

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

October 9-10, 2012

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

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, October 9, 2012 - 1:00 p.m.

1:01 p.m. - Call to Order by Cynthia Griffin, PharmD, Chair

All Board members were present, except for Lorena Risch.

Dr. Griffin welcomed individuals in the audience, including former board members Jim Powers and Bob Parrado. She also acknowledged Jeane Clyne and John Taylor with the Department of Health, as well as, Dinah Skrnich with the Division of Drugs, Devices, and Cosmetics.

Dr. Griffin requested that all 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 STATEMENTS/ VARIANCE OR WAIVER/ RULE MAKING

1. Gregory Milanich: 64B16-27.830 Standards of Practice – Drug Therapy Management

Mr. Gregory Milanich was present and sworn in by the court reporter. Mr. Milanich was not represented by counsel.

The Board Counsel's recommendation was to either deny or continue the petition to the December 2012 meeting.

Dr. Griffin clarified for Mr. Milanich that the content is not sufficient for Board members to comfortably make a decision.

Mr. Milanich asked the Board for examples of what they would like to see. Mr. Garcia and Dr. Weizer offered examples.

Motion: by Mr. Garcia, seconded by Ms. Mullins, to move the petition to the December 2012 Board Meeting if further information is received from Mr. Milanich. Motion carried.

2. Donna Scollieri - Florida Hospital Home Infusion, LLP - Chapter 465.003(14)
"Prescription" / Designated Agent

Donna Scollieri was not present nor represented by counsel.

The Board Counsel's Recommendation was to answer the respondent's question. The first question would be answered as follows: a lawfully designated agent is determined by the practitioner and if there is any concern, to verify any issues with the practitioner. The second question would be answered as follows: to direct them to Board Rule 64B16-27.103, that states that only a pharmacist or an intern can accept an oral prescription.

Motion: by Dr. Weizer, seconded by Dr. Fallon, to answer the Petition for Declaratory Statement in the manner of the Board Counsel's recommendation. Motion carried.

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

Respondent was not present, nor represented by counsel.

The Board Counsel's recommendation was to deny the petition for rule making based on the fact that the Board already has statutes in place addressing dispensing practitioners.

Michael Jackson, with the Florida Pharmacy Association, asked the Board what process should be taken to report a dispensing practitioner.

Ms. Dudley and Mr. Whitten advised Mr. Jackson that reporting violations regarding dispensing practitioners would be up to the respective Board in which that practitioner is licensed.

Motion: by Dr. Fallon, seconded by Mr. Garcia, to deny the petition for rule making based on the fact that Florida Statute 465.0276 defines what is acceptable for a dispensing practitioner. Motion carried.

TAB 2 REPORTS

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

1. Dr. Cynthia Griffin - Chair and Vice Chair Meeting

Dr. Griffin gave an update on the Chair and Vice Chair meeting held in Tallahassee, Florida on September 12, 2012. Items discussed were the Medical Quality Assurance long-term planning and strategic priorities. These items in detail included enforcement regulations of facilities and practitioners involved in prescribing or dispensing controlled substances in Florida, reduce inappropriate and over prescribing, reduce the time it takes to impose emergency action against a health care practitioner or facility that poses an immediate threat to public health safety, develop a comprehensive communication plan that ensures timely, accurate, relevant and critical information for work force customers and stake holders, to ensure cost effective regulation, and to improve information and data analysis systems to enable MQA to be more proactive in protecting and promoting public health safety.

The meeting also included an overview of the 2012 Legislation which was given by Cassandra G. Pasley, Chief, Bureau of Health Care Practitioner Regulation. There was also time given for an open discussion Board forum and a break out session for the budget liaisons.

Dr. Griffin also commented on the National Association of Boards of Pharmacy Meeting on September 19-20, 2012 in Chicago. Meeting topics discussed included the future of pharmacy regulation, immerging issues, new practice models, regulating and decreasing diversion to increase patient safety, technology and technological awareness, drug shortages, and legal issues, and conflict of interest in various Board processes.

2. Dr. Michele Weizer

a. Budget Liaison Training

Dr. Weizer informed the Board that the purpose of the Budget Liaison Board Council Training was to teach the liaisons how to read various budget reports as well as budget terminology. Dr. Weizer also discussed the Prescription Drug Monitoring Program and current funding problems for that program. Dr. Weizer was looking for feedback on possibly using the Board of Pharmacy's trust fund, along with other Boards, to help fund the Prescription Drug Monitoring Program.

Motion: by Dr. Weizer, seconded by Dr. Fallon, to help the Prescription Drug Monitoring Program with funding from the Board of Pharmacy's trust fund, along with the help from the Board of Medicine and the Board of Osteopathic medicine. Motion carried.

b. Drug Shortage Task Force Update

Dr. Weizer explained how the Drug Shortage Task Force meets for about 2 hours every other Friday and the EMS providers of the task force are from all different types of private, state, or government organizations. Dr. Weizer informed the Board that Emergency Medical Service providers are having problems with receiving acute care drugs.

3. Dr. Jeffrey Mesaros's – MALTAGON

Dr. Mesaros commented on his attendance and that a professor from Oklahoma State University gave on the technological challenges that exist between recent pharmacy graduates and pharmacists who have been in the field for many years. Dr. Mesaros also spoke about community pharmacy accreditation through the National Association of Boards of Pharmacy.

4. Immunization Discussion - 465.189

Motion: by Dr. Weizer, seconded by Ms. Glass, to open for rule development. Motion carried.

Ms. Dudley announced she would bring language to the December 2012 Board meeting and recommended that the Board office not approve immunization certificates to individuals that took the Immunization course work prior to being licensed as a pharmacist.

B. Executive Director's Report - Mark Whitten

1. Update on Workgroup with Mr. Meshad

Mr. Meshad gave an update on his taskforce and stated that he spoke with attorney generals office and continues to work with the board office regarding this matter.

A Prescription Drug Abuse Task Force Committee was created by the Board with Mr. Meshad as Chair and Dr. Weizer, Dr. Mesaros, Ms. Mullins, and Ms. Glass as committee members.

2. Update on Workgroup with Ms. Mullins

Mr. Whitten and Ms. Mullins have established an effort to compile questions that would be placed on an anonymous survey sent to all Florida pharmacists regarding impacts of workplace environments and patient safety. The members of this work group are finding ways to be proactive and help figure out what can be done to help prevent misfills and medication errors.

3. Immunization Application

Mr. Whitten explained that due to recent legislation, the instructions on the Immunization Application had to be updated. Mr. Whitten asked for the Board's approval to remove influenza virus from the application and insert Immunizations.

Motion: by Ms. Mullins, seconded by Ms. Glass, to open for rule development and to proceed with rule making to make the suggested changes to the Immunization Application. 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 Ms. Glass, seconded by Dr. Weizer, that it will have no effect on small business nor does it increase the regulatory cost by \$200,000 or more. Motion carried.

4. Request for Modification of Business Hours

a. Emmanuel Inwang

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

Motion: by Dr. Weizer, seconded by Ms. Mullins, to approve the request for modification of business hours. Motion carried.

b. Justin Doherty

Respondent was not present, nor represented by counsel.

Motion: by Mr. Garcia, seconded by Ms. Mullins, to approve the request for modification of business hours. Motion carried.

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

1. Rules Report

Ms. Dudley requested the Board vote on whether or not to open for rule development and rule making on the suggested language added to Rule 64B16-26.1031.

Motion: by Dr. Weizer, seconded by Ms. Mullins, to open for rule development and rule making with the suggested 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. Mullins, that it will have no effect on small business nor does it increase the regulatory cost by \$200,000 or more. Motion carried.

Motion: by Dr. Weizer, seconded by Ms. Glass, to authorize Board staff and attorney to make changes to the immunization application as part of the rule making. Motion carried.

Ms. Dudley requested the Board vote on the language changes to questions 3 and 6 on page 3, and question 3 under section 5 in the Board of Pharmacy Continuing Education Provider Application.

Motion: by Dr. Weizer, seconded by Ms. Glass, to approve language changes in the Pharmacy Continuing Education Provider Application. 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 the Board vote on the modifications to the Community Pharmacy Permit Application.

Motion: by Dr. Fallon, seconded by Ms. Glass, to approve the modifications to the Community Pharmacy Permit Application. 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. 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 penalties for disciplinary guidelines for the animal control statute, if a permit needs to be disciplined.

Motion: by Dr. Griffin, seconded by Dr. Fallon, for a minimum fine of \$250 and reprimand to a maximum of revocation for (p)1. Motion carried.

Motion: by Dr. Fallon, seconded by Ms. Glass, for a minimum fine of \$250 and reprimand to a maximum of revocation for (p)2-5. Motion carried.

Motion: by Dr. Fallon, seconded by Ms. Glass, to open the rule up for development and enter into rule making with the 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 Dr. Fallon, that it will have no effect on small business nor does it increase the regulatory cost by \$200,000 or more. Motion carried.

Dr. Weizer suggested that in Rule 64B16 -28.140 Record Maintenance, the language “or the consultant of record when barcode verification quality assurance program in place” be added to the end of (16)d and (17)b.

Motion: by Dr. Weizer, seconded by Ms. Glass, to add the suggested language to Rule 64B16 - 28.140. Motion carried.

2. Rule 64B16-27.700, public comments on SERC

Ms. Dudley requested statements from anyone who would like to discuss the potential regulatory costs of the changes to this rule and testimony from any associations or any affected individuals indicating how this rule will affect current practices, whether it will affect current practices, is it going to increase costs in a pharmacy and what costs are envisioned to be.

Edwin Bayo approached the board on behalf of Jim Powers and read a statement from Mr. Powers emphasizing his and many colleagues support of this rule.

Bob Parrado stated that he had heard from many compounding pharmacies expressing that they felt there would be no economic impact resulting from this rule and that the rule would actually improve regulation

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

D. Prosecuting Attorney Report - John Truitt, Assistant General Counsel

1. Prosecuting Services Report

John Truitt reported that in August 2012 PSU had 271 cases and as of October 8, 2012 PSU is down to 242 cases. There are 87 cases that need to be drafted and 44 cases that are scheduled for probable cause. Mr. Truitt also briefly explained the status of cases open from 2005 to 2010.

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

Motion: by Dr. Weizer, seconded by Ms. Glass, to continue prosecuting old cases. Motion carried.

E. Chief Investigative Services Report - Jeane Clyne

Ms. Clyne reported that during the first quarter of the fiscal year 1,820 pharmacy inspections were completed and 88% of pharmacies requiring inspection were completed. There were over 4,000 inspections that needed to be completed for the dispensing practitioner project and Ms. Clyne reported that all but 502 were completed.

TAB 3 BUSINESS - Cynthia Griffin, PharmD, Chair

A. Presentations

1. Rod Presnell – Omnicare

Rod Presnell, representing Omnicare, along with John Keeling, General Manager of Omnicare, Tampa, and Mike Szesko, Vice President of Automation, made a presentation on developing and implementing new pharmacy technology that provides unprecedented quality and service benefits to patients through Auto Label Verify (ALV) Automation and Good Automated Manufacturing Practice (GAMP).

Mr. Presnell requested the Board consider rule making regarding the technological device presented on.

Dr. Griffin advised the Board members that if the Board entertains a rule regarding technology, that the rule pertain to all forms of and technology and technological devices and not one specific type of device, because all devices are not equal.

Dr. Mesaros requested that suggested language from Rules already set in place in other states be sent to the Board office for review.

Dr. Griffin requested Board staff to review the requirements other states have in place in regards to technology and automation.

B. Ratification of Issued Licenses/Certificates & Staffing Ratios

1. Pharmacist (licensure) (Client 2201) - 736
2. Pharmacist (Exam Eligibility (Client 2201) - 134
3. Pharmacist Interns (Client 2202) - 63
4. Registered Pharmacy Technicians (Client 2208) - 897
5. Consultant Pharmacist (Client 2203) - 28
6. Nuclear Pharmacist (2204) - 2
7. Pharmacist/Facilities (2205) - 122
8. Registered Pharmacy Technician Ratios (2:1 or 3:1) - 91
9. Pharmacy Technician Training Program (Client 2209) - 19
10. CE Providers - 8
11. CE Courses - 14
12. CE Individual Request (Approved) - 11
13. CE Individual Request (Denied) - 1

Motion: by Dr. Fallon, seconded by Dr. Weizer, to ratify issued licenses, certificates and staffing ratios. Motion carried.

C. Review and Approval of Minutes

1. August 14-15, 2012 Meeting Minutes

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

Public Comments:

Bob Parrado approached the Board with a question on Pharmacy business hours.

Michael Jackson, with the Florida Pharmacy Association, extended the invitation to a social gathering located at the Florida Pharmacy Association

Motion: by Dr. Fallon, seconded by Ms. Glass, to adjourn the meeting at 5:02 p.m. Motion carried.

Wednesday, October 10, 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 Lorena Risch.

Dr. Griffin welcomed individuals in the audience, including former board member Bob Parrado. She also acknowledged Elizabeth Ranne with the Department of Health and students from Florida A&M University.

Dr. Griffin requested that all 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 4 DISCIPLINARY CASES - John Truitt, Esq. & Cynthia Griffin, PharmD

A. SETTLEMENT AGREEMENT – APPEARANCE REQUIRED

A-1 Dean Henry Short, PS 19841, Mt. Dora, FL
Case No. 2011-12384 – PCP Risch/Mullins

Respondent violated Section 465.016(1)(r), Florida Statutes (2010), by violating Rule 64B16-27.1001(3), Florida Administrative Code, by failing to make the final check of the completed prescription before the prescription was dispensed to the patient.

Respondent shall be present. The respondent shall pay a fine in the amount of \$500 and costs in the amount of \$2752.45. The respondent shall complete an 8 hour CE course in misfills.

Respondent was present and sworn in. Respondent was represented by Mike Schwartz, Esq.

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

A-2 Harry G. Horodeck, PS 12646, Cape Coral, FL
Case No. 2011-13626 – PCP Fallon/Weizer

Respondent violated Sections 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 shall pay a fine in the amount of \$2000 and costs in the amount of \$3,556.67. Respondent shall complete a 12 hour Laws and Rules CE course, and a 1 year probationary period.

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

Motion: by Ms. Mullins, seconded by Ms. Glass, to table to December 2012 Board meeting contingent on review of medical evaluation. Motion carried.

A-3 Live Well Drugstore, LLC, PH 23293, Green Cove Springs, FL
Case No. 2010-05420 – PCP Salem/Griffin

Respondent violated:

Count one – Section 465.023(1)(c), Florida Statutes.

Count two – Section 465.023(1)(c), Florida Statutes (2010), by compounding, repackaging, selling, delivering, or holding or offering for sale drugs that are adulterated all in violation of Chapter 499, Florida Statutes.

Count three – Section 465.023(1)(c), Florida Statutes (2010), for purchasing and receiving drugs from Yan Cheng Xihyi through Sinoway, unpermitted persons not authorized under Florida or federal law to distribute prescription drugs to Respondent in violation of Chapter 499, Florida Statutes.

Respondent shall be present. Respondent shall pay a fine in the amount of \$2,500 and costs in the amount of \$1,874.74. Respondent shall have semi-annual inspections in 1 year at the respondent's cost.

Mike McClain, PDM, was present on behalf of Live Well Drugstore, LLC, and sworn in. Respondent was represented by Brian E. Currie, Esq.

Motion: by Dr. Weizer, seconded by Ms. Glass, to reject and counter with same terms plus probation for 1 year. Motion carried. Terms accepted by Respondent at meeting.

A-4 Suddha Pharmacy, LLC, PH 21413, Palm Beach, FL
Case No. 2012-00667 – PCP Fallon/Weizer

Respondent violated:

Count one – Section 465.023(1)(c), Florida Statutes (2011), by violating a rule of the Board of Pharmacy, through the violation of Rule 64B16-27.100, Florida Administrative Code, by failing to properly display the current licenses and properly identify a pharmacy technician.

Count two – Section 465.023(1)(c), Florida Statutes (2011), through a violation of Rule 64B16-27.300(4), Florida Administrative Code, by failing to record CQI meeting minutes as specified by the rule.

Count three- Section 465.023(1)(c), Florida Statutes (2011), through a violation of 64B16-28.108, Florida Administrative Code, by failing to properly label and store medications.

Count four- Section 465.023(1)(c), Florida Statutes (2011), by violating a rule of the Board of Pharmacy, through a violation of Rule 64B16-28.110, Florida Administrative Code, by failing to remove from the prescription department all pharmaceuticals which bear upon the container an expiration date which has been reached.

Respondent shall be present. Respondent shall pay a fine in the amount of \$3,000 and costs in the amount of \$1,640.38. Respondent must complete a 2 year probationary period. The Pharmacy Department Manager must complete a 12 hour laws and rules CE course.

Dipti Patel, PDM, was present on behalf of Suddha Pharmacy and sworn in. Respondent was not represented.

Motion: by Ms. Mullins, seconded by Mr. Garcia and Dr. Mesaros, to accept the Settlement Agreement. Motion carried.

A-5 Smitaben Surendrabhai Parmer, PS 43399, West Palm Beach, FL
Case No. 2012-00664 – PCP Fallon/Weizer

Respondent violated:

Count one – Section 465.016(1)(r), Florida Statutes (2011), by violating Section 465.018, Florida Statutes (2011), by being the PDM of a pharmacy that violated Rule 64B16-27.100, Florida Administrative Code, by failing to conspicuously display licenses and properly identify a student technician.

Count two – Section 465.016(1)(r), Florida Statutes (2011), by violating Section 465.018, Florida Statutes (2011), by being the PDM of a pharmacy that violated Rule 64B16-27.300(4), Florida Administrative Code, by failing to follow proper procedure for recording CQI meeting minutes.

Count three – Section 465.016(1)(r), Florida Statutes (2011), by violating Section 465.018, Florida Statutes (2011), by being the PDM of a pharmacy that violated Rule 64B16-28.108, Florida Administrative Code, by failing to ensure that medication was properly labeled.

Count four – Section 465.016(1)(r), Florida Statutes (2011), by violating Section 465.018, Florida Statutes (2011), by being the PDM of a pharmacy that violated Rule 64B16-28.110, Florida Administrative Code, by failing to remove expired pharmaceuticals from active stock.

Respondent shall be present. Respondent shall pay a fine in the amount of \$3,000 and costs in the amount of \$1,201.30. Respondent shall complete a 12 hour laws and rules CE course and a 2 year probationary period.

Respondent was present and sworn in. Respondent was not represented.

Motion: by Mr. Garcia, seconded by Ms. Glass, to accept the Settlement Agreement. Motion carried.

A-6 John T. Lawrence, PS 14824, West Palm Beach, FL
Case No. 2010-15133 – PCP Risch/Garcia/Mullins

Respondent violated Section 465.016(1)(e), Florida Statutes (2009, 2010) by violating Section 893.04(1)(b), Florida Statutes (2009, 2010), by filling a written prescription for a controlled substance when the prescription was not dated and/or signed by the prescribing practitioner.

Respondent shall be present. Respondent shall pay a fine in the amount of \$2,500 and costs in the amount of \$3,332.12. Respondent shall complete a 12 hour laws and rules CE course and a 6 month probationary period.

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

Motion: by Dr. Weizer, seconded by Ms. Glass, to accept the Settle Agreement. Motion carried.

B. INFORMAL

I-1 Ronald Jacobs, PS 18373, Lake Worth, FL
Case No. 2011-17701 – PCP Fallon/Weizer

Moved to the December 2012 Agenda.

I-2 David James Moton, Jr., RPT 26677, Tampa, FL
Case No. 2010-14404 – PCP Risch/Weizer

Respondent violated Section 456.072(1)(q), Florida Statutes (2009-2010), by violating a lawful order of the Department or the Board, or failing to comply with a lawfully issued subpoena of the Department.

Respondent was not present, nor represented by counsel.

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

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

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

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

Recommended penalty: Revocation, and costs of \$1,690.76.

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

I-3 Elmer N. Mattioli, PS 33921, Deerfield Beach, FL
Case No. 2011-18026 – PCP Fallon/Meshad

Respondent violated:

Count one – Section 456.072(1)(x), Florida Statutes (2011), by 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 two – 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 related to the practice of, or the ability to practice, a licensee's profession.

Respondent was not present. Respondent was represented by Edwin Bayo, Esq. and Dr. Rivenbark was present on behalf of PRN.

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 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.

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

Recommended Penalty: Revocation, and costs of \$689.90.

Motion: by Dr. Weizer, seconded by Ms. Glass, for a minimum of a 1 year suspension until respondent can appear before the Board with a favorable evaluation from PRN for reinstatement, followed by probation, a \$4000 fine and costs \$689.90 due at the time of reinstatement. Motion carried.

C. DETERMINATION OF WAIVER HEARING

DOW-1 Christopher Thomas Duffy, RPT 26171, St. Petersburg, FL
Case No. 2012-04814 – PCP Garcia/Mesaros

Respondent violated:

Count one – Section 456.072(1)(aa), Florida Statutes (2011), when he tested positive for alprazolam, hydrocodone, hydromorphone, and oxazepam on the drug screening ordered by Walgreens on March 3, 2012, and failed to produce a prescription for the foregoing medications. Count two – Section 465.016(1)(e), Florida Statutes, by violating Section 893.13(6)(a), Florida Statutes, when he diverted and actually possess Xanax and hydrocodone 10/325 mg tablets from Walgreens for his personal use without lawfully obtaining those controlled substances from a practitioner or pursuant to a valid prescription or order of a practitioner.

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 and the conclusions of law as set forth in the Administrative Complaint and that this constitutes a violation of the Pharmacy Practice Act. Motion carried.

Recommended penalty: \$5000 fine, costs of \$2,294.76, and suspension until appearance with a favorable PRN evaluation followed by 2 years of probation.

Motion: by Ms. Mullins, seconded by Dr. Fallon, to accept the recommendations of the Department of fines and costs payable in 1 year, a minimum of a 2 year suspension, appearance

before the Board for reinstatement with a favorable PRN evaluation, followed by a 2 year probation period if returned to practice. Motion carried.

DOW-2 Latoya Sharrell Sneed, RPT 21655, Boynton Beach, FL
Case No. 2012-01312 – PCP Mesaros/Glass

Respondent violated:

Count one – Section 465.016(1)(e), Florida Statutes (2011), by violating Section 893.13(6)(a), Florida Statutes (2011), by being in possession of a controlled substance without a valid prescription or order from a practitioner.

Count two – Section 465.016(1)(i), Florida Statutes (2011), by distributing a legend drug or controlled substance other than in the course of the professional practice of pharmacy.

Count three – Section 465.016(1)(r), Florida Statutes (2011), by violating Section 456.072(1)(aa), ordered drug screen when she did not have a lawful prescription and legitimate medical reason for using the drug.

Respondent was not present, nor represented by counsel.

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

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

Recommended penalty: dismissal of Count II, \$6,000 fine, costs of \$775.86, and suspension until appearance with a favorable PRN evaluation followed by 4 years of probation.

Motion: by Mr. Garcia, seconded by Dr. Weizer, for revocation. Motion carried.

Motion: by Dr. Weizer, seconded by Mr. Garcia, to accept costs in the amount of \$775.86. Motion carried.

DOW-3 Olufemi Oladapo Ademoye, PS 35392, Tampa, FL
Case No. 2010-12560 – PCP Garcia/Mesaros

Respondent violated Section 456.072(1)(q), Florida Statutes (2011), by violating a lawful order of the department or the board, or failing to comply with a lawfully issued subpoena of the department.

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 and the conclusions of law as set forth in the Administrative Complaint and that this constitutes a violation of the Pharmacy Practice Act. Motion carried.

Recommended penalty: Revocation.

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

DOW-4 Leniul Pharmacy Group, Inc., PH 23543, Miami, FL
Case No. 2011-07681 – PCP Weizer/Griffin

Respondent violated Section 465.023(1)(c), Florida Statutes (2011), by violating a rule of the Board of Pharmacy, though a 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

Respondent was not present, nor represented by counsel.

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

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

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

Recommended penalty: Revocation.

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

DOW-5 Pharmacy Doctors Enterprises, Inc., PH 23558, Hallandale, FL
Case No. 2012-01830 – PCP Fallon/Weizer

Respondent violated Section 465.023(1)(c), Florida Statutes (2011), by violating a rule of the Board of Pharmacy, through a violation of Rule 64B16-27.797, Florida Administrative Code, by failing to conform to the standards of practice for compounding sterile preparations.

Respondent was not present, nor represented by counsel.

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 failed to timely request a formal hearing. Motion carried.

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

Recommended penalty: \$2,000 fine, costs of \$553.27, semi-annual inspections at the respondent's cost for 2 years.

Motion: by Mr. Garcia, seconded by Ms. Glass, for the \$2,000 fine, costs of \$553.27, quarterly inspections, a probationary period for 2 years, and a submission to the Board office of a Clean Room Certification by an independent contractor within 5 business days. Motion carried.

DOW-6 Veronica Taran, PS 39928, Hallandale, FL
Case No. 2012-01731 – PCP Fallon/Weizer

Respondent violated Section 465.016(1)(r), Florida Statutes (2011), by violating Section 465.022(11)(a), Florida Statutes, by failing to ensure the permittee's compliance with all rules adopted under those chapters as they relate to the practice of the profession of pharmacy and the sale of prescription drugs.

Respondent was not present, nor represented by counsel.

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

Recommended penalty: \$2,000 fine, costs of \$424.77, 2 years of probation and semi-annual inspections.

Motion: by Ms. Mullins, seconded by Mr. Garcia, to accept the recommendations of the Department of a \$2,000 fine, costs of \$424.77, 2 years of probation and semi-annual inspections, with the amendment of a Board pre-approved 12 hour sterile compounding continuing education course to be taken within 1 year of probation, and quarterly reports during the probationary period that would include the respondent's name, location of practice and any changes or additions in location of practice, and whether the respondent is complying with the laws and rules of the Board. Motion carried.

DOW-7 Eufemia Milagros De Jesus, PS 36069, Orlando, FL
Case No. 2012-05967 – PCP Garcia/Risch

Respondent violated Section 456.072(1)(q), Florida Statutes (2011), by violating a lawful order of the department or board, or failing to comply with a lawfully issued subpoena of the department.

Respondent was not present, nor represented by counsel.

Motion: by Dr. Weizer, seconded by Ms. Mullins, 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 waived the right to a formal hearing. Motion carried.

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

Recommended penalty: \$2,000 fine, costs of \$103.70, and suspension until respondent is compliant with previous final order.

Motion: by Dr. Weizer, seconded by Ms. Mullins, to accept the recommendations of the Department of a \$2,000 fine, costs of \$103.70, and suspension until respondent is compliant with previous final order, with the amendment to include 27 live continuing education hours and 72 general continuing education hours before returning back to practice. Motion carried.

DOW-8 Robert Adams, PS, 26631, Milton, FL
Case No. 2012-01711 – PCP Mullins/Risch

Case was withdrawn.

E. VOLUNTARY RELINQUISHMENT

VR's voted on at one time: VR1, VR2, VR3, VR4, VR5, VR7

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

VR-1 Melvin H. Rosenthal, PS 6896, Miami, FL
Case No. 2012-09805 – PCP Waived

Respondent was not present, nor represented by counsel.

See: motion at the beginning of the Voluntary Relinquishment Section.

VR-2 Kotanational Mercantile System, PH 11215, Miami, FL
Case No. 2012-09775 – PCP Waived

Respondent was not present, nor represented by counsel.

See: motion at the beginning of the Voluntary Relinquishment Section.

VR-3 Maggie Garcia, RPT 32903, Miami, FL
Case No. 2012-10364 – PCP Waived

Respondent was not present, nor represented by counsel.

See: motion at the beginning of the Voluntary Relinquishment Section.

VR-4 Gerald C. Buckley, PS 14442, Morriston, FL
Case No. 2012-09901 – PCP N/A

Respondent was not present, nor represented by counsel.

See: motion at the beginning of the Voluntary Relinquishment Section.

VR-5 Sterling Pharmacy, inc., PH 24435, Miami, FL
Case No. 2012-09001 – PCP Waived

Respondent was not present, nor represented by counsel.

See: motion at the beginning of the Voluntary Relinquishment Section.

VR-6 Joseph Anthony Marlow, RPT 21707, Seminole, FL
Case Nos. 2011-17633 & 2011-17713 – PCP Garcia/Risch

Respondent was not present, nor represented by counsel.

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

VR-7 Paul Vincent Rivers, PS 37033, Winter Haven, FL
Case No. 2011-17634 – PCP N/A

Respondent was not present, nor represented by counsel.

See: motion at the beginning of the Voluntary Relinquishment Section.

VR-8 Tanada Rachelle Sampson, RPT 16091, Jacksonville, FL
Case No. 2011-19344 – PCP Garcia/Mesaros

Respondent was not present, nor represented by counsel.

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

TAB 5 **APPLICATION REQUIRING BOARD REVIEW**

A. Endorsement Applicant

1. Nzeribe Arthur Nwokoma, File 42523, Happy Valley, OR

Respondent was not present, nor represented by counsel.

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

B. Endorsement Applicants - Required Appearances

1. Harita Patel, File 41181, Cary, NC

Respondent was not present, nor represented by counsel.

Motion: by Ms. Mullins, seconded by Dr. Fallon, to deny the application. Motion carried.

2. Peter Chen, File 40285, Whippany, NJ

Respondent was present and sworn in. Respondent was not represented by counsel.

Motion: by Ms. Mullins, seconded by Dr. Weizer, to approve the application with the condition of continuing the Texas PRN contract here in Florida.

C. Pharmacy Intern Candidates

1. Ryan Michael Griffin, File 17525, Lancaster, OH

Respondent was not present, nor represented by counsel.

Motion: by Dr. Weizer, seconded by Ms. Glass, to table to December 2012 Board Meeting. Motion carried.

D. Request for Continuing Education Approval

1. Greg Spake, PS 25626, Cocoa, FL

Respondent was not present, nor represented by counsel.

Motion: by Ms. Mullins, seconded by Dr. Weizer, to approve the request for continuing education credits.

TAB 6 **LICENSURE ISSUES**

A. Request for Reconsideration of Revocation

1. Naresh Kumar Jain, PS 43067, Trinity, FL, File No. 34869

Respondent was present and sworn in. Respondent was represented by Lance O. Leider, Esq.

Motion: by Dr. Fallon, seconded by Ms. Glass, to deny the request for reconsideration of revocation. Motion carried.

B. Request for Payment Extension

1. James Enos, PS 36477, Bristol, RI

Respondent was not present, nor represented by counsel.

Motion: by Dr. Weizer, seconded by Ms. Mullins, to approve the request for payment extension with conditions beginning January 1, 2012, the respondent must pay a minimum of \$100 on the 5th of each month for a year, or until payment is completed. Motion carried.

C. Request for Modification of Terms of Probation

1. Christopher Cobb, PS 42211

Respondent was present and sworn in. Respondent was represented by Paul Lambert. Dr. Rivenbark was present on behalf of PRN.

Motion: by Dr. Weizer, seconded by Mr. Garcia, to approve the request for modification of terms of probation to remove the requirement for direct supervision and to extend probation until he has worked at least 35 hours per week for a period of five consecutive years. Motion carried.

No public comments were made.

Motion: by Dr. Fallon, seconded by Mr. Garcia, to adjourn the meeting at 11:30 a.m. Motion carried.