MEETING MINUTES
DEPARTMENT OF HEALTH
BOARD OF PHARMACY
FULL BOARD MEETING
February 11-12, 2014
The Florida Hotel & Conference Center
1500 Sand Lake Road
Orlando, FL 32809
(407) 859-1500

Board Members:
Jeffrey J. Mesaros, PharmD, Chair, Orlando
Michele Weizer, PharmD, Vice-Chair, Boca Raton
Leo J. “Lee” Fallon, BPharm, PhD, The Villages
Albert Garcia, BPharm, MHL, Miami
Debra B. Glass, BPharm, Tallahassee
Gavin Meshad, Consumer Member, Sarasota
Mark Mikhael, PharmD, Orlando
Jeenu Philip, BPharm, Jacksonville
Lorena Risch, Consumer Member, Bradenton

Board Staff:
Tammy Collins, Acting Executive Director
Christy Robinson, Program Operations Administrator
Jay Cumbie, Regulatory Specialist II

Board Counsel:
David Flynn, Assistant Attorney General
Lynette Norr, Assistant Attorney General

Department of Health Staff:
Yolonda Green, Assistant General Counsel
Matthew Witters, Assistant General Counsel

Tuesday, February 11, 2014 – 1:00p.m.

1:04 p.m. Call to Order by Jeffrey J. Mesaros, PharmD, Chair

Mrs. Risch was not present.

Dr. Mesaros thanked Mr. Garcia for his role and service as the Chair to the Board of Pharmacy over the past year.

TAB 1 REPORTS
A. Chair’s Report – Jeffrey J. Mesaros, PharmD, Chair
   1. 2014 Board Member Assignments

Dr. Mesaros informed the Board members of their appointments to the various Board of Pharmacy committees. The results were as follows:

Rules Committee  Compounding Rules Committee  Prescription Drug Abuse Committee
Dr. Mesaros (Chair)  Dr. Weizer (Chair)  Mr. Meshad (Chair)
Mrs. Glass  Dr. Fallon  Dr. Fallon
Dr. Mikhael  Mrs. Glass  Mrs. Glass
Mr. Phillip  Dr. Mikhael  Mr. Philip
Dr. Weizer

Application Review Committee – Mrs. Glass and Dr. Mikhael
Legislative Liaison – Mr. Philip
Unlicensed Activity Liaison – Dr. Mikhael
Prescription Drug Monitoring Program Liaison – Mr. Philip
Wholesale Advisory Committee – Mr. Garcia
Tripartite Committee – Dr. Fallon (Chair)
Budget Liaison – Dr. Weizer
DEA Liaison – Mr. Garcia
Weight of the State Liaison – Mr. Garcia

2. 2014 Association Meeting Assignments

Dr. Mesaros informed the Board members of their association meeting assignments for 2014. The results were as follows:

- FSHP House of Delegates – Dr. Wiezer
- NABP Annual Meeting – Dr. Mesaros with Mrs. Glass as the alternate.
- NABP District III – Dr. Mesaros with Mrs. Glass as the alternate.
- NABP MPJE/NAPLEX/FPGEE – Mrs. Glass
- FPA Law & Regulatory Conference – Dr. Mikhael
- FPA April Clinical Conference – Dr. Mikhael
- FPA May Law & Clinical Conference – Dr. Mikhael
- FPA Annual Convention – Dr. Fallon
- FPA Southeastern Gathering – Dr. Fallon

B. Acting Executive Director’s Report – Tammy Collins

Ms. Collins and Dr. Mesaros informed the Board and audience that Florida will be hosting the annual MALTAGON meeting in October 2014. Dr. Mesaros stated that the meeting will be held in the St. Petersburg, Florida area.

1. Compounding Rules Committee Report – Michele Weizer, PharmD

Dr. Weizer provided a brief overview of the proceedings from the February 10, 2014 Compounding Rules Committee and requested Mr. Flynn provide an overview of the Federal Legislation that was discussed.

Mr. Flynn gave a brief introduction to The Drug Quality & Security Act and provided an overview of the exemptions provided in Section 503A. Mr. Flynn discussed outsourcing facilities and explained their exemptions from the “new drug application” and “directions for use” but stated the facilities must comply with the manufacturer’s current good manufacturing practices. Mr. Flynn went on to illustrate some potential issues for the Board: “Can you compound without being an outsourcing facility?” and “Who will regulate outsourcing facilities?”

Dr. Weizer stated to the Board that Rule 64B16-27.700 may need to be altered to add language stating that office-use compounding must be in compliance with the Federal Legislation. Dr. Weizer then went on to discuss the changes made to Rule 64B16-27.797 including the addition of language describing low-volume compounding of hazardous items as no more than 40 doses a month.

Motion: by Dr. Weizer, seconded by Dr. Mikhael, to approve the language revisions to Rule 64B16-27.797. Motion carried.

Motion: by Dr. Weizer, seconded by Mrs. Glass, that there is not an adverse economic impact on small business. Motion carried.
Dr. Weizer reported that the legislation regarding the out-sourcing facilities and non-resident pharmacies has been redrafted to include provisions requiring non-resident pharmacies to be compliant with USP797 and provides Florida the authority to inspect the non-resident pharmacies at the cost of the pharmacy.

2. Update on Executive Director Position – Michele Weizer, PharmD

Dr. Weizer informed the Board that interviews for the position were held and that the Board is still accepting applications to fill the position.

Dr. Mesaros thanked Ms. Tammy Collins for her hard work acting as Executive Director during the search for a new permanent Executive Director.

3. 2014 Legislative Update Summary

Ms. Collins provided an update to some current legislation that includes provisions to require prescriptions to have the date formatted a particular way.

Mr. Garcia expressed his concerns and stated that would not support the legislation due to the fact that he believes the legislation doesn’t increase safety to the public nor prevent any prescription fraud from occurring.

Dr. Mesaros stated that legislation may cause a delay issue.

Dr. Mesaros then introduced Chapter 465.014 dealing with direct supervision of pharmacy technicians as the next topic for discussion.

Dr. Weizer provided data and examples from the profession showing how increased distractions and errors can lead to deaths. Dr. Weizer then went on to state that increased technicians ratios will lead to an increased amount of errors.

Mr. Garcia stated that increased technician ratios would reduce errors because each tech would be better able to focus on each particular function due to the decreased amount of distractions.

Mr. Philip spoke in support of Mr. Garcia’s comments and went on to state that increased technician ratios would allow the pharmacist to dedicate more time to performing high-level pharmacist functions.

Mr. Philip went on to state that the appropriate technician ratio should be determined by the particular practice setting and that the pharmacist should have the right to use his professional judgment in making that determination.

Dr. Mikhael stated that the appropriate technician ratio is highly dependent on the type of practice. Dr. Mikhael went on to state his opposition to the legislation and that the Board should retain the authority to determine if an increased technician ratio is appropriate for a particular practice setting.

Mrs. Glass stated that the Board should also consider that there is not currently a limit to the amount of technicians in training and pharmacist interns that are counted towards the ratio when deciding whether or not to raise the technician ratio.

Dr. Fallon stated that he doesn’t feel that an increase to the technician ratio would necessarily cause more errors though he would be more comfortable with a 4:1 ratio in his particular practice setting. Dr. Fallon went on to stress the importance of increased education for pharmacy technicians and increased pay for pharmacy technicians.
Mr. Meshad stated that he believes the technician ratio should be left alone and that if a pharmacist wants an exemption to the current technician ratio, they should have to come before the Board.

Bob Parrado approached the Board and pointed out that all the states without a ratio combined don’t fill as many prescriptions as Florida and stated that volume directly relates to errors. Mr. Parrado also pointed out that technician’s hours are getting cut too much as it is now.

Dr. Mesaros referenced a previous discussion regarding registered pharmacy technicians performing non-technician functions and whether or not they are counted towards the ratio. Dr. Mesaros then went on to state that he doesn’t feel the 3:1 ratio is currently working for all practice settings.

Dr. Mesaros questioned if “amount of technicians allowed to supervise” can be added as a licensing condition, to which Ms. Green and Mr. Witters of prosecution services confirmed.

Mr. Meshad reiterated the fact that a jump from 1:1 to 6:1 is a drastic change and stated his belief that the small group that will benefit will be greatly outnumbered by the larger amount that won’t benefit.

Dr. Weizer stated that “education for pharmacy technicians” needs to be added to the rules committee agenda and that the Board needs to start requiring certification as a licensing requirement to go along with the current registration format.

Ms. Collins stated the process in place for approval and ratification of technician ratios as it currently stands.

Dr. Mesaros requested that the Board suspend the rest of this discussion until the end the day.

Ms. Collins provided an update to the current PDMP Bill language and the new use of the pharmacy trust fund to pay for the database.

**Motion:** by Dr. Weizer, seconded by Dr. Mikhael, to support the use of the trust fund to support the PDMP but not to increase the application fees to do so. (Motion was not voted on due to continued discussion)

Brian Kahan approached the Board to state that the PDMP is in financial distress and that there is a risk that the funds could get swept and never make it to the PDMP. Mr. Kahan went on to state that the Board should take a formal stance in support of the funds being directly allocated to the PDMP.

Dr. Weizer withdrew her motion from above with Dr. Mikhael withdrawing his second.

**Motion:** by Mr. Meshad, seconded by Dr. Fallon, to support the current legislation. Motion carried.

4. **Update on Sterile Compounding Permits**

Ms. Collins provided an update on the sterile compounding permits. Ms. Collins stated that there have been 75 licenses issued and that there are currently 85 open applications. Ms. Collins then went on to state that a second notice letter was sent out on January 27, 2014 regarding the new permit.

5. **Approval of MAD-ID CE Course and Retrospective Approval for CE Participants – Michele Weizer, PharmD**
Dr. Weizer gave an overview of the application and request by MAD-ID for retrospective approval for CE approval.

Dr. Weizer requested the Board approve the request and stated that the program does meet the requirements for a consultant program.

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

**C. Attorney General’s Report – Lynette Norr, Assistant Attorney General**

1. Rules Report

Lynette Norr gave an overview of the new format of the rules report and then went to report that 5 rules have been adopted since the last Board of Pharmacy meeting. Ms. Norr stated Rule 64B16-28.901, 28.450, 30.001, 28.301, and 28.810 as the newly adopted rules. Ms. Norr then stated Rule 64B16-28.140, 28.608, 28.303, and 28.100 are currently in progress.

2. Requests for Declaratory Statements
   a. BTV Pharmacy

Jennifer Baun was present on behalf of BTV Pharmacy.

Mr. Flynn advised the Board that they cannot make a declaratory statement in response to an individual’s particular situation. Mr. Flynn then stated for the above reason, the Board cannot issue a declaratory statement for this particular matter.

**Motion:** by Dr. Fallon, seconded by Mr. Garcia, to deny issuance of a declaratory statement. Motion carried.

b. Florida Hospital Home Infusion, LLP

**Motion:** by Dr. Mesaros, seconded by Mr. Garcia, to move request for a declaratory statement to the April Board of Pharmacy meeting. Motion carried.

3. Request for Variance of Waivers – TeamCare Pharmacy Service

Mark Schneider was present on behalf of TeamCare Pharmacy Service and sworn in by the court reporter.

Mr. Schneider described his business model and explained why he doesn’t necessarily work a typical 40 hour work week. Mr. Schneider then stated that his business is not open to the general public and has no desire to open up a community pharmacy.

**Motion:** by Dr. Weizer, seconded by Mrs. Glass, to allow variance of waivers with the conditions that the non-sterile compounding take place separate from the sterile compounding and that the non-sterile compounding be compliant with USP Chapter 795. Motion carried.

**D. Prosecution Services Report – Yolonda Green, Assistant General Counsel**

Ms. Green provided the Prosecution Services Report and stated that the Pharmacy team is still planning on adding another member in the future.
Motion: by Dr. Weizer, seconded by Mrs. Glass, to allow prosecution to continue prosecuting old cases. Motion carried.

E. Chief Investigative Services Report – Mark Whitten

Tammy Collins gave the chief investigative report on behalf of Mr. Mark Whitten. Ms. Collins reported that dispensing practitioners started with 8,168 facilities and 3,835 have been completed. Ms. Collins then stated that Pharmacy started with 5,335 facilities and 3,064 inspections have been completed so far.

TAB 2 BUSINESS – Jeffrey J. Mesaros, PharmD, Chair

A. Request for Reductive of Hours – Debra Glass, BPharm

Mrs. Glass noted the increased amount of requests for reduction of hours and proposed the Board potentially create guidelines for this matter.

Motion: by Mrs. Glass, seconded by Dr. Weizer, to approve the request by United Care Pharmacy. Motion carried.

The Board announced that they would hear the request for reduction of hours by AM Health, LLC.

Sophia Frankel was present on behalf of AM Health, LLC and sworn in by the court reporter.

Motion: by Mr. Garcia, seconded by Dr. Fallon, to allow Board staff to confirm that all requirements are met and approve the reduction of hours if said requirements are met. Motion carried.

B. NABP Verified Pharmacy Program – Scotti Russell, R.Ph.

Scotti Russell was present on behalf of the National Association of Boards of Pharmacy (NABP). Ms. Russell gave a brief overview of the functions of the NABP and then went on to give an explanation of the NABP Verified Pharmacy Program.

C. Ratification of Issued Licenses/Certificates & Staffing Ratios

1. Pharmacist (Licensure) (Client 2201) – 147
2. Pharmacist (Exam Eligibility) (Client 2201) – 77
3. Pharmacist Interns (Client 2202) – 150
4. Registered Pharmacy Technicians (Client 2208) – 790
5. Consultant Pharmacist (Client 2203) – 16
6. Nuclear Pharmacist (Client 2204) – 0
7. Pharmacies/Facilities (Client 2205) – 158
8. Registered Pharmacy Technician Ratios (2:1 or 3:1)- 109
9. Pharmacy Technician Training Program (Client 2209) - 36
10. CE Providers – 7
11. CE Courses – 9
12. CE Individual Requests (Approved) – 0
13. CE Individual Requests (Denied) - 2

Motion: by Mrs. Glass, seconded by Dr. Fallon, to ratify C #1-13. Motion carried.

D. Review and Approval of Minutes

1. December 3-4, 2013 Meeting Minutes
Motion: by Mrs. Glass, seconded by Dr. Fallon, to approve the minutes. Motion carried.

Dr. Mesaros requested the Board conclude their discussion on direct supervision of technicians and technician staffing ratios.

Mr. Meshad proposed the idea of allowing a 6:1 technician ratio as long as the Board kept oversight.

Dr. Mikhael requested representatives of the various associations express their stance on the issue.

Pam White (Florida Society of Health-System Pharmacists) approached the Board and stated that FSHP is in opposition to the proposed legislation.

Gore Alvarez (Florida Pharmacy Association) approached the Board and stated that the FPA is in opposition to the proposed legislation.

Motion: by Mrs. Glass, seconded by Mr. Meshad, to support a 3:1 ratio and anything above a 3:1 ratio should remain subject to Board approval. Motion carried.

Public Comments:

Dr. Jeff Mesaros opened the floor up to public comments:

Motion: by Mrs. Glass, seconded by Dr. Weizer, to adjourn the meeting at 5:40 p.m. Motion carried.

Wednesday, February 12, 2014 – 9:00 a.m

9:02 a.m.  Call To Order by Jeff J. Mesaros, PharmD

Mrs. Risch was not present.

TAB 3  Rules Committee Report – Jeffrey J. Mesaros, PharmD, Chair

Ms. Norr gave a brief overview of the proceedings from the Rules Committee held on February 11, 2014.

Ms. Norr described the changes made to Rule 64B16-28.303 and requested a vote from the Board.

Motion: by Dr. Weizer, seconded by Mrs. Glass, to approve the changes to the rule. Motion carried.

Motion: by Dr. Mesaros, seconded by Dr. Fallon, that there is not an adverse economic impact on small business. Motion carried.

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

Ms. Norr described the changes to Rule 64B16-26.1031 and requested a vote from the Board.

Motion: by Dr. Weizer, seconded by Mrs. Glass, to approve the changes to the rule. Motion carried.

Motion: by Dr. Weizer, seconded by Mrs. Glass, that there is not an adverse economic impact on small business. Motion carried.
Motion: by Dr. Mikhael, seconded by Dr. Fallon, that the changes will not directly or indirectly increase regulatory costs to any entity including government in excess of $200,000.00 in aggregate in Florida within one year after the implementation of the rule. Motion carried.

Ms. Norr listed the various rules that were updated to reflect the 4 year record retention rule and requested a vote from the Board.

Motion: by Dr. Weizer, seconded by Dr. Mikhael, to approve the changes to the various rules. Motion carried.

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

Motion: by Dr. Mikhael, seconded by Mr. Philip, that the changes will not directly or indirectly increase regulatory costs to any entity including government in excess of $200,000.00 in aggregate in Florida within one year after the implementation of the rule. Motion carried.

TAB 4 DISCIPLINARY CASES – Yolonda Green, Assistant General Counsel

A. SETTLEMENT AGREEMENT– APPEARANCE REQUIRED CASES

A-1 John T. Reading, PS 10065 – Pensacola, FL
Case No. 2012-16088 - PCP Mesaros/Glass

Respondent violated:
Count One: Section 456.072(1)(k) and Section 465.016(1)(r), F.S. (2012), by violating Section 465.022(11)(a), F.S., by failing to ensure the permittee’s compliance with all rules adopted under those chapters as they relate to the practice of the profession of pharmacy and the sale of prescription drugs.

Terms of Settlement Agreement: Respondent shall be present. Respondent shall pay costs of $1,375.72. Respondent shall pay a fine of $2,000.00 within 90 days.

Respondent was not present nor represented by counsel.

Motion: by Dr. Mikhael, seconded by Mr. Philip, to waive required appearance. Motion carried.

Motion: by Dr. Mikhael, seconded by Mr. Meshad, to reject the Settlement Agreement. Motion carried.

Motion: by Mr. Philip, seconded by Dr. Fallon, for the same Settlement Agreement with the addition of a 12 hour laws and rules CE and a 1 year probationary period. Motion carried.

Motion: by Dr. Mikhael, seconded by Mr. Meshad, to vacate counter offer and allow the department to withdraw the case from the agenda. Motion carried.

A-2 Enrique Moises Pallares, PS 24103 – Weston, FL
Case No. 2013-07014 – PCP: Fallon/Glass

Respondent violated:
Count One: Section 465.016(1)(g), F.S. (2012), 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 by present. Respondent shall pay a fine of $250.00 within 30 days. Respondent shall pay costs limited to $1,690.79 within 90 days.

Respondent was present and sworn in by the court reporter. Respondent was represented by Kevin Jacob, Esquire.

Motion: by Mr. Philip, seconded by Dr. Mikhael, to accept the Settlement Agreement. Motion carried.

A-3 Michael W. Halfen, PS 32618 – Pensacola, FL
Case No. 2013-02905 – PCP: Fallon/Glass

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

Terms of Settlement Agreement: Respondent shall be present. Respondent shall pay an administrative fine in the amount of $1,000.00 payable within 90 days. Respondent shall pay costs limited to $664.38. Respondent shall complete an 8 hour Laws and Rules CE within 1 year.

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

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

A-4 William Clero, RPT 11309 – Miami, FL
Case No. 2013-05745 – PCP: Weizer/Meshad

Respondent violated:
Count One: Section 456.072(1)(a), F.S. (2009), by making misleading, deceptive, or fraudulent representations in or related to the practice of the licensee’s profession.

Terms of Settlement Agreement: Respondent shall be present. Respondent shall pay administrative fine in the amount of $2,000.00 payable within 1 year. Respondent shall pay costs not to exceed $2,273.28. Respondent shall be placed on probation for 2 years. Respondent shall complete a 12 hour laws and rules CE to be completed within 1 year.

Motion: by Mrs. Glass, seconded by Dr. Mikhael, to allow a continuance on this case. Motion carried.

A-5 Magdi Mikhail Bishara, PS 47410 – Clearwater, FL
Case No. 2013-09121 – PCP: Mesaros/Risch

This case was granted a continuance to a future Board meeting.

A-6 Praven Ananthula, PS 42006 – Orlando, FL
Case No. 2012-12301 – PCP – Fallon/Glass

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 administrative fine in the amount of $1,000.00 payable within 90 days. Respondent must pay costs of $1,724.90 within 90 days. Respondent must completed an 8 hour med errors CE.

Respondent was present and sworn in by the court reporter. Respondent was represented by Lance Leider, Esquire.

Motion: by Dr. Mikhael, seconded by Mr. Philip, to accept the Settlement Agreement. Motion carried.

Count One: Respondent violated Section 465.023(1)(c), F.S. (2012), by violating Section 499.005(18), F.S. (2012), by violating Rule 61N-1.012(10(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 or other disposition of the product or component.

Terms of Settlement Agreement: Respondent shall be present. Respondent shall pay a fine of $5,000.00 within 90 days. Respondent shall pay costs limited to $2,500.00 within 90 days. Respondent shall be placed on probation for a period of one year that includes semi-annual inspections at the respondent’s cost and an appearance before the Board in the final 3 months of probationary period.

Respondent was not present nor represented by counsel.

Motion: by Dr. Weizer, seconded by Mrs. Glass, to waive required appearance. Motion carried.

Motion: by Mr. Meshad, seconded by Mr. Philip, to reject the Settlement Agreement. Motion carried.

Motion: by Mr. Meshad, seconded by Mr. Philip, for revocation of licensure. Motion carried.

B. DETERMINATION OF WAIVER

Count One: Respondent 465.023(1)(c), F.S. (2012), by violating Section 465.015(2)(c), F.S. (2012), by selling or dispensing drugs as defined in Section 465.003(8) without first being furnished with a prescription.

Motion: by Dr. Mikhael, seconded by Mr. Garcia, to accept the investigative report into evidence for the purposes of imposing a penalty, find that respondent was properly served and has waived the right to a formal hearing, adopt the findings, facts, and 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: Administrative Fine of $2,000.00 and costs of $879.72.

This case was granted a continuance.

Motion: by Mr. Meshad, seconded by Mr. Fallon, to have the Pharmacy inspected. Motion carried.
Count One: Respondent violated Section 465.023(1)(c), F.S. (2012), by violating Rule 64B16-27.797-(1)(i)(4), F.A.C., which requires storage of high-risk level CSPs to be stored within specified time periods, in the absence of a sterility test for the high-risk CSPs.

Count Two: Respondent has violated Section 465.023(1)(c), F.S. (2012), by violating Rule 64B16-27.797(1)(i)(7), F.A.C., which requires that all compounding personnel complete a media-filled test that represents high-level compounding on a semi-annual basis.

DOW-2 was withdrawn from the agenda.

Count One: Respondent violated Section 465.023(1)(c), F.S. (2012), by violating a rule of the Board of Pharmacy, through a violation of 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, 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/or notify the Board of Pharmacy which permittee is receive the prescription files.

Respondent was not present nor represented by counsel.

Motion: by Mr. Philip, seconded by Dr. Weizer, to accept the investigative report into evidence for the purposes of imposing a penalty, find that respondent was properly served and has waived the right to a formal hearing, adopt the findings, facts, and 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. Mikhael, to accept the recommendations of the Department. Motion carried.

Motion: by Dr. Weizer, seconded by Dr. Mikhael, to allow prosecution to withdraw their motion to assess costs. Motion carried.

Count One: Respondent violated Section 465.023(1)(c), F.S. (2012), by violating a rule of the Board of Pharmacy, through a violation of 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, 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/or notify the Board of Pharmacy which permittee is receive the prescription files.
Motion: by Dr. Weizer, seconded by Mr. Meshad, to accept the investigative report into evidence for the purposes of imposing a penalty, find that respondent was properly served and has waived the right to a formal hearing, adopt the findings, facts, and 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 Mr. Meshad, to accept the recommendations of the Department. Motion carried.

Motion: by Dr. Weizer, seconded by Mr. Meshad, to allow prosecution to withdraw their motion to assess costs. Motion carried.

DOW-5 Latoria Denise Jones, RPT 45081 – Sebastian, FL
Case No. 2013-12375 – PCP – Fallon/Glass

Respondent was not present nor represented by counsel.


Motion: by Dr. Weizer, seconded by Dr. Mikhael, to accept the investigative report into evidence for the purposes of imposing a penalty, find that respondent was properly served and has waived the right to a formal hearing, adopt the findings, facts, and 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. Mikhael, to accept the recommendations of the Department. Motion carried.

Motion: by Dr. Weizer, seconded by Dr. Mikhael, to allow prosecution to withdraw their motion to assess costs. Motion carried.

C. VOLUNTARY RELINQUISHMENTS

Motion: by Dr. Weizer, seconded by Dr. Fallon, to accept Voluntary Relinquishments #2,4,5,6, and 7. Motion carried.

VR-1 Beverly Lynn Jackson, RPT 38762 – Keystone Heights, FL
Case No. 2013-07018 – 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. Mikhael, seconded by Mrs. Glass, to accept the Voluntary Relinquishment. Motion carried.

VR-2 Patrick Carpenter, PSI 13115 – St. Augustine, FL
The Department suggests that the Board entertain a Motion Accepting the Voluntary Relinquishment executed by Respondent in resolution of this case.

**See group motion above.**

VR-3  Samuel E. Wahba, PS 27213 – Palm Harbor, FL  
Case No. 2013-07373 – PCP – Meshad/Weizer

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

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

VR-4  1st Choice Pharmacy, PH 24233 – Ft. Lauderdale, FL  
Case No. 2013-15021 – PCP – (Waived)

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

**See group motion above.**

VR-5  1st Choice Pharmacy, PH 25895 – Ft. Lauderdale, FL  
Case No. 2013-15019 – PCP Waived

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

**See group motion above.**

VR-6  Leyva Coralia Perez, PSI 21750 – Miami, FL  
Case No. 2013-13537 – PCP – (Waived)

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

**See group motion above.**

VR-7  Jeffrey Alan Sussman, PS 18577 – Coral Springs, FL  
Case No. 2011-12057 – PCP – Risch/Mullins

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

**See group motion above.**

D. BOARD ACTION BY HEARING NOT INVOLVING DISPUTED ISSUES OF MATERIAL FACT
Respondent was not present nor represented by counsel.

Count One: Respondent violated Section 456.072(1)(k), F.S. (2012), by violating Section 465.022(11)(a), F.S. (2012), by failing to ensure a sign in block letters not less than one inch in height stating the hours the prescription department is open each day was displayed either at the main entrance of the establishment or near the place where prescriptions are dispensed in a prominent place that is in clear and unobstructed view, as required by Rule 64B16-28.1081, F.A.C.

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

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

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

Motion: by Mr. Meshad, seconded by Dr. Mikhael, 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: Costs of $284.32, Administrative fine of $2,000.00, 12 hour laws and rules CE, cannot be a prescription department manager for 1 year.

Motion: by Mr. Philip, seconded by Dr. Mikhael, to accept the recommendations of the Department. Motion carried.

Count One: Respondent violated Section 465.023(1)(c), F.S. (2012), by violating a rule of the Board of Pharmacy, through a violation of Rule 64B16-28.109, F.A.C.

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

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

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

Motion: by Mrs. Glass, seconded by Dr. Mikhael, 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: Administrative fine of $2,000.00, costs of $1,142.56, and probationary period of 1 year with semi-annual inspections at respondents costs.

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

I-3 Franako Pharmacy, Inc., PH 25600 – West Palm Beach, FL  
Case No. 2013-07506 – PCP Glass/Mesaros

Kwame Kyerematen was present on behalf of Franako Pharmacy and sworn in by the court reporter. Respondent was not represented by counsel.

Count One: Respondent violated Section 456.072(1)(k), F.S. (2012), by violating Section 465.022(11)(a), F.S. (2012), by failing to ensure a sign in block letters not less than one inch in height stating the hours the prescription department is open each day was displayed either at the main entrance of the establishment or near the place where prescriptions are dispensed in a prominent place that is in clear and unobstructed view, as required by Rule 64B16-28.1081, F.A.C.

Count Two: Respondent violated Section 465.023(1)(c), F.S. (2012), by violating Rule 64B16-28.140(4), F.A.C., by failing to ensure that the written record for each batch/sub-batch of a compounded product under Rule 64B16-27.700, F.A.C. included all the required information.

Count Three: Respondent violated Section 465.023(1)(c), F.S. (2012), by violating Rule 64B16-28.140(3)(d), F.A.C., by failing to ensure that each individual pharmacist who dispenses or refills a prescription drug order verify that the data indicated on the daily hard-copy printout is correct, by dating and signing such document in the same manner as signing a check or legal document within seven days from the date of dispensing.

Count Four: Respondent violated Section 465.023(1)(c), F.S. (2012), by violating Rule 64B16-28.110, F.A.C., by failing to ensure that deteriorated pharmaceuticals, or pharmaceuticals which bear upon the container an expiration date in which date has been reached were removed from stock.

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

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

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

Motion: by Dr. Mikhael, seconded by Mr. Philip, 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: Fine of $2,500.00, costs of $610.63, and probationary period of 1 year with semi-annual inspections at the respondents cost.

Motion: by Mr. Philip, seconded by Dr. Mikhael, to accept the recommendations of the Department with the amendment that the fine is eliminated. Motion carried.

I-4 James M. Maister, PS 34202 – Wesley Chapel, FL  
Case No. 2010-19143 – PCP Meshad/Weizer
Respondent was present and sworn in by the court reporter. Respondent was represented by Edwin Bayo, Esquire.

**Count One:** Respondent violated Section 465.016(1)(e), F.S. (2010), by a violation of 893.13(7)(a)9, F.S. (2009), by attempting to obtain a controlled substance by fraud, a third degree felony.

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

**Motion:** by Mrs. Glass, seconded by Mr. Philip, to find that respondent was properly served and has requested a formal hearing. Motion carried.

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

**Motion:** by Mrs. Glass, seconded by Mr. Philip, 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:** Costs of $2,165.07, 12 hour laws and rules CE, and 3 year probationary period to run concurrent with PRN contract.

Dr. Martha Brown (Professional Resource Network) stated that respondent has been in complete compliance with terms of the PRN contract.

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

**TAB 5 APPLICATIONS REQUIRING BOARD REVIEW – Debra Glass, BPharm**

**A. Examination Applicants**

1. Michael Alan Donato, File: 44245 – Melbourne, FL

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

Dr. Martha Brown (Professional Resource Network) state that the applicant has been in complete compliance with PRN contract.

**Motion:** by Mrs. Glass, seconded by Dr. Fallon, to accept the application and require applicant to comply with same conditions of final order DOH-12-13495 MQA. Motion carried with Mr. Garcia in opposition.

**B. Pharmacy Intern Applications.**

1. Curtis Michael Drees, File: 19170 – Fort Loramie, OH

Respondent was not present nor represented by counsel.

**Motion:** by Mrs. Glass, seconded by Mr. Garcia, to reject the application. Motion carried.

2. Kaitlyn Nemecek, File: 19562 – Tampa, FL
Respondent was not present nor represented by counsel.

**Motion:** by Mrs. Glass, seconded by Dr. Fallon, to accept the application. Motion carried.

3. Rafa Khundkar, File: 20080 – Miami, FL

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

**Motion:** by Mrs. Glass, seconded by Mr. Philip, to accept the application. Motion carried.

4. Saige Elizabeth Kaufman, File: 20305 – Auburn AL

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

**Motion:** by Mr. Meshad, seconded by Dr. Fallon, to grant pending a PRN evaluation. If deemed safe to practice, the Board Chair will have authority to grant license. Motion carried.

5. Dmitriy Matev, File: 19902 – Jacksonville, FL

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

**Motion:** by Mrs. Glass, with no second. Motion failed.

**Motion:** by Dr. Fallon, seconded by Mrs. Glass, to grant pending a PRN evaluation. If deemed safe to practice, the Board Chair will have authority to grant license. Motion carried.


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

**Motion:** by Mrs. Glass, seconded by Dr. Weizer, to accept the application. Motion failed.

**Motion:** by Mr. Garcia, seconded by Mr. Meshad, to grant pending a PRN evaluation. If deemed safe to practice, the Board Chair will have authority to grant license. Motion carried with Dr. Weizer, Dr. Mikhael, and Mrs. Glass in opposition.

C. Registered Pharmacy Technician Applications.

1. Kayla Cerritos, File: 51118 – Clearwater, FL

Respondent was not present nor represented by counsel.

**Motion:** by Mrs. Glass, seconded by Dr. Mikhael, to grant continuance and require an appearance at one of the next two Board meetings. Motion carried.

2. Wandey Alexis, File: 43696 – Boca Raton, FL

Respondent was not present nor represented by counsel.

**Motion:** by Mr. Garcia, seconded by Dr. Weizer, to grant continuance and require an appearance at one the next two Board meetings. Motion carried.
3. April B. Watson, File: 53982 – Jay, FL

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

**Motion:** by Dr. Fallon, seconded by Dr. Mikhael, to accept the application. Motion carried.

**D. Pharmacy Permit Applications**

1. American Specialty Pharmacy, Inc., File: 20481 – Plano, TX

Respondent was not present nor represented by counsel.

Mr. Garcia recused himself from making a determination on this application.

**Motion:** by Dr. Weizer, seconded by Dr. Mikhael, to reject the application. Motion carried.

2. Trinity Care Solutions, LLC, File 20149 – Ocala, FL

Ann Frank was present on behalf of Trinity Care Solutions, LLC and sworn in by the court reporter. Respondent was represented by William Furlow, Esquire.

Dr. Fallon recused himself from making a determination on this application.

**Motion:** by Mr. Garcia, seconded by Mr. Meshad, to grant continuance and require an appearance at one of the next two Board meetings. Motion carried.

**TAB 6 LICENSURE ISSUES**

**A. Request for Termination of Probation**

1. Douglas Kassan – License: 28503 – St. Petersburg, FL

Respondent was not present nor represented by counsel.

**Motion:** by Mr. Garcia, seconded by Dr. Weizer, to accept the request for termination of PRN contract. Motion carried.

**B. Request for Board Appearance**

1. Michael Shane Miller – File: 42786 – Gate City, VA

(This case was moved to the beginning of TAB 4)

Respondent was present and sworn in by the court reporter.

**Motion:** by Dr. Fallon, seconded by Dr. Mikhael, that the respondent has met the criteria required by final order and to issue the license immediately. Motion carried.

**C. Appeal of Intent to Deny Licensure**

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

**Motion:** by Mr. Garcia, seconded by Dr. Weizer, to reject the application. Motion carried.


John Herr was present on behalf of Town and Country Compounding and Consulting Services, LLC and sworn in by the court reporter. Respondent was represented by Edwin Bayo, Esquire.

**Motion:** by Dr. Weizer, seconded by Mrs. Glass, to vacate denial and approve application. Motion carried.

Dr. Mikhael brought up the topic of provider status for discussion.

Mr. Flynn suggested navigating the association members to get a sense of the general consensus on the topic and reporting back to the Board.

Dr. Weizer stated to the Board and audience that the deadline to apply for the special sterile compounding permit is March 21, 2014. Dr. Weizer also reminded everyone that if you have not received your permit in the mail by March 21, 2014, you cannot sterile compound until said permit has been received.

Ms. Norr requested the Board members submit any rule numbers they would like added to the April rules agenda by Friday, February 14, 2014.

**Public Comments:**

Dr. Mesaros opened the floor up to public comments:

**Motion:** by Mr. Meshad, seconded by Dr. Fallon, to adjourn the meeting at 2:34pm. Motion carried.