

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

April 2-3, 2013
Hilton Hotel Carillon Park
950 Lake Carillon Drive
St. Petersburg, FL 33716
(727) 540-0050

Board Members:

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

Board Staff:

Mark Whitten, Executive Director
Tammy Collins, Program Operations Administrator
Jay Cumbie, Regulatory Specialist II

Board Counsel:

David Flynn, Assistant Attorney General

Department of Health Staff:

John J. Truitt, Assistant General Counsel

Tuesday, April 2, 2013 – 9:00 a.m.

9:01 a.m. Call to Order by Albert Garcia, BPharm, MHL, Chair

All Board members were present.

Mr. Garcia requested that all cell phones, pagers, and beepers be turned off. He 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

REPORTS

A. Chair's Report – Albert Garcia, BPharm, MHL, Chair

1. Report

Mr. Meshad introduced and gave a brief background on HB 831 that originally eliminated the prohibition of state funding and the prohibition of pharmaceutical funding of the Prescription Drug Monitoring Program (PDMP). Mr. Meshad informed the Board and audience of the changes that occurred, including the subtraction of language about eliminating prohibition of state funding for PDMP. Mr. Meshad then discussed a letter to be drafted to support the elements of the bill that the Board likes and illustrate the aspects of the bill the Board does not support.

Motion: by Mr. Meshad, seconded by Dr. Weizer, to approve the letter. Motion carried.

Mr. Garcia announced he will be attending the NABP Meeting May 18th-21st and will provide a report at the June Board of Pharmacy meeting in Miami, Florida.

B. Executive Director's Report – Mark Whitten

Mr. Whitten announced to the Board that the Board of Pharmacy had won a Davis Productivity Award for their re-permitting efforts and implementation of the live scan fingerprinting system.

1. Gavin Meshad – Prescription Drug Abuse Committee Update

Mr. Meshad provided an explanation of the efforts being made by the sub-committee to update the standards of practice through Rule 64B16-27.831 to include use of the Prescription Drug Monitoring Program (PDMP).

Mr. Meshad introduced the idea of creating and offering a CE credit on how to access and use the PDMP database. It was stated this will be the focus of the next sub-committee.

Mr. Meshad gave a description of the effect of the PDMP. Mr. Meshad stated that the program has had a noticeable effect already, despite operating on a thin budget.

Motion: by Dr. Griffin, seconded by Lee Fallon, to support the dissemination of information. Motion carried.

Mr. Meshad broke down the modified and added language to the Rule 64B16-27.831 which intends to illustrate the “red flags” that should serve as indicators to pharmacists.

The Board spent a lengthy period of time discussing the validity and need for the expanded list of new checks added to the rule which resulted in Mr. Garcia referring the rule back to committee for further development.

Mr. Whitten informed the Board that a link to the DEA rules will be added to the FAQ section of the Florida Board of Pharmacy website.

2. Michele Weizer – Compounding Rules Committee Update

Dr. Weizer provided an update and results from the March 22nd Rules Workshop in Orlando, specifically in regards to permitting. Dr. Weizer introduced proposed language changes to Section 465.017, which are intended to eliminate the restrictions on inspecting non-resident pharmacies annually.

Motion: by Dr. Weizer, seconded by Dr. Griffin, to accept the changes to Section 465.017. Motion carried

Dr. Weizer introduced language for a proposed legislative change to Section 465.0158 which would create a new permit titled “Non-Resident Sterile Compounding Permit”. Dr. Weizer states a need for this permit to ensure the safety of the products entering the state as well as the safety of the public.

Motion: by Dr. Weizer, seconded by Ms. Mullins, to accept the language of Section 465.0158 Non-Resident Sterile Compound Permit as presented. Motion carried.

Dr. Weizer introduced additions to rule 64B16-28.100 that include detailed language incorporating the new sterile compounding permit and qualifications for acquiring said permit.

Dr. Weizer clarifies to the Board and audience that there is no initial inspection required for this permit.

Mr. Flynn provided clarification to the rules regarding being a Prescription Department Manager at multiple locations and the requirement of Board approval.

Motion: by Dr. Weizer, seconded by Ms. Mullins, to support Rule 64B16-28.100. Motion carried.

Motion: by Dr. Weizer, seconded by Ms. Mullins, to allow Special P&E permits to transfer license number to new Sterile Compounding permit. Motion carried.

Motion: by Dr. Weizer, seconded by Dr. Fallon, that the new rules will not have an effect on small business. Motion carried.

Motion: by Dr. Weizer, seconded by Ms. Glass, to add (h)-Special Sterile Compounding as a special pharmacy to rule 64B16-28.800. Motion carried.

Dr. Weizer introduced language of proposed new Rule 64B16-28.802 Special Sterile Compounding.

Motion: by Dr. Weizer, seconded by Dr. Fallon, to support new rule 64B16-28.802 Special Sterile Compounding. Motion carried.

Motion: by Dr. Weizer, seconded by Dr. Fallon, that there is no additional economic impact on the practice of pharmacy. Motion carried.

3. Correspondence – Charles Slonim, MD / Rebecca Chater

Mr. Whitten introduced a letter of support from Dr. Sternberg and Dr. Slonim regarding office use compounding.

Mr. Garcia suggested sending a letter of appreciation for reaching out to the Board.

Rebecca Chater provided her background and requested clarification from the Board regarding Florida Statutes 465.189 regarding an absence of a recommendation for administering shingles vaccine on the age group of 50-59. Ms. Chater then asked the Board if they have the ability to interpret the statute to allow for administration in that particular age group.

Mr. Flynn provided an interpretation of Florida Statutes 465.189 regarding the administering of shingles vaccine on the age group of 50-59. Mr. Flynn advised the board that they have the authority to administer the shingles vaccine for the particular age group if the Physician writes the prescription, it's FDA approved, and the guidelines set forth by the Center for Disease Control are followed.

Motion: by Ms. Mullins, seconded by Dr. Weizer, to support the recommendation of Mr. Flynn's interpretation of Florida Statute 465.189. Motion carried.

Ms. Chater then thanked the Board for their patience and diligence in tending to her request.

4. Request for Modification of Business Hours – LMC Pharmacy

Frank Lecourt was present and sworn in by the court reporter.

Mr. Lecourt provided a background of LMC Pharmacy and expresses the need for the reduction of hours. Mr. Lecourt states the reduced hours would be Monday, Wednesday, and Friday from 9a.m. to 5p.m.

Motion: by Dr. Weizer, seconded by Dr. Griffin, to approve the reduction of hours for LMC Pharmacy. Motion carried.

5. Legislative Update

Mr. Whitten introduced HB671/SB818 regarding allowing pharmacists to supervise up to 6 technicians. Mr. Whitten then provided an update regarding an amendment to HB671 that state class II institutional pharmacies must still get Board approval beyond a 1:1 ratio.

Dr. Weizer responded with a report on the studies that have been conducted on the number of errors that have occurred due to the pharmacy technician ratios.

Ms. Mullins explained for the record that she wasn't able to attend the conference call where this discussion originally took place and requests clarification from the other Board members on their intent behind raising the technician ratios.

Dr. Mesaros expressed his support for raising the ratio by speaking about having the ability to use professional judgment as a pharmacist and spoke about the benefits of the added flexibility the increased ratios would provide.

Michael Jackson (Florida Pharmacy Association) provided an update of the FPA stance on the raising of technician ratios.

Ms. Mullins reiterated her opposition to raising the ratios by stating the issue is about public safety and not about limiting a pharmacist's professional ability.

Mr. Flynn spoke about the guideline and process for approving increased technician ratios.

Debra Brown (Florida Society of Health System Pharmacists) approached the Board and states that their organization is in opposition to the 6:1 Ratio. Ms. Brown informed the Board that FSHP proposed an amendment that wasn't accepted.

Motion: by Ms. Mullins, seconded by Dr. Weizer, for reconsideration of support. Motion carried.

Mr. Garcia conducted a vote on reconsideration with 5 members being in favor and 4 members being opposed.

Motion: by Dr. Weizer, seconded by Dr. Griffin, to withdraw support for the House/Senate Bills regarding 6:1 Ratios. Motion carried.

Mr. Meshad proposed the idea of crafting a letter to be presented in response to House/Senate Bills regarding 6:1 Ratios.

Motion: by Dr. Weizer, seconded by Ms. Mullins, to craft a letter with suggestions about House/Senate bills regarding 6:1 ratios. Motion carried.

Dean Pedalino approached the Board and expresses understanding of both sides of the argument regarding increased technician ratios. Mr. Pedalino then voiced his opinion that overall, higher technician ratios are not in the best interest of the safety and well being of Floridians.

C. Attorney General's Report

1. Rules Report

Mr. Flynn provided an update on Rule 64B16-27.700 regarding office use compounding. Mr. Flynn reported that the rule was adopted on March 1, 2013 and made effective March 21, 2013. Mr. Flynn then reported that JAPC (Joint Administrative Procedures Committee) had informed him they intended to object to the rule. Though they informed him of their intention to object, the staff never met and do not plan on meeting this session. Mr. Flynn reported that all the other rules are proceeding accordingly.

Mr. Garcia thanked Mr. Flynn for taking the time to craft such a well written letter on behalf of the Florida Board of Pharmacy.

D. Prosecuting Attorney Report

1. PCP Proposal for Board of Pharmacy

Mr. Truitt proposed using Board of Nursing platform in Pharmacy PCP setting. Along with the proposal, Mr. Truitt requested the Board create through a collaborative effort a rubric/guidelines for settlement proposals.

2. Prosecuting Services Report

Mr. Truitt reported that PSU is up 97 cases and that the unit doesn't have any cases older than 2009. Mr. Truitt also stated he listed cases for 2011 for the first time and that the unit is more current than it has been in recent history.

Motion: by Dr. Weizer, seconded by Dr. Griffin, to allow PSU to prosecute one year and older cases. Motion carried.

Mr. Truitt and Board members discussed different ideas for how to go about creating recommendations for probable cause settlements. Mr. Garcia and Dr. Weizer agreed that they like the idea of the settlement being brought to them with the option to edit certain aspects.

Rod Presnell approached the Board to inquire about the need for information prior to probable cause.

E. Chief Investigative Services Report – Jeanne Clyne

Jeanne Clyne provided an update on the sterile compounding report and completed 416 inspections. Ms. Clyne informs the board there were 65 pharmacies with serious infractions and will be inspected again next year. The pharmacies that were inspected that were not in the group of 65 with serious infractions will fall back into the rotation of being inspected every other year. Ms. Clyne informed the Board that 4 inspectors have completed the "critical point" training to inspect sterile compounding facilities.

TAB 2 BUSINESS – Albert Garcia, BPharm, MHL, Chair

A. Ratification of Issued Licenses/Certificates & Staffing Ratios

1. Pharmacist (Licensure) (Client 2201) – 88
2. Pharmacist (Exam Eligibility) (Client 2201) – 1,123
3. Pharmacist Interns (Client 2202) – 78
4. Registered Pharmacy Technicians (Client 2208) – 1,007
5. Consultant Pharmacist (Client 2203) – 9
6. Nuclear Pharmacist (Client 2204) – 1
7. Pharmacies/Facilities (Client 2205) – 123
8. Registered Pharmacy Technician Ratios (2:1 or 3:1)- 58
9. Pharmacy Technician Training Program (Client 2209) - 28
10. CE Providers – 8
11. CE Courses - 32
12. CE Individual Requests (Approved) – 0
13. CE Individual Requests (Denied) – 3

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

B. Review and Approval of Minutes

1. February 7-8, 2013

Motion: by Dr. Weizer, seconded by Mr. Meshad, to approve the February 6-7, 2013 board meeting minutes. Motion carried.

Public Comments:

Mr. Garcia opens up the floor to public comments.

Motion: by Dr. Fallon, seconded by Dr. Griffin, to ADJOURN the meeting at 3:56 p.m. Motion carried.

Wednesday, April 3, 2013 – 8:00 a.m.

8:01 a.m. Meeting Called To Order by Albert Garcia, BPharm, MHL, Chair

All Board members were present.

Mr. Garcia welcomed students in the audience from various schools around the Tampa/St. Petersburg area.

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

TAB 3 DISCIPLINARY CASES – John Truitt, Assistant General Counsel

A. SETTLEMENT AGREEMENT– APPEARANCE REQUIRED CASES

A-1 Afshin Sadeghi, PS 41434. Bakersfield, CA
Case No. 2012-04658 PCP: Garcia/Risch

Respondent violated:

Count One: Section 465.016(1)(g), F.S., by using in the compounding of a prescription, or furnishing upon prescription, an ingredient or article different in any manner from the ingredient or article prescribed.

Terms of Settlement Agreement: Respondent shall be present. Respondent shall pay fine of **\$250.00**. Respondent shall pay costs in the amount of **\$1,500.00**. Respondent must complete an 8 hour prescription errors CE.

Respondent was not present, nor represented by counsel.

Mr. Truitt informs the board that the respondent has moved to California.

Motion: by Dr. Weizer, seconded by Dr. Griffin, to reject the settlement agreement. Motion carried.

Motion: by Dr. Weizer, seconded by Ms. Glass, to require appearance. Motion carried.

A-2 Gialam Dinh Ho, PS 41104. Tampa, FL
Case No. 2012-05012, PCP: Meshad/Glass

Respondent violated:

Count One: Section 465.016(1)(g), F.S. by furnishing upon prescription an ingredient or article different in any manner from the ingredient or article prescribed.

Terms of Settlement Agreement: Respondent shall be present. Respondent shall pay a fine of **\$250.00**. Respondent shall pay costs of **\$1,568.61**. Respondent shall complete 8 hour prescription errors CE.

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

Motion: by Dr. Weizer, seconded by Dr. Griffin, to reject the settlement agreement. Motion carried.

Motion: by Dr. Weizer, seconded by Dr. Griffin, to raise fine to \$500.00 from original settlement agreement. Motion carried.

Respondent agrees to counter settlement.

A-3 Tyronda Sanks, RPT 22120. Saint Augustine, FL
Case No. 2012-14090 – PCP Mullins/Mesaros

Respondent violated

Count One: Section 465.016(1)(e), Florida Statutes (2011) by violating Section 893.13(6)(a), Florida Statutes (2011), when she diverted and actually possessed promethazine with codeine syrup from CVS for her personal use without lawfully obtaining that controlled substance from a practitioner or pursuant to a valid prescription or order of a practitioner.

Count Two: Section 465.016(1)(e), Florida Statutes (2012) by violating section 893.13(1)(a), Florida Statutes (2012), when she sold the promethazine with codeine syrup.

Terms of Settlement Agreement: Respondent shall be present. Respondent shall pay costs of **\$1,717.45**. Respondent shall receive a PRN evaluation within 60 days. Respondent shall undergo a 2 year probationary period.

Respondent was not present, nor represented by counsel.

The Board decides to continue the case at the June Board of Pharmacy meeting.

A-4 Jeffrey Alan Sussman, PS 18577. Coral Springs, FL
Case No. 2011-12057 – PCP Risch/Mullins

Respondent violated:

Count One: Section 465.016(1)(i), F.S., (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.

Terms of Settlement Agreement: Respondent shall be present. Respondent shall pay costs of **\$2,037.28**. Respondent shall be evaluated by PRN and comply with all treatment requirements imposed by the PRN contract. Respondent shall be on probation for 1 year.

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

Mr. Sussman apologized to the Board for his actions.

A PRN representative stated on the respondent's behalf that he has been in full compliance with the PRN and also that the respondent is not ready to return to work.

Motion: by Dr. Griffin, seconded by Ms. Glass, to reject the settlement agreement. Motion carried.

Motion: by Dr. Weizer, seconded by Dr. Griffin, to: require an appearance from the respondent, Respondent return with PRN advocating on their behalf, Respondent pay costs and fine of **\$1,500.00** over 3 year period, Respondent complete 12 hour Laws and Rules CE, Minimum one year suspension, and a 5 year probationary period. Motion carried.

A-5 Nataline Rene Williams, PS 35989. Clearwater, FL
Case No. 2010-10704 – PCP Garcia/Glass

Count One: Respondent violated 465.016(1)(e), F.S.

Terms of Settlement Agreement: Respondent shall be present. Respondent shall pay a fine in the amount of **\$1,000.00**. Respondent shall pay costs in the amount of **\$2,000.00**. Respondent shall complete 16 hour legal aspects of Pharmacy and Pharmacy Ethics CE. Respondent must be evaluated by PRN and follow all requirements and recommendations within 30 days of Final Order. Respondent will have stayed suspension until completion of PRN evaluation, if violates the terms of the PRN contract, stay of suspension is lifted.

Respondent was present and sworn in by the court reporter. Respondent was represented by Richard Sebek, Esq.

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

A-6 Amanda Marie Laurenzo, PS 45657. Seminole, FL
Case No. 2011-20504 – PCP Fallon/Risch

Count One: Respondent violated Section 465.016(1)(e), F.S. (2012)

Count Two: Respondent violated Section 456.072(1)(c), F.S., (2012).

Terms of Settlement Agreement: Respondent shall be present. Respondent shall pay costs in the amount of **\$2,086.42**. Respondent shall undergo an evaluation from PRN. Respondent shall complete 12 hour Laws and Rules CE.

Respondent was present and sworn in by the court reporter. Respondent was represented by John McAvoy, Esq.

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

Motion: by Dr. Weizer, seconded by Dr. Griffin, to accept settlement agreement with the addition of a one year suspension from September 2012, PRN advocating on their behalf, and a probationary period of 5 years. Motion carried.

A-7 Daniel S. Singer, PS 27033. Coral Springs, FL
Case No. 2012-15876 – PCP Mullins/Glass

Count One: Respondent violated 465.016(1)(e), F.S. (2011-2012), by allowing an unlicensed pharmacy employee to dispense controlled substances, in violation of Section 893.04(1), F.S. (2011-2012).

Count Two: Respondent violated 465.016(1)(e), F.S. (2011-2012), by dispensing controlled substances upon prescriptions lacking DEA registrations numbers, in violation of Section 893.04(1)(c)2, F.S. (2011-2012).

Count Three: Respondent violated Section 465.016(1)(e), F.S. (2011-2012), by failing to record the initials of a pharmacist on prescriptions filled at People's, in violation of Section 893.04(1)(c)6, F.S. (2011-2012).

Count Four: Respondent violated Section 465.016(1)(c), F.S. (2011-2012), by allowing G.M.S. to fill, compound, and/or dispense prescriptions in a pharmacy where Respondent was employed or on duty.

Count Five: Respondent violated Section 465.016(1)(r), F.S. (2011-2012), by failing to require compounding personnel to perform media-filled tests semiannually, in violation of Rule 64B16-27.797(1)(i)7, F.A.C.

Count Six: Respondent violated Section 465.016(1)(r), F.S. (2011-2012), by failing to ensure that People's maintained a policy and procedure for unidirectional air flow (pressure differential monitoring), in violation of Rule 46B16 27.797(4)(d)2, F.A.C.

Count Seven: Respondent violated Section 465.016(1)(r), F.S. (2011-2012), by failing to ensure that People's utilized a separate ante area and buffer area in the high risk compounding and/or by failing to ensure that people's limited the use of the area to the preparation of sterile preparations, in violation of Rule 64B16-27.797(5)(a), F.A.C.

Count Eight: Respondent violated Section 465.016(1)(r), F.S. (2011-2012), by failing to document an ongoing quality assurance control program, and/or by failing to ensure that compounding personnel were adequately skilled, educated, instructed, and/or trained in performing sterile compounding, in violation of Rule 64B16-27.797(7), F.A.C.

Count Nine: respondent violated Section 465.016(1)(r), F.S. (2011-2012), by failing to ensure People's maintained written records of compounded products, which include the signature or initials of the supervising pharmacists and the names of the patients who received the compounding products, in violation of Rule 64C16-28.140(4), F.A.C.

Terms of Settlement Agreement: Respondent shall be present. Respondent shall pay a fine of **\$10,000.00**. Respondent must reimburse costs of **\$2,357.51**. Respondent may not engage in any sterile compounding, or act as the prescription department manager of a pharmacy permitted as Special – Parenteral and Enteral Pharmacy , unless or until Respondent presents to the Board and demonstrates to the satisfaction of the board that he can safely compound sterile preparations. Respondent must complete Laws and Rules CE.

Respondent was present and sworn in by the reporter. Respondent was represented by Bill Furlow, Esq.

Mr. Flynn interjects that the settlement agreement language needs to be changed from special-parenteral and enteral pharmacy permit to sterile compounding permit.

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

A-8 Lindsay Marie Wolfe, PS 45441. Rockledge, FL
Case No. 2012-14467 - PCP Mesaros/Fallon

Count One: Respondent violated Section 465.016(1)(r), F.S. (2011-2012), by violating Rule 64B16-27.831(1), F.A.C., by knowingly dispensing medication to RPT J.M. pursuant to prescriptions which were not issued for a legitimate medical purpose.

Count Two: Respondent violated Section 465.016(1)(j), F.S. (2011-2012), by knowingly creating a false patient profile for RPT J.M. using the name Patient J.M., which was a modified version of RPT J.M.'s name.

Terms of Settlement Agreement: Respondent shall be present. Respondent shall pay a fine of **\$3,000.00**. Respondent must pay costs of **\$4,182.54**. Respondent shall be suspended until it is safe to return to practice. Respondent shall be placed on probation for a period to run concurrent with Respondent's treating through PRN to commence the filing of an Order by the Board reinstating Respondent's license. Respondent shall complete Laws and Rules, Standards for dispensing controlled substances for the treatment of pain, and record keeping CE's.

Respondent was present and sworn in by the court reporter. Respondent was represented by Timothy Sweeney, Esq.

Ms. Glass states that she is an employee of CVS but has no bias towards the respondent and feels comfortable making a determination on the case.

Dr. Weizer requests to amend the settlement agreement to include that the respondent cannot be a PDM during the probationary period.

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

A-9 Prime Synergy, LLC, PH 25086. Orlando, FL
Case No. 2012-07512 – PCP Fallon/Weizer

Count One: Respondent violated Section 465.023(1)(h), F.S. (2010-2011), when respondent's prescription department manager dispensed medicinal drugs to patients N.C., A.R., and A.D. based upon prescriptions Respondent's prescription department manager knew or had reason to believe were not based upon a valid practitioner-patient relationship.

Count Two: Respondent violated Section 465.023(1)(c), F.S. (2010-2011), by violating Rule 64B16-27.831, F.A.C. by knowingly filling purported prescriptions for patients N.C., A.R., and A.D. that weren't issued for a legitimate medical purpose and by failing to verify the purported prescriptions presented by Patients N.C., A.R., and A.D. with the purported prescriber.

Count Three: Respondent violated Section 465.016(1)(i), F.S. (2010-2011), by dispensing controlled substances based upon fraudulent prescriptions presented by Patients N.C., A.R., and A.D. and by dispensing excessive or inappropriate quantities of controlled substances to Patients N.C., A.D., A.R., N.R., and K.H.

Terms of Settlement Agreement: Respondent shall be present. Respondent shall pay a fine of **\$8,000.00**. Respondent shall pay reimbursement of costs of **\$4,610.51**. Respondent shall have license suspended until Respondent notifies the Board and the Department of its designation of a new prescription department manager. Respondent will be restricted from dispensing controlled substances until approved to do so by the Board. Respondent shall undergo a probationary period of 2 years with quarterly inspections.

Respondent(s) were present and sworn in by the court reporter. Respondent(s) were represented by Lance Leider, Esq.

Motion: by Ms. Glass, seconded by Ms. Mullins, to reject the settlement agreement. Motion carried.

Motion: by Ms. Mullins, seconded by Ms. Glass, for Voluntary Relinquishment. Motion carried.

A-10 Joselyn Marie Maymi, PS 47426. Miami, FL
 Case No. 2012-08723 – PCP Meshad/Glass

Count One: Administrative Complaint alleging a violation Section 465.016(1)(g), F.S. (2011), it is alleged that A.T. presented a prescription for clopidrogel. Respondent dispensed clonazepam to A.T. in error. There was ingestion in this case, with A.T. experiencing some adverse effects as a result.

Terms of Settlement Agreement: Respondent shall be present. Respondent shall pay a fine of **\$500.00**. Respondent shall pay costs of **\$1,602.41**. Respondent shall complete 8 hour med errors CE.

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

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

A-11 Derek Anthony Sapone, PS 48544. Virginia Beach, VA
 Case No. 2012-04505 – PCP Garcia/Risch

Count One & Two: Respondent violated Section 465.016(1)(f), F.S. (2011), by being found guilty of two counts of prescription fraud, both misdemeanors. Respondent also failed to report being found guilty of two counts of prescription fraud to the Florida Board of Pharmacy, in writing, within thirty days of the date Respondent was found guilty.

Terms of Settlement Agreement: Respondent shall be present. Respondent shall pay costs of **\$443.47**. Respondent shall undergo an evaluation through PRN.

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

Respondent informs board that April 2010 was his last formal PRN evaluation.

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

Motion: by Dr. Weizer, seconded by Dr. Griffin, to accept settlement agreement plus a fine of \$1,000.00. Motion carried.

Respondent agrees to the terms of the settlement agreement.

B. DETERMINATION OF WAIVER

DOW-1 Apex Medical Supplies, Inc., PH 23364. Miami, FL
 Case No. 2011-20186 – PCP Weizer/Meshad

Count One: Respondent violated Section 465.023(1)(c), F.S., by violating Rule 64B16-28.202(3), F.A.C., by failing to follow the proper procedures for the closing of a pharmacy.

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

Motion: by Dr. Griffin, seconded by Ms. Mullins, to find that respondent was properly served and has waived the right to a formal hearing. Motion carries.

Motion: by Dr. Griffin, seconded by Ms. Mullins, to adopt the findings and facts as set forth in the Administrative Complaint. Motion carries.

Motion: by Dr. Griffin, 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 carries.

Recommended Penalty: Revocation

Motion: by Dr. Griffin, seconded by Ms. Glass to accept the recommendations of the Department. Motion carried.

Mr. Garcia announces that DOW-2, DOW-3, and DOW-4 have all been moved to Voluntary Relinquishments.

DOW-2 Robert Niel Classon, PU 6923. Jacksonville, FL
Case No. 2012-01018 – PCP Glass/Risch

Count One: Respondent violated Section 456.072(1)(c), Florida Statutes (2012), 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.

DOW-2 was moved to Voluntary Relinquishment. See motion at beginning of Determination of Waivers section.

DOW-3 Robert Niel Classon, PU 6923, Jacksonville, FL
Case No. 2012-00924 – PCP Glass/Risch

Count One: Respondent violated section 465.072(1)(c), F.S. (2012), 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.

DOW-3 was moved to Voluntary Relinquishment. See motion at beginning of Determination of Waivers section.

DOW-4 Justin Keith Irish, RPT 9695. Gainesville, FL
Case No. 2012-02984 – PCP Risch/Glass

Respondent violated:

Count One: Section 456.016(1)(e), Florida Statutes (2010), by violating Section 893.13(7)(a)9, F.S. (2010), by acquiring or obtaining, or attempting to acquire or obtain, possession of a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge.

DOW-4 was moved to Voluntary Relinquishment. See motion at beginning of Determination of Waivers section.

DOW – 5 EDF Group, Inc., PH 25897. Miami, FL
Case No. 2012-07086, PCP – Glass/Mullins

Respondent violated

Count One: Section 456.072(1)(a), Florida Statutes (2011), by submitting fraudulent claims to Medicaid on behalf of Patients R.B., M.G.1 and/or M.G.2.

Count Two: Section 456.072(1)(m), Florida Statutes (2011), by employing a trick or scheme by submitting fraudulent claims to Medica on behalf of Patients R.B., M.G.1, and/or M.G.2.

Count Three: Section 456.023(1)(c), Florida Statutes (2011), by violating Section 465.022(10), Florida Statutes (2011), by failing to notify the Department of Health of the resignation of its PDM.

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

Motion: by Dr. Weizer, seconded by Dr. Griffin, to find that respondent was properly served and has waived the right to a formal hearing. Motion carries.

Motion: by Dr. Weizer, seconded by Dr. Fallon, to adopt the findings and facts as set forth in the Administrative Complaint. Motion carries.

Motion: by Dr. Weizer, 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 carries.

Recommended Penalty: Revocation.

Motion: by Dr. Weizer, seconded by Dr. Fallon, to accept the recommendations of the Department. Motion carried.

DOW – 6 Millenium Rx Inc, PH 25427. Miami, FL
Case No. 2012-09803, 2012-09790. PCP – Risch/Glass

Respondent Violated

Count One: Section 456.023(1)(c) by violating Rule 64B16-28.202(3)(a), F.A.C., 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.

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

Motion: by Dr. Weizer, seconded by Dr. Griffin, to find that respondent was properly served and has waived the right to a formal hearing. Motion carries.

Motion: by Dr. Weizer, seconded by Dr. Griffin, to adopt the findings and facts as set forth in the Administrative Complaint. Motion carries.

Motion: by Dr. Weizer, seconded by Dr. Griffin, 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 carries.

Recommended Penalty: Revocation

Motion: by Dr. Weizer, seconded by Dr. Fallon to accept the recommendations of the Department. Motion carried.

C. VOLUNTARY RELINQUISHMENTS

VR's voted on at one time: VR1, VR2, VR3, VR4, VR6, VR7, VR9

Motion: by Dr. Weizer, seconded by Dr. Griffin, to accept the above-listed Voluntary Relinquishments. Motion carried.

VR's moved from Determination of Waivers section. DOW – 2, DOW – 3, DOW 4

Motion: by Dr. Weizer, second by Dr. Griffin, to accept the Voluntary Relinquishment. Motion: carried.

VR-1 Howard M. Lentchner, PS 22675. Boynton Beach, FL 33472.
Case No. 2012-14666 – PCP Waived

Respondent was not present, nor represented by counsel.

Respondent violated: Section 465.016(1)(i), Florida Statutes (2011)

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

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

VR-2 Ann F. Kidd, RPT 18746. Sebastian, FL
Case No. 2012-18176 – PCP Waived

Respondent was not present, nor represented by counsel.

Respondent violated: Section 465.016(1)(e) by violating Section 893.13(6)(a), Florida Statutes

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

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

VR-3 Miriam Leonor Moreno, RPT 24273. North Miami, FL
Case No. 2012-18601 – PCP Waived

Respondent was not present, nor represented by counsel.

Respondent violated: Section 465.023(1)(e), Florida Statutes (2011) by violation of Section 893.03 Florida Statutes

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

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

VR-4 Martin A. Green, PS 29330. Coral Springs, FL

Case No. 2013-00425 – PCP Waived

Respondent was not present, nor represented by counsel.

Respondent violated: Section 456.072(1)(hh), Florida Statutes (2012).

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

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

VR-5 Demetrios George P. Dorovenis, PS 41072. New Kensington, PA
Case No. 2012-12439 – PCP Mullins/Mesaros

Respondent was not present, nor represented by counsel.

Respondent violated: Section 456.072(1)(m), F.S. (2011-2012), Section 456.016(1)(e), F.S. (2011-2012), Section 893.04(2)(a), F.S. (2011-2012). Section 893.13(6)(a), F.S. (2012), Section 465.016(1)(e), F.S. (2012), Section 465.016(1)(r), F.S. (2011-2012) by violating Rule 64B16-27.831(3)(b), F.A.C.

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 Dr. Griffin to accept the Voluntary Relinquishment. Motion carried.

VR-6 Keilan Maria Fife, RPT 184. Miami, FL
Case No. 2012-17631 – PCP Waived

Respondent was not present, nor represented by counsel.

Respondent violated: Section 456.072(1)(m), Florida Statutes (2011)

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

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

VR-7 Steven S. Goodman, PU 790. Treasure Island, FL
Case No. 2011-15217 – PCP Waived

Respondent was not present, nor represented by counsel.

Respondent violated: Section 456.072(1)(c), Florida Statutes (2011).

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

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

VR-8 Steven S. Goodman, PH 11401. Treasure Island, FL

Case No. 2011-15158 – PCP Risch/Glass

Respondent was not present, nor represented by counsel.

Respondent violated: Section 456.072 (1)(c), Florida Statutes (2011)

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 Dr. Griffin, to accept the Voluntary Relinquishment. Motion carried.

VR-9 Lorraine Alicea, RPT 4087. Port St. Lucie, FL
Case No. 2013-01930 – PCP Waived

Respondent was not present, nor represented by counsel.

Respondent violated: N/A

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

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

V-10 Melissa Amberly Salerno, RPT 26964. Sarasota, FL
Case No. 2011-12157 – PCP Fallon/Mesaros

Respondent was not present, nor represented by counsel.

Respondent violated: Section 456.072(1)(c), Florida Statutes (2010)

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 Ms. Glass, to accept the Voluntary Relinquishment. Motion carried.

V-11 Destiny Kay Richardson, RPT 31907. Defuniak Springs, FL
Case No. 2012-08859 – PCP Fallon/Risch

Respondent was not present, nor represented by counsel.

Respondent violated: Section 465.016(1)(e), Florida Statutes (2011), by violating Section 893.13(6)(a), Florida Statutes (2011).

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

Motion: by Ms. Glass, seconded by Ms. Mullins, to accept the Voluntary Relinquishment. Motion carried.

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

I-1 Kimberly A. Vega, PS 28435. Lutz, FL
Case No. 2012-11191 – PCP Fallon/Mesaros

Violations alleged:

Count One: Section 465.016(1)(g), F.S., by furnishing upon prescription an ingredient or article different in any manner from the ingredient or article prescribed.

Respondent was present and sworn in by the court reporter. Respondent was represented by Martin Ardex, Esq.

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

Motion: by Dr. Griffin, seconded by Dr. Weizer, to find that respondent was properly served and has requested a formal hearing. Motion carried.

Motion: by Dr. Griffin, seconded by Dr. Weizer, 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.

Departments Recommendation: A fine of \$500.00, costs of \$840.87, and 8 hour Medication Errors CE course.

Motion: by Dr. Griffin, seconded by Ms. Mullins, to reject the recommendations of the Department in favor of Dismissal. Motion carried.

I-2 Crystal Lee Esparza, RPT 18675. Lutz, FL
Case No. 2011-14302 – PCP Risch/Fallon

Respondent violated:

Count One: Section 456.072(1)(k), F.S. (2010), by failing to perform any statutory or legal obligation placed upon a licensee by failing to perform her duty under Section 456.057(7)(a), F.S. (2010), by furnishing medical records to, and/or discussion of the medical condition of a patient with, any person other than the patient or the patient's legal representative or other health care practitioners and providers involved in the treatment and care of the patient, without written authorization of the patient.

Respondent was not present, nor represented by counsel.

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

Motion: by Dr. Weizer, seconded by Dr. Griffin, to find that respondent was properly served and has requested a formal hearing. Motion carried.

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

Motion: by Dr. Weizer, seconded by Dr. Griffin, 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.

Department's Recommendation: Revocation

Motion: by Dr. Weizer, seconded by Dr. Griffin, to accept the recommendations of the Department.

I-3 Christopher Paul Laurie, PS 47497. Cape Coral, FL
Case No. 2012-10900 – PCP Fallon/Risch

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

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 requested a formal hearing. Motion carried.

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

Department's Recommendation: a fine of \$1,000.00, costs in the amount of \$422.41, and an 8 hour medication errors course.

Motion: by Dr. Weizer, seconded by Ms. Glass, to reject the recommendations of the Department in favor of a fine of \$500.00, Costs in the amount of \$422.41, and a 12 hour laws and rules course. Motion carried.

TAB 4 **APPLICATIONS REQUIRING BOARD REVIEW**

A. Endorsement Applicants

1. Robert Eisenman,, File No. 42771, Bishop, GA

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

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

2. Michael Shane Miller, File No. 42766, Gate City, VA

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

Motion: by Dr. Mesaros, seconded by Dr. Griffin, to accept the application with the stipulations the applicant pass the MPJE exam, complete a 12 hour laws and rules course, and appear before the board again within 12 months with no discipline from any of any states in which the applicant holds licensure. Motion carried.

B. Exam Applicants

1. Vanesa La'Shea McGill-Robinson, File No. 42592, Sarasota, FL

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

Dr. Griffin recused herself from presenting this case based on the fact that she knows this applicant personally.

Motion: by Dr. Weizer, seconded by Ms. Mullins, to allow a continuance on the application. Motion carried.

C. Modified Institutional Class II B Pharmacy Permit Application

1. Mental Health Care, Inc., File No. 19712, Tampa, FL

Mental Health Care was pulled from the agenda.

D. Registered Pharmacy Technician

1. Krissi Leigh Smith, File 47025, Hollister, FL

Applicant was not present, nor represented by counsel.

Motion: by Dr. Griffin, seconded by Dr. Fallon, to accept the application with the condition the applicant receive a PRN evaluation. Motion carried.

E. Non-Resident Pharmacy Permit Application

1. Advantage Pharmacy, LLC., File No. 19684, Hattiesburg, MS

Respondent (Jason May – Pharmacist In-charge) was present and sworn in by the court reporter. Respondent was not represented by counsel.

Motion: by Dr. Weizer, seconded by Dr. Griffin, to accept the withdrawal of the application. Motion carried.

Public Comments: Mr. Garcia opens up the floor to public comments.

Artie Dicks approached the Board to remind the Board of a case a couple years ago regarding central fill pharmacies in a hospital pharmacy brought forward by Orlando Health. Mr. Dicks stated that at the meeting, The Board said they would be interested in rule language regarding the matter but due to various factors, the language was never brought to the Board. Mr. Dicks then goes on to say that Inventive Systems will be submitting rule language to the Board office to be discussed at the next rules committee meeting.

Ed Bayo approached the Board to voice displeasure with the FDA and their inspections of compounding pharmacies. Mr. Bayo believes there are jurisdiction issues with the FDA's authority to do so. Mr. Bayo went on to describe the inspections as a "regulatory colonoscopy".

David Joseph speaks in support of Mr. Bayo's comments. Mr. Joseph stated that the FDA entered his pharmacy claiming to be conducting a G.M.P. audit as opposed to USP797 and that the FDA has an agenda by conducting these inspections. Mr. Joseph then went on to commend the Board for their actions taken on the issue of compounding and improvements in inspection processes.

Michael Jackson (Florida Pharmacy Association) approached the Board to discuss funding for and support of the Prescription Drug Monitoring Program (PDMP). Mr. Jackson went on to speak about how his organization is making strong efforts to support the PDMP including an upcoming fundraising campaign he believes will generate a sizable amount of money to go towards funding the PDMP.

Bob Parrado approached the Board to echo the sentiments expressed by Mr. Jackson and his support for the PDMP.

Mr. Garcia expressed gratitude to both Mr. Bayo and Mr. Jackson for their support of the Boards efforts with PDMP.

Mr. Garcia discussed the immunization certification and the issue with time frames and the acceptability of the certificate. Mr. Garcia also questions whether or not a rule is needed in making a standard for acceptability of the certificate. Mr. Whitten stated on the record that if the course is taken as coursework at any time in a college of Pharmacy, it will be accepted by the Board office. Mr. Flynn advised the Board a rule is not necessary. Mr. Whitten stated the information decided on this issue will be made an FAQ on the Board of Pharmacy website.

Michael Jackson (Florida Pharmacy Association) approached the Board again to discuss immunization registration. Mr. Jackson stated that the 3 hour immunization seems to be “overkill” for the initial applicants that have to take the 20 hour immunization course. Mr. Jackson stated that discussion may be needed for this particular situation.

Mark McHale (Pro Health Pharmaceutical Solutions) approached the Board to commend them on their efforts on creating the special compounding permit. Mr. McHale goes on to inform the board about the FDA’s new category they are proposing called the preparer of sterile drug products that is being made to eliminate ambiguity between G.M.P. and compounding pharmacies. He urged the Board not to shut the door on working with FDA on inspections of these particular pharmacies.

Motion: by Dr. Mesaros, seconded by Dr. Griffin, to **ADJOURN** the meeting at 1:40p.m. Motion carried.