

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

February 7-8, 2012

Renaissance World Golf Village Resort
500 South Legacy Tr.
St. Augustine, FL 32092
(904) 940-8634

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

Board Members:

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

Board Staff:

Mark Whitten, Executive Director
Tammy Collins, Program Operations Administrator
Cara Waldrip, Regulatory Specialist II

Board Counsel:

Allison Dudley, Assistant Attorney General
Tom Barnhart, Assistant Attorney General

Department of Health Staff:

David C. Bibb, Assistant General Counsel

Participants in this public meeting should be aware that these proceedings are being recorded and that an audio file of the meeting will be posted to the board's website.

Tuesday, February 7, 2012 – 10:00 a.m.

10:00 a.m. Call to Order by Cynthia Griffin, PharmD, Chair

The meeting was called to order by the Chair, Dr. Griffin. All Board members were present. Tom Barnhart was present in Allison Dudley's absence.

**TAB 1 NEW BOARD MEMBERS – Cynthia Griffin, PharmD, Chair
A. Introduction of New Board Members Debra Glass and Leo Fallon**

Cynthia Griffin introduced the two new Board members Debra Glass from Tallahassee and Lee Fallon from The Villages to the Board.

**TAB 2 REPORTS
A. Chair's Report – Cynthia Griffin, PharmD, Chair
1. Board Member Assignments**

Dr. Griffin thanked the Board members for serving in the following member assignments:

- Legislative Liaison: Dr. Michele Weizer
- Rules Committee: Albert Garcia
- ULA Liaison: DeAnn Mullins

- PDMP Liaison: Dr. Jeff Mesaros
- Wholesale Advisory Council: Albert Garcia
- Negative Formulary Committee: TBD
- Tripartite Committee Chair: Dr. Jeff Mesaros
- Administrative/Budget Liaison: Dr. Michele Weizer
- Pharmacist Ordering Committee: TBD

2. Kathryn J Welker, File 40148
Pharmacy Technician Applicant – *Addendum*

Dr. Griffin briefed the Board on Kathryn Welker’s application and referenced the previous request made by Dr. Salem to bring the findings back before the Board. The Board previously decided to have the applicant evaluated by PRN after which the evaluation was to be sent to the Board Chair for review and potential approval. Dr. Griffin stated that PRN advocated on Ms. Welker’s behalf and that she was comfortable approving the application.

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

B. Rule Discussion and Review – Cynthia Griffin, PharmD, Chair

1. Policies and Procedures

Tom Barnhart reviewed the rule language for policies and procedures.

Motion: by Mr. Garcia, seconded by Dr. Weizer, to approve the language with the substitution of “may” for “shall”. Motion carried.

C. Executive Director’s Report – Mark Whitten

1. Board Correspondence
 - a. Hospital Pharmacy Compounding Practices - Marty Dix

Dr. Charzetta James was present and sworn in by the court reporter. Dr. James was represented by Marty Dix.

Marty Dix discussed with the Board a specific practice of prescription filling for hospitals: Marty Dix relayed a practice where a pharmacy fills prescriptions for a hospital such as in powder form that the hospital would hold. Then upon an order from a physician the material is used for patients and for example compounded to a particular strength per the physicians order. The purpose of the discussion was to determine if this practice was permissible. Marty Dix and Mike McQuone, from the Florida Society of Health-System Pharmacists, expressed that based on discussions with pharmacies this model was exactly what multiple entities currently practice.

After discussion by the Board, issues were raised that included the following:

- An expectation was expressed that when medicine is received it is received in its final form and manipulation is not allowed; There was concern that there may not be regulation that allows the hospital to further manipulate it
- Questions regarding where data verification exists in the process were raised
- Issues with writing prescriptions for drugs to be received by an entity such as a hospital instead of an individual
- Who is responsible for the final patient product

Based on the Board discussion, Dr. Griffin suggested the issue be referred to the Board attorney for review and further discussion regarding the statutes and rules around this practice scenario. After review and discussion by the Board attorney, Board office, and inquiring parties, the determination will be brought back before the Board.

2. Association Meetings

Mark Whitten discussed the Association meeting attendance assignments:

- Florida Pharmacy Association (FPA)
 - i. Law and Regulatory Compliance Conference – Destin
January 28-29, 2012
Mr. Whitten, Dr. Melvin
 - ii. Law and Regulatory Compliance Conference – Jacksonville
May 19, 2012
Mr. Whitten, Dr. Griffin
 - iii. Annual Meeting and Convention – Marco Island
July 4-8, 2012
Mr. Whitten, Dr. Mesaros
 - iv. Law and Regulatory Compliance Conference – Sarasota
December 1-2, 2012
Mr. Whitten, Dr. Griffin or Dr. Mesaros
- Florida Society of Health-System Pharmacists (FSHP)
 - i. House of Delegates - Orlando
Chair and Executive Director are “Delegates”
August 2, 2012
Mr. Whitten, Dr. Weizer
- National Association of Boards of Pharmacy (NABP)
 - i. NABP 108th Annual Meeting – Philadelphia, PA
May 19-22, 2012
Mr. Whitten
 - ii. District 3 meeting – Savannah, GA
August 11-14, 2012
Dr. Griffin
 - iii. Interactive Member Forum – Northbrook, IL
September 19-20, 2012
Mr. Garcia
 - iv. Interactive Executive Officers Forum – Northbrook, IL
November 13-14, 2012
Mr. Whitten
 - v. MPJE Item Writing Workshop
March 22-23, 2012
Ms. Glass
- MALTAGON
 - i. Annual Meeting – Tulsa, OK
September 9-12, 2012
Tammy Collins or Beth Ranne
- Department of Health
 - i. Annual Chair, Vice Chair Strategic Planning Meeting – Tallahassee
TBD
Dr. Griffin, Mr. Garcia

3. Re-Permitting

Mark Whitten updated the Board on the status of re-permitting for community permits able to dispense controlled substances listed in Schedule II and III. Since the last Board meeting, the full three step process went live and many applicants have already gone through these steps. Mr. Whitten shared that thousands of fingerprint results have been received electronically since starting to use Livescan for fingerprints as an alternative to paper fingerprint cards. Mr. Whitten stated that Livescan is working beautifully and that many results are received within about a day. He stated that so far the Board office has issued about 10 new permits and that many are in the process of going through the steps and setting up administrator accounts. He expects the workload to increase for the Board office and that working electronically has been a tremendous help. He estimates that about 200 applications are in process.

4. Petition for Rulemaking of Florida Independent Pharmacy Network – Edwin Bayo

Edwin Bayo filed and shared a Petition for Rulemaking of Florida Independent Pharmacy Network with the Board and expressed that he believes it provides additional safeguards and requirements. He asked the Board to consider his petition.

Motion: by Dr. Weizer, seconded by Ms. Mullins, to initiate rule development. Motion carried.

D. Attorney General's Report

1. Rules Report

Tom Barnhart summarized recent rule changes and updated them on the status of recent decisions. He shared that the previous request by the Board to review changing reporting requirements for the date of birth as it relates to veterinary medicine was an issue. He reported that after review and discussion with Dan Biggins the conclusion was that the Board did not have the authority to collect the owner's date of birth in place of the animal's date of birth. After discussion, Dr. Weizer and Dr. Griffin expressed concern for potential fraud and abuse of controlled substances if the owner's date of birth isn't reflected in reported information. Dr. Griffin requested that the Board attorney review this request again with the additional Board comments and concerns.

Mr. Barnhart brought up policies and procedures. Mr. Whitten expressed that this is an urgent rule and requested the Board consider noticing the rule so that non-substantial changes can be made at a later date while allowing the process to move forward.

Motion: by Dr. Mesaros, seconded by Dr. Weizer to initiate rulemaking process. Motion carried.

E. Prosecuting Attorney Report

1. Prosecution Services Report

David Bibb updated the Board on the caseload of the Prosecution Services Unit. The overall caseload is down to 391. This is the first time the caseload has been under 400 cases since June of 2010. As the numbers above indicate, all but two categories of case statuses has seen a reduction in the number of cases. The primary category that saw an increase is the status 70 cases. This represents the attorneys' efforts at drafting backlogged cases and getting them moving through PCP. In August of 2011, there were 238 cases in a status 60 (needed to be reviewed and drafted for PCP). In October 2011, that number had dropped to 228. In December 2011, the status 60 cases had dropped to 204. As of the drafting of this report, the status 60 cases have been reduced to 168 cases. Overall, that's a reduction of 70 cases (29%)

that had been backlogged and needed to have been pushed through the system for further action. The only other category to see any increase involves the cases where a Supplemental Investigation has been requested or received, and that category is up by only 1 case. Every other category of case statuses has seen a reduction since the last board meeting.

The section has reduced the 2008 & Older cases by 3 in the past two months, which represents a 19% reduction. For the 2009 & Older cases there has been a decrease of 12 case, which represents a 25% reduction in the past 2 months. Overall, since the Board of Pharmacy had been assigned to the new section, the year old cases (2009 & Older) have been reduced to 36 from 106, which is a reduction of 70 cases. That represents a 66% reduction in the year old Pharmacy cases since July 28, 2011. Additionally, PSU continues to work very diligently on the 2008 & older project. In July 2011, there were a total of 36 the 2008 & Older cases. At the time of this report there were 13 which amount to a reduction of 23 cases (64%).

The Department requests that the Board enter an order allowing the Department to continue the prosecution of the year old cases.

Motion: by Dr. Weizer, seconded by Dr. Fallon, to allow the Department to continue the prosecution of old cases. Motion carried.

David Bibb reported that based on the request from Dr. Salem at the last Board meeting, prosecution services looked into old cases that potentially had the wrong code used when closing cases that had pending disciplinary investigations. He referenced that a new closure code was being used on cases closed with pending discipline so that the Board office is notified of old cases if that permittee reapplies. In an effort to apply this correct code retroactively, they conferred with their technical personnel and ran a report to find these cases with the old code. Mr. Bibb reported that 50 cases were found. The codes were changed on these cases and when a report was ran zero cases were returned.

Dr. Weizer and Dr. Griffin thanked Dr. Salem for the suggestion to review and change these old case codes.

F. Chief Investigative Services Report - Jeane Clyne

Jeane Clyne updated the Board on the Investigative Services unit. She relayed that they are concentrating on investigating reports of dispensing of controlled substances by physicians. They have completed over 72% of high priority inspections. They are now concentrating on dispensing practitioners.

G. Agency for Health Care Administration (AHCA)

1. Direct Secure Messaging - Pamela King

Pamela King presented on behalf of the Agency for Health Care Administration. She shared updates on what is going on in the health information technology world. She shared that she is the health information outreach coordinator for AHCA. Their office is responsible for assisting providers and improving healthcare for patients with the use of technology. Their e-prescribing initiative has been going on about 5 years. She reported that Florida is 12th among all states in e-prescribing activities and as of last October 91% of all pharmacies in Florida accept electronic prescriptions. They are working to increase this to 100% by the end of this year.

In addition to electronic prescription transmitting they are also working on direct secure messaging as a way to communicate. This direct secure messaging allows the ability to push information to each other through a secure encrypted e-mail system. This system has been up and running since August. They are currently determining the usability of the system and the potential to open it up to a larger audience.

The Board shared their thoughts on the potential as well as the shortcomings of some of these tools.

TAB 3 **BUSINESS – Cynthia Griffin, PharmD, Chair**

A. Ratification of Issued Licenses/Certificates & Staffing Ratios

1. Pharmacist (Licensure) (Client 2201) – 124
2. Pharmacist (Exam Eligibility) (Client 2201) – 69
3. Pharmacist Interns (Client 2202) – 82
4. Registered Pharmacy Technicians (Client 2208) – 708
5. Consultant Pharmacist (Client 2203) – 22
6. Nuclear Pharmacist (Client 2204) – 0
7. Pharmacies/Facilities (Client 2205) – 137
8. Registered Pharmacy Technician Ratios (2:1 or 3:1)- 87
9. Pharmacy Technician Training Program (Client 2209) - 30
10. CE Providers – 13
11. CE Courses - 15
12. CE Individual Requests – 4

Motion: by Dr. Weizer, seconded by Dr. Fallon, to ratify these licenses and certificates. Motion carried.

B. Review and Approval of Minutes

1. December 20, 2011

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

Dr. Griffin addressed the issue of Board meeting start times. She suggested that the first day of the meeting can be started in the afternoon and opened up the issue to discussion. She stated she is in favor of moving the first day of the meeting to the afternoon to allow for travel to be done the day of the first meeting instead of the day prior to the first meeting day. Mr. Whitten added that there is potential for costs savings if members and staff travel in the day of the first meeting and start in the afternoon. Mr. Garcia agreed with the sentiment and added that the case load has been low and would entertain the idea of a one day meeting based on the size of the agenda. Mr. Whitten is cautious of changing to a one day meeting if there is an influx in cases but agrees this is an issue that should be looked into going forward if and when meeting times can be changed for efficiency.

Mr. Whitten gave a legislative update to the Board. He reported that 43-45 bills were assigned to him to do analysis on and that he has been on committee meetings. He referenced House Bill 479 and its companion Senate Bill stating this will require rule action on behalf of the Board and he will keep the Board updated on its progress. Another bill he brought to the attention of the Board was House Bill 509 and Senate Bill 850 stating that these expand vaccination authority beyond what is currently provided and is watching the progress of these. Mr. Whitten stated there are approximately 5 bills associated with pharmacy audits that seem to define a pharmacy's bill of rights with respect to being audited. He also brought up House Bill 857 and Senate Bill 1438 that would require a reason being displayed on the label of a medicine bottle. He mentioned there is a HIPAA concern about how much patient information can be put on a label but acknowledged the idea could have a benefit for the elderly population.

Dr. Mesaros brought up the issue of the corresponding responsibility of a doctor or a pharmacist writing the reason on the label and expressed concern as to how this would be treated when it comes to pharmacy audit and responsibilities.

Public Comments:

Dr. Griffin opened up the floor for public comments.

Marty Dix requested that based on scheduling issues, the item C. 1. under Tab 5 for “Sacred Heart Health System, Inc. (Pace Surgery Center), File 18752” be moved to today.

Motion: by Dr. Weizer, seconded by Dr. Mesaros, to discuss this item today. Motion carried.

Dr. Weizer indicated that on the application, the working hours were not filled out for the surgery center.

Motion: by Dr. Weizer, seconded by Ms. Mullins, to approve the application once a correction of the operating hours is made. Motion carried.

Brian Kahan spoke to the Board regarding DDC (Drugs, Devices, and Cosmetics); he requested that a representative from the Department of Business and Professional Regulation (DBPR) be scheduled for future meetings to speak on behalf of DDC to provide relevant updates surrounding Chapter 499, F.S. because it impacts the same group of people.

Mr. Whitten stated he would contact DBPR and extend an invitation for a representative or at least a report for future meetings.

Dr. Salem brought to the Board’s attention that the North Carolina Board of Pharmacy has rules that allow pharmacies to take drugs back. He stated a copy was sent to Mr. Whitten and Dr. Griffin recently for their reference. He expressed how great of a potential impact a program like this would have since we are short on drugs. He requested the review of these rules and if appropriate requested it go through the rules committee. Dr. Griffin stated she very briefly reviewed the rules and saw the potentially good opportunity for the indigent population. She will review the information further and if rule development is appropriate will do so. Dr. Salem requested to be kept updated on the progress.

Motion: by Dr. Weizer, seconded by Ms. Glass, to adjourn the meeting. Motion carried.

Wednesday, February 8, 2012 – 8:00 a.m.

8:00 a.m. Call To Order by Cynthia Griffin, PharmD, Chair

The meeting was called to order by the Chair, Dr. Griffin. All Board members were present. Tom Barnhart was present in Allison Dudley’s absence.

TAB 4 DISCIPLINARY CASES – David Bibb, Assistant General

- A. SETTLEMENT AGREEMENT – NON APPEARANCE CASES**
- NA-1 Susie I. Lagabon, PU 6162, Avon Park, FL
Case No. 2011-09205 – PCP Garcia/Weizer

Respondent was not present, nor represented by counsel.

Respondent violated Violation of 465.016(1)(r), by violation of a rule of the board, by failing to complete required Continuing Education.

Respondent shall pay a fine of \$1,000.00 within 90 days. Respondent shall pay costs of \$1,855.77.

Respondent shall submit certified documentation of completion of all CE requirements of FL approved

consultant pharmacist CE for biennium Jan. 1, 2009 through December 31, 2010 within one year. All CE after this (previously defined) biennium shall only apply to that biennium and are not eligible for future biennium period.

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

B. SETTLEMENT AGREEMENT– APPEARANCE REQUIRED CASES

A-1 Julian L. Folsom, Jr., PS 14494, Longwood, FL – *Addendum 2*
Case No. 2010-20866 – PCP Salem/Griffin

Respondent was present and sworn in by the court reporter. Respondent was not represented by counsel. Dr. Rivenbark was present on behalf of PRN.

Respondent violated Section 465.016(1)(e), FS through a violation of Section 893.07(7), FS (2008, 2009, 2010) by failing to maintain a record which shall contain a detailed list of controlled substances lost, destroyed, or stolen, if any; the kind and quantity of such controlled substances; and the date of the discovering of such loss, destruction, or theft.

Respondent shall be present. Respondent shall pay a fine of \$1,000.00. Respondent shall pay costs of \$5,115.80. Respondent shall successfully complete a CE Laws and Rules of 12 hours of credit within one year.

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

Dr. Weizer strongly suggested that the prosecution services unit look into suspending the license. Mr. Garcia asked David Bibb to pursue an Emergency Suspension Order for Folsom until some of the issues were resolved.

After further discussion regarding the options around this case, the Board decided the following:

Motion: by Dr. Weizer, seconded by Mr. Garcia, to accept the current settlement agreement with the amendments of a year suspension after which the respondent would come back before the Board; prior to the end of this suspension he is to complete a 12 hour laws and rules course. His suspension will be followed by 5 years probation during which the respondent could not serve as a PDM and must remain in compliance with PRN. At the end of probation he must appear before the Board for termination of probation. Motion carried.

A-2 J L Folsom Enterprises, Inc. PH 10569, Maitland, FL
Case No. 2010-22247 – PCP Garcia/Weizer

Respondent J L Folsom was present on behalf of J L Folsom Enterprises, Inc and sworn in by the court reporter. Respondent was not represented by counsel.

Respondent violated Section 465.023(1)(c), FS through violation of any of the requirements of Chapter 499, FS by violating Section 499.05(22), FS by operating a retail pharmacy drug wholesale distributor without first having obtained a retail pharmacy drug wholesale distributor permit.

Respondent shall be present. Respondent shall pay a fine of \$5,000.00 within 180 days. Respondent shall pay costs of \$1,751.03.

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

A-3 J L Folsom Enterprises, Inc. PH 10569, Maitland, FL
Case No. 2010-20865 – PCP Salem/Griffin

Respondent J L Folsom was present on behalf of J L Folsom Enterprises, Inc and sworn in by the court reporter. Respondent was not represented by counsel.

Respondent violated Section 465.023(1)(c), FS through a violation of Section 893.07(7), FS which provides that every person who engages in the manufacture, compounding, mixing, cultivating, growing, or by any other process producing or preparing, or in the dispensing, importation, or as a wholesaler, distribution of controlled substances shall maintain a record which shall contain a detailed list of controlled substances lost, destroyed, or stolen, if any and report such theft or significant loss to the sheriff of that county within 24 hours after discovery.

Respondent shall be present. Respondent shall pay a fine of \$1,000.00 within 180 days. Respondent shall pay costs of \$3,842.28 within 90 days.

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

Motion: by Dr. Weizer, seconded by Dr. Mesaros, to send the case back to the Department for further investigation. Motion carried.

A-4 Michael G. Kenney, PS 33772, Naples, FL
Case No. 2008-18526 – PCP Weizer/Risch

Respondent was present and sworn in by the court reporter. Respondent was represented by Brian Kahan. Dr. Rivenbark was present on behalf of PRN.

Respondent violated Section 465.016(1)(f), Florida Statutes (2008) by having been convicted or found guilty of a crime that directly relates to the practice of pharmacy.

Respondent shall be present. Respondent shall pay a fine of \$1,000.00 within 90 days. Respondent shall pay costs in the amount of \$4,462.66. Respondent shall undergo PRN evaluation, if not already completed within 12 months preceding acceptance of SA and follow all recommendations made thereon. Upon acceptance of SA, Respondent shall be suspended from practice until shown to be safe to practice.

Motion: by Dr. Fallon, seconded by Dr. Mesaros, to accept the settlement agreement adding the stipulation that respondent must remain in compliance with PRN. Motion carried.

Brian Kahan requested the fine be amended in the settlement agreement to allow 1 year to pay costs.

Motion: by Dr. Mesaros, seconded by Dr. Fallon, to vacate the previous motion. Motion carried with Mr. Meshad in opposition.

Motion: by Dr. Fallon, seconded by Dr. Mesaros, to accept the settlement agreement with the amendment that the costs be paid in equal monthly payments over a period of 1 year. Motion carried.

A-5 Diane Gonzalez Gabasan, PS 41017, Orlando, FL
Case No. 2011-07295 – PCP Salem/Griffin

Respondent was present and sworn in by court reporter. Respondent was represented by Michael Schwartz.

Respondent violated 465.016(1)(g), FS by furnishing upon prescription an ingredient or article different in any manner from the ingredient or article described.

Respondent shall be present. Respondent shall pay a fine of \$500.00 within 90 days. Respondent shall pay costs of \$1,800.15 within 90 days. Respondent shall complete prescription error CE, 8 hours within 1 year.

Motion: by Ms. Glass, seconded by Ms. Risch, to deny to the settlement agreement. Motion carried.

The Board suggested an investigation be opened as they did not feel this individual was the one at fault.

Motion: by Dr. Mesaros, seconded by Dr. Fallon, to dismiss the charges in the Administrative Complaint. Motion carried.

A-6 Tara Lea Shear, PS 36949, Destin, FL
Case No. 2010-05247 – PCP Salem/Griffin

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

Respondent violated Section 465.016(1)(i), FS by distributing legend drugs, including controlled substances, other than in the course of the professional practice of pharmacy.

Respondent shall be present. Respondent shall pay a fine of \$1,500.00 within 90 days. Respondent shall pay costs of \$1,579.96. Respondent shall complete 12 hour laws and rules CE within 1 year. Respondent shall be evaluated by PRN and follow all requirements and recommendations.

Motion: by Dr. Weizer, seconded by Dr. Mesaros, to accept the settlement agreement with the modification that the respondent must have a PRN evaluation within 60 days to be reviewed by the Board Chair and if there are any additional recommendations it will come back before the Board. Motion carried.

A-7 Oliver O. Anam, PS 25124, Hollywood, FL
Case No. 2011-10207– PCP Salem/Griffin

Respondent was present and sworn in by the court reporter. Respondent was represented by Emelike Nwosuocha.

Violations:

Count I:

Respondent violated Section 465.016(1)(f), FS by being convicted or found guilty regardless of adjudication in a court of this state or other jurisdiction of a crime which directly relates to the ability to practice pharmacy or to the practice of pharmacy.

Count II:

Respondent violated Section 465.016(1)(r) by violating Section 456.072(1)(w) FS by failing to report to the 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.

Respondent shall be present. Respondent shall pay costs of \$585.45 within 90 days. Respondent shall completed 12 hour Laws and Rules CE within 1 year.

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

A-8 Rajinish Mehta, PS 41956, New Port Richey, FL
Case No. 2010-07100 – PCP Salem/Griffin

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

Count I:

Respondent violated Section 456.072(1)(c), Florida Statutes 2010 by being convicted or found guilty of a crime which relates to the practice of or ability to practice

Count II:

Respondent violated Section 456.072 (1)(x), Florida Statutes 2010 by failing to report to the board in writing within 30 days after being convicted or found guilty of a crime in any jurisdiction.

Respondent shall be present. Respondent shall pay a fine of \$5,000.00 within 3 years. Respondent shall pay costs of \$975.01 within 3 years. Respondent shall complete 12 hour laws and rules CE within 2 years. Respondent's license shall be suspended for 3 years during which respondent shall not participate in preparation of medicinal drugs and respondent shall make appearance before the board as a condition of reinstatement. Respondent shall not have ownership interest in any pharmacy that is permitted in FL under Chapter 465, FS.

Motion: by Dr. Weizer, seconded by Dr. Fallon, to accept the settlement agreement. Motion carried with Ms. Mullins opposed.

A-9 Kash N' Karry Food Stores, Inc, PH 22005, Portland, ME
Case No. 2010-01532 – PCP Melvin/Risch

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

Violations:

Count I

Violated Section 465.023(1)(c), Florida Statutes, by violating 465.018, Florida Statutes

Count II

Violated Section 465.023(1)(c), Florida Statutes (2009), through a violation of Rule 64B16-27.300, Florida Administrative Code, for not having current continuous quality improvement records.

Count III

violated Section 465.023(1)(c), Florida Statutes (2009), by violating a rule of the Board of Pharmacy, through a violation of Rule 64B16-27.100, Florida Administrative Code, for not having all licenses of pharmacists displayed.

Respondent shall be present. Respondent shall pay a fine of \$400.00 within 30 days. Respondent shall pay costs of \$2,600.00. On acceptance count 2 dismissed.

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

A-10 Michael Halbert, PS 29204, Sarasota, FL – *Addendum 2*
Case No. 2010-01941 – PCP Salem/Griffin

Respondent was present and sworn in. Respondent was represented by Brian Kahan. Dr. Rivenbark was present on behalf of PRN.

Respondent violated 46.016(1)(d)(i)(m)(r), FS and 456.072(1)(a)(m)(z) FS, and 465.015(2)(c).

Respondent shall be present. Respondent shall pay a fine of \$2,000.00 within 90 days. Respondent shall pay costs of \$4,430.66 within 90 days. Respondent shall complete 12 hour laws and rules CE within 1 year. Respondent shall undergo PRN evaluation and follow all requirements and recommendations. Respondent shall be suspended from practice until shown to be safe to practice. Respondent shall, after the suspension period, be placed on probation to run concurrent with PRN contract (3 years) during which respondent shall not act as PDM for any FL pharmacy and must follow all PRN recommendations and requirements, if any. During probation: if respondent works for placement agency must notify department and shall report to compliance every 3 months, shall make mandatory appearance before board during last 3 months on probation.

Dr. Rivenbark advocated on behalf of Michael Halbert supporting that he was safe to practice.

Brian Kahan requested extended time to pay the costs and fine.

Motion: by Dr. Weizer, seconded by Dr. Fallon, to accept the settlement agreement with the amendment that the costs and fines be paid in equal monthly installments over 3 years. Motion carried.

A-11 Cheryl L. Hunt, PS 32094, Jupiter, FL – *Addendum 2*
Case No. 2009-08417 – PCP Weizer/Risch

Respondent was present and sworn in by the court reporter. Respondent was not represented by counsel. Dr. Rivenbark was present on behalf of PRN.

Respondent violated Section 465.016(1)(i), Florida Statutes (2008), by dispensing a controlled substance to herself without a prescription.

Respondent shall be present. Respondent shall pay a fine of \$500.00 within 90 days. Respondent shall pay costs of \$2,091.88 within 90 days. Respondent shall have license placed on probation for period concurrent with PRN contract during which must follow all PRN recommendations and requirements.

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

C. DETERMINATION OF WAIVER

DOW-1 David Michael Midgett, PU 2659, Geneva, FL – *Addendum 2*
Case No. 2008-22353, 2008-22248, 2008-27984 – PCP Garcia/Hayes

Violations:

Count I

Violated Section 465.016(1)(m), Florida Statutes, by being unable to practice pharmacy with reasonable skill and safety because of illness or of use of alcohol and drugs or as a result of a mental or physical condition.

Count II

violated Section 465.016(1)(i), Florida Statutes, by dispensing a legend drug without a prescription other than in the course of the professional practice of pharmacy.

Count III

violated Section 465.016(1)(i), Florida Statutes, by dispensing a legend drug without a prescription other than in the course of the professional practice of pharmacy.

Count IV

violated Section 465.016(1)(i), Florida Statutes, by dispensing a legend drug in excessive or inappropriate quantities, other than in the course of the professional practice of pharmacy.

Count V

violation of Section 465.015(2), Florida Statutes, Respondent has violated Section 465.016(1)(f), Florida Statutes, by having been convicted, in a court of the state of Florida, of a crime which directly relates to the practice of pharmacy.

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

Motion: by Dr. Weizer, seconded by Dr. Fallon, 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. Fallon, to adopt the findings of fact 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 that constitutes a violation of the Pharmacy Practice Act. Motion carried.

The Department recommends the following penalty: \$5,000 fine, costs, 12 hour laws and rules course, continued suspension until PRN can advocate on his behalf.

Motion: by Dr. Weizer, seconded by Ms. Mullins, to revoke his license citing the following mitigating circumstances: Mr. Midgett has had more than ample opportunity to appear for PRN evaluation and has chosen not to appear for any. He had 2 different licenses go null and void. He has some very severe issues; not only does he have impairment issues but his wife also has impairment issues. He had his young son write prescriptions in the pharmacy. He has completely abused the privilege and shown no remorse. Dr. Weizer feels he is a significant danger. Motion carried.

D. VOLUNTARY RELINQUISHMENTS

VR-1 Norton J. Grossblatt, PS 2610, Baltimore, MD
Case No. 2011-04135 – PCP Salem/Griffin

Respondent was not present, nor represented by counsel.

Motion: by Dr. Weizer, seconded by Dr. Fallon, to accept the Voluntary Relinquishment, VR-1. Motion carried.

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

I-1 Mohammad Isam Afaneh, PS 39218, Riviera Beach, FL
Case No. 2009-19793 – PCP Salem/Griffin

Respondent was not present, nor represented by counsel.

Violations: Section 456.072(1)(hh), Florida Statutes (2009), for being terminated from an impaired practitioners program.

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

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

Motion: by Dr. Weizer, seconded by Dr. Mesaros, to adopt the findings of fact as set forth in the administrative complaint. Motion carried.

Motion: by Dr. Weizer, seconded by Dr. Mesaros, to adopt the conclusions of law as set forth in the administrative complaint and find that this constitutes a violation of the Pharmacy Practice Act. Motion carried.

Motion: by Dr. Weizer, seconded by Dr. Fallon, to revoke his license. Motion carried.

TAB 5 APPLICATIONS REQUIRING BOARD REVIEW

A. Exam Candidates

1. Scott Alan Jacques, File 41140 – Addendum 2

Respondent was present and sworn in by the court reporter. Respondent was represented by Brian Kahan. Dr. Rivenbark was present on behalf of PRN.

Motion: by Dr. Fallon, seconded by Ms. Mullins, to approve his application to take the exam. Motion carried.

2. Diane Nicole Drollinger, File 41123

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

Motion: by Ms. Mullins, seconded by Dr. Weizer, to approve the application with the stipulation that she remain in good standing with PRN and reporting from Virginia's PRN equivalent goes to PRN. Motion carried.

B. Non-Resident Pharmacy Permit Applications

1. Elite Rx, File 18798 – *Addendum 2*

Respondent was not present, nor represented by counsel.

Elite Rx requested to be withdrawn from this agenda to be postponed.

Motion: by Ms. Mullins, seconded by Mr. Garcia, to withdraw from the agenda. Motion carried with Dr. Weizer opposed.

2. Pharmacy IV Assoc. of Dexter MO, File 18445

Respondent, Kelley Pipkin, was present on behalf of Pharmacy IV Assoc. of Dexter MO and sworn in by the court reporter. Respondent was represented by Edward Rickert.

Motion: by Ms. Mullins, seconded by Dr. Weizer, to deny the application. Motion carried with Dr. Griffin and Dr. Mesaros opposed.

C. Modified Institutional Class II B Pharmacy Permit Application

1. Sacred Heart Health System, Inc. (Pace Surgery Center), File 18752

Dr. Griffin relayed that this application was heard yesterday and opened the floor up for any comment. No comments were made.

D. Pharmacy Intern Applicant

1. Alexis Stall, File 16959 – *Addendum 2*

Respondent was present and sworn in by the court reporter. Respondent was not represented by counsel. Dr. Rivenbark was present on behalf of PRN.

Motion: by Ms. Mullins, seconded by Dr. Weizer, to approve the application with the stipulation that she remains in good standing with PRN. Motion carried.

E. Request for Continuing Education Approval

1. Naomi L Adams, PS 10217

Respondent was not present, nor represented by counsel.

Motion: by Dr. Weizer, seconded by Ms. Mullins, to approve the request and state that this is the last time she will be able to use this process. A very strong letter will be sent with clear instructions of the correct process of handling these continuing education hours through CE Broker. Motion carried.

2. Ira Charles Robinson, PS 10068 – *Addendum 1 & 2*

Respondent was not present, nor represented by counsel.

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

TAB 6

LICENSURE ISSUES

A. Petition for Reinstatement

1. Marguerite Patterson Reghanti, PS 16947

Respondent was present and sworn in by the court reporter. Respondent was not represented by counsel. Dr. Rivenbark was present on behalf of PRN.

Motion: by Dr. Weizer, seconded by Mr. Garcia, to reinstate license with a probation period to run concurrent with her PRN contract during which she cannot act as a PDM. For this period there will be quarterly reports and counting of controlled substances. An extension of time to pay costs and fines is granted in equal monthly amounts starting on 9/2/2012 when the first payment shall be due of the total amount of \$1,902.90. At the end of probation, she shall come back before board to ask for termination probation during the last 3 months of her probation. Motion carried.

Public Comments

Dr. Griffin opened up the floor for public comments.

Mike McQuone from Florida Society of Health-System Pharmacists (FSHP) relayed the recent April meeting location change. The location change to Tampa was decided during the December 2011 Board meeting. Mike McQuone wanted to ensure everyone in attendance was aware of this news.

Motion: by Dr. Weizer, seconded by Ms. Glass, to adjourn the meeting at 12:18pm.