

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

October 7-8, 2014

Embassy Suites South – Lake Buena Vista
4955 Kyngs Heath Road
Kissimmee, FL 34746
(407) 597-4000

Board Members:

Jeffrey J. Mesaros, PharmD, Chair, Orlando
Michele Weizer, PharmD, Vice-Chair, Boca Raton
Win Adams, CSA, Consumer Member, Fern Park
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, October 7, 2014 – 1:00p.m.

Dr. Mesaros called the meeting to order at 1:00p.m. All board members were present.

TAB 1 **REPORTS**

A. Chair’s Report – Jeffrey J. Mesaros, PharmD, Chair

Dr. Mesaros began the meeting by appointing Mr. Jeenu Philip as our new Drugs, Devices, and Cosmetics Advisory Council Member.

Dr. Mesaros then reminded the Board and audience that the MALTAGON conference will be held October 26-29, 2014 at the TradeWinds Hotel and Resort in St. Petersburg, FL. Dr. Mesaros also provided an update on the 2015 NABP District III meeting that is scheduled to be held sometime in August 2015 in St. Augustine, FL.

B. Acting Executive Director’s Report – Tammy Collins

1. Compounding Rules Committee Report – Michele Weizer, PharmD

Dr. Weizer provided a brief report of the proceedings from the Compounding Rules Committee and requested a vote from the board to ratify the recommendations made by the committee.

Dr. Weizer stated Rule 64B16-28.100 regarding the new nonresident sterile compounding permit was discussed and approved by the committee. Dr. Weizer also stated that the committee determined that a

statement of estimated regulatory cost (SERC) was not required and requested a vote from the committee to ratify that decision.

Motion: by Dr. Weizer, seconded by Mr. Adams, to ratify the decision made by the committee to approve the new application and that a SERC is not required. Motion carried.

Dr. Mikhael suggested rotating the Board members through the 797 training to expand the board's knowledge of sterile compounding.

Motion: by Dr. Alvarez, seconded by Mr. Adams, to send Dr. Fallon and Mrs. Glass to the Critical Point Boot Camp. Motion carried.

Mark Whitten approached the Board to state that 797 training is provided for his senior pharmacists and inspectors that the Board members are more than welcome to attend.

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

1. Rules Report – Lawrence Harris, Assistant Attorney General

David Flynn just reminded the board that Rule 64B16-27.797 has been adopted and thanked Mr. Cumbie and Dr. Weizer for their behind-the-scenes help with the adoption process.

Larry Harris stated a detailed rules report will be provided at Wednesday's meeting.

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

Yolonda Green provided the prosecution services report and detailed the current case inventory. Mrs. Green then requested a motion to allow PSU to continue prosecuting cases one year and older.

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

E. Chief Investigative Services Report – Mark Whitten & Michelle Miller

Mr. Whitten reminded the board and audience of the USP 797 Inspection Form Review Workshop scheduled for Thursday, October 9, 2014.

Ms. Miller reported the first quarter numbers for the current fiscal year. Mr. Miller stated 30% of inspections have been completed and 31% of dispensing practitioner inspections had been completed.

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

A. Ratification of Issued Licenses/Certificates & Staffing Ratios

1. Pharmacist (Licensure) (Client 2201) – 716
2. Pharmacist (Exam Eligibility) (Client 2201) – 187
3. Pharmacist Interns (Client 2202) – 341
4. Registered Pharmacy Technicians (Client 2208) – 976
5. Consultant Pharmacist (Client 2203) – 33
6. Nuclear Pharmacist (Client 2204) – 0
7. Pharmacies/Facilities (Client 2205) – 189
8. Registered Pharmacy Technician Ratios (2:1 or 3:1)- 107
9. Pharmacy Technician Training Program (Client 2209) - 10

10. CE Providers – 16
11. CE Courses – 30
12. CE Individual Requests (Approved) – 0
13. CE Individual Requests (Denied) – 0

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

B. Review and Approval of Minutes

1. August 12-13, 2014 Meeting Minutes

Motion: by Mrs. Glass, seconded by Dr. Fallon, to approve the minutes from the August 12-13, 2014 Board of Pharmacy Meeting. Motion carried.

C. Presentations

1. Susan Langston – DEA

Mr. Langston read a prepared statement stating that the DEA have no culpability regarding the ongoing problem of pharmacies in Florida not filling prescriptions for controlled substances. Mr. Langston then urged pharmacies in the State of Florida to fill prescriptions that are valid and necessary to the safety and well-being of the citizens of Florida.

Mr. Meshad recommended using the currently idle Prescription Drug Abuse Committee to work with the various levels of government and the various associations to work on alleviating this issue.

Motion: by Dr. Fallon, seconded by Mr. Adams, to allow the Prescription Drug Abuse Committee to meet to discuss the rules related to the problem of pharmacies in Florida not filling prescriptions for controlled substances. Motion carried.

Dr. Mesaros opened the floor to public comments.

Brian Kahan approached bring the board's attention to a problem that he has encountered regarding the purchasing/selling of pharmacies. Mr. Kahan stated that the extended time between the old and new DEA numbers being active hinders the ability of pharmacies to smoothly transition between owners. Mr. Kahan then inquired about the idea of providing provisional permit numbers for the transition period.

Motion: by Dr. Fallon, seconded by Dr. Mikhael, to adjourn the meeting at 3:55p.m. Motion carried.

Wednesday, October 8, 2014 – 9:00 a.m

Dr. Mesaros called the meeting to order at 9:00a.m. All members were present.

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

Mr. Harris presented the redrafted rule language for Rules 64B16-27.4001, 64B16-27.410, and 64B16-27.420 that reflected the changes that were voted on and approved by the Rules Committee the previous day.

Motion: by Dr. Weizer, seconded by Mrs. Glass, to ratify the decision of the rules committee to approve the rule language for Rules 64B16-27.410 and 64B16-27.420 as well as the notice of change for Rule 64B16-27.001. Motion carried.

Motion: by Dr. Weizer, seconded by Mrs. Glass, to ratify the rules committee's decision that a SERC will not be required for any of the three above referenced rules. Motion carried.

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

A. **SETTLEMENT AGREEMENT– APPEARANCE REQUIRED CASES**
A-1 DNA Pharmacy Services, Inc, PH 20850 – Jupiter, FL
 Case No. 2012-18237 – PCP (Weizer/Glass)

Respondent violated:

Count One: Section 456.072(1)(k), F.S. (2012), by failing to perform a statutory or legal obligation placed upon a licensee by violating Section 465.023(1)(c), F.S. (2012) by violating the rules of the Board of Pharmacy.

Terms of the Settlement Agreement: Fine of \$5,000, costs of \$3,840.18, 1 year of probation with semi-annual inspections at the cost of the respondent. Terms of probation state respondent must refrain from sterile compounding.

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

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

A-2 DNA Pharmacy Services, Inc, PH 20850 – Jupiter, FL
 Case No. 2013-09736 – PCP (Weizer/Glass)

Respondent violated:

Count One: Section 456.072(1)(k), F.S. (2013), by failing to perform a statutory or legal obligation placed upon a licensee by violating Section 465.023(1)(c), F.S. (2013), through a violation of Rule 64B16-27.797, F.A.C., by failing to conform to the standards of practice for compounding sterile preparations.

Count Two: Section 465.023(10)(c), F.S. (2013), through a violation of Rule 64B16-28.110, F.A.C., by failing having outdated pharmaceuticals in its active stock.

Count Three: Section 456.072(1)(k), F.S. (2013), by violating Section 465.023(1)(c), F.S. (2013), through a violation of Rule 64B16-28.140(4), F.A.C., by failing to include the signature or initials of the verifying pharmacist within its compounding records.

Agenda Item(s) A-1 and A-2 were taken together. Please see motion for A-1.

A-3 David R. Upson, PS 28830 – Palm Beach Gardens, FL
 Case No.2013-09781 – PCP – Weizer/Glass

Respondent violated:

Count One: Section 456.072(1)(k), F.S. (2013), by violating Section 465.022(11)(a), F.S. (2013), 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 the Settlement Agreement: Fine of \$1,000, costs of \$1,727.27, 1 year probationary period where respondent cannot work as a PDM and (orally amended addition) Critical Point 797 Boot Camp as a continuing education requirement.

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.

A-4 David. R. Upson, PS 28830 – Palm Beach Gardens, FL
Case No. 2012-18239 - PCP (Weizer/Glass)

Respondent violated:

Count One: Section 456.072(1)(k), F.S. (2013), by violating Section 465.022(11)(a), F.S. (2013), 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.

Agenda Item(s) A-3 and A-4 were taken together. Please see motion for A-3.

A-5 Alicia A. Self, PS 31892 – Clearwater, FL
Case No. 2014-00343 – PCP (Glass/Philip)

Respondent violated:

Count One: Section 465.016(1)(g), F.S. (2013), 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.

Respondent was not present nor represented by counsel.

Motion: by Dr. Alvarez, seconded by Dr. Mikhael, to continue the case to December agenda and require an appearance. Motion carried.

A-6 Stacey Bernard Wilcox, PS 41617 – Riverview, FL
Case No. 2014-04570 – PCP (Weizer/Glass)

Respondent Violated

Count One: Section 456.072(1)(k), F.S. (2012-2013), by and through a violation of Section 465.022(11)(a), F.S. (2012-2013), by failing to ensure the permittee's compliance with Rule 64B16-27.797(6)(a), F.A.C.

Terms of the Settlement Agreement: Fine of \$1,000, costs of \$912.74, 12 hour laws and rules CE, and 12 of sterile compounding CE to be completed within one year.

Dr. Mikhael recused himself as he works for a direct competitor.

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

Motion: by Dr. Fallon, seconded by Dr. Alvarez, to accept the Settlement Agreement. Motion carried.

A-7 Leonard Rizzo, PU 5998 – Miramar, FL
Case No. 2014-02244 – PCP (Glass/Philip)

Respondent Violated

Count One: Section 456.072(1)(k), F.S. (2013), and Section 499.005(18), F.S. (2013), which requires that records to document and 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: Fine of \$2,000 and costs of \$1,365.19.

Dr. Fallon requested a 12 hour laws and rules CE be added to the settlement agreement.

Mr. Flynn confirmed that the CE must be completed 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 orally amended Settlement Agreement Motion carried.

A-8 Louis Fitzgerald Ladson Jr., PS 20168 – Tampa, FL
Case No. 2013-02160 – PCP (Weizer/Glass)

Respondent Violated

Count One: 456.072(1)(k), F.S. (2012-2013), by violating Section 465.022(11)(a), F.S. (2012-2013), 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 the Settlement Agreement: Fine of \$2,000, Costs of \$1,386.51, 12 hour sterile compounding CE to be completed within one year, probationary period of one year where respondent can't act as a PDM.

Respondent was present and sworn in by the court reporter. Respondent was represented by Marcus Hasbum, Esquire.

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

A-9 Lincourt Compounding Center, PH 24418 – Clearwater, FL
Case No. 2013-03129 – PCP (Weizer/Glass)

Respondent Violated

Count One: Section 456.072(1)(k) F.S. (2012-2013), by and through a violation of Rule 456.023(1)(c), F.S. (2012-2013), by and through a violation of Rule 64B16-27.797.(1)(1)(4), F.A.C.

Count Two: Section 456.072(1)(k), F.S. (2012-2013), by and through a violation of Section 465.023(1)(c), F.S. (2012-2013), by and through a violation of Rule 64B16-27.797(1)(o)(4), F.A.C.

Count Three: Section 456.072(1)(k), F.S. (2012-2013), by and through a violation of 465.023(1)(c), F.S. (2012-2013), by and through a violation of Rule 64B16-27.797(1)(i)(7), F.A.C.

Count Four: Section 456.072(1)(k), F.S. (2012-2013), by and through a violation of Section 465.023(1)(c), F.S. (2012-2013), by and through a violation of Rule 64B16-27.797(1)(n)(6), F.A.C.

Count Five: Section 456.072(1)(k), F.S. (2012-2013), by and through a violation of Section 465.023(1)(c), F.S. (2012-2013), by and through a violation of Rule 64B16-28.140(4)(b)(d)(f)(g), F.A.C.

Count Six: Section 456.072(1)(k), F.S. (2012-2013), by and through a violation of Section 465.023(1)(c), F.S. (2012-2013), by and through a violation of Rule 64B16-27.700(3)(d), F.A.C.

Count Seven: Section 456.072(1)(k), F.S. (2012-2013), by and through a violation of Section 465.023(1)(c), F.S. (2012-2013), by and through a violation of Rule 64B16-27.700(3)(e). F.A.C.

Terms of the Settlement Agreement: Fine of \$5,000, costs of \$2,590.78, one year probationary period with semi-annual inspections at respondent's costs, and an appearance before the board within the last 3 months of probation.

Respondent was present and sworn in by the court reporter. Respondent was represented by Marcus Hasbum, Esquire.

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

A-10 Gilda Laing Brown, PS 17587 – Tallahassee, FL
Case No. 2013-03999 – PCP (Glass/Fallon)

Respondent Violated

Count One: 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 the Settlement Agreement: Costs of \$1,686.58 and an 8 hour Med Errors CE to be completed within 6 months.

Respondent was present and sworn in by the court reporter. Respondent was represented by Thomas Brown, Esquire.

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

A-11 Bayfront Enterprises, Inc., PH 14023 – St. Petersburg, FL
Case No. 2014-01812 – PCP (Glass/Philip)

Respondent Violated

Count One: Section 456.072(1)(k), F.S. (2013), by violating Section 465.019(5), F.S. (2013), by not having a consulting pharmacist of record.

Terms of the Settlement Agreement: Fine of \$2,500, Costs of \$503.74, one year probationary period with semiannual inspections, and an appearance in front of the board within the last 3 months of probation.

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

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

A-12 Melissa Terpos, RPT 39879 – Port Saint Lucie, FL
Case No. 2013-11591 – PCP (Mesaros/Glass)

Agenda item A-12 was moved to the Voluntary Relinquishments section.

A-13 Magdi Mikhail Bishara, PS 47410 – Clearwater, FL
Case No. 2013-09121 – PCP Mesaros/Risch

Respondent violated:

Count One: Section 465.016(1)(m) by being unable to practice pharmacy with reasonable skill and safety by reason of use of drugs or narcotics.

Count Two: Section 465.016(1)(i), F.S. (2012-2013), by dispensing controlled substances to himself for reasons outside of the course of the professional practice of pharmacy.

Count Three: Section 465.016(1)(r), F.S. (2012-2013), by violating Section 456.072(1)(b), F.S. (2012-2013), by making misleading or fraudulent representations in the practice of pharmacy.

Terms of the Settlement Agreement: Respondent shall be present. Respondent shall pay a fine of \$1,000.00. Respondent shall pay costs not to exceed \$3,554.40. Respondent must complete a 12 hour Laws and Rules CE within one year. Respondent shall undergo and evaluation from PRN and follow all requirements and recommendations. Respondent shall be placed on probation for a year concurrent with his PRN contract if one is offered.

Respondent was present and sworn in by the court reporter. Respondent was represented by Katherine O'Dowd, Esquire.

Motion: by Dr. Alvarez, seconded by Dr. Fallon, to accept the Settlement Agreement with the addition that the respondent cannot serve as a PDM over the course of probation. Motion carried.

B. VOLUNTARY RELINQUISHMENTS

VR's voted on at one time: VR #'s 1, 2, 5, 7, 8, 9, 10, 12

Motion: by Mr. Philip, seconded by Mrs. Glass, to accept the above referenced Voluntary Relinquishments. Motion carried.

VR-1 Ronald Fred Nelson, RPT 7724 – Winter Springs, FL
Case No.2014-00962 – 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.

VR-2 Jessica R. Morris, RPT 3732 – Aventura, FL
Case No.2014-08083 – 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.

VR-3 Thomas M. Ferran, PS 17494 – Ocala, FL
Case No. 2013-12703 – PCP (Weizer/Glass)

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

Motion: by Mr. Philip, seconded by Dr. Fallon, to accept the Voluntary Relinquishment. Motion carried.

VR-4 Med Solution Pharmacy Discount & Equipment Corporation, PH 25611 – Miami, FL
Case No. 2014-03220 – PCP (Weizer/Glass)

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

Motion: by Mr. Philip, seconded by Dr. Fallon, to accept the Voluntary Relinquishment. Motion carried.

VR-5 Yenisey Suarez, RPT 3593 – Miami, FL
Case No. 2014-07593 – 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.

VR-6 Centra Rx, PH 19659 – Ocala, FL
Case No. 2013-12696 – PCP (Glass/Philip)

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

Motion: by Dr. Alvarez, seconded by Dr. Mikhael, to accept the Voluntary Relinquishment. Motion carried.

VR-7 Jorge Humberto Espana, RPT 20775 – Miami, FL
Case No. 2014-10406 – 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.

VR-8 Luisa Isabel Vega, RPT 26877 – Miami, FL
Case No. 2014-07594 – 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.

VR-9 SRadhakrishna Sadineni, PSI 16063 – Ocala, FL
Case No. 2014-12605 – 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.

VR-10 Tina Marie Starling, RPT 28186 – Middleburg, FL
Case No.2014-02063 – PCP (Mikhael/Meshad)

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

See group motion.

VR-11 Melissa Terpos, RPT 39879 – Port Saint Lucie, FL
Case No. 2013-11591 – PCP (Mesaros/Glass)

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

Motion: by Mr. Philip, seconded by Dr. Alvarez, to accept the Voluntary Relinquishment. Motion carried.

VR-12 AB Pharmacy Corporation, LLC, PH 21720 – Miami, FL
Case No. 2014-10946 – 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.

C. DETERMINATION OF WAIVER

DOW-1 Rachel Purcell Parkins, RPT 45462 – De Leon Springs, FL
Case No. 2013-16532 – PCP (Garcia/Fallon)

Respondent violated:

Count One: 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 relate to the practice of, or the ability to practice, a licensee's profession.

Respondent was not present nor represented by counsel.

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

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

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

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

Recommended Penalty: Revocation

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

The Department withdrew their motion for costs.

DOW-2 Rory Spann, RPT 46582 – Saint Petersburg, FL
Case No. 2014-02624 – PCP (Glass/Fallon)

Respondent violated:

Count One: Chapter 465.016(1)(e), F.S. (2012-2013), by violating Chapter 893, F.S. (2012-2013).

Respondent was not present nor represented by counsel.

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. Mikhael, seconded by Dr. Alvarez, to accept the investigative report into evidence for the purposes of imposing a penalty, to adopt the findings and facts as set forth in the Administrative Complaint, and 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. Alvarez, to accept the recommendations of the Department. Motion carried.

The Department withdrew their motion for costs.

DOW-3 Morgan Trent James, PSI 27432 – Brandon, FL
Case No. 2014-02154 – PCP Glass/Philip

Respondent violated:

Count One: Section 456.072(1)(x), F.S. (2012), by failing to report to the board, or the department if there is no board, in writing within thirty (30) days after the licensee has been convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication.

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. Motion carried.

Motion: by Dr. Weizer, seconded by Dr. Mikhael, to accept the investigative report into evidence for the purposes of imposing a penalty, to adopt the findings and facts as set forth in the Administrative Complaint, and 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: Fine of \$250 and a 12 hour laws and rules CE.

Motion: by Dr. Weizer, seconded by Dr. Fallon, to have respondent be suspended until he can appear before the board to demonstrate the ability to practice with reasonable skill and safety through support from PRN. Motion carried.

Motion: by Dr. Weizer, seconded by Dr. Mikhael, to assess costs of \$1,226.19 to be paid within 90 days.

DOW-4 Boca Raton Surgery Center, LLC, PH 24541 – Boca Raton, FL
 Case No. 2014-02247 – PCP (Glass/Philip)

Respondent violated:

Count One: Section 456.072(1)(k), F.S. (2013), by violating Section 465.023(1)(c), F.S. (2013), and Section 499.005(18), F.S. (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.

Respondent was present and sworn in by the court reporter. Respondent was represented by Monica Rodriguez, Esquire.

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

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

Motion: by Dr. Mikhael, 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: Fine of \$2,000 and a 12 hour Laws and Rules CE to be completed by owner within 1 year of final order.

Motion: by Dr. Alvarez, seconded by Dr. Fallon, to dismiss the case. Motion carried.

DOW-5 Edwin Miguel Rodriguez, RPT 9084 – Orlando, FL
 Case No. 2013-09675 – PCP (Glass/Philip)

Respondent violated:

Count One: Section 456.072(1)(aa), F.S. (2012), by testing positive for marijuana on a confirmed employer-ordered drug screening when Respondent did not have a lawful prescription and legitimate medical reason for using the drug.

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 y 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. Weizer, 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: Fine of \$1,500, costs of not to exceed \$2,557.83, and respondent must undergo PRN evaluation and comply with any contract if offered.

Motion: by Dr. Mikhael, seconded by Dr. Alvarez, to accept the recommendation of the Department. Motion carried.

Motion: by Dr. Mikhael, seconded by Dr. Weizer, to assess costs of \$937.73. Motion carried.

DOW-6 AB Pharmacy Corporation, LLC, PH 21720 – Miami, FL
Case No. 2013-10886 – PCP (Garcia/Fallon)

See VR-12. Permit had been voluntarily relinquished earlier in the day.

Motion: by Dr. Weizer, seconded by Mrs. Glass, to dismiss the case. Motion carried.

DOW-7 **Lloyd A. Price, PS 33126 – Mulberry, FL**
Case No. 2012-07121 – PCP (Glass/Fallon)

DOW-7 was withdrawn by the Department.

DOW-8 **Amanda Bourgeois Twehues, RPT 5904 – Ponte Vedra, FL**
Case No. 2012-07169 – PCP (Mesaros/Fallon)

Respondent violated:

Count One: Section 465.016(1)(m), F.S. (2011-2012), by being unable to practice as a pharmacy technician with reasonable skill and safety due to her use of drugs.

Respondent was not present nor represented by counsel.

Motion: Mrs. Glass, seconded by Dr. Mikhael, 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. Mikhael, to accept the investigative report into evidence for the purposes of imposing a penalty, to adopt the findings and facts as set forth in the Administrative Complaint, and 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. Mikhael, to accept the recommendations of the Department. Motion failed. Dr. Alvarez, Dr. Weizer, and Mr. Philip were in opposition.

Motion: by Mr. Philip, seconded by Dr. Alvarez, for indefinite suspension until respondent has undergone a PRN evaluation and can demonstrate that they can practice with reasonable skill and safety. Respondent must comply with any contract or requirements set forth by PRN. Motion carried with Dr. Mikhael, Dr. Weizer, and Mrs. Glass in opposition.

Motion: by Dr. Mikhael, seconded by Mr. Philip, \$3,356.42 to be paid within 90 days of reinstatement. Motion carried.

Dr. Mesaros thanked Board Staff and Department of Health staff for their hard work for the State of Florida.

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

I-1 Maksim Yermakov, PS 48324 – Plantation, FL
Case No. 2013-01446 – PCP Glass/Philip

Respondent violated:

Count One: Section 456.072(1)(k), F.S. (2012) by and through a violation of 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.

Respondent was present and sworn in by the court reporter. Respondent was represented by Greg Ross, Esquire.

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

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

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

Motion: by Dr. Fallon, 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: Fine of \$1,000, probationary period of one year with the restriction that the respondent cannot act as a PDM, and a 12 hour laws and rules CE.

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

Motion: by Dr. Weizer, seconded by Dr. Mikhael, to assess costs of \$373.82. Motion carried.

I-2 Jessica Lynn Nicola, RPT 41464 – St. Petersburg, FL
Case No. 2012-14342 – PCP (Mesaros/Mikhael/Meshad/Weizer)

Agenda Item I-2 was pulled by the Department.

I-3 Richard Alonso, PS 39780 – Safety Harbor, FL
Case No. 2013-17761 – PCP (Glass/Risch)

Agenda Item I-3 was granted a continuance with good cause being the fact that the respondent had recently acquired new representation.

I-4 Nicole Schreiber, PS 40395 – Fort Myers, FL
Case No. 2012-18855 - PCP (Risch/Mesaros)

Martha Brown (PRN) was present and stated that Ms. Schreiber underwent an evaluation and determined she would require a contract with PRN.

Sharon Wagner (Executive Director – House of Hope) was present and advocated on behalf of Ms. Schreiber.

Motion: by Dr. Alvarez, seconded by Mr. Adams, for respondent to continue refraining from practice for 3 months followed by a one year probationary period with the restriction that the respondent cannot act as a PDM and respondent will undergo random drug testing from the House of Hope with a minimum of one test per month while respondent is still at House of Hope. Motion carried.

Motion: by Mr. Adams, seconded by Dr. Alvarez, to assess costs of \$1,396.10 to be paid within 2 years of reinstatement. Motion carried.

E. RECOMMENDED ORDER

R-1 Christopher S. Switlyk, PS 36908 – Tampa, FL
Case No. 2011-20634 - PCP Mikhael/Mesaros
DOAH Case No. 14.0883PL

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.

Respondent was not present nor represented by counsel.

Motion: by Dr. Fallon, seconded by Dr. Alvarez, to not accept the section of documentation starting on page 893 due to formatting problems. Motion carried.

Motion: by Dr. Weizer, seconded by Mrs. Glass, deny the exception on the basis there was enough evidence to substitute the ALJ's finding via the recommended order. Motion carried.

Motion: by Mrs. Glass, seconded by Dr. Fallon, to adopt the Administrative Law Judge's findings of fact as the Board's findings of fact. Motion carried.

Motion: by Mrs. Glass, seconded by Dr. Alvarez, to adopt the conclusions of law set forth in the recommended order as the conclusions of law of the Board and find that this constitutes a violation of the practice act. Motion carried.

Motion: by Dr. Fallon, seconded by Mrs. Glass, for permanent revocation of the respondent's license as recommended by the Administrative Law Judge. Motion carried.

The Department withdrew their motion for costs.

Motion: by Dr. Fallon, seconded by Mrs. Glass, to permanently revoke on the basis of a violation of the pharmacy practice act for each count. Motion carried.

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

A. Pharmacist Endorsement Application

1. David Hermann, File: 45083 – Orlando, FL

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 approve the application. Motion carried.

2. Amy Biedenharn, File: 44022 – Aurora, IN

Respondent was not present nor represented by counsel.

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

B. Pharmacist Exam Application

1. Joseph Ruske Jr., File: 32396 – Destin, FL

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

Motion: by Dr. Mesaros, seconded by Mr. Philip, to allow Mr. Ruske to withdraw his application. Motion carried.

2. Adam James Lawlor, File: 45598 - Jacksonville, FL

Respondent was present and sworn in by the court reporter. Respondent was represented by Ken Metzger, Esquire.

Motion: by Mrs. Glass, seconded by Dr. Mikhael, to allow the applicant to sit for the exam. Motion carried.

3. John Major, File: 43928 – Indian Shores, FL

Respondent was present and sworn in by the court reporter. Respondent was represented by Martin Dix, Esquire.

Motion: by Mr. Meshad, seconded by Dr. Weizer, to waive the 90 day requirement for action on an application. Motion carried.

C. Pharmacist Intern Application

1. William Abdo, File: 20977 – Tallahassee, FL

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

Motion: by Dr. Alvarez, seconded by Dr. Fallon, to allow the applicant to withdraw their application. Motion carried.

D. Non-Resident Pharmacy Permit Application

1. JMA Partners dba Guardian Pharmacy Services, File: 21247 – Dallas, TX

Respondent was not present nor represented by counsel.

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

E. Registered Pharmacy Technician Application

1. Marissa Elizabeth Pate, File: 56154 – St. Petersburg, FL

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

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

2. Omar Emilio Fernandez, File: 55819 – Palmetto Bay, FL

Respondent was not present nor represented by counsel.

Motion: by Dr. Fallon, seconded by Mr. Adams, to vacate previous intent to deny. Motion carried.

Motion: by Mrs. Glass, seconded by Mr. Adams, to deny based on Chapter 465 violation. Motion carried.

TAB 6 LICENSURE ISSUES

A. Request for Termination of Probation

1. Smitaben Parmar, PS 43399 – West Palm Beach, FL

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

Motion: by Dr. Alvarez, seconded by Mrs. Glass, to terminate probation. Motion carried.

Dr. Mesaros opened the floor to public discussion.

Michael Jackson (FPA) approached the committee to discuss various and thanked the Board for their hard work.

Mr. Philip suggested adding the minutes to the case materials for an easier point of reference.

Motion: by Dr. Fallon, seconded by Mrs. Glass, to adjourn the meeting at 4:53p.m. Motion carried.