitimate wholesalers get products into Florida as shortages are being seen throughout the country.

B. Executive Director's Report – Mark Whitten

1. Pharmacy Benefit Manager Report
 - Mark Whitten shared that at the last meeting the Board requested him to look into PBMs (pharmacy benefit managers) and what other states had in their statutes regarding PBMs. What he identified is that Arkansas, Georgia, Missouri and New Mexico have statutory language of substance and that a similar route is what Florida would need to take.
 2. April 10-11, 2012 Board Meeting – Proposed Change of Location from Ft. Myers to Tampa
 - Mark Whitten shared that inadequate meeting space was found for the Board in Ft. Myers; he requested that the Board move the meeting location to Tampa.
- Motion:** by Dr. Weizer, seconded by Mr. Garcia, to move the meeting location from Fort Myers to Tampa. Motion carried.
3. Legislative Update
 - Mark Whitten shared his updates on legislative activity related to the Board of Pharmacy including monitoring bills such as Senate Bill 904, the, the Prescription Drug Monitoring program in 893, and Bill 1310. He will continue to monitor legislative actions and update the Board on any changes.

4. Re-permitting – *Addendum*

Mark Whitten shared that recently he held a conference call with stakeholders and interested parties regarding the Pharmacy Administrator Account created by the Board office as a tool for the re-permitting process. The Pharmacy Administrator Account enables making updates for owners and affiliated persons. This went live December 13th, 2011 and will make re-permitting, which will begin January 2012, smoother. Mr. Whitten stated that the Department's IT team has been dedicated to this task. He also shared that he is working with the FDLE (Florida Department of Law Enforcement) regarding background results and is entering into an agreement for FDLE to retain livescan prints. This will mean there will be no more submitting physical fingerprint cards and there will be immediate scanning of prints at different locations around Florida. This will streamline the process.

Additionally, Mr. Whitten shared that in an abundance of caution the Board office has organized and noticed in the Florida Administrative Weekly a meeting with the Board members every Tuesday in January. This meeting is a conference call that allows the option to discuss legislative issues.

5. Martha Ross, R.Ph., Florida Agricultural and Mechanical University Request for closure during the University's winter closure – *Addendum*

Motion: by Mr. Garcia, seconded by Dr. Weizer to accept the waiver. Motion carried.

C. Rule Discussion and Review – Fritz Hayes, BPharm, Chair 1. Rebecca Poston – Prescription Drug Monitoring Program

Rebecca Poston updated the Board on the activity of the Prescription Drug Monitoring Program sharing that there has been an outstanding request for information since the database went live. The database went live October 17th and since then there have been 266,225 requests for information. She thinks this is a phenomenal start compared with other states that have also started. Rebecca Poston also stated they are looking at coordinating and sharing information. She requested that the Board consider changing language regarding Rule 64B16-27.800 Requirement for Patient Records that appears in paragraph 1-C so that it refers to the owners' date of birth instead of animal or species date of birth. The reason for this request is because of issues with diversion related to how information is reported with respect to veterinary medicine.

After discussion among the Board members as to how best to handle this request, the Board voted as follows:

Motion: by Dr. Salem, seconded by Mr. Garcia, to get legal opinion before making a decision with the intention to potentially forward to the rules committee. Motion carried.

The location to access this database can be found at www.hidinc.com/flpdmp where you can click to upload discipline information or where a practitioner or law enforcement can access information. Board members expressed the importance of sharing this resource and communicating that this information is available now and can be accessed today.

D. Attorney General's Report – Dan Biggins, Assistant Attorney General 1. Rules Report

Dan Biggins shared updates regarding Rules for pharmacy. Rule 64B16-28.100 paragraph 2c was discussed. After discussion,

Motion: by Dr. Griffin, seconded by Mr. Garcia to move forward with development of rule change. Motion carried.

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

1. Prosecuting Services Report

Bill Miller shared that their number of cases are 406 which is down from 438 last meeting. He expects this number to continue to decrease in the near future. His focus is on the year old cases which total 48 down from 65 last meeting. This represents a 26% reduction in these old cases. 2009 cases totaled 106 but are currently down to 48 which is a 45% reduction. Additionally 2008 and older cases have been reduced by 20. Bill Miller requested the Board to allow them to continue to prosecute old cases.

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

2. Dismissed Cases for Null and Void Licenses

Bill Miller shared that when a license goes null and void, PSU(Prosecution Services Unit) requests to close cases. The correct closure code was not being used until recently. This incorrect coding resulted in null and void license cases being closed in such a way that there would not be an alert or reference to pending discipline actions or investigations that would appear in COMPAS when a new application for that same person or entity was received. PSU is now using the correct code which had previously been created so that an alert will appear when there are re-applications. It is still the intention of PSU to close these null and void license cases.

Dr. Salem expressed concern about old null and void cases where the incorrect code was used. Mark Whitten agreed to work with PSU regarding researching this issue and determining how to find and correct the older cases which may have used the incorrect code. A report on the findings and possible solutions will be discussed at the February Board meeting.

F. Chief Investigative Services Report

1. Charles C. Coats, III – Report on Investigative Services

Charles C. Coats shared his update for the Investigative Services Unit.

TAB 3 BUSINESS – Fritz Hayes, BPharm, Chair

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

1. Pharmacist (Licensure) (Client 2201) – 210
2. Pharmacist (Exam Eligibility) (Client 2201) – 123
3. Pharmacist Interns (Client 2202) – 918
4. Registered Pharmacy Technicians (Client 2208) – 716
5. Consultant Pharmacist (Client 2203) – 30
6. Nuclear Pharmacist (Client 2204) – 4
7. Pharmacies/Facilities (Client 2205) – 92
8. Registered Pharmacy Technician Ratios (2:1 or 3:1)- 105
9. Pharmacy Technician Training Program (Client 2209) - 21
10. CE Providers - 11
11. CE Courses - 37
12. CE Individual Requests - 0

Motion: by Dr. Weizer, seconded by Dr. Griffin to approve the ratification of issued licenses/certificates & staffing ratios. Motion carried.

B. Review and Approval of Minutes

1. October 18-19, 2011

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

C. Election of Officers

1. Chair

Motion: by Dr. Weizer, seconded by Ms. Risch to nominate Dr. Griffin as Chair. Motion carried.

2. Vice Chair

Motion: by Dr. Salem, seconded by Dr. Griffin to nominate Mr. Garcia as Vice Chair. Motion carried.

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

A. SETTLEMENT AGREEMENT – NON APPEARANCE CASES

NA-1 Jiten C. Patel, RPh, Streamwood, IL
Case No. 2010-12099 – PCP Griffin/Salem

Respondent was not present, nor represented by counsel.

Respondent violated:

Count 1: Section 465.016(1)(f), Florida Statutes (2009) – respondent was convicted of a crime directly related to the practice of or the ability to practice pharmacy by being convicted of theft, arising out of diversion of prescription medications from the pharmacy where he was employed as a pharmacist;
Count 2: Section 465.016(1)(h), Florida Statutes (2009) – by having been disciplined by a regulatory agency in another state for an offense that would constitute a violation of Section 465, FS.

Respondent shall pay a fine of \$5,000.00 within 90 days, costs of \$1,073.13 to be paid within 90 days. Respondent's license shall be suspended for one year. Upon conclusion of suspension, license shall be placed on probation for 5 years.

In an abundance of caution on advice from David Bibb regarding the different listing of the PCP members on the agenda versus the PCP memo, Mr. Garcia, Dr. Griffin, and Dr. Salem recused themselves from the vote.

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

B. SETTLEMENT AGREEMENT– APPEARANCE REQUIRED CASES

SA-1 Mark Alan Barclay, Venice, FL
Case No. 2009-04465 – PCP Jones/Wilson

Respondent was present and sworn in. Respondent was represented by counsel.

Respondent violated: Section 465.016(1)(f), FS (2008), by pleading guilty to a crime that directly relates to the practice of pharmacy.

Respondent shall be present for this agreement. Respondent shall pay a fine of \$5,000.00 within 90 days, Costs of \$1, 073.58 within 90 days. Respondent's license shall be on probation for two (2) years during which respondent shall comply with all terms of agreement and respondent shall not act as prescription department manager for any Florida pharmacy.

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

SA-2 Anazao Health Corp, Tampa, FL
Case No. 2009-20721, 2009-21858 – PCP Melvin/Risch

Respondent David Joseph, director of pharmacy for Anazao Health Corp., was present and sworn in by the court reporter. Respondent was represented by Edwin Bayo.

Dr. Weizer and Mr. Garcia stated they knew the respondent but that it would in no way affect their judgment on this case.

Respondent violated:

Count 1: violation of 465.016(1)(i), FS (2008), by compounding or dispensing outside of the professional practice of pharmacy.

Count 2: violation of rule of the board by violating Rule 64B16-27.797(7) for failing to implement a quality assurance program that would ensure the consistent preparation of compounded drugs meeting the expected specifications.

Count 3: violation of rule of the board by violating Rule 64B16-27.300(3)(a), Florida Administrative Code, by failing to engage in continuous quality improvement.

Respondent shall be present for this agreement. Respondent shall pay a fine of \$3,000.00 within 90 days, costs of \$70,000 within 90 days. Respondent shall implement the changes to their standard operating procedures and to its pharmacy's general policies and procedures in keeping with the Departments required changes as found collectively in Exhibit B. Department's pharmacy inspectors/DDC inspectors have the right to conduct as many as four (4) inspections of respondent's pharmacy per year (for 1 year). Department's and Respondent's experts approximately six (6) months after SA accepted, jointly select a third expert (field: sterile compounding) who shall be granted full access by Respondent to inspect premises. Expert shall inspect for compliance – paid ½ each by Department and Respondent.

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

SA-3 Kotanational Mercantile System, Miami, FL
Case No. 2009-21801 – PCP Garcia/Weizer

Respondent Anthony Frederick Orukotan was present and sworn in by the court reporter. Respondent was represented by Lawrence Besser.

Respondent violated:

Section 456.023(1)(c), FS (2009), Section 893.07(2) and/or 893.04, FS (2009) – by failing to comply with recordkeeping requirements for controlled substances.

Respondent shall be present for this agreement. Respondent shall pay a fine of \$1,500.00 within 90 days, and costs of \$2,223.67 within 90 days.

SA-3 and SA-4 were discussed and voted on together:

Motion: by Dr. Griffin, seconded by Mrs. Mullins to accept both settlement agreements. Motions carried.

SA-4 Anthony Frederick Orukotan, Miramar, FL
Case No. 2009-21802 – PCP Garcia/Weizer

Respondent violated Section 465.016(1)(e), FS (2009), for violating Section 893.07(2), FS (2009) and/or Section 893.04, FS (2009), by failing to comply with recordkeeping requirements for controlled substances.

Respondent shall be present for this agreement. Respondent shall pay a fine in the amount of \$1,500.00 within 90 days and costs in the amount of \$3,622.64 within 90 days. Respondent shall successfully complete a 12 hour continuing education Laws and Rules course within one (1) year.

(voted on with SA-3)

SA-5 Andrea C. Goldenson, PS 33051, Gainesville, FL
Case No. 2011-06004 – PCP Garcia/Weizer

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

Respondent violated: Section 465.016(1)(n)(r), F.S.: violation of lawful order of the Board (violated Final Order by failing to provide 2 hour medical errors CE and 4 hours general CE)

Respondent shall be present for this agreement. Respondent shall pay a fine in the amount of \$500.00, and costs not to exceed \$1,493.56. Respondent shall comply with all terms of the Final Order filed in case 2010-05716.

After discussion, Edwin Bayo requests this case to be postponed to clear up confusions surrounding completed or uncompleted requirements.

Motion: Dr. Salem, seconded by Mrs. Mullins to withdraw this case from the agenda. Motion carried.

C. DETERMINATION OF WAIVER

DOW-1 Katrina Lynn Baker, St. Petersburg, FL - Addendum
Case No. 2011-01655 – 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)(n), FS (2010) by violating an order of the board (Final Order for Case 2006-33062 and 2007-07605: failed to pay administrative costs of \$5,371.52 within one (1) year)

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

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

Motion: by Dr. Griffin seconded by Mr. Garcia to adopt the findings of fact set forth in the Administrative Complaint. Motion carried.

Motion: by Dr. Griffin, seconded by Dr. Salem adopt the conclusions of law set forth in the administrative complaint that constitutes a violation of the Pharmacy Practice Act. Motion carried.

Motion: by Dr. Salem, seconded by Mr. Garcia to mitigate the fine down to a letter of concern citing the fact she paid the previously imposed fine and that she is currently in compliance with PRN. Motion carried.

Motion: by Mr. Garcia, seconded by Dr. Griffin, to impose costs in the amount of \$413.25. Motion carried.

Edwin Bayo added that he waived the right to the additional requirements from the 2nd court of appeals decision regarding additional requirements to determine and request for costs.

DOW-2 Reena H Patel, El Dorado Hills, CA
 Case No. 2011-06037 – PCP Weizer/Risch

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

Respondent violated Section 465.016(1)(r) F.S. (2010), Section 456.072(1)(q), F.S. (2010) by violating any provision of Chapter 456, FS, through a violation of 456.072(1)(q) by violating a lawful order of the department or board.

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

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

Motion: by Dr. Griffin, seconded by Mr. Garcia 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. Salem, seconded by Dr. Griffin to impose a fine in the amount of \$1,000.00 payable within 90 days, and CE in the amount of 20 live hours, 40 general hours to be completed within 6 months. Motion carried.

Motion: by Mrs. Mullins, seconded by Dr. Griffin to assess costs in the amount of \$109.47 to be paid within 90 days.

D. VOLUNTARY RELINQUISHMENTS

Motion: by Dr. Weizer, seconded by Dr. Griffin to accept items VR-1 through VR-4, and VR-6 through VR-9. Motion carried.

VR-1 Manuel Gerardo Pacheco, Miami, FL
 Case No. 2011-10669 – PCP Waived

Respondent was not present, nor represented by counsel.

Respondent violated: 465.016(1)(d)2.3.(e)(i)(m)(r), FS (2010), 456.072(1)(a)(m)(z), FS (2010) – was arrested for felony F.S. 812.014(2)(b) (Grand Theft, FS 812.019 (Dealing in Stolen Property) and FS 499.005(1)(c) (Trafficking in Contraband Prescription Drugs); involved in diversion.

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

VR-2 Access Americare Health Services, Inc., Boynton Beach, FL
Case No. 2011-13694 – PCP Waived

Dr. Weizer stated that she knows the owner of Access Americare Health Services but that this will not affect her judgment.

Respondent was not present, nor represented by counsel.

Respondent violated: 465.023(1)(c), FS (2011), 456.016(1)(i)(r), FS (2011) and Rule 64B16-27.1001, 64B16-27.810, 64B16-27.831 FAC – dispensing medicinal drugs when the pharmacy knew or had reason to believe that the purported prescriptions is not based upon a valid practitioner-patient relationship.

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

VR-3 Friendly Pharmacy Inc., Ft. Lauderdale, FL
Case No. 2011-11746 – PCP None

Respondent was not present, nor represented by counsel.

Respondent violated: FS 465.016, section 456.072(2), 465.018; FS 465.023-(1), section 465.018 – failing to operate community pharmacy keeping the prescription department open for a minimum of forty (40) hours per week and a minimum of five (5) days per week; Improper closure.

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

VR-4 Maria Dolores Gutierrez, Coral Gables, FL
Case No. 2010-24293 – PCP None

Respondent was not present, nor represented by counsel.

Respondent violated: 465.016(1)(d)(3)(e)(m)(r) – being unfit or incompetent to practice pharmacy, abnormal physical or mental condition which threatens the safety of persons, unable to practice pharmacy with reasonable skill.

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

VR-5 Ruth Ramirez, RPT, Naples, FL
Case No. 2011-12987 – PCP Salem/Griffin

Respondent was not present, nor represented by counsel.

Respondent violated: 465.016(1)(d)2.3.(e)(i)(m)(r) FS, 456.072(1)(a)(m)(z), FS – unfit or incompetent to practice pharmacy; misuse or abuse of any medical drug; dispensing or distributing a controlled substance other than in the course of the professional practice of pharmacy. Making misleading, deceptive, or fraudulent representations in or related to the practice of the licensee’s profession.

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

Motion: by Dr. Weizer, seconded by Mr. Mesaros to accept the Voluntary Relinquishment. Motion carried.

VR-6 Pharmalife Consultant, Inc, Miami, FL
Case No. 2011-15579 – PCP None

Respondent was not present, nor represented by counsel.

Respondent violated: Section 456.072(1)(a)(m), 465.016(1)(e)(i)(j)(r)(s)(t), 465.023(1)(c)(h), 893 FS – fraud, violate statute/rule; compounding/dispensing/distributing drug outside professional practice; false report; dispensing drug despite absence of doctor/patient relationship; omission or error during drug processing.

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

VR-7 Pharmalife #2, Inc., Miami, FL
Case No. 2011-15580 – PCP None

Respondent was not present, nor represented by counsel.

Respondent violated: Section 456.072(1)(a)(m), 465.016(1)(e)(i)(j)(r)(s)(t), 465.023(1)(c)(h), 893 FS – fraud; violate statute/rule; compounding/dispensing/distributing drug outside professional practice; false report; dispensing drug despite absence of doctor/patient relationship; omission or error during drug processing.

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

VR-8 Pharmalife Consultant, Inc, Miami, FL
Case No. 2011-16578 – PCP None

Respondent was not present, nor represented by counsel.

Respondent violated: Section 456.02 (1)(a)(m), 465.016(1)(e)(i)(j)(r)(s)(t), 465.023 (1)(c)(h), 893 FS – fraud; violate statute/rule; compounding/dispensing/distributing drug outside professional practice; false

report; dispensing drug despite absence of doctor/patient relationship; omission or error during drug processing.

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

VR-9 Rachel Lynn Tibedeau, Pensacola, FL
Case No. 2011-12228 – PCP None

Respondent was not present, nor represented by counsel.

Respondent violated: FS 456.072(1)(z) – being unable to practice 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.

FS 456.016(1)(d) – being unfit or incompetent to practice by reason of 2. Any abnormal physical or mental condition which threatens the safety of persons to whom she or he might sell or dispense prescriptions, drugs... (m) being unable to practice pharmacy with reasonable skill and safety by reason of illness, use of drugs, narcotics, chemicals... (r) violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

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

VR-10 Gerardo Parra, Miami, FL
Case No. 2011-10018 – PCP Weizer/Risch

Respondent was not present, nor represented by counsel.

Respondent violated: Section 465.016(1)(r), FS 2010; Section 456.072(1)(m), FS 2010; Section 456.072(1)(n), FS 2010 – intentionally violating any rule adopted by the board or department; making deceptive, untrue, or fraudulent representations in or related to the practice of a profession or employing a trick or scheme in or related to the practice of a profession and exercising influence on the patient or client for the purpose of financial gain of the licensee or a third party.

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

Motion: by Dr. Griffin seconded by Mrs. Mullins to accept the Voluntary Relinquishment. Motion carried.

VR-11 Sarah J. Thompson, Wesley Chapel, FL
Case No. 2008-16035 – PCP Garcia/Weizer

Respondent was not present, nor represented by counsel.

Respondent violated: Section 456.072(1)(hh) – for failure to comply, without good cause, with her PRN contract; 465.016(1)(m) – unable to practice pharmacy with reasonable skill and safety from failure to comply with PRN recommendations and requirements.

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

Motion: by Dr. Mesaros, seconded by Mrs. Mullins to accept the Voluntary Relinquishment. Motion carried.

E. VOLUNTARY RELINQUISHMENT OF PERMIT
VRP-1 VIP Pharmacy of Lake Worth, West Palm Beach, FL
Case No. 2011-12847 – PCP N/A

Respondent was not present, nor represented by counsel.

Respondent violated: Section 465.023(1), FS; Section 465.0169(1)(4), FS; Rule 64B16-28.1081, FAC; Rule 64B16.28.203, FAC – failure to keep open the prescription department for a minimum of 40 hours per week and a minimum of 5 days per week; failure to notify the Board of Pharmacy of closing the prescription department.

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

Motion: by Dr. Weizer seconded by Mr. Garcia to accept the Voluntary Relinquishment. Motion carried.

TAB 5 APPLICATIONS REQUIRING BOARD REVIEW– Cynthia Griffin, PharmD

A. Exam Candidates

1. Christopher John Maxwell, File 40833

Applicant Christopher John Maxwell was present and sworn in by the court reporter. Respondent was not represented by counsel. Dr. Baker from PRN was present.

Applicant answered “Yes” to a health history question.

Motion: by Dr. Griffin, seconded by Dr. Salem to approve applicant to sit for the exam and become licensed as long as he stays compliant with his PRN contract. Motion carried.

B. Endorsement Candidates

1. Thomas Michael Clancy, File 40993

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

Applicant answered “Yes” to discipline history question.

Motion: by Dr. Griffin, seconded by Dr. Salem to approve applicant for licensure. Motion carried.

2. Johnna Sue Neary, File 41156

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

Applicant submitted work experience that requires review to determine if it meets the minimum requirements outlined in Chapter 465.0075(1)(c) which requires proof of active licensed practice of

pharmacy, including practice in community or public health by persons employed by a governmental entity, in another jurisdiction for at least 2 of the immediately preceding 5 years.

Motion: by Dr. Griffin, seconded by Dr. Salem to approve applicant for licensure. Motion carried.

3. Bruce David Roffe, File 41154

Applicant was not present, nor represented by counsel.

Applicant submitted work experience that requires review to determine if it meets the minimum requirements outlined in Chapter 465.0075(1)(c) which requires proof of active licensed practice of pharmacy, including practice in community or public health by persons employed by a governmental entity, in another jurisdiction for at least 2 of the immediately preceding 5 years.

Motion: by Dr. Griffin, seconded by Mrs. Mullins to approve applicant for licensure. Motion carried.

C. Non-Resident Pharmacy Permit Application

1. Pharmacy IV Assoc. of Dexter MO, File 18445 – Addendum

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

Applicant answered “yes” to question #21 regarding discipline history.
Applicant sent a written request to the Board office prior to the Board meeting that asked for their application to be heard at the following Board meeting due to scheduling conflicts. Applicant waived the 90 day requirement to allow for their application to be postponed until they could be present before the Board.

Motion: by Dr. Griffin seconded by Mr. Garcia to table this application until the next meeting. Motion carried.

D. Request for Continuing Education Approval

1. Abraham Bobo, PS 19055

Applicant was not present, nor represented by counsel.

Applicant requested (2) hours of CE taken October 1, 2011 be applied to October 1, 2009-September 30, 2011 renewal period.

Motion: by Dr. Griffin, seconded by Dr. Weizer to approve applicant’s request. Motion carried.

2. Debbie Coppock DeWitte, PS 18260

Applicant was not present, nor represented by counsel.

Applicant requested (20) hours of CE taken September 20, 2011 be applied to October 1, 2011-September 30, 2013 renewal period.

Motion: by Dr. Griffin, seconded by Dr. Weizer to deny applicant’s request . Motion carried.

TAB 6 LICENSURE ISSUES – Dan Biggins, Assistant Attorney General

A. Request for Termination of Probation

1. Marco Rocha, PS 35227 – Addendum

Applicant was present and sworn in by the court reporter. Respondent was represented by Dr. Brown, PRN.

Applicant requests to have probation terminated and license reinstated.

Motion: by Dr. Salem, seconded by Dr. Weizer to approve request for termination of probation. Motion carried.

2. Shafali Data, PS 25758

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

Applicant requests to have probation terminated.

Motion: by Dr. Weizer, seconded by Mrs. Mullins to continue this request and request her presence before the Board. Motion carried.

3. Michelle M. Salkey, PS 23286 – Addendum

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

Applicant requests to have probation terminated.

Cannot be pharmacy manager while on probation.

Motion: by Dr. Weizer seconded by Mr. Garcia to deny request for termination of probation based on the request being too premature. Motion carried.

Motion: by Dr. Weizer, seconded by Mr. Garcia to amend the terms of her Final Order, at letter G, to allow her to be a pharmacy manager for the rest of her term of the probation. Motion carried.

4. Divyesh Patel, PS 32148

Applicant was not present, nor represented by counsel.

Applicant requests to have probation terminated.

Motion: by Mr. Hayes, seconded by Mrs. Mullins to approve the request for termination of probation. Motion carried.

5. Drue Ashwell, PS 17915 – Addendum

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

Applicant requests to have probation terminated and reinstatement of license.

Motion: by Ms. Risch, seconded by Mr. Garcia to approve the request for termination of probation.
Motion carried.

Public Comments:

Michael Jackson with the Florida Pharmacy Association (FPA) shared information regarding the FPA's future meetings and topics of interest. He also shared that volunteer pharmacists and students from all over the state plan to come to the state capitol as a non-FPA event in an effort to help the Florida legislature understand what pharmacy is all about.

Edwin Bayo discussed compounding for office use and a petition for rulemaking on the next agenda.

Dr. Weizer discussed the issue of drug shortages specifically those seen in the hospital setting: In the past 5 years shortages have rapidly escalated increasing from 70 drugs shorted in 2006 and as of November 2011 there are 231 drugs shorted with generic drugs comprising most of the shorted drugs. Most of these drugs have been fundamental and essential to the care of patients. A study conducted by Premiere reported March 2011 that suggested that the cost of purchasing alternative therapeutic products to those in shortage was \$200 million. The American Society of Health System Pharmacists and the University of Michigan indicated that hospital pharmacies spent 8 to 12 additional hours per week addressing drug shortages. There are different reasons that this occurs. Three top drug companies have closed plants this year. Half the time the manufacturer does not disclose the reason or communicate when this will happen. This is one of the biggest issues as it creates issues with ordering a drug and not being aware of delays. Dr. Weizer also stated that there is no requirement to communicate this information. Dr. Weizer shared that the website www.ahsp.org is a useful tool. On this website, there is a drug shortages link where you can look at past or present shortages. They also include estimated release dates although unfortunately the release date is later than what is posted. Additionally, another website is www.fda.gov in the drugs and drug safety section. This website relies on the manufacturer to give this information. These are the two website Dr. Weizer uses to try to keep up with changes and to gather information regarding drug shortages. Dr. Weizer expressed that it has been frustrating for physicians and patients alike to deal with these drug shortages and that it has affected all of us. She concluded that it was important to reflect these issues and her perspective in the minutes because it affects them as they oversee patient safety in the state of Florida.

Mr. Garcia expressed that through DWAC they are also looking at how to address some of these issues.

Dr. Griffin recognized Mr. Hayes for serving as Chair and presented him with a plaque.

Mr. Hayes recognized Dr. Salem for serving on the Board of Pharmacy and presented him with a plaque.

Mr. Hayes shared some closing remarks: He thanked all the Board members for their activity this year and thanked to the new members for jumping right in. Mr. Hayes thanked Dr. Weizer and Dr. Griffin for stepping up to help with addressing needs from the changing Board. He concluded by stating that it had been a pleasure and honor to serve the citizens of Florida.

Motion: by Dr. Griffin seconded by Mr. Garcia to adjourn the meeting.