

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

**August 12-13, 2014**

DoubleTree by Hilton  
100 Fairway Drive  
Deerfield Beach, FL  
(800) 624-3606

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Board Members:

Jeffrey J. Mesaros, PharmD, Chair, Orlando  
Michele Weizer, PharmD, Vice-Chair, Boca Raton  
Goar Alvarez, PharmD, Ft. Lauderdale  
Leo J. "Lee" Fallon, BPharm, PhD, The Villages  
Debra B. Glass, BPharm, Tallahassee  
Gavin Meshad, Consumer Member, Sarasota  
Mark Mikhael, PharmD, Orlando  
Jeenu Philip, BPharm, Jacksonville

Board Staff:

Patrick Kennedy, Executive Director  
Tammy Collins, Program Operations Administrator  
Jay Cumbie, Regulatory Specialist II

Board Counsel:

David Flynn, Assistant Attorney General  
Lawrence Harris, Assistant Attorney General

Department of Health Staff:

Yolonda Green, Assistant General Counsel  
Matthew Witters, Assistant General Counsel

**Tuesday, August 12, 2014 – 1:00p.m.**

Dr. Mesaros called the meeting to order at 1:08p.m. All Board members were present.

Dr. Mesaros welcomed the Board members and members of the audience to the August Board of Pharmacy meeting. Dr. Mesaros then went on to recognize former Board members Fritz Hayes and Albert Garcia as well as former Executive Director Mark Whitten.

**TAB 1**

**REPORTS**

**A. Chair's Report – Jeffrey J. Mesaros, PharmD, Chair**

Dr. Mesaros presented former Board member Albert Garcia with two plaques commemorating his time spent on the Board as well as his time spent serving as Chair to the Board of Pharmacy.

Dr. Mesaros and Mrs. Glass reported on the NABP District III meeting that was held in Charleston, SC.

Dr. Fallon reported on the FPA Annual Meeting that was held in Ft. Lauderdale and went on to recognize various members of the profession for their attendance.

Dr. Weizer and Dr. Mikhael reported on the FSHP meeting that was held in Orlando.

**B. Acting Executive Director's Report – Tammy Collins**

1. Compounding Rules Committee Report – Michele Weizer, PharmD

Dr. Weizer provided a summary from the Compounding Rules Committee that included an explanation of the suggested changes to Rule 64B16-27.797 and requested a vote from the Board members.

**Motion:** by Dr. Weizer, seconded by Mrs. Glass, to strike Chapters 1160 and 1231 from the rule. Motion carried.

**Motion:** by Dr. Weizer, seconded by Dr. Fallon, to change the reference year from 2011 to 2013. Motion carried.

**Motion:** by Dr. Fallon, seconded by Mrs. Glass, that the changes referenced above will not have any adverse economic impact. Motion carried.

Dr. Weizer stated that the committee also spent some time discussion House Bill 7077 and detailed some of the talking points including the possibility of a national inspecting agency for non-resident pharmacies, what we would like these inspections to look like, and the possibility of utilizing a citation system.

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

#### **1. Rules Report – Lynette Norr, Assistant Attorney General**

Mr. Flynn reported that there are 15 rules currently being worked on gave a brief status update on a couple specific rules.

Dr. Weizer stated for the record that the state inspectors will be holding a public meeting on September 16, 2014 to discuss the proposed 797 inspections forms that are going to be used starting October 1, 2014 and invited everyone to attend.

#### **2. Requests for Declaratory Statements** **i. North Okaloosa Medical Center**

There was not a representative present on behalf of the petitioner.

Mr. Flynn gave an overview of the request for declaratory statement and recommended the Board deny the request based on the fact that a pharmacist cannot render an opinion that determines the conduct of a physician. Mr. Flynn went on to elaborate that the decision to discharge a patient resides with the treating physician.

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

#### **ii. Palm Springs General Hospital**

Rich Chavez was present on behalf of Palm Springs General Hospital

Mr. Chavez requested to withdraw his petition.

**Motion:** by Dr. Weizer, seconded by Dr. Mikhael, to allow Mr. Chavez to withdraw with petition. Motion carried.

#### **3. Requests for Variance of Waivers** **i. St. Mary's Incorporated**

Michael Glazer was present on behalf of St. Mary's Incorporated.

**Motion:** by Dr. Weizer, seconded by Dr. Mikhael, to approve the variance of waivers. Motion carried.

ii. Good Samaritan Medical Center

Michael Glazer was present on behalf of Good Samaritan Medical Center.

**Motion:** by Dr. Fallon, seconded by Mr. Philip, to approve the variance of waivers and require the petitioner inform the Board when the process has started and when it's completed. Motion carried.

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

Yolonda Green provided the Prosecution Services Report which informed the Board that the caseload has been reduced by 126 cases over the past year and that there are 122 cases over a year old.

**Motion:** by Mrs. Glass, seconded by Dr. Weizer, to allow PSU to continue prosecuting cases one year and older. Motion carried.

**E. Chief Investigative Services Report – Mark Whitten**

Mark Whitten provided the Board with the current processing times for the priority 1 through priority 4 investigations and stated that the Bureau is completing 95% of inspections within 90 days.

Mr. Whitten then reiterated Dr. Weizer's announcement about the public meeting being held September 16, 2014 to discuss the 797 inspection forms.

**F. Update on Provider Status – Michael Jackson (FPA) & Larry Gonzalez (FSHP)**

Michael Jackson (Florida Pharmacy Association) and Larry Gonzalez (Florida Society of Health-System Pharmacists) provided a report on the current state of provider status for pharmacist including rationale for why pharmacist should have the ability to prescribe as well as the argument that exists against pharmacists having provider status.

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

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

1. Pharmacist (Licensure) (Client 2201) – 201
2. Pharmacist (Exam Eligibility) (Client 2201) – 824
3. Pharmacist Interns (Client 2202) – 164
4. Registered Pharmacy Technicians (Client 2208) – 990
5. Consultant Pharmacist (Client 2203) – 35
6. Nuclear Pharmacist (Client 2204) – 0
7. Pharmacies/Facilities (Client 2205) – 189
8. Registered Pharmacy Technician Ratios (2:1 or 3:1)- 84
9. Pharmacy Technician Training Program (Client 2209) - 26
10. CE Providers – 17
11. CE Courses – 28
12. CE Individual Requests (Approved) – 4
13. CE Individual Requests (Denied) – 1

**Motion:** by Dr. Fallon, seconded by Mrs. Glass, ratify the issued licenses/certificates & staffing ratios listed above. Motion carried.

**D. Review and Approval of Minutes**

1. June 10-11, 2014 Meeting Minutes

**Motion:** by Mrs. Glass, seconded by Dr. Fallon, to approve the minutes from the June 10-11, 2014 meeting. Motion carried.

**Motion:** by Dr. Mesaros, seconded by Mr. Philip, to support Mr. Kennedy's upcoming work with the various association meetings in regards to provider status for pharmacists. Motion carried.

Public Comments:

Dr. Mesaros opened the floor to public comments.

Mr. Dix approached the Board to discuss "unclaimed prescriptions" (Rule 64B16-28.1191) and requested guidance.

After discussion amongst the members, the Board decided to leave the rule as is as they are fine with the way the rule is currently written.

Dr. Ken Wolliner approached the Board to discuss the Bureau of Enforcement and stated his opinion that there are egregious cases out in the profession that aren't being brought to the Board's attention.

**Motion:** by Dr. Fallon, seconded by Mrs. Glass, to adjourn the meeting at 3:19p.m. Motion carried.

**Wednesday, August 13, 2014 – 9:00 a.m**

Dr. Mesaros called the meeting to order at 9:05am with all members being present.

Dr. Mesaros then welcomed past board members and members of the audience.

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

Mr. Harris explained the proposed rule language for Rule 64B16-27.4001 regarding supervision and requested a vote from the Board.

**Motion:** by Mrs. Glass, seconded by Dr. Alvarez, to approve the amended rule language. Motion carried.

**Motion:** by Dr. Mesaros, seconded by Dr. Weizer, that this doesn't require a SERC as this rule is more of an explanation of a requirement than a new restriction or requirement. Motion carried.

**Motion:** by Dr. Fallon, seconded by Mrs. Glass, that there will not be any adverse economic impact. Motion carried.

**TAB 4 DISCIPLINARY CASES – Yolonda Green, Assistant General Counsel**

**A. RECOMMENDED ORDER**  
**R-1 Christopher S. Switlyk, PS 36908 – Tampa, FL**  
**Case No. 2011-20634 - PCP Mikhael/Mesaros**

Respondent violated:

**Count One:** 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.

**Count Two:** Section 456.072(1)(x), F.S., by failing to report to the board in writing within thirty 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.

**Motion:** by Mrs. Glass, seconded by Mr. Philip, to **continue** Case No. 2011-20634 until the October 2014 Board of Pharmacy meeting.

**B. SETTLEMENT AGREEMENT– APPEARANCE REQUIRED CASES**  
**A-1 James V. Schott, PS 21462 – Tampa, FL**  
**Case No.2014-02880 - PCP Glass/Fallon**

Respondent violated:

**Count One:** Section 465.016(1)(r), F.S. (2013), by and through a violation of Rule 64B16-27.797(1)(n)4., F.A.C.

**Terms of the Settlement Agreement:** Respondent shall be present. Respondent shall pay a fine of \$1,000.00 within 30 days. Respondent shall pay costs of \$451.66. Respondent shall complete a 12 hour Laws and Rules CE.

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 reject the settlement agreement. Motion carried.

**Motion:** by Dr. Weizer, seconded by Mr. Philip, to accept a similar settlement agreement with removal of the fine and replacement of the 12 hour laws and rules CE with the Critical Point Sterile Compounding Boot Camp. Motion carried.

**A-2 Plaza Pharmacy, Inc., PH 25083 – Coral Springs, FL**  
**Case No. 2013-18814 – PCP Glass/Fallon**

Respondent violated:

**Count One:** Section 465.023(1)(c), F.S. (2013), by and through a violation of Rule 64B16-27.104(4), F.A.C., which provides that no pharmacist, employer or employee of a pharmacy may knowingly place in stock of any pharmacy any part of any prescription compounded for, or dispensed to, any customer of any pharmacy and returned by said customer, unless otherwise permitted by Rule 64B16-28.118, F.A.C.

**Terms of the Settlement Agreement:** Respondent shall be present. Respondent shall pay a fine of \$500.00 within 30 days. Respondent shall pay costs of \$1,481.15. Respondent must complete a 12 hour Laws and Rules CE within one year.

Frank Malude was present on behalf of the respondent 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-3 Rx health Pharmacy, Inc., PH 22805 – Miami, FL  
Case No. 2013-15390 – PCP – Fallon/Glass**

Respondent violated:

**Count One:** Section 456.072(1)(k), F.S. (2012-2013), by violating Section 465.023(1)(c), F.S. (2012-2013), and by violating Section 499.005(18), F.S. (2012-2013), through a violation of Rule 61N-1.1012, 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 the Settlement Agreement:** Respondent shall be present. Respondent shall pay an administrative fine in the amount of \$1,500.00 payable within 90 days. Respondent shall pay costs of \$1,978.56 within 90 days. Respondent shall be placed on a two year probationary period with semi-annual inspections at the respondent's costs. Respondent shall make a mandatory appearance before the board of pharmacy during the last three months of probation.

Mrs. Lopez (Owner) was present on behalf of the respondent and sworn in by the court reporter. Respondent was not represented by counsel.

Dr. Alvarez requested the settlement agreement be amended to include a 12 hour laws and rules CE course.

Prosecution and the Respondent agreed to the amendment.

**Motion:** by Mr. Philip, seconded by Dr. Weizer, the amended settlement agreement. Motion carried.

**A-4 Rayhan Ahmed, PS 38712 – Wellington, FL  
Case No. 2013-20214 – 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 the Settlement Agreement:** Respondent shall be present. Respondent shall pay administrative fine in the amount of \$500.00 payable within 30 days. Respondent shall pay costs not to exceed \$1,000/00 within 90 days. Respondent shall complete an 8 hour prevention of medical errors CE within one year.

Respondent was present and sworn in by the court reporter. The respondent was represented by Jennifer Thomas, Esquire.

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

**A-5 Coram Healthcare Corporation of Florida, PH 13951 – Denver, CO  
Case No. 2014-02879 – PCP – Glass/Fallon**

Respondent violated:

**Count One:** Section 465.023(1)(c), F.S. (2013), by and through a violation of Rule 64B16-27.797(1)(n)4., F.A.C.

**Terms of the Settlement Agreement:** Respondent shall be present. Respondent shall impose an administrative fine \$1,000.00 within 30 days. Respondent shall pay costs of \$491.21 within 90 days.

Amanda Rogers was present on behalf of the respondent and sworn in by the court reporter. Respondent was not represented by counsel.

**Motion:** by Dr. Mikhael, seconded by Dr. Alvarez, to accept the settlement agreement. Motion carried.

**A-6 Aurello P. Martinez, PS 23198 – Miami Shores, FL  
Case No.2014-01272 – PCP – Glass/Weizer**

Respondent Violated

**Count One:** Section 456.072(1)(k), F.S. (2013), through a violation of Section 465.022(11)(a), F.S. (2013), by violating Rule 64B16-28.109, F.A.C., when respondent failed to prevent access to the prescription department by persons not licensed in Florida to practice the profession of pharmacy by failing to securely lock or padlock the partition or other means of enclosure.

**Terms of the Settlement Agreement:** Respondent shall be present. Respondent shall pay administrative fine in the amount of \$2,000.00 payable within 90 days. Respondent must pay costs of \$1,497.96 within one year. Respondent shall complete a 12 hour Laws and Rules CE within one year.

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

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

### **C. DETERMINATION OF WAIVER**

**DOW-1 Samantha Shavon Graham, RPT 16712 – Jacksonville, FL  
Case No. 2013-06483 – PCP Weizer/Meshad**

Respondent was not present nor represented by counsel.

**Count One:** Respondent violated section 456.016(1)(3), F.S. (2012), through a violation of Section 893.13(7)(a)9, F.S. (2012), by acquiring or obtaining, or attempting to obtain possession of a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge.

**Count Two:** Respondent violated Section 456.072(1)(k), F.S. (2012), which provides that 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 of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction constitutes grounds for discipline.

**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 waived the right to 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.

**Recommended Penalty: Revocation**

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

The Department withdrew the motion for costs.

**DOW-2                      Brian T. McGauley, PS 23480 – Port St. Lucie, FL**  
**Case No. 2011-14810 – PCP Glass/Mikhael**

**Count One:** Respondent violated Section 456.072(1)(c), F.S. (2013), by being convicted or found guilty of, or entering a pleas 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 Dr. Fallon, seconded by Dr. Alvarez, to continue cases DOW-2 and DOW-3 at the request of prosecution services. Motion carried.

**DOW-3                      Brian T. McGauley, PS 23480 – Port St. Lucie, FL**  
**Case No. 2011-14825 – PCP Glass/Mikhael**

**Count One:** Respondent violated Section 456.072(1)(c), F.S. (2013), by being convicted or found guilty of, or entering a pleas 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 Dr. Fallon, seconded by Dr. Alvarez, to continue cases DOW-2 and DOW-3 at the request of prosecution services. Motion carried.

**DOW-4                      Jessica Renee Sanland, RPT 11956 – Gainesville, FL**  
**Case No. 2012-17872 – PCP Mullins/Risch**

Respondent was not present nor represented by counsel.

**Count One:** Respondent violated Section 456.072(1)(x), F.S. (2012), which provides that 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 of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction constitutes grounds for discipline.

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

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

**Motion:** by Dr. Weizer, 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.

**Recommended Penalty: 500 Fine & 12 hour Laws and Rules CE**

**Motion:** by Dr. Mikhael, seconded by Mr. Meshad, to suspend respondent's license until she appears in front of the Board of Pharmacy. Motion carried.

**Motion:** by Dr. Weizer, seconded by Mrs. Glass, to have respondent pay costs of \$1,184.70. Motion carried.

**DOW-5            Nathan Moy, PS 34644 – Miramar, FL  
                         Case No. 2013-09381 – PCP Weizer/Meshad**

Respondent was not present nor represented by counsel.

**Count One:** Respondent violated Section 465.016(1)(m), F.S. (2012), by being unable to practice pharmacy with reasonable skill and safety to patients due to his abuse of alcohol.

**Count Two:** Respondent violated Section 465.016(1)(n), F.S. (2012), by violating the Board of Pharmacy's Final Order in Department of Health Case No. 2009-11174, issued on or about June 29, 2010, by failing to comply with all recommendations and requirements of PRN.

**Count Three:** Respondent violated Section 456.072(1)(hh), F.S. (2012), by being terminated from PRN, a treatment program for impaired practitioners, and by failing to comply with the terms of his PRN monitoring contract.

**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 waived the right to 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.

**Recommended Penalty: Revocation**

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

The Department withdrew the motion for costs.

**DOW-6            Kelley Mechelle Florida, RPT 36023 – Jacksonville, FL  
                         Case No. 2012-07164 – PCP Mesaors/Risch**

Respondent was not present nor represented by counsel.

**Count One:** Respondent violated Section 465.016(1)(e), F.S. (2011), by violating Section 893.13(7)(a)(9), F.S., by admitting to the JSO that she had been stealing hydrocodone, therefore Respondent was obtaining a controlled substance by misrepresentation, fraud forgery, deception, or subterfuge.

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

**Motion:** by Mrs. Glass, seconded by Dr. Alvarez, to find that respondent was properly served and has waived the right to a formal hearing. Motion carried.

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

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

The Department withdrew the motion the costs.

**DOW-7      Castedo Evelio Rodriguez, PSI 21966 – Miami, FL  
Case No. 2014-00231 – PCP Garcia/Fallon**

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

David Flynn asked the respondent if he wanted to continue forward with this case without a translator.

Respondent stated he felt comfortable moving forward with this hearing without a translator.

**Count One:** Respondent violated Section 465.016(1)(e), F.S. (2012-2013), by violating Section 893.13(6)(a), F.S. (2012-2013), by being in actual or constructive possession of phentermine, a controlled substance, that was not lawfully obtained from a practitioner or pursuant to a valid prescription or order of a practitioner while acting in the course of his professional judgment.

**Count Two:** Respondent violated 465.016(1)(i), F.S. (2012-2013) by distributing phentermine, a controlled substance, other than in the course of the professional practice of pharmacy.

**Count Three:** Respondent violated 465.016(1)(e), F.S. (2012-2013), by violating Section 893.13(7)(a)(9), F.S. (2012-2013), by acquiring possession of phentermine, a controlled substance, by misrepresentation, fraud, forgery, deception or subterfuge in violation of Chapter 893.

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

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

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

**Motion:** by Mrs. 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.

**Recommended Penalty: Revocation**

**Motion:** by Dr. Mikhael, seconded by Dr. Weizer, to accept the recommendations of the Department for cases Case No. 2014-00231 & Case No. 2014-00228. Motion carried.

**DOW-8            Evelio Rodriguez, RPT 4704 – Miami, FL**  
**Case No. 2014-00228 – PCP Garcia/Fallon**

**This was the same respondent from DOW-7. The cases were discussed together.**

**Count One:** Respondent violated Section 465.016(1)(e), F.S. (2012-2013), by violating Section 893.13(6)(a), F.S. (2012-2013), by being in actual or constructive possession of phentermine, a controlled substance, that was not lawfully obtained from a practitioner or pursuant to a valid prescription or order of a practitioner while acting in the course of his professional practice.

**Count Two:** Respondent violated 465.016(1)(i), F.S. (2012-2013), by distributing phentermine, a controlled substance, other than in the course of the professional practice of pharmacy.

**Count Three:** Respondent violated 465.016(1)(e), F.S. (2012-2013), by violating Section 893.13(7)(a)(9), F.S. (2012-2013), by acquiring possession of phentermine, a controlled substance, by misrepresentation, fraud, forgery, deception or subterfuge in violation of Chapter 893.

**Recommended Penalty: Revocation**

**Motion:** See motion made for DOW-7.

The Department withdrew the motion for costs.

**DOW-9            Babatunde O. Olurinde, PS 14062 – Miramar, FL**  
**Case No. 2013-00709 – PCP Mesaros/Glass**

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

**Count One:** Respondent violated Section 456.072(1)(k), F.S. (2012), failing to perform any statutory or legal obligation placed on a licensee, 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.

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

**Motion:** by Dr. Mikhael, seconded by Dr. Alvarez, to find that respondent was properly served and has waived the right to a formal hearing. Motion carried.

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

**Motion:** by Dr. Mikhael, seconded by Dr. Alvarez, 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: None were presented.**

**Motion:** by Dr. Mikhael, seconded by Dr. Alvarez, to grant this case a continuance to the October 2014 Board of Pharmacy meeting. Motion carried.

**DOW-10      Noriel Batista, RPT 3144 – Miami, FL  
Case No. 2012-17623 – PCP Weizer/Philip**

Respondent was not present nor represented by counsel.

**Count One:** Respondent violated Section 456.072(1)(c), F.S. (2013), 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.

**Count Two:** Respondent violated Section 456.072(1)(x), F.S. (2013), which provides that failing to report to the board, or the department if there is no board, in writing within thirty 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 constitutes ground for discipline.

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

**Motion:** by Mrs. Glass, seconded by Dr. Fallon, to find that respondent was properly served and has waived the right to a formal hearing. Motion carried.

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

**Motion:** by Mrs. Glass, 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.

**Recommended Penalty: Revocation**

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

The Department withdrew the motion for costs.

**DOW-11      Christopher Thomas Duffy, RPT 26171 – St. Petersburg, FL  
Case No. 2012-04848 – PCP Mesaros/Risch**

Respondent was not present nor represented by counsel.

**Count One:** Respondent violated Section 456.072(1)(c), F.S. (2011), by being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee's profession.

**Count Two:** Respondent violated Section 456.072(10)(x), F.S. (2011), which provides that failing to report to the board, or the department if there is no board, in writing within thirty 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 constitutes grounds for discipline.

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

**Motion:** by Mrs. Glass, seconded by Dr. Alvarez, to find that respondent was properly served and has waived the right to a formal hearing. Motion carried.

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

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

The Department withdrew the motion for costs.

**D. VOLUNTARY RELINQUISHMENTS**

**VR's voted on at one time: VR-1 through VR-8.**

**Motion:** by Dr. Fallon, seconded by Mrs. Glass, to accept the above-listed Voluntary Relinquishments. Motion carried.

**VR-1**            **Nancy Elizabeth Keane, RPT 45334 – Nokomis, FL**  
**Case No. 2014-06794 – PCP Waived**

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

**Motion:** See group motion above.

**VR-2**            **Ryan Michael Hogan, RPT 30534 – Boca Raton, FL**  
**Case No. 2014-06354 – PCP Waived**

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

**Motion:** See group motion above.

**VR-3 Jeffrey L. Humerick, PS 21349 – St. Augustine, FL  
Case No. 2013-20511 – PCP Waived**

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

**Motion:** See group motion above.

**VR-4 Nohelia Pena, RPT 30775 – Kissimmee, FL  
Case No.2014-05937 – PCP Waived**

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

**Motion:** See group motion above.

**VR-5 AAZ Pharmacy, PH 27157 – Miami, FL  
Case No.2014-03603 – PCP Waived**

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

**Motion:** See group motion above.

**VR-6 AAZ Pharmacy, PH 27157 – Miami, FL  
Case No.2014-03605 – PCP Waived**

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

**Motion:** See group motion above.

**VR-7 Sistyseven Pharmacy Discount, Inc., PH 26470 – Miami, FL  
Case No. 2014-05849 – PCP Waived**

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

**Motion:** See group motion above.

**VR-8 Ready Scripts, Inc., PH 25590 – Miami, FL  
Case No. 2014-06543 – PCP Waived**

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

**Motion:** See group motion above.

**VR-9 Samantha Lynn Stumler, RPT 43458 – Jacksonville, FL  
Case No. 2014-02898 – PCP Fallon/Garcia**

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. Mikhael, to accept the Voluntary Relinquishment. Motion carried.

**VR-10 Charles S. Eby, PH 10330 – Fort Myers, FL  
Case No. 2013-06703 – PCP Fallon/Garcia**

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. Mikhael, to accept the Voluntary Relinquishment. Motion carried.

**VR-11 Avenix Pharmaceuticals, PH 27334 – Boca Raton, FL  
Case No. 2014-06355 – PCP Waived**

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

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

**I-1 Richard Alonso, PS 39780 – Safety Harbor, FL  
Case No. 2013-17761 – PCP Glass/Risch**

**Count One:** Respondent violated Section 465.016(1)(m), F.S. (2010-2013), by being unable to practice pharmacy with reasonable skill and safety by reason of use of drugs, narcotics and/or alcohol.

**Count Two:** Respondent violated 456.072(1)(hh), F.S. (2010-2013), by being terminated from a treatment program for impaired practitioners.

Respondent was not present nor represented by counsel.

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

The Department withdrew the motion for costs.

**(Respondent appeared later in the meeting and the Board allowed the case to be heard)**

Respondent was present and sworn in by the court reporter. Respondent was represented by Richard Weldon, Esquire.

**Motion:** by Mr. Philip, seconded by Dr. Mikhael to vacate previous vote on this case. Motion carried.

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

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

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

**Motion:** by Dr. Mikhael, 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 Dr. Fallon, seconded by Dr. Mikhael, to continue the disciplinary portion of this case to the October 2014 Board of Pharmacy meeting. Motion carried with Dr. Weizer in opposition.

**I-2 Walgreens Company, #4391, PH 19501 – Deerfield, IL  
Case No. 2013-04359 - PCP – Fallon/Glass/Mikhael**

**Count One:** Respondent violated Section 456.072(1)(f), F.S. (2012) by having a license or the authority to practice any regulated profession revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions, for a violation that would constitute a violation under Florida law. The licensing authority's acceptance of a relinquishment of licensure, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of charges against the license, shall be construed as action the against the license.

**Agenda items #I-2-I-7 were pulled from the August 13, 2014 agenda due to quorum issues.**

**I-3 Walgreens Company, #3629, PH 13738 – Deerfield, IL  
Case No. 2013-04374 - PCP – Fallon/Glass/Mikhael**

**Count One:** Respondent violated Section 456.072(1)(f), F.S. (2012) by having a license or the authority to practice any regulated profession revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions, for a violation that would constitute a violation under Florida law. The licensing authority's acceptance of a relinquishment of licensure, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of charges against the license, shall be construed as action the against the license.

**Agenda items #I-2-I-7 were pulled from the August 13, 2014 agenda due to quorum issues.**

**I-4 Walgreens Company, #3836, PH 19501 – Deerfield, IL  
Case No. 2013-04366 - PCP – Fallon/Glass/Mikhael**

**Count One:** Respondent violated Section 456.072(1)(f), F.S. (2012) by having a license or the authority to practice any regulated profession revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions, for a violation that would constitute a violation under Florida law. The licensing authority's acceptance of a relinquishment of licensure, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of charges against the license, shall be construed as action the against the license.

**Agenda items #I-2-I-7 were pulled from the August 13, 2014 agenda due to quorum issues.**

**I-5 Walgreens Company, #3099, PH 7800 – Deerfield, IL  
Case No. 2013-04377 - PCP – Fallon/Glass/Mikhael**

**Count One:** Respondent violated Section 456.072(1)(f), F.S. (2012) by having a license or the authority to practice any regulated profession revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions, for a violation that would constitute a violation under Florida law. The licensing authority's acceptance of a relinquishment of licensure, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of charges against the license, shall be construed as action the against the license.

**Agenda items #I-2-I-7 were pulled from the August 13, 2014 agenda due to quorum issues.**

**I-6 Walgreens Company, #4727, PH 16932 – Deerfield, IL  
Case No. 2013-04363 - PCP – Fallon/Glass/Mikhael**

**Count One:** Respondent violated Section 456.072(1)(f), F.S. (2012) by having a license or the authority to practice any regulated profession revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions, for a violation that would constitute a violation under Florida law. The licensing authority's acceptance of a relinquishment of licensure, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of charges against the license, shall be construed as action the against the license.

**Agenda items #I-2-I-7 were pulled from the August 13, 2014 agenda due to quorum issues.**

**I-7 Walgreens Company, #6997, PH 19501 – Deerfield, IL  
Case No. 2013-04376 - PCP – Fallon/Glass/Mikhael**

**Count One:** Respondent violated Section 456.072(1)(f), F.S. (2012) by having a license or the authority to practice any regulated profession revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions, for a

violation that would constitute a violation under Florida law. The licensing authority's acceptance of a relinquishment of licensure, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of charges against the license, shall be construed as action the against the license.

**Agenda items #I-2-I-7 were pulled from the August 13, 2014 agenda due to quorum issues.**

**I-8                    Hector A. Pineiro, RPT 19460 – Homestead, FL  
                          Case No. 2013-14577 - PCP – Fallon/Glass**

**Count One:** Respondent violated Section 456.072(1)(z), F.S. (2013), by being unable to practice with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition.

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

Dr. Martha Brown (PRN) stated the respondent had been compliant with their PRN contract.

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

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

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

**Motion:** by Dr. Weizer, seconded by Dr. Alvarez, 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.

**Motion:** by Dr. Weizer, seconded by Mr. Philip, to dismiss Case No. 2013-14577. Motion carried.

The Department withdrew the motion for costs.

**I-9                    Nicole Schreiber, PS 40395 – Fort Myers, FL  
                          Case No. 2012-18855 - PCP – Risch/Mesaros**

**Count One:** Respondent was violated Section 456.072(1)(hh), F.S. (2012), by being terminated from a treatment program for impaired practitioners, which is overseen by an impaired practitioner consultant as described in Section 456.076, F.S., for failure to comply without good cause, with the terms of the monitoring or treatment contract entered into by the licensee, or for not successfully completing any drug treatment or alcohol treatment program.

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

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

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

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

**Motion:** by Mrs. Glass, 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: Suspension until PRN deems respondent able to practice with reasonable skill & safety.**

**Motion:** by Dr. Fallon, seconded by Mrs. Glass, to have respondent voluntarily withdraw from practice until the October 2014 Board of Pharmacy meeting. Motion was not voted on.

Dr. Fallon and Dr. Alvarez withdrew their motion and second.

**Motion:** by Dr. Fallon, seconded by Mrs. Glass, to voluntarily withdraw from practice and to postpone of the discipline section until the next board meeting. Motion carried.

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

**A.        Pharmacist Intern Application**

1. Thomas Edmund Saywell, File: 20776 – Chardon, OH

Respondent was not present nor represented by counsel.

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

**B.        Registered Pharmacy Technician Applications**

1. Sheyrale Moore, File: 56871 – Homestead, FL

Respondent was present and sworn in by the court reporter.

**The respondent withdrew their application.**

2. Richard Stewart, File: 57179 – Ft. Lauderdale, FL

Respondent was not present nor represented by counsel.

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

3. Jocelyn Ariana Zuessman, File: 57034 – Pompano Beach, FL

Respondent was not present nor represented by counsel.

**Motion:** by Dr. Weizer, seconded by Mrs. Glass, to deny the application. Motion carried with Dr. Mesaros in opposition.

**TAB 6                    LICENSURE ISSUES**

**A.        Request for Termination of Probation**

1. Kevin Strychalski, PS 25362 – Orlando, FL

Respondent was present and sworn in by the court reporter.

**Motion:** by Dr. Weizer, seconded by Mrs. Glass, to accept the request to terminate probation. Motion carried.

**B. Petition for Removal of Licensure Restriction**

1. Michael Reyes, PS 29151 – Hialeah, FL

Respondent was present and sworn in by the court reporter.

**Motion:** by Mrs. Glass, seconded by Dr. Weizer, to accept the request the request to remove the respondent's licensure restriction. Motion carried.

**C. Reconsideration of Final Order**

1. Gene R. Lachney, PS 28290 – Pensacola, FL

Respondent was present and sworn in by the court reporter. Respondent was represented by Sharon Roberts, Esquire.

**Motion:** by Dr. Fallon, seconded by Dr. Mikhael, to vacate the previous order and reconsider. Motion carried.

**Motion:** by Dr. Alvarez, seconded by Mr. Philip, for the terms of the original settlement agreement with the addition of a probationary period of one year, \$2,000.00 fine to be paid within 1 year, costs of \$643.26 to be paid within one year, respondent cannot act as a prescription department manager, and a 12 hour laws and rules CE course. Motion carried with Dr. Mikhael in opposition.

**(The board returned to I-1 "Richard Alonso")**

Dr. Mesaros reminded the board and audience of the meeting mentioned by Mark Whitten scheduled to take place September 16, 2014 in Orlando.

The Board discussed setting up a Rules Committee meeting September 17, 2014 in Orlando, Florida.

**Motion:** by Dr. Fallon, seconded by Dr. Weizer, to adjourn the meeting at 4:32p.m. Motion carried.