

**DEPARTMENT OF HEALTH
BOARD OF PHARMACY
BOARD MEETING
MINUTES
June 9-10, 2009**

Marriott Ft. Lauderdale North
6650 North Andrews Avenue
Ft. Lauderdale, FL 33309
954-771-0440

Board Members Present:

Ron Salem, PharmD, Jacksonville, Chair
Jim Powers, BPharm, Tallahassee, Vice-Chair
Albert Garcia, BPharm, M.H.L., Miami
Cynthia Griffin, PharmD, Jacksonville
Fritz Hayes, BPharm, Miami
Amy Jones, JD, Consumer Member, Tallahassee
Steve Melvin, Pharm.D., Panama City
Lorena Risch, Consumer Member, Bradenton
Michele Weizer, PharmD, Boca Raton

Board Staff Present:

Rebecca Poston, RPh, C.Ph., Executive Director
Ronda Bryan, Program Operations Administrator
Maxine Wenzinger, Administrative Assistant II

Board Counsel Present:

Diane Guillemette, Assistant Attorney General

Department of Health Staff Present:

Billie Jo Owens, Assistant General Counsel
Bob Garey, Chief, Investigative Services

Tuesday, June 9, 2009

- 10:00 a.m. Rules Committee**
- 1:00 p.m. Presentations by ScriptPro, Walgreens and CVS**
- 2:30-4:00 Rules Workshop – Rules 64B16-26.351**
- 4:00 p.m. Tripartite Committee Meeting**

Wednesday, June 10, 2009 – 8:00 a.m. – 4:00 p.m. – Disciplinary Cases

Court Reporter: Official Reporting Services, LLC, 954-467-8204

8:00 a.m. Call To Order by Ron Salem, Chair

TAB 1 DISCIPLINARY CASES – Billie Jo Owens and Ron Salem, PharmD

A. STIPULATION – NON APPEARANCE CASES

B. STIPULATION – APPEARANCE REQUIRED CASES

C. DETERMINATION OF WAIVER

DOW-1 USA Sunset Pharmacy, Inc., Miami, FL, Ph 22143, Case No. 2007-08618
PC: Powers/Jones

Respondent nor counsel was present.

Ms. Owens advised the Board the Respondent violated Section 465.023(1)(c), Florida Statutes (2006), by violating any of the rules of the Board of Pharmacy, by violating Rule 64B16-28.202, Florida Administrative Code, by failing to follow the required closing procedures required by the rule.

MOTION: by Weizer, second by Melvin to find that Respondent was properly served, did not return the election of rights, and has waived his right to be heard. Motion carried unanimously.

MOTION: by Weizer, second by Melvin to adopt the findings of fact as alleged in the Administrative Complaint. Motion carried unanimously.

MOTION: by Weizer, second by Melvin to adopt the conclusions of law including that Respondent has violated the statutes and rules as alleged in the Administrative Complaint. Motion carried unanimously.

MOTION: by Weizer, second by Melvin to accept into evidence the investigative file and requests an opportunity to make a penalty recommendation. Motion carried unanimously.

MOTION: by Weizer, second by Melvin to revoke license. Motion carried unanimously.

MOTION: by Weizer, second by Melvin to assess costs in the amount of \$2,295.99 to be paid within thirty (30) days of the filing of the Final Order. Motion carried unanimously.

DOW-2 Almeta Morse, RPh, Washington, DC, PS 21804, Case No. 2008-15749
PC: Salem/Melvin

Respondent nor counsel was present.

Ms. Owens advised the Board the Respondent violated Section 465.016(1)(n), Florida Statutes (2007), by violating an order of the board previously entered in a disciplinary hearing.

MOTION: by Griffin, second by Garcia to find that Respondent was properly served, did not return the election of rights, and has waived his right to be heard. Motion carried unanimously.

MOTION: by Griffin, second by Garcia to adopt the findings of fact as alleged in the Administrative Complaint. Motion carried unanimously.

MOTION: by Weizer, second by Griffin to adopt the conclusions of law including that Respondent has violated the statutes and rules as alleged in the Administrative Complaint. Motion carried unanimously.

MOTION: by Griffin, second by Garcia to accept into evidence the investigative file and requests an opportunity to make a penalty recommendation. Motion carried unanimously.

MOTION: by Griffin, second by Weizer to revoke license. Motion carried unanimously.

MOTION: by Griffin, second by Weizer to assess costs in the amount of \$797.48 to be paid within thirty (30) days of the filing of the Final Order. Motion carried unanimously.

DOW-3 Faouzie Chammah, RPh, Jacksonville, FL, PS 32536, Case No. 2008-13303
PC: Salem/Melvin

Respondent nor counsel was present.

Ms. Owens advised the Board the Respondent violated Section 465.016(1)(n), Florida Statutes (2007), by violating an order of the board previously entered in a disciplinary hearing.

MOTION: by Weizer, second by Griffin to find that Respondent was properly served, did not return the election of rights, and has waived his right to be heard. Motion carried unanimously.

MOTION: by Weizer, second by Griffin to adopt the findings of fact as alleged in the Administrative Complaint. Motion carried unanimously.

MOTION: by Weizer, second by Griffin to adopt the conclusions of law including that Respondent has violated the statutes and rules as alleged in the Administrative Complaint. Motion carried unanimously.

MOTION: by Weizer, second by Griffin to accept into evidence the investigative file and requests an opportunity to make a penalty recommendation. Motion carried unanimously.

MOTION: by Garcia, second by Risch to assess an administrative fine in the amount of \$2,500.00 to be paid by the time license is reinstated. Respondent's license shall be suspended indefinitely until all costs are paid but no less than one year from the filing of the Final Order. Respondent must personally appear before the Board and demonstrate that she is safe to practice with reasonable skill and safety. Said demonstration shall include an evaluation by the Professionals Resource Network (PRN) and PRN advocates for Respondent's return to practice. The Board reserves the right to place conditions upon Respondent's return to practice. Motion carried unanimously.

MOTION: by Garcia, second by Weizer to assess costs in the amount of \$745.95 to be paid within thirty (30) days of the filing of the Final Order. Motion carried unanimously.

DOW-4 Kasinauth Sharma, RPh, Palm Coast, FL, PS 27279, Case No. 2007-15247
PC: Powers/Jones

MOTION: by Weizer, second by Melvin to continue until October. Motion carried unanimously.

DOW-5 Michael Eugene Stoddard, RPh, Englewood, CO, PS 19944, Case No. 2008-15151
PC: Lalani/Merrell

Respondent nor counsel was present.

Ms. Owens advised the Board the Respondent violated Section 465.016(1)(r), Florida Statutes (2007), by violating any provision of Chapter 456 through a violation of Section 456.072 (1)(f), Florida Statutes (2007), by having a license or the authority to practice any regulated profession revoked, suspended, or otherwise acted against by the licensing authority of another jurisdiction.

MOTION: by Griffin, second by Weizer to find that Respondent was properly served, did not return the election of rights, and has waived his right to be heard. Motion carried unanimously.

MOTION: by Powers, second by Griffin to adopt the findings of fact as alleged in the Administrative Complaint. Motion carried unanimously.

MOTION: by Weizer, second by Griffin to adopt the conclusions of law including that Respondent has violated the statutes and rules as alleged in the Administrative Complaint. Motion carried unanimously.

MOTION: by Weizer, second by Griffin to accept into evidence the investigative file and requests an opportunity to make a penalty recommendation. Motion carried unanimously.

MOTION: by Weizer, second by Griffin to assess an administrative fine in the amount of \$1,000.00 to be paid within thirty (30) days of the filing of the Final Order. Respondent's license shall be suspended indefinitely until license has been reinstated by the state of Colorado. Motion carried unanimously.

MOTION: by Weizer, second by Melvin to assess costs in the amount of \$717.45 to be paid within thirty (30) days of the filing of the Final Order. Motion carried unanimously.

DOW-6 Alan R. Edmunds, RPh, Gulf Breeze, FL, PS 18295, Case No. 2008-22078
PC: Garcia/Hayes

Respondent nor counsel was present.

Ms. Owens advised the Board the Respondent violated Section 465.016(1)(f), Florida Statutes (2007), by having been convicted or found guilty of crimes that directly related to the practice of pharmacy.

MOTION: by Weizer, second by Risch to find that Respondent was properly served, did not return the election of rights, and has waived his right to be heard. Motion carried unanimously.

MOTION: by Weizer, second by Melvin to adopt the findings of fact as alleged in the Administrative Complaint. Motion carried unanimously.

MOTION: by Weizer, second by Melvin to adopt the conclusions of law including that Respondent has violated the statutes and rules as alleged in the Administrative Complaint. Motion carried unanimously.

MOTION: by Melvin, second by Weizer to accept into evidence the investigative file and requests an opportunity to make a penalty recommendation. Motion carried unanimously.

MOTION: by Melvin, second by Risch to assess an administrative fine in the amount of \$6,000.00 to be paid within thirty (30) days of the filing of the Final Order. Respondent's license shall be suspended until he is safe to practice pharmacy but no less than one (1) year from the filing of the Final Order. Response must contact and comply with recommendations by PRN. Upon reinstatement of license, Respondent's shall be placed on probation for a period of five (5) years. The Board retains the right to impose conditions at time of reinstatement. Motion carried unanimously.

MOTION: by Weizer, second by Melvin to assess costs in the amount of \$2,219.86 to be paid within thirty (30) days of the filing of the Final Order. Motion carried unanimously.

DOW-7 Globalnet Pharmacies, LLC, Boca Raton, FL, PH 21582, Case No. 2007-37860
PC: Powers/Risch

Respondent nor counsel was present.

Ms. Owens advised the Board the Respondent violated Section 465.016(1)(e), Florida Statutes (2007), by violating a provision of Chapter 499, Florida Statutes, though a violation of Section 499.005, Florida Statutes (2007), by knowingly possessing drugs which are misbranded or improperly labeled as described by the Florida Drug and Cosmetic Law; and Section 465.023(1)(c), Florida Statutes (2007), by violating a provision of Chapter 499, Florida Statutes, through a violation of Section 499.005, Florida Statutes (2007), by holding adulterated drugs in the prescription department of Globalnet.

MOTION: by Melvin, second by Griffin to find that Respondent was properly served, did not return the election of rights, and has waived his right to be heard. Motion carried unanimously.

MOTION: by Melvin, second by Griffin to adopt the findings of fact as alleged in the Administrative Complaint. Motion carried unanimously.

MOTION: by Weizer, second by Melvin to adopt the conclusions of law including that Respondent has violated the statutes and rules as alleged in the Administrative Complaint. Motion carried unanimously.

MOTION: by Melvin, second by Weizer to accept into evidence the investigative file and requests an opportunity to make a penalty recommendation. Motion carried unanimously.

MOTION: by Melvin, second by Garcia to revoke license. Motion carried unanimously.

MOTION: by Weizer, second by Melvin to assess costs in the amount of \$5,748.77 to be paid within thirty (30) days of the filing of the Final Order. Motion carried unanimously.

DOW-8 Victor Uba Okwute, RPh, Winter Springs, FL, PS 37354, Case No. 2008-13214
PC: Parrado/Jones

Respondent nor counsel was present.

Ms. Owens advised the Board the Respondent violated Section 465.016(1)(g), Florida Statutes (2007), by furnishing the article Prednisone different from the prescribed article Prandin to patient F.S.

MOTION: by Griffin, second by Melvin to find that Respondent was properly served, did not return the election of rights, and has waived his right to be heard. Motion carried unanimously.

MOTION: by Weizer, second by Melvin to adopt the findings of fact as alleged in the Administrative Complaint. Motion carried unanimously.

MOTION: by Weizer, second by Melvin to adopt the conclusions of law including that Respondent has violated the statutes and rules as alleged in the Administrative Complaint. Motion carried unanimously.

MOTION: by Melvin, second by Griffin to accept into evidence the investigative file and requests an opportunity to make a penalty recommendation. Motion carried unanimously.

MOTION: by Weizer, second by Melvin to assess an administrative cost in the amount of \$1,000.00 to be paid within thirty (30) days of the filing of the Final Order. Respondent shall be placed on one year probation and must complete an eight (8) hour misfill course within six (6) months of the filing of the Final Order. Motion carried unanimously.

MOTION: by Weizer, second by Griffin to assess costs in the amount of \$1,696.28 to be paid within thirty (30) days of the filing of the Final Order. Motion carried unanimously.

DOW-9 William Wood, RPh, Chipley, FL, PS 31383, Case No. 2008-14867
PC: Powers/Jones

Respondent nor counsel was present.

Ms. Owens advised the Board the Respondent violated Section 465.016(1)(r), Florida Statutes (2005, 2006, and 2007), by violating a rule of the Board or Department through a violation of Rule 64B16-26.103(1) and 64B16-26.603, Florida Administrative Code, by failing to submit proof satisfactory to the Board that during the biennial period preceding the renewal period the applicant has participated in not less than 30 hours of approved courses of continued

professional pharmaceutical education and failing to retain documentation of participation in continuing education programs required for license renewal for not less than two years after the license is renewed for audit purposes.

MOTION: by Griffin, second by Melvin to find that Respondent was properly served, did not return the election of rights, and has waived his right to be heard. Motion carried unanimously.

MOTION: by Weizer, second by Melvin to adopt the findings of fact as alleged in the Administrative Complaint. Motion carried unanimously.

MOTION: by Weizer, second by Melvin to adopt the conclusions of law including that Respondent has violated the statutes and rules as alleged in the Administrative Complaint. Motion carried unanimously.

MOTION: by Melvin, second by Griffin to accept into evidence the investigative file and requests an opportunity to make a penalty recommendation. Motion carried unanimously.

MOTION: by Weizer, second by Melvin to assess an administrative fine in the amount of \$1,000.00 to be paid within thirty (30) days of the filing of the Final Order. Respondent must complete 36 hours of general continuing education of which twenty (20) hours must be live and four (4) hours medication error within eighteen (18) months of the filing of the Final Order. Motion carried unanimously.

MOTION: by Weizer, second by Griffin to assess costs in the amount of \$646.37 to be paid within thirty (30) days of the filing of the Final Order. Motion carried unanimously.

D. VOLUNTARY RELINQUISHMENTS

VR-1 Hersen, Inc., PH Miami, FL, PH 15272, Case No. 2008-07703
PC: Salem/Melvin

Respondent nor counsel was present.

Ms. Owens advised the Board the Respondent violated Section 465.023(1)(c), Florida Statutes (2007), by violating a rule of the Board of Pharmacy by violating Rule 64B16-28.202(3)(a) and (b), Florida Administrative Code, by failing to follow proper procedure for closure of a pharmacy by failing to notify the Board of the closure, failing to return the pharmacy permit to the Board, and failing to notify the Board which permittee received the prescription files upon closure.

MOTION: by Garcia, second by Weizer to accept voluntary relinquishment. Motion carried unanimously.

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

I-1 Sidney B. Mason, RPh., Tamarac, FL, PS 8081, Case No. 2008-21978
PC: Parrado/Jones

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

Ms. Owens advised the Board the Respondent violated Section 465.016(1)(n), Florida Statutes (2008), by violating an order of the board previously entered in a disciplinary hearing.

MOTION: by Weizer, second by Melvin to adopt the findings of fact as alleged in the Administrative Complaint. Motion carried unanimously.

MOTION: by Weizer, second by Griffin to proceed with Hearing Not Involving disputed Issues of Material Fact.

MOTION: by Weizer, second by Melvin to adopt the conclusions of law including that Respondent has violated the statutes and rules as alleged in the Administrative Complaint. Motion carried unanimously.

MOTION: by Weizer, second by Melvin to accept into evidence the investigative file and requests an opportunity to make a penalty recommendation. Motion carried unanimously.

MOTION: by Hayes, second by Powers to assess an administrative fine in the amount of \$500.00 to be paid within thirty (30) days and accept the eight (8) hours completed. Motion carried unanimously.

MOTION: by Weizer, second by Melvin to assess costs in the amount of \$670.91 to be paid within six (6) months of the filing of the Final Order. Motion carried unanimously.

I-2 Dipti V. Patel, RPh, West Palm Beach, FL, PS 39255, Case No. 2008-07325
PC: Parrado/Jones

Respondent was present and sworn in by court reporter. Respondent was represented by Lawrence Metsch, Esquire.

Ms. Owens advised the Board the Respondent violated Section 465.016(1)(r), Florida Statutes (2007), by violating a rule of the Board, through a violation of Rule 64B16-28.110, Florida Administrative Code, by having outdated pharmaceuticals in the active stock of the pharmacy; Section 465.016(1)(r), Florida Statutes (2007), for violating a rules of the Board, thorough violation of Rule 64B16-28.108, Florida Administrative Code, and/or Rule 64B16-27.101, Florida Administrative Code, by possessing drugs which are misbranded or improperly labeled; Section 465.016(1)(r), Florida Statutes (2007), for violating a rules of the Board, through violation of rule 64B16-28.140, Florida Administrative Code, by failing to comply with daily log recordkeeping requirements; Section 465.016(1)(e), Florida Statutes (2007), for violating Section 893.07(2), Florida Statutes (2007), by failing to comply with recordkeeping requirements for controlled substances; and Section 465.016(1)(r), Florida Statutes (2007), for violating a rule of the Board, through a violation of Rule 64B16-27.300(5), Florida Administrative Code, by failing to provide to DOH investigators for review the pharmacy's CQI policy and procedures and/or a summarization of quality-related events.

MOTION: by Weizer, second by Melvin to proceed with Hearing Not Involving Disputed Issues of Material Fact.

MOTION: by Weizer, second by Melvin to adopt the findings of fact as alleged in the Administrative Complaint. Motion carried unanimously.

MOTION: by Melvin, second by Weizer to adopt the conclusions of law including that Respondent has violated the statutes and rules as alleged in the Administrative Complaint. Motion carried unanimously.

MOTION: by Melvin, second by Griffin to accept into evidence the investigative file and requests an opportunity to make a penalty recommendation. Motion carried unanimously.

MOTION: by Hayes, second by Risch to assess an administrative fine in the amount of \$2,500.00 to be paid with sixty (60) days of the filing of the Final Order. Respondent must take a 12 hour laws and rules continuing education course within one (1) year from the Filing of the Final Order. Motion carried unanimously.

MOTION: Weizer, second by Risch to assess costs in the amount of \$3,400.34 to be paid within twelve (12) months of the filing of the Final Order. Motion carried, 1 opposed (Powers).

I-3 Patricia Barreto, RPh., Boca Raton, FL, PS 31084, Case No. 2008-24053
PC: Powers/Risch

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

Ms. Owens advised the Board the Respondent violated Section 465.016(1)(g), Florida Statutes (2008), by furnishing the articles Prevacid 30 mg capsules different from the prescribed article Prevacid 30 mg tablets, and/or Lexapro 10 mg different from the prescribed article Lipitor 10 mg, to patient J.J.

MOTION: by Griffin, second by Melvin to proceed with Hearing Not Involving disputed Issues of Material Fact.

MOTION: by Weizer, second by Griffin to adopt the findings of fact as alleged in the Administrative Complaint. Motion carried unanimously.

MOTION: by Melvin, second by Griffin to adopt the conclusions of law including that Respondent has violated the statutes and rules as alleged in the Administrative Complaint. Motion carried unanimously.

MOTION: by Melvin, second by Griffin to accept into evidence the investigative file and requests an opportunity to make a penalty recommendation. Motion carried unanimously.

MOTION: by Weizer, second by Melvin to assess an administrative fine in the amount of \$500.00 to be paid within thirty (30) days of the filing of the Final Order. Respondent must take an 8 hour misfill course within one year of the filing of the Final Order. Motion carried unanimously.

MOTION: by Weizer, second by Melvin to assess costs in the amount of \$1,895.97 to be paid within sixty (60) days of the filing of the Final Order. Motion carried unanimously.

I-4 Reginald M. Dawson, RPh, Jacksonville, FL, PS 26434, Case No. 2008-20950
PC: Garcia/Hayes

Respondent nor counsel was present.

Ms. Owens advised the Board the Respondent violated Section 465.016(1)(f), Florida Statutes (2007), by having been convicted or found guilty of a crime that directly relates to the practice of pharmacy.

MOTION: by Melvin, second by Weizer to proceed with Hearing Not Involving disputed Issues of Material Fact.

MOTION: by Melvin, second by Griffin to adopt the findings of fact as alleged in the Administrative Complaint. Motion carried unanimously.

MOTION: by Melvin, second by Weizer to adopt the conclusions of law including that Respondent has violated the statutes and rules as alleged in the Administrative Complaint. Motion carried unanimously.

MOTION: by Melvin, second by Griffin to accept into evidence the investigative file and requests an opportunity to make a penalty recommendation. Motion carried unanimously.

MOTION: by Weizer, second by Melvin to revoke license. Motion carried unanimously.

MOTION: by Griffin, second by Melvin to assess costs in the amount of \$2,336.45 to be paid within thirty (30) days of the filing of the Final Order. Motion carried unanimously.

MOTION: BY Weizer, second by Griffin to reconsider after new information was received. Motion carried unanimously.

MOTION: by Weizer, second by Griffin to continue to August meeting. Motion carried unanimously.

F. PROFESSIONALS RESOURCE NETWORK CASES

PRN-1 Jacqueline M. Tracy, RPh, Lakeland, FL, PS 34090, Case No. 2008-20490
PC: Garcia/Hayes

Respondent was present and sworn in by court reporter. Respondent was represented by John Liquori, Esquire. Dr. Judy Rivenbark, Professionals Resource Network, was present.

Ms. Owens advised the Board the Respondent violated Section 456.072(1)(hh), Florida Statutes, based on her termination from the PRN program for failure to comply with PRN contract without good cause having been shown; and Section 465.016(1)(m), Florida Statutes, demonstrating such irrational and dangerous behavior by her long history of chronic alcohol abuse; by her failure to progress in the treatment and monitoring of her impairment by PRN, an impairment that is currently untreated, by her relapses; and by her purposeful disregard of the laws and regulations governing the practice of pharmacy, the rules of treatment and the provision so her

PRN contracts, and the recommendations and requirements of PRN, that she is unable to practice pharmacy with reasonable skill and safety.

MOTION: by Powers to accept settlement agreement. No second. Motion died.

MOTION: by Weizer, second by Powers to reject settlement agreement. Motion carried unanimously.

MOTION: by Weizer, second by Powers to make counter offer to accept settlement agreement with the following changes: Respondent must come back before the Board in one (1) year with PRN advocating on her behalf, practice restricted to no access to controlled substances, and licensure long contract with PRN. Respondent's license to practice pharmacy shall be suspended until the Respondent submits a Petition for Reinstatement, appears before the Board and the Board determines that Respondent is in compliance with all PRN requirements and recommendations, determines that Respondent is able to practice pharmacy with reasonable skill and safety, approves a practice plan and determines that any disciplinary obligation to pay a fine or cost imposed by the Board has been satisfied. The Board retains the right to impose restrictions or conditions. Upon reinstatement, the Respondent shall be on probation for a period of five years. During the last four months of probationary period, Respondent may present a Petition to Terminate Probation Motion carried, 1 opposed (Salem).

PRN-2 David Blazy, RPh, Miami Beach, FL, PS 25421, Case No. 2008-14681
PC: Garcia/Lalani

Respondent nor counsel was present.

Continue to August meeting.

PRN-3 Martin Veto Fratangelo, RPh, Daytona Beach, FL, PS 18125, Case No. 2008-20426
PC: Garcia/Hayes

Respondent nor counsel was present. Dr. Judy Rivenbark, Professionals Resource Network, was present.

Ms. Owens advised the Board the Respondent violated Section 465.016(1)(i), Florida Statutes, by transferring possession of legend drugs, including controlled substances, from the pharmacy to himself without a prescription and without payment; and Section 465.016(1)(m), Florida Statutes (2008), by using prescription drugs without a prescription in quantities greater than would have been prescribed for therapeutic use while on duty without the benefit of necessary professional prescriber monitoring.

MOTION: by Griffin, second by Melvin to find that Respondent was properly served, did not return the election of rights, and has waived his right to be heard. Motion carried unanimously.

MOTION: by Weizer, second by Melvin to adopt the findings of fact as alleged in the Administrative Complaint. Motion carried unanimously.

MOTION: by Griffin, second by Melvin to adopt the conclusions of law including that Respondent has violated the statutes and rules as alleged in the Administrative Complaint. Motion carried unanimously.

MOTION: by Melvin, second by Griffin to accept into evidence the investigative file and requests an opportunity to make a penalty recommendation. Motion carried unanimously.

MOTION: by Powers, second by Melvin to assess an administrative fine in the amount of \$1,000.00 to be paid at the time Respondent's license to practice pharmacy is reinstated. Respondent's license shall be suspended until he is able to demonstrate ability to practice with skill and safety. Respondent shall enter and successfully participate in the PRN program under conditions deemed appropriate and necessary by PRN. Respondent's licensure shall be suspended until Respondent petitions for reinstatement and the Board determines that he is in compliance with all PRN requirements and recommendations, determines that Respondent is able to practice pharmacy with reasonable skill and safety, and a practice plan is approved. Upon reinstatement, Respondent shall be placed on probation for a period of five (5) years with terms and conditions. During the last four months of the probationary period, Respondent may petition for termination of probation and appear before the board. The Board retains the right to impose restrictions, conditions, or obligations. Motion carried unanimously.

MOTION: by Melvin, second by Weizer to and assess an administrative fine in the amount of and costs in the amount of \$2,707.37 to be paid at the time Respondent's license to practice pharmacy is reinstated. Motion carried unanimously.

TAB 2 **APPLICATIONS REQUIRING BOARD REVIEW – Amy Jones, JD**

A. Exam Candidates Requiring Board Review

1. Richard Harowitz

Respondent was present and sworn in by court reporter. Jessica Harowitz accompanied Mr. Harowitz.

Mr. Harowitz answered No to question number 21 on the application.

MOTION: by Powers, second by Weizer to approve to sit for exam. Motion carried unanimously.

2. Juan Jose Ibietatorremendia

Respondent was present and sworn in by court reporter. Dr. Judy Rivenbark, Professionals Resource Network, was present.

Mr. Ibietatorremendia was approved to sit for the exam at the October 2008 Board meeting but instructed to complete a PRN evaluation and reappear before the Board for licensure conditions.

MOTION: by Powers, second by Weizer to give conditional approval with license long PRN contract, no PDM for one year, semi-annual audits of five (5) randomly selected controlled substances, work no more than two (2) sites at any one time within a three (3) month period of employment,

no more than 40 hours per week for two years, may petition the board in two (2) years to remove conditions. Motion carried unanimously.

3. Eric Gomez

Respondent was not present.

Mr. Gomez answered Yes to question number 16 and 17 on the application.

MOTION: by Weizer, second by Powers to require appearance at either the August or October Board meeting. Motion carried unanimously.

B. Endorsement Candidates Requiring Board Review

1. Kwadwo Agyemang

Respondent was present and sworn in by court reporter.

Mr. Agyemang answered Yes to question number 15 and 20 on the application.

MOTION: by Powers, second by Weizer to approve endorsement. Motion amended to include probation to run concurrent with that imposed in New Jersey. Motion carried unanimously.

2. Thomas James Lemoine

Respondent was not present.

Mr. Lemoine answered Yes to question number 15, 20 and 21 on the application.

MOTION: by Weizer, second by Powers to require appearance at either the August or October Board meeting. Motion carried unanimously.

3. Leo N. Igwebuike

Respondent was not present.

Mr. Igwebuike answered Yes to question number 20 on the application.

MOTION: by Powers, second by Griffin to approve endorsement. Motion carried unanimously.

4. Erik DeSimone

Respondent was present and sworn in by court reporter. Mr. DeSimone was represented by Edwin Bayó, Esquire. Dr. Judy Rivenbark, Professionals Resource Network, was present.

Mr. DeSimone answered Yes to question number 15, 16, 20 and 21 on the application.

MOTION: by Hayes, second by Powers to approve contingent upon approval of 30 hours of CE from previous two years. Motion carried unanimously.

C. Special Non-Resident Pharmacy Permit

1. Med Shop Total Care, Inc.

Respondent nor representative was present.

Respondent is requesting an exception from Section 465.0156(1)(e), Florida Statutes, which requires a non-resident pharmacy to be open 6 days a week.

MOTION: by Griffin, second by Hayes to require attendance at the next meeting. Motion carried unanimously.

D. Community Pharmacy Permit

1. Generic Depot 3, Inc.

Respondent was not present (but came in later).

Respondent answered Yes to question number 20 on the application.

MOTION: by Weizer, second by Powers to approve application. Motion carried unanimously.

2. MLG Medical Equipment

Respondent was represented by Sonya Rodriguez and Josiah Akinsoji and sworn in by court reporter.

Respondent submitted an application for a special closed system pharmacy but failed the inspection.

MOTION: by Melvin, second by Griffin gave contingent approval upon passing an inspection which will be completed within 10 days. Motion carried unanimously.

3. Santile Team Services Corp.

Respondent was represented by Sonya Rodriguez and Josiah Akinsoji.

Respondent submitted an application for a community pharmacy but failed the inspection.

MOTION: by Garcia, second by Powers gave contingent approval upon passing an inspection which will be completed within 10 days. Motion carried unanimously.

TAB 3

BUSINESS

A. Ratification of Issued Licenses/Certificates & Staffing Ratios – Ron Salem, PharmD

1. Pharmacist (Licensure) (Client 2201) - 108
2. Pharmacist (Exam Eligibility) (Client 2201) - 102
3. Pharmacist Interns (Client 2202) - 191
4. Consultant Pharmacist (Client 2203) - 26
5. Nuclear Pharmacist (Client 2204) - 2
6. Pharmacies/Facilities (Client 2205) - 111
7. Technician Ratios
8. CE Providers and Programs - 1

MOTION: by Powers, second by Griffin to approve reports. Motion carried unanimously.

B. Minutes – Ron Salem, PharmD

1. Approval of April 15, 2009, Meeting Minutes

MOTION: by Powers, second by Griffin to approve minutes. Motion carried unanimously.

C. Tentative 2010 Meeting Dates/Locations and 2010 PCP Dates

MOTION: by Powers, second by Garcia to approve meeting dates. Motion carried unanimously.
Meeting locations will be determined after completion of budget process.

D. Consultant Pharmacist Voluntary Relinquishment – Ron Salem, PharmD

1. Eugene Coe, PU 4552

Respondent nor counsel was present.

MOTION: by Powers, second by Garcia accept voluntary relinquishment. Motion carried unanimously.

2. Laura Moore, PU 5260

Respondent nor counsel was present.

MOTION: by Powers, second by Garcia accept voluntary relinquishment. Motion carried unanimously.

E. Request for Waiver – Rebecca Poston, RPh

1. Florida A&M University

FAMU is requesting a waiver of Rule 64B16-28.404 to allow summer hours of operations to four day work weeks instead of the traditional 5 days work week. The daily hours of operation will increase from 8 hours to 10 hours per day.

Request withdrawn.

F. Request for Variance – Rebecca Poston, RPh

1. Omnicare of Tampa

Omnicare was represented by Todd Zisk and Bradley Carson. They were sworn in by court reporter.

Omnicare is requesting a variance from Rule 64B16-27.1001 to allow the utilization of the ALV robot to perform the final barcode scan function currently performed by pharmacists.

MOTION: by Weizer, second by Powers to approve waiver with 2% check. Motion withdrawn.

MOTION: by Powers, second by Melvin to deny petition and direct staff to consider rule development defining verification of prescription. Motion carried unanimously.

G. Motion to Set Aside Final Order

1. Douglas Christopher Montecino

Mr. Montecino was present and sworn in by court reporter. Mr. Montecino was represented by Lois Lepp, Esquire. Ms. Owens represented the Department.

A Motion to Set Aside Final Order was filed.

MOTION: by Garcia, second by Melvin to deny Motion to Set Aside Final Order. Motion carried unanimously.

H. Hearing Not Involving Material Facts of Issues

1. Douglas Christopher Montecino

Mr. Montecino was present and sworn in by court reporter. Mr. Montecino was represented by Lois Lepp, Esquire.

MOTION: by Melvin, second by Garcia to adopt the findings of facts and law that Mr. Montecino violated Chapter 465.016(1)(h) by violating an Order of the Board. Motion carried unanimously.

MOTION: by Melvin, second by Garcia to adopt the findings of facts that Mr. Montecino was disciplined in the State of LA. Motion carried unanimously.

MOTION: by Melvin, second by Garcia to accept conclusions of law by violating Chapter 465.016(n). Motion carried unanimously.

MOTION: by Melvin, second by Garcia to deny request for licensure. Motion carried unanimously.

TAB 4 **LICENSURE ISSUES – Diane Guillemette**

A. Request for Extension to Pay Costs and Complete L&R Course

1. Martin A. Green, PS 29330

Mr. Green was present and sworn in by court reporter.

MOTION: by Powers, second by Weizer to accept request for extension to pay and six (6) weeks extension to complete L&R course. Motion carried unanimously.

B. Request for Termination of Probation

1. John Carosella, PS 29818

Mr. Carosella was present and sworn in by court reporter. Dr. Judy Rivenbark, Professionals Resource Network, was present.

MOTION: by Weizer, second by Powers to terminate probation. Motion carried unanimously.

C. Request to Withdraw Internship License

1. Drew Epstein, PSI 23185

Mr. Epstien was not present.

MOTION: by Weizer, second by Garcia to accept request for withdrawal. Motion carried unanimously.

MOTION: by Weizer, second by Melvin to allow Chair to take immediate action on requests to withdraw internship license and then present to board for ratification. Motion carried unanimously.

TAB 5 **REPORTS**

A. Chair's Report- Ron Salem, PharmD

1. NABP Annual Meeting Report

Dr. Salem stated that the NABP Annual Meeting was a very good and urged members to attend future meetings.

B. Executive Director's Report - Rebecca Poston, RPh

1. Legislative Update
 - SB 1868 – Governor must act by June 23
 - SB 1986 – Change applications, added more questions regarding Medicaid fraud
 - SB 462 – Governor must act by June 23
 - SB 440 – Governor must act by June 23
 - SB 2188 – Passed – requires posting meeting material on the website one week prior to meeting. Lot of work to protect confidentiality.

2. Correspondence from URAC
Information for review regarding new pharmacy accreditation programs.

3. FSHP Annual House of Delegates Meeting
Ms. Poston reported that she would be one delegate for the FSHP Meeting but one other Board member is needed.
A delegate is also needed for the FPA meeting on July 8-12.
Board members are to let Ms. Poston know if they are interested in attending.

4. PRN March 2009 Report
For Information Only.

5. PRN April 2009 Report
For Information Only.

C. Attorney General's Report – Diane Guillemette

1. June 2009 Rules Report
Report was provided.

2. Rule Committee Ratifications
 - 64B16-25.170 – Probable Cause Panel

MOTION: by Griffin, second by Melvin to approve Notice of Rule Development. Motion carried unanimously.

MOTION: by Weizer, second by Griffin to approve rule language and application. Motion carried unanimously.

MOTION: by Hayes, second by Weizer that there is no impact on small business. Motion carried unanimously.

- 64B16-26.203 Application for Licensure by Examination (US Pharmacy Graduates)
 - Form DH-MQA 101 – Application

MOTION: by Griffin, second by Risch to approve Notice of Rule Development. Motion carried unanimously.

MOTION: by Weizer, second by Griffin to approve rule language and application. Motion carried unanimously.

MOTION: by Weizer, second by Griffin that there is no impact on small business. Motion carried unanimously.

- 64B16-26.2031 Application for Licensure by Examination (Foreign Pharmacy Graduates)
 - Form DH-MQA 103 - Application
 - Form DH-MQA 1153 - Work Activity Manual

MOTION: by Griffin, second by Weizer to approve Notice of Rule Development. Motion carried unanimously.

MOTION: by Weizer, second by Griffin to approve rule language with correction on Line 139 and application. Motion carried unanimously.

MOTION: by Weizer, second by Griffin that there is no impact on small business. Motion carried unanimously.

- 64B16-26.2032 Pharmacy Intern Registration & Internship Requirements (US Pharmacy Students/Graduates)
 - Form DH-MQA 104 Application

MOTION: by Powers, second by Weizer to approve Notice of Rule Development. Motion carried unanimously.

MOTION: by Griffin, second by Weizer to approve current rule language and application and notice it for promulgation. Motion carried unanimously.

MOTION: by Weizer, second by Powers that there is no impact on small business. Motion carried unanimously.

- 64B16-26.2033 Pharmacy Intern Registration & Internship Requirements (Foreign Pharmacy Graduates)
 - Form DH-MQA 102 – Application
 - Form DH-MQA 1153 - Work Activity Manual

MOTION: by Weizer, second by Garcia to approve Notice of Rule Development. Motion carried unanimously.

MOTION: by Hayes, second by Powers to approve current rule language and application and notice it for promulgation. Motion carried unanimously.

MOTION: by Weizer, second by Powers that there is no impact on small business. Motion carried unanimously.

- 64B16-26.204 Application for Pharmacist Licensure by Endorsement (US Pharmacy Graduates)
 - Form DH-MQA 100

MOTION: by Powers, second by Weizer to approve Notice of Rule Development. Motion carried unanimously.

MOTION: by Weizer, second by Powers to approve rule language and application and notice it for promulgation. Motion carried unanimously.

MOTION: by Weizer, second by Melvin that there is no impact on small business. Motion carried unanimously.

- 64B16-26.205 Application for Pharmacist Licensure by Endorsement (Foreign Pharmacy Graduates)
 - Form DH-MQA 1196
 - Form DH-MQA 1153 - Work Activity Manual

MOTION: by Powers, second by Griffin to approve Notice of Rule Development. Motion carried unanimously.

MOTION: by Weizer, second by Griffin to approve rule language and application and notice it for promulgation. Motion carried unanimously.

MOTION: by Weizer, second by Hayes that there is no impact on small business. Motion carried unanimously.

- 64B16-27.420 - Pharmacy Technician 2:1 or 3:1 Ratio

MOTION: by Hayes, second by Griffin to amend (1)(g), delete “dosage and direction for use”. Motion carried unanimously.

MOTION: by Weizer, second by Powers that there is no impact on small business. Motion carried unanimously.

- 64B16-27.797 – Standards of Practice for Compounding Sterile Preparations (CSPs)

There is an impact on small business and staff will prepare a SERC.

- 64B16-28.2021 – Change of Ownership

This rule will be sent back to Rules Committee due to new legislation. Motion carried unanimously.

3. Repeal the following Rules:
 - 64B16-27.400 – Practice of Pharmacy
 - 64B16-27.620 - Disposition of Complimentary or Sample Medicinal Drugs Which Are Unsuitable for Dispensing
 - 64B16-28.114– Prescription Refills

D. Prosecuting Attorney Report – Billie Jo Owens

PSU normally has between 280-290 open cases, but the report generated on 5/14 show over 350. PSU is very busy. They are currently working on 51 cases that are over one year old.

E. Statewide Inspection Program Manager Report – Bob Garey

Mr. Garey reported that as of June 3, 5978 inspections have been completed and 1181 remain to be completed prior to the end of the FY. The Miami office has had a 100% turnover and training has been provided. There was a discussion about the inspection forms. Mr. Garey said they were currently being revised and would include a “N/A” column so there would be no confusion. He will also make sure that when inspections are made for Change of Ownership that the inspectors call ahead.

F. Rules Committee – Steve Melvin, PharmD

Dr. Melvin reported that the Rules Committee met on June 9 and the action taken will be placed on the August Board meeting agenda. Rule 64B16-28.870 will be on the July conference call.

G. Tripartite Committee Report – Fritz Hayes, BPharm

Mr. Hayes reported that the Tripartite Committee met on June 9. An organizational package for new members is being developed. He thanked the staff for gathering the information. The electronic approval method of CE providers will be implemented in a few months. The CE course by WWF Associates will be on the August Board agenda.

Brian Kahan asked that the Rules Committee discuss the return of drugs to the shelf if not picked up. Who owns the medication? Staff will contact DEA to get a formal response.

MOTION: by Melvin, second by Hayes to adjourn. Motion carried unanimously.

Meeting adjourned at 2:40 p.m.

64B16-26.1001

MOTION: by _____, second by _____
businesses. Motion carried unanimously.

to that there is/is not an impact on small

64B16-26.1002

MOTION: by _____, second by _____
businesses. Motion carried unanimously.

to that there is/is not an impact on small

64B16-26.1003

MOTION: by _____, second by _____
businesses. Motion carried unanimously.

to that there is/is not an impact on small

64B16-26.1004

MOTION: by _____, second by _____
businesses. Motion carried unanimously.

to that there is/is not an impact on small

64B16-26.1005

MOTION: by _____, second by _____
businesses. Motion carried unanimously.

to that there is/is not an impact on small

64B16-26.1021

MOTION: by _____, second by _____
businesses. Motion carried unanimously.

to that there is/is not an impact on small

64B16-26.103

MOTION: by _____, second by _____
businesses. Motion carried unanimously.

to that there is/is not an impact on small

64B16-26.104

MOTION: by _____, second by _____
businesses. Motion carried unanimously.

to that there is/is not an impact on small

64B16-26.300

MOTION: by _____, second by _____
businesses. Motion carried unanimously.
64B16-26.302

to that there is/is not an impact on small

MOTION: by _____, second by _____
businesses. Motion carried unanimously.

to that there is/is not an impact on small

64B16-26.350

MOTION: by _____, second by _____
businesses. Motion carried unanimously.

to that there is/is not an impact on small

64B16-26.403

MOTION: by _____, second by _____
businesses. Motion carried unanimously.

to that there is/is not an impact on small

64B16-26.600

MOTION: by _____, second by _____
businesses. Motion carried unanimously.

to that there is/is not an impact on small

64B16-26.601

MOTION: by _____, second by _____
businesses. Motion carried unanimously.

to that there is/is not an impact on small

64B16-26.6012

MOTION: by _____, second by _____
businesses. Motion carried unanimously.

to that there is/is not an impact on small

64B16-27.100

MOTION: by _____, second by _____
businesses. Motion carried unanimously.

to that there is/is not an impact on small

64B16-27.1001

MOTION: by _____, second by _____
businesses. Motion carried unanimously.

to that there is/is not an impact on small

64B16-27.300

MOTION: by _____, second by _____
businesses. Motion carried unanimously.

to that there is/is not an impact on small

64B16-27.400

MOTION: by _____, second by _____
businesses. Motion carried unanimously.

to that there is/is not an impact on small

64B16-27.410

MOTION: by _____, second by _____
businesses. Motion carried unanimously.

to that there is/is not an impact on small

64B16-27.430

MOTION: by _____, second by _____
businesses. Motion carried unanimously.

to that there is/is not an impact on small

64B16-27.440

MOTION: by _____, second by _____
businesses. Motion carried unanimously.

to that there is/is not an impact on small

64B16-27.797

ERC needed to be prepared (June meeting).

64B16-28.140

MOTION: by _____, second by _____
businesses. Motion carried unanimously.

to that there is/is not an impact on small

64B16-28.141

MOTION: by _____, second by _____
businesses. Motion carried unanimously.

to that there is/is not an impact on small

64B16-28.301

MOTION: by _____, second by _____
businesses. Motion carried unanimously.

to that there is/is not an impact on small

64B16-28.303

MOTION: by _____, second by _____
businesses. Motion carried unanimously.

to that there is/is not an impact on small

64B16-28.451

MOTION: by _____, second by _____
businesses. Motion carried unanimously.

to that there is/is not an impact on small

64B16-28.501

MOTION: by _____, second by _____
businesses. Motion carried unanimously.

to that there is/is not an impact on small

64B16-28.605

MOTION: by _____, second by _____
businesses. Motion carried unanimously.

to that there is/is not an impact on small

64B16-28.607

MOTION: by _____, second by _____
businesses. Motion carried unanimously.

to that there is/is not an impact on small

64B16-28.830

MOTION: by _____, second by _____
businesses. Motion carried unanimously.

to that there is/is not an impact on small

64B16-28.840

MOTION: by _____, second by _____
businesses. Motion carried unanimously.

to that there is/is not an impact on small

64B16-28.901

MOTION: by _____, second by _____
businesses. Motion carried unanimously.

to that there is/is not an impact on small

64B16-26.2031

MOTION: by _____, second by _____
businesses. Motion carried unanimously.

to that there is/is not an impact on small

