

Tennessee Board of Pharmacy
March 11-12, 2009

**TENNESSEE BOARD OF PHARMACY
MARCH 11-12, 2009
227 FRENCH LANDING – IRIS ROOM
NASHVILLE, TN**

BOARD MEMBERS PRESENT:

Todd Bess, President
Bettie Wilson, Vice President
Monica Franklin, Consumer Member
Larry Hill, Member
Brenda Warren, Member
Charles Stephens, Member
Robert Mitchell, Member

STAFF PRESENT:

Kevin K. Eidson, Executive Director
Alison Cleaves, Chief General Counsel
Terry Grinder, Pharmacist Investigator
Ralph Staton, Pharmacist Investigator
Tommy Chrisp, Pharmacist Investigator
Richard Hadden, Pharmacist Investigator
Donna Swanson, Board Staff

The Tennessee Board of Pharmacy convened on Wednesday March 11, 2009 in the Iris room 227 French Landing, Heritage Place- Metro Center Nashville, Tennessee. A quorum of the members being present, the meeting was called to order at 9:00 am CST, by President Dr. Todd Bess.

APPROVAL OF MINUTES

Minutes of the January 12-13, 2009 Board meeting were deferred until March 12, 2009.

PRESENTATION OF MED ERRORS AND JUST CULTURE (ALICIA PERRY, PHARMD, AND KARLA MILLER PHARMD)

Drs. Alicia Perry and Karla Miller shared with the Board Patient Safety principles that could be applied to improve medication practices for the state of Tennessee. Drs. Perry and Miller are employed at Hospital Corporation of America and utilized their corporate learnings to safety science that would support the proactive learning culture the Tennessee Board of Pharmacy is striving to develop. The exchange of information resulted in discussion regarding application to Board rulings and challenged the representatives of all parties to define tangible applications such as the utilization of checklists for reporting and penalty application.

CONSENT ORDERS

WESLEY F. BALL DPH

Chief legal counsel, Mrs. Alison Cleaves, presented Consent Orders for the indefinite suspension of license on behalf of Dr. Wesley F. Ball, due to being addicted to the use of alcohol, narcotics or other drugs. Mrs. Monica Franklin motioned to **accept** the Consent Order; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

MELISSA BRUNSON, DPH

Chief legal counsel, Mrs. Alison Cleaves, presented Consent Orders for a two year probation stipulating there can be no filling of prescriptions for self or family members and must continue to see doctor. Mrs. Monica Franklin motioned to **accept** the Consent Orders; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

MARSHAL V. JONES, JR. DPH

Chief legal counsel, Mrs. Alison Cleaves, presented Consent Orders for a two year probation stipulating that he cannot be the PIC for 1 year from date of consent order, has to go to record keeping class and a \$5720 fine was issued. (Dr. Jones filled 214 Schedule II drugs with missing records and 37 Schedule II controlled substance prescriptions under the wrong prescriber) Dr. Bettie Wilson motioned to **accept** the Consent Orders; seconded by Dr. Brenda Warren. All were in favor and the motion carried.

KIMBERLY T. MULLEN, DPH

Chief legal counsel, Mrs. Alison Cleaves, presented Consent Orders for the indefinite suspension of license on behalf of Dr. Kimberly T. Mullen, due to being addicted to the use of alcohol, narcotics or other drugs. Dr. Larry Hill motioned to **accept** the Consent Orders; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

LINDY NICOLE CROCKETT, RT

Chief legal counsel, Mrs. Alison Cleaves, presented Consent Orders for the revocation of registration on behalf of Lindy Nicole Crockett, due to removal of hydrocodone and alprazolam from the pharmacy. Mrs. Monica Franklin motioned to **accept** the Consent Orders; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

MELISSA ANN SMALLEN, RT

Chief legal counsel, Mrs. Alison Cleaves, presented Consent Orders for the revocation of registration on behalf of Melissa Ann Smallen, due to removal of hydrocodone from the pharmacy. Mrs. Monica Franklin motioned to **accept** the Consent Orders; seconded by Dr. Bettie Wilson.

Discussion: Dr. Robert Mitchell inquired where technician worked and what city. Dr. Eidson responded that it was at Walgreens in Lenoir City.

All were in favor and the motion carried.

MELODY SUZANNE VAUGHN, RT

Chief legal counsel, Mrs. Alison Cleaves, presented Consent Orders for the revocation of registration on behalf of Melody Suzanne Vaughn, due to removal of controlled drugs from the pharmacy. Mrs. Monica Franklin motioned to **accept** the Consent Orders; seconded by Dr. Brenda Warren. All were in favor and the motion carried.

Reinstatement of License

DR. WILLIAM MILTON, DPH

Chief legal counsel, Mrs. Alison Cleaves, presented Consent Orders for the reinstatement of license on behalf of Dr. William Milton, who currently is under restrictions from the DEA for previous issues with controlled substances in Nashville. Currently Dr. Milton has not been convicted of any charges and there are no pending investigations as the board staff understands. Dr. Brenda Warren made a **motion** to reinstate license which will mirror DEA restrictions and will withhold controlled license until waiver is granted. Dr. Milton will not have to reappear before the board with the waiver, but does have to show proof of the waiver. If the DEA lifts its conditions, then the board will lift its conditions automatically. Dr. Robert Mitchell seconded the motion. Mrs. Monica Franklin opposed the motion. All others were in favor and the motion carried.

INSTYMEDSCORP., AUTOMATED MEDICAL DISPENSING: EDWARD RICKERT, DPH, SMITH, RICKERT & SMITH. MATT SNELLER, DPH, VP OF PHARMACY OPERATIONS KELLEY CURTIS-FRANCIS, DPH, CHIEF PHARMACY OFFICER

The above group presented a request to allow automatic teller dispensing devices to be placed in the ER for patients to retrieve prescriptions from the ER prescribers after the patients are discharged from the ER. The hospital would consider this MD dispensing, but requested the pharmacists be responsible for filling the device from meds sent to the hospital by Instymed. The patient would then be bypassing the safety check that would be provided by a local community pharmacy. The Board was not comfortable making a decision today and **tabled** the issue until the next board meeting.

RECESSED FOR LUNCH

RECONVENED FROM LUNCH- Dr. Charles Stephens did not return

KEVIN JOHNSON, MD, VANDERBILT: E-PRESCRIPTIONS

Dr. Johnson requested that the board approve a workflow for the Vanderbilt University Medical System consisting of medication renewal protocols allowing nurses to renew refill prescriptions when a very specific set of conditions are met. There is a two step authentication process that must occur before an electronic prescription can be sent by the designated nurse. The system cannot be used unless the nurse has been specified by the doctor and the system only allows him/her to refill prescriptions on the protocol set by the doctor. Only the doctor's electronic signature would show up on the prescription. However, Vanderbilt's system allows them to know which nurse authorized refills etc. Dr. Larry Hill **motioned to accept** Dr. Johnson's proposal and Dr. Bettie Wilson seconded it. All were in favor and the motion carried.

APPROVAL OF RECIPROCAL CANDIDATES

CHAD BRADDOCK

Mrs. Alison Cleaves, chief legal counsel, presented Dr. Chad Braddock's reciprocity application in which he had checked "yes" to having been subject to disciplinary action by another board of pharmacy or other state authority. The initial charge against Dr. Braddock was for embezzlement and drug abuse. He has since undergone treatment from October 2007 to March 2008. He has remained sober from drugs and alcohol since October of 2007. He is on 10 year probation with the Mississippi BOP which ends in September of 2018. The three year probation with the courts will be expunged in August 2011. He is subject to 8 drug screens per month and must keep board informed of place of employment. Dr. Braddock will take only drugs which he has been prescribed except in the case of emergency in which case he has 24 hours to report. Bettie Wilson **motioned to grant** licensure by reciprocity with probation that will run concurrently with MS probation until September 2018. We will exclude the urine specimen requirement since MS will be responsible for that screening. He cannot be PIC or floater during the probation period unless he makes a request to the board. If Dr. Braddock tests positive for any drug, he must submit a copy of the prescription within 24 hours. Mrs. Monica Franklin seconded. Dr. Robert Mitchell abstained. All others were in favor and the motion carried.

STEVE WILSON

Mrs. Alison Cleaves, chief legal counsel, presented Dr. Steve Wilson's reciprocity application in which he had checked "yes" to having been subject to disciplinary action by another board of pharmacy or other state authority. Dr. Wilson voluntarily gave up his license in 1997 and regained it in 2002. He is on 10 year probation with MARP until March 2012. Dr. Wilson was initially arrested for missing inventory. He was convicted of a felony for forgery of

prescriptions for himself and having drugs in his possession but that was expunged. He currently works for Right Aid and a patient care pharmacy (mail order respiratory pharmacy) for which he needs a TN license. Dr. Larry Hill **motioned** to **grant** licensure pending receipt of the expungement order and must maintain MARP advocacy and if his situation ever changes then he must have advocacy with TN. His probation should mirror that of his probation in MS. Mrs. Monica Franklin seconded. Dr. Robert Mitchell abstained. All others were in favor and the motion carried.

LEGAL/COMPLAINT REPORT

1. Case No.: L09-PHR-RBS-2009000341

Complaint generated from a February 20, 2009 compliance inspection in which the investigator observed patients and caregivers picking up multiple prescriptions without even an offer to counsel.

Prior complaints:

PIC: 2007, Substitution Issue, LOW;

DPh: 2006, Unprofessional Conduct, Dismissed

Pharmacy: None

Recommendation: Authorize formal hearing (\$1,000.00 civil penalty to the pharmacy, \$500.00 civil penalty to the two dispensing DPhs and a LOI to the PIC)

Mrs. Monica Franklin motioned to **accept counsel's recommendation** to authorize a formal hearing with fines and letter to PIC; seconded by Dr. Robert Mitchell. All were in favor and the motion carried.

2. Case No.: L09-PHR-RBS-2009000161

Complainant alleges that he received the wrong medication.

PIC responded to the complaint denying any violation. PIC stated that there were two (2) Rxs for the Complainant that were transferred from another pharmacy to the Respondent pharmacy. Respondent pharmacy filled the Rxs. Complainant then wanted the Rxs transferred to yet another pharmacy. When the Rxs were transferred again, there was some confusion about when the Complainant received his medication. PIC maintains that the Complainant received the correct medication.

Prior complaints:

Pharmacy: None

Recommendation: Dismiss

Mrs. Monica Franklin motioned to **accept counsel's recommendation**; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

3. Case No.: L09-PHR-RBS-2009000141

Complainant alleges that the pharmacy did not fill her Lexapro prescription for months stating it was too early to fill it, when it was not. Complainant states that she got a Rx filled in May for Lexapro 30mg. When she went to get a Rx for Lexapro 40mg (written by same doctor) in June, the pharmacy told her that it was too early. Complainant went to another pharmacy in September that filled the Rx. The other pharmacy told her that they had to call for an override because the dosage was higher than recommended.

PIC responded to the complaint indicating that the pharmacy processed claims for the Complainant on June 15th, August 12th and August 14th with a rejection of "plan limits exceeded". The PIC stated that the most likely reason that June claim for Lexapro was rejected was that the Complainant had the Rx filled at another pharmacy in late May. PIC indicates that the pharmacy computer does not show that any other claims were processed.

Prior complaints: None

Recommendation: Dismiss

Dr. Brenda Warren motioned to **accept counsel's recommendation**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

4. Case No.: L09-PHR-RBS-2009000261

Complaint alleges that Respondent, pharmacy technician, took Lortab (varying strengths) from the pharmacy. Respondent admitted to the conduct. Respondent's employment was terminated.

Recommendation: Authorize formal hearing (revocation)

Mrs. Monica Franklin motioned to **accept counsel's recommendation**; seconded by Dr. Brenda Warren. All were in favor and the motion carried.

5. Case No.: L09-PHR-RBS-2009000251

Respondent, pharmacy technician, was pled guilty to forging four (4) Oxycontin prescriptions.

Prior complaints: None

Recommendation: Authorize formal hearing (revocation)

Mrs. Monica Franklin motioned to **accept counsel's recommendation**; seconded by Dr. Robert Mitchell. All were in favor and the motion carried.

6. Case No.: L09-PHR-RBS-2009000041

Complainant alleges that her prescriptions for Potassium and Zocor were misfilled.

PIC responded to the complaint indicating that the Complainant was dispensed (Potassium two (2) vials) and Simvastatin. One (1) of the Potassium vials was incorrectly labeled as Simvastatin. The other vial of Potassium and the Simvastatin Rx were properly labeled. Both prescriptions were refills and the Complainant was offered counseling. In preventing a recurrence of the incident, PIC indicates that she has reinforced filling procedures with pharmacy staff when dispensing Rxs in multiple containers.

Prior complaints:

D.Ph- 2007, Refused to Fill, Dismissed

Pharmacy-

Recommendation: Letter of Warning

Dr. Larry Hill motioned to **accept counsel's recommendation**; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

7. Case No.: L09-PHR-RBS-2009000071

Complainant alleges that her prescription for Kadian 30mg was misfilled with Kadian 50mg.

Dispensing pharmacist responded to the complaint, indicating that the misfill did occur in filling Rx #2 for the patient. DPh indicates that as a part of her dispensing process, she reviews the patient's prior history. DPh noted that three (3) Rxs for the patient were written by the same APN as follows: October 27, 2008, Kadian 50mg, #60; November 24, 2008, Kadian 30mg, #60, but do not fill for 23 days; and January 6, 2009, Kadian 50mg, #60, do not fill for 10 days. DPh indicates that the problem started because on the first Rx, it was originally written for 30mg, but then changed to 50mg by the APN; the APN changed the Rx, but did not change the strength in her records. As a result, Rx #2 was written for the incorrect strength. When the APN realizes the error of Rx #2, she writes Rx #3. DPh indicates that the error was not caught during counseling because the patient was unaware that there was any decrease in the dosage. Also, DPh indicates that she attempted to contact the APN about the patient, but only indicated to the pharmacist that Rx #2 was misfilled.

Prior complaints: 2005, Medication Error, LOW to PIC and DPh

2005, Medication Error, Dismissed.

Recommendation: Dismiss

Dr. Larry Hill **motioned to dismiss**; Dr. Bettie Wilson seconded. All were in favor and the motion carried.

8. Case No.: L08-PHR-RBS-2008002541

Complainant, caregiver for child patient, alleges that she did not receive the patient's prescription for Concerta. Complainant had Concerta and an antibiotic filled at the pharmacy, but only received the antibiotic.

PIC responded to the complaint indicating that on November 14, 2008, the pharmacy filled and dispensed both prescriptions, one for Cephalaxin and the other for Concerta. DPh also indicates that the Complainant did not inquire or report not having received the Concerta until approximately ten (10) to fourteen (14) days after dispensing. According to the dosage instructions, the patient would have been out of the medication by then because the previous prescription was filled on October 17, 2008. PIC also spoke with the prescribing physicians' nurse and she indicated that there was no note in the patient file from either parent contacting the physician's office about not having the medication.

Prior complaints:

Pharmacy and PIC- 2008, Failure to maintain patient profile, dismissed

Pharmacy- 2003, Medication error, Letter of Warning

Recommendation: Dismiss

Dr. Robert Mitchell motioned to **accept counsel's recommendation**; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

9. L09-PHR-RBS-2009000281

Complaint alleges that the Respondent, registered technician, was terminated for removal of controlled substances from the pharmacy without authorization. When the complaint was opened against the Respondent, the Respondent's registration expired on September 30, 2008.

Prior complaints: None

Recommendation: Close and flag upon reapplication

Mrs. Monica Franklin motioned to **accept counsel's recommendation**; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

10. Case No.: L09-PHR-RBS-2008002571

Complainant, advanced practice nurse, alleges that she attempted to call in a Rx under her name and the Respondent pharmacist insisted that it be filed under the Complainant's supervising physician's name.

Respondent states that in the past several weeks, he has seen an increase in fraudulent prescriptions and he has become extra cautious with phoned-in Rxs. Respondent states that he has noticed that some APNs work under several doctors' supervision making it hard to track them and who is their supervising physician. Respondent also states that many insurance companies will not accept the APN as a prescriber and want the physicians' DEA number.

Prior complaints: 2002, Tech Ratio Violation, \$200.00 civil penalty;

Recommendation: Dismiss

Discussion: Complaint came from nurse practitioner who is a recognized prescriber in TN

Dr. Bettie Wilson motioned to **accept counsel's recommendation**; seconded by Dr. Brenda Warren. All were in favor and the motion carried.

11. Case No.: L09-PHR-RBS-2007080801

Complainant alleges a medication error.

PIC responded to the complaint admitting to the error. Patient was prescribed Torsemide 10mg, but was dispensed Ketorolac 10mg. The patient consumed the incorrect medication for approximately ten (10) days. The patient experienced swelling in her extremities, shortness of breath and feeling faint resulting in her hospitalization. PIC indicates that the normal procedure is for the technician to check and circle on the receipt the NDC number of the medication being dispensed, but in this instance, it did not occur.

The patient was suffering from chronic ischemic cardiomyopathy, chronic atrial fibrillation and fluid retention. After ingesting the incorrect medication, the patient's doctor indicated that the patient's kidney function deteriorated with a BUN of 53 and a creatinine of 1.6.

Prior complaints:

Pharmacy: 2006, Dismissed; 2006, Dismissed; 2007, Dismissed

PIC: 2006, Unprofessional conduct, Dismissed; 2006, Medication Refill Issue, Dismissed; 2007, Unprofessional conduct, Dismissed.

Recommendation: Discuss

Discussion: counseling didn't take place and would have caught this error; typically a letter of warning is sent for a missfill and a civil penalty is issued for the counseling violation; the dispensing pharmacist was the PIC

Dr. Larry Hill made a motion to send a letter of warning letting them know this particular error would have been caught by counseling and submit a request for a root cause analysis and standard counseling fine \$1,000 to pharmacy, \$500 to pharmacist and a letter of warning to PIC. Dr. Hill then withdrew his motion when the discussion revealed that the Rx was labeled properly. .

Dr. Larry Hill made a **motion** to send a LOW to dispensing pharmacist for missfill; seconded by Dr. Brenda Warren. All were in favor and the motion carried.

12. Case No.: L09-PHR-RBS-2009000101

Complaint generated by Board of Pharmacy staff after receiving a phone call from a licensed pharmacy that it wished to further compound a medication that was manufactured by the Respondent, unlicensed as a pharmacy, or m/w/d in Tennessee. Respondent had been sent a C & D in 2002. Board staff spoke to the pharmacist at the Respondent company and assured Board staff that he would be instructing the owners to Cease and Desist the activity until obtaining licensure.

Prior complaints: 2002, C & D

Recommendation: Authorize formal hearing (civil penalty)

Discussion: the product is an ophthalmic compounded product which was compounded, sold, and then sent to the physicians' offices. The respondent is licensed in the state where the drug was compounded but not in TN. The respondent does not have a PIC that is licensed by this board.

Dr. Brenda Warren **motioned** to issue a **civil penalty** of \$100 a month = \$8,400; Dr. Robert Mitchell seconded. Mrs. Monica Franklin opposed (she requested a fine of \$126,000). All others were in favor and the motion carried.

13. Case No.: L09-PHR-RBS-2008002591

Complainant alleges that the Respondent, pharmacist refused to fill his prescription for Klonopin early even after the Complainant obtained his physician's approval for the early refill. Complainant alleges that the Respondent accused him of selling his medications.

Respondent states that the Complainant came to the pharmacy requesting that his prescription for Klonopin be refilled two (2) days early because he was leaving to go out of town. Respondent informed the Complainant that he could not do that, but would be willing to transfer the Rx to a pharmacy where the Complainant would be vacationing so that he could get it filled at that time. The Respondent then offered to call the Complainant's doctor to obtain the early refills, but the Complainant refused. Respondent then received a call from the Complainant's doctor calling in a new Rx. The Respondent then told the doctor's office representative that

there were refills on the old Rx and asked him if there was a change on that Rx and the doctor's office indicated that there was not and that the directions would remain the same. The next day, the Respondent indicates that he received a phone call from the Complainant's mother indicating that the Complainant takes more medication than what is directed and that is why he is out of pills. Respondent denies accusing the Complainant of selling his medications.

Prior complaints: None

Recommendation: Dismiss

Dr. Larry Hill motioned to **accept counsel's recommendation**; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

14. Case No.: L09-PHR-RBS-2008002651

Complainant, physician, alleges that the Respondent pharmacist refused to release his patient's prescriptions when she was picking them up to go out of town for three (3) weeks. Complainant further alleges that the Respondent made slanderous statements about him.

Respondent states that the reason that he refused to fill the Rxs is that he had a question about the therapy prescribed. Patient requested a refill on the following Rxs: Hydrocodone/APAP 7.5/500mg, #25 directed to be taken every four (4) to six (6) hours as needed written on October 30, 2008; Darvocet N-100, #180 to be taken every four (4) to six (6) hours written on August 5, 2008; and Hydrocodone/APAP 7.5/500 written on December 17, 2008. Respondent wanted to speak to the physician because prescribing the patient two (2) short-acting pain medicines that contained such high levels of Tylenol could have caused harm to the patient's liver.

Prior complaints: None

Recommendation: Dismiss

Dr. Robert Mitchell motioned to **accept counsel's recommendation**; seconded by Dr. Larry Hill. All were in favor and the motion carried.

15. Case No.: L09-PHR-RBS-2009000011

Complainant, son of the patient, alleges that he was not informed by the Respondent pharmacy that the charge for his mother's medication was not covered by Hospice or his mother's insurance. Even though the Complainant indicates some confusion over the coverage, he paid an overdue bill. According to the Complainant, the Respondent indicated to him that they never received the check. As a result, Complainant claims that the Respondent withheld medication from his mother and his mother did not receive a pain patch.

PIC responded to the complaint and indicates that they were not made aware about the primary payor for the patient's medications until September 11, 2008. After that time, they began to bill

the patient's insurance for medications that would not be covered by Hospice. PIC indicates that he as well as insurance representatives have explained to the Complainant that not all of the patient's medications would be covered by Hospice – only those that were related to her terminal diagnosis. Respondent denies discontinuing service for nonpayment.

Prior complaints: 2002, Medication pricing, Dismissed;

2007, Medication Error, \$1,000 to DPh and LOW to PIC

Recommendation: Dismiss

Dr. Larry Hill motioned to **accept counsel's recommendation**; seconded by Dr. Robert Mitchell. All were in favor and the motion carried.

16. Case No.: L09-PHR-RBS-2009000391

Complainant alleges that a pharmacy technician was entering coupons and gift cards for friends.

Three (3) pharmacy technicians admitted to giving out gift cards, marked-down items and fraudulent cash refunds to customers when it was not warranted. All of the pharmacy technicians indicated that the pharmacist in charge gave them authorization to do so. The PIC denies that allegation, but admits that he gave Ibuprofen 400, Benzonate and Uroblue to the technicians and then got Rx's for them at a later time.

Prior complaints:

Pharmacy: None

PIC: None

D.Ph.: None

Technicians: None

Recommendation: LOWs to the technicians. Authorize a formal hearing against pharmacist (probation for 2 years with terms not dispense medications without a Rx)

Mrs. Monica Franklin motioned to **accept counsel's recommendation**; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

17. Case No.: L09-PHR-RBS-2009000521, 2009000541, 2009000531

Complaint generated from a March 4, 2009 compliance inspection indicates that Board investigator observed patients or caregivers picking up prescriptions without even an offer to

counsel. Also, investigator found three (3) unregistered pharmacy technicians working at the pharmacy without registration.

Prior complaints:

Pharmacy: 2003, Medication Error, LOI

Recommendation: Authorize formal hearing (LOI to PIC for lack of counseling; \$500.00 to dispensing DPh; \$1,000 to pharmacy). For unregistered technicians 1,500.00 civil penalty to PIC

Mrs. Monica Franklin motioned to **accept counsel's recommendation**; seconded by Dr. Robert Mitchell. All were in favor and the motion carried.

18. Case No.: L09-PHR-RBS-2009000211

Complainant alleges that this physician is operating a dispensary in his medical office; however, Complainant alleges that it is listed as an in-house pharmacy and there is no pharmacist present. There is a technician there without pharmacist supervision dispensing medications to patients.

Prior complaints: None

Recommendation: C and D Letter

Mrs. Monica Franklin motioned to **accept counsel's recommendation**; seconded by Dr. Brenda Warren. All were in favor and the motion carried.

19. Case No.: L09-PHR-RBS-2008002641

Complainant alleges that she dropped off her prescriptions for Naxonex and Amoxicillin at the pharmacy to be dispensed. Complainant is also a pharmacy technician at the pharmacy where she dropped off her prescriptions. Complainant states that when she went to pick up her medications, one (1) employee said the Complainant's medications to the other asking who would be paying for the Rx's.

Prior complaints:

PIC: None

Recommendation: Dismiss

Mrs. Monica Franklin motioned to **accept counsel's recommendation**; seconded by Dr. Larry Hill. All were in favor and the motion carried.

20. Case No.: L09-PHR-RBS-2009000201

Complainant alleges that there are out-of-date medications that are being dispensed from this Respondent, pharmacy.

Investigator contacted the Complainant to see if he was dispensed an out-of-date drug. Complainant showed the investigator an ophthalmic ointment that had an expiration date of "2012 01". The Complainant believed that to be an expiration date of December 20, 2001; investigator advised him that the expiration date was January, 2012.

Prior complaints:

Pharmacy: None

Recommendation: Dismiss

Dr. Brenda Warren motioned to **accept counsel's recommendation**; seconded by Dr. Larry Hill. All were in favor and the motion carried.

21. Case No.: L08-PHR-RBS-2008002231

Complaint alleges that the Respondent, who is a licensed pharmacist and also licensed as a M/W/D is compounding prescriptions for a physician for resale that are not patient-specific. While the Respondent has the appropriate licensure to conduct this compounding, which is manufacturing, he is not manufacturing in accordance with FDA guidelines because he does not have an FDA license to manufacture.

Prior complaints:

D.Ph. - 2006, Chemical Impairment, reinstated with five (5) years probation

Recommendation: C & D letter informing the Respondent that he must obtain an FDA license to manufacture before he continues this practice. Refer to the FDA

Mrs. Monica Franklin motioned to **accept counsel's recommendation**; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

Discussion: Requirements for manufacturing should be communicated to the manufacturer.

22. Case No.: L04-PHR-RBS-2004198181

Complaint alleges that the Respondent, an unlicensed entity, is operating as a pharmacy by communicating prescription orders to a pharmacy located in Canada. This entity is out of business.

Prior complaints: None

Recommendation: Close

Dr. Bettie Wilson motioned to **accept counsel's recommendation**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

23. Case No.: L08-PHR-RBS-2008002551

Complainant alleges that the Respondent pharmacist was observed to be drowsy and lethargic at work and was arrested for a DUI.

Investigation into the matter revealed that the Respondent DUI charge was dismissed and that the Respondent states that he was drowsy and lethargic because he was suffering from the flu.

Prior complaints: 2002, Theft, 2 yrs. Probation;

2008, Unprofessional conduct, dismissed

Recommendation: Dismiss

Dr. Larry Hill motioned to **accept counsel's recommendation**; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

24. Case No.: L09-PHR-RBS-2009000151

Complainant alleges that the Respondent pharmacy is not repackaging in accordance with federal laws and rules in that the Respondent is repackaging drugs obtained from other pharmacies.

Investigation into the matter revealed that the Respondent is not repackaging from other pharmacies and that everything is in unit dose and being repacked from manufacturer's bottles.

Prior complaints:

Pharmacy: None

Recommendation: Dismiss

Dr. Bettie Wilson motioned to **accept counsel's recommendation**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

25. Case No.: L09-PHR-RBS-2009000081

Complainant alleges that the pharmacy staff committed a medication error in dispensing Fentanyl 20mcg, instead of Fentanyl 75mcg. Patient consumed the incorrect medication dosage and experienced difficulty breathing and confusion.

PIC admits that the error occurred. It was a new prescription for a medication that the patient had been using since June, 2008. There was a failure to perform patient counseling in accordance with rules because only the technician spoke to the patient. Tech told the patient that she had been on the medication before and the patient asked if the directions were the same. The pharmacist on duty at the time was counseling another patient at the time this occurred.

Prior complaints:

Pharmacy:

2002, Medication Error, LOW;

2008, Rx Authorization, Dismiss

Recommendation: Authorize formal hearing (\$1,000 civil penalty to pharmacy; \$500.00 civil penalty to dispensing DPh; LOI to PIC and a LOW to the dispensing pharmacist for failure to counsel)

Discussion: Take this recommendation and add to it a LOW to technician; medication was labeled incorrectly. Members questioned whether to issue a civil penalty to dispensing pharmacist.

Dr. Larry Hill **motioned** to send a LOI to PIC to further educate technicians and a LOW to technicians (no civil penalty); Mrs. Monica Franklin seconded. All were in favor and motion carried.

26. Case No.: Case No.: L08-PHR-RBS-2008002401

Complainant, mother of a patient who is a child, alleges that the compounded medication for Clonidine 0.1mg/ml was misfilled so that the child became very lethargic and fell into a deep sleep necessitating a hospitalization. When the child arrived at the hospital, the hospital lab determined that the compounded solution brought in by the child's mother was 0.25mg/ml Clonidine.

PIC denies any wrongdoing in the compounding process. Upon hearing about the child's hospitalization, the PIC put additional policies in place, such as if there is any weight less than 20 milligrams, then it requires that a triturate be made for that chemical so that a larger amount of the product is weighed to further reduce the room for error. Also, a two (2)-person check system is used anytime an active ingredient is a liquid. Either two (2) compounding technicians or a compounding technician and a pharmacist must check its measurement. The two (2)-person check system also applies to tablets or capsules that must be counted out to compound a Rx. The second person checking must initial next to each volume measurement or tablet count.

Prior complaints:

Recommendation: Discuss

Discussion: A two technician check system does not replace a pharmacist. One of the two people must be a pharmacist.

Dr. Larry Hill **motioned** to send a LOW, that includes instruction that a pharmacist must check the product, to the DPH (dispensing pharmacist); Mrs. Monica Franklin seconded. All were in favor and the motion carried.

27. Case No.: L09-PHR-RBS-2009000111

Complainant alleges that the Respondent, pharmacist, dispensed Opana ER to a patient who overdosed on the drug; Complainant did not indicate the patient's name. Also alleged is that the Respondent is involved with medications that were obtained after a hospice patient expired.

Investigation revealed that there is no evidence that the Respondent inappropriately or illegally dispensed Opana ER to a patient or that the Respondent was involved with medications that were obtained after a hospice patient expired.

Prior complaints:

D.Ph.: None

Recommendation: Dismiss

Mrs. Monica Franklin motioned to **accept counsel's recommendation**; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

28. Case No.: L09-PHR-RBS-2009000181

Respondent, pharmacy technician, admitted to removing Oxycontin from the pharmacy without authorization. Law enforcement was contacted.

Prior complaints: None

Recommendation: Authorize formal hearing (revocation)

Mrs. Monica Franklin motioned to **accept counsel's recommendation**; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

29. Case No.: L08-PHR-RBS-2008002481

Complainant alleges that she dropped off a prescription at the pharmacy, but when she went back to pick it up, the pharmacy staff gave it to someone else. Complainant further alleges that, on another occasion, she received only thirty (30) tablets, instead of the sixty (60) prescribed.

PIC responded to the complaint stating that the Complainant dropped off prescriptions for Alprazolam 1mg and Tizanidine 4mg. After she picked up the prescriptions, she called the pharmacy indicating that her Rx for Tizanidine did not have the correct amount of tablets. PIC then went to the pharmacy technician who counted out the tablets. She stated that she used the scale tray to get the correct amount. PIC checked the tray to make sure it was working and it was. PIC then checked the on-hand quantity (which was verified by physically counting) the pharmacy quantity of Tizanidine and it was correct.

Prior complaints:

Pharmacy: None

PIC: None

Recommendation: Dismiss

Dr. Larry Hill motioned to **accept counsel's recommendation**; seconded by Dr. Brenda Warren. All were in favor and the motion carried.

30. Case No.: L08-PHR-RBS-2008002121

Complainant alleges that the PIC at the Respondent pharmacy is not reporting prescription data to the controlled substance monitoring database and that the PIC is not reporting break-ins at the pharmacy.

Investigation revealed that there is no evidence to prove the allegations. PIC denies all allegations and the cashier for the pharmacy states that there have not been any break-ins at the pharmacy in the past year. Part-time relief pharmacist stated that there have not been any break-ins in the past two (2) years.

Prior complaints:

2002, *Absence of Pharmacist, LOW*

Recommendation: Dismiss

Dr. Bettie Wilson motioned to **accept counsel's recommendation**; seconded by Dr. Robert Mitchell. All were in favor and the motion carried.

31. Case No.: L09-PHR-RBS-2009000551

Complaint generated from a compliance inspection in which the investigator observed a patient bring a new prescription to the pharmacy that was dispensed to her without performing patient counseling.

PIC admitted the error and that he will reinforce the need to have pharmacy technicians bring new Rxs to the pharmacist's attention for counseling.

Prior complaints:

Pharmacy: 2004, Medication Error, LOW;

PIC: None

Recommendation: Authorize formal hearing (\$1,000 civil penalty to the pharmacy; \$500.00 civil penalty to the D.Ph. and LOI to the PIC)

Mrs. Monica Franklin motioned to **accept counsel's recommendation**; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

32. Case No.: L08-PHR-RBS-2008002261

Complainant alleges that the pharmacy is failing to supply data to the controlled substance monitoring database.

Investigation revealed that there may be a computer problem that has lead to the inadvertent failure to report data. It is uncertain if the problem is with the pharmacy computer or with the transmission of information. Pharmacy staff will get together with Board staff to correct the problem.

Prior complaints:

2007, Rx Authorization, Dismissed;

2005, Medication Error, LOW

Recommendation: Letter of Instruction

Discussion: Larry Hill commented that until the BOP knows whether or not the pharmacist knew about the problem a letter should not be sent.

Dr. Larry Hill **motioned to dismiss**; seconded by Dr. Brenda Warren. All were in favor and the motion carried.

33. Case No.: L08-PHR-RBS-2008000931 Re-present

Respondent, a licensed pharmacy, entered into a Settlement Agreement with the DEA for sending approximately 7,000 controlled substances to hospice patients prior to or without receiving a physician's signature. Board previously considered this case and voted to send an offer of settlement placing the Respondent on a five (5) year term of probation with the following conditions: Respondent shall submit to periodic compliance inspections conducted by Board of Pharmacy investigators; Respondent shall provide the Board with a copy of its current policies and procedures developed in response to the DEA's findings; and Respondent shall provide the Board with a copy of any subsequent policies and procedures that may replace the current policies and procedures relative to dispensing Schedule II Controlled Substances.

The Respondent asked to provide some additional information for the Board's consideration as follows: the 7,000 unsigned Rxs was only an approximation and they had been dispensed the previous week and were awaiting the return of the signed prescription from the prescriber within the seven (7) day period allowed by the emergency authorization procedure. Respondent claims that the minority of the outstanding prescriptions were outside the seven (7) day period mainly because of uncooperative prescribers. As a result of the DEA action, the Respondent no longer accepts Schedule II prescriptions obtained through the emergency authorization procedure and may only be dispensed after receiving a signed prescription from the prescriber.

Prior complaints: None

Recommendation: Discuss

Discussion: the board considers their previous decision fair. The respondent should not have been using the emergency fill process routinely, and should have known they could receive a fax for a C2 prescription for a hospice patient. Robert Mitchell would like an exact figure on number of scripts.

Dr. Larry Hill **motioned** to correspond to them letting them know their previous decision stands; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

34. Case No.: L00-PHR-RBS-2009000191

Complainant alleges that the Respondent, pharmacy technician removed Percocet from the pharmacy without authorization. Pharmacy supervisor spoke the Respondent because of the number of "null" transactions in his name. Respondent did not admit any diversion, but the pharmacy suspended him. After his suspension, pharmacy video and Omnicell records show that the Respondent took fourteen (14) Percocets from the Omnicell machine. Respondent's employment was subsequently terminated.

Prior complaints: None

Recommendation: Authorize formal hearing (revocation)

Dr. Bettie Wilson motioned to **accept counsel's recommendation**; seconded by Dr. Robert Mitchell. All were in favor and the motion carried.

35. Case No.: L09-PHR-RBS-2009000121

Complainant alleges that the Respondent took one bottle of Hydrocodone 100 count 650/10. Respondent admitted to the conduct. The admission is corroborated by pharmacy staff statements that they saw the Respondent count out Hydrocodone, go to the restrooms, through the kitchen and then back out without the medicine in his hand. Respondent admitted the conduct to pharmacy staff, but indicated he needed it for a friend.

Prior complaints:

2008, Rx Authorization, 2 years probation

Recommendation: Authorize formal hearing (revocation)

Dr. Larry Hill motioned to **accept counsel's recommendation**; seconded by Dr. Brenda Warren. All were in favor and the motion carried.

36. Case No.: L08-PHR-RBS-2008000361

Respondent, pharmacy's DEA registration was revoked effective February 1, 2008. Pharmacist, owner, applied for a stay of the revocation, which was denied.

Prior complaints:

D.Ph.- 2007, Filling unauthorized Rxs, civil penalty

Recommendation: Authorize formal hearing (revocation of state DEA registration and restrict his license, such that he cannot dispense controlled drugs)

Dr. Larry hill **motioned** to change the wording of the recommendation to say **Authorize formal hearing (present consent order for revocation of state DEA registration and restrict his**

license, such that he cannot dispense controlled drugs); seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

AJOURNED

Ms. Monica Franklin made a motion to adjourn at 4:30 p.m. on March 11, 2009. Dr. Brenda Warren seconded. All were in favor and the motion carried.

RECONVENED

The Board of Pharmacy reconvened on Thursday, March 12, 2009 at 8:30 a.m. CST in the Iris room, 227 French Landing, Nashville, Tennessee. A quorum of the members being present, Vice President Dr. Bettie Wilson called the meeting to order. President Dr. Todd Bess was not in attendance. Dr. Charles Stephens and Mrs. Monica Franklin arrived at 8:40 a.m.

DIRECTOR'S REPORT

NABP'S 105TH ANNUAL MEETING

Executive Director, Dr. Kevin Eidson, stated the NABP 2008 Symposium will be held on May 16, 2009 in Miami, Florida. Dr. Brenda Warren **motioned** to send our executive director and one board member (historically the newest member), counsel, and the public member; seconded by Dr. Robert Mitchell. All were in favor and the motion passed.

ATROMICK AUTOMATED PRODUCTS GROUP IN COLUMBUS, OHIO

(Rule 1140-4-.15)

Executive Director, Dr. Kevin Eidson, received an inquiry which proposed placement of an automated dispensing system into a pharmacy in the state of Tennessee.

Discussion: Dr. Stephens stated that we need clarification of where the machine will be located before the decision can be made and would like for them to supply the board with information (is it traditional use within the pharmacy? If it is outside the pharmacy they will probably need to come before the board)

Dr. Stephens **motioned** to **table** the topic until clarification of the machine's location is provided; seconded by Dr. Robert Mitchell.

Discussion: Are they planning on eliminating the pharmacist as the last check? The board gave Dr. Eidson power to determine whether Atromick will need to come before the board or not.

All in favor and the motion carried.

ACPE ACCREDITATION FOR BELMONT, LIBSCOMB AND UNION

Executive Director, Dr. Kevin Eidson, presented the board with the ACPE inspection dates for Union school of pharmacy (April 7-9, 2009), Belmont (April 20-22, 2009) and Libscomb (April 27-29, 2009). The board has been invited to send representatives to observe the inspection if they so choose.

Dr. Brenda Warren **motioned** to send the executive director and inspectors to attend the inspection; seconded by Dr. Larry Hill. All were in favor and the motion carried.

MPJE ITEM WRITING WORKSHOP JUNE 4-5, 2009

Executive Director, Dr. Kevin Eidson, stated that the MPJE item writing workshop will be held on June 4-5, 2009 in Mt. Prospect, Illinois. Monica Franklin **motioned** to send Dr. Richard Hadden seconded by Dr. Robert Mitchell. All were in favor and the motion carried.

NEXT BOARD MEETING

Dr. Kevin Eidson suggested moving the next BOP meeting to June 9-10 with the option of a third day on the 11th. All were in favor of the change.

APPROVAL OF RECIPROCAL CANDIDATES

EZEKIEL BAKER, DPH

Mrs. Alison Cleaves, chief legal counsel, presented Dr. Ezekiel Baker's reciprocity application in which he answered "yes" to the violation of "Have you been convicted of a misdemeanor including alcohol or drug related offenses?" Dr. Baker was charged with a DUI in 2004 with a penalty of a one year probation, \$455 fine, and random urine screens. The case has been closed and resolved.

Dr. Charles Stephens **motioned** to **grant** reciprocity of licensure; seconded by Mrs. Monica Franklin. All approved and the motion carried.

WILLIAM J. FARMER, DPH

Mrs. Alison Cleaves, chief legal counsel, presented Dr. William J. Farmer's reciprocity application in which he had checked "yes" to having been subject to disciplinary action by another board of pharmacy or other state authority. Dr. Farmer was disciplined by Florida's BOP in 2001 for failing to display a pharmacy sign and was fined \$500.

Dr. Larry Hill motioned to approve and then withdrew the motion.

Discussion: Dr. Farmer was said to have problems with the MPJE and Naplex previously; he knows he will have to successfully take the MPJE and pass before licensure. He has an active license in Florida currently.

Dr. Brenda Warren **motioned** to **approve** reciprocity; seconded by Dr. Charles Stephens. All were in favor and the motion carried.

MICHAEL GLADIUX, DPH

Mrs. Alison Cleaves, chief legal counsel, presented Dr. Michael Gladiux's reciprocity application in which he had checked "yes" to having been subject to disciplinary action by another board of pharmacy or other state authority. Dr. Gladiux had his license suspended in Ohio in 2000 for taking controlled drugs for personal use. The charges were removed from his record after he completed all requirements. He has not failed a single urine screen or missed a meeting in 7 years. His license was reinstated in 2002 and he was placed on probation; he has been granted permission to practice in full in Ohio.

Dr. Charles Stephens **motioned** to **approve** reciprocity; seconded by Dr. Larry Hill. All were in favor and the motion carried.

WAYNE McCORMICK, DPH

Mrs. Alison Cleaves, chief legal counsel, presented Dr. Wayne McCormick's reciprocity application in which he confessed to a medication error/missfill in April 2000. He was on 3 months probation and was fined \$250.

Dr. Larry Hill **motioned to approve** reciprocity; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

ERIC JUDSON WING, DPH

Mrs. Alison Cleaves, chief legal counsel, presented Dr. Eric Judson Wing's reciprocity application in which he had checked "yes" to having been subject to disciplinary action by another board of pharmacy or other state authority. Dr. Wing was disciplined by the Alabama BOP in February of 2003. He was suspended for 5 years and paid a \$3,000 fine. The suspension was reverted to 5 year probation upon paying the fine. Dr. Wing was penalized for dispensing without a prescription for many drugs including controls and failed to maintain inventories. He is currently employed at St. Vincent's hospital. Counsel recommends that it has been a while and there is no indication that there have been any other actions since the problem.

Dr. Larry Hill **motioned to further investigate and approve if no further charges** and gives the executive director permission to grant upon proof of no further charges; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

APPROVAL OF PHARMACY TECHNICIAN CANDIDATES

GINGER BURNETTE

Mrs. Alison Cleaves, chief legal counsel, presented a pharmacy technician registration on behalf of Ms. Burnette who checked "yes" to the violation of "Have you been convicted of a misdemeanor for reckless driving in 2003. Her case was dismissed on March 4, 2005 in Knox County. Dr. Charles Stephens **motioned to approve**; seconded by Dr. Brenda Warren. All were in favor and the motion carried.

TRACY FLYNN

Mrs. Alison Cleaves, chief legal counsel, presented a pharmacy technician registration on behalf of Ms. Tracy Flynn. Ms. Flynn had been arrested for domestic assault but never convicted in Knoxville. Court document case dismissed after January 9, 2009.

Dr. Larry Hill **motioned to approve**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

JACQUALINE HAMPTON

Mrs. Alison Cleaves, chief legal counsel, presented a pharmacy technician registration on behalf of Ms. Hampton who checked "yes" to the violation of "Have you been convicted of a misdemeanor?" for a DUI in 2005 and was fined \$350.

Mrs. Monica Franklin **motioned to approve**; seconded by Dr. Larry Hill. Dr. Robert Mitchell abstained. All others were in favor and the motion carried.

WILLIAM HEMPHILL

Mrs. Alison Cleaves, chief legal counsel, presented a pharmacy technician registration on behalf of Mr. William Hemphill who checked “yes” to the violation of “Have you been convicted of a misdemeanor?” for a DUI in 2003. He plead guilty, paid a \$500 fine, completed probation and entered a treatment center.

Dr. Charles Stephens **motioned to approve**; seconded by Mrs. Monica Franklin. All others were in favor and the motion carried

MICHAEL RAND

Mrs. Alison Cleaves, chief legal counsel, presented a pharmacy technician registration on behalf of Mr. Michael Rand. Mr. Rand was charged with embezzlement and was given a 5 year probation in 2006. The probation was discharged in 2008 in MS. Charges do not indicated whether or not drugs were involved

Dr. Charles Stephens **motioned** that more information be presented to the board; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

DANIEL WANN

Mrs. Alison Cleaves, chief legal counsel, presented a pharmacy technician registration on behalf of Mr. Daniel Wann who checked “yes” to the violation of “Have you been convicted of a misdemeanor?” for a DUI in 2005. Mr. Wann has previously been denied by the board. The charge was reduced to reckless driving after completion of probation. He attended a guidance center and was evaluated in an alcohol and drug center.

Mrs. Monica Franklin **motioned to approve**; seconded by Dr. Larry Hill. All were in favor and the motion carried.

RANDALL WILLIAM

Mrs. Alison Cleaves, chief legal counsel, presented a pharmacy technician registration on behalf of Mr. Randall William. Mr. William was found guilty of domestic assault in 2008 and paid a \$200 fine. He was also found guilty of false imprisonment and paid \$50 fine. He was suspended for 11 months and 29 days.

Mrs. Monica Franklin **motioned to deny**; seconded by Dr. Brenda Warren. All were in favor and the motion carried.

SHEILA MORRIS

Mrs. Alison Cleaves, chief legal counsel, presented a pharmacy technician registration on behalf of Ms. Sheila Morris. Ms. Morris was charged with removing Ambien from the pharmacy without authorization and also gave Oxycontin without authorization in 2007.

Dr. Larry Hill **motioned** that she **appear before the board**; seconded by Dr. Robert Mitchell. All were in favor and the motion carried.

REINSTATEMENT OF LICENSE

DEBRA NICHOLAS, DPH

Mrs. Alison Cleaves, chief legal counsel, presented a request on behalf of Dr. Nicholas for reinstatement of license as well as a waiver of 320 internship hours and 45 live CE hours. Dr. Nicholas placed her license on inactive retirement in 2004. She's only been working part time and we have not yet verified her place of employment. She will not be working in the state. Dr. Larry Hill **motioned** to waive the internship hours but denies waiving the live CE hours. License will be granted upon completion of CE and as long as we clarify that she has been practicing for these past 5 years, the executive director may approve this once confirmed; seconded by Dr. Brenda Warren. All were in favor and the motion carried.

ROSS HOOPER, DPH

Mrs. Alison Cleaves, chief legal counsel, presented a request on behalf of Dr. Ross Hooper for reinstatement of license as well as a waiver of 320 internship hours and a waiver of the MPJE law exam. Dr. Hooper has not been actively practicing but has been CEO of a community hospital. Dr. Charles Stephens **motioned** to waive the internship hours but not the MPJE; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

WAIVERS

Rule 1140-3-.12(12) PIC at two locations

JANE SNYDER, DPH

Mrs. Alison Cleaves, chief legal counsel, presented a request for a waiver on behalf of Dr. Jane Snyder allowing her to be PIC in two locations. The investigator states that she has time to do both. Dr. Brenda Warren **motioned to approve**; seconded by Dr. Larry Hill. All were in favor and the motion carried.

HEATH HUETER, DPH

Mrs. Alison Cleaves, chief legal counsel, presented a request for a waiver on behalf of Dr. Heath Hueter allowing him to be PIC in two locations and a waiver of square footage for a nuclear pharmacy. Dr. Hueter has 75-80 sq. ft. to work with. The investigator thinks the sq. footage will be fine for the limited amount of nuclear pharmacy that this pharmacist will be doing. He will only be compounding one product; if he extends his production to other items then he may need to be held to the regular standards. As for being PIC in two locations, he will be in the nuclear pharmacy in the mornings before the other pharmacy opens so this shouldn't be a problem. Patient records for nuclear pharmacy will be kept in the regular pharmacy which is right next to the nuclear pharmacy. Mrs. Monica Franklin **motioned to grant** the waiver with the **stipulation** that if he expands production of compounding other drugs he will need to come before the board in the future and

also granted waiver of PIC in two locations; seconded by Dr. Larry Hill. All were in favor and the motion carried.

Rule 1140-3-.15(13) PIC working less than 50% in Pharmacy

REBECCA CANTRELL, DPH

Mrs. Alison Cleaves, chief legal counsel, presented a request for a waiver on behalf of Dr. Rebecca Cantrell allowing her to be PIC while working 30 hours per week.

Dr. Larry Hill **motioned to deny** because the board does not have the authority to grant this request; seconded by Dr. Robert Mitchell. All were in favor and the motion carried.

Rule 1140-5-.01 Continuing Education

KENDA REYNOLDS, DPH

Mrs. Alison Cleaves, chief legal counsel, presented a request for a waiver on behalf of Dr. Reynolds to waive her remaining 8 hours of live CE credit due to military and travel circumstances.

Dr. Brenda Warren **motioned to grant an extension** of 6 months to complete the live CE hours; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

Rule 1140-1-.07(3), waiver of Internship hours

PRITIBEN PATEL, DPH

Mrs. Alison Cleaves, chief legal counsel, presented a request for a waiver on behalf of Dr. Patel waiving 160 hours of internship required for an inactive license for less than three years due to the fact that he has been actively practicing in Florida and kept up with live CE hours.

Dr. Brenda Warren **motioned to grant** waiver; seconded by Dr. Charles Stephens. All were in favor and the motion carried.

HOWARD S. GLAZIER, DPH

Mrs. Alison Cleaves, chief legal counsel, presented a request for a waiver on behalf of Dr. Glazier waiving 320 hours of internship. Dr. Glazier has not worked as a licensed pharmacist for the past 20 years but has served as an advisor of many committees regarding pharmacy related issues. He has no expectation of working as a pharmacist.

Dr. Charles Stephens **motioned to grant** waiver if Dr. Glazier successfully completes the NAPLEX and the MPJE as well as meeting all other conditions; seconded by Dr. Brenda Warren. All were in favor and the motion carried.

LISA M. LOONEY, DPH

Mrs. Alison Cleaves, chief legal counsel, presented a request for a waiver on behalf of Dr. Lisa Looney to waive internship hours due to currently working for Wal-Mart in Alabama. She has been licensed since 1987 and was late renewing in 2006. She has paid all her fees.

Dr. Brenda Warren **motioned to grant** waiver; seconded by Dr. Charles Stephens. All were in favor and the motion carried.

AMENDMENT TO CONSENT ORDER TO BE P-I-C

DAVID W. POWELL

Mrs. Alison Cleaves, chief legal counsel, presented a request for a waiver on behalf of Dr. Powell to amend his consent order and allow him to be PIC at Farmvet. This pharmacy only dispenses veterinary prescription written by licensed vets. It does not stock or sell any controlled drugs.

Dr. Larry Hill **motioned** to **grant** a waiver to allow Dr. Powell to PIC at this location only. If any change of employment occurs Dr. Powell must resubmit an application to be PIC; seconded by Dr. Robert Mitchell. All were in favor and the motion carried.

Rule 1140-1-.12 (d)

NEW DAY PHARMACY-ERVIN, TN

Mrs. Alison Cleaves, chief legal counsel, presented a request for a waiver on behalf of New Day Pharmacy in Ervin Tennessee to waive the amount of square footage from the required 180 sq. ft. to 100 sq. ft. in this instance. There was a lengthy discussion on who is allowed access to the room and what types of supplies are in the room. Nurses have access to the room and there are a few nursing supplies in the room, but nothing a nursing assistant would need to access.

Dr. Charles Stephens **motioned** to **grant** a waiver of square footage; seconded by Dr. Robert Mitchell. All were in favor and the motion carried.

OUT OF COUNTRY M/W/D

NOVOCOL PHARMACEUTICAL OF CANADA, INC

(Reference Rule 1140-1-.18 b 2)

Mrs. Alison Cleaves, chief legal counsel, presented a request for a licensure as a manufacturer, wholesaler, and distributor of prescription drugs on behalf of Novocol Pharmaceutical of Canada, Inc. The case was discussed and a concern was that the board would not be able to physically inspect the location. Based upon the FDA report there were several concerns.

Dr. Charles Stephens **motioned** to **deny** due to concern about some of the FDA report; seconded by Dr. Brenda Warren. All were in favor and the motion carried.

NEW DAY PHARMAY-FOLLOW UP- DAN RAFFERTY

New Day presented a request at the BOP in January of 2009 asking for nurses to be allowed to restock their machines in long-term-care facilities. Dr. Charles Warren attended a workshop regarding this issue recently and it was decided upon that pharmacist or a pharmacy technician under the direct supervision of the pharmacist were allowed to do the restocking. Pharmacies do not regulate nursing; therefore it would be unacceptable for them to be loading the machine. Dr. Charles Stephens **motioned** to **deny** the request stating that a pharmacist or pharmacy technician under the direct supervision of the pharmacist with the pharmacist on site should restock the machine; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

11:06 a.m. CST Drs. Larry Hill and Robert Mitchell left the meeting.

APPROVAL OF JANUARY 11-12, 2009 MINUTES

Mrs. Monica Franklin **motioned** to **approve** the minutes of the January 11-12, 2009 Board meeting. The motion was seconded by Dr. Brenda Warren. All were in favor and the motion carried.

AJOURN

Respectfully submitted,

D. Todd Bess, Pharm D

President

Kevin K. Eidson, Pharm D

Executive Director