

Draft Minutes

February 9, 2023

8:30 a.m. ET

Embassy Suites by Hilton Orlando Lake Buena Vista South

4955 Kyngs Heath Road

Kissimmee, FL 34746

(407) 597-4000



Jeenu Philip, BPharm
Chair

Patty Ghazvini, PharmD, BCGP,
BPharm, Vice-Chair

Jessica Sapp, Executive Director

**BOARD OF PHARMACY
GENERAL BUSINESS MEETING
DRAFT MINUTES
Embassy Suites by Hilton Orlando Lake Buena Vista South
4955 Kyngs Heath Road
Kissimmee, FL 34746
(407) 597-4000**

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.

I. CALL TO ORDER/ROLL CALL

Call to Order - The meeting was called to order by Board Chair, Mr. Philip, at 8:30 a.m. ET.

Those present during the meeting included the following:

MEMBERS PRESENT:

Jeenu Philip, BPharm, Chair
Patty Ghazvini, PharmD, BCGP, Vice – Chair
Jeffrey J. Mesaros, PharmD, JD
Dorinda Segovia, PharmD
Maja Gift, BPharm, MHA, Cph
Jonathan Hickman, PharmD
Cristina Medina, PharmD
Daniel Kirk, MS, CSCS Consumer Member
Ryan West, Consumer Member

STAFF PRESENT:

Jessica Sapp, Executive Director
Traci Zeh, Program Administrator

BOARD COUNSEL:

Kara Aikens, Assistant Attorney General

PROSECUTION ATTORNEY:

Alejandro Camacho, Assistant General Counsel

COURT REPORTER:

Donna Wolk
America Court Reporting
3213 Hargill Drive Orlando, FL 32806
Reportingorlando@aol.com
(407) 896-1813
Fax: (407) 896-1814

To accommodate individuals wishing to address the Board, the Board Chair may adjust the sequence of the agenda items. The meeting minutes reflect the actual sequence of the events rather than the original agenda order.

II. DISCIPLINARY CASES – Jeenu Philip, BPharm, Chair

A. SETTLEMENT AGREEMENTS

- i. Holiday CVS, LLC, PH, d/b/a/ CVS Pharmacy #5157
Case No. 2021-38795
PCP – Mikhael & Philip

Due to professional association with Holiday CVS, Dr. Medina recused herself.

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

Mr. Camacho presented the cases to the Board. The Respondent was charged with the following violation(s): **Count I:** Section 465.023(1)(c), through a violation of section 465.025(7), F.S. 2021 **Count II:** Section 465.023(1)(c) through a violation of section 465.022(11), F.S., and/or Rule 64B16-27.450(1)(b) F.A.C. **Count III:** Section 465.016(1)(r), F.S., through a violation of section 456.072(1)(dd), F.S. 2021 **Count IV:** Section 465.023(1)(c), F.S., through a violation of Rule 64B16-28.110, F.A.C. for failing to designate a PDM and/or notify the Board of the identity of a PDM, failing to display human trafficking signage, failed to display generic equivalent signage, by having one or more expired medication in the active stock.

A Settlement Agreement was presented to the Board with the following terms:

- Appearance
- Fine of \$3,000.00 to be within one (1) year of the filing of the Final Order
- Costs of \$817.60 to be within one (1) year of the filing of the Final Order
- Successfully passing an inspection at the Respondents cost within six (6) months of the filing of the Final Order

After discussion, the following action was taken:

Motion: by Dr. Hickman to accept the Settlement Agreement.

Second: by Dr. Segovia

Vote: Unanimous

- ii. Holiday CVS, LLC, PH, d/b/a/ CVS Pharmacy #03250
Case No. 2022-18464
PCP – Montgomery & Ghazvini

Due to professional association with Holiday CVS, Dr. Medina recused herself.

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

Mr. Camacho presented the cases to the Board. The Respondent was charged with the following violation(s): **Count I:** Section 465.023(1)(c), F.S., through a violation of Rule 64B16-28.110, F.A.C. **Count II:** Section 465.023(1)(c), F.S., through a violation of Rule 64B16-28.108(3), F.A.C., by having one or more expired medications in the active stock and one or more improperly labeled medications.

A Settlement Agreement was presented to the Board with the following terms:

- Appearance
- Fine of \$2,500.00 to be within ninety (90) days of the filing of the Final Order
- Costs of \$2,392.81 to be within ninety (90) days of the filing of the Final Order

After discussion, the following action was taken:

Motion: by Dr. Hickman to accept the Settlement Agreement.
Second: by Dr. Segovia
Vote: Unanimous

iii. Maurice H. Barnett III, R.Ph., Case No. 2022-07475
PCP – Mikhael & Philip

The Respondent was present and sworn in by the court reporter and represented by Joel Boomer, Esq.

Mr. Camacho presented the cases to the Board. The Respondent was charged with the following violation(s): Section 465.016(1)(r), F.S., through a violation of section 456.072(1)(k), F.S. by failing to report to the Board missing controlled substances from inventory at Speedy Scripts as the designated prescription department manager.

A Settlement Agreement was presented to the Board with the following terms:

- Appearance
- Fine of \$1,000.00 to be within ninety (90) days of the filing of the Final Order
- Costs of \$2,419.37 to be within one (1) year of the filing of the Final Order
- Successful completion of a twelve (12) hour laws and rules course to be completed within one (1) year of the filing of the Final Order and to be in addition to the required hours for license renewal.

After discussion, the following action was taken:

Motion: by Dr. Hickman to reject the Settlement Agreement.
Second: by Dr. Mesaros
Vote: 4/3. Dr. Ghazvini, Dr. Segovia, and Dr. Medina opposed. Motion carried.

Motion: by Dr. Hickman to counteroffer with the following terms:

- Appearance
- Costs of \$2,419.37 to be within one (1) year of the filing of the Final Order
- Successful completion of a twelve (12) hour laws and rules course to be completed within one (1) year of the filing of the Final Order and to be in addition to the required hours for license renewal.

Second: by Dr. Mesaros
Vote: 4/3. Dr. Ghazvini, Dr. Segovia, and Dr. Medina opposed. Motion carried.

The Respondent accepted the counteroffer.

B. INFORMAL

i. Felicia Donahoo, R.P.T., Case No. 2020-11817
PCP – Weizer & Philip
PCP – Michael & Segovia

The Respondent was not present nor represented by Counsel.

Mr. Camacho presented the cases to the Board. The Respondent was charged with the following violation(s): Section 456.072(1)(m), F.S. by diverting one or more tablets of Tizanidine while employed as a registered pharmacy technician.

Motion: by Dr. Hickman to find that the Respondent was properly served, and the matter was appropriately before the Board as an informal hearing, to accept the investigative report into evidence and to adopt the findings of fact and to adopt the conclusions of law as set forth in the Administrative Complaint and to find by clear and convincing evidence that this constitutes a violation of the Practice Act.

Second: by Ms. Gift

Vote: Unanimous

The Department presented the following recommendation:

- Revocation

After discussion, the following action was taken:

Motion: by Dr. Hickman to accept the Departments recommendation.

Second: by Dr. Medina

Vote: Unanimous

The Department withdrew their motion for cost.

C. VOLUNTARY RELINQUISHMENTS

- i. Caridad Gonzalez-Limberg, R.Ph., Case No. 2018-15891
PCP – Weizer & Hickman
- ii. Caridad M. Gonzalez-Losada, C.Ph., Case No. 2022-09155
PCP – Weizer & Hickman

Motion: by Dr. Ghazvini to accept the voluntary relinquishments.

Second: by Mr. West

Vote: 7/1. Dr. Segovia opposed.

D. Prosecution Services Report – Alejandro Camacho

Mr. Camacho presented the prosecution services case report to the Board and explained the current caseload is at 152 cases, from 227.

Motion: by Dr. Hickman to allow prosecution to continue prosecuting cases older than one year.

Second: by Dr. Mesaros

Vote: Unanimous

III. APPLICATIONS FOR REVIEW – Jonathan Hickman, PharmD

A. Pharmacists

- i. Austin Butler

Dr. Ghazvini recused herself from voting on Dr. Butler's application as he is a former student of hers that attended Florida A & M University.

The applicant was present and sworn in by the court reporter.

The applicant applied for a pharmacist license and answered yes to the criminal and discipline history questions on his application.

After further discussion the Board took the following action:

Dr. Butler requested to waive the ninety (90) day requirement of his application to allow him time to contact PRN.

Motion: by Mr. Philip to approve the application contingent upon a PRN evaluation. Dr. Hickman shall be delegated to review and approve the application based on the PRN evaluation.

Second: by Dr. Segovia

Vote: Unanimous

B. Registered Pharmacy Technician

i. Deandera Wiles

The applicant was present and sworn in by the court reporter.

The applicant applied for a registered pharmacy technician license and answered yes to a criminal history question on her application.

After further discussion the Board took the following action:

Motion: by Mr. Philip to approve the application.

Second: by Mr. West

Vote: Unanimous

ii. Jonathan Rodriguez

The applicant was present and sworn in by the court reporter.

The applicant applied for a registered pharmacy technician license and answered yes to a criminal history question on his application.

After further discussion the Board took the following action:

Mr. Rodriguez waived the ninety (90) day requirement of his application.

Motion: by Dr. Ghazvini to approve the application contingent upon a PRN evaluation. Dr. Hickman shall be delegated to review and approve the application based on the PRN evaluation.

Second: by Dr. Segovia

Vote: Unanimous

C. Pharmacy Permits

i. ASM Pharmacy-Tennessee, LLC

The applicant was present and sworn in by the court reporter and represented by Ty Jackson, Esq.

The applicant submitted an application for a Non-Resident Pharmacy Permit and was required to appear due to their discipline history.

After further discussion the Board took the following action:

Motion: by Dr. Hickman to approve the application.

Second: by Ms. Gift

Vote: Unanimous

IV. PETITION FOR VARIANCE OR WAIVER

A. Taha Al Obaidi, 64B16-26.2032, F.A.C., Application for Pharmacy Intern Registration

The petitioner was present and sworn in by the court reporter.

Pursuant to Rule 64B16-26.2032(2)(b), F.A.C., a foreign pharmacy graduate must submit satisfactory proof that they have been accepted by the Foreign Pharmacy Graduate Examination Commission to sit for the Foreign Pharmacy Graduate Equivalency Examination (FPGEE), or has obtained a passing score on the Examination, to be considered a graduate of an accredited college or school of pharmacy.

Per the National Association of Boards of Pharmacy (NABP) a candidate must have completed a least a 5-year pharmacy curriculum at the time of graduation if they earned their degree after January 1, 2003, in order to qualify to sit for the FPGEE. This policy is not under the authority of jurisdictions and is unable to be waived by the Board of Pharmacy.

Mr. Al Obaidi completed the 4-year undergraduate program in Pharmacy and was awarded the degree of Bachelor of Pharmacy in India. Mr. Al Obaidi indicated his education is being reviewed by Educational Credentials Evaluators (ECE) and will be supply the evaluation once available.

Mr. Al Obaidi is unable to show proof that he has been accepted to sit for the FPGEE as his education does not meet NABP requirements; therefore, he has submitted a petition for a waiver from Rule 64B16-26.2032(2)(b), F.A.C.

Motion: by Dr. Hickman to approve the petition and approve the intern license to expire within eighteen (18) months.

Second: by Dr. Ghazvini

Vote: Unanimous

V. REPORTS – Jeenu Philip, BPharm, Chair

A. Board Chair

No report.

B. Executive Director's Report – Jessica Sapp, Executive Director

i. 2023 NABP Annual Meeting, Official Delegate

The Board identified Mr. Philip as the Voting Delegate and Dr. Mesaros as the Alternant Delegate to attend the 2023 NABP Annual Meeting that is to be held on May 10-12, 2023.

ii. Electronic Licensing

Ms. Sapp provided an overview of the new electronic licensing system to be implemented on July 1, 2023.

Ms. Sapp also provided an overview of the Board Chairs/Vice Chairs meeting that was held on January 13, 2023.

iii. Staff Recognition

This was provided for informational purposes only.

iv. Legislative Updates

Ms. Sapp provided an overview of the bills that have currently been filed for the 2023 legislation.

C. Board Counsel Report – Kara Aikens, Assistant Attorney General

i. Rules Status Report

Ms. Aikens provided the Board with a summary of the current rules report.

Ms. Aikens provided an overview of the comments from JAPC regarding rule 64B16-28.140, F.A.C. The rule incorporates by reference 21 CFR section 1304.04, in effect on March 1, 1998. It appears that regulation has been updated since that date.

64B16-28.140 Record Maintenance Systems for All Pharmacy Permits.

(1) Requirements for records maintained in a data processing system.

(a) The pharmacy must comply with the provisions of 21 C.F.R. Section 1304.04 (a regulation of the Federal Drug Enforcement Administration), which is hereby incorporated by reference as of ~~March 1, 1998~~ June 28, 2021, when such is applicable to operate such a data processing system if any controlled substances (as that term is used in Chapter 893, F.S.) are dispensed from the pharmacy.

(b) Any pharmacy using a data processing system must meet the requirements of 21 C.F.R. Section 1306.22, which is hereby incorporated by reference as of March ~~1, 1998~~ 31, 2010.

Motion: by Dr. Ghazvini to approve the amended language in subsection (a).

Seconded: by Mr. West

Vote: Unanimous

Motion: by Dr. Segovia to find no economic impact on small businesses.

Second: by Dr. Hickman

Vote: Unanimous

Motion: by Dr. Mesaros to find that a Statement of Estimated Regulatory Cost was not necessary.

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Second: by Dr. Ghazvini
Vote: Unanimous

Motion: by Dr. Hickman to find that this rule or a violation of this rule should not be designated as a minor violation.

Second: by Dr. Ghazvini
Vote: Unanimous

Motion: by Dr. Hickman to find that this rule shall not include a sunset provision.

Second: by Dr. Ghazvini
Vote: Unanimous

Motion: by Dr. Mesaros to approve the amended language (b)

Seconded: by Ms. Gift
Vote: Unanimous

Motion: by Dr. Mesaros to find no economic impact on small businesses and to find that a Statement of Estimated Regulatory Cost was not necessary as the change reduces regulatory burdens, to find that this rule or a violation of this rule should not be designated as a minor violation and to find that this rule shall not include a sunset provision.

Second: by Dr. Ghazvini
Vote: Unanimous

D. Committee Report

- i. Compounding Committee – Dorinda Segovia, PharmD, MBA

Dr. Segovia provided an overview of the Sterile Compounding Subcommittee held February 8, 2023.

E. Investigative Services Report – Robert Difiore, Pharmaceutical Program Manager

Robert Difiore provided a brief update on the inspection results as of December 2022.

As of December 2022 - Non-Sterile Pharmacy inspections currently at 3,356 inspections completed; Sterile Compounding Pharmacy inspections currently at 334 inspections completed.

VI. NEW BUSINESS – Jeenu Philip, BPharm, Chair

A. Ratification of Issued Licenses/Certificates

- i. Pharmacist (licensure) – 151
- ii. Pharmacist (exam eligibility) – 140
- iii. Pharmacist Intern – 70
- iv. Consultant Pharmacist – 23
- v. Nuclear Pharmacist – 3
- vi. Pharmacy/Facilities – 87
- vii. Registered Pharmacy Technician – 1,104
- viii. Registered Pharmacy Technician Program – 9
- ix. Nonresident Sterile Compound – 5

- x. Approved CE Courses – 13
- xi. Approved CE Providers – 3
- xii. Individual Pharmacist Request for Approval of CE – 3

Motion: by Dr. Mesaros to accept the ratification lists.

Second: by Dr. Hickman

Vote: Unanimous

VII. OLD BUSINESS – Jeenu Philip, BPharm, Chair

A. Review and Approval of Meeting Minutes

- i. December 14, 2022 Compounding Committee Meeting Minutes
- ii. December 14, 2022 Rules Committee Meeting Minutes
- iii. December 15, 2022 General Business Meeting Minutes

Motion: by Dr. Segovia to accept the meeting minutes.

Second: by Ms. Gift

Vote: Unanimous

VIII. FOR YOUR INFORMATION

A. Florida Prescription Drug Monitoring Program (PDMP) Monthly Report

This was provided for informational purposes only.

IX. PUBLIC COMMENT

A. Pharmacy Closures and Reduction in Hours of Operation

The Florida Pharmacy Association (FPA) submitted a requested to the Board to consider reducing the pharmacy operating hours outlined in 64B16-28.1081, F.A.C.

FPA expressed aggressive enforcement of the relevant statutes and rules could force pharmacies who are experiencing self-induced staff shortages to improve their workplace conditions and reduce the risk of medication errors address the current staffing issues in the pharmacy industry.

This item was tabled to the April meeting.

X. ADJOURNMENT

There being no further business the meeting adjourned at 12:00 p.m. ET.