

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

**August 14-15, 2012**

**Holiday Inn and Suites  
2725 Graves Road  
Tallahassee, FL 32303  
(850) 536-2000**

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

Board Members:

Cynthia Griffin, PharmD, Chair, Jacksonville  
Albert Garcia, BPharm, MHL, Vice-Chair, Miami  
Michele Weizer, PharmD, Boca Raton  
Gavin Meshad, Consumer Member, Sarasota  
Jeffrey J. Mesaros, PharmD, Tampa  
Lorena Risch, Consumer Member, Bradenton  
DeAnn Mullins, BPharm, Lynn Haven  
Debra B. Glass, BPharm, Tallahassee  
Leo J. "Lee" Fallon, BPharm, PhD, The Villages

Board Staff:

Mark Whitten, Executive Director  
Tammy Collins, Program Operations Administrator  
Valerie Vakili, Regulatory Specialist II

Board Counsel:

Allison Dudley, Assistant Attorney General

Department of Health Staff:

John J. Truitt, Assistant General Counsel  
William Miller, 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, August 14, 2012 – 1:00 p.m.**

**1:00 p.m. Call to Order by Cynthia Griffin, PharmD, Chair**

All Board Members were present, except Mr. Albert Garcia.

Dr. Griffin welcomed individuals in the audience, including in particular: Mr. Fritz Hayes, immediate past Board Chair, former board members: Mr. Jim Powers, and Mr. Bob Parrado, John Taylor, and Rebecca Poston, former Board of Pharmacy Executive Director.

Dr. Griffin requested that cell phones, pagers, and beepers be turned off. She informed everyone that the meeting is being recorded and an audio file will be posted on the Board's website after the meeting.

**TAB 1 PETITIONS FOR DECLARATORY STATEMENT / VARIANCE OR WAIVER / RULE MAKING**

## 1. Armor Correctional Health Services, Inc. (Declaratory Statement)

Dr. Gina Jules was present and sworn in by the court reporter. Dr. Jules was not represented by counsel.

The Board Counsel's recommendation was to deny the petition for declaratory statement as it is a practice that this facility already has in place. Also, that the Board not write a letter stating whether the practice is acceptable or not.

Dr. Jules explained the process by which prescription medicine is facilitated to patients.

Dr. Griffin asked Dr. Jules to clarify for the Board the practice setting.

Dr. Jules spoke on the building structure of the segregation unit and explained how the medication cart can not reach that unit because the only access to that unit is by stairs, which the cart can not go up. She also went into the process by which medication is administered to the detainees by the nurses. And then a quick overview of the company's action plan.

**Motion:** by Ms. Mullins, seconded by Dr. Weizer, to deny the declaratory statement based on the fact that this action is already occurring and not a request for practice approval. Motion carried.

Dr. Weizer recommended to the Board that the Board be in support of what Armor Correctional Health Services, Inc. has put in their action plan, and that a one-on-one patient administration, one patient at a time, take place. Dr. Weizer further stated that this is really the only safe way to administer to patients in a setting like theirs.

**Motion:** by Dr. Weizer, seconded by Ms. Mullins, to clarify that patient administration is occurring on site and not dispensing. Motion carried.

Dr. Griffin stated that she is in full support of Dr. Weizer's previous comments.

## 2. Nova Southeastern University (Declaratory Statement)

A university representative was not present, nor were they represented by counsel.

The Board Counsel's recommendation was to answer the Declaratory Statement and say that Florida Statute 465.189 states that the pharmacist is required to attend 20 hours of CE and the continuing education must be obtained while you are a pharmacist.

Edwin Bayo, Esq. agreed it is clear that it requires one to be a pharmacist to administer, but does not agree that students can not get the training in school.

Dr. Weizer explained it was not clear in Florida Statute 465.189 that the training has to occur after becoming a licensed pharmacist. She also suggested that educational changes be made to include training on all vaccinations and not just Influenza.

After discussion, Dr. Griffin clarified that the Ms. Dudley's recommendation was to issue a declaratory statement that indicates the person has to be a licensed pharmacist in order to take the course.

Dr. Griffin moved to issue a declaratory statement that clarifies that the rules currently require a pharmacist to participate in the training for immunization. Motion withdrawn.

Ms. Dudley recommended the Board move to deny because the rule is too broad and a declaratory statement will require the Board to make a rule.

**Motion:** by Ms. Mullins, seconded by Lee Fallon, to deny the declaratory statement. Motion carried.

3. Kenneth Woliner, MD, ABFM - Petition for Rule Making Re: Dispensing Practitioners

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

Dr. Woliner spoke on his request for rule making, regarding clarification for dispensing practitioners.

Ms. Dudley recommended denial based on Dr. Woliner not having standing to petition the Board for rule making because he is not a dispensing practitioner.

**Motion:** by Mr. Meshad, seconded by Ms. Mullins, to table until the October, 2012 Full Board Meeting. Motion carried.

**TAB 2      REPORTS**

**A. Chair's Report - Cynthia Griffin, PharmD**

Dr. Griffin reported on her attendance with Dr. Mesaros and Ms. Glass at the National Association of Boards of Pharmacy and the American Association of Colleges of Pharmacy District Meeting, NABP/AACP. Topics discussed at the meeting included prescription drug abuse and the importance of prescription monitoring programs; as well as monitoring the drug abuse process, the prevention process, and the integrity of drug distribution process, which included drug shortages and maintaining the security and integrity of the drug distribution channel. Also discussed was integrating ethics into the education process and preparing pharmacists and pharmacy students for advancements and changes within the profession.

Dr. Griffin encouraged pharmacists to ensure that they are recognized as health care practitioners and receive the appropriate reimbursements for services provided.

Dr. Weizer spoke on her attendance at the American Society of Health System Pharmacists Meeting. A few things coming from the ASHP House of Delegates are an extension of board membership to one student as a Board of Director member and one pharmacy technician Board of Director member and an encouragement for the technician training programs to be ASHP accredited.

Dr. Griffin announced the Chair and Vice Chair Annual Long-Range Planning Meeting with be held in Tallahassee, September 12, 2012.

## **B. Rule Discussion and Review - Cynthia Griffin, PharmD, Chair**

No report.

## **C. Executive Director's Report - Mark Whitten**

### **1. Re-Permitting Update**

Mr. Whitten reported of 3,964 pharmacies that have re-permitted, 50.4% were relicensed in 5 days or less; with 42.3% licensed in 2 days. Beginning in December 2011, the Board held conference calls with associations, chain store corporate offices and independent pharmacy owners to insure that pharmacy owners and managers were aware of the new requirements. Frequent communications have resulted in 96.5% of pharmacies re-permitting before the July 1 deadline.

### **2. NAPLEX**

Mr. Whitten reported National and Florida averages for 2009, 2010, and 2011 initial and re-examination candidates.

### **3. HB 7095 Report Card**

Mr. Whitten gave an overview of the HB 7095 Report Card.

### **4. HB 653 Update – Addendum Material**

Mr. Whitten gave an overview of HB 653 which provides for denial of initial license or renewal for certain violations.

### **5. Proposed Meeting Dates and Locations for 2013**

Tabled to Wednesday, August 15, 2012.

### **6. Update on Workgroup with Mr. Meshad**

Mr. Whitten provided an update on this workgroup to address legislative and other ideas regarding pill mills. He stated that he will continue to work with Mr. Meshad, the FPA and FSHP on creating a task force.

#### 7. Update on Workgroup with Ms. Mullins

Mr. Whitten provided an update on the possibility of conducting a survey of pharmacy workplace environments. The Board gave approval to proceed.

#### C. Attorney General's Report - Allison Dudley, Assistant Attorney General

Ms. Dudley requested the Board vote on new language for rule 64B16-26.601, F.A.C., stating, "In order for a provider to offer a Board approved course it must be submitted at least 45 days in advance."

**Motion:** by Dr. Weizer, seconded by Ms. Glass, to approve language. Motion carried.

Ms. Dudley requested the Board address the following two questions: Do these changes have an adverse effect on small business and do these changes increase the regulatory cost by \$200,000 or more in the aggregate?

**Motion:** by Dr. Weizer, seconded by Ms. Glass, that it will have no effect on small business nor does it increase the regulatory cost by \$200,000 or more. Motion carried.

Ms. Dudley notified the Board and the public, inviting comments on rule language and the proposed regulatory cost for 64B16-27.700, F.A.C., to be discussed at the October 2012 Full Board Meeting.

Ms. Dudley requested the Board vote on new language for rule 64B16-28.100, F.A.C.

Dr. Griffin clarified that the vote would be to change the language from "manual may provide" to "manual shall provide".

**Motion:** by Dr. Weizer, seconded by Dr. Fallon, to approve the language change.

Ms. Dudley requested the Board address the following two questions: Do these changes have an adverse effect on small business and do these changes increase the regulatory cost by \$200,000 or more in the aggregate?

**Motion:** by Dr. Fallon, seconded by Ms. Glass, that it will have no effect on small business nor does it increase the regulatory cost by \$200,000 or more. Motion carried.

Ms. Dudley requested the Board vote on changes to the language for rule in Pharmacy Permit Applications and Information packets.

**Motion:** by Dr. Fallon, seconded by Ms. Glass, to approve the changes. Motion carried.

Ms. Dudley requested the Board address the following two questions: Do these changes have an adverse effect on small business and do these changes increase the regulatory cost by \$200,000 or more in the aggregate?

**Motion:** by Dr. Weizer, seconded by Ms. Glass, that it will have no effect on small business nor does it increase the regulatory cost by \$200,000 or more. Motion carried.

Ms. Dudley requested clarification on Chapter 465.0075(1)(c)2, F.S.

**Motion:** by Dr. Weizer, seconded by Ms. Glass and Dr. Fallon, to direct staff that they can now count 2 years back from the application receipt dates. Motion carried.

Dr. Weizer mentioned concern on Rule 64B16-26.1031, F.A.C. - Influenza Immunization Certification Program and Application, on how subsection (2)(l) should reference the website: [www.CDC.gov/vaccines](http://www.CDC.gov/vaccines), to provide health practitioners with the most up to date information on vaccinations.

**Motion:** by Dr. Weizer, seconded by Dr. Fallon, to replace Rule 64B16-26.1031(2)(l), F.A.C., with the website: [www.CDC.gov/vaccines](http://www.CDC.gov/vaccines). Motion carried.

#### **E. Prescription Drug Monitoring Program Report - Rebecca Poston, BPharm, RPh**

##### **1. Prescription Drug Monitoring Program Report**

Ms. Poston reported on a successful Florida Prescription Drug Monitoring Program. On September 1, 2011 the Florida Prescription Drug Monitoring Program initiated the collection of controlled substance data on all Schedules II, III, IV controlled substance prescriptions dispensed on or after that date from volunteered dispensers. As of August 3, 2012, they have 47,630,337 records in the data base that practitioners will be able to access prior to prescribing a controlled substance.

Ms. Poston reported that as of August 3, 2012, many patient advisory reports have been generated due to 16,770 practitioners accessing the data base almost 1.9 million times to help influence their prescribing decisions. As of November 14, 2011, there have been 684 law enforcement officers credentialed and enrolled for indirect access to the data base. Of those 684 officers, there have been 13, 037 investigative report requests which are approved directly by Ms. Poston or by the Program Operations Manager, Erica Marshall.

Ms. Poston reported that the Program operates through Federal grants, private grants, and donations to the direct support organization. There are 11 Board Director Members, who have been appointed by the State Surgeon General, and currently 5 vacancies of the Board of Directors. A brief PDMP summary was given.

#### **F. Prosecuting Attorney Report - John Truitt, Assistant General Counsel**

##### **1. Prosecuting Services report**

Mr. Truitt updated the Board on the case load for the Prosecution Services Unit. He reported that as of August 12, 2012 the caseload was 262, which has increased by 9 to a current caseload of 271 with 126 pre-probable cause cases. As of the June 2012 Board meeting, the number of new cases is 113.

Mr. Truitt requested that the Board allow them to continue prosecuting old cases.

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

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

Rhonda Myers was present in place of Jeanne Clyne. Ms. Myers reported on the success of the new rules passed, as well as an update on HDP inspections.

### **TAB 3      BUSINESS - Cynthia Griffin, PharmD, Chair**

#### **A. Correspondence and Presentations**

1. Presentation from CVS/Caremark Re: Supervision of Pharmacy Technicians

Ms. Glass stated for the record that she is a CVS employee however this will not have an effect on her ability to make a decision.

Osmayda Jimenez and Scott Mazza were present and sworn in. They were represented by Edwin Bayo, Esq.

Mr. Bayo presented for CVS/Caremark regarding the definition of direct supervision of pharmacy technicians and how that "direct supervision" will be provided through an off-site secure and virtual environment as it relates to certain limited tasks that may be performed by a Registered Pharmacy Technician. Mr. Bayo requested the Board to consider this issue to open for rule development.

**Motion:** by Dr. Mesaros, seconded by Mr. Meshad, to open for rule development. Motion failed with Ms. Mullins, Dr. Weizer, Dr. Fallon, Ms. Risch, and Dr. Griffin in opposition.

2. Correspondence from AVMA Re: Prescription Pet Medications

Mr. Michael Jackson with the Florida Pharmacy Association spoke briefly about Pet Medications.

Gary Koeston, BPharm, MS, CPh, offered a response to some of the issues raised by Dr. Carlson in the letter presented, based on 12 years of practice within the field of veterinary pharmacy.

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

Tabled to Wednesday, August 15, 2012.

## **C. Review and Approval of Minutes**

### 1. June 5-6, 2012 Meeting Minutes

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

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Public Comments:

Dr. Griffin opened the floor up for public comments.

Mr. Michael Jackson with the Florida Pharmacy Association addressed some issues regarding language in House Bill 5001 and prescriptions for vaccines.

**Motion:** by Dr. Fallon, seconded by Dr. Weizer, to adjourn the meeting at 4:44 p.m. Motion carried.

### **Wednesday, August 15, 2012 at 8:00 a.m.**

#### **8:00 a.m. Call to Order by Cynthia Griffin, PharmD, Chair**

All Board Members were present, except for Mr. Albert Garcia.

Dr. Griffin welcomed individuals in the audience, including representative from Compliance including Sondra Nelson, Alissa Floyd, as well as the students in the audience.

Dr. Griffin requested that cell phones, pagers, and beepers be turned off. She informed everyone that the meeting is being recorded and an audio file will be posted on the Board's website after the meeting.

Dr. Griffin announced that Ratification of Licenses items from August 14, 2012 agenda material would be first discussed at today's meeting and the Chair was relinquished to Dr. Weizer to carry out that discussion.

#### **TAB 3 BUSINESS - Cynthia Griffin, PharmD, Chair**

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

1. Pharmacist (Licensure) (Client 2201) - 118
2. Pharmacist (Exam Eligibility) (Client 2201) - 638
3. Pharmacist Interns (Client 2202) - 138
4. Registered Pharmacy Technicians (Client 2208) - 886
5. Consultant Pharmacist (Client 2203) - 33
6. Nuclear Pharmacist (Client 2204) - 0
7. Pharmacies/Facilities (Client 2205) - 117
8. Registered Pharmacy Technician Ratios (2:1 or 3:1) - 2597
9. Pharmacy Technician Training Program (Client 2209) - 32
10. CE Providers - 9
11. CE Courses - 15

- 12. CE Individual Requests (Approved) - 1
- 13. CE Individual Requests (Denied) – 2

**Motion:** by Ms. Glass, seconded by Dr. Mesaros, to ratify issued licenses, certificates and staffing ratios. Motion carried.

**TAB 4            DISCIPLINARY CASES - John Truitt, Esq. & Cynthia Griffin, PharmD**

**A.            SETTLEMENT AGREEMENT - APPEARANCE REQUIRED**

A-1            Mitchell Ginsburg, R.Ph., PS 19419, Boynton Beach, FL  
Case No. 2011-18659 – PCP Mullins/Risch

Respondent violated:

Count one – Section 465.016(1)(e), Florida Statutes (2009, 2010), by violations of Section 893.04(1)(b), Florida Statutes (2009, 2010) by filling prescription for a controlled substance when the prescription was not dated by the prescribing practitioner.

Count two – Section 465.016(1)(e), Florida Statutes (2010), by violation of 893.04(1)(e)6, Florida Statutes (2010), by providing a label on the prescription with incorrect directions for use of the controlled substance.

Count three – Section 465.016(1)(e), Florida Statutes (2009), by violation of Section 893.04(2)(f), Florida Statutes (2009), by knowingly fill a prescription that has been forged for a controlled substance listed in Schedule II, Schedule III, or Schedule IV.

Respondent shall be present. Respondent shall pay a fine in the amount of \$5,000 and costs in the amount of \$1,216.14. Respondent shall complete a 12 hour Laws and Rules CE course, and a 2 year standard probationary period.

Respondent was present and sworn in by the court reporter. Respondent was represented by Bonnie Eyler, Esq.

Motion: by Dr. Weizer, seconded by Ms. Glass, to accept the Settlement Agreement, with the amendment that the appearance is required during the last 3 months of his probationary period. Motion carried.

**B.            INFORMAL HEARINGS**

I-1            Randolph E. McEwen, R.Ph., PS 25912, Tampa, FL  
Case No. 2010-12676 – PCP Mullins/Risch

Respondent violated:

Count one – Section 465.016(1)(i), Florida Statutes (2009), compounding, dispensing, or distributing a legend drug, including any controlled substance, other than in the course of the professional practice of pharmacy. For purposes of this paragraph, it shall be legally presumed that the compounding, dispensing, or distributing of legend drugs in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the professional practice of pharmacy.

Count two – Section 465.016(1)(n), Florida Statutes (2009), by violating Rule 64B16-27.810, Florida Administrative Code, by failing to review the patient record and each new refill prescription presented for dispensing in order to promote therapeutic appropriateness by identifying: (a) over-utilization or under-utilization; (b) therapeutic duplication; (c) drug-disease contraindications; (d) drug-drug interactions; (e) incorrect drug dosage or duration of drug treatment; (f) drug-allergy; and/or (g) clinical abuse/misuse.

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

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

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

**Motion:** by Dr. Weizer, seconded by Ms. Glass, to adopt the findings of fact alleged in the Administrative Complaint. Motion carried.

**Ms. Dudley's Recommendation:** This case should not be continued and that it be forwarded to DOA.

I-2 Fletcher Discount Pharmacy d/b/a Next Dose Pharmacy, PH 22386, Tampa, FL  
Case No. 2010-13599 – PCP Mullins/Risch

**Ms. Dudley's Recommendation:** This case should not be continued and that it be forwarded to DOA.

I-3 Robert Adams, R.Ph., PS 26631, Milton, FL  
Case No. 2010-13975 – PCP Meshad/Weizer

Tabled until Mr. Adams arrived later in the day (last item under TAB 5).

**C. DETERMINATION OF WAIVER HEARINGS**

DOW-1 Michael James Fisher, RPT 23716, Sarasota, FL  
Case No. 2010-23860 – PCP Garcia/Glass

Respondent violated Section 465.016(1)(e), Florida Statutes (2009), by violating 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.

Respondent was not present, nor represented by counsel.

**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 waived the right to a formal hearing. Motion carried.

**Motion:** by Dr. Weizer, seconded by Mr. Meshad, to adopt the findings and facts as set forth in the Administrative Complaint. 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 Dr. Weizer, seconded by Mr. Meshad, to accept the recommendations of the Department of costs in the amount of \$892.71 and revocation. Motion carried.

DOW-2            Candice Shontee Graham, RPT 11348, Jacksonville, FL  
Case No. 2011-15415 – PCP Mullins/Risch

Count I: Respondent violated Section 456.072(1)(x), Florida Statutes (2011), failing to report to the board, or the department if there is no board, in writing within 30 days after the licensee has been convicted or found guilty, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction.

Count II: Respondent violated Section 456.072(1)(c), Florida Statutes (2011), by being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee's profession.

Respondent was not present, nor represented by counsel.

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

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

**Motion:** by Ms. Glass, seconded by Dr. Fallon, to adopt the findings and facts as set forth in the Administrative Complaint. Motion carried.

**Motion:** by Ms. Glass, seconded by Dr. Fallon, 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.

**Recommended penalty:** Costs of \$1,387.95 and fine of \$5,000 with 90 days to pay, and 1 year suspension with required appearance before the board at the end of the suspension so the board can impose terms of probation if necessary.

**Motion:** by Ms. Glass, seconded by Dr. Fallon, to accept the recommendations of the Department of costs and revocation. After further discussion;

**Motion:** by Ms. Glass, seconded by Dr. Fallon, to amend the settlement agreement to costs and fines payable within 2 years, a PRN evaluation before appearing before the board, and a minimum of a 1 year suspension. Motion carried.

DOW-3            Jessica M. Roe, RPT 9584, Jacksonville, FL  
                         Case No. 2011-17848 – PCP Meshad/Weizer

Respondent was not present, nor represented by counsel.

Count I: Respondent violated Section 465.016(1)(i), Florida Statutes (2010-2011), by compounding, dispensing, or distributing a legend drug, including any controlled substance, other than in the course of the professional practice of pharmacy.

Count II: Respondent violated Section 456.072(1)(z), Florida Statutes (2011), by being unable to practice with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotic, chemicals, or any other material or as a result of any mental or physical condition.

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

**Motion:** by Ms. Glass, seconded by Ms. Mullins, to find that Respondent was properly served and has waived the right to a formal hearing. Motion carried.

**Motion:** by Ms. Glass, seconded by Ms. Mullins, to adopt the findings and facts as set forth in the Administrative Complaint. Motion carried.

**Motion:** by Ms. Glass, seconded by Ms. Mullins, to adopt the conclusions of law set forth in the Administrative Complaint and find that Count II constitutes a violation of the Pharmacy Practice Act; Count I was dismissed. Motion carried.

**Recommended penalty:** Costs of \$1,124.30 payable in 90 days, a PRN evaluation, and a minimum 1 year suspension with required appearance before the board at the end of the suspension so the board can impose terms if necessary.

**Motion:** by Ms. Mullins, seconded by Ms. Glass, to accept the recommendations of the Department of costs and revocation. Motion carried.

DOW-4            Rony Cabral, RPT 25893, Plantation, FL  
                         Case No. 2011-11056 – PCP Mullins/Weizer

Tabled to Voluntary Relinquishment -12.

DOW-5            Baldwin I O Ihenacho, R.Ph., PS 27158, Stoughton, MA  
                         Case No. 2011-13794 – PCP Mullins/Weizer

Count I: Respondent violated Section 456.072(1)(x), Florida Statutes (2011), failing to report to the board, or the department if there is no board, in writing within 30 days after the licensee has been convicted or found guilty, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction.

Count II: Respondent violated Section 456.072(1)(c), Florida Statutes (2011), by being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee's profession

Respondent was not present, nor represented by counsel.

**Motion:** by Ms. Glass, seconded by Dr. Fallon, to continue with the matter and deny his request for a stay. Motion carried.

**Motion:** by Ms. Glass, seconded by Mr. Meshad, to clarify prior motion to continue the matter today and to deny Mr. Ihenacho's request for continuation. Motion carried.

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

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

**Motion:** by Ms. Glass, seconded by Dr. Fallon, to adopt the findings and facts as set forth in the Administrative Complaint. Motion carried.

**Motion:** by Ms. Glass, seconded by Dr. Fallon, 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.

**Recommended penalty:** Revocation, and costs of \$294.97

**Motion:** by Mr. Meshad, seconded by Dr. Fallon, to accept the recommendations of the Department of costs and revocation. Motion carried.

DOW-6            Michael James Fisher, RPT 23716, Sarasota, FL  
Case No. 2010-23754 – PCP Fallon/Risch

Count I: Respondent violated Section 456.072(1)(x), Florida Statutes (2011), failing to report to the board, or the department if there is no board, in writing within 30 days after the licensee has been convicted or found guilty, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction.

Count II: Respondent violated Section 456.072(1)(c), Florida Statutes (2011), by being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a

crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee's profession

Respondent was not present, nor represented by counsel.

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

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

**Motion:** by Dr. Weizer, seconded by Ms. Glass, to adopt the findings and facts as set forth in the Administrative Complaint. Motion carried.

**Motion:** by Dr. Weizer, seconded by Ms. Glass, 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.

**Recommended penalty:** Revocation, and costs of \$1,054.53

**Motion:** by Ms. Mullins, seconded by Dr. Weizer, to accept the recommendations of the Department of costs and revocation. Motion carried.

DOW-7            Irenia Diaz, RPT 34640, Pembroke Pines, FL  
Case No. 2011-11238 – PCP Griffin/Salem

Respondent violated Section 465.016(1)(e), Florida Statutes (2010), by violating Section 893.13(7)(a)9, Florida Statutes (2010), by acquiring or obtaining, or attempting to acquire or obtain, possession of a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge.

Respondent was not present, nor represented by counsel.

Chair was relinquished to Dr. Weizer.

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

**Motion:** by Ms. Glass, seconded by Ms. Mullins, to find that Respondent was properly served and has waived the right to a formal hearing. Motion carried.

**Motion:** by Ms. Glass, seconded by Ms. Mullins, to adopt the findings and facts as set forth in the Administrative Complaint. Motion carried.

**Motion:** by Ms. Glass, seconded by Ms. Mullins, 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.

**Recommended penalty:** Revocation, and costs of \$2,449.07

**Motion:** by Dr. Fallon, seconded by Ms. Mullins, to accept the recommendations of the Department of costs and revocation. Motion carried.

Chair relinquished to Dr. Griffin.

#### **D. VOLUNTARY RELINQUISHMENTS (VR)**

**VR's voted on at one time:** VR2, VR3, VR4, VR5, VR6, VR7, VR8, VR9

**Motion:** by Dr. Weizer, seconded by Ms. Glass, to accept the above-listed voluntary relinquishments. Motion carried.

VR-1            Julian L. Folsom., Jr., R.Ph., PS 14494, Longwood, FL  
                  Case No. 2010-20866 – PCP Griffin/Salem

Tabled to the end of voluntary relinquishments (after VR-11).

VR-2            Kathryn Janene Welker, RPT 40830, Port St Joe, FL  
                  Case No. 2012-05543

Respondent was not present, nor represented by counsel.

**See:** motion at beginning of the Voluntary Relinquishments section.

VR-3            Edward P. Becker, R.Ph., PS 31188, Cape Coral, FL  
                  2012-06964

Respondent was not present, nor represented by counsel.

**See:** motion at beginning of the Voluntary Relinquishments section.

VR-4            Robert D. Rowe, R.Ph., PS 11627, Naples, FL  
                  Case No. 2012-06978

Respondent was not present, nor represented by counsel.

**See:** motion at beginning of the Voluntary Relinquishments section.

VR-5            Charles Krueger, III, R.Ph., PS 24583, Naples, FL  
                  Case No. 2012-06963

Respondent was not present, nor represented by counsel.

**See:** motion at beginning of the Voluntary Relinquishments section.

VR-6 Pharmacy One Inc., PH 17820, Miami, FL  
Case No. 2012-04862

Respondent was not present, nor represented by counsel.

**See:** motion at beginning of the Voluntary Relinquishments section.

VR-7 Alma Aryan, R. Ph., PS 33142, Miami, FL  
Case Nos. 2011-16709 & 11-00211

Respondent was not present, nor represented by counsel.

**See:** motion at beginning of the Voluntary Relinquishments section.

VR-8 Izz & Sons, Inc., PH 15895, Miami, FL  
Case Nos. 2011-00210 & 2012-04861 – TS

Respondent was not present, nor represented by counsel.

**See:** motion at beginning of the Voluntary Relinquishments section.

VR-9 Wesley W. Kwan, R.Ph., PS 16866, Longwood, FL  
Case No. 2012-04381 – CLC

Respondent was not present, nor represented by counsel.

**See:** motion at beginning of the Voluntary Relinquishments section.

VR-10 Alpha Pharmacy & Discount, Inc., PH 25105, Miami, FL  
Case No. 2011-04265 – CLC

Respondent was not present, nor represented by counsel.

**Motion:** by Ms. Glass, seconded by Dr. Fallon, to accept the Voluntary Relinquishment. Motion carried.

VR-11 Kawana Jaye Staffney, RPT 16261, Goulds, FL  
Case No. 2011-09028 - KB

Respondent was not present, nor represented by counsel.

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

Chair was relinquished to Dr. Weizer.

VR-1            Julian L. Folsom, Jr., R.Ph., PS 14494, Longwood, FL  
                  Case No. 2010-20866 – PCP Griffin/Salem

Respondent was not present, nor represented by counsel.

**Motion:** by Mr. Meshad, seconded by Ms. Glass to accept the Voluntary Relinquishment. Motion carried.

Chair was relinquished to Dr. Griffin.

VR-12           Rony Cabral, R.P.T.  
                  Case No. 2011-11056 – JT

Respondent was not present, nor represented by counsel.

**Motion:** by Ms. Glass, seconded by Mr. Meshad to accept the Voluntary Relinquishment. Motion carried.

**TAB 5            APPLICATIONS REQUIRING BOARD REVIEW**

**A.            Exam Candidates**

1. Amy K. Johnson

Respondent was present and sworn in by the court reporter. Martha Brown was present on behalf of PRN.

**Motion:** by Dr. Weizer, seconded by Ms. Mullins, to approve her to take the exam and licensure, with a required appearance before the board during the last 3 months of her PRN contract with a new PRN evaluation, to see what PRN recommends and potentially re-extend her PRN contract to 5 years. Motion carried.

2. Daryl Willmore

Respondent was present and sworn in by the court reporter. Dr. Brown was present on behalf of PRN.

**Motion:** by Ms. Mullins, seconded by Dr. Weizer, to approve the application for examination. Motion carried.

**B.            Endorsement Candidates**

1. Peter Chen

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

Peter Chen waived his requirement that the Board rule on his application today and moved his application to the October Board meeting.

**Motion:** by Dr. Weizer seconded by Ms. Glass, to continue the decision on this candidate's application and request Mr. Chen to submit his Texas PRN evaluation to the Board office for review and consideration. Motion Carried.

**C. Pharmacy Intern Candidates**

1. Ryan Michael Griffin

Respondent was not present, nor represented by counsel.

**Motion:** by Dr. Weizer, seconded by Ms. Mullins, to continue to October meeting and request his appearance before acting on his application. Motion carried.

**D. Exam Candidates - Required Appearances**

1. Brad E. Campbell

Respondent was present and sworn in by the court reporter. Dr. Brown was present on behalf of PRN.

**Motion:** by Dr. Weizer, seconded by Ms. Mullins, to approve the application for examination. Motion carried.

**E. Endorsement Applicants - Required Appearances**

1. Harita Patel

Respondent was not present, nor represented by counsel.

Ms. Dudley recommended that this case be continued and another appearance required notice be sent out for the next meeting.

**Motion:** by Dr. Weizer, seconded by Ms. Mullins, to continue. Motion carried.

**F. Request for Hearing on Notice of Intent to Deny Application**

1. Charles Peckerman

Respondent was present. Respondent was not represented by counsel.

**Motion:** by Ms. Mullins, seconded by Mr. Meshad, to uphold the decision of denial made in April 2012. Motion carried.

**G. Pharmacy Permit Application, Change of Location – Failure to Pass Inspection**

1. Goodlife Pharmacy, Inc.

Respondent was not present, nor represented by counsel.

Ms. Dudley recommended two reasons why there would be grounds to deny their request, one being inspection violations found and the second being closing a pharmacy without properly notifying the Board.

**Motion:** by Dr. Weizer, seconded by Ms. Glass, to deny based on their history of not having records related to inspection forms and not notifying the Board before closing their pharmacy. Motion carried.

Dr. Griffin acknowledged the presence of the Department of Health Staff: Elizabeth Ranne, Cassandra Pasley, and Allison Tate, and thanked them for attending the meeting.

I-3 Robert Adams, R.Ph.  
Case No. 2010-13975 – JT

Respondent violated:

Count I – Section 456.072(1)(x), Florida Statutes (2011), failing to report to the board, or the department if there is no board, in writing within 30 days after the licensee has been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime, in any jurisdiction.

Count II – Section 456.072(1)(c), Florida Statutes (2011), by being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee’s profession.

Respondent was present and sworn in by the court reporter. Respondent was represented by Gillis Powell, Esq.

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

**Motion:** by Ms. Glass, seconded by Ms. Mullins, to make a finding that the Respondent was properly served and has requested an informal hearing. Motion carried.

**Motion:** by Ms. Glass, seconded by Ms. Mullins, to adopt the findings of fact as set forth in the Administrative Complaint. Motion carried.

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

**Department’s Recommendation:** Revocation, and costs of \$706.26.

**Motion:** by Ms. Mullins, seconded by Ms. Risch, to continue the suspension until he obtains a PRN evaluation and PRN is able to state that Mr. Adams is able to practice with reasonable skill and safety, where at that point Mr. Adams will then petition the Board for reinstatement of his license. The Board reserves jurisdiction to impose probationary terms at that point; with the amendment to pay costs of \$706.26 within 90 days. Motion carried.

**TAB 6**            **LICENSURE ISSUES**

**A.        Request for Termination of Probation**

1. Timothy Kyburz

Respondent was present. Respondent was not represented by counsel. Dr. Brown was present on behalf of PRN.

**Motion:** by Dr. Weizer, seconded by Ms. Mullins, to approve the request for termination of probation. Motion carried.

2. Gabriel Mesa

Respondent was present. Respondent was not represented by counsel. Dr. Brown was present on behalf of PRN.

**Motion:** by Dr. Weizer, seconded by Ms. Glass, to approve the request for termination of probation. Motion carried.

3. Karl Walter

Respondent was present. Respondent was not represented by counsel. Dr. Brown was present on behalf of PRN.

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

**B.        Petition for Reinstatement**

1. Jack Morgan, Jr.

Respondent was present. Respondent was not represented by counsel. Dr. Brown was present on behalf of PRN.

**Motion:** by Dr. Weizer, seconded by Ms. Mullins, to approve the petition for reinstatement with the amendment to correct original settlement agreement in his quarterly written reports to his compliance officer which shall include the respondent's license number, current address and phone number, and the current name, address and phone number of each pharmacy in which the respondent is engaged in the practice of pharmacy. The report shall also include the name of all pharmacists, pharmacy interns, pharmacy technicians, relief pharmacists, and prescription

department managers working with the respondent. These reports should be submitted to the compliance officer every three months. The respondent shall also submit his practice plan to the Board once he has approval, before he starts work. Motion carried.

**C. Request for Modification of Final Order**

1. Douglas Kassan

Respondent was present. Respondent was not represented by counsel. Dr. Brown was present on behalf of PRN.

**Motion:** by Dr. Weizer, seconded by Ms. Risch, to approve the request to modify final orders to allow Mr. Kassan to work as a PDM. Motion carried.

**D. Request for Payment Extension**

1. Constance Willman

Respondent was not present, nor represented by counsel.

**Motion:** by Ms. Mullins, seconded by Dr. Mesaros, to grant an extension to pay upon contact from the Compliance Services Unit to establish a payment plan that would be realistic over the next three years. Motion carried.

**E. Request for Extension to Pay Fines and Costs**

1. Jamilla-Ann Valerie Bethune

Respondent was present. Respondent was represented by Mr. Bayo. Dr. Brown was present on behalf of PRN.

**Motion:** by Lee Fallon, seconded by Dr. Weizer, to approve the extension of time to pay costs and fines to 18 months. Motion carried.

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Public Comments:

Dr. Griffin opened the floor up for public comments.

John Bixler, the Administrator of Emergency Medical Services for the Florida Department of Health, Dr. Joe Nelson, the State EMS Medical Director, and Cory Richter, the Chair of the Emergency Medical Service Advisory Council, discussed the national epidemic on shortage of medications being shipped into Florida. The Board was asked for their help in suggesting ideas to help get through this crisis to prevent harm to the public as a result of the lack of available medications.

Dr. Weizer, on behalf of the Board, thanked John Bixler, Dr. Joe Nelson, and Cory Richter for bringing forth this problem to the Board. She discussed reasons why there would be a shortage on some drugs but not all, and that she would provide suggestions through Mr. Whitten. She stated

that the Board of Pharmacy is not against them in this drug shortage crisis, but struggling along side them, and also supporting them.

Mark Whitten stated he is participating in a drug shortage task force for the Advisory Council, and if anyone has any information or suggestions, to please send those to him, because they are worth being discussed over future conference calls.

**Motion:** by Dr. Weizer, seconded by Dr. Fallon, to adjourn the meeting at 11:31 p.m. Motion carried.