

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

**August 13-14, 2013**  
Rosen Plaza Hotel  
9700 International Drive  
Orlando, FL 32819  
(407) 996-9700

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Board Members:

Albert Garcia, BPharm, MHL, Chair, Miami  
Jeffery J. Mesaros, PharmD, Vice-Chair, Tampa  
Leo J. "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  
Lynette Norr, Assistant Attorney General

Department of Health Staff:

Yolanda Green, Assistant General Counsel  
Matt Witters, Assistant General Counsel

**Tuesday, August 13, 2013 – 1:00 p.m.**

**1:00 p.m. Call to Order by Albert Garcia, BPharm, MHL, Chair**

All Members were present.

**TAB 1**

**REPORTS**

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

No Information was discussed under the Chair's Report.

**B. Executive Director's Report – Mark Whitten**

Mark Whitten informed the Board that due to the 1:00 p.m. start time on the first day of the Board meeting, a committee meeting will be moved to the morning session at future Board meetings.

1. Jeff Mesaros – Rules Committee Update

Lynette Norr provided an update from the August 12, 2013 Rules Committee.

Ms. Norr introduced Rule 64B16-30.001 and discussed the changes made.

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

**Motion:** by Dr. Weizer, seconded by Mrs. Glass, that there is not an adverse impact on small business. Motion carried.

**Motion:** by Dr. Weizer, seconded by Dr. Fallon, that the changes will not raise regulatory costs in excess of \$200,000. Motion carried.

Ms. Norr introduced Rule 64B16-28.450 and the proposed language that adds institutional pharmacies to the rule.

Martin Dix approached the Board to state that voting to approve the rule for publication does not eliminate the ability to modify the rule.

Larry Gonzalez approached the Board to echo the thoughts of Mr. Dix and urged the Board to move this rule forward.

Mr. Garcia tabled the vote on this rule until later in order to give the Board members a chance to review the language.

Ms. Norr introduced Rule 64B16-28.605 regarding automated distribution and packaging.

Dr. Mesaros requested that, in the future, all the information that is sent to the Committee members be sent to all Board members for review.

Dr. Mesaros updated the Board members and audience of the discussion from the Rules Committee regarding validity of prescriptions.

Ms. Norr informed the Board of Dr. Weizer's suggestion to review Rule 64B16-28.303 and Rule 64B16-28.301 regarding destruction of controlled substances.

Dr. Weizer provided an overview of the aforementioned rules and discussed the reasons for why the rules need to be reviewed.

**Motion:** by Dr. Mesaros, seconded by Dr. Weizer, to open rules 64B16-28.303 and 28.301 for review. Motion carried.

Mr. Whitten requested that Mr. Garcia appoint two additional members to the Rules Committee.

Mr. Garcia appointed Dr. Weizer and Dr. Griffin to serve on the Rules Committee.

## 2. Michele Weizer – Compounding Rules Committee Update

Dr. Weizer provided an update from the Compounding Rules Committee and informed the Board and audience of the issues regarding a non-resident pharmacy in Texas having products recalled that they had shipped to Florida.

Dr. Weizer discussed how USP797 is a clarification of the 2008 USP71 rule that is already in existence.

Dr. Weizer informed the Board and audience that a full copy of USP797 is available for review in the Tallahassee Board office.

Mr. Flynn suggested a workshop for the purpose of going through USP797 line by line and exempting the requirements or guidelines that would have an unnecessary disproportionate negative effect on small business.

Ms. Mullins supported the idea of a noticed workshop to review USP797 to allow organizations such as the FPA to have workgroups prepared. Ms. Mullins also emphasized the importance of our rules being clear and defined as opposed to being just a reference to a chapter

Mr. Garcia proposed the formation of a committee comprised of three Board members and six advisors from the field to work on issues such as adoption of USP797.

Mr. Flynn informed the Board and audience that if said committee is to be formed; only the Board members would have voting rights.

**Motion:** by Ms. Mullins, seconded by Dr. Mesaros, to form a special committee comprised of three Board members and six advisors. Motion carried.

**Motion:** by Dr. Griffin, seconded by Ms. Mullins, to have the chair of the compounding committee select the advisors for the special committee. Motion carried.

Mr. Garcia stated that he would like this special committee to have met before the next Board meeting.

Dr. Weizer introduced a letter from Ken Plante regarding office use compounding.

**Motion:** by Mr. Garcia, seconded by Dr. Weizer, to respond to Mr. Plante reaffirming the Board's commitment to office use compounding. Motion carried.

Mr. Flynn introduced the non-resident draft legislation and explained the edits to Section 465.0156 including the deletion of the language requiring the Florida Board to notify the non-resident Board before taking action.

**Motion:** by Dr. Weizer, seconded by Dr. Fallon, to approve the proposed language in Section 465.0156 Florida Statutes. Motion carried.

Mr. Flynn then introduced the changes to Section 465.0158 Florida Statutes, which refers to the Sterile Compounding Permit.

Ms. Mullins stated, in regards to patient safety, the importance of non-resident sterile compounding pharmacies having to comply with the same sterile compounding rules as our in-state sterile compounding pharmacies.

**Motion:** by Ms. Mullins, seconded by Dr. Weizer, to approve the addition of language that states non-resident pharmacy sterile compounding standards must be substantially equivalent or greater to the standards in the state of Florida. Motion carried.

**Motion:** by Dr. Weizer, seconded by Dr. Fallon, to approve the proposed language in Section 465.0158. Motion carried.

Mr. Flynn introduced the changes to Section 465.017 Florida Statutes that would allow the Department to have the authority to enter into a non-resident pharmacy state and perform an inspection at the cost of the licensee.

**Motion:** by Dr. Weizer, seconded by Ms. Glass, to approve the proposed language in Section 465.017 Florida Statutes. Motion carried.

Ms. Mullins informed the Board and audience about a statement written by NABP taking a position of support on Senate Bill 959 regarding compounding and requested comment from the rest of the Board members.

Dr. Mesaros commented that Florida, as a whole, didn't have a comparative representation to some of the other Boards, Universities, and Associations that were present at the NABP District III meeting. Dr. Mesaros stated his

belief that the statement made by NABP was not to speak for the Boards that don't agree but the cumulative sentiment at the National meeting, which was of support for Bill.

Ms. Mullins stated her belief that Senate Bill 959 is not good for patient care in the current state it exists.

3. Lee Fallon – Report from FPA Meeting

Dr. Fallon provided a report on his trips to the FPA Annual meeting in Orlando as well as the Southeastern Gathering in Destin, FL.

Dr. Fallon reported that he and Mr. Whitten presented one hundred and twenty eight 50-year pharmacist certificates at the end of the FPA Annual meeting. Dr. Fallon stated that many of the recipients were present.

4. Unlicensed Activity Report

Mr. Whitten provided a report and informed the Board of some updates happening within the ULA program.

15 Minute Break

5. Request for PDM at Multiple Locations – Central Florida Family Health Center, Inc.

Central Florida Family Health Center, Inc. did not have a representative present.

**Motion:** by Mr. Meshad, seconded by Ms. Glass, to deny the request. Motion carried.

6. Correspondence – Sister Emmanuel Hospital

Carmen Aceves was present on behalf of Sister Emmanuel Hospital.

Ms. Aceves requested guidance from the Board regarding the necessity for her hospital to acquire the new sterile compounding permit despite the fact that her hospital does not have a sterile products room.

Mr. Flynn advised the Board that the Board cannot issue a license to the hospital if the hospital was unable to comply with all the laws and rules regulating sterile compounding.

Mr. Garcia informed the Board that they would now be revisiting the Rules Committee report to discuss Rule 64B16-28.901.

Martin Dix and Harold Cleveland approached the Board to discuss the proposed changes to the rule.

**Motion:** by Dr. Griffin, seconded by Ms. Glass, to approve proposed changes to Rule 64B16-28.901. Motion carried.

**Motion:** by Dr. Weizer, seconded by Ms. Glass, that there is no negative impact on small business. Motion carried.

**Motion:** by Dr. Fallon, seconded by Dr. Weizer, that the proposed changes will not directly or indirectly increase regulatory costs to any entity including government in excess of \$200,000.00 in the aggregate in Florida.

**C. Attorney General's Report – David Flynn, Assistant Attorney General**

## 1. Rules Report

Mr. Flynn presented the Rules report. Mr. Flynn provided an update to Rule 64B16-28.100 and stated that the rule will be left open the entire time he is with the Board in order to continue to make changes in a more expeditious manner. Mr. Flynn stated that Rules 64B16-26.1031 and Rule 64B16-26.302 have both been adopted.

### **D. Prosecuting Attorney Report – Yolanda Green, Assistant General Counsel**

#### 1. Prosecution Services Report

Yolanda Green introduced herself and presented the Prosecution Services Report.

Ms. Green informed the Board that the probable cause panel (PCP) agendas are now going to have a cap of 55 cases maximum. Ms. Green stated that the cases over the cap of 55 will be heard on the dates that previously have been set aside exclusively for emergency suspension orders (ESO).

**Motion:** by Dr. Griffin, seconded by Dr. Weizer, to allow PSU to continue prosecuting old cases. Motion carried.

### **E. Chief Investigative Services Report – Jeanne Clyne**

Mr. Whitten presented the Chief Investigative Services Report. Mr. Whitten stated that out of the 684 facilities that responded to the Board survey regarding sterile compounding, 194 stated that they perform only sterile compounding and 490 stated that they perform both sterile and non-sterile compounding. Mr. Whitten also stated that 97.5% of all pharmacy inspections for fiscal 2012-2013 have been completed.

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

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

1. Pharmacist (Licensure) (Client 2201) – 137
2. Pharmacist (Exam Eligibility) (Client 2201) – 498
3. Pharmacist Interns (Client 2202) – 140
4. Registered Pharmacy Technicians (Client 2208) – 951
5. Consultant Pharmacist (Client 2203) – 41
6. Nuclear Pharmacist (Client 2204) – 2
7. Pharmacies/Facilities (Client 2205) – 103
8. Registered Pharmacy Technician Ratios (2:1 or 3:1)- 58
9. Pharmacy Technician Training Program (Client 2209) - 22
10. CE Providers – 14
11. CE Courses - 21
12. CE Individual Requests (Approved) – 0
13. CE Individual Requests (Denied) - 0

**Motion:** by Dr. Fallon, seconded by Dr. Weizer, to ratify items #1-13. Motion carried.

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

1. June 4-5, 2013

Ms. Mullins requested that two statements from the June meeting be rewritten.

Dr. Mesaros and Dr. Griffin requested that Ms. LuGina Mendez-Harper and Mr. Kyle Parker from the June meeting have the spelling of their names corrected.

**Motion:** by Dr. Weizer, seconded Dr. Griffin, to approve the minutes with changes. Motion carried.

**C. Presentations**

1. Board of Pharmacy Website

Allison Stachnik and Charlie Buck introduced the new Board agenda web portal. Ms. Stachnik stated that the new web portal is scheduled to be released in February.

Ms. Stachnik then introduced and provided a walkthrough of the new Florida Board of Pharmacy website.

Public Comments:

Mr. Garcia opened the floor to public comments.

Mr. Fritz Hayes approached the Board to discuss the 2014 Maltagon meeting that will be hosted in Florida. Mr. Hayes recommended contacting a University in regards to preparation for the meeting.

**Motion:** by Dr. Fallon, seconded by Ms. Glass to **ADJOURN** the meeting at 4:31 p.m. Motion carried.

**Wednesday, August 14, 2013 – 9:00 a.m.**

**9:00 a.m. Call To Order by Albert Garcia, BPharm, MHL, Chair**

All members were present except Dr. Jeff Mesaros.

Mr. Garcia informed the audience that the meeting is being recorded and that an audio file will be posted to the website. Mr. Garcia informed the audience of live CE credit available.

Dr. Weizer introduced 64B16-28.450 regarding centralized prescription filling.

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

**Motion:** by Dr. Weizer, seconded by Ms. Glass, that there is no negative impact on small business. Motion carried.

**Motion:** by Dr. Weizer, seconded by Dr. Fallon, that approval will not directly or indirectly increase regulatory costs to any entity, including government, in excess of \$200,000.00 in the aggregate in Florida within one year of implementation. Motion carried.

Mr. Garcia introduced Rule 64B16-30.001 to be voted on for reconsideration.

**Motion:** by Dr. Weizer, seconded by Ms. Glass, to reconsider Rule 64B16-30.001. Motion carried.

**Motion:** by Dr. Weizer, seconded by Dr. Fallon, that there is no negative impact on small business. Motion carried.

**Motion:** by Dr. Weizer, seconded by Ms. Glass, that approval will not directly or indirectly increase regulatory costs to any entity, including government, in excess of \$200,000.00 in the aggregate in Florida within one year of implementation. Motion carried.

**TAB 3**            **DISCIPLINARY CASES – Yolanda Green, Assistant General Counsel**

**A.**            **SETTLEMENT AGREEMENT– APPEARANCE REQUIRED CASES**  
A-1            Yader A Padilla, PSI 14777. Miami, FL  
                  Case No. 2012-17316 PCP: Mullins/Glass/Weizer

Respondent violated:

**Count One:** Section 465.072(1)(x), F.S. (2010) by failing to report to the Board, or the department if there is no Board, in writing within 30 days after he was convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction.

**Terms of Settlement Agreement:** Respondent shall be present. Respondent shall pay fine of \$1,000.00. Respondent shall pay costs in the amount of \$3,000.00. Respondent must complete a Laws and Rules CE.

Respondent was not present nor represented by counsel.

**Motion:** by Dr. Griffin, seconded by Ms. Risch, to reject the Settlement Agreement. Motion carried.

**Motion:** by Dr. Griffin, seconded by Dr. Fallon, to offer a counter settlement for revocation. Motion carried.

A-2            Thomas John Lawley, PS 37816. Boca Raton, FL  
                  Case No. 2013-02530, PCP: Fallon/Griffin

Respondent violated:

**Count One:** Section 465.016(1)(m), F.S. (2012) by being unable to practice pharmacy with reasonable skill and safety by reason of use of alcohol.

**Count Two:** Section 456.072(1)(hh), F.S. (2012) when PRN closed his file due to missing tests, refusing to refrain from practice, and testing positive for alcohol.

**Terms of Settlement Agreement:** Respondent shall be present. Respondent shall pay a fine of \$1,000.00. Respondent shall pay costs of \$5,000.00. Respondent must be evaluated by PRN and comply with any contract requirements. Respondent will be placed on probation for 5 years to run concurrent with his PRN contract. Respondent may not be prescription department manager for 2 years with his ability to act as prescription department manager be left to the discretion of PRN after the 2 year period.

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

Penny Ziegler (Professionals Resource Network) was present and stated Mr. Lawley is currently under contract and has been compliant.

**Motion:** by Mr. Meshad, seconded by Ms. Mullins, to accept the Settlement Agreement. Motion carried.

A-3            G.M.G. Pharmacy and Discount, Inc, PH 26024. Hialeah, FL  
                  Case No. 2012-16158 – PCP Meshad/Weizer

Respondent violated:

**Count One:** Section 465.023(1)(c), F.S. (2012) through a violation of Rule 64B16-28.109 F.A.C., which establishes that a pharmacy's prescription department shall be securely locked when the prescriptions department is closed.

**Count Two:** Section 465.023(1)(c), F.S. (2012) by violating Chapter 499, Florida Statutes, through a violation of Section 499.005(28), Florida Statutes (2012), which establishes that it is unlawful for any person to fail to acquire or deliver a pedigree paper as required under Part I of Chapter 499.

**Count Three:** Section 465.023(1)(c), F.S. (2012) by violating Chapter 499, Florida Statutes, through a violation of Section 499.005(1), Florida Statutes (2012), by holding and/or offering for sale, adulterated drugs.

**Count Four:** Section 465.023(1)(c), F.S. (2012) by violating Chapter 499(18), Florida Statutes (2012), through a violation of 61N-1.012(1)(a), F.A.C., which requires that records to document the movement of drugs, devices or cosmetics must provide a complete audit trail from a person's receipt or acquisition to sale of other disposition of the product or component.

**Terms of Settlement Agreement:** Representative of Respondent shall be present. Respondent shall pay a fine of \$5,000.00. Respondent shall pay costs of \$1,650.11. Respondent shall be placed on two year probationary period requiring semi-annual inspections at Respondent's cost; and mandatory appearance by representative of respondent during the last three months of probation.

Hoiris Manrique (Owner of G.M.G. Pharmacy and Discount, Inc.) was present and sworn in the by the court reporter. Ms. Manrique was not represented by counsel.

**Motion:** by Dr. Fallon, seconded by Ms. Glass, to accept the Settlement Agreement. Motion carried.

A-4                    Brashear's Vital Care Corp., PH 22730. Lecanto, FL  
Case No. 2012-34461 – PCP Meshad/Weizer

Respondent violated

**Count One:** Section 465.023(1)(c), F.S., (2009, 2010, 2011), by violating Section 465.016(1)(c), F.S. (2009, 2010, 2011).

**Count Two:** Section 465.023(1)(c), F.S., (2009, 2010, 2011), by violating Section 465.016(1)(s), F.S. (2009, 2010, 2011).

**Count Three:** Section 465.023(1)(c), F.S., (2011), by violation of Section 456.072(1)(m), F.S., (2011).

**Terms of Settlement Agreement:** Respondent shall be present. Respondent shall pay fine of \$1,500.00. Respondent shall pay costs of \$1,168.96. Respondent shall be placed on probation for two years including semi-annual inspections at Respondent's cost and an appearance before the Board of Pharmacy during the last three months of probation.

Robert Brashear (President of Brashear's Vital Care Corp.) was present and sworn in by the court reporter. Mr. Brashear was represented by Brian Kahan, Esq.

**Motion:** by Ms. Mullins, seconded by Dr. Griffin, to accept the Settlement Agreement. Motion carried.

A-5                    Alan E. Wingerter, PS 14151. Palatka, FL  
Case No. 2012-12447 – PCP Fallon/Risch

**Count One:** Respondent violated 465.016(1)(r), F.S. (2009-2011) by violating Rule 64B16-26.300(1), F.A.C., which states no person shall serve as consultant pharmacist as defined in Section 465.003(3), F.S., unless that person holds a license as a consultant pharmacist.

**Terms of Settlement Agreement:** Respondent shall be present. Respondent shall pay a fine in the amount of \$5,000.00. Respondent shall pay costs of \$774.16. Respondent shall complete 12 hour Laws and Rules course.

Respondent 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 Settlement Agreement. Motion carried.

A-6 Edward B. Beckles, PS 30937. Wesley Chapel, FL  
Case No. 2012-11079 – PCP Weizer/Risch

**Count One:** Respondent violated Section 456.072(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.

**Terms of Settlement Agreement:** Respondent shall pay costs not over \$921.56. Revocation of License.

Respondent was not present nor represented by counsel.

**Motion:** Dr. Griffin, seconded by Ms. Glass, to accept the Settlement Agreement. Motion carried

A-7 Robert M. Bojarzin, PS 19647. Ft. Meyers, FL  
Case No. 2012-09524 – PCP Mullins/Glass/Fallon/Meshad

**Count One:** Respondent violated Section 465.015(1)(g), F.S.(2010) 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, except as authorized in Section 465.019(6) or Section 465.025.

**Terms of Settlement Agreement:** Respondent shall be present. Respondent shall pay a fine of \$500.00. Respondent shall pay costs not over \$2,773.05. Respondent shall complete an 8 hour Medication Errors CE.

**Case was granted a continuance to the next Board of Pharmacy meeting.**

A-8 Cristina Zobeida Prades, PS 47726. Windermere, FL  
Case No. 2012-19081 - PCP Griffin/Mesaros

**Count One:** Respondent violated Section 465.016(1)(g), F.S. (2012), 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 limited to \$1,000.52. Respondent shall complete an 8 hour Medication Error CE.

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 accept the Settlement Agreement. Motion carried.

A-9 Jillian Vanessa Boyett, PS 38445. Orange Park, FL  
Case No. 2012-12827 – PCP Mullins/Glass

**Count One:** Section 465.016(1)(e), F.S., (2010, 2011, 2012) by violating Chapter 499; 21 U.S.C. ss. Known as the Comprehensive Drug Abuse Prevention and Control Act, or Chapter 893 through a violation of Section 893.13(7)(a), F.S., F.S. (2010, 2011, 2012) , by acquiring or obtaining, or attempting to obtain possession of a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge.

**Count Two:** Section 465.016(1)(i), F.S. (2010, 2011, 2012), by compounding, dispensing, or distributing a legend drug, including any controlled substance, other than in the course of professional practice of pharmacy.

**Terms of Settlement Agreement:** Respondent shall be present. Respondent shall pay a fine of \$5,000.00. Respondent shall pay costs limited to \$3,000.00. Respondent shall complete a 12 hour Laws and Rules CE. Respondent must undergo PRN evaluation within 60 days of Final Order and comply with any contract offered. Respondent shall be placed on probation for 5 years.

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

Penny Ziegler (PRN) – stated that respondent has been compliant.

Respondent requested an extension on payment of fees.

**Motion:** by Dr. Griffin, seconded by Dr. Weizer, to reject the Settlement Agreement. Motion carried.

**Motion:** by Dr. Griffin, seconded by Dr. Weizer, to accept original Settlement Agreement terms with ability to pay fees over course of probationary period. License cannot be restored until fees are paid. Motion carried.

A-10 Palm Springs General Hospital, PH 2235. Hialeah, FL  
Case No. 2013-04842 – PCP Mullins/Risch

**Count One:** Section 456.072(1)(k), F.S. (2012) by violating Rule 64B16-27.797(1)(a), F.A.C. which requires an anteroom area to be maintained within ISO Class 8 level of particulate contamination.

**Count Two:** Section 456.072(1)(k), F.S. (2012) by violating Rule 64B16-27.797(1)(f), F.A.C. which requires the buffer area to be maintained within ISO Class 7 level of particulate contamination and not contain a sink or drain.

**Count Three:** Section 456.072(1)(k), F.S. (2012) by violating Rule 64B16-27.797(1)(k), F.A.C. which requires that the pharmacy compounding parenteral and sterile preparation shall have appropriate environmental control devices capable of maintaining at least class 100 conditions in the work place where critical objects are exposed and critical activities are performed.

**Terms of Settlement Agreement:** Respondent shall be present. Respondent shall pay a fine of \$2,000.00. Respondent shall pay costs limited to \$2,000.00.

**Case was granted a continuance to the next Board of Pharmacy meeting.**

**B. DETERMINATION OF WAIVER**

DOW-1 Mary's Pharmacy, Inc., PH 25755. Miami, FL  
Case No. 2012-09094 – PCP Risch/Glass

**Count One:** Respondent violated Section 465.023(1)(c), F.S., by violating Rule 64B16-28.1081, F.A.C., which requires that any person who receives a community pharmacy permit pursuant to Section 465.018 F.S., and commences to operate such an establishment shall keep the prescription department of the establishment open for a minimum of forty (40) hours per week.

**Count Two:** Respondent violated Section 465.023(1)(c), F.S., by violating Rule 64B16-28.202(3), F.A.C., by failing to notify the Board of Pharmacy in writing as to the effective date of closure and return the pharmacy permit to the Board of Pharmacy office or arrange with the local Bureau of Investigative Services of the Department to have the pharmacy permit returned to the Board of Pharmacy, and notify the Board of Pharmacy which permittee is to receive the prescription files.

**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 waived the right to 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.

**Recommended Penalty: Revocation**

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

DOW-2            Rebecca Jill Thomas, RPT 32912. Jacksonville, FL  
Case No. 2012-14117 – PCP Weizer/Risch

**Count One:** Respondent violated Section 456.072(1)(x), F.S., (2012) 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:** Respondent has violated Section 456.072(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.

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

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

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

**Recommended Penalty: Revocation**

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

**C. VOLUNTARY RELINQUISHMENTS**

VR-1, VR-2, and VR-5

**Motion:** by Dr. Fallon, seconded by Dr. Griffin, to accept the Voluntary Relinquishments (VR-1, VR-2, VR-5). Motion carried.

VR-3, VR-8, VR-10

**Motion:** by Dr. Weizer, seconded by Ms. Glass, to accept the Voluntary Relinquishments (VR-3, VR-8, VR-10). Motion carried.

VR-1 Nelcia Anne Salmon, PS 28284. Plantation, FL  
Case No. 2012-13568 – PCP Weizer/Meshad

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 section.**

VR-2 Jose Carlos Morales-Hernandez, PS 26289. Miami, FL  
Case No. 2013-03651 – PCP Weizer/Meshad

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 section.**

VR-3 Quality Pharmacy, LLC, PH 25560. Tampa, FL  
Case No. 2013-07690 – PCP Waived

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 section.**

VR-4 Coral West Pharmacy Inc., PH 14227. Coral Gables, FL  
Case No. 2011-09924 – PCP Weizer/Risch

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

VR-5 Weight and Wellness Inc., PH 24846. Plantation, FL  
Case No. 2012-13571 – Weizer/Meshad

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 section.**

VR-6 Alina De Armas, RPT 4154. Miami, FL  
Case No. 2012-06796 – PCP Griffin/Mesaros

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

VR-7            Marc W. Donegan, PS 31403. Miami Beach, FL  
                  Case No. 2011-09628 – PCP Mullins/Risch

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

**Pulled by Prosecuting Services Unit.**

VR-8            Aldo Patrick Schembari, RPT 43647. Madeira Beach, FL  
                  Case No. 2012-14195 – PCP None

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

**See motion at beginning of the section.**

VR-9            Aldo Patrick Schembari, RPT 43647. Madeira Beach, FL  
                  Case No. 2012-14223 – PCP Mullins/Risch

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

VR-10          Jamie Lynn Mills, RPT 21930. Rockledge, FL  
                  Case No. 2012-14470 – PCP Waived

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 section.**

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

I-1            Robert M. Poland, PS 19244. Jacksonville Beach, FL  
                  Case No. 2013-00276 – PCP Meshad/Weizer

**Count One:** Respondent violated Section 465.016(1)(r), F.S. (2012), by violating 465.022(11)(a), F.S. (2012) by failing to ensure the permittee’s compliance with all rules adopted under those chapter as they relate to the practice of the profession of pharmacy and sale of prescription drugs.

**Motion:** by Ms. Mullins, seconded Dr. Griffin, to refer I-1 and I-2 back to probable cause panel. Motion carried.

Mr. Flynn explained to the Board and the audience that I-1 and I-2 have to be referred back to probable because there are no disciplinary guidelines for these particular violations.

I-2                    North Beaches Pharmacy Inc., PH 7967. Jacksonville Beach, FL  
Case No. 2013-00327 – PCP Weizer/Meshad

**Count One:** Respondent violated Section 465.023(1)(c), F.S. (2012), by violating Rule 64B16-27.797, F.A.C., by failing to conform to the standards of practice for compounding sterile preparations.

**Motion: See related motion from I-1.**

I-3                    Robert C. Brashear, PS 15856. Inverness, FL  
Case No. 2012-10948 – PCP Fallon/Meshad

**Count One:** Respondent violated Section 465.016(1)(o), F.S. (2008, 2009, 2010, 2011) by failing to report to the department any licensee under Chapter 458 or under Chapter 459 who the pharmacist knows has violated the grounds for disciplinary action set out in the law under which that person is licensed and who provides health care services in a facility licensed under Chapter 395, or a health maintenance organization certificated under Part I of Chapter 641, in which the pharmacist also provides services.

**Count Two:** Respondent violated Section 465.016(1)(s), F.S. (2008, 2009, 2010, 2011) by dispensing any medicinal drug based upon a communication that purports to be a prescription as defined by Section 465.003(14) F.S. or Section 893.02, F.S. when the pharmacist knows or has reason to believe that the purported prescription is not based upon a valid practitioner-patient relationship.

**Count Three:** Respondent violated Section 456.072(1)(m), F.S. (2011) by making deceptive, untrue, or fraudulent representations in or related to the practice of a profession or employing a trick or scheme in or related to the practice of a profession.

The Respondent was present and sworn in by the court reporter. The respondent was represented by Brian Kahan, Esq.

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

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

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

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

**Departments Recommendation: Revocation**

**Motion:** by Ms. Mullins, seconded by Ms. Risch, to reject the recommendations of the Department and impose a \$500.00 dollar fine and require Respondent to complete a 12 hour laws and rules CE. Motion carried.

**Motion:** by Dr. Griffin, seconded by Ms. Glass, to require Respondent to pay fine and costs within 90 days. Motion carried with Ms. Mullins in opposition.

I-4                    Dino Jose Antonioni, PS 38504. Miramar, FL

Case No. 2012-14458. PCP – Griffin/Mesaros

**Count One:** Respondent violated Section 456.072(1)(c), F.S. (2012) by being convicted of 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 pharmacy.

**I-4 pulled due to issue with notice. Respondent must be notified in Federal prison.**

I-5                    La Perla Pharmacy, Inc., PH 24200. Miami, FL  
Case No. 2012-18263. PCP – Meshad/Weizer

Respondent was not present nor represented by counsel.

**Count One:** Respondent violated 465.023(1)(c), F.S. (2012) by violating Rule 64B16-28.109 F.A.C.

**Motion:** by Matt Witters of Prosecuting Services Unit, seconded by Ms. Mullins, to pull the case for further investigation. Motion carried.

I-6                    Vinesh C. Darji, PS 32062. Tampa, FL  
Case No. 2010-08165. PCP – Fallon/Risch

**Count One:** Respondent violated Section 465.016(1)(e), F.S. (2012), by violating Chapter 499; 21 U.S.C. ss. 301-392, known as the Federal Food, Drug, and Cosmetics Act, 21 U.S.C. ss. 821 et set., known as the Comprehensive Drug Abuse Prevention and Control Act; or Chapter 893.

Respondent was not present nor represented by counsel.

**Motion:** by Dr. Weizer, seconded by Dr. Griffin, to allow case to be heard as an informal hearing. Motion carried.

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

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

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

**Motion:** by Ms. Glass, seconded by Dr. Weizer, 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: Revocation of both Pharmacist License and Consultant Pharmacist License (I-7 companion case).**

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

**Motion:** by Dr. Weizer, seconded by Ms. Glass, to allow Department withdraw motion to asses costs. Motion carried.

I-7 Vinesh C. Darji, PU 5660. Tampa, FL  
Case No. 2010-08164 – PCP Fallon/Risch

**Count One:** Respondent violated Section 465.016(1)(e), F.S. (2012), by by violating Chapter 499; 21 U.S.C. ss. 301-392, known as the Federal Food, Drug, and Cosmetics Act, 21 U.S.C. ss. 821 et set., known as the Comprehensive Drug Abuse Prevention and Control Act; or Chapter 893.

**See motion from I-6.**

I-8 Tyronda Sanks, RPT 22120. Lauderhill, FL  
Case No. 2012-14090 – PCP Mullins/Mesaros

**Count One:** Respondent violated 465.016(1)(e), F.S. (2011) by violating 893.13(6)(a), F.S. (2011), and Section 893.13(1)(a), F.S. (2012) when she sold the promethazine with codeine syrup.

Respondent was not present nor represented by counsel.

**Motion:** by Dr. Weizer, seconded by Dr. Griffin, to allow case to be heard as an informal hearing. Motion carried.

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

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

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

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

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

**Motion:** by Dr. Weizer, seconded by Ms. Glass, to allow the Department withdraw motion to assess costs. Motion carried.

I-9 Lloyd Sylvestre Jones, RPT 18104. Miramar, FL  
Case No. 2012-16183 – PCP Mullins/Glass

**Count One:** Section 456.072(1)(o), F.S. (2011), by practicing or offering to practice beyond the scope permitted by law ort accepting and performing professional responsibilities the licensee knows, or has reason to know, the licensee is not competent to perform.

**Count Two:** Section 465.016(1)(e), F.S. (2011) through a violation of Chapter 499; 21 U.S.C. ss. 201-392, known as the Federal Food, Drug, and Cosmetic Act; 21 U.S.C. ss. 821 et seq., known as the Comprehensive Drug Abuse Prevention and Control Act, or Chapter 893.

Respondent was present and sworn in by the court reporter. Respondent was represented by Lee Pulliam (Qualified Representative).

**Motion:** by Dr. Weizer, seconded by Dr. Griffin, to allow case to proceed as an informal hearing. Motion carried.

**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. Fallon, to find that respondent was properly served and has requested a formal hearing. Motion carried.

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

**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 carried.

**Departments Recommendation: Revocation**

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

**Motion:** by Dr. Weizer, seconded by Dr. Fallon, to allow Department to withdraw their motion for costs. Motion carried.

**TAB 4**                    **APPLICATIONS REQUIRING BOARD REVIEW**

**A. Examination Applicants**

1. Olufeyikemi Awobusuyi, File No. 43898. Melbourne, FL.

Applicant was not present.

**Motion:** by Dr. Griffin, seconded by Mr. Garcia, to allow applicant to sit for the exam but not issue a license until a PRN evaluation has been completed. Motion failed with Dr. Weizer, Dr. Fallon, Ms. Mullins, and Ms. Risch in opposition.

**Motion:** by Dr. Weizer, seconded by Dr. Griffin, to allow applicant to sit for the exam but not issue the license until applicant has undergone a PRN evaluation and had that evaluation reviewed by the Board chair. Motion carried.

2. Ryan Richard Hire, File No. 43669. Naples, FL.

Applicant was present and sworn in by the court reporter.

Penny Zeigler (PRN) informed the Board that the applicant has been compliant with his PRN contract.

**Motion:** by Dr. Griffin, seconded by Mr. Garcia, to allow applicant to sit for the exam. Motion carried.

3. Markus Ville Tiitto, File No. 43573. West Palm Beach, FL.

Applicant was present and sworn in by the court reporter.

Penny Zeigler (PRN) informed the Board that the applicant has been compliant with PRN contract.

**Motion:** by Dr. Griffin, seconded by Dr. Fallon, to allow applicant to sit for the exam.

4. John Major, File No. 43928. Indian Shores, FL.

Applicant was present and sworn in by the court reporter.

**Motion:** by Dr. Fallon, seconded by Ms. Mullins, to allow applicant to sit for the exam. License shall not issue until PRN evaluation. If the applicant requires a contract, the decision on license delegated to Board chair.

Bob Parrado approached the Board to discuss a restaurant in the Orlando called "The Pharmacy". Mr. Parrado gave a description of the operation and stated to the Board that he believes their operation is in violation of Florida law and should be looked into further.

**B. Endorsement Applicants**

1. Cynthia Cruiser, File No. 42614. Narragansett, RI.

Applicant was present and sworn in by the court reporter.

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

2. Louis P. Sosa, File No. 43580. Ormond Beach, FL.

Applicant was present and sworn in by the court reporter.

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

**C. Pharmacy Intern Applications.**

1. Adam Thomas Gabriel, File No. 19045. Worcester, MA.

Applicant was not present.

Penny Zeigler (PRN) approached the Board to inform them that PRN has the ability to identify and refer people to an evaluator in their home state. Ms. Zeigler stated PRN would vet the evaluator and that the evaluation would be considered a Florida PRN evaluation.

**Motion:** by Dr. Weizer, seconded by Dr. Griffin, to approve the application pending a PRN evaluation, compliance with PRN for one year, and appearance in front the Board after the year of compliance for a determination to be made. Motion carried.

**D. Registered Pharmacy Technician Applications.**

1. Torey Jamal Smothers, File No. 50085. Miami, FL.

Applicant was present and sworn in by the court reporter.

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

2. Ashley Woof, File No. 49512. Interlachen, FL.

Applicant was present and sworn in by the court reporter.

**Motion:** by Dr. Griffin, seconded by Ms. Glass, to approve the application. Motion carried.

3. William Ermatinger, File No. 49333. Spring Hill, FL.

Applicant was present and sworn in by the court reporter.

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

**E. Non-Resident Pharmacy Permit Applications.**

1. CarePoint Healthcare, LLC, File No. 19907. Schaumburg, IL.

Bhavesh Patel was present and sworn in by the court reporter.

**Motion:** by Dr. Griffin, seconded by Dr. Weizer, grant permit with the condition that the applicant will not ship sterile compounded products into the state of Florida. Motion carried.

2. Monroe Clinic Drugs, File No. 20073. Jackson, LA.

Applicant was not present.

**Motion:** by Dr. Griffin, seconded by Dr. Fallon, to reject the application. Motion carried.

**TAB 5 LICENSURE ISSUES**

**A. Request for Termination of Probation**

1. Kenneth S. Ginsburg, PS 25202. Lake Worth, FL.

Petitioner was present and sworn in by the court reporter.

**Motion:** by Dr. Weizer, seconded by Dr. Griffin, to terminate probation. Motion carried.

**B. Request for Reinstatement of License**

1. Anita Danna-Grimes, PS 30356. Mobile, AL.

Petitioner was present and sworn in by the court reporter.

**Motion:** by Ms. Mullins, seconded by Dr. Weizer, to grant reinstatement with conditions that the petitioner can only work at one location, cannot be a prescription department manager, and must be compliant with PRN.

2. Daniel Shack, PS 19555. Delray Beach, FL.

Petitioner was present and sworn in by the court reporter.

**Motion:** by Dr. Weizer, seconded by Dr. Fallon, to deny the request for reinstatement. Motion carried.

**C. Request for Board Appearance.**

1. Amy K. Johnson, PS 15668. Gainesville, FL.

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

Penny Zeigler (PRN) stated that petitioner has been compliant with all PRN contract requirements.

**Motion:** by Dr. Weizer, seconded by Dr. Griffin, to terminate PRN contract. Motion carried.

**D. Request for Appeal of Application Denial.**

1. Ronald Lewis Jackson, File No. 42679. Daphne, AL.

Petitioner was present and sworn in by the court reporter.

**Motion:** by Dr. Fallon, seconded by Dr. Weizer, to vacate notice of intent to deny. Motion carried.

**Motion:** by Dr. Weizer, seconded by Ms. Mullins, to approve withdrawal of application. Motion carried.

Public Comments:

Mr. Garcia opened the floor to public comments:

Ms. Mullins spoke about NABP and their support for Senate Bill 959. Ms. Mullins stated the Bill gives the FDA more power and takes away authority from state Boards of Pharmacy.

David Joseph approached the Board to inform them of a proposed language in the House that is related to Senate Bill 959 that is vastly different from the version in the Senate. Mr. Joseph clarified it is not a Bill as of now but is expected to be a Bill once session starts back up.

**Motion:** by Ms. Mullins, seconded by Mr. Meshad, to have Executive Director Mark Whitten contact Carmen Catizone of NABP and invite him to participate in the Special Compounding Committee to discuss the NABP support of Senate Bill 959. Motion carried.

**Motion:** by Dr. Fallon, seconded by Dr. Griffin, to adjourn meeting at 2:11p.m. Motion carried.