

**DEPARTMENT OF HEALTH
BOARD OF PHARMACY
BOARD MEETING
MINUTES
October 16-17, 2007**

Ramada Conference Center
2900 North Monroe Street
Tallahassee, FL 32303
850-386-1027

Continuing Education credits may be awarded to licensees who attend the Board meeting when the Board discusses disciplinary matters. Pursuant to Rule 64B16-26.103(1)(d), you must attend the entire day to receive credits. Meetings usually end at 4:00 p.m.

Continuing education credit will not be granted to licensees required to appear before the Board. Individuals wishing to obtain continuing education credits must sign in prior to the beginning of the meeting. You will receive a certificate at the end of the meeting.

Board Members Present:

Ron Salem, Pharm. D., Jacksonville, Chair
Albert Garcia, R.Ph., M.H.L., Miami, Vice-Chair

Amy Jones, J.D., Consumer Member, Tallahassee
Jennifer Lalani, R.Ph., Windermere
Gail Merrell, Pharm.D., Tierre Verde
Bob Parrado, R.Ph., Tampa
Jim Powers, B.Pharm., Tallahassee
Brigitte Goersch, Consumer Member, Orlando

Board Member Absent:

Eric Alvarez, Pharm.D., Miami

Board Staff Present:

Rebecca Poston, Executive Director
Erika Lilja, Program Operations Administrator
Maxine Wenzinger, Administrative Assistant II
Diana Decker, Regulatory Specialist II

Board Counsel Present:

Reginald Dixon, Assistant Attorney General

Department of Health Staff Present:

Lynne Quimby-Pennock, J.D., Senior Attorney
Patrick Butler, Attorney
Cecilie Sykes, Attorney
Billie Jo Owens, Attorney
John Taylor, Investigative Services Unit

Tuesday, October 16, 2007

1:00 p.m. Call To Order by Ron Salem, Pharm.D., Chair

TAB 1 DISCIPLINARY CASES

A. SETTLEMENT AGREEMENTS – NON APPEARANCES

NA-1 Mediserv Pharmacy Services, LLC, Sarasota, FL, PH 19957, Case No. 2006-

09026
PC: Lalani/Merrell

Respondent nor counsel was not present.

Ms. Owens advised the Board the Respondent violated Section 465.023(1)(c), Florida Statutes by violating Chapter 499, Florida Statutes, through a violation of Section 499.005(22), Florida Statutes, by the wholesale distribution of prescription drugs in bulk without a wholesale distribution permit.

MOTION: by Parrado, second by Jones to accept stipulation of an administrative fine in the amount of \$1,000.00 and costs in the amount of \$1,406.14 to be paid within thirty (30) days of the filing of the Final Order. Motion carried unanimously.

NA-2 Yasser Ali Baig, R.Ph., Westfield, NJ, PS 40799, Case No. 2006-42026
PC: Powers/Jones

Respondent was present and sworn in by Court Reporter. Respondent was represented by Michael Schwartz, Esquire.

Ms. Sykes advised the Board the Respondent violated Section 465.016(1)(g), Florida Statutes (2006), by furnishing upon prescription an ingredient or article different in any manner from the ingredient or article prescribed.

MOTION: by Lalani, second by Garcia to accept stipulation of an administrative fine in the amount of \$250.00 and costs in the amount of \$1,255.14 to be paid within thirty (30) days of the filing of the Final Order. Respondent shall successfully complete a prescription mis-fill program, such as the one offered by the University of Florida or Nova Southeastern University that is not shorter than eight (8) hours in length, within one (1) year of the filing of a Final Order accepting and incorporating this Stipulation. These continuing education hours shall be in addition to the hours required for license renewal. Motion carried unanimously.

B. VOLUNTARY RELINQUISHMENTS

VR-1 Harvey Fields, R.Ph., Davie, FL, PS 25784, Case No. 2006-10898
PC: Garcia/Alvarez

Respondent nor counsel was present.

Ms. Sykes advised the Board the Respondent violated Section 465.016(1)(g), Florida Statutes (2002), by furnishing upon prescription an ingredient or article different in any manner from the ingredient or article prescribed.

MOTION: by Jones, second by Powers to accept the voluntary relinquishment of license. Motion carried unanimously.

VR-2 Clay Jones, R.Ph., Knoxville, TN, PS 14252, Case No. 2006-24801
and PC: Powers/Jones

Respondent nor counsel was present.

Ms. Owens advised the Board the Respondent violated Section 465.016(1)(h), Florida Statutes (2005), by having been disciplined by a regulatory agency in another state for any offense that would constitute a violation of Chapter 465, Florida Statutes.

MOTION: by Merrell, second by Garcia to accept the voluntary relinquishment of license. Motion carried unanimously.

TAB 2 **APPLICATIONS REQUIRING BOARD REVIEW**

A. Exam Candidates Requiring Board Review

1. Matthew Valdez

Mr. Valdez was present and sworn in by Court Reporter.

Mr. Valdez answered "yes" to question 1 on page 3: "Have you ever been convicted of, or entered a plea of guilty, nolo contendere, or no contest to a crime in any jurisdiction other than a minor traffic offense?"

MOTION: by Powers, second by Parrado to approve request. Motion carried unanimously.

2. Secil Soliman

Ms. Soliman was not present.

Ms. Soliman answered "yes" to question #6. "Has disciplinary action ever been taken against your pharmacist or any other professional license in this state or any other state?" Ms. Soliman's Colorado license was disciplined.

MOTION: by Parrado, second by Merrell to approve request. Motion carried unanimously.

3. Lin-Terian Darsaw

Ms. Darsaw was present and sworn in by Court Reporter.

Ms. Darsaw answered "yes" to question 3 on page 3: "In the past five years, have you been treated for or had a recurrence of a diagnosed mental disorder or impairment?"

MOTION: by Merrell, second by Lalani to approve request. Motion carried unanimously.

B. Endorsement Candidates Requiring Board Review

1. Samir Jay Patel

Mr. Patel was not present.

Mr. Patel answered "yes" to question #1 on page 3: "Have you ever been convicted of, or entered a plea of guilty, nolo contendere, or no contest to a crime in any jurisdiction other than a minor traffic offense?"

MOTION: by Parrado, second by Powers to approve request. Motion failed 4/4.

MOTION: by Merrell, second by Lalani to require PRN evaluation and appear before the Board before granting license.

COUNTER MOTION: by Parrado, second by Jones to refer to PRN and delegate to Chair to approve based on PRN evaluation. Motion carried unanimously.

2. Meena Michalowski

Ms. Michalowski was not present.

Ms. Michalowski answered "yes" to "In the past five years, have you been treated for or had a recurrence of a diagnosed physical impairment?"

MOTION: by Parrado, second by Lalani to approve request. Motion carried unanimously.

TAB 3

BUSINESS

A. Ratification of Issued Licenses/Certificates & Staffing Ratios

1. Pharmacist (Client 2201)
2. Pharmacist Interns (Client 2202)
3. Consultant Pharmacist (Client 2203)
4. Nuclear Pharmacist (Client 2204)
5. Pharmacies/Facilities (Client 2205)
6. Technician Ratios
7. CE Programs
8. CE Providers

MOTION: by Merrell, second by Parrado to approve reports. Motion carried unanimously.

B. Minutes

Approval of August 14-15, 2007, Board Meeting Minutes

MOTION: by Parrado, second by Lalani to approve minutes. Motion carried unanimously.

C. General Board Requests

1. Reginal Harris, R.Ph., PU 5737, regarding Consultant Pharmacist CE Requirements

Mr. Harris is requesting the Board review his correspondence regarding the continuing education requirements for consultant pharmacist.

Mr. Harris' comments will be forwarded to staff to refer to Professional Practice Committee.

2. Harold Aspler, PS 17391, regarding circumstances surrounding his license status change to null and void

Mr. Aspler was present and sworn in by reporter. Respondent was represented by Edwin Bayó, Esquire.

MOTION: by Jones, second by Merrell to refer to Application Committee for further review. Motion carried unanimously.

D. Waiver to Rule 64B16-28.113

1. Denise Figueroa, R.N., General Manager, Infusal Partners

Ms. Figueroa was present and sworn in by reporter.

Infusal Partners is requesting an exception to allow the Special P/E Extended Scope to share the same space as the already licensed Community/PE.

MOTION: by Jones, second by Merrell to approve request. Motion carried unanimously.

E. Petition for Continuing Education Approval Date Change

1. University of New Mexico, College of Pharmacy
2. Nuclear Pharmacist Correspondence

The University of New Mexico is requesting that the Board consider the credits the licensees received from the University of New Mexico for the current renewal period.

MOTION: by Powers, second by Lalani to approve request. Motion carried unanimously.

F. Petition for Variance from Rule 64B16-28.113, F.A.C.

1. Trustees of Mease Hospital, Inc., d/b/a Mease Hospital, Dunedin

Mease Hospital, Inc., filed a Petition for Variance from Rule 64B16-28.113, F.A.C.

MOTION: by Powers, second by Parrado to grant variance.
Motion withdrawn.

MOTION: by Merrell, second by Parrado to deny based on statutory requirements. Motion carried, 1 opposed (Jones).

TAB 4 REPORTS

A. Chair's Report - Ron Salem, Pharm. D.

No report.

B. Executive Director's Report - Rebecca Poston, R.Ph.

1. Cash Balance Reports for the Period Ending June 30, 2007
2. Suggested 2008 Board and PCP Meeting Dates

MOTION: by Jones, second by Lalani to approve 2008 dates. Motion carried unanimously.

3. New VAWD, VIPPS Online Applications
4. JAPC 2007 Session Laws Report
5. PRN Monthly Report for July 2007
6. 64B-3.005 – Counterfeit Resistant Prescription Blanks for Controlled substances prescribing

64B- 3.005 Counterfeit-resistant prescription blanks for controlled substance prescribing

(1) A practitioner authorized in this state to prescribe prescription drugs (hereinafter referred to as "prescribing practitioner") may use a counterfeit-resistant prescription blank when writing hard copy prescription(s) for controlled substances listed in Schedule II, Schedule III, or Schedule IV of Section 893.03, Florida Statutes.

(2) A prescribing practitioner who uses a counterfeit-resistant prescription blank may choose to customize the layout of a counterfeit-resistant prescription blank in accordance with applicable federal and state laws and regulations.

(3) The counterfeit-resistant prescription blank must contain the following security features which must be listed on the blank:

Comment [p1]: "may" is mandated by Section 893.065, F.S.

Board of Medicine recommended use "is authorized to" in lieu of "may" because JAPC has stated in the past that using "may" gives the Board unbridled discretion.

Board of Pharmacy suggested the inserting the following language after the word "may" should read: at the prescribing practitioner's option

1. The background color must be blue or green and resist reproduction;
2. The blank must be printed on distinctive watermarked paper;
3. The blank must resist erasures and alterations and;
4. The word "void" or "illegal" must appear on any photocopy or other reproduction of the blank.

Comment [p2]: AHCA does not have this as a requirement. Statute states the DOH may require the prescription blank to be printed on distinctive watermarked paper. Board of Pharmacy recommended strike distinctive.

(4) The counterfeit -resistant prescription blank must contain the following information:

1. The preprinted name, address and category of professional licensure of the prescribing practitioner; and,
2. A space for the prescribing practitioner's federal Drug Enforcement Administration registration number for controlled substances.

(5) The counterfeit -resistant prescription blank is not transferable and shall not be used by any person other than the prescribing practitioner.

(6) All persons who manufacture, create, sell, or otherwise provide counterfeit-resistant prescription blanks to or for prescribing practitioners for use as authorized under this rule or Section 893.065, Florida Statutes, shall provide a tracking identification number, printed on the face of every counterfeit-resistant prescription blank.

Comment [p3]: AHCA requires the tracking number and approves vendors.

Board of Medicine recommended strike b/c the DOH doesn't have the authority to make manufacturers product prescription blanks with tracking numbers.

Board of Pharmacy recommended strike (6)

Specific Authority: 893.065, F.S.

Law Implemented 893.065, F.S.

History: New

Comments:

Paragraph 1: "may" is mandated by Section 893.065, F.S.

The Board of Medicine recommended use "is authorized to" in lieu of "may" because JAPC has stated in the past that using "may" gives the Board unbridled discretion.

The Board of Pharmacy suggested inserting on line #4 the following language after the word "may" to read: at the prescribing practitioner's option a counterfeit-resistant prescription

Paragraph 2: The Board of Medicine recommended to strike because the language is not necessary.

The Board of Pharmacy recommended striking (2).

Paragraph 3: AHCA does not have this as a requirement. Statute states that DOH may require the prescription blank to be printed on distinctive watermarked paper. The Board of Pharmacy recommend striking "distinctive".

Paragraph 4: AHCA requires the tracking number and approves vendors.

The Board of Medicine recommended striking because the DOH doesn't have the authority to make manufacturers produce prescription blanks with tracking numbers.

The Board of Pharmacy recommended striking (6).

C. Attorney General's Report – Reginald Dixon, Attorney

Mr. Dixon reported on the status of the rule package. Due the hold up in JAPC, he suggested withdrawing the whole package and then refilling the ones that are clear.

D. Prosecuting Attorney Report – Lynne Quimby-Pennock, Attorney

Ms. Quimby-Pennock reported they are working very hard to get the caseload down. PCP cases are decreasing. They will continue to work on improving the materials on the disk and keep hard copy documents to a minimum.

E. Compliance Officer's Report – Tiana Jackson

1. July 2007 Report
2. August 2007 Report

F. Statewide Inspection Report – John Taylor, Investigative Services Unit

Mr. Taylor reported that the computerized inspection program is progressing and they are working out the bugs. The program has been well received by pharmacies.

TAB 5 COMMITTEE REPORTS

A. Administration – Amy Jones, J.D.

1. Budget Update

Ms. Jones reported that the Trust Fund is pretty safe but we will see how it goes over the next few years. We are doing better than the projections indicate.

B. Professional Practice Committee - Albert Garcia, R.Ph., M.H.L.

1. Rule 64B16-26.1031 Influenza Immunization Certification Program

MOTION: by Lalani, second by Merrell to delete 13 and 14.
Motion withdrawn.

MOTION: by Lalani, second by Merrell to approve language. Motion carried unanimously.

2. Draft minutes from August 24, 2007, meeting

TAB 6 Presentation by Medicaid Program Integrity, Linda Keen, J.D., Inspector General, AHCA

The Chairman asked AHCA to forward recommendations to the Board of Pharmacy and they will be addressed by the Professional Practice Committee.

Public Comments: None

Adjourned at 6:03 p.m.

Wednesday, October 17, 2007 – 8:00 a.m. – 4:00 p.m. – Disciplinary Cases

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

TAB 7 DISCIPLINARY CASES

A. SETTLEMENT AGREEMENT - APPEARANCE REQUIRED CASES

A-1 Timothy Williamson, R.Ph., Tampa, FL, PS 24706, Case No. 2006-39968
PC: Lalani/Merrell

Respondent was present and sworn in by Court Reporter. Respondent was represented by Edwin Bayó, Esquire.

Ms. Quimby-Pennock advised the Board the Respondent violated Section 465.016(1)(e), Florida Statutes (2006), by violating Section 499.005(15), Florida Statutes (2006), by being in possession of expired medications without the requisite permits; and Section 465.016(1)(e), Florida Statutes (2006), by violating Section 499.0121(5)(a), Florida Statutes (2006), by failing to store outdated, damaged, deteriorated, misbranded or adulterated prescription drugs in a facility that was not permitted to house the prescription drugs.

MOTION: by Goersch, second by Powers to accept stipulation of an administrative fine in the amount of \$2,000.00 and costs in the amount of \$1,240.98 to be paid within ninety (90) days of the filing of the Final Order. Respondent shall successfully complete a continuing education course on the laws and rules governing the practice of pharmacy in Florida that is not shorter than twelve (12) hours in length or successfully complete and pass the Multistate Pharmacy Jurisprudence Examination (Florida) within one (1) year of entry of the Final Order accepting and adopting this Settlement Agreement. These continuing education hours shall be in addition to the hours required for license renewal. Motion carried, 1 opposed (Jones).

A-2 Margaret Knepper, R.Ph, Gotha, FL, PS 28903, Case No. 2007-01235
PC: Parrado/Goersch

Respondent was present and sworn in by Court Reporter. Respondent was represented by Michael Schwartz, Esquire.

Ms. Sykes advised the Board the Respondent violated Section 465.016(1)(e), Florida Statutes (2005), by violating Chapter 499, Florida Statutes, through a violation of Section 499.007(5)(a), Florida Statutes (2005), by misbranding a drug by placing the incorrect directions for use on the label.

MOTION: by Lalani, second by Merrell to accept stipulation of an administrative fine in the amount of \$500.00 and costs in the amount of \$1,055.00 to be paid within thirty (30) days of the filing of the Final Order. Respondent shall successfully complete a prescription mis-fill program, such as the one offered by the University of Florida or Nova Southeastern University, that is not shorter than eight (8) hours in length, within one (1) year of the filing of a Final Order. These

continuing education hours shall be in addition to the hours required for license renewal. Motion carried unanimously.

A-3 Manuel Pita, R.Ph., Orlando, FL, PS 23768, Case No. 2007-11655
PC: Garcia/Alvarez

Respondent was present and sworn in by Court Reporter. Respondent was represented by Michael Schwartz.

Mr. Butler advised the Board the Respondent violated Section 465.016(1)(g), Florida Statutes (2006), by furnishing upon prescription an ingredient or article different in any manner from the ingredient or article prescribed.

MOTION: by Powers, second by Jones to accept stipulation of an administrative fine in the amount of \$500.00 and costs in the amount of \$952.54 to be paid within thirty (30) days of the filing of the Final Order. Respondent shall successfully complete a prescription mis-fill program, such as the one offered by the University of Florida or Nova Southeastern University that is not shorter than eight (8) hours in length, within one (1) year of the filing of a Final Order accepting and incorporating this Stipulation. These continuing education hours shall be in addition to the hours required for license renewal. Motion carried unanimously.

A-4 Jacqueline Nicholas, R.Ph., Greenacres, FL, PS 38430, Case No. 2007-04004
PC: Parrado/Goersch

Respondent was present and sworn in by Court Reporter. Respondent was represented by Michael Schwartz, Esquire.

Mr. Butler advised the Board the Respondent violated Section 465.016(1)(g), Florida Statutes (2006), by furnishing upon prescription an ingredient or article different in any manner from the ingredient or article prescribed.

MOTION: by Powers, second by Jones to accept stipulation of an administrative fine in the amount of \$250.00 and costs in the amount of \$968.93 to be paid within thirty (30) days of the filing of the Final Order. Respondent shall successfully complete a prescription mis-fill program, such as the one offered by the University of Florida or Nova Southeastern University that is not shorter than eight (8) hours in length, within one (1) year of the filing of a Final Order accepting and incorporating this Stipulation. These continuing education hours shall be in addition to the hours required for license renewal. Motion carried unanimously.

A-5 Nagakishore Edupungati's, R.Ph., Miami, FL, PS 40889, Case No. 2007-09805
PC: Powers/Jones

Respondent was/was not present and sworn in by Court Reporter. Respondent was represented by Michael Schwartz, Esquire.

Mr. Butler advised the Board the Respondent violated Section 465.016(1)(r), Florida Statutes (2006), by furnishing upon prescription an ingredient or article different in any manner from the ingredient or article prescribed.

MOTION: by Goersch, second by Merrell to accept stipulation of an administrative fine in the amount of \$250.00 and costs in the amount of \$962.06 to be paid within thirty (30) days of the filing of the Final Order. Letter of Concern will be issued to Respondent. Respondent shall successfully complete a prescription mis-fill program, such as the one offered by the University of Florida or Nova Southeastern University that is not shorter than eight (8) hours in length, within one (1) year of the filing of a Final Order accepting and incorporating this Stipulation. These continuing education hours shall be in addition to the hours required for license renewal. Motion carried unanimously.

A-6 Stuart Gordon, R.Ph., Boca Raton, FL, PS 16336, Case No. 2005-62999
PC: Powers/Jones

Respondent was present and sworn in by Court Reporter. Respondent was represented by Marc Gordon.

Ms. Owens advised the Board the Respondent violated Section 465.016(1)(s), Florida Statutes (2005), by dispensing medication where he knew or should have known that the prescribing physician did not have a valid practitioner-patient relationship with the patient and where the prescription was not determined to be valid for medication prescribed as necessary for treatment of a chronic or recurrent condition of the patient; Section 465.016(1)(i), Florida Statutes (2005), by dispensing medications outside the course of the professional practice of pharmacy; Section 465.016(1)(r), Florida Statutes (2005), by violating any provision of Chapter 456, Florida Statutes, through violations of Section 456.072(1)(k), Florida Statutes (2005), by failing to perform legal obligations imposed upon a non-resident pharmacy to obtain authority to deliver prescription drugs in the jurisdictions to which Saveon Rx delivered prescription drugs; Section 465.016(1)(r), Florida Statutes (2005), by violating any rule of the Board of Pharmacy, through violations of Rule 64B16-27.800(1), (2), and (3), Florida Administrative Code, by failing to attempt to obtain and record patient information and to maintain patient records for no less than two years; Section 465.016(1)(r), Florida Statutes (2005), by violating any rule of the Board of Pharmacy, through violations of Rule 64B16-28.140(1)(d), Florida Administrative Code, by failing to retain either original prescriptions or their electronic images; Section 465.016(1)(r), Florida Statutes (2005), by violating any rule of the Board of Pharmacy, through violations of Rule 64B16-28.140(3), Florida Administrative Code, by failing to record and maintain records of drugs dispensed and by failing to maintain daily records of drugs dispensed signed by each dispensing pharmacist; Section 465.016(1)(e), Florida Statutes (2005), by violating Chapter 893, Florida Statutes, by failing to maintain, separately or readily retrievable from other records: a record of the inventory of controlled substances; a record of controlled substances received; a record of controlled substances dispensed; and a record of controlled substances lost, destroyed, or stolen; Section 465.016(1)(e), Florida Statutes (2005), by violating Chapter 893, Florida Statutes, through violations of Section 893.04(1)(c)6., (1)(d), and (1)(e), Florida Statutes, by failing to include the initials of the dispensing pharmacist and the date of dispensing on the face of prescriptions for controlled substances; to maintain prescriptions for controlled substances; and to affix warnings that it was a crime to transfer controlled substances to the container in which controlled substances were delivered; Section 465.016(1)(r), Florida Statutes (2005), by violating any rule of the Board of Pharmacy, through violations of Rule 64B16-27.101, Florida Administrative Code, by possessing drugs that are improperly labeled and misbranded; Section 465.016(1)(r), Florida Statutes (2005), by violating any rule of the Board of Pharmacy, through violations of Rule 64B16-27.820, Florida Administrative Code, by failing to provide written offers to counsel to the patients by the pharmacist; Section 465.016(1)(r), Florida

Statutes (2005), by violating any rule of the Board of Pharmacy, through violations of Rule 64B16-27.300(3)(a), Florida Administrative Code, by failing to provide Summarizations of Quality-Related Events; Section 465.016(1)(r), Florida Statutes (2005), by violating any rule of the Board of Pharmacy, through violations of Rule 64B16-27.410, Florida Administrative Code, by the pharmacy technicians failing to wear identification badges; and Section 465.016(1)(r), Florida Statutes (2005), by violating any rule of the Board of Pharmacy, through violations of Rule 64B16-28.102(3), Florida Administrative Code, by failing to provide refrigeration for the storage of pharmaceuticals.

MOTION: by Lalani, second by Merrell to reject stipulation and revoke license.
Motion withdrawn.

MOTION: by Merrell, second by Powers to bring back to Board at the December meeting as a Hearing Not Involving Disputed Facts. Motion carried unanimously.

A-7 Ronald Rodriguez, R.Ph., Miami, FL, PS 29754, Case No. 2006-30982
PC: Powers/Jones

Respondent nor counsel was present.

Ms. Quimby-Pennock advised the Board the Respondent violated Section 465.016(1)(n), Florida Statutes (2005), by violating an order of the Board previously entered in a disciplinary hearing.

Ms. Quimby-Pennock reported that a Motion for Continuance was received on October 16, 2007.

MOTION: by Lalani, second by Merrell to accept Motion for Continuance. Motion carried unanimously.

MOTION: by Goersch, second by Parrado to continue to December meeting. Motion carried unanimously.

A-8 Betty Major, R.Ph., Miramar, FL, PS 10387, Case No. 2006-13910
PC: Powers/Jones
CONTINUED TO DECEMBER MEETING

A-9 Gary Smith, R.Ph., Port St. Lucie, FL, PS 31875, Case No. 2006-20091
PC: Parrado/Goersch

Respondent was present and sworn in by Court Reporter. Respondent was represented by Michael Schwartz, Esquire.

Mr. Butler advised the Board the Respondent violated Section 465.016(1)(g), Florida Statutes (2005), by furnishing upon prescription an ingredient or article different in any manner from the ingredient or article prescribed.

MOTION: by Lalani, second by Merrell to accept stipulation, issue a Letter or Guidance, and costs in the amount of \$1,470.90 to be paid within thirty (30) days of the filing of the Final Order.

Respondent shall successfully complete a prescription mis-fill program, such as the one offered by the University of Florida or Nova Southeastern University that is not shorter than eight (8) hours in length, within one (1) year of the filing of a Final Order accepting and incorporating this Stipulation. These continuing education hours shall be in addition to the hours required for license renewal. Motion carried unanimously.

A-10 Robert Ytuarte, R.Ph., Lake Placid, FL, PS 26382, Case No. 2007-09287
PC: Garcia/Alvarez

Respondent was present and sworn in by Court Reporter. Respondent was represented by Edwin Bayó, Esquire.

Mr. Butler advised the Board the Respondent violated Section 465.016(1)(e), Florida Statutes, for violating a provision of Chapter 893, Florida Statutes, through a violation of Section 893.04(1), Florida Statutes (2006), by dispensing a controlled substance without a valid prescription.

MOTION: by Powers, second by Lalani to accept stipulation of an administrative fine in the amount of \$1,500.00 and costs in the amount of \$1,214.86 to be paid within thirty (30) days of the filing of the Final Order. Respondent shall successfully complete a continuing education course on the laws and rules governing the practice of pharmacy in Florida that is not shorter than twelve (12) hours in length or successfully complete and pass the Multistate Pharmacy Jurisprudence Examination (Florida) within one (1) year of entry of the Final Order accepting and adopting this Settlement Agreement. These continuing education hours shall be in addition to the hours required for license renewal. Motion carried unanimously.

A-11 Mathai Palamattathil, R.Ph., Ft. Myers, FL, PS 40278, Case No. 2007-10909
PC: Lalani/Merrell

Respondent was present and sworn in by Court Reporter. Respondent was represented by Tim Koch.

Ms. Sykes advised the Board the Respondent violated Section 465.016(1)(i), Florida Statutes (2006), by dispensing a legend drug other than in the course of the professional practice of pharmacy.

MOTION: by Goersch, second by Powers to accept stipulation and assess costs in the amount of \$1,444.16 to be paid within thirty (30) days of the filing of the Final Order. Respondent shall successfully complete a continuing education course on the laws and rules governing the practice of pharmacy in Florida that is not shorter than twelve (12) hours in length or successfully complete and pass the Multistate Pharmacy Jurisprudence Examination (Florida) within one (1) year of entry of the Final Order accepting and adopting this Settlement Agreement. These continuing education hours shall be in addition to the hours required for license renewal. Motion carried unanimously.

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

- I-1 Susanne Ziegler, R.Ph., Savannah, GA, PS 25656, Case No. 2007-08742
PC: Parrado/Goersch
CONTINUED TO DECEMBER MEETING
- I-2 Gina Palermo, R.Ph., Slidell, LA, PS 26554, Case No. 2006-24806
PC: Powers/Jones
CONTINUED TO DECEMBER MEETING
- I-3 Jeffrey Crisafulli, R.Ph., Crestview, FL, PS 29853, Case No. 2007-00727
PC: Lalani/Merrell

Respondent was present and sworn in by Court Reporter. Respondent was not represented by counsel.

Ms. Sykes advised the Board the Respondent violated Section 465.016(1)(n), Florida Statutes (2006), by violating an order of the board previously entered in a disciplinary hearing by failing to pay an administrative fine of five hundred dollars (\$500.00) within thirty days of the issuance of the final Order entered in Case Number 2006-10024.

MOTION: by Jones, second by Goersch to adopt the findings of fact. Motion carried unanimously.

MOTION: by Jones, second by Goersch to accept conclusion of law as set forth in the administrative complaint. Motion carried unanimously.

MOTION: by Jones, second by Goersch to accept into evidence the investigative file for the purpose of determining penalty. Motion carried unanimously.

MOTION: by Goersch, second by Powers to accept stipulation of an administrative fine in the amount of \$250.00 to be paid within thirty (30) days of the filing of the Final Order. Motion carried unanimously.

MOTION: by Goersch, second by Powers to assess cost in the amount of \$357.90 to be paid within thirty (30) days of the filing of the Final Order. Motion carried unanimously.

- I-4 Scott Kohn, R.Ph., Rochester, MI, PS 24323, Case No. 2006-02790
PC: Powers/Jones

Respondent was present and sworn in by Court Reporter. Respondent was not represented by counsel.

Ms. Sykes advised the Board the Respondent violated Section 465.016(1)(h), Florida Statutes (2005), by being disciplined by a regulatory agency in another state for any offense that would constitute a violation of Chapter 465, Florida Statutes.

MOTION: by Merrell, second by Lalani to adopt the findings of fact. Motion carried unanimously.

MOTION: by Parrado, second by Goersch to accept conclusion of law as set forth in the administrative complaint. Motion carried unanimously.

MOTION: by Merrell, second by Parrado to accept into evidence the investigative file for the purpose of determining penalty. Motion carried unanimously.

MOTION: by Lalani, second by Merrell to accept stipulation of an administrative fine in the amount of \$500.00 to be paid within thirty (30) days of the filing of the Final Order. Respondent shall successfully complete a prescription mis-fill program, such as the one offered by the University of Florida or Nova Southeastern University that is not shorter than eight (8) hours in length, within one (1) year of the filing of a Final Order accepting and incorporating this Stipulation. These continuing education hours shall be in addition to the hours required for license renewal. Motion carried unanimously.

MOTION: by Merrell, second by Lalani to assess cost in the amount of \$855.77 to be paid within thirty (30) days of the filing of the Final Order. Motion carried unanimously.

I-5 Mathai Palamattathil, R.Ph., Ft. Myers, FL, PS 40278, Case No. 2007-10909
PC: Lalani/Merrell
MOVED TO A-11

I-6 Arvis Irvin, R.Ph., Eustis, FL, PS 13058, Case No. 2007-00335
PC: Lalani/Merrell

Respondent nor counsel was present.

Ms. Sykes advised the Board the Respondent violated Section 465.016(1)(g), Florida Statutes (2005), by furnishing upon prescription an ingredient or article different in an manner from the ingredient or article prescribed.

MOTION: by Jones, second by Garcia to adopt the findings of fact. Motion carried unanimously.

MOTION: by Jones, second by Garcia to accept conclusion of law as set forth in the administrative complaint. Motion carried unanimously.

MOTION: by Jones, second by Garcia to accept into evidence the investigative file for the purpose of determining penalty. Motion carried unanimously.

MOTION: by Jones, second by Goersch to accept stipulation of an administrative fine in the amount of \$500.00 to be paid within thirty (30) days of the filing of the Final Order. Respondent shall successfully complete a prescription mis-fill program, such as the one offered by the University of Florida or Nova Southeastern University that is not shorter than eight (8) hours in length, within one (1) year of the filing of a Final Order accepting and incorporating this Stipulation. These continuing education hours shall be in addition to the hours required for license renewal. Respondent shall be placed on one year probation. Motion carried unanimously.

MOTION: by Jones, second by Goersch to assess cost in the amount of \$884.01 to be paid within thirty (30) days of the filing of the Final Order. Motion carried unanimously.

Comments from the Audience:

Ms. Poston recognized Department of Health staff. Ms. Cassandra Pasley, Chief, Bureau of Health Care Practitioner Regulation, reported that during this legislative session, three positions were approved for unlicensed practices. The Board of Pharmacy received an additional position which will be a Senior Pharmacist. She also discussed patient notification, on-line applications, on-line status update; and new fingerprint system. She stated that our ultimate goal is to be as efficient as possible.

Ms. Lucy Gee, Division Director, reported on the legislative activities. This year there are only a couple of proposals that made it to the Governor's agenda. No pharmacy issues made it to his agenda. MQA is thinking of substantial proposals for next year. Ms. Gee reported that the budget exercise was painful but something that MQA needed to do because of the potential hard times in 2012. The budget cuts did not impact MQA but we may be affected if the Revenue Estimating conference meets again this year. There have been no fee cap increases since 1997. Cost cutting measures are being enforced. Justification is required when filling vacancies. Non-essential vacancies are being held in case of cuts. The Trust Fund balance is going to be the lowest in 12 years. Ms. Gee stated that the Annual Report is beautiful and will be out November 1. The report is all about results of what we do every day. MQA is currently in the 6th year of the application process for the Governor's Sterling Award and will be applying in November 2008. This is a highly recognized award. Ms. Gee reported that MQA conducted an internal Employee Satisfaction Survey to see how we are doing. She is very proud of all MQA staff and thanked the Board for their work.

Staff from Prosecution Services Unit, Client Services Unit, Investigative Services Unit, and the Board of Pharmacy were introduced and thanked for their hard work.

C. PROFESSIONALS RESOURCE NETWORK CASES

PRN-1 Gail Mulhearn, R.Ph., Belleview, FL, PS 27783, Case No. 2004-41046
PC: Powers/Jones

Respondent was present and sworn in by Court Reporter. Respondent was not represented by counsel.

Ms. Quimby-Pennock advised the Board the Respondent violated Section 465.016(1)(i), Florida Statutes (2002, 2003), by dispensing a legend drug, including any controlled substance, other than in the course of the professional practice of pharmacy; and Section 465.016(1)(e), Florida Statutes, for violating a provision of Chapter 893, Florida Statutes, through a violation of Section 893.13(7)(a)1, Florida Statutes (2002, 2003), by dispensing a controlled substance to patient J.B. without a valid prescription in violation of Chapter 893, Florida Statutes.

MOTION: by Merrell, second by Parrado to adopt the findings of fact. Motion carried unanimously.

MOTION: by Merrell, second by Parrado to accept the conclusion of law as set forth in the administrative complaint. Motion carried unanimously.

MOTION: by Merrell, second by Lalani to accept into evidence the investigative file for the purpose of determining penalty. Motion carried unanimously.

MOTION: by Merrell, second by Parrado to accept stipulation of an administrative fine in the amount of \$500.00 to be paid within ninety (90) days of the filing of the Final Order. Respondent shall successfully complete a continuing education course on the laws and rules governing the practice of pharmacy in Florida that is not shorter than twelve (12) hours in length or successfully complete and pass the Multistate Pharmacy Jurisprudence Examination (Florida) within one (1) year of entry of the Final Order accepting and adopting this Settlement Agreement. These continuing education hours shall be in addition to the hours required for license renewal. Respondent shall enter and successfully participate in a Professionals Resource Network (PRN) contract. Respondent shall be placed on probation for a period of five (5) years with terms. During last three months of probationary period, Respondent shall petition and appear before the Board requesting termination of probation. The Board reserves the right to impose additional conditions or restrictions or extend probationary period if deemed appropriate at that time. Motion carried unanimously.

MOTION: by Merrell, second by Parrado to assess cost in the amount of \$2,109.82 to be paid within ninety (90) days of the filing of the Final Order. Motion carried unanimously.

PRN-2 Anita Danna, R.Ph., Foley, AL, PS 30356, Case No. 2007-02309
PC: Salem/Garcia

Respondent was/was not present and sworn in by Court Reporter. Respondent was/was not represented by counsel.

Ms. Quimby-Pennock advised the Board the Respondent violated Section 465.016(1)(i), Florida Statutes (2006), by compounding, dispensing, or distributing a legend drug, including any controlled substance, other than in the course of the professional practice of pharmacy.

MOTION: by Lalani, second by Merrell to accept stipulation of an administrative fine in the amount of \$500.00 and costs in the amount of \$3,249.60 to be paid within one (1) year of the filing of the Final Order. Respondent shall successfully complete a continuing education course on the laws and rules governing the practice of pharmacy in Florida that is not shorter than twelve (12) hours in length or successfully complete and pass the Multistate Pharmacy Jurisprudence Examination (Florida) within one (1) year of entry of the Final Order accepting and adopting this Settlement Agreement. These continuing education hours shall be in addition to the hours required for license renewal. Respondent shall enter and successfully participate in a Professionals Resource Network (PRN) contract. Respondent's license shall be suspended for at least one (1) year and shall continue until such time as Respondent petitions and appears before the Board to demonstrate her ability to practice pharmacy with reasonable skill and safety to patients and shall provide a practice plan detailing her pharmaceutical employment intentions for the Board's approval. Upon reinstatement, Respondent's license shall be placed on probation for a period of five (5) years with terms. During last three months of probationary period, Respondent shall petition and appear before the Board requesting termination of

probation. The Board reserves the right to impose additional conditions or restrictions or extend probationary period if deemed appropriate at that time. Motion carried unanimously.

PRN-3 Vanesa La'Shea Robinson, R.Ph., Sarasota, FL, PS 20171, Case No. 2007-01763
PC: Parrado/Goersch

Respondent nor counsel was present.

Ms. Quimby-Pennock advised the Board the Respondent violated Section 465.016(1)(m), Florida Statutes (2006), by being unable to practice pharmacy with reasonable skill and safety by reason of use of drugs, narcotics, chemicals, or other type of material, including alcohol.

MOTION: by Merrell, second by Lalani that Respondent waived his right to request hearing. Motion carried unanimously.

MOTION: by Merrell, second by Lalani to adopt the findings of fact and conclusion of law as set forth in the administrative complaint. Motion carried unanimously.

MOTION: by Merrell, second by Lalani to accept into evidence the investigative file for the purpose of determining penalty. Motion carried unanimously.

MOTION: by Merrell, second by Lalani to reject stipulation and revoke license. Motion carried unanimously.

MOTION: by Lalani, second by Merrell to assess cost in the amount of \$1,464.32 to be paid within thirty (30) days of the filing of the Final Order. Motion carried unanimously.

PRN-4 Douglas Kassan, R.Ph., St. Petersburg, FL, PS 28503, Case No. 2007-02900
PC: Salem/Garcia

Respondent nor counsel was present.

Ms. Owens advised the Board the Respondent violated Section 465.016(1)(f), Florida Statutes (2006), by having been found guilty, regardless of adjudication, in a court of this state of a crime which directly relates to the ability to practice pharmacy or to the practice of pharmacy; and dispensing a legend drug other than in the course of the professional practice of pharmacy; and Section 465.016(1)(r), Florida Statutes (2006), by violating Section 456.072(1)(c), Florida Statutes (2006), by having been found guilty, regardless of adjudication, in a court of this state of a crime which directly relates to the ability to practice pharmacy or to the practice of pharmacy; and dispensing a legend drug other than in the course of the professional practice of pharmacy

MOTION: by Merrell, second by Powers that Administrative Complaint was properly served. Motion carried unanimously.

MOTION: by Merrell, second by Powers that Respondent waived his right to request hearing. Motion carried unanimously.

MOTION: by Parrado, second by Merrell to adopt the findings of fact and conclusion of law as set forth in the administrative complaint. Motion carried unanimously.

MOTION: by Merrell, second by Powers that Respondent violated Florida Statute. Motion carried unanimously.

MOTION: by Merrell, second by Powers to accept into evidence the investigative file for the purpose of determining penalty. Motion carried unanimously.

MOTION: by Merrell, second by Powers to accept stipulation of an administrative fine in the amount \$250.00 to be paid prior to the petition for reinstatement. License will be suspended until Respondent completes PRN evaluation and complies with recommendations. Respondent must petition and personally appear before the Board. The Board reserves the right to impose additional conditions prior to reinstatement. Motion carried unanimously.

MOTION: by Jones, second by Merrell to assess cost in the amount of \$2,802.34 to be paid prior to reinstatement. Motion carried unanimously.

D. RECOMMENDED ORDER

RO-1 DOH vs. Denis R. Bousquet, R.Ph., Naples, FL, PS 26142, Case No. 2005-67265, DOAH Case No. 07-1436PL
PC: Salem/Garcia

RO-2 DOH vs. Denis R. Bousquet, R.Ph., Naples, FL, PS 26142, Case No. 2005-69439, DOAH Case No. 07-1437PL
PC: Salem/Garcia

Respondent was present and sworn in by Court Reporter. Respondent was not represented by counsel.

Mr. Butler presented the case to the Board.

MOTION: by Merrell, second by Lalani to deny exception regarding financial hardship. Motion carried, 1 opposed (Powers).

MOTION: by Jones, second by Merrell to deny exception regarding removal of fine. Motion carried unanimously.

MOTION: by Merrell, second by Lalani to deny exception regarding additional time of suspension. Motion carried unanimously.

MOTION: by Lalani, second by Merrell to consider the Administrative Law Judge's recommendations. Motion carried unanimously.

MOTION: by Jones, second by Merrell to adopt penalties in the Recommended Order including costs and fines in the amount of \$12,852.66 imposed by the May 3, 2005, Final Order and an additional fine of \$3,500.00. Motion carried unanimously.

MOTION: by Lalani, second by Merrell to assess cost in Case RO1 in the amount of \$7,352.03. Motion carried unanimously.

MOTION: by Jones, second by Lalani to assess costs in Case RO2 in the amount of \$14,018.72. Motion carried, 1 opposed (Powers).

MOTION: by Jones, second by Lalani to allow Respondent to pay within 18 months, multiple payments accepted. Motion carried, 1 opposed (Powers).

TAB 8 **LICENSURE ISSUES**

A. Petitions for Termination of Probation/Suspension

1. Meghna Padalia, R.Ph.

Respondent was present and sworn in by Court Reporter. Respondent was represented by William Furlow, Esquire.

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

2. Stacey Gale, R.Ph.

Respondent was present and sworn in by Court Reporter. Respondent was not represented by counsel.

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

3. Pamela Hill, R.Ph.

Respondent was present and sworn in by Court Reporter. Respondent was not represented by counsel. PRN was present.

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

4. Oyinkan Odumosun, R.Ph.

Respondent nor counsel was present.

MOTION: by Powers, second by Merrell to deny request to terminate probation. Motion withdrawn.

MOTION: by Parrado, second by Lalani to accept petition. Motion carried unanimously.

5. Marguerite Reghanti, R.Ph.

Respondent was present and sworn in by Court Reporter. Respondent was represented by Edwin Bayó, Esquire. Dr. Judy Rivenbark, Professionals Resource Network, was present.

MOTION: by Merrell, second by Lalani to approve reinstatement pending receipt of practice plan and that a new plan will be submitted if employment changes. Motion carried unanimously.

B. Petition For Reinstatement

1. Karl Walter, R.Ph, PS 21130 & PU 3276, Case Nos. 2007-00405 and 2007-00462

Respondent was present and sworn in by Court Reporter. Respondent was represented by Edwin Bayó, Esquire. Dr. Judy Rivenbark, Professionals Resource Network, was present.

Motion was presented requesting Dr. Salem recuse himself from participating in this case. After discussion, Dr. Salem felt the motion was inappropriate and chose not to recuse himself.

MOTION: by Merrell, second by Powers to approve reinstatement with terms in Final Order. Motion carried, 3 opposed (Garcia, Salem, Lalani).

C. Motion for Reinstatement and Modification

1. James Minton, R.Ph., PS 23489, Case No. 2006-34091

Respondent was present and sworn in by Court Reporter. Respondent was represented by Edwin Bayó, Esquire.

MOTION: by Jones, second by Lalani to reinstate and assess costs in the amount of \$2,500.00. Motion carried, 2 opposed (Powers/Parrado).

TAB 9 Judy Rivenbark, M.D., Professionals Resource Network

Regarding clarification and the Board's expectations of the issue of participants on Buprenorphine/Methadone/Opioid Treatment/Chronic Pain and working while on these medications.

Public Comments:

Michael Jackson, Florida Pharmacy Association, apologized for being unable to attend the meeting on Wednesday. He wanted to share what was happening at the National level

regarding counterfeit prescription blanks. He said that Congress may have made a hasty judgment. President Bush has signed a bill to delay implementation of law because of concerns raised by the public regarding this issue.

Mr. Dixon stated that this was a Department of Health rule and not a Board rule. The rule was before the Board for review and comment. Ms. Poston suggested Mr. Jackson submit comments in writing for DOH review.

Mr. Jackson also discussed the Influenza Immunization Certification Program, specifically the CPT training. Dr. Salem suggested that the CPR training could be sub-contracted into the course.

Mr. Dixon complimented the Protective Services Unit for the work they did on the Recommended Order.

There were no other comments.

Meeting adjourned at 2:28 p.m.