

**MINTUES  
DEPARTMENT OF HEALTH  
BOARD OF PHARMACY  
BOARD MEETING  
December 8-9, 2009**

**Hilton University of Florida Conference Center  
1714 S.W. 34<sup>th</sup> Street  
Gainesville, FL 32607  
352-371-3600**

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Board Members Present:

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

Board Staff Present:

Rebecca Poston, RPh, CPh, Executive Director  
Kelli Ferrell, RPh, MSc, Senior Pharmacist  
Ronda Bryan, Program Operations Administrator  
Dinah Skrnich, Cancer Drug Donation Program  
Manager

Board Counsels Present:

Lee Ann Gustafson, Attorney General (Tuesday)  
Diane Guillemette, Attorney General

Department of Health Staff:

Billie Jo Owens, Assistant General Counsel

**Tuesday, December 8, 2009 – 9:00 a.m.**

**9:00 a.m.      Rules Committee**

**10:00 a.m.      Continue Discussion from November 16, 2009, Rule Hearing on Rule  
64B16-26.351 – Standards for Approval of Registered Pharmacy Technician  
Training Programs**

The following individuals provided testimony:

1. Wayne, Slater, FAPSC
2. Andy Shaw, Publix Super Markets
3. Christopher Tilley, Corinthian Colleges, Inc.
4. Scott Prophet, Concorde Career Institute
5. Linda Quiett, Keiser Career College
6. Lorrie Laurin, Rasmussen College
7. April Aright, Sanford Brown Institute
8. Nancy Bradley, Daytona College, Commission for Independent Education
9. Arthur Wharton, University of Florida College of Pharmacy
10. Josh Vazquez, Sanford Brown Institute
11. Christina Gatlin, Sanford Brown Institute
12. Kara Semrinic, Sanford Brown Institute
13. Brian Rahay, Winn-Dixie Stores, Inc.
14. Brenda Turner, Sanford Brown Institute

15. Bob Harris, Messer, Caparello & Seef, P.A.
16. Sophia Langley, FAPSC
17. Edwin Bayo, Esquire
18. Michael Jackson, Florida Pharmacy Association

For details, please see transcript (Attachment A).

**Tuesday, December 8, 2009 – 1:00 p.m.**  
**FULL BOARD MEETING**

**Note: Items shown reflect the order they were addressed**

**No Tab:** Art Warden, University of Florida, Pharmacy Technician Program

Dr. Salem stated that Dr. Warden was concerned his Pharmacy Technician Program would not meet the Board's current proposed rule language on Rule 64B16-26.351, Standards for Approval of Registered Pharmacy Technician Training Programs because his program is not affiliated with the University of Florida, College of Pharmacy.

Dr. Salem asked Board Counsel to consider including language in the rewrite that would assist his program.

**TAB 1**      **APPLICATIONS REQUIRING BOARD REVIEW – Amy Jones, JD**

**A.      Endorsement Candidate**

1.      Gennifer M. Goldstein

Applicant was not present or represented by counsel.

Ms. Goldstein's application did not include documentation of two of the last five years of work experience.

**Action Taken:** After discussion, Ms. Jones moved to deny application. Dr. Weizer seconded the motion, which carried unanimously.

**TAB 2**      **REPORTS**

**A.      Chair's Report- Ron Salem, PharmD**

Dr. Salem noted that this was his last meeting as Chair and had a very enjoyable year. The Board welcomed several new members and accomplished many goals. Dr. Salem recognized Ms. Jones for chairing the Rules Committee meetings and Mr. Powers for filling in as chair for Board meetings. Dr. Salem noted that this might be Mr. Powers' last meeting, he learned a great deal from Mr. Powers and he will be missed.

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

1.      August 2009 PRN Report

Ms. Poston noted the August 2009 PRN report was informational.

Ms. Poston thanked Ms. Bryan, Ms. Ferrell, and Ms. Skrnich for preparing the agenda and materials for the December meeting. The office experienced a tremendous loss when Maxine retired after 44 years of service.

The Registered Pharmacy Technician applications are currently over 22,000, who have applied through the on-line registration. Mr. Hayes and Ms. Poston attended the Florida Pharmacy Association meeting on Saturday to present a presentation on the Pharmacy Technician Registration. Ms. Poston thanked Mr. Jackson for having them as speakers.

The Board office is receiving calls regarding the registration and National Certification process, which is causing confusion. The registration allows a person to work in Florida after December 31, 2009 and the national certification is an individual choice or an employer's requirement for employment.

CE Broker has made a commitment to the Department to register and maintain Board approved Pharmacy Technician Training Programs. Individuals will be able to register their programs in CE Broker and students could access the database to search for approved programs.

**C. Attorney General's Report – Diane Guillemette, Attorney General**

**1. Rules Reports**

64B16-26.103 – Continuing Education Credits; License Renewal; Consultant Pharmacist License Renewal; Nuclear Pharmacist License Renewal

**Action Taken:** After discussion, Ms. Jones moved to approve the language as submitted. Dr. Weizer seconded the motion, which carried unanimously.

**Action Taken:** Ms. Jones moved that there is no impact on small business. Dr. Weizer seconded the motion, which carried unanimously.

64B16-26.351 – Standards for Approval of Registered Pharmacy Technician Training Programs and 64B16-26.352 – Process for Approval of Registered Pharmacy Technician Training Programs

**Action Taken:** Ms. Guillemette would bring the rules back before the Board at the December 28 or 30, 2009 meetings.

64B16-26.355 – Subject Matter for Registered Pharmacy Technician Renewal Continuing Education

**Action Taken:** After discussion, Ms. Jones moved to approve the language as submitted. Dr. Melvin seconded the motion, which carried unanimously.

**Action Taken:** Ms. Jones moved that there is no impact on small business. Dr. Melvin seconded the motion, which carried unanimously.

64B16-26.2033 – Pharmacy Intern Registration and Internship Requirements

**Action Taken:** After discussion, Ms. Jones moved to approve the language as submitted. Dr. Griffin seconded the motion, which carried unanimously.

**Action Taken:** Dr. Weizer moved that there is no impact on small business. Dr. Melvin seconded the motion, which carried unanimously.

64B16-28.108 – All Permits – Labeling of Medicinal Drugs

**Action Taken:** After discussion, Dr. Melvin moved to withdraw changes. Dr. Griffin seconded the motion, which carried unanimously.

**2. University of Florida, Internship Licenses for International Students**

Ms. Gustafson explained the University is looking for a way to allow unlicensed interns to practice in Florida. Students in their program cannot get an intern license because they do not have social security number because they are only in the United States temporary. Unfortunately, the Board cannot assist because Chapter 456, Florida Statutes requires a social security number as a condition of licensure.

Randy Doty, PharmD., University of Florida, College of Pharmacy stated that their program accepts international exchange students to learn about Pharmacy in the United States in exchange for their students to learn the Pharmacy outside the United States. These students cannot start the licensure process until they arrive in the United States, which takes them six to ten weeks to get through the homeland security process and then several more weeks to get a temporary social security number. Students would be leaving by the time they get through these processes. There are other people in similar situations that are license in other states and are trying to get a pharmacy license with the same status. This is a bigger issue and there may not be anything that can be done based on the current laws but if there was some kind of steps to make the law different.

Mr. Powers noted that NOVA University has the same concern and suggested Dr. Doty meet with NOVA to work on getting the law changed.

Ms. Gustafson suggested including an exemption included in the law to allow interns to practice without a license during the internship.

**D. Prosecuting Attorney Report – Billie Jo Owens**

**1. Prosecution Report**

Ms. Owens reported that as of November 16, 2009, 331 cases had been reviewed by the attorneys; 104 cases recommended for PCP; and 60 cases where probable cause was found or waived. There are 12 priority 1 cases. There are 82 cases over one year old that Ms. Owens asked the Board to approve them to continue working on.

**Action Taken:** After discussion, Dr. Melvin moved to approve legal to continue working on cases over one year old. Dr. Griffin seconded the motion, which carried unanimously.

**E. Statewide Inspection Program Manager Report – Bob Garey**

John Taylor, Inspector updated the Board on the number of required Pharmacy inspections. There have been 2,771 inspections completed and 4,646 inspections pending which are approximately 38% that are completed. Inspections are required for every Pharmacy each fiscal year from July 1 to June 30.

**F. Rules Committee – Amy Jones, JD**

Ms. Jones noted that the rules update was provided under the Board Counsels rules report.

**G. Administrative Report – Amy Jones, JD**

1. Expenditures/Cash Balances Reports

Ms. Jones explained the Board had a copy of the Expenditures/Cash Balance Report in their agenda materials. The bulk of the expenditures are for Board staff and inspections. At our last meeting, we looked at projective balances but there were assumptions related to pharmacy technicians, before we make any changes we need to wait and see how that works out. We may want to consider using the unlicensed activity funds next year on unlicensed activity champagne for education and/or unlicensed pharmacy technicians.

Dr. Salem stated the legislator removed surplus funds from various regulatory health care accounts to balance the budget. Many of the health care professions had a significant amount of surplus removed. The Board needs to continue monitoring the budget and if a surplus develops, consider lowering the fees.

**H. Tripartite Committee Report – Fritz Hayes, BPharm**

Mr. Hayes noted that the Tripartite Committee held a meeting on November 16, 1. The committee had an opportunity to review the Pharmacy Technician rules for individual training programs and continuing education programs. The committee's recommendations will be forward to the Rules Committee next year for consideration.

1. **Lois Adams, Cystic Fibrosis Pharmacy, Request for Continuing Education Credit**

The Respondent was present without counsel.

Mr. Hayes stated that the committee recommended denying the application because the applicant failed to provide the committee with the course criteria.

Ms. Adams provided testimony and information surrounding the course criteria.

**Action Taken:** After discussion, Mr. Powers moved to approve the continuing education course for 10 hours. Dr. Melvin seconded the motion, which carried unanimously.

**I. Probable Cause Panel Report – Fritz Hayes, BPharm, and Albert Garcia, BPharm**

Mr. Hayes and Mr. Garcia reported that the Probable Cause Panel reviewed 57 cases at the September 29, 2009 meeting.

**TAB 3**

**BUSINESS – Ron Salem, PharmD, and Lee Ann Gustafson, Attorney General**

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

1. Pharmacist (Licensure) (Client 2201) – 201
2. Pharmacist (Exam Eligibility) (Client 2201) – 96
3. Pharmacist Interns (Client 2202) – 602
4. Consultant Pharmacist (Client 2203) – 31
5. Nuclear Pharmacist (Client 2204) – 5
6. Pharmacies/Facilities (Client 2205) – 98
7. Technician Ratios
8. CE Providers and Programs

**Action Taken:** Dr. Weizer moved to approve the ratification of items 1 through 8. Ms. Jones seconded the motion, which carried unanimously.

**B. Minutes – Ron Salem, PharmD**

1. Approval of October 13-14, 2009, Meeting Minutes
2. Approval of November 10, 2009, Meeting Minutes

**Action Taken:** Dr. Griffin moved to approve the meeting minutes. Dr. Melvin seconded the motion, which carried unanimously.

**C. Petition for Variance or Waiver – Lee Ann Gustafson, Attorney General**

1. Ominicare of Tampa - Todd Zisek, RPh

Todd Zisek, R.Ph, General Manager, Ominicare of Tampa was present with Bradley Carson.

Mr. Zisek filed a Petition for Variance and Waiver of Rule 64B16-28.605, Florida Statutes, Class II Institutional Pharmacies – Automated Distribution and Packaging. Mr. Zisek's submitted proposed language for consideration.

**Action Taken:** After discussion, Dr. Weizer moved to deny the Petition for Variance and Waiver. Dr. Melvin seconded the motion, which carried unanimously.

**Action Taken:** Ms. Jones moved to refer Mr. Zisek's proposed rule language to the Rules Committee for consideration. Dr. Melvin seconded the motion, which carried unanimously.

**D. Petition for Declaratory Statement**

1. Nova Southeastern University

Ms. Gustafson explained the Petition for a Declaratory Statement references the Medical Practice Act, Chapter 458.336, Florida Statutes and Rule 64B8-9.012, Florida Administrative Code. The Board does not have authority to interpret or issue opinions for other professions practice acts. The letter does not meet the requirements for a declaratory statement for failure to identify the practically circumstances involved.

**Action Taken:** After discussion, Ms. Jones moved to deny and recommend filing the Petition with the Board of Medicine. Dr. Melvin seconded the motion, which carried unanimously.

**A. Election of Officers**

0. Chair

**Action Taken:** Mr. Garcia nominated Dr. Weizer for Chair. Mr. Powers seconded the nomination, which carried unanimously.

0. Vice Chair

**Action Taken:** Mr. Powers nominated Mr. Hayes for Vice Chair. Mr. Garcia seconded the nomination, which carried unanimously.

**No Tab:** Mr. Jackson requested the Board to consider revising or appealing the operating hours and disaster language in Rule 64B16-28.1081, F.A.C. This may be the only profession with these restrictions placed upon them.

Ms. Jones suggested referring the rule to the Rules Committee for review.

**Action Taken:** After discussion, Ms. Jones moved to refer Rule 64B16-28.1081 and Mr. Jackson's suggestions to the Rules Committee.

**Adjourn:** Dr. Weizer moved to adjourn the meeting at 3:04 p.m. Mr. Garcia seconded the motion, which carried unanimously.

**Wednesday, December 9, 2009 – 8:00 a.m. – 4:00 p.m. – Disciplinary Cases**

**Call To Order by Ron Salem, Chair**

Dr. Salem called the meeting to order at 8:00 a.m.

**TAB 4            DISCIPLINARY CASES – Billie Jo Owens and Ron Salem, PharmD**

**A.        SETTLEMENT AGREEMENT – NON APPEARANCE CASES**

NA-1    Ideal Pharmacy Inc., Hialeah, FL, PH 23660, Case No. 2009-06706

The Respondent was not present or represented by counsel.

Mr. Schiefelbein advised the Board that Respondent violated Section 465.023(1)(c), Florida Statutes, through a violation of Section 465.018, Florida Statutes, by failing to designate a successor PDM within the period from May 11, 2009 to June 24, 2009.

**Action Taken:** Mr. Powers moved to waive Respondents appearance. Dr. Melvin seconded the motion, which carried unanimously.

**Action Taken:** After discussion, Dr. Griffin moved to reject the settlement agreement and offer a counter stipulation to include an administrative fine in the amount of \$2,500.00 and cost in the amount of \$1,849.42 to be paid within thirty (30) days of the filing of the Final Order. The permit shall be on probation for one (1) year. During the probation period, shall submit quarterly reports of the Prescription Department Manager's (PDM) name, address, and license number and notify the Compliance Officer of any change in PDM. Dr. Melvin seconded the motion, which carried with Ms. Jones and Mr. Garcia opposing.

**B.        SETTLEMENT AGREEMENT– APPEARANCE REQUIRED CASES**

A-1        Nwando O. Nwanna, RPh. Pam Harbor, FL, PS 33572, Case No. 2008-13294 PC: Melvin/Risch

The Respondent was present with Stacy Estes, Esq.

Ms. Owens advised the Board that Respondent violated Section 465.016(1)(r), Florida Statutes, through violation of Rule 64B16-27.101, Florida Administrative Code, knowingly possessing improperly labeled drugs. 2. Violation of Section 465.016(1)(e), Florida Statutes, through violation of Section 499.005(29), Florida Statutes, by violation of by failing to receive and maintain pedigree papers for drugs received.

**Action Taken:** After discussion, Ms. Jones moved to accept the settlement agreement and an administrative fine in the amount of \$750.00 and cost in the amount of \$2,504.40 to be paid within 90 days of the filing of the Final Order. Complete a twelve (12) hours laws and rules course or Multistate Pharmacy

Jurisprudence Examination (MPJE) within 1 year. Dr. Weizer seconded the motion, which carried unanimously.

A-4 Asma Aftimous, R.Ph, Jacksonville, FL, PS 42815, Case No. 2009-12574  
PC: Garcia/Griffin

The Respondent was present with Brian Kahan, Esq.

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

**Action Taken:** After discussion, Mr. Powers moved to reject the settlement agreement. Dr. Melvin seconded the motion, which carried.

**Action Taken:** Mr. Powers moved to offer a counter stipulation and an administrative fine in the amount of \$500 and cost in the amount of \$820.95 to be paid within ninety (90) days of the filing of Final Order. Complete a eight (8) hours prevention course within one (1) year. Dr. Melvin seconded the motion, which carried with Ms. Jones, Dr. Salem and Ms. Risch opposing.

A-2 Anthony James Campbell, RPh., Ocala, FL PS 37805, Case No. 2009-09415 PC: Melvin/Risch

The Respondent was present with William Furlow, Esq.

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

**Action Taken:** After discussion, Mr. Powers moved to reject the settlement agreement. The motion failed for lack of a second.

**Action Taken:** After discussion, Ms. Jones moved to amend the settlement agreement and an administrative fine in the amount of \$5,250 and cost in the amount of \$1,241.45 to be paid within ninety (90) days of the filing of Final Order. Reprimand, nine (9) months probation and eight (8) hours prevention course, accepted completion if prior to May 1, 2009. Mr. Powers seconded the motion, which carried unanimously.

A-3 Franck's Lab, Inc., D/B/A/ Franck's Compounding Pharmacy, Ocala, FL, PH 19761, Case No. 2009-09413, PC: Melvin/Risch

The Respondent was present with William Furlow, Esq.

Ms. Owens advise the Board that Respondent violated Section 465.016(1)(g), Florida Statutes, furnishing upon prescription an ingredient or article different in any manner from the ingredient or article prescribed. 2. Violation of Section 499.005(22), Florida Statutes, distributing prescription drugs other than to patient or consumer without a wholesale permit. 3. Violation of Section 499.005(15), Florida Statutes, selling prescription drugs to person not authorized to purchase or possess. 4. Violation of Section 465.016(1)(r), Florida Statutes, through

violation of Rule 64B16-27.101, Florida Administrative Code, by knowingly sell drugs improperly labeled.

**Action Taken:** After discussion, Dr. Weizer moved to reject the settlement agreement and amended the stipulation and dismiss count III as duplicative, an administrative fine in the amount of \$9,250 and cost in the amount of \$5,137.21 to be paid within 90 days of the filing of Final Order. Reprimand, eighteen (18) months of probation, PDM to complete an eight (8) hours prevention course within one (1) year, accept completion if prior to May 1, 2009 and PDM to complete a twelve (12) hours laws and rules course or Multistate Pharmacy Jurisprudence Examination (MPJE) within 1 year. Mr. Hayes seconded the motion, which carried with Ms. Jones opposing.

**Action Taken:** After further discussion, Dr. Weizer moved to delete the probation. Mr. Powers seconded the motion, which carried unanimously.

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

DOW-1 CMS Pharmacy, Inc., Hallandale Beach, FL, PH 22186, Case No. 2008-18092 PC: Parrado/Jones

Respondent was not present or represented by counsel.

Ms. Owens advised the Board that Respondent Violation of Section 465.023(1)(c), Florida Statutes, through violation of Rule 64B16-28.202, Florida Administrative Code, by failing to follow closing procedures.

**Action Taken:** Dr. Weizer moved to find that Respondent was properly served, did not return the election of rights, and has waived his right to be heard. Dr. Melvin seconded the motion, which carried unanimously.

**Action Taken:** Dr. Weizer moved to adopt the findings of fact as alleged in the Administrative Complaint. Dr. Melvin seconded the motion, which carried unanimously.

**Action Taken:** Dr. Weizer moved to adopt the conclusions of law including that Respondent has violated the statutes and rules as alleged in the Administrative Complaint. Dr. Melvin seconded the motion, which carried unanimously.

**Action Taken:** Dr. Weizer moved to accept into evidence the investigative file and request an opportunity to make a penalty recommendation. Dr. Melvin seconded the motion, which carried unanimously.

**Action Taken:** Dr. Melvin moved to revoke license. Dr. Weizer seconded the motion, which carried unanimously.

**Action Taken:** Dr. Weizer moved to assess costs in the amount of \$1,209.63 to be paid within thirty (30) days of the filing of the Final Order. Dr. Melvin seconded the motion, which carried unanimously.

DOW-2 Vicki Compton, RPh., Pensacole, FL, PS 20573, Case No. 2008-27664 PC: Hayes/Weizer

Respondent was not present or represented by counsel.

Ms. Owens advised the Board that Respondent Violation of Section 456.072(1)(q), Florida Statutes, by failure to pay a fine of \$1,000 and costs of \$75.00 as ordered in a non-disciplinary uniform citation.

**Action Taken:** Dr. Melvin moved to find that Respondent was properly served, did not return the election of rights, and has waived his right to be heard. Dr. Griffin seconded the motion, which carried unanimously.

**Action Taken:** Dr. Griffin moved to adopt the findings of fact as alleged in the Administrative Complaint. Dr. Melvin seconded the motion, which carried unanimously.

**Action Taken:** Dr. Melvin moved to adopt the conclusions of law including that Respondent has violated the statutes and rules as alleged in the Administrative Complaint. Dr. Griffin seconded the motion, which carried unanimously.

**Action Taken:** Dr. Melvin moved to accept into evidence the investigative file and request an opportunity to make a penalty recommendation. Ms. Jones seconded the motion, which carried unanimously.

**Action Taken:** Mr. Powers moved to impose an administrative fine in the amount of \$1,000 to be paid within 30 days of the filing of Final Order and suspend license until Respondent complies with Final Order No. 2008-14888. Dr. Weizer seconded the motion, which carried unanimously.

**Action Taken:** Mr. Powers moved to assess costs in the amount of \$710.78 and for cost and fine be paid prior to reinstatement of license. Dr. Melvin seconded the motion, which carried unanimously.

#### **D. VOLUNTARY RELINQUISHMENTS**

VR-1 Douglas Holland, RPh., Jacksonville, FL, PS 9431, Case No. 2009-4167  
PC: Waived

Respondent was not present or represented by counsel.

Ms. Owens advised the Board that Respondent Violation of Section 832.05, Florida Statutes, issuing a worthless check.

**Action Taken:** Dr. Weizer moved to accept voluntary relinquishment. Dr. Melvin seconded the motion, which carried unanimously.

VR-2 Gregory Hanson, RPh., Highland Ranch, CO, PS 32994, Case No. 2009-06372 PC: Waived

Respondent was not present or represented by counsel.

Ms. Owens advised the Board that Respondent Violation of Section 465.016(1)(h), Florida Statutes, by having been disciplined in another jurisdiction for an offense that would constitute a violation of Section 465.

**Action Taken:** Dr. Weizer moved to accept voluntary relinquishment. Dr. Melvin seconded the motion, which carried unanimously.

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

I-1 Robert M. Nunnally, RPh., Coral Springs, FL, PS 35079, Case No. 2009-06599 PC: Hayes/Weizer

The Respondent was present with Veronica Bayo, Esq.

Mr. Schiefelbein advised that Board that Respondent violated Section 465.016(1)(r), Florida Statutes, through a violation of Rule 64B16-28.108, Florida Administrative Code, by dispensing mislabeled medication.

**Action Taken:** Dr. Griffin moved to proceed as Hearing Not Involving Disputed Issues of Material Fact. Dr. Melvin seconded the motion, which carried unanimously.

**Action Taken:** Dr. Griffin moved to adopt the findings of fact as alleged in the Administrative Complaint. Motion carried unanimously. Dr. Melvin seconded the motion, which carried unanimously.

**Action Taken:** Dr. Melvin moved to adopt the conclusions of law including that Respondent has violated the statutes and rules as alleged in the Administrative Complaint. Ms. Jones seconded the motion, which carried unanimously.

**Action Taken:** Dr. Melvin moved to accept into evidence the investigative file and request an opportunity to make a penalty recommendation. Dr. Griffin seconded the motion, which carried unanimously.

**Action Taken:** Mr. Jones moved to assess an administrative fine in the amount of \$250 to be paid within ninety (90) days and from the filing of the Final Order and successfully complete an 8 hour Board Approved prescription mis-fill course within 1 year. Dr. Melvin seconded the motion, which carried unanimously.

**Action Take:** Dr. Melvin moved to assess costs in the amount of \$1,127.74 to be paid within ninety (90) days of the filing of the Final Order. Dr. Griffin seconded the motion, which carried unanimously.

I-2 Charles E. Soost, RPh., Lake Mary, FL, PS 15254, Case No. 2009-04701 PC: Hayes/ Weizer

The Respondent was present with Veronica Bayo, Esq.

Ms. Owens advised that Board that Respondent Violation of Section 465.016(1)(g), Florida Statutes, furnishing upon prescription an ingredient or article different in any manner from the ingredient or article prescribed.

**Action Taken:** Dr. Griffin moved to proceed as Hearing Not Involving Disputed Issues of Material Fact. Ms. Jones seconded the motion, which carried unanimously.

**Action Taken:** Dr. Griffin moved to adopt the findings of fact as alleged in the Administrative Complaint. Motion carried unanimously. Dr. Melvin seconded the motion, which carried unanimously.

**Action Taken:** Dr. Griffin moved to adopt the conclusions of law including that Respondent has violated the statutes and rules as alleged in the Administrative Complaint. Dr. Melvin seconded the motion, which carried unanimously.

**Action Taken:** Dr. Griffin moved to accept into evidence the investigative file and request an opportunity to make a penalty recommendation. Mr. Powers seconded the motion, which carried unanimously.

**Action Taken:** Mr. Jones moved to assess an administrative fine in the amount of \$500 to be paid within ninety (90) days and from the filing of the Final Order and successfully complete an 8 hour Board Approved prescription mis-fill course within 1 year. Dr. Melvin seconded the motion, which carried unanimously.

**Action Take:** Dr. Melvin moved to assess costs in the amount of \$1,186.63 to be paid within ninety (90) days of the filing of the Final Order. Ms. Jones seconded the motion, which carried unanimously.

I-3 Michael S. Haulsee, RPh., St. Petersburg, FL, PS 22427, Case No. 2008-18679 PC: Powers/Jones

Respondent was present with Brian A. Kahan, Esq.

Mr. Schiefelbein advised the Board that Respondent violated Section 465.016(1)(e), Florida Statutes, through a violation of Sections 499.01(1) and 499.005(22), Florida Statutes, by failing to obtain a prescription drug wholesaler's permit or a retail pharmacy drug wholesaler's permit, prior to engaging in wholesale distribution of prescription drugs dispensing a legend drug other than in the course of the professional practice of pharmacy.

**Action Taken:** Dr. Weizer moved to amended the Administrative Complaint violation from 465.023 (1)(c) to Chapter 465.016(1)(e). Dr. Melvin seconded the motion, which carried unanimously.

**Action Taken:** Dr. Weizer moved to proceed as Hearing Not Involving Disputed Issues of Material Fact. Dr. Melvin seconded the motion, which carried unanimously.

**Action Taken:** Dr. Weizer moved to adopt the findings of fact as alleged in the Administrative Complaint. Motion carried unanimously. Dr. Melvin seconded the motion, which carried unanimously.

**Action Taken:** Dr. Weizer moved to adopt the conclusions of law including that Respondent has violated the statutes and rules as alleged in the Administrative Complaint. Dr. Griffin seconded the motion, which carried unanimously.

**Action Taken:** Dr. Weizer moved to accept into evidence the investigative file and request an opportunity to make a penalty recommendation. Dr. Melvin seconded the motion, which carried unanimously.

**Action Taken:** Dr. Salem moved to assess an administrative fine in the amount of \$1,000 to be paid within ninety (90) days from the filing of the Final Order. Mr. Hayes seconded the motion, which carried unanimously.

**Action Taken:** Dr. Weizer moved to assess cost in the amount of \$1,825.07 to be paid within ninety (90) days from the filing of the Final Order. Dr. Melvin seconded the motion, which carried unanimously.

I-4 The Compounding Shop, Inc., St. Petersburg, FL, PH 15318, Case No. 2008-17861 PC: Powers/Jones

Respondent was present with Brian Kahan, Esq.

Mr. Schiefelbein advise the Board that Respondent violated Section 465.016(1)(e), Florida Statutes, through a violation of Sections 499.01(1) and 499.005(22), Florida Statutes, by failing to obtain a prescription drug wholesaler's permit or a retail pharmacy drug wholesaler's permit, prior to engaging in wholesale distribution of prescription drugs dispensing a legend drug other than in the course of the professional practice of pharmacy.

**Action Taken:** Dr. Griffin moved to proceed as Hearing Not Involving Disputed Issues of Material Fact. Dr. Weizer seconded the motion, which carried unanimously.

**Action Taken:** Dr. Griffin moved to adopt the findings of fact as alleged in the Administrative Complaint. Motion carried unanimously. Dr. Weizer seconded the motion, which carried unanimously.

**Action Taken:** Dr. Griffin moved to adopt the conclusions of law including that Respondent has violated the statutes and rules as alleged in the Administrative Complaint. Dr. Melvin seconded the motion, which carried unanimously.

**Action Taken:** Dr. Griffin moved to accept into evidence the investigative file and request an opportunity to make a penalty recommendation. Dr. Melvin seconded the motion, which carried unanimously.

**Action Taken:** Dr. Weizer moved to assess an administrative fine in the amount of \$1,000 to be paid within ninety (90) days from the filing of the Final Order. Dr. Melvin seconded the motion, which carried unanimously.

**Action Taken:** Dr. Melvin moved to assess cost in the amount of \$2,188.09 to be paid within ninety (90) days from the filing of the Final Order. Dr. Weizer seconded the motion, which carried unanimously.

I-5 Josh Baker, RPh., Tampa, FL, PS 19328, Case No. 2008-27851  
PC: Melvin/Risch

Respondent was present with Martin R. Dix, Esq.

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

**Action Taken:** Dr. Griffin moved to proceed as Hearing Not Involving Disputed Issues of Material Fact. Mr. Powers seconded the motion, which carried unanimously.

**Action Taken:** Mr. Powers moved to adopt the findings of fact as alleged in the Administrative Complaint. Motion carried unanimously. Dr. Griffin seconded the motion, which carried unanimously.

**Action Taken:** Dr. Griffin moved to adopt the conclusions of law including that Respondent has violated the statutes and rules as alleged in the Administrative Complaint. Ms. Jones seconded the motion, which carried unanimously.

**Action Taken:** Ms. Melvin moved to accept into evidence the investigative file and request an opportunity to make a penalty recommendation. Dr. Griffin seconded the motion, which carried unanimously.

**Action Taken:** Dr. Weizer moved to assess an administrative fine in the amount of \$500 to be paid within ninety (90) days from the filing of the Final Order and successfully complete an 8 hour Board Approved prescription mis-fill course within 1 year. Dr. Griffin seconded the motion, which carried unanimously.

**Action Taken:** Dr. Griffin moved to assess cost in the amount of \$3, 267.97 to be paid within ninety (90) days from the filing of the Final Order. Ms. Jones seconded the motion, which carried unanimously.

I-6 Erica S. Benton, RPh., Jacksonville, FL, PU 5110, Case No. 2009-01836  
PC: Hayes/Weizer

Respondent was present without counsel.

Mr. Schiefelbein advised the Board that Respondent violated Section 465.016(1)(r), Florida Statutes, through violation of Section 456.072(1)(q), Florida Statutes, by violating a lawful order of the Board by failing to submit proof of completion of certain continuing education and failing to pay an administrative fine and costs as required by a final order.

**Action Taken:** Ms. Jones moved to proceed as Hearing Not Involving Disputed Issues of Material Fact. Dr. Melvin seconded the motion, which carried unanimously.

**Action Taken:** Ms. Jones moved to adopt the findings of fact as alleged in the Administrative Complaint. Motion carried unanimously. Dr. Griffin seconded the motion, which carried unanimously.

**Action Taken:** Dr. Melvin moved to adopt the conclusions of law including that Respondent has violated the statutes and rules as alleged in the Administrative Complaint. Dr. Griffin seconded the motion, which carried unanimously.

**Action Taken:** Dr. Melvin moved to accept into evidence the investigative file and request an opportunity to make a penalty recommendation. Dr. Griffin seconded the motion, which carried unanimously.

**Action Taken:** Ms. Jones moved to assess an administrative fine in the amount of \$500 to be paid within ninety (90) days from the filing of the Final Order and reprimand. Mr. Powers seconded the motion, which carried unanimously.

**Action Taken:** Dr. Griffin moved to assess cost in the amount of \$1,385.28 to be paid within ninety (90) days from the filing of the Final Order. Dr. Melvin seconded the motion, which carried unanimously.

I-7 Marie-Elsie Ade, RPh., Pembroke Pines, FL, PU 4703, Case No. 2008-27634 PC: Melvin/Risch

Respondent was present without counsel.

Mr. Schiefelbein advised the Board that Respondent violated Section 465.016(1)(r), Florida Statutes, through violation of Section 456.072(1)(q), Florida Statutes, by violating a lawful order of the Board to pay an administrative fine and costs as required by a final order.

**Action Taken:** Dr. Weizer moved to proceed as Hearing Not Involving Disputed Issues of Material Fact. Dr. Griffin seconded the motion, which carried unanimously.

**Action Taken:** Dr. Weizer moved to adopt the findings of fact as alleged in the Administrative Complaint. Motion carried unanimously. Dr. Griffin seconded the motion, which carried unanimously.

**Action Taken:** Dr. Weizer moved to adopt the conclusions of law including that Respondent has violated the statutes and rules as alleged in the Administrative Complaint. Dr. Griffin seconded the motion, which carried unanimously.

**Action Taken:** Dr. Weizer moved to accept into evidence the investigative file and request an opportunity to make a penalty recommendation. Dr. Griffin seconded the motion, which carried unanimously.

**Action Taken:** Dr. Weizer moved to assess an administrative fine in the amount of \$1000 to be paid within hundred and eighty (180) days from the filing of the Final Order and reprimand. Dr. Griffin seconded the motion, which carried unanimously.

**Action Taken:** Dr. Weizer moved to assess cost in the amount of \$825.38 to be paid within hundred and eighty (180) days from the filing of the Final Order. Dr. Griffin seconded the motion, which carried unanimously.

I-8 Craig A. Lowy, RPh., Hollywood, FL, PU 4211, Case No. 2009-01822  
PC: Garcia/Griffin

Respondent was present without counsel.

Mr. Schiefelbein advised the Board that Respondent violated Section 465.016(1)(r), Florida Statutes, through violation of Section 456.072(1)(q), Florida Statutes, by violating a lawful order of the Board by failing to submit proof of completion of certain continuing education.

**Action Taken:** Dr. Weizer moved to proceed as Hearing Not Involving Disputed Issues of Material Fact. Dr. Melvin seconded the motion, which carried unanimously.

**Action Taken:** Dr. Weizer moved to adopt the findings of fact as alleged in the Administrative Complaint. Motion carried unanimously. Dr. Melvin seconded the motion, which carried unanimously.

**Action Taken:** Dr. Weizer moved to adopt the conclusions of law including that Respondent has violated the statutes and rules as alleged in the Administrative Complaint. Dr. Melvin seconded the motion, which carried unanimously.

**Action Taken:** Dr. Melvin moved to accept into evidence the investigative file and request an opportunity to make a penalty recommendation. Dr. Weizer seconded the motion, which carried unanimously.

**Action Taken:** Dr. Weizer moved to assess an administrative fine in the amount of \$1000 to be paid within ninety (90) days from the filing of the Final Order and reprimand. Dr. Melvin seconded the motion, which carried unanimously.

**Action Taken:** Dr. Weizer moved to assess cost in the amount of \$2,670.03 to be paid within ninety (90) days from the filing of the Final Order. Dr. Melvin seconded the motion, which carried unanimously.

I-9 Reginald Dawson, RPh., Jacksonville, FL, PS 26434, Case No. 2008-20950 PS: Garcia/Hayes

Ms. Owens advise the Board that Respondent submitted a request for continuance.

**Action Taken:** Dr. Melvin moved to continue case until February 2010 meeting, require Mr. Dawson to appear before the Board and the Board will not grant additional continuance. Mr. Powers seconded the motion, which carried with Dr. Weizer opposing.

I-10 Mosunmade Ajasa, RPh., Winder Park, FL, PS 31434, Case No. 2009-06539 PC: Garcia/Griffin

Respondent was present without counsel.

Mr. Schiefelbein advised the Board that Respondent violated Section 465.016(1)(r), Florida Statutes, through violation of Section 456.072(1)(q), Florida

Statutes, by violating a lawful order of the Board to pay an administrative fine and costs as required by a final order.

**Action Taken:** Dr. Weizer moved to proceed as Hearing Not Involving Disputed Issues of Material Fact. Dr. Melvin seconded the motion, which carried unanimously.

**Action Taken:** Dr. Weizer moved to adopt the findings of fact as alleged in the Administrative Complaint. Motion carried unanimously. Dr. Melvin seconded the motion, which carried unanimously.

**Action Taken:** Dr. Weizer moved to adopt the conclusions of law including that Respondent has violated the statutes and rules as alleged in the Administrative Complaint. Dr. Melvin seconded the motion, which carried unanimously.

**Action Taken:** Dr. Weizer moved to accept into evidence the investigative file and request an opportunity to make a penalty recommendation. Dr. Melvin seconded the motion, which carried unanimously.

**Action Taken:** Dr. Weizer moved to assess an administrative fine in the amount of \$1000 to be paid within 1 year from the filing of the Final Order and reprimand. Ms. Risch seconded the motion, which carried unanimously.

**Action Taken:** Dr. Weizer moved to assess cost in the amount of \$1,501.54 to be paid within ninety (90) days from the filing of the Final Order. Ms. Risch seconded the motion, which carried unanimously.

I-11 Christopher Wilcox, RPh., Fort Walton, FL PS 28036, Case No. 2008-23655 PC: Salem/Melvin

Respondent was present with H. Richard Bisbee, P.A.

Ms. Owens advised the Board that Respondent violated Section 465.016(1)(h), Florida Statutes, for having been disciplined in another jurisdiction for an offense that would constitute a violation of Section 465.

**Action Taken:** Dr. Weizer moved to proceed as Hearing Not Involving Disputed Issues of Material Fact. Dr. Griffin seconded the motion, which carried unanimously.

**Action Taken:** Dr. Weizer moved to adopt the findings of fact as alleged in the Administrative Complaint. Motion carried unanimously. Dr. Griffin seconded the motion, which carried unanimously.

**Action Taken:** Dr. Weizer moved to adopt the conclusions of law including that Respondent has violated the statutes and rules as alleged in the Administrative Complaint. Dr. Griffin seconded the motion, which carried unanimously.

**Action Taken:** Dr. Weizer moved to accept into evidence the investigative file and request an opportunity to make a penalty recommendation. Dr. Griffin seconded the motion, which carried unanimously.

**Action Taken:** Dr. Weizer moved to suspend license for six (6) months, suspension stayed. Dr. Griffin seconded the motion, which carried unanimously.

**Action Taken:** Dr. Weizer moved to assess cost in the amount of \$1,005.39 to be paid within ninety (90) days from the filing of the Final Order. Dr. Griffin seconded the motion, which carried unanimously.

I-12 Nathan Moy, RPh., Miramar, FL, PS 34644, Case No. 2009-11174  
PC: Hayes/Weizer

Ms. Owens advise the Board that Respondent submitted a request for continuance.

**Action Taken:** Dr. Melvin moved to grant request for continuance. Dr. Griffin seconded the motion, which carried unanimously.

## **F. PROFESSIONALS RESOURCE NETWORK CASES**

PRN-1 – INF Catherine J. Crowe, RPh., PS 34409, Case No. 2008-16060  
PC: Garica/Griffin

Respondent was not present but was represented by Edwin Bayo, Esq.

Mr. Schiefelbein advised the Board that Respondent violated Violation of 465.016(1)(i), Florida Statutes, by dispensing or distributing a legend drug including any controlled substance other than in the course of the professional practice of pharmacy.

**Action Taken:** Dr. Weizer moved to impose an administrative fine in the amount of \$250.00 payable prior to reinstatement. Respondent must enter and successfully participate in the Professionals Resource Network (“PRN”) program under those conditions deemed appropriate and necessary by PRN. Respondent’s license is suspended until presentation with Petition for Reinstatement and until the Board determines that Respondent is in compliance with all PRN requirements and recommendations, determines that Respondent is able to practice pharmacy as a pharmacist with reasonable skill and safety, and approves a practice plan for Respondent and pays fine. During the period of suspension, Respondent shall not in any manner engage in the practice of pharmacy, including but not limited to the preparation of medicinal drugs for dispensing or in the actual dispensing of medicinal drugs in the State of Florida. The Petition for Reinstatement shall include but is not limited to, PRN compliance, practice plan, fine and appearance. The Board also retains the right to impose restrictions, conditions, or obligations, including probation. Upon reinstatement of license, the Respondent shall be on probation for a period of five (5) years. Probation shall be terminated only by order of the Board. During the period of probation, Respondent shall comply with all requirements in the Settlement Agreement. The Board retains the right to impose restrictions, conditions, or obligations as appropriate at any time during the period of probation and at the time, if at all, the Board terminates Respondent’s probation. Mr. Powers seconded the motion, which carried unanimously.

**Action Taken:** Ms. Jones moved to assess cost in the amount of \$3,569.34 payable within one (1) year after reinstatement of license. Dr. Melvin seconded the motion, which carried unanimously.

PRN-2 - INF Robert Hafner, RPh., Hollywood, FL., PS 30577, Case No. 2008-19037 PC: Garcia/Hayes

Respondent was not present but was represented by Edwin Bayo, Esquire

Respondent requested a Motion for Continuance.

**Action Taken:** Dr. Weizer moved to grant the Motion for Continuance until the February 2010 meeting and no additional continuance will be granted. Dr. Melvin seconded the motion, which carried unanimously.

## **TAB 5**

### **APPLICATIONS REQUIRING BOARD REVIEW (CONT.) – Amy Jones, JD**

#### **A. Exam Candidates**

1. Eric Ruiz

Respondent was present with Edwin Bayo, Esquire and sworn in by court reporter.

Mr. Ruiz answered yes to questions #16 and #17 on the application.

**Action Taken:** Mr. Powers move to approve with conditions, applicant may sit for examination upon completion of an evaluation by the Professional Resource Network and successfully participate in the Professionals Resource Network (“PRN”) program under those conditions deemed appropriate and necessary by PRN and pending chair approval of evaluation. Dr. Wezier seconded the motion, which carried unanimously.

#### **A. Endorsement Candidates**

1. Terry Cordisco

Respondent was present without counsel

Mr. Cordisco answered no to question #6. The NABP Official Application for Transfer of Pharmacist License and the verification of licensure from the New York State Board of Pharmacy revealed that his New York license had been disciplined in 1995. His New York license is currently valid with no restrictions. Mr. Corisco is requesting the Board to approve his endorsement application without meeting the requirement of having the two of the last five years of work experience and 30 hours of continuing education credits from the 2 previous calendar years due to an accident. Mr. Cordisco submitted 22 hours of continuing education credits received in 2008.

**Action Taken:** Ms. Jones moved to deny application for not having two of the last five years work experience and 30 hours of continuing education credit from

the two previous calendar years. Dr. Griffin seconded the motion, which carried unanimously.

2. Thomas E. Henry

Respondent was not present or represented by counsel.

Respondent answered yes to questions #15 and #20 on the application.

**Action Taken:** Ms. Jones moved to approve application. Dr. Griffin seconded the motion, which carried unanimously.

3. Bruce R. Kline

Respondent was not present or represented by counsel.

Respondent answered yes to questions #15, 19 and #20 on the application.

**Action Taken:** Ms. Jones moved to approved with conditions, same restrictions placed upon his Massachusetts license; successfully participate in the Massachusetts Professional Recovery Service (MPRS) program under those conditions deemed appropriate and necessary by MPRS. Dr. Weizer seconded the motion, which carried unanimously.

4. Eric Young

Respondent was not present or represented by counsel.

Respondent answered yes to questions #15, #16, #19 and #20 on the application.

**Action Taken:** Ms. Jones moved to approve with conditions, pending an evaluation by the Professional Resource Network by an approve provider in Pennsylvania and successfully participate in the Professionals Resource Network ("PRN") program under those conditions deemed appropriate and necessary by PRN and pending Board approval of evaluation. Mr. Powers seconded the motion, which carried unanimously.

**C. Intern Application**

1. Markus Tiitto

Respondent was not present or represented by counsel.

Respondent answered yes to question #7 on the application.

**Action Taken:** Ms. Jones moved to approve with conditions, pending an evaluation by the Professional Resource Network and successfully participate in the Professionals Resource Network ("PRN") program under those conditions deemed appropriate and necessary by PRN. Mr. Powers seconded the motion, which carried unanimously.

2. Jeffrey Berger

Respondent was not present or represented by counsel.

Respondent answered yes to question #5 on the application.

**Action Taken:** Ms. Jones moved to approve application. Dr. Weizer seconded the motion, which carried unanimously.

**D. Special Non-Resident Pharmacy Permit**

1. Bio Script Infusion Services

Respondent was not present or represented by counsel.

Respondent reported on application that the hours of operation are less than six days per week as required by Chapter 465.0156, Florida Statutes but noted that a pharmacist is available 24 hours a day, 7 days a week through the call center.

**Action Taken:** Ms. Jones moved to approve application. Dr. Weizer seconded the motion, which carried unanimously.

2. CuraScript, Inc., File # 16893

Respondent was not present or represented by counsel.

Respondent reported on application that the hours of operation are less than six days per week as required by Chapter 465.0156, Florida Statutes. However, the Respondent noted that a pharmacist is available 24 hours a day, 7 days a week through the call center. Respondent reported on application that the hours of operation are less than six days per week as required by Chapter 465.0156, Florida Statutes but noted that a pharmacist is available 24 hours a day, 7 days a week through the call center.

**Action Taken:** Ms. Jones moved to approve application. Dr. Weizer seconded the motion, which carried unanimously.

3. CuraScript, Inc., File # 16894

Respondent was not present or represented by counsel.

Respondent reported on application that the hours of operation are less than six days per week as required by Chapter 465.0156, Florida Statutes but noted that a pharmacist is available 24 hours a day, 7 days a week through the call center.

**Action Taken:** Ms. Jones moved to approve application. Mr. Powers seconded the motion, which carried unanimously.

4. CuraScript, Inc., File # 17036

Respondent was not present or represented by counsel.

Respondent reported on application that the hours of operation are less than six days per week as required by Chapter 465.0156, Florida Statutes but noted that a pharmacist is available 24 hours a day, 7 days a week through the call center.

**Action Taken:** Ms. Jones moved to approve application. Mr. Powers seconded the motion, which carried unanimously.

5. KCC, Inc.

Respondent was not present or represented by counsel.

Respondent reported on application that the hours of operation are less than six days per week as required by Chapter 465.0156, Florida Statutes.

**Action Taken:** Ms. Jones moved to deny application. Dr. Weizer seconded the motion, which carried unanimously.

## **TAB 6**

### **LICENSURE ISSUES – Lee Ann Gustafson, Attorney**

#### **A. Petition for Exemption**

1. Florida Atlantic University Pharmacy, PH 21067

The Florida Atlantic University of Pharmacy is requesting an exemption to be close from December 24, 2009 through January 1, 2010 for the holidays. The pharmacy provides prescription services to the students, faculty and staff. The University will close and no medical services will be available during that period.

**Action Taken:** After discussion, Dr. Weizer moved to approve request. Dr. Melvin seconded the motion, which carried unanimously.

2. Florida Agricultural and Mechanical University (new – addendum)

The Florida Agricultural and Mechanical University of Pharmacy is requesting an exemption to be close from December 24, 2009 through January 1, 2010 for the holidays. The pharmacy provides prescription services to the students, faculty and staff. The University will close and no medical services will be available during that period

**Action Taken:** After discussion, Dr. Weizer moved to approve request. Dr. Griffin seconded the motion, which carried unanimously.

#### **B. Petition to Remove Conditions**

1. Rosemarie Schad, PS 38983

Respondent was present and sworn in by court reporter.

**Action Taken:** After discussion, Dr. Weizer moved to grant the Petition to Remove Conditions. Dr. Melvin seconded the motion, which carried unanimously.

**C. Petition for Reinstatement**

1. Martin Green, PS 29330

Respondent was present without counsel.

**Action Taken:** After discussion, Mr. Powers moved to approve with conditions, pending submission of a practice plan and chair approval. Dr. Weizer seconded the motion, which carried unanimously.

**D. Request for Payment Plan**

1. Denis Bousquet, PS 26142

Respondent was present without counsel.

**Action Taken:** After discussion, Mr. Powers moved to accept \$500 payments for the next three months and Mr. Bousquet submit an updated request at the February 2010 meeting.

2. Albert M. Newell, PS 41044

Respondent withdrew request.

3. Michael E. Stoddard, PS 19411

Respondent was not present or represented by counsel.

**Action Taken:** After discussion, Dr. Weizer moved to deny request. Dr. Griffin seconded the motion, which carried unanimously.

**E. Request to Reduce Citation Penalty**

1. Michael Silberman, PU 4437

Respondent was present without counsel.

**Action Taken:** After discussion, Ms. Jones moved to denied request for failure to contest the citation within the required timeframe. Dr. Weizer seconded the motion, which carried unanimously.

**TAB 5**

**APPLICATIONS REQUIRING BOARD REVIEW (CONT.) – Amy Jones, JD (cont.)**

**A. Registered Pharmacy Technician**

3. Celeste Donald

Respondent was not present or represented by counsel

**Action Taken:** After discussion, Ms. Jones moved to deny application base on criminal sex offender charges. Dr. Weizer seconded the motion, which carried unanimously.

4. Charles R. Gauthier

Respondent was present without counsel.

Respondent was charged with violating Chapters 798.02, 893.13(6)(a) and 893.13(6)(b), Florida Statutes.

**Action Taken:** After discussion, Ms. Jones moved to approve application. Mr. Powers seconded the motion, which carried unanimously.

5. Stephen-Andrew Mahy

Respondent was not present or represented by counsel.

Respondent was charged violating Chapters 827.03(1) and 562.11(1)(a), Florida Statutes.

**Action Taken:** After discussion, Ms. Jones moved to deny application; denial stayed for 60 days pending an evaluation by PRN and provides a clear evaluation to the Board for approval. Dr. Weizer seconded the motion, which carried unanimously.

6. Marla V. Robinson

Respondent was not present or represented by counsel.

Respondent answered yes to history question.

**Action Taken:** After discussion, Ms. Jones moved to approve application. Mr. Jones seconded the motion, which carried unanimously.

7. Kelina Smith- Battle

Respondent was not present or represented by counsel.

Respondent was charged with violating Chapter 827.03, Florida Statutes.

**Action Taken:** After discussion, Ms. Jones moved to deny application base on insufficient documentation on the disposition of criminal chargers. Dr. Griffin seconded the motion, which carried unanimously.

8. Mody Suarez

Respondent was not present or represented

Respondent answered yes to the history question.

**Action Taken:** After discussion, Ms. Jones moved to approved the application. Dr. Weizer seconded the motion, which carried unanimously.

11. Kizzy L. Wilson

Respondent was not present or represented by counsel.

Respondent answered yes to the history question.

**Action Taken:** After discussion, Ms. Jones moved to grant the application pending a PRN evaluation and chair approval. Dr. Weizer seconded the motion, which carried unanimously.

10. Heather Pisco-Edwards

Respondent was present and represented by Mark Dix, Esquire

Respondent violated Chapters 893.135, Florida Statutes. Respondent requested to withdraw application.

**Action Taken:** After discussion, Dr. Griffin moved to grant request to withdraw application. Dr. Weizer seconded the motion, which carried unanimously.

1. Cherise Bernard

Respondent was not present or represented by counsel.

Respondent was convicted of conspiracy to commit bank fraud.

**Action Taken:** After discussion, Ms. Jones moved to deny application. Dr. Weizer seconded the motion, which carried unanimously.

2 Gary Clark

Respondent was not present or represented by counsel.

Respondent was charged with violating Chapter 893.13(2)(a)(2), Florida Statutes.

**Action Taken:** After discussion, Ms. Jones moved to deny applicant pursuant to SB 1986. Dr. Weizer seconded the motion, which carried unanimously.

9 Alfred W. Tizio

Respondent was not present or represented by counsel.

Respondent was violated Chapters 893.13(6)(a) and 893.03(1)(8)(11), Florida Statutes.

**Action Taken:** Ms. Jones moved to deny application pursuant to SB 1986. Mr. Hayes seconded the motion, which carried unanimously.

**Adjourn:** The meeting adjourned at 1:38 p.m.

FLORIDA DEPARTMENT OF HEALTH  
BOARD OF PHARMACY BOARD MEETING  
IN RE: Rule 64B16-26.351  
Standards for Approval of Registered  
Pharmacy Technician Training Programs

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TRANSCRIPT OF HEARING

This cause came on for hearing at 10:31a.m. on December 8, 2009, Before The Department of Health, Board of Pharmacy Meeting at the Hilton University of Florida Conference Center, 1714 S.w. 34th Street, Gainesville, Florida 32607.

COURT REPORTER

Cassie Minnich, FPR, Court Reporter  
Notary Public, State of  
Florida at Large

THIRD CIRCUIT REPORTERS & VIDEO

136 S.W. Nassau Street  
Lake City, Florida 32025  
386.754.2482

APPEARANCES

BOARD MEMBERS:

Dr. Ron Salem, PharmD, Jacksonville, Chair

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Dr. Jim Powers, BPharm, Tallahassee, Vice-Chair

Dr. Albert Garcia, Bpharm, MHL, Miami

Dr. Cynthia Griffin, PharmD, Jacksonville

Dr. Fritz Hayes, Bpharm, Miami

Amy Jones, JD, Consumer Member, Tallahassee

Dr. Steve Melvin, PharmD, Panama City

Lorena Risch, Consumer Member, Bradenton

Dr. Michele Weizer, PharmD, Board Raton

BOARD STAFF:

Rebecca Poston, RPh, CPh, Executive Director

Kelli Ferrell, RPh, MSc, Senior Pharmacist

Ronda Bryan, Program Operations Administrator

BOARD COUNSEL:

Lee Ann Gustafson, Esquire

Diane Guillemette, Esquire

Assistant General Counsel

Florida Department of Health

Prosecution Services Unit

4052 Bald Cypress Way, Bin # C65

Tallahassee, Florida 32399-3265

850.414.8126

3

1 DECEMBER 8, 2009 10:31 a.m.

2 P R O C E E D I N G S

3 DR. SALEM: Good morning.

4 DR. POWERS: Good morning, sir.

5 DR. SALEM: We are now in a full board

6 meeting and I assuming we need to go around

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7 and re-introduce as such. I'll start to my right.

8 MS. RISCH: Lorena Risch, consumer member,

9 Bradenton, Florida.

10 DR. GARCIA: Albert Garcia, pharmacist,

11 Miami.

12 MS. JONES: Amy Jones, consumer member,

13 Tallahassee.

14 MS. GUILLEMETTE: Diane Guillemette with the

15 Attorney General.

16 DR. SALEM: I'm Ron Salem, a pharmacist  
17 member from Jacksonville. I do work for PharMerica  
18 as a nursing home pharmacist, but that in no way  
19 will effect my judgment today.  
20 MS. POSTON: Becky Poston, Executive  
21 Director.  
22 DR. HAYES: Fritz Hayes, pharmacist member  
23 from Miami.  
24 DR. POWERS: I'm Jim Powers, pharmacist  
25 member Tallahassee.

4

1 DR. MELVIN: Good morning, everyone. Steve  
2 Melvin from Panama City, Florida, pharmacist member.  
3 DR. SALEM: Okay. We do have a quorum. And  
4 we will add the other board members when they come  
5 in. We are today having -- continuing the hearing  
6 on the pharmacy technician rule.  
7 What I would like to do is hear from anyone  
8 that would like to speak that did not speak on the  
9 conference call we had a couple of weeks ago, or  
10 anyone else for that matter that would like to

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11 speak. I would like you to limit your comments to  
12 three minutes. And I hope board staff will assist  
13 me in doing that.  
14 Once we have finished that part of the  
15 program, there has been a few points that have been  
16 identified in our present rule that I think can be  
17 addressed. I would like to get them addressed. I  
18 think most of the people in the room would be  
19 pleased with those changes, but it's just a matter  
20 of time. So with that --  
21 Dr. Griffin, would you identify yourself,  
22 please?  
23 DR. GRIFFIN: Good morning. Cynthia Griffin,  
24 pharmacist board member, Jacksonville.  
25 DR. SALEM: Dr. Weizer.

5

1 DR. WEIZER: Michele Weizer, I'm a pharmacist  
2 member, Boca Raton, Florida.  
3 DR. SALEM: Thank you. Okay. With that,  
4 we'll go through the speaking request that I have  
5 and we'll see where we end up after all those people  
6 have spoken. The first speaker is Ed Bayo.  
7 MR. BAYO: Thank you, Mr. Chairman, Board  
8 Members. And for the record, Edwin Bayo with the  
9 law firm Metzger, Grossman, Furlow and Bayo in  
10 Tallahassee, Florida, and I'm here representing CVS.  
11 And in your agenda, you should have a copy of the  
12 November 30, 2009, letter that I submitted to the  
13 Executive Director. And for the benefit of the  
14 audience, I'll just read this into the record:

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15 Dear Ms. Poston, I have participated in the  
16 ongoing discussions regarding the pharmacy  
17 technician training rule on behalf of CVS. Having  
18 thus had the opportunity to consider the various  
19 arguments made, I have taken the initiative of drafting  
20 a proposed rule for the Board's consideration.  
21 Enclosed is a copy of said proposed rule.  
22 The intent behind this draft is to address,  
23 to the extent possible, the concerns stated in the

24 October 14th, 2009, letter from the Joint  
25 Administrative Procedures Committee. The rule

6

1 Incorporates an approval date of January 1, 2011,  
2 for the programs and it provides approval for all  
3 training programs accredited by ASHP, the Florida  
4 DOE, and the Florida Commission for Independent  
5 Education.

6 I have confirmed that ACPE does not accredit  
7 technician training programs. I have addressed the,  
8 quote, United States Uniformed Services, unquote,  
9 comment by using language from a California Pharmacy  
10 technician training rule. I have also addressed  
11 JAPCs concerns about lack of standards by  
12 incorporating references to the proposed rule  
13 64B16-26.352.

14 Finally, the proposed rule draft establishes  
15 that the Board approved pharmacy technician training  
16 programs are limited to employer based training  
17 programs provided solely to employees of the b  
18 pharmacy. I believe that The Board members have

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19 envisioned employer based in-house training and not  
20 post-secondary for-profit schools during the  
21 discussions of this particular rule. Training  
22 provided by employers to their bonafide employees  
23 does not fall within the purview of the FCIE,  
24 Florida Commission of Independent Education, and so  
25 long as the employer is not receiving remuneration

7

1 from the student, the employer does not meet the  
2 statutory definition of a quote, school, unquote.  
3 This change will thus clarify that the proposed rule  
4 has no regulatory impact on school or programs  
5 regulated by the FCIE.

6 I will appreciate if you can disseminate this  
7 to interested parties. As always, thank you for  
8 your consideration.

9 And I took the existing language, I  
10 tried to be as faithful to the extent -- the  
11 existing language as best as I could. And the  
12 operative paragraph is paragraph three, which states  
13 that Board approved pharmacy technician training  
14 Programs shall mean, there's one, two.

15 One talks about all the accredited programs.  
16 And I understand that there might be some tweaking  
17 with that particular language as far as other  
18 entities that may approve these programs.

19 And number two is any pharmacy technician  
20 training program provided by a grant or the Federal  
21 Armed Services for which the applicant says this is  
22 a certificate of completion. I've looked at similar

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23 rules in many states and that to me is the most  
24 accurate depiction.

25 And then paragraph three would provide any

8

1 other programs sponsored by or under the auspices  
2 of a Florida licensed pharmacy or affiliated group  
3 of pharmacies that contains the minimum of 160 hours  
4 of training extending of a period not to exceed six

5 months that is provided solely to employees of such  
6 pharmacy or affiliated group and that has been  
7 approved by the Board.  
8 In order to obtain Board approval, the  
9 applicant must submit an application pursuant to  
10 Rule 64B16-26.352, F.A.C., and provide documentation  
11 of the following, and the rule addresses the content  
12 areas that you have previously discussed.  
13 And I believe that if the Board chooses to go  
14 in this direction, a number of arguments that have  
15 been raised in the past should be addressable. This  
16 rule then would not affect the interest of any  
17 existing school or training program that falls under  
18 the auspices or the jurisdiction of the Florida  
19 Commission of Independent Education. Excuse me.  
20 And I believe that this rule then would be  
21 consistent with other states that really address  
22 employer based training programs. And I believe  
23 that if you look at the legislative intent of this  
24 particular statute, I think it's -- the conclusion  
25 is fairly self-evident that the legislature

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9

1 considered all available options.  
2 This bill started as a straight registration  
3 bill. There was no training whatsoever. And the  
4 direction of bill included training, mandated  
5 training by ASHP or any or the other entities. And  
6 the last version, which became law, stripped all  
7 references to all of these great bodies.  
8 So I do believe that if the Board chooses to  
9 go in this direction, that rule will be addressing  
10 the legitimate concerns that have been raised by  
11 some of these schools. And with that, I'll be more  
12 than happy to answer your questions.  
13 Thank you.  
14 DR. SALEM: Thank you, Mr. Bayo.  
15 Any questions? If not, I'm going to move  
16 forward.  
17 Bob Harris.  
18 MR. HARRIS: Mr. Chairman, I'll go ahead and  
19 go at the end of this, and only if necessary,  
20 because there are a number of people here to speak.  
21 Thank you.  
22 DR. SALEM: Okay. Wayne Slater. If you  
23 would, please identify yourself for the record prior  
24 to speaking.  
25 MR. SLATER: My name is Wayne Slater and I'm

10

1 the President of Florida Association of  
2 Post-Secondary Schools and Colleges. Mr. Chair and  
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3 Members of the Board, I appreciate the opportunity  
4 to speak here today. On the teleconference hearing  
5 that this is a continuance of, you heard from Kathy  
6 Mizerick, who is our association's executive  
7 director.  
8 I'm not here today to reiterate or go back  
9 through the materials that Ms. Mizerick has already  
10 presented to the Board; rather I'm going to allow  
11 this time to be given to some other folks from our  
12 association.

13 I do want to point out that our member of  
14 schools, which are over two hundred of schools,  
15 represent by both for profit and non-profit  
16 institutions, just so there's a clarification from  
17 the prior speaker.  
18 I also want to let you know that the main  
19 concerns of our member schools have to do with  
20 public safety. We continue to feel that 160 hours  
21 of training for a pharmacy technician is not  
22 sufficient to protect the public safety.  
23 In light of having a discussion about the  
24 language that was just read into record, I really  
25 want to focus on a couple of areas of concern for

11

1 us, and this is a bit of reiteration. Given that an  
2 employer training program, as I understand it, would  
3 allow a person to become registered and then they  
4 could move from pharmacy A to pharmacy B without any  
5 additional training or requirements, I think it's  
6 very important that the Board takes a hard look at  
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7 the content of the programs that they're approving  
8 as well as the faculty qualifications, which were  
9 two major areas that Ms. Mizerick brought up to the  
10 Board on the teleconference.  
11 Finally, we want to continue to be opposed to  
12 the concept of in-service activities as part of the  
13 training, because that puts the training directly in  
14 the path of the public. With that, that will  
15 conclude my comments if there are no questions.  
16 DR. SALEM: Thank you, Mr. Slater.  
17 MR. SLATER: Thank you.  
18 DR. SALEM: Andy Shaw, Publix Super Markets.  
19 MR. SHAW: Thank you, Mr. Chairman and  
20 Members of the Board. I'm Andy Shaw, Florida  
21 Pharmacist 35936, speaking on behalf of Publix  
22 Super Markets. I just wanted to offer our  
23 perspective.  
24 I'm a pharmacy operations manager at one of  
25 our divisions and currently we operate a little over

12

1 540 pharmacies in the State of Florida, and four  
2 other states as well. Patient safety is a primary  
3 concern for us at Publix.  
4 Some things we're doing within our company,  
5 including upgrading our software systems with better  
6 error protection. A little over a year ago, we  
7 discontinued the clerk role in our pharmacies to  
8 ensure that everybody that worked in the pharmacies  
9 at least had a technician skill set.

10 In looking at the proposed ruling, we're

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11 comfortable with that 160 hour requirement and the  
12 six months in which to meet that requirement. The  
13 presentation that Mr. Bayo made does make sense for  
14 us in our perspective. It gives the technician a  
15 good launching pad for their career. It gives basic  
16 requirements that they should be familiar with.  
17 Really in any practice set in pharmacy, they're  
18 applicable.  
19 What we would do at Publix then is take that  
20 basic instruction and teach them the Publix specific

21 information that they need to know to practice  
22 within our pharmacies and our unique practice  
23 setting. So I just wanted to make sure that we  
24 would relate that thought process to you today. We  
25 really feel that our pharmacy department managers

13

1 are in the best position to gauge how our  
2 technicians are progressing in their training and  
3 expose them to new areas as they move along.  
4 But again, for registration purposes, we feel  
5 like those main bullet points that you've identified  
6 as a Board would meet the needs of public safety.  
7 Thank you.

8 DR. SALEM: Thank you, Mr. Tilley (as  
9 spoken).

10 Board Members, what I'd like to do is, to  
11 ensure we hear from everyone who wants to speak, if  
12 we could hold all questions to the end and bring it  
13 back within the Board, so that way we can ensure  
14 that this hearing, we can hear from everybody who's

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15 here.

16 Okay. With that, Scott Prophet, Concorde  
17 Career Institute.

18 MR. PROPHET: Thank you. My name is Scott

19 Prophet. I do currently serve as the Program

20 Director for the Concorde Career Institute's

21 Pharmacy Technician Program at the Tampa campus.

22 I'm also a certified technician; I have been since  
23 1995.

24 I'd like to start by thanking the Board for

25 the opportunity to speak today and particularly

14

1 regarding the regulations for the registration of  
2 the pharmacy technician. I especially appreciate  
3 the opportunity to comment on Rule 64B16-26.351,  
4 which addresses the standards for the approval of  
5 the technician training programs.

6 The law that the proposed rule is a part of  
7 came about as the result of the death of Beth  
8 Hippley, a wife and a mother of four, who died after  
9 a pharmacy technician was involved in giving her a  
10 prescription for an incorrect dosage of medication.

11 It's important for all of us here today and  
12 all of us that work in the field of pharmacy to  
13 remember that our first responsibility is always the  
14 welfare of the patients. Recognizing the fact that  
15 pharmacy technicians play a critical role in the  
16 process of filling physicians' orders and  
17 prescriptions and more importantly the quality of  
18 care that patients receive is a very important step

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19 towards better protecting the health, safety and  
20 welfare of all citizens.

21 As is true with any process, however, true

22 progress can only be made if the steps taken are

23 validated by high standards that are very clear and

24 well defined. The significance of setting high

25 standards with very specific goals and objectives is

15

1 even more important when they pertain to healthcare

2 and the quality of healthcare that we receive as a  
3 result of those standards.  
4 Making sure that everyone has access to the  
5 type of healthcare that can be provided when proper  
6 Standards are put in place is an issue that I'm very  
7 passionate about and it's my reason for being here  
8 today. Part two of the proposed rule does not  
9 provide for any true standards and certainly not the  
10 higher standards that were intended when this law  
11 was actually written and passed.  
12 Part -- excuse me. Part two of the proposed  
13 rule actually creates more risk to the health and  
14 welfare to patients that are served by Florida's  
15 pharmacies. It actually makes it easier for  
16 someone to become a registered pharmacy technician  
17 and to then represent themselves as such to the  
18 public over time.  
19 If approved by the Board as currently  
20 written, the curriculum in part two, means Florida  
21 will in actuality be taking a step backwards rather  
22 than making true progress. As the rule is

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23 originally written, someone currently working as a  
24 pharmacy tech would have to meet at least one of  
25 three different requirements before being allowed to

16

1 register.  
2 The first option would be 1,500 hours of  
3 training under the supervision of a pharmacist. The  
4 second one would be the completion of a training  
5 program that was already accredited by a very  
6 specific list of accrediting bodies. And the third  
7 one would require certification through a program  
8 that had been accredited by the National Commission  
9 for Certifying Agencies.  
10 If this rule is passed as written, the option  
11 of completing that program of only 160 hours long  
12 would also be available. In addition, someone  
13 completing one of these programs would then be able  
14 to register as a pharmacy technician, present  
15 themselves as such to the public and present  
16 themselves as such to the thousands of pharmacies  
17 and various types of pharmacies throughout the State  
18 of Florida.  
19 And part two of the proposed rule actually  
20 contradicts the original standards that were set  
21 forth in this law and it's not consistent with the  
22 original intent of the law, the model act  
23 established by the NABP or the framework  
24 approved by the Council on Credentialing in  
25 Pharmacy.

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17

1 Part one of the rule recognizes some  
2 organizations that have already set forth some very  
3 high standards. The American Society of Health  
4 System Pharmacists Curriculum would be an excellent  
5 example of that. A copy of the model curriculum, I  
6 believe, has been made available to Board for  
7 review.  
8 It is part two of this rule that causes great  
9 concern for someone like me and I would hope anyone

10 involved in the pharmacy or healthcare industry  
11 would feel the same way. Part two of the rule  
12 begins by saying a minimum of only 160 hours of  
13 training, then establishes a maximum time frame of  
14 six months, both didactic and practical experience  
15 then required by the rule as it is proposed.  
16 And then the last sentence in part two of  
17 this rule states, "The following objectives must be  
18 met," and a list of program content follows. I'd  
19 like to submit to the Board of Pharmacy the argument  
20 that in addition to creating a lower standard that  
21 would make it easier for someone to become a  
22 registered pharmacy technician, part two of the rule  
23 contains at least five problematic issues that must  
24 be addressed before moving forward.  
25 I'd argue that the five main points of

18

1 contention are: One, the minimum of only 160 hours  
2 of training; two, that there is not a set of  
3 objectives listed for students to meet; there is

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4 -- there's not a set amount of time for didactic or  
5 practical experience; there are no actual  
6 objectives listed on the program content as listed,  
7 and there's no minimum standards set forth to  
8 determine the qualification of faculty for training  
9 programs; and the fifth would be the in-process  
10 activities that provide measurable demonstration of  
11 learner's achievements are not defined. So actual  
12 measure of -- no actual measure of achievements  
13 exists.

14 Beginning with point number one, 160 hours of  
15 training, far short of what's necessary to provide  
16 the proper education, training and experience for  
17 someone to be considered for approval as a  
18 registered pharmacy technician. The curriculum  
19 framework for pharmacy technician programs  
20 established by organizations such as the Florida  
21 Department of Education and the ASHP provides 1,050  
22 contact hours and 600 hours respectively.  
23 Allowing a program that consists of only 160  
24 is certainly not consistent with the Department of  
25 Education standard and still falls well short of the

19

1 ASHP standard as well. While it's not currently a  
2 nationally recognized accrediting body for pharmacy  
3 tech programs, the ASHP is the only organization  
4 that provides a programmatic accreditation that is  
5 recognized in the education industry.

6 Excuse me. The program that we offer at  
7 Concorde consists of 800 hours of training and

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8 education, which includes didactic, laboratory and  
9 experiential training hours. And, in fact, Concorde  
10 students are required to complete 480 hours of  
11 Didactic and laboratory training before beginning  
12 320 hours of experiential training.  
13 Each student must complete 160 hours in an  
14 ambulatory setting and complete 160 hours in an  
15 institutional setting. The 480 hours of didactic  
16 and laboratory training is necessary to provide the  
17 base knowledge for a student to properly participate

18 in experiential training.  
19 DR. SALEM: Mr. Phopphet, I asked you to keep  
20 the comments to three minutes. You're way over. I  
21 hate to interrupt you.  
22 MR. PHOPHET: Okay.  
23 DR. SALEM: But if you could please wrap it  
24 up.  
25 MR. PHOPHET: All right. Well, I would wrap

20

1 up by saying this, in closing I'd just like to  
2 reiterate that the law was enacted in order to  
3 provide better patient safety, reduce the likelihood  
4 of medication errors and would be made due to a  
5 pharmacy -- that could be made due to a pharmacy  
6 technician improperly or inadequately educated,  
7 trained or prepared to provide the type of quality  
8 healthcare that each one of us deserves and it  
9 occurred through the very unfortunate and untimely  
10 death of a young woman who was a wife mother and a  
11 mother of four.

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12 And as a husband and a father of two, I would  
13 not be satisfied with this rule being allowed, nor  
14 would I believe that the health and best interest of  
15 myself and my family were being served. As an  
16 educator, I'd be shocked and even embarrassed if  
17 this rule were approved as is.  
18 And as a certified pharmacy technician and a  
19 member of the pharmacy and healthcare industries,  
20 I'd be ashamed to say to the family of Beth Hippley  
21 and families of others like her that this is the  
22 regulation that was written and enacted on their  
23 behalf.  
24 None of us here today is perfect, ever will  
25 be perfect, or able to say that we never have or

21

1 never will commit an error ourselves, but that's not  
2 a reason or an excuse for not doing everything we  
3 possibly can to prevent errors from occurring and  
4 lowering the risk that they will occur as much as we  
5 possibly can.

6 Thank you for your time. I do appreciate it.

7 DR. SALEM: Thank you, sir.

8 MR. PROPHET: I would like to submit this for  
9 the record if I may.

10 DR. SALEM: I'm not sure who -- who you  
11 should give it to. Over here, please.

12 MR. PROPHET: Thank you.

13 DR. SALEM: Again, future speakers, if you  
14 could keep your comments to three minutes. I want  
15 to be fair to everyone and I'd rather not interrupt

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16 you, but I can't have people going on and on. I  
17 don't think it's fair to other speakers.  
18 And when you do come up, if you'd identify  
19 yourself and tell us if you're in favor or opposed  
20 to the rule as well.

21 The next speaker, Ms. Linda Quiett, Quiett.

22 MS. QUIETT: Quiett.

23 DR. SALEM: Quiett.

24 MS. QUIETT: Good morning. My name is Linda

25 Quiett. I'm the Dean of Academics of the Keiser

22

1 Career College in St. Petersburg, Florida. I'm also  
2 a certified technician. And I want to be brief this  
3 morning before Board. I have just a couple of  
4 comments as far as training is established with the  
5 160 hour rule. Is that rule basically to get a  
6 technician registered and certified? Also, if we're  
7 talking about all areas of practice.

8 When I talk about all areas of practice, I  
9 mean community and institution training, as the  
10 individuals have spoke before, talking mainly about  
11 community training. The problem there is public  
12 safety as far as the individual moving as a  
13 certified registered technician from a community  
14 setting to an institution.

15 I don't know if you all are familiar with  
16 Emily Jerry in Ohio. She was a young two year old  
17 who died because a technician filled -- one of the  
18 community pharmacies went to work at the hospital  
19 and mixed the young two year old's last chemo dose

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20 with 26 percent concentration of sodium fluoride.

21 Subsequently the two year old, who had recovered  
22 fully from cancer, had suddenly passed away.

23 It is evident this individual from the  
24 community pharmacy was not familiar with the proper  
25 practice and the pharmacist, of course, did not

23

1 catch the error. So my concern is are we train- --  
2 are we going to 160 hours mainly for certification  
3 and registration, or are we going to keep the  
4 present rule as to have training from certified  
5 schools, accredited schools, and maintain 600 plus  
6 hours of training for public safety?

7 Thank you very much.

8 DR. SALEM: Thank you, Ms. Quiett. And I'm  
9 sure we'll address some of those issues at the  
10 conclusion of the speakers.

11 Lorrie Laurin.

12 MS. LAURIN: Chairman, Members of the Board,  
13 Lorrie Laurin from Rasmussen College. I'm the  
14 director of the new school down in Ocala and in that  
15 position, I have the opportunity to work with  
16 schools in a variety of states. Also, I have to  
17 watch things on a national level and I also pursue  
18 a variety of allied healthcare programs.

19 One thing I would like to just mention is  
20 that in that rule -- and we actually are working  
21 with a variety of accrediting agencies and state  
22 agencies in a wide breadth of allied health. In  
23 almost all of the issues that we deal with through

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24 accreditation and through approval of licensures is  
25 in regards to the public safety, patient safety.

24

1 In reviewing this and looking at what's  
2 happening across the nation in regards to pharmacy  
3 technicians and the state requirements, and I will  
4 tell you that I have to watch that almost on a  
5 monthly basis. There's so many changes going on  
6 right now across the nation. And I would encourage

7 you to, instead of looking at what isn't being  
8 minimally done, is to look at what is -- should be  
9 done, and again, addressing that public safety  
10 standpoint.  
11 I would encourage you to be setting the bar  
12 high and having other states follow you instead of  
13 having -- because I think you have that opportunity  
14 and I think that instead of following those minimum  
15 standards that we're seeing being set in other  
16 states. I appreciate the opportunity and I  
17 encourage you to consider setting the high bar.  
18 Thank you.  
19 DR. SALEM: Thank you, Ms. Laurin.  
20 The next speaker is Sophia Langley. Sophia  
21 Langley?  
22 MS. LANGLEY: I work with Bob, the attorney  
23 that's with the Florida Association of  
24 Post-Secondary Schools and Colleges. And I thought  
25 it would probably be more beneficial for me to wait

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25

1 until our other speakers have spoken to you and then  
2 if I need to add anything.  
3 DR. SALEM: Thank you. That's fine.  
4 April, it looks like, Aright or Alright.  
5 I'm not sure.  
6 MS. ARIGHT: Aright.  
7 DR. SALEM: Aright?  
8 MS. ARIGHT: Yes, sir.  
9 DR. SALEM: Please come forward, identify  
10 yourself and tell us whether you're for or against  
11 the rule.  
12 MS. ARIGHT: Hi. Thank you. I'm April  
13 Aright. I'm the Program Director for the  
14 Sanford Brown Institute in Tampa. I am against the  
15 160 hours for minimum training.  
16 At the Sanford Brown Institute we believe that  
17 education is quality. So our objective is to  
18 provide an educational program that is 900 hours in  
19 length. It is 720 hours of didactic and laboratory  
20 course work.  
21 We do not strictly emphasize on the retail  
22 aspects of pharmacy technology, but also the  
23 clinical aspects, both hospital, co-fusion (phonetic)  
24 long-term care. I have with me a group of students  
25 that are currently enrolled in my program. There

26

1 are six of them sitting in the back row, which  
2 hopefully they will speaking later.  
3 We're also accredited by the ASHP, the

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4 American Society of Health System Pharmacists. And  
5 I believe that the State of Florida should look to  
6 set the standards to correlate with ASHP and not  
7 lessen that. By sticking with the 160 hours, we are  
8 gown grading pharmacy technicians. You know, we're  
9 the ones responsible for touching the medications,  
10 mixing the IVs. You know, at the end of the day, we  
11 make or break it. So why not set standards that are  
12 higher for these technicians so that they will  
13 continue to receive quality thorough education.  
14 I have provided to you a document and I put

15 this together. It is a list of courses that I offer  
16 with my program. It's the course title, the course  
17 code, the length of each course. Next to that I  
18 have the Florida Board objectives that were set, I  
19 believe, during the May meeting. And then next to  
20 that I have other objectives that are covered at  
21 SBI in Tampa.  
22 And our objectives, obviously they correlate  
23 with ASHP, since we are procryptically accredited.  
24 So as you can see, we go far more in depth than the  
25 objectives that have been put together by the

27

1 Florida Board of Pharmacy. And I would encourage  
2 you to look at that and perhaps reconsider the 160  
3 hours of training, because it take much, much more  
4 than that for the students to actually become  
5 quality technicians.

6 Thank you.

7 DR. SALEM: Thank you, Ms. Aright. We

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8 appreciate your time.

9 The next speaker is Nancy Bradley. Nancy

10 Bradley?

11 MS. BRADLEY: Good morning, everyone. Thank  
12 you for having us.

13 DR. SALEM: Could you identify yourself,  
14 please?

15 MS. BRADLEY: Yes, sir. My name is Nancy  
16 Bradley. I'm from Daytona College and I am the  
17 current Chair of the Commission for Independent  
18 Education and I am speaking against the rule, the  
19 proposed rule.  
20 Chapter 1005, Florida Statutes, authorizes  
21 the Commission for Independent Education, part of  
22 the Florida Department of Education to -- to grant  
23 and oversee institutional licenses and educational  
24 programs for non-public post secondary educational  
25 institutions in Florida. I understand that the

28

1 Board already -- already knows that. Entities that  
2 wish to offer career training programs in Florida  
3 must apply for licensure by the CIE.  
4 Chapter 1005 is very specific of what  
5 constitutes any entity that is required by law to  
6 seek licensure by the Commission. Specifically in  
7 part one of the general provisions, the purpose  
8 states that the legislature's intent is to encourage  
9 privately supported higher level and to protect that  
10 both those individuals receiving educational  
11 services and employers who rely on the quality of  
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12 that training.

13 The legislature intends that the provisions  
14 of the chapter aid in the protection and integrity  
15 of the credentials offered by the institution.

16 Training leading to a portable registration is  
17 clearly tied to the integrity section of 1005.

18 Section three states that the legislature  
19 intends to prohibit the granting of false or  
20 misleading credentials by providing for the  
21 evaluation of the program requirements. A portable  
22 registration is something that the general public

23 would rely on for quality.  
24 Under definitions a diploma is a credential,  
25 not a degree that is any of the following: A

29

1 certificate, transcript, report, document, title of  
2 designation or completion that is generally  
3 taken to signify completion of a career program in a  
4 course of study.  
5 The certificate will allow the person to  
6 apply for the portable registration credential. The  
7 Pharmacy Board -- and you'll probably discuss this  
8 later -- has produced an application for the  
9 registered pharmacy tech proof provider. And in  
10 section two, items two, six and seven, you ask the  
11 applicant to provide or to submit items that are  
12 included in the CIE licensure process.  
13 In particular item six, the sample  
14 certificate, is an item that clearly would require  
15 the proposed provider to become licensed by the CIE.

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16 Under definitions, items -- and this is section  
17 1502, items 16-A, B and D pertain to the definition  
18 of a school; and that's any non-public corporation  
19 or organization of any type which offers to provide  
20 post-secondary programs represent that the  
21 instruction will qualify a student for employment  
22 and offers to award a diploma, which was already  
23 defined, whether or not tuition is charged.  
24 The portability of the credential and the  
25 ability to be taken from place to place and renewed

30

1 really meets the definition contained in 1005. So  
2 therefore, based on the materials provided by the  
3 Board, which I downloaded from the internet in  
4 preparation for this meeting, which includes so many  
5 components of our CIE licensure requirements as  
6 mandated by Chapter 1005, it is clear that more work  
7 and cooperation with CIE must take place in order to  
8 make an informed decision and complete the final  
9 verdict and implementation of the final rule.

10 Thank you. That concludes my comments,

11 DR. SALEM: Thank you, Ms. Bradley.

12 MS. BRADLEY: You're welcome.

13 DR. SALEM: The next speaker Art Wharton.

14 MR. WHARTON: Thank you, Mr. Chairman, and

15 Members of the Board. My name is Art Wharton,

16 Arthur Wharton and I'm on the faculty at the

17 University of Florida College of Pharmacy. I'm also

18 the Director for Continuing Education, but I would

19 like it known now that I don't speak for the

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20 college, nor do I speak for the university, because  
21 the course that we have is not run by the  
22 university. It's run out of my office, which is the  
23 continuing education office, so I'm speaking more  
24 for that course.

25 Up until now there haven't been any training

31

1 requirements in the State of Florida, and I'm  
2 pleased that the Board has brought this to light and  
3 I commend them for their foresight in doing this. I

4 don't really know what documented time for training  
5 -- for the training course would be.  
6 To the best of my knowledge, there are no  
7 documented studies to determine the proper length of  
8 the course for the pharmacy technician training  
9 program. The two accepted texts in error prevention  
10 is To Err is Human by the Institute of Medicine,  
11 and Medication Errors by a gentleman named Coy.  
12 And all of the people who are authorities in  
13 the field of medication errors quote these two  
14 sources consistently.  
15 Nowhere in those two books -- and I have read  
16 both of them, but nowhere in those two books is  
17 there any statement that says any period of time,  
18 whether it's short or long, prevents medication  
19 errors. I checked all the states this past week and  
20 most of the states do not require any formal  
21 training whatsoever. The training is done by the  
22 pharmacist in charge in most of the states. It's  
23 not done by a college or a course. It's done by the  
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24 pharmacist in charge.  
25 I do have a training program out of my office

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1 that we run. We've done this for a couple of years.  
2 The course itself runs fourteen weeks of didactic  
3 training with 80 hours of practical work under the  
4 supervision of a pharmacist.  
5 There was a board member who told me about  
6 six months ago, Bob Bartow (phonetic), that the training  
7 programs don't do a whole lot of good. He said a  
8 pharmacy technician won't do me any good until they get  
9 in my store and I can help train them the way I want them  
10 to do things.  
11 I know that training programs should be  
12 adequate to provide the basic skills and knowledge  
13 for beginning their career. I think the accepted  
14 standard is the national examination. And there are  
15 two companies, or two organizations rather, that  
16 provide examinations for pharmacy technicians and  
17 that is the standard for beginning a career as a  
18 pharmacy technician. But even that doesn't prevent  
19 a medication error.  
20 The length of education doesn't prevent a  
21 medication error. I think every technician should  
22 have adequate training, but that will not prevent a  
23 medication error. If the length of training would  
24 prevent an error, then pharmacists would not make  
25 errors, because they get six years of training, and

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33

1 they make errors.  
2 Physicians make errors and they get eight  
3 years of training, plus three or four years of  
4 practical experience. So they get plenty of  
5 training, and yet they still make errors. So I'm  
6 not convinced that going to school for a certain  
7 length of time would eradicate the errors.  
8 Our students for the most part don't come  
9 from college-age kids. They come from people who  
10 have had careers and they're in thirties or forties.  
11 We've even had some that are in their fifties and

12 sixties that come to our class, because they have  
13 jobs and they have families and they can't stop and  
14 take a year or two years out to go to college to get  
15 an education.  
16 So they come to us wanting to have our course  
17 for whatever period of time it is, so they can  
18 continue to work; and so they can continue to raise  
19 their kids and so they can get an education, so they  
20 can go out and start work and start making money.  
21 I ask the Board to accept the current rule  
22 with the 160 hours as the minimum standard. This  
23 does not rule out those who want to have higher --  
24 higher standards. It doesn't rule out the college  
25 courses or independents. But the minimum standard

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1 of 160 hours would allow those people who need to  
2 have that type of education to get that education  
3 and take the national examination to qualify  
4 nationally. And any course taking more hours than

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5 what the standard would be, would be a blessing.  
6 So thank you for your time and your presence.  
7 DR. SALEM: Thank you, Dr. Wharton.  
8 The next speaker I have is Josh Vazquez.  
9 MR. VAZQUEZ: Good morning, Members of the  
10 Board. My name is Josh Vazquez. I'm a current  
11 student at the Sanford Brown Institute. I am  
12 opposed to the 160 hours, making that a rule. I'm  
13 not currently understanding why we would want to  
14 make a minimum standard as far as -- as low as that  
15 with involving patient's lives. I'm not quite sure  
16 I understand that.  
17 I do -- I do understand the previous doctor  
18 and the previous person's point that no matter how  
19 long you educate yourself, you will make errors;  
20 that's human. But wouldn't you rather educate a  
21 person as much as possible, at least set a standard  
22 that would exceed the patient's standards  
23 themselves?  
24 When somebody comes to a pharmacy, you would  
25 like them to know what they're talking about.

35

1 That's my feeling of the situation.  
2 DR. SALEM: Thank you.  
3 MR. VAZQUEZ: Thanks.  
4 DR. SALEM: Thank you so much, Mr. Vazquez.  
5 The next speaker is Christine Gatlin. The  
6 speaker after that, if they want to move forward, is  
7 Kara Semini c.

8 MS. GATLIN: Hello. My name is Christina

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9 Gatlin from the Sanford Brown Institute. I'm  
10 currently in the pharmacy technician program. It's  
11 my understanding that 160 hours is way less. Even  
12 900 hours is not even enough for how much we need to  
13 know.  
14 It's my understanding we need a lot  
15 experience in the safety of the patients. And to  
16 me, that's the job that I want to be in, to help the  
17 patients, not, you know -- of course, everybody  
18 makes mistakes. But for the patients to understand  
19 you, why would we need to have 160 hours of

20 experience? We should help the patients.  
21 I'm opposed to that. It wouldn't be right to  
22 the patients. And to me, if the pharmacists spends  
23 at least nine years, we should all at least have  
24 more than one year experience for that -- for a  
25 pharmacy technician.

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1 And that's all I have to offer. Thank you.  
2 DR. SALEM: Thank you, Ms. Gatlin.  
3 As I said, the next speaker is Kara Seminic.  
4 MS. SEMINIC: Hi. My name is Kara Seminic  
5 and I'm a student at Sanford Brown Institute  
6 currently. I am opposed of the 160 hours. I feel  
7 that we as pharmacy techs, prepare and do -- and  
8 handle medication way more than 160 hours should  
9 prepare you for. We should have way more time than  
10 that.  
11 I believe that I myself would not be giving  
12 the patient or their family the benefit of what they  
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13 should be given for the medication. I don't think  
14 they would be -- approve of it. In the end, it's  
15 just I believe that it's all about the patient's  
16 safety and health.  
17 DR. SALEM: Thank you, Ms. Seminic.  
18 The next speaker is the Brian --  
19 MR. KAHAN: Kahan.  
20 DR. SALEM: Oh, I'm sorry. The Winn Dixie  
21 fooled me. Okay. Brian Kahan.  
22 MR. KAHAN: Thank you, Mr. Chair. I'm Brian  
23 Kahan on behalf of Winn Dixie stores and speaking in  
24 support of the proposal. The discussion so far this  
25 morning, as well as the discussions that I have

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1 attended throughout the time that this had been in  
2 discussion, rests in the fact that the opponents of  
3 the rule continue to focus on the comprehensive  
4 nature of their educational programs with the  
5 suggestion that these programs are illustrative of  
6 what the legislature intended by passing the  
7 statute.  
8 We disagree. We believe that the  
9 legislation is clear. The legislative intent is  
10 clear. The statute mandates registration, not  
11 certification. It defers further rule development  
12 to the wisdom of the Florida Board of Pharmacy. We  
13 speak in support of the rule and further in support  
14 of Mr. Bayo's proposed revisions.  
15 The rule and the proposed rule create an  
16 opportunity, but does not limit an individual's  
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17 right to seek an entry path for a career as a  
18 pharmacy technician. The proposal, as Dr. Wharton  
19 further stated, does not in any way prevent an  
20 individual from speaking higher education and  
21 further advancement as a pharmacy technician through  
22 courses offered by opponents of this rule.  
23 We believe that the proposal offers both.  
24 And we, again, speak in support of the rule.  
25 DR. SALEM: Thank you, Mr. Kahan.

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1 Brenda Turner.  
2 MS. TURNER: I'm Brenda Turner, a student at  
3 Sanford Brown. And I feel that a pharmacy tech  
4 position is very important and we do need the  
5 training. I know we'll still make mistakes, but I  
6 think the more you learn, probably the less mistakes  
7 you'll make. And when you're better educated in  
8 that field, you'll do a better job.  
9 Thank you.  
10 DR. SALEM: Thank you, Ms. Turner.  
11 Coming back are some speakers that deferred.  
12 We've got Bob Harris.  
13 MR. HARRIS: Mr. Chair, Members, thank you  
14 again. On behalf of FAPSC, my name is Bob Harris.  
15 I represent the Florida Association of Post  
16 Secondary Schools and Colleges. I'm with a law firm  
17 in Tallahassee called Messer, Caparello and Seef.  
18 Mr. Chairman, we appreciate you continuing the  
19 hearing to allow an opportunity to come today and  
20 speak about this very, very important issue. And I  
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21 appreciate also the people who spoke before and  
22 submitting remarks that will be made part of the  
23 record, and we hope the Board considers those  
24 things.  
25 We did not receive Mr. Bayo's language until

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1 -- we had a chance to take a look at it today. And  
2 all I can tell you, Mr. Chairman, is that we'll take  
3 a look at it. If the final decision is made on the  
4 rule today, obviously we won't -- we won't have a  
5 chance to submit anything formally as an alternative  
6 to Mr. Bayo's language; but if this process is  
7 continued, we will do that. And we appreciate the  
8 chance Mr. Bayo gave for us to at least take a look  
9 at that language today.  
10 The language is a problem for us with the  
11 biggest reason of what we call portability. If a  
12 person is trained at a Winn Dixie or a CVS or a  
13 Publix at 160 hours, that person then can leave Winn  
14 Dixie and Publix and CVS and go to work in any other  
15 pharmacy in the state -- or really around the  
16 country potentially -- but in the state and be  
17 registered and that's adequate. And that's a  
18 problem is the portability.  
19 The reason why the institutions that are here  
20 today, Sanford Brown and Everest and Rasmussen  
21 College and the rest of them -- there's so many  
22 others -- is because when a student is trained, like  
23 the students who have appeared before you today,  
24 that meet the training, meets or exceeds the  
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25 national standards of at least is 600 hours. Most

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1 of the programs are 700, 800, and the state programs  
2 are over a 1000 hours.  
3 The reason is very important. It's about  
4 public safety so that when an individual is trained  
5 and they go to work at Walgreens and then they leave  
6 Walgreens, they can take -- that they take that  
7 training with them wherever they go, wherever they  
8 go; and you have knowledge that because they've had

9 training that met the national standards, they are  
10 as trained as they can be to assure public safety no  
11 matter where they go. That's the reason why we  
12 train them.

13 It would be simple to do, frankly, what the  
14 University of Florida has done with the their  
15 quote/unquote continuing education program, which is  
16 training the minimum 160 hours and you can go  
17 wherever you want. All institutions could do that  
18 and it would be simple.

19 But it would be -- it would not be about  
20 public safety and it would not be right to allow  
21 those people to leave their employer. As Mr. Bayo  
22 has said, there is an exception in Chapter 1005, if  
23 you train your own employees, you can do that and  
24 you don't -- you're not a school.

25 The problem is that students leave their

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1 employers, whether it's CVS or Winn Dixie or  
2 Walgreens or Publix, and then they go out and  
3 practice anywhere they want to be. It's a danger  
4 issue. And the reason why this law is called the  
5 Beth Hippley Memorial Act is because of what  
6 happened.

7 So the portability is very important. I think  
8 -- I think what's important too for the Board to  
9 know is that to me you have here -- and it doesn't  
10 happen very often in the Board world. You have an  
11 opportunity when a legislation is passed to do a  
12 great thing. As Lorrie mentioned earlier, you have  
13 an opportunity, not a problem. You have an  
14 opportunity to do the right thing, which is to say  
15 we're going to provide the most training that we can  
16 for pharmacy techs that meets or exceeds the  
17 national standards so that the people of this state  
18 are safe.

19 There is no one else other than you. You are  
20 the Board of Pharmacy. There's no one else. So you  
21 set the standards for the people that walk into a  
22 pharmacy, the services they get are dictated by what  
23 you decide. And you have the opportunity to do the  
24 right thing.

25 Let me tell you also as a lawyer, you have an

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1 opportunity to do the safe thing and the safe thing  
2 is to require training that meets or exceeds the  
3 national standards. Even if it's more difficult for  
4 Winn Dixie and Publix and CVS to do it. You have an

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5 opportunity. The question is whether you grasp the  
6 opportunity.

7 And I also want to recognize that in audience  
8 -- and this is why it's kind of important. In the  
9 audience, and they haven't been recognized, is  
10 Ms. Debbie Wagar, Ms. Jeannie Yockey, who are with  
11 the Commission For Independent Education, and the  
12 other staff people, it's very important to them as  
13 to what happens here. So I'm glad that they're here  
14 to watch what this Board does.

15 But let me tell you, Mr. Chairman, in closing,  
16 if you think 160 hours is adequate and the national

17 standard is 600 hours, and the state -- by the way,  
18 the public institutions in this state and the public  
19 vo-tech centers and the community colleges and all  
20 those training, it's 1050 hours. So if you think  
21 160 hours is adequate, imagine the following, that  
22 one-fourth is the national standard.  
23 If you feel comfortable, as Dr. Wharton said  
24 from the University of Florida, physicians are  
25 trained over eight years. If you're happy with a

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1 physician practicing on you with two years of  
2 training versus eight, one-fourth the training, or a  
3 pharmacist, six years of training and you're happy  
4 with a pharmacist giving you drugs of 1.5 hours  
5 versus six years of training.

6 Well, let's say a paramedic or an EMT, which  
7 is two years training, and you train and produce  
8 them in six months, one-fourth of the generally

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9 recognized amount of training necessary, if you can  
10 be happy with that, then you should be happy with  
11 the way this rule is proposed. I don't think you  
12 should be.

13 And finally let me just say as a lawyer, if  
14 you would be happy to walk into a lawyer's office and  
15 instead of three years of training after college, to  
16 have about eight months, I wouldn't want that lawyer  
17 working for me either. And I know Amy Jones, who's  
18 a wonderful character, wouldn't want that either.

19 So, Mr. Chairman, you -- you have the  
20 opportunity to do the right thing and I would ask  
21 that you do that today. I'll be more than happy to  
22 answer any questions you might have.

23 DR. SALEM: Thank you, sir. Thank you,  
24 Mr. Harris.

25 The last speaker that I have is Sophia

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1 Langley.

2 MS. LANGLEY: I wasn't sure about coming  
3 right after Bob. We're working together, so I  
4 don't want to reiterate a lot of what's been said.  
5 For the record, my name is Sophia Langley and I'm an  
6 attorney, a solo practitioner in Winter Park. I've  
7 been associated with the Florida Association of Post  
8 Secondary Schools and Colleges for quite some time  
9 and I'm assisting Bob with our work regarding this  
10 rule.

11 And once again, I think that Nancy Bradley  
12 and Bob already touched on the crux of the problem,

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13 which would be the portability of the ending results  
14 of a 160 hour training program that comes from a  
15 store. In other words, that that provides  
16 essentially a credential and there's credentialing  
17 right now that is in -- that's approved in this  
18 state that Florida has a curriculum framework that  
19 requires 1050 hours. So the 160 hours in comparison  
20 to that is just quite a shock and is one of the  
21 reasons why I did agree to assist in this project.  
22 One -- I'll just say this once again, I think  
23 that they touched on that quite thoroughly, so not  
24 to go into that. I did want to address just a

25 couple things in follow up. First of all, the -- as

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1 far as the more technical changes, I believe it may  
2 have been a little bit -- it was a little hurried  
3 using -- when we went to the original teleconference  
4 hearing, but I'm hoping that those more technical  
5 things that were in error in the rule have -- you  
6 know, you have an opportunity to address.  
7 I won't go over this again, because we, of  
8 course, would be happy to assist with that, and that  
9 includes references to nationally recognized  
10 accrediting bodies that -- you know, that kind of  
11 thing that didn't make sense in this context.  
12 There was also -- there was some comments  
13 that JAPCs made as well about the more technical  
14 part of the rules. So we would be happy to assist  
15 with that. I believe that those were already stated  
16 too. If you have any questions later on that we

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17 could assist with on that, we'd like to.  
18 As far as the comment today made by  
19 Mr. Wharton, I believe his name is, that he did not  
20 know of any -- you know, the standard being  
21 throughout the United States as not being any higher  
22 than the 160. I do have -- I don't believe this was  
23 made part of the record before. I apologize that I  
24 don't have the entire article, but I do have an  
25 article from the American Journal of Health System

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1 Pharmacists, Volume 60, published January 1, 2003.  
2 And that states that in part -- I don't want  
3 to go into the whole thing. But in 2002, they were  
4 -- they were looking at the -- what is recognized as  
5 quite a wide variety and when you have no  
6 consistency within the training programs. But to  
7 take just the part here as far as addressing  
8 Mr. Wharton's comment, I've got here that the formal  
9 technician training programs differ in many aspects  
10 and one survey that had been done is that the  
11 programs vary in length from 540 to 2,145 contact  
12 hours with the median of 970 hours.  
13 So the 160 hours, once again, doesn't even  
14 get close to the median or even close to the bottom  
15 of that program length. And I believe that, you  
16 know, any seasoned pharmacist, which of course I'm  
17 not, is going feel that they would prefer to have  
18 their employees trained as they wish them to be  
19 trained in their pharmacy. And I don't believe  
20 anybody here with our organization is against any

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21 employee training program, because you want to train  
22 your employees.  
23 But the idea that your employee training  
24 program provides what is essentially a credential  
25 for becoming a pharmacy technician after that

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1 employee is no longer at that store, that is quite  
2 problematic.  
3 And lastly, let's see. The -- and then there  
4 was a gentleman that spoke from Winn Dixie about the  
5 legislative intent not -- wasn't -- is met by the

6 160 hours, and I don't believe that that is  
7 necessarily an accurate statement. If you look at  
8 the statutory language, there's of course a phase  
9 in.

10 And I understand the tremendous amount of  
11 work that you all have to do in order to try to  
12 implement the rules in accordance with the statute.  
13 That's never an easy task, especially when you have  
14 a lot of people wanting to comment. However, if you  
15 -- if you read the language and as it's phased in  
16 and what's supposed to be phased in within January  
17 1st, 2011, it does require you to have -- let's  
18 see. The registration does require the completion  
19 of a pharmacy technician training program for a  
20 registered pharmacy technician -- excuse me --  
21 pursuant to this section before January 1, 2011.  
22 And I -- okay, and that has completed a pharmacy  
23 technician training program approved by the Board of  
24 Pharmacy.

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25 Now, what I find interesting is that the

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1 very next sentence acknowledges that anybody that  
2 has worked as a pharmacy technician for a minimum of  
3 1,500 hours would be able to receive this  
4 registration. And once again, I think that 1,500  
5 hours, within the same language of the statute that  
6 you're trying to meet with this training program, is  
7 internally inconsistent if you -- if you look at it  
8 that way.

9 In other words, you're saying you have to  
10 approve a training program, but then you're going to  
11 also approve something that's worth 1,500 hours.  
12 There's such a different amount of training there  
13 that I don't think that it meets the legislative  
14 intent in the current drafts.

15 DR. SALEM: Ms. Langley --

16 MS. LANGLEY: And I'm -- I'm concluding right  
17 now. Let me put this together. We appreciate you  
18 having us here and accepting the public comments.  
19 And I do take exception to the idea that training  
20 does not effect the quality of someone's work. I  
21 believe it does. Thank you.

22 DR. SALEM: Thank you, Ms. Langley.

23 Those are the cards that I have. Is there  
24 anyone else that would like come forward and speak  
25 on this issue before we close this hearing?

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1 Please come forward. Please identify

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2 yourself.

3 MR. TILLEY: I am Christopher Tilley. I'm  
4 the Regional Vice-President of Operations for  
5 the Corrinthan Colleges, which operates fifteen  
6 schools here in the State of Florida. I'm here to  
7 read the testimony, if I may, before the Board,  
8 Mr. Chairman, in you will, from our Department of  
9 Education within our organization.

10 We are opposed to the 160 hour training  
11 program. If I may, just a brief reading of this.  
12 We respectfully want to submit the formal testimony  
13 here to the Florida Board of Pharmacy. This is

14 written on behalf of a Dr. Smith, which heads up  
15 basically our program in pharmacy and pharmacy  
16 technicians. He remains to be concerned here of the  
17 proposed 160 hour technician program is not  
18 sufficient in its breath or scope to adequately  
19 train pharmacy technicians.  
20 As you're aware, the Food and Drug  
21 Administration has reported that medication errors  
22 caused at least one death everyday and they injury  
23 approximately 1.3 million people annually in the  
24 United States. The U.S. Food and Drug  
25 Administration has identified causes of medication

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1 errors as to job stress, lack of product knowledge  
2 or training or similar labeling or packaging of  
3 products. The FDA and the Institute of Safe Medical  
4 Practices has identified abbreviations, symbols and  
5 dosage designations to be frequently misinterpreted

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6 in all the harmful medication errors.  
7 And this is all referenced here to a recent  
8 document provided by the FDA on April 30th, 2009.  
9 And additionally there was a White Paper produced  
10 in 2002 which publishes an interesting fact that the  
11 American Society of Health Systems Pharmacists, the  
12 ASHP, is talking about here the actual cost  
13 associated with the expenditure of harm of the  
14 individuals that have been given wrong medication or  
15 dosage. In 2002 it's estimated to be 177 billion  
16 dollars, more than the cost of the medications  
17 itself.  
18 Several studies most recently performed in  
19 hospitals have however also demonstrated  
20 approximately the training and the supervision of  
21 pharmacy technicians have a positive effect on  
22 equalizing the specific work load and reducing  
23 medication errors and allowing more time for  
24 clinical the pharmacy practices.  
25 Our testimony here is to input the basis our

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1 of experience as an organization providing this type  
2 of education. Dr. Smith himself has eighteen years  
3 of experience as a pharmacy educator and a trained  
4 specialist in the area of nearly twenty years. He  
5 has a Bachelor's and Master's degree and a Doctorial  
6 in educational work and this study. And he also  
7 does not understand why a 160 hour program would  
8 meet to suffice the needs of training individuals in  
9 today's world to be successful pharmacy technicians.

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10 I want to thank you for the opportunity to be  
11 able to share this testimony before you, and we  
12 would also like to present the testimony if we can  
13 for the record. Thank you.

14 DR. SALEM: Would you provide the testimony  
15 over here? Thank you, sir.

16 Anyone else who would like to speak?

17 Mr. Jackson.

18 MR. JACKSON: Thank you, Mr. Chairman. My  
19 name is Michael Jackson. I'm the Executive  
20 Vice-President and the CEO of the Florida Pharmacy  
21 Association. I'm supporting the Board's efforts in

22 this area to generate technician training program  
23 criteria. It's my understanding that the first  
24 section of the rule as written was designed to  
25 recognize and to define work that's being done by

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1 the ASHP and the national accreditation agencies,  
2 the Florida Commission on Education, the Florida  
3 Department of Education and other groups that  
4 already have highly comprehensive educational  
5 programs.  
6 The intent is to recognize those programs  
7 without the Board having to go through  
8 comprehensive review of those programs because they  
9 are considered to be pretty much the gold standard  
10 for pharmacy continuing education.  
11 The purpose of the second part of the rule  
12 really is to examine and evaluate other entities who  
13 may -- or may have an opportunity to bring an  
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14 educational program to the Board with a request to  
15 determine whether or not these other programs can  
16 meet the intent.  
17 As I examined the act that implements this  
18 thing -- I guess I most apologize to the Board,  
19 because I'm the one of the responsible parties for  
20 bringing this, along with ASHP. The statute  
21 suggests that the Board has to -- it has to approve  
22 training programs and it just stops right there.  
23 Of course, I was a party to the discussions  
24 that went on at the capitol and I think it's --  
25 these are -- you're going down the right steps.

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1 It's just that what you have to do as a Board is you  
2 have to make a determination on what the criteria is  
3 for those programs who are not necessarily ASHP  
4 approved.  
5 (Technical interference.)  
6 DR. SALEM: Mr. Jackson.  
7 MR. JACKSON: Yes, sir.  
8 DR. SALEM: They're telling me that it's your  
9 Blackberry that's causes the interference.  
10 MR. JACKSON: That's fine. I can turn it  
11 off.  
12 Anyway, just to bring this all to closure, we  
13 at the Florida Pharmacy Association understand that  
14 you have received a proposal from Mr. Bayo and CVS,  
15 some alternate language. We have not had an  
16 opportunity to examine and review that language and  
17 would like to have an opportunity to take a peek at  
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18 it and perhaps chat with the folks at CVS and see  
19 what the content is and see if we have some content  
20 with it as well, just mainly for information, I'll  
21 be providing to you. Thank you.  
22 DR. SALEM: Thank you, Mr. Jackson.  
23 Any other speakers?  
24 (No response.)  
25 DR. SALEM: Seeing none, at this point I'd

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1 like to bring this back to the full Board to the  
2 Board. If we deem we need a resource, I will be

3 glad to call upon that resource. What I'd like to  
4 do is address -- and many of you may want to address  
5 some of these same issues, but I'm going to address  
6 about five or six issues that did come up to clarify  
7 for those that may be new to this process. Some of  
8 this is a repeat of things that I have said in the  
9 past, but there may be new people involved that need  
10 to hear this.

11 Number one, we are registering technicians  
12 through this 160 hour program. We are not  
13 certifying technicians. I have been a big advocate  
14 of this only because I have been burned in the past  
15 by those people, technicians that have stolen drugs,  
16 controlled substances, from my pharmacy. This  
17 program allows us to register technicians and get  
18 those bad technicians out of practice.

19 That it -- I have said that on multiple  
20 occasions it seems to be forgotten that the key  
21 advantage is we now have control of people

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22 practicing and we can get bad technicians through  
23 this Board out of practice. But we are registering  
24 them. We are not certifying them.

25 Additional training has come up. And I've

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1 used the example of pharmacists that comes to work  
2 in my pharmacy. We provide both IVs as well as  
3 a tablet, capsule retail type process. When I hire  
4 a pharmacist that comes to me from a retail  
5 environment, I spend several weeks training that  
6 pharmacist to get comfortable on the IV side of our  
7 business.

8 He's now looking -- he or she is now looking  
9 at physician forms that look much different from a  
10 nursing home than they do on a retail side. He has  
11 -- he or she has to be trained to look at  
12 respiratory orders and IV orders. So we spend  
13 considerable time training that registered  
14 pharmacist to function in -- in that pharmacy  
15 environment.

16 My colleagues are nodding their heads. We  
17 all do that. Training doesn't end when you became  
18 registered. You have to be trained to the  
19 environment that you're working in. And my license  
20 is on the line for that pharmacist or technician, so  
21 I want to ensure wherever they come from, pharmacist  
22 or tech, that they can function accurately to  
23 protect the safety of the patients that my pharmacy  
24 serves or any one of those. That gets a lost in the  
25 discussion.

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1 I believe personally the rule that we're  
2 developing does meet the legislative intent. The  
3 certification was debated in the legislature; it was  
4 rejected, okay. So to suggest otherwise is -- it's  
5 just not correct. That's a simple fact. The 160 --  
6 I hear hours quoted that are average. The 160 hour  
7 program that we have put into place is more than  
8 most states in the southeast require for work  
9 registration.

10 We looked at the states in the southern

11 region. Many of them had 40, 60 hour programs. The  
12 160 hour program that we -- that has been suggested  
13 by this Board is much more so than most states in  
14 the south. That's just a fact. The portability  
15 point that some have raised a few minutes ago, I  
16 think I just addressed that, that wherever that  
17 technician was trained and may have gotten  
18 registered, when he comes to a new environment, for  
19 example, if I hire a technician that came from  
20 Walgreens or Winn Dixie, I have to spend  
21 considerable time training him in my environment to  
22 make IVs, to work in the control room, to do input  
23 possibly.  
24 Now, the advantage of that technician, that  
25 he generally knows -- he or she knows drug names and

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1 that kind of thing. That's a big advantage. Can

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2 read prescriptions. But the educational process  
3 continues once they get into that new environment.  
4 So I don't want those from the various schools to  
5 think it's 160 hours and they require no additional  
6 training after that wherever they work. That's just  
7 not true. That additional training could be several  
8 weeks, which could be well over a total of a 1,000  
9 hours, depending on where they're working.  
10 The 1,500 hours that someone quoted is --  
11 that's the grandfather rule. If you have worked  
12 1,500 hours up until now, then you're going to be --  
13 you can be grandfathered in as a registered  
14 technician if you get a pharmacist to sign that,  
15 okay. That is what that language reflects. That  
16 does not suggest that we are -- that 1,500 hours is  
17 the required training. It's simply there to  
18 grandfather people in.  
19 And lastly -- and someone mentioned this,  
20 but I think it's very important. This rule does  
21 recognize those various certification programs that  
22 are out there and we're saying that if you have went  
23 through one of those programs, you become registered  
24 automatically without going through the training.  
25 And I work with the programs personally. I

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1 work with them in Jacksonville in my practice and I  
2 have -- they come over and I've hired -- I have had  
3 several of them do their 160 hours of practical work  
4 in my pharmacy. I have hired some of those  
5 graduates and I've had some success with some of

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6 those graduates.  
7 So I think I'm talking from someone who has  
8 experience with all aspects of this program. Those  
9 are the five or six points that were raised that I  
10 wanted to address and others may have wanted to  
11 address, but at least we got them on the table.  
12 With that, Board Member?  
13 DR. WEIZER: (Indicates.)  
14 DR. SALEM: Dr. Weizer.  
15 DR. WEIZER: I want to further clarify  
16 the 1,500 hours that was brought up. It's not  
17 actually considered training. It's work experience.  
18 So it's credit for being a technician for at least

19 1,500 hours and recognition that that technician  
20 doesn't need further training, because they have all  
21 of this work experience.  
22 The second thing I wanted to bring up is  
23 something Ms. Bradley brought up. And I don't have  
24 the application in front of me. I do recall us  
25 talking about this one specific area and that's in

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1 the section about certificate of completion. And if  
2 it's really true that not every program provides a  
3 certification of completion, maybe we need to change  
4 the wording to evidence of completion.

5 I know for a pharmacist -- a proposed candidate  
6 for a pharmacist has to have a letter from the dean  
7 saying that they completed the program. So maybe we  
8 need to go back and have the application in front of  
9 me and make sure that we, whatever that section is

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10 right there, that we make sure we incorporate all of  
11 the ways that people have the evidence of  
12 completion of the program.

13 DR. GARCIA: I think I have the application  
14 here --

15 DR. SALEM: Are you -- I'm sorry. Doctor,  
16 that completes your comments?

17 DR. WEIZER: Uh-huh.

18 DR. SALEM: Mr. Garcia.

19 DR. GARCIA: Well, I have the application in  
20 front of me and it states, it says: Attach a sample  
21 certificate, letter or other document that is  
22 generally used as evidence of participant's  
23 satisfactory completion of a registered pharmacy  
24 technician training program.

25 And it indicates the normal use of this

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1 document as well. So I think it addresses that  
2 issue. And I think Dr. Salem did an excellent  
3 job of hitting on some of the key points that came  
4 up with the audience and wrote exactly pretty much  
5 what I wrote down. I would just kind of reiterate  
6 concerning your arguments that -- you know, with  
7 regards to the intent of this law, that it is -- it  
8 is regarding registration.

9 And if the Board's been asked to further the  
10 rule development perspective, and that's what we've  
11 done for registration. I think Mr. Kahan had  
12 mentioned it's not a path for a career and that  
13 that's not the intent.

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14 The portability, I Dr. Salem hit it right on.  
15 It's portability of the registration, you know, et  
16 cetera, et cetera. So I think you hit all the key  
17 points that are pertinent to this discussion.

18 DR. SALEM: Okay. The other point that I  
19 failed to mention, I became very sensitive to the  
20 point of I don't want someone opening up a program  
21 not affiliated with the pharmacy that trains  
22 technicians for 160 hours and then they became  
23 registered.

24 That point came up I think on the call,  
25 and I agree with that it ought to be

—

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1 employer-based training. I think Mr. Bayo took --  
2 took that upon himself to development some language.  
3 That -- my concern is that that language is strong  
4 enough to prevent someone from doing that. And I'm  
5 all for language personally that it's an  
6 employer-based 160 hour program or it's  
7 certification through one of the nationally  
8 recognized programs and those are the two ways after  
9 January 1st that you would become registered.  
10 So I'd be happy to consider Mr. Bayo's  
11 language and any other technical changes that we can  
12 make, even if means us going beyond noon today so we  
13 can continue to move this language.  
14 MS. JONES: (Indicates.)  
15 DR. SALEM: Let me go to Ms. Jones. We have  
16 not heard from her.  
17 MS. JONES: Two points on the 1,500 hours.

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18 There seems to be an assumption that 1,500 hours  
19 means they have good skills. That isn't true. They  
20 may have good skills. The 1,500 hours to be  
21 grandfathered in simply means they showed up for  
22 work for 1,500 hours. If you work for a bad  
23 pharmacist who has bad practice skills, you  
24 learn those bad skills.  
25 So being that we can identify that, there's a

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1 presumption that if you were there for 1,500 hours,  
2 you're a good practitioner; that isn't true. And  
3 what we find -- what I have found in the past is  
4 within the first year to two years after  
5 grandfathering, we tend to get rid of a lot of  
6 grandfathered practitioners whose skills sets are  
7 not where they need to be.  
8 So to put this that all -- that all  
9 grandfathered techs are good practitioners is  
10 incorrect. But we have a tool now to get them out  
11 of the business. We didn't have that before.  
12 They could go to pharmacy to pharmacy to pharmacy  
13 and they continue to practice without any  
14 consequences.  
15 The second point that concerns me most is --  
16 and I understand Dr. Salem's comment about when he  
17 hires a new technician, he trains them in his  
18 practice environment, and that's a great thing to  
19 do. We hope that all practitioners do that, but we  
20 know from our experience on the Board that not all  
21 practitioners are as consciousness as Dr. Salem and

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22 some of the other members on the Board.  
23 And my biggest fear is that when we launch  
24 this registration program, there's going to be a  
25 presumption made by some pharmacist practitioners

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1 that these folks are okay to practice in any setting  
2 without further training. The good pharmacists  
3 won't make that presumption, but those pharmacists  
4 who are not the best of the best will use it perhaps  
5 as a shortcut for their own in-house training.  
6 And we need to be careful that we're not  
7 sending a message that if you go through a

8 employer-based training program, for example, at  
9 CVS who doesn't do compounding at all, that this  
10 technician can't even do a skill that they've had no  
11 experience doing (as heard). I don't know  
12 how we address that, because it can be very  
13 difficult to have CVS, for example, teach  
14 compounding when they don't do compounding.  
15 But we have to be careful. There's nothing  
16 in our rules that specifically requires that we need  
17 change a practice setting, you have to go through a  
18 new training program. It's a good business  
19 practice, but nothing requires it. And I am  
20 concerned that when they're registered, there's  
21 going to be presumption by pharmacists themselves  
22 that these individuals can, in fact, practice in any  
23 setting without further training because that  
24 training is not required.  
25 DR. SALEM: I think -- I'm sorry, Ms. Jones.  
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1 Thank you very much. There are some JAPCs concerns  
2 that we probably need to go through them and then  
3 I'll be happy to take any additional language that  
4 anyone wants to make.  
5 MS. Guillemette.  
6 MS. GUILLEMETTE: All right.  
7 DR. SALEM: Okay. With the Board's  
8 permission, I would like to continue for a while as  
9 long as we're making progress, and if that's means  
10 delaying the full Board. We'll have an hour for  
11 lunch either way we do this and then if we need to  
12 start at 1:30 or whatever, that's what I'd like to  
13 do. Is that okay? And we'll just work until we  
14 finish this afternoon.  
15 (Board Members nodding heads.)  
16 DR. SALEM: Thank you.  
17 MS. GUILLEMETTE: One of the things that  
18 we've been working with JAPCs is on -- I want you to  
19 go to page 224 of the agenda. If you look at the  
20 heading up here, there's a "Go To Page" icon right  
21 there. If you hit that, you can type in 224 and  
22 that should bring up 26.352.  
23 DR. SALEM: Is everyone okay with that?  
24 DR. POWERS: (Indicates.)  
25 DR. SALEM: Mr. Powers.

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1 DR. POWERS: Is your mic on?  
2 DR. SALEM: Yes, it is.  
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3 DR. POWERS: Okay.  
4 MS. GUILLEMETTE: Mine wasn't.  
5 DR. POWERS: I didn't think it was.  
6 DR. SALEM: Everybody on page 224?  
7 (Board Members nodding heads.)  
8 DR. SALEM: Okay. Go ahead.  
9 MS. GUILLEMETTE: Some of the JAPCs  
10 comments that were made is -- well, let me take a  
11 little back step here. 352 we had for using for a  
12 while to talk about continuing education, but then  
13 we realized that we probably shouldn't use this  
14 for approval of the pharmacy technician training  
15 programs and that way we could include the

16 application and what standards there needs to be in  
17 order to get the pharmacy technician training  
18 program.  
19 Now, we are going to make changes to the  
20 actual rule, which is actually the standards for  
21 approval. If you look at "B" -- it goes 351, the  
22 regular rules, plus one, two and then it's got "A"  
23 Program Content, "B" Program Document  
24 Qualifications. I think that -- and "C" is the  
25 evaluation portion. I think that all of that is

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1 covered by this 352. If you look at that, that  
2 covers all of the last parts of 351 in a lot of  
3 detail.  
4 If you are going to make changes to 351, I  
5 think that you need to probably delete two and three  
6 and make reference to 352, and that should take care  
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7 of it, because 352 goes into a lot more detail about  
8 that. And that should handle a lot of the JAPCs  
9 question.  
10 One of the other JAPCs questions, which  
11 talks about the cert, it seems like the cert that  
12 was presented to the Board in Rules was not  
13 caught at the time. It says: The statement of  
14 estimated regulatory cost provided with the rule  
15 packet states in the last page, "Please see attached  
16 comments," and no comments were attached.  
17 I think that's like a typographical error  
18 and I think there was no comments attached. So  
19 we're going to have to go ahead and get an amended  
20 cert in order to move forward with this rule. And  
21 if we can move forward with it today, then we could  
22 probably get one faxed to us with just that language  
23 would need to be changed.  
24 The next JAPCs comment under 351, sub 1,  
25 Ms. Holiday goes into a case of Squadet versus

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1 The Florida Board of Professional Engineers, and  
2 basically what I need to do is when we talk about  
3 approval, that the entities that are approved by the  
4 Board, deemed approved by the Board, we're going to  
5 have to put a date in there, that the programs are  
6 accredited as of a specific date. So we're okay  
7 with that. I can fix that.  
8 DR. SALEM: Ms. Guillemette, is there  
9 anything that you need from us in order to --  
10 MS. GUILLEMETTE: Well --  
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11 DR. SALEM: Any decisions or advice that you  
12 need in order to move that forward?  
13 MS. GUILLEMETTE: Yeah. On your 351, Sub 2,  
14 Sub 2, is a comment that Ms. Holiday made. It says:  
15 it would be helpful to include a disclaimer for  
16 information purposes in Rule Subsection 2. The  
17 Board approval of a program does not relieve the  
18 program's duties to fulfill its legal obligations to  
19 obtain records of approvals or obligations from any  
20 other government entity.  
21 I don't know if we need to put anything in  
22 there. I don't -- I think that if you do, it really  
23 would confuse matters, because then people might be

24 thinking that they're referring back to like the  
25 Commission on Independent Education, which has

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1 different standards. And that was just a suggestion  
2 from her.

3 She also asks: Please explain how the Board  
4 determines that the faculty of the training program  
5 is competent. She wants us to explain that, and I  
6 think if I refer her to the new 352, that would  
7 answer that question. And again, when she  
8 talks about the program has made provisions for the  
9 evaluation the participant's obtainment, I think is  
10 she's referred to 352, that would be okay.

11 Ms. Holiday hasn't had the 352 available to  
12 her, because it's still new in the process. And I  
13 really would like the Board to -- I didn't talk  
14 about that during the rules portion of it, but

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15 that's something that we need to try to work on  
16 with the 351 today, to get 352 moving too.

17 DR. SALEM: To move them together?

18 MS. GUILLEMETTE: Yes.

19 DR. SALEM: I would like to do that. Okay.

20 Anything -- anything else that you need?

21 MS. GUILLEMETTE: No, sir.

22 DR. WEIZER: (Indicates.)

23 DR. SALEM: Okay. Dr. Weizer.

24 DR. WEIZER: I guess what I was going to

25 comment earlier on is that I haven't had a chance

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1 to review the proposed rule edit from Mr. Bayo.  
2 And I do agree with how he's designed this to  
3 answer the JAPCs questions. However, I do like  
4 Ms. Guillemette's suggestion that we should  
5 probably move one, two and three and then that last  
6 sentence, have it reference the Rule 64B16-352, and  
7 then include this information in that rule. And  
8 the only area that needs an edit on Mr. Bayo's  
9 suggestion is 3-A and 1-B. He spelled the acronym  
10 HIPAA incorrectly. It should be H-I-P-A-A.

11 DR. SALEM: Okay. So can you be specific to  
12 the changes that you're recommending so that we can  
13 have a motion?

14 DR. WEIZER: Yes.

15 DR. SALEM: I assume this is in the form of a  
16 motion.

17 DR. WEIZER: This is in the form of a motion.

18 DR. SALEM: Okay.

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19 DR. WEIZER: So this would be substitute  
20 language for 64B16-26.351.

21 DR. SALEM: Okay.

22 DR. WEIZER: It should -- we should include,  
23 as Mr. Bayo has presented numbers one, two and  
24 three. However, at the end of the number three, it  
25 says "and provide documentation of the

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1 following." That need to be replaced with: And  
2 provide documentation as designed, or something, in  
3 Rule 64B16-26.352.

4 DR. SALEM: Okay.

5 DR. WEIZER: And that the rest of what he has  
6 provided actually belongs in 352. So in 352 we're  
7 missing the section that really talks about the  
8 program itself, and I would move it from 351 to 352.  
9 In 352 it should start with then probably the  
10 second --  
11 DR. SALEM: "The program must include ..."  
12 DR. WEIZER: Correct. And then the only  
13 change I would make of what is here is correcting  
14 the abbreviation of HIPAA to H-I-P-A-A.  
15 DR. SALEM: Okay. So if I can understand  
16 what you're saying -- just give me a sec, please.  
17 MS. GUILLEMETTE: Yeah.  
18 DR. SALEM: 351 becomes one, two and three  
19 only.  
20 DR. WEIZER: Correct.  
21 DR. SALEM: Everything after three, other  
22 than the language you just -- you just suggested, so  
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23 A, B and C move to 352.  
24 DR. WEIZER: Correct.  
25 DR. SALEM: Okay. Other than the change to

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1 HIPAA that Mr. Bayo missed.  
2 DR. WEIZER: Correct.  
3 DR. SALEM: Okay. Ms. Guillemette.  
4 MS. GUILLEMETTE: That won't work, because of  
5 the ways that the rules are noticed, but there is --  
6 if you want to consider it this way, there is an  
7 alternative you can do. I would suggest leaving in  
8 351. Okay, and the word "standards," umm -- but  
9 that's what was titled, but we can change that.  
10 Leaving -- okay. Leaving "A" --  
11 DR. WEIZER: It's titled "Board Approved  
12 Pharmacy Technician Training Program Substitute  
13 Language."  
14 MS. GUILLEMETTE: Okay. Well, substitute  
15 language. I think that if you're going to deem  
16 approved one and two programs, you can put that in  
17 procedures for approval of registered pharmacy  
18 technician training programs and just start it  
19 out. But if you're going to move anything, those  
20 two paragraphs should be moved to 352.  
21 DR. WEIZER: Okay.  
22 MS. GUILLEMETTE: And the content should sit  
23 by itself.  
24 DR. WEIZER: Okay.  
25 MS. GUILLEMETTE: And maybe rather than -- if  
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1 you look at the original 351, it says "standards for  
2 approval," Maybe "content for approval" --  
3 DR. WEIZER: Okay.  
4 MS. GUILLEMETTE: Content of registered  
5 pharmacy technician training programs.  
6 DR. SALEM: Okay. Let's go back a second.  
7 You want to move one and two of 351 to 352?  
8 DR. WEIZER: (Nods head.)  
9 MS. GUILLEMETTE: If it -- that makes sense.  
10 If you're going to move anything, that's what would  
11 be moved.  
12 DR. SALEM: Okay. And then we're simply

13 going to -- so 351 will only include number three  
14 and then the contents of the training, correct?  
15 MS. GUILLEMETTE: Yes, yes, sir.  
16 DR. SALEM: Okay. So the only -- with the  
17 HIPAA change. So the only language change that we  
18 would approve would be the language that Mr. Bayo  
19 submitted on own training for the pharmacy.  
20 DR. WEIZER: And then the title needs to  
21 change. So I would guess that it -- what I'm  
22 actually suggesting is Board Approved Pharmacy  
23 Technician Training Program Elements.  
24 DR. SALEM: How about -- how about --  
25 DR. WEIZER: I understand not using the word

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1 "Standards." I agree. How about --  
2 DR. SALEM: Repeat that again.  
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3 DR. WEIZER: Okay. I just added "elements"  
4 to the end. Board Approved Pharmacy Technician  
5 Training Program Elements.  
6 DR. SALEM: That's 351?  
7 DR. WEIZER: Correct.  
8 DR. SALEM: Okay.  
9 DR. WEIZER: And that incorporates three  
10 down.  
11 DR. SALEM: Does everyone understand where we  
12 are and what's been suggested?  
13 MS. GUILLEMETTE: The only other little thing  
14 I had --  
15 DR. SALEM: Okay. I will -- I just want to  
16 make sure that --  
17 MS. JONES: (Indicating.)  
18 DR. SALEM: Ms. Jones has her hand up. We're  
19 going --  
20 And if you need to clarify something she  
21 said, please do.  
22 MS. GUILLEMETTE: Go ahead.  
23 DR. SALEM: Ms. Jones.  
24 MS. JONES: The only question I have is if in  
25 the JAPCs matter when we reference these other

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1 schools that's already approved, you put a date in  
2 they're approved effective on the rule, then that  
3 means any -- any school program approved after that  
4 date is then coming to the Board for approval.  
5 For an example, if (inaudible) applies, she  
6 needs to apply here in Gainesville, she needs to  
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7 offer the tech program after the rule's been in  
8 effect; and that's here, then they need to get a  
9 date waiver or to get approval. And that's  
10 going to be a difficult part of that I think if  
11 it's specific, date specific.  
12 DR. SALEM: Ms. Jones, I would that think that  
13 we should rely on those accrediting bodies out there  
14 to accredit any new programs that open up and they  
15 -- those should not come to the Board. The only  
16 programs I think the Board should approve are the  
17 160 hours programs.  
18 We should allow those accrediting agencies --  
19 if Florida State College of Jacksonville launched a  
20 -- and they have a technician training program. But

21 if they wanted to open up a new one, they should get  
22 the certification of their colleagues. And we  
23 should -- in my opinion, we should accept that  
24 versus getting into approving other certification  
25 programs. We're approving registration programs, in

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1 my opinion.

2 Please go ahead.

3 MS. JONES: I don't disagree, but that's not  
4 my point. My point is even if we passed -- we  
5 make the approval date specific. For example, JAPCs  
6 said we had to put a date in there. So let's say the  
7 date is January 1st, 2010. That means any new  
8 program developed at any school, even if COE  
9 approves them, we can't recognize them because of  
10 that date, unless they come back here and get a

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11 date waiver or something. And so we need to think  
12 about how we're going to manage that process.

13 DR. SALEM: Ms. Guillemette.

14 MS. GUILLEMETTE: Ms. Jones is right, but  
15 there's no way around it. The reason is is that  
16 it's the Board's responsibility to approve the  
17 programs and you can't just say we're going to give  
18 that responsibility to another entity.

19 Now, you've looked at what the commission on  
20 those other entities -- and you can approve them  
21 effective today. But you're right, if they do --  
22 the school does a make a new program, the can submit  
23 it -- submit it to the Commission of Education. And  
24 technically what they'd have to do is they'd have to  
25 get it through a regular application and come

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1 through the sub three type approval form or they  
2 could submit something and ask the Board to amend  
3 the rule in order to reflect a new date. But --  
4 and Ms. Jones is right, but there's no way around  
5 that. It's the Board's duty to approve the  
6 courses, not the Commission of Education.

7 DR. SALEM: Well, okay, if that's our  
8 requirement, but I would -- I would hope if there's  
9 a new program, they would submit a letter from the  
10 Commission on accreditation, saying: Here, these  
11 people, they've inspected us. They recognize us as  
12 a full fledged program. Will the Board please  
13 approve us?

14 MS. GUILLEMETTE: And that will work.

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15 DR. SALEM: Okay. I think that will be -- if  
16 we have to, so we have from today until January 1st,  
17 2010, then I think that should be included as well.

18 DR. GARCIA: 2011.

19 DR. SALEM: Is it 2010 or 2011? 11, okay.

20 DR. GARCIA: (Indicates.)

21 DR. SALEM: Mr. Garcia.

22 DR. GARCIA: Can we include a date of 2010?

23 MS. GUILLEMETTE: No.

24 DR. SALEM: Okay. So is that also a part of  
25 your motion, Dr. Weizer?

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1 DR. WEIZER: That's actually -- that's

2 already included under one that we're moving in 352.  
3 It says "On or before January 1, 2011."  
4 DR. SALEM: Okay. So that's not the -- you  
5 were clarifying the intent of that, which I now  
6 understand.  
7 Okay. Any -- is there a second to that  
8 motion, Dr. Weizer's motion of moving everything  
9 after two to 352 --  
10 DR. WEIZER: No. Moving one and two to 352.  
11 DR. SALEM: I'm sorry. One and two to 352.  
12 DR. WEIZER: Keeping three as 351, but  
13 changing the title to Board Approved Pharmacy  
14 Technician Training Program Elements and  
15 correcting the abbreviation of HIPAA to H-I-P-A-A.  
16 DR. GARCIA: Second.  
17 DR. SALEM: Seconded by Mr. Garcia.  
18 Okay. Discussion on that?

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19 DR. HAYES: Just wanted to entertain we use  
20 "content" as many of our other rules are so  
21 composed.  
22 DR. SALEM: Versus "elements" you mean?  
23 DR. WEIZER: I'm sorry. I didn't hear that.  
24 DR. SALEM: Okay. It's content versus  
25 element as the last word.

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1 MS. GUILLETTE: All right. Just one other  
2 thing, that under three, which is from Mr. Bayo,  
3 "Any other program sponsored by or under the  
4 auspices of..." "Under the auspices" doesn't make  
5 sense. I'm going to get JAPCs caught on  
6 that. Just "sponsored by" delete "or under the  
7 auspices."  
8 DR. SALEM: Okay.  
9 MS. GUILLETTE: Because that's just so  
10 vague.  
11 DR. WEIZER: Uh-huh.  
12 DR. SALEM: "Sponsored by" and "or under the  
13 auspices" is removed.  
14 DR. WEIZER: I would accept that amendment.  
15 DR. SALEM: So it's sponsored by -- any other  
16 program sponsored by a Florida licensed pharmacy?  
17 MS. GUILLETTE: Yes, sir.  
18 DR. SALEM: Okay. By and take out the word  
19 "of."  
20 DR. WEIZER: I would accept that amendment.  
21 DR. SALEM: Okay. And --  
22 DR. POWERS: (Indicates.)

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23 DR. SALEM: Mr. Powers.  
24 DR. POWERS: Thank you, Mr. Chair. I hear you  
25 to continue to use Florida Licensed Pharmacist. A

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1 pharmacist under our statutes and our rules is a  
2 pharmacist. I don't see why we use Florida  
3 Licensed Pharmacist.  
4 DR. WEIZER: Pharmacy.  
5 DR. GRIFFIN: Pharmacy.  
6 MS. RISCH: Pharmacy.  
7 DR. MELVIN: Pharmacy.  
8 DR. SALEM: Here we're talking about a  
9 pharmacy.

10 DR. POWERS: Excuse me. I missed that.  
11 DR. SALEM: Okay. But I understand your  
12 point.  
13 MS. JONES: (Indicates.)  
14 DR. SALEM: Ms. Jones.  
15 MS. JONES: Just for the record, (inaudible)  
16 increase, but we've been down that road several  
17 times. But for the sake of argument, a 160 is  
18 better than zero.  
19 DR. SALEM: Thank you, Ms. Jones.  
20 Any other discussion?  
21 (No response.)  
22 DR. SALEM: Seeing none, all those in favor of  
23 the changes of the motion by Dr. Weizer --  
24 MR. HARRIS: (Indicating.)  
25 DR. SALEM: I'm sorry, sir?

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1 MR. HARRIS: One technical comment.  
2 DR. SALEM: A technical comment?  
3 MR. HARRIS: Yes.  
4 DR. SALEM: Please.  
5 MR. HARRIS: Yes, sir. For the record, my  
6 name is Bob Harris. You -- I'm looking at the  
7 language that Mr. Bayo provided to you, and we  
8 talked to him about this earlier.  
9 It says under number one, the one that's been  
10 moved, "Any pharmacy technician trained for -- "  
11 please understand, Mr. Chairman, my comments are not  
12 intended to reflect that we agree with this  
13 language, okay? I just want to make sure that if  
14 you're going to adopt it, that it's technically  
15 right.  
16 DR. SALEM: I understand. I respect that.  
17 MR. HARRIS: Okay. Any pharmacy technician  
18 training program accredited on or before January 1,  
19 2011 -- and by the way, I agree with Ms. Jones.  
20 You've got to have a date. If you're going to go  
21 down this path, you have to do this.  
22 But the American Society of Health System  
23 Pharmacists does accreditation programmatically.  
24 But the Florida Department of Education does not  
25 accredit. So it needs to say "accredit, licensed or

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1 approved by."

2 DR. SALEM: Okay.

3 MR. HARRIS: Okay. The Department -- the

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4 Florida Department of Education approves programs.  
5 And, by the way, it's the Florida Commission For  
6 Independent Education, not "of" technically. And  
7 the Florida Commission for Independent Education,  
8 for which Ms. Bradley is the Chair, licenses  
9 pharmacy technician programs. So it needs to say  
10 "accredited, approved or licensed by."  
11 DR. SALEM: "Accredited, approved or  
12 licensed."  
13 Dr. Weizer, do you accept those changes?  
14 DR. WEIZER: I accept those changes. And  
15 also, the Florida Commission, change the word  
16 "of" to "for."  
17 MR. HARRIS: Thank you.

18 DR. SALEM: Thank you, sir.  
19 DR. HAYES: (Indicating.)  
20 DR. SALEM: Okay. Yes.  
21 DR. HAYES: Mr. Chair, if I could. We're  
22 voting on these changes here, but I'm thinking maybe  
23 under another motion or under this motion, we have  
24 to reword the number three, because I don't know if  
25 it should just start out like that.

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1 DR. SALEM: Sponsored. Do you have specific  
2 suggestions?  
3 DR. HAYES: Just I'd throw out just any  
4 program.  
5 DR. SALEM: Any program, okay. It's going to  
6 Say "any program" versus "any other program," and  
7 stand alone on that.

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8 DR. WEIZER: I'll accept that. Okay.  
9 DR. SALEM: Okay. Any other suggests?  
10 MS. POSTON: (Indicating.)  
11 DR. SALEM: Do you want to say anything?  
12 MS. POSTON: I do.  
13 DR. SALEM: Yes, please.  
14 MS. POSTON: Ms. Guillemette has come to me  
15 with a clarification. We have -- JAPCs responded  
16 to this particular rule as well we 352. So that  
17 language has been published, correct?  
18 MS. GUILLEMETTE: JAPCs responded --  
19 JAPCs has sent me a letter on 351. They have not  
20 seen 352 yet.  
21 MS. POSTON: Okay. But will we have to do a  
22 notice of change and go through the entire process  
23 again for this version that we're coming up with?  
24 It's going to be new from what they've already seen  
25 in the past.

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1 MS. GUILLEMETTE: It'll --  
2 MS. POSTON: If you'll just give us the point  
3 of where -- of where we are with the rule and what  
4 the process is from this point, since the Board is  
5 making some substantial changes to what was  
6 originally published.  
7 DR. SALEM: Can we -- can we vote on it?  
8 MS. GUILLEMETTE: Yes.  
9 DR. SALEM: Since we have motions on the floor  
10 and it's been seconded. Let's get -- any further  
11 discussion?

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12 (No response.)  
13 DR. SALEM: Seeing none, all those in favor of  
14 the motion made by Dr. Weizer, please indicate by  
15 saying aye.  
16 (All Board Members responded "Aye.")  
17 DR. SALEM: All those opposed, like sign.  
18 (No response.)  
19 DR. SALEM: Motion passes.  
20 Okay. Ms. Guillemette, would you advise of  
21 where we are in the process?  
22 MS. GUILLEMETTE: Okay. To go through the  
23 process of rule making again, it's first noticed for  
24 development. And again, it takes -- it's got to be  
25 noticed for development like twenty-eight days

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1 before you can do anything more. But in order to  
2 notice it, it takes time to get that done. So it's  
3 really like a month and a half to do each step.  
4 That's development.  
5 Once it's been in development for a long  
6 enough time, then the language can be notice for  
7 promulgation. That's step two. Then JAPCs can  
8 write a letter. And then after everything is  
9 settled, then it can be adopted and then it becomes  
10 effective.  
11 When you do a notice of change, it takes it  
12 back to that promulgation stage. It's not like  
13 going all the way back to development, but it is  
14 going back so that then you again get another  
15 JAPCs letter. We can get another request for a rule

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16 hearing, not a rule workshop, but a rule hearing and  
17 we'll have to address that.  
18 But considering the substantial changes that  
19 the Board is making to this rule, I think it is  
20 appropriate for us to go back to that stage.  
21 DR. SALEM: Okay. I just have a couple  
22 questions. Best case -- I mean, because I hear --  
23 I've heard from pharmacists, pharmacies that say  
24 when we can know that the training program  
25 contents are solidified so I can put together a

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1 program and submit it to the Board for approval.  
2 So give me a best case scenario of when you  
3 think that this would be solidified.  
4 MS. GUILLEMETTE: Okay. Here's what we've  
5 got a problem with now. I've got the new language,  
6 but there is substantial changes in the notice of  
7 change. We really have to consider again whether  
8 there is any impact on small business with this.  
9 The Board has found in the past there has  
10 been an impact and there had to be a cert prepared;  
11 because this is new language, I would think that a  
12 new cert would need to be prepared. I'm sure that  
13 JAPCs would not approve of the last one.  
14 What I would suggest that we do is that for  
15 the next monthly telephonically meeting, this be  
16 presented along with a cert and a cert for 352, if  
17 we can do it then. At that time the language can  
18 get final approval along with the cert, about -- so  
19 when's that meeting? That's in --

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20 DR. SALEM: We have the one scheduled on the  
21 21st and one scheduled on the 28th of this month,  
22 but I don't know if that can be done or not.  
23 MS. GUILLEMETTE: The 28th of this month. I  
24 think by the 28th of this month, We can put it on  
25 there. So then the notice will actually appear like

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1 mid January. Mid February we could go ahead and do  
2 the -- well, and then -- so mid January the notice  
3 would appear.  
4 And then we have to see rule if there's any  
5 rule hearing requests, and that means we would have  
6 to put it back on a rule hearing. So that would

7 bring us into mid February. You're looking at March  
8 or April before it's finalized.  
9 DR. SALEM: Okay. Just so we all understand  
10 the process. I think everybody needs to understand  
11 the process.  
12 MS. GUILLEMETTE: And that's if nothing goes  
13 wrong.  
14 DR. SALEM: I understand. I understand.  
15 I just worry that we're going to put pharmacies in  
16 very difficult situations in the mean time, but I'm  
17 working as hard as I can to get this thing in --  
18 something in place so that pharmacies and  
19 pharmacists can make their decisions.  
20 Okay. Any other business before we break for  
21 lunch?  
22 (No response.)  
23 DR. SALEM: Okay. We will break for lunch.  
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24 It is -- it's 12:17. Why don't we come back at  
25 1:30. Okay. Thank you.

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1 (Proceedings concluded.)  
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