

Draft Minutes

October 20, 2023

8:30 a.m. ET

Holiday Inn Tallahassee East Capital

2003 Apalachee Pkwy

Tallahassee, FL 32301

(850) 792-8300



Jeenu Philip, BPharm
Chair

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

Allison Dudley, Executive
Director

**BOARD OF PHARMACY
GENERAL BUSINESS MEETING
DRAFT MINUTES
Holiday Inn Tallahassee East Capital
2003 Apalachee Pkwy
Tallahassee, FL 32301
(850) 792-8300**

Participants in this public meeting should be aware that these proceedings are being recorded and that an audio file of the meeting will be posted to the board's website.

I. CALL TO ORDER/ROLL CALL

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

Those present during the meeting included the following:

MEMBERS PRESENT:

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

ABSENT MEMBER:

Dorinda Segovia, PharmD

COURT REPORTER:

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

STAFF PRESENT:

Allison Dudley, Executive Director
Traci Zeh, Program Administrator

BOARD COUNSEL:

David Flynn, Esq.
Senior Assistant Attorney General

PROSECUTION ATTORNEY:

Matthew Witters, Chief Legal Counsel

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

III. APPLICATIONS FOR REVIEW – Jonathan Hickman, PharmD

A. Pharmacist

- i. Thomas McGrath

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

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

Mr. McGrath requested to waive the 90-day requirement of his application.

Motion: by Dr. Hickman to approve the continuance and to delegate Dr. Hickman to review the PRN evaluation and determine the approval of the application.

Second: by Dr. Ghazvini

Vote: Unanimous

II. DISCIPLINARY CASES – Jeenu Philip, BPharm, Chair

A. SETTLEMENT AGREEMENTS

- i. Joy Anne Gabas Galiza, R. Ph., Case No. 2023-03191
(PCP – Weizer & Gift)

The Respondent was present and represented by Martin Dix, Esq.

Mr. Witters presented the cases to the Board. The Respondent was charged with the following violation(s): Section 465.022(11)(a), Florida Statutes, by and through a violation of rule 64B16-28.102(4), F.A.C.; Section 499.0121(b); 499.0121(d), Florida Statutes and/or rule 64B16-28.108(3)(e), F.A.C., as the Respondent was designated as the prescription department manager for Specialty Rx FL, LLC. and during a routine inspection drug, supplies, and/or equipment was discovered laying on the warehouse floor.

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

- Appearance
- Fine of \$1,000.00 to be paid within ninety (90) days of the filing of the Final Order.
- Costs of \$1,265.23 to be paid within ninety (90) days of the filing of the Final Order.
- Successful completion of a twelve (12) hour laws and rules course to be completed within six (6) months of the filing of the Final Order and to be in additional to the required hours for license renewal.

After discussion, the following action was taken:

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

Second: by Dr. Ghazvini

Vote: Unanimous

- ii. Specialty Rx FL, LLC, PH, Case No. 2023-03190
(PCP – Weizer & Gift)

The Respondent was present and represented by Martin Dix, Esq.

Mr. Witters presented the cases to the Board. The Respondent was charged with the following violation(s): Section 465.023(1)(c), Florida Statutes, by and through a violation of rule 64B16-28.102(2), F.A.C. and Rule 64B16-28.102(4), F.A.C., for improper storage of drugs and required equipment.

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

- Appearance
- Fine of \$2,500.00 to be paid within ninety (90) days of the filing of the Final Order.
- Costs of \$1,649.89 to be paid within ninety (90) days of the filing of the Final Order.
- Probation of one (1) year from the filing of the Final Order to include the following terms:
 - Successful passing of two (2) inspections at the Respondents cost.

After discussion, the following action was taken:

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

Second: by Dr. Mesaros

Vote: Unanimous

iii. Kyle Landon Creed, R.P.T., Case No. 2022-21728
(PCP – Alvarez & Mesaros)

The Respondent was not present nor represented by Counsel.

Mr. Witters presented the cases to the Board. The Respondent was charged with the following violation(s): Section 465.016(1)(r), Florida Statutes, through a violation of Section 456.072(1)(aa), Florida Statutes, by failing a drug screening while employed as a registered pharmacy technician.

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

- Appearance waived.
- Costs of \$3,060.37 to be paid within two (2) years from the reinstatement of the Respondents license.
- Suspension until Respondent personally appears before the Board and can demonstrate she is safe to practice, to include an evaluation by a PRN approved evaluator.

After discussion, the following action was taken:

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

Second: by Dr. Ghazvini

Vote: Unanimous

B. DETERMINATION OF WAIVERS

i. Christine Catherine Pitser, R.Ph., Case No. 2022-43425
(PCP – Alvarez & Mesaros)

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

Mr. Witters presented the cases to the Board. The Respondent was charged with the following violation(s): Section 465.016(1)(r), Florida Statutes, through a violation of 456.072(1)(f), Florida Statutes, for relinquishment of her Alaska pharmacist license due to impairment and theft of controlled substances while being employed as a pharmacist.

Motion: by Dr. Hickman to find the Administrative Complaint was properly served on

Respondent and that Respondent failed to timely respond to the Administrative Complaint and has waived the right to request a hearing, to accept into evidence of the final investigative file and to adopt as its findings of fact.

Second: by Dr. Ghazvini

Vote: Unanimous

Motion: by Dr. Hickman to find the conclusions set forth in the Administrative Complaint constitutes a violation of the practice act.

Second: by Dr. Ghazvini

Vote: Unanimous

After discussion, the following action was taken:

- Suspension until Respondent personally appears before the Board and can demonstrate she is safe to practice, to include an evaluation by a PRN approved evaluator.

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

Second: by Dr. Ghazvini

Vote: Unanimous

Motion: by Dr. Hickman to impose the costs of \$613.26 to be paid within one (1) year from the reinstatement of the Respondents license.

Second: by Ghazvini

Vote: Unanimous

- ii. National Mentor Healthcare, LLC (D/B/A Florida Mentor)
Case No. 2022-43700
(PCP – Alvarez & Mesaros)

The Respondent was not present nor represented by Counsel.

Mr. Witters presented the cases to the Board. The Respondent was charged with the following violation(s): Section 465.023(1)(c), Florida Statutes, through a violation of Section 456.019(5), Florida Statutes, for operating without a consultant of record from September 1, 2022, through November 23, 2022.

Motion: by Dr. Hickman to find the Administrative Complaint was properly served on Respondent and that Respondent failed to timely respond to the Administrative Complaint and has waived the right to request a hearing, to accept into evidence of the final investigative file and to adopt as its findings of fact and to find the conclusions set forth in the Administrative Complaint constitutes a violation of the practice act.

Second: by Ms. Gift

Vote: Unanimous

After discussion, the following action was taken:

- Reprimand
- \$1,000.00 to be paid within ninety (90) days from the filing of the Final Order.

Motion: by Dr. Hickman to accept the Departments recommendation.
Second: by Dr. Ghazvini
Vote: Unanimous

Motion: by Dr. Hickman to impose the costs of \$1560.04 to be paid within ninety (90) days from the filing of the Final Order.
Second: by Ghazvini
Vote: Unanimous

iii. Sunshine Dialysis Care Centers, Inc, Case No. 2021-41241
(PCP – Montgomery & Ghazvini)

The Respondent was not present nor represented by Counsel.

Mr. Witters presented the cases to the Board. The Respondent was charged with the following violation(s): Section 465.023(1)(c), Florida Statutes, by violating rule 64B16-28.202(3), F.A.C., for improperly closing a pharmacy.

Motion: by Dr. Hickman to find the Administrative Complaint was properly served on Respondent and that Respondent failed to timely respond to the Administrative Complaint and has waived the right to request a hearing, to accept into evidence of the final investigative file and to adopt as its findings of fact and to find the conclusions set forth in the Administrative Complaint constitutes a violation of the practice act.
Second: by Ms. Gift
Vote: Unanimous

After discussion, the following action was taken:

- Revocation

Motion: by Dr. Hickman to accept the Departments recommendation.
Second: by Ms. Gift
Vote: Unanimous

The Department withdrew their motion for cost.

iv. William Lloyd Head, R.Ph., Case No. 2023-12315
(PCP – Weizer & Gift)

The Respondent was not present nor represented by Counsel.

Due to personal and professional association with Mr. Head, as a former student of FAMU, Dr. Ghazvini recused herself.

Mr. Witters presented the cases to the Board. The Respondent was charged with the following violation(s): Section 465.016(1)(e), Florida Statutes, through a violation of section 893.13(6)(a), Florida Statutes, for possession of controlled substances without a valid prescription from a practitioner.

Motion: by Dr. Hickman to find the Administrative Complaint was properly served on Respondent and that Respondent failed to timely respond to the Administrative Complaint and has waived the right to request a hearing, to accept into evidence of the final investigative file and to adopt as its findings of fact, and conclusions of law as set forth in the Administrative Complaint and to find the conclusions set forth in the Administrative Complaint constitutes a violation of the practice act and to find the conclusions set forth in the Administrative Complaint constitutes a violation of the practice act.

Second: by Mr. West

Vote: Unanimous

After discussion, the following action was taken:

- Revocation

Motion: by Mr. West to accept the Departments recommendation.

Second: by Dr. Hickman

Vote: Unanimous

The Department withdrew their motion for cost.

v. Carmen Julia Rosa, R.P.T., Case No. 2022-36175
(PCP – Mikhael & Hickman)

The Respondent was not present nor represented by Counsel.

Mr. Witters presented the cases to the Board. The Respondent was charged with the following violation(s): Section 465.016(1)(e), Florida Statutes, through a violation of section 893.13(6)(a), Florida Statutes, for possession of controlled substances without a valid prescription from a practitioner.

Motion: by Ms. Gift to find the Administrative Complaint was properly served on Respondent and that Respondent failed to timely respond to the Administrative Complaint and has waived the right to request a hearing, to accept into evidence of the final investigative file and to adopt as its findings of fact, and conclusions of law as set forth in the Administrative Complaint and to find the conclusions set forth in the Administrative Complaint constitutes a violation of the practice act and to find the conclusions set forth in the Administrative Complaint constitutes a violation of the practice act.

Second: by Dr. Ghazvini

Vote: Unanimous

After discussion, the following action was taken:

- Revocation

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

Second: by Ms. Gift

Vote: Unanimous

The Department withdrew their motion for cost.

C. INFORMAL

- i. Walgreen Co, PH, 2023-11149
(PCP – Weizer & Gift)

The Respondent was present and Represented by Martin Dix, Esq.

Mr. Witters presented the cases to the Board. The Respondent was charged with the following violation(s): Section 465.023(1)(c), Florida Statutes, through a violation of rule 64B16-27.450(1)(b), F.A.C., by failing to have a designated prescription department manager on file with the Board between February 2, 2023, and February 27, 2023.

After further review and additional submission of Walgreen Co. the Department moved to dismiss the case.

Motion: by Dr. Mesaros to accept the dismissal of the case.

Second: by Dr. Hickman

Vote: Unanimous

D. VOLUNTARY RELINQUISHMENTS

- i. Casey Kelleher, R.P.T., Case No. 2022-19061
- ii. Medwise, Inc. d/b/a Medwise Pharmacy Discount
Case No. 2022-45499
(PCP – Alvarez & Mesaros)
- iii. Mark Fetko, PH, Case No. 2023-19701
- iv. Mark Fetko, N.P.H., Case No. 2023-19699

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

Second: by Dr. Ghazvini

Vote: Unanimous

E. LIFT PRACTICE RESTRICTION

- i. Ricky L. Nickerson, R.Ph., Case No. 2019-12968 & 2020-07875

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

On April 25, 2021, case numbers 2019-12968 and 2020-07875 came before the Board. A Settlement Agreement was filed May 3, 2021, that placed the Respondents license on practice restriction.

Mr. Nickerson submitted a petition to the Board for the removal of his practice restrictions.

Motion: by Dr. Hickman to accept the removal of practice restrictions.

Second: by Mr. West

Vote: Unanimous

F. Prosecution Services Report – Matthew Witters

Mr. Witters presented the prosecution services case report to the Board and explained the current caseload is at 183 cases, from 174.

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

Second: by Dr. Medina

Vote: Unanimous

IV. PETITION FOR VARIANCE OR WAIVER

A. Laura Dennis, 64B16-26.351, F.A.C., Standards of Approval for a Registered Pharmacy Technician Training

Ms. Dennis was present and sworn in by the court reporter.

Ms. Dennis failed to appear at the August 25, 2023, Board Meeting. Subsequent to the meeting, Ms. Dennis requested a reconsideration of her petition.

Pursuant to section 465.014, Florida Statutes, in order to be registered as a pharmacy technician in Florida, an applicant must have completed a pharmacy technician training program approved by the Board. Rule 64B16-26.351, F.A.C., outlines the standards for approved training programs. Ms. Dennis completed the Rite Aid Certified Technician training on 09/17/2004 in New York; however, this program does not appear to fall under a Florida Board approved training program.

Ms. Dennis is requested a waiver of rule 64B16-26.351, F.A.C., asking the Board to accept her training and clinical pharmacy technician background in order to qualify for licensure in Florida.

Ms. Dennis withdrew her petition.

Motion: by Dr. Hickman to dismiss the petition and grant the application indicating that her program completed with Rite Aid meets the underlying statute.

Second: by Ms. Gift

Vote: Unanimous

B. Kimberly Cadenhead, 64B16-26.300, F.A.C., Consultant Pharmacist Licensure

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

Pursuant to Rule 64B16-26.300(3)(b), F.A.C., Successfully complete a consultant pharmacist course of no fewer than twenty (20) hours approved by the Florida Board of Pharmacy Tripartite Continuing Education Committee which is based on the Statement of the Competencies Required in Institutional Pharmacy Practice and covers the subject matter set forth in Rule 64B16-26.301, F.A.C. The course shall be instructionally designed to include a cognitive test on which the applicant must score a passing grade for certification of successful completion of the course.

Effective December 20, 2020, the required continuing education course was amended from 12 hours to a 20-hour course. Ms. Cadenhead completed an approved 16-hour continuing education course and requested a waiver of the rule to allow her to complete an additional 4 hours of consultant pharmacist continuing education to get to a total of 20 hours instead of one 20-hour course.

Motion: by Dr. Hickman to approve the petition on the condition the additional four (4) hours are completed and Ms. Cadenhead submits her application within one hundred and eighty (180) days.
Second: by Dr. Ghazvini
Vote: Unanimous

V. PETITION FOR DECLARATORY STATEMENT

A. Petra Estep

The petitioner Dr. Estep was present and represented Baptist Medical Center Jacksonville.

As an employer of Walgreens, Mr. Philip went on record that there would be no punitive gain and he would not have a biased opinion of the petition and would not need to recuse himself.

Dr. Estep sought a declaratory statement to clarify if leniency in medication labeling and dispensing authority granted to a pharmacist applies to those operating within a facility holding a Class III Institutional Permit. Dr. Estep inquired if dispensing of an emergency opioid antagonist pursuant to 381.887, Florida Statutes, an exception to the dispensing restriction set forth by 465.019, Florida Statutes, and if yes, can more than a 24-hour supply be dispensed by the Class III Institutional pharmacy and if emergency opioid antagonists dispensed pursuant to 381.887, Florida Statutes, require all labeling elements outlined in 64B16-28.108, F.A.C.

The petition was heard during the August 25, 2023, board meeting at which Mr. Flynn indicated he would meet with the Departments General Counsel's office to review Section 381.887, Florida Statutes.

The petition was placed on the October agenda for further discussion.

Motion: by Dr. Mesaros to approve the petition for declaratory statement as the authority lies within Section 381.887, Florida Statutes.

Second: by Dr. Ghazvini

Vote: Unanimous

B. Holiday CVS, LLC.

The petitioner was present and represented by Edwin Bayo, Esq.

Holiday CVS, LLC. submitted a petition for a declaratory statement requesting the Board interpret section 465.023, Florida Statutes, and section 465.0244, Florida Statutes, clarifying that if a patient has prescription drug coverage through a third-party payor, following the directions of the third-party payor would comply with the generic substitution law and in cases where the plan has not directed which drug should be dispensed, whether the requirement to inform the patient that the cost-sharing obligation to the customer exceeds the retail price in the absence of the prescription drug coverage only require the pharmacist to inform the patient about another less expensive drug that is covered under the plan.

Subsequent to the filing of the petition, the Florida Pharmacy Association (FPA) submitted a Motion to Intervene.

The FPA was represented by TJ Morton, Esq., and Dr. Kevin Blaine. FPA intervened the petition stating the petition affects every pharmacy and pharmacist within the state of Florida.

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Motion: by Dr. Hickman to approve the motion to intervene.
Second: by Dr. Ghazvini
Vote: Unanimous

Motion: by Dr. Hickman to dismiss the petition.
Second: by Dr. Ghazvini
Vote: Unanimous

After discussion, Mr. Bayo withdrew the petition on behalf of the petitioner.

VI. REPORTS – Jeenu Philip, BPharm, Chair
A. Board Chair

No report.

B. Executive Director’s Report – Allison Dudley, Executive Director
i. Report from UPJE Steering Committee

Ms. Dudley provided an overview of the UPJE Steering Committee.

ii. Executive Officers Meeting- NABP October 3-5

Dr. Mesaros provided an overview of the Executive Officers Meeting.

C. Board Counsel Report – David Flynn, Senior Assistant Attorney General
i. Rules Status Report

Mr. Flynn provided the Board with a summary of the current rules report.

D. Committee Report
i. Sterile Compounding Subcommittee

Mr. Flynn provided an overview of the Sterile Compounding Subcommittee held on October 19, 2023.

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

Ms. Dudley provided a brief update on the inspection results as of October 20, 2023.

As of October 2023 - Non-Sterile Pharmacy inspections currently at 2,005 inspections completed;
174 Sterile Compounding Pharmacy inspections currently at inspections completed.

VII. NEW BUSINESS – Jeenu Philip, BPharm, Chair
a. Ratification of Issued Licenses/Certificates
i. Pharmacist (licensure) – 415
ii. Pharmacist (exam eligibility) – 419
iii. Pharmacist Intern – 491
iv. Consultant Pharmacist – 29

- v. Nuclear Pharmacist – 1
- vi. Pharmacy/Facilities – 59
- vii. Registered Pharmacy Technician – 1,190
- viii. Registered Pharmacy Technician Program – 13
- ix. Nonresident Sterile Compound – 4
- x. Approved CE Providers – 4
- xi. Approved CE Courses – 38
- xii. Individual Pharmacist Request for Approval of CE – 5
- xiii. Pharmacist Telehealth Providers 7/1/23-9/30/23

Motion: by Ms. Gift to accept the ratification lists.

Second: by Mr. West

Vote: Unanimous

VIII. OLD BUSINESS – Jeenu Philip, BPharm, Chair

A. Review and Approval of Meeting Minutes

- i. August 24, 2023, Sterile Compounding Subcommittee Meeting Minutes
- ii. August 24, 2023, Rules Committee Meeting Minutes
- iii. August 25, 2023, General Business Meeting Minutes

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

Second: by Ghazvini

Vote: Unanimous

IX. ADJOURNMENT

There being no further business the meeting adjourned at 12:10 p.m. ET.