

Tennessee Board of Pharmacy

June 8, 2010

TENNESSEE BOARD OF PHARMACY
JUNE 8, 2010
227 FRENCH LANDING, POPLAR ROOM
NASHVILLE, TN

BOARD MEMBERS PRESENT:

Bettie Wilson, D.Ph., President
David Todd Bess, D. Ph.
Joyce McDaniel, Consumer Member
Brenda Warren, D.Ph.
Jason Kizer, D.Ph.
Charles Stephens, D. Ph.

ABESENT

Albert Larry Hill, D.Ph., Vice-President

STAFF PRESENT:

Kevin K. Eidson, Board of
Pharmacy Executive Director
Ben Mezer, Assistant General Counsel
Terry Grinder, Pharmacist Investigator
Tommy Chrisp, Pharmacist Investigator
Richard Hadden, Pharmacist Investigator
Scott Denaburg, Pharmacist Investigator
Ralph Staton, Pharmacist Investigator
Elizabeth Miller, Director of Health
Related Board
Sheila Bush, Board of Pharmacy Administrator

The Tennessee Board of Pharmacy convened on Tuesday, June 8, 2010, in the Poplar Room, 227 French Landing, Nashville, TN. A quorum of the members being present, the meeting was called to order at 8:00 a.m., C.D.T., by Dr. Bettie Wilson.

Dr. Wilson welcomed students from the University of Tennessee and thanked Dr. Eidson and the Investigators during the flooding in Middle Tennessee. Dr. Wilson also welcomed Dr. Staton back to the Board after a brief illness.

MINUTES

The minutes from the March 24-25, 2010 board meeting and the April 19, 2010 Teleconference were presented. Dr. Stephens made the motion to accept the March 24-25, 2010 minutes as presented. Dr. Kizer seconded the motion. The motion carried. Dr. Warren abstained. Dr. Warren made the motion to accept the April 19, 2010 minutes as presented. Ms. McDaniel seconded the motion. The motion carried.

TENNESSEE STUDENT ASSISTANT CORPORTATION (TSAC)

Alison Cleaves, Deputy Attorney General, presented to the board a request to suspend a pharmacist's license if they default on their student loans. Ms. Cleaves stated that the request to suspend the license will only be presented to the board after a Notice of Hearing by the Tennessee Student Assistant Corporation (TSAC). The license would be suspended until the licensee has set up an acceptable repayment plan with TSAC. Ms. Cleaves stated that this request for suspension would work the same way as the suspension of the licensee who is delinquent in their child support payments. Ms. McDaniel asked

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if the Notice of Suspension gives the licensee a time period of when to set up the payment plan or does it automatically suspend the license. Ms. Cleaves stated the Notice informs the licensee that the license will be suspended and for them to contact TSAC. Ms. Cleaves also stated that the licensee has been given numerous options for repayment through TSAC before TSAC request that the board suspend the license. Dr. Warren asked if one of the reasons for the licensee not being able to set up an acceptable repayment plan is because they cannot be contacted. Ms. Cleaves stated that she is not exactly sure what all the reasons for the defaults. Dr. Bess asked how many licensees have the board suspended due to delinquency in child support payments? Dr. Eidson stated that the board he was unaware of any licensee suspended for being delinquent in child support payments. Dr. Bess asked if it is such a low volume what is the justification for doing this. Ms. Cleaves stated that it is a part of Health Related Board's statute. Dr. Warren asked if this suspension would show up on the Federal Exclusion List? Dr. Eidson stated that he wasn't aware of this suspension showing up on the Federal Exclusion List. Ms. McDaniel asked why TSAC wanted to implement this statute since it is an old statute. Ms. Cleaves stated that it was a mechanism that hasn't been used. Dr. Kizer asked if all student loans for Tennessee college students go through TSAC? Ms. Cleaves stated that all Tennessee student loans are processed through TSAC. Dr. Warren made the motion to authorize the suspension of a licensee's license for not making payments on their student loans. Dr. Kizer seconded the motion. The motion carried.

APPEAL OF DENIAL

Tammy Charlyn Gibson, D.Ph.

Mr. Mezer introduced Dr. Gibson to the Board. Dr. Gibson's application for licensure by reciprocity was denied by the Board at the March 24-25, 2010 board meeting. Dr. Gibson answered no to the question that asked "Has your pharmacist license in any jurisdiction ever been revoked, suspended restricted, terminated or otherwise been subject to disciplinary actions (public or private) by any board of pharmacy or other state authority?" Documentation submitted by NABP stated that Dr. Gibson's license in the State of Kentucky was disciplined on June 6, 2007 for an error in prescribing, dispensing or administering medication.

Dr. Stephens asked Dr. Gibson why she answered the question incorrectly. Dr. Gibson stated that she just forgot. Dr. Gibson stated that the technician entered the prescription incorrectly. Dr. Bess explained to Dr. Gibson that the error would have been caught if patient counseling had taken place. Dr. Bess also stated that patient counseling is a requirement for pharmacists in Tennessee. Dr. Warren asked Dr. Gibson if patient counseling was a requirement in Kentucky. Dr. Wilson asked Dr. Gibson where she is employed. Dr. Gibson works for Wal-Mart and Long Term Care. After discussion, Ms. McDaniel made the motion to accept Dr. Gibson's application for license by reciprocity once all requirements have been met. Dr. Bess seconded the motion. The motion carried.

Charldeen J. Bagwell, D.Ph.

Mr. Mezer introduced Dr. Bagwell to the Board. Dr. Bagwell's application for licensure by reciprocity was denied by the Board at the March 24-25, 2010 board meeting. Dr. Bagwell answered no to the

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question that asked “Have you ever had any application for initial licensure, renewal licensure, or licensure by transfer denied by any licensing authority whether in pharmacy or any other profession?” Documentation submitted by NABP stated that Dr. Bagwell’s license in the State of Virginia was disciplined on September 14, 2007 for failure to maintain records or provide medical, financial, or other required information and failure to perform a complete and accurate biennial inventory of scheduled II through V drugs within two years from previous inventory.

Dr. Bagwell stated that she owned the pharmacy and thought that the disciplinary action was against the pharmacy and not her license. Dr. Bagwell stated that she had just bought the store and didn’t do the inventory for controlled substances. Dr. Warren asked Dr. Bagwell asked when the next inventory was done? Dr. Bagwell stated that the first inventory was in 2004 when she bought the store and the seconded inventory was done November 8, 2006 when the store was inspected. After discussion, Dr. Stephens made the motion to approve Dr. Bagwell’s application for licensure by reciprocity once all the requirements have been met. Ms. McDaniel seconded the motion. The motion carried.

APPLICATION REVIEW

Pharmacists

Kelley Jean Zaccarelli, D.Ph.

Dr. Zaccarelli is applying for licensure by reciprocity in the State of Tennessee. Dr. Zaccarelli answered yes to the question that asked “Has your pharmacist license in any jurisdiction ever been revoked, suspended, restricted, terminated or otherwise been subject to disciplinary action (public or private) by any board of pharmacy or other state authority?” Dr. Zaccarelli’s license was disciplined by the Kentucky Board of Pharmacy for leaving the pharmacy unattended for 10 minutes with no physical barrier or alarm activated. After discussion, Dr. Bess made a motion to deny Dr. Zaccarelli’s application for licensure. Dr. Warren seconded the motion. The motion died. Ms. McDaniel made a motion to approve Dr. Zaccarelli’s application once she has successfully completed all the requirements. Dr. Stephens seconded the motion. The motion carried. Dr. Bess and Dr. Warren voted in the negative.

David Pope Mulherin, D. Ph.

Dr. Mulherin is applying for licensure by examination in the State of Tennessee. Dr. Mulherin answered yes to the question that asked “Have you ever been convicted of a felony or misdemeanor other than a routine traffic violation?” After discussion, Dr. Stephens made the motion to approve Dr. Mulherin’s application for licensure by examination once he has successfully completed all the requirements. Dr. Bess seconded the motion. The motion carried.

Sammy Philip Carson, D.Ph.

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Dr. Carson is applying for licensure by reciprocity in the State of Tennessee. Dr. Carson answered yes to the question that asked “Has your pharmacist license in any jurisdiction ever been suspended, restricted, terminated or otherwise been subject to disciplinary action (public or private) by any board of pharmacy or other state authority?” Dr. Carson’s license was disciplined by the Mississippi Board of Pharmacy for shipping medications into other states without being appropriately licensed in those states. After discussion, Dr. Bess made the motion to approve Dr. Carson’s application for licensure by reciprocity once he has successfully completed all the requirements. Dr. Stephens seconded the motion. The motion carried.

Elizabeth Rebecca Joyce, D. Ph.

Dr. Joyce is applying for licensure by reciprocity in the State of Tennessee. Dr. Joyce answered yes to the question that asked “Have you ever had any application for initial licensure, renewal licensure, or licensure by transfer denied by any licensing authority whether in pharmacy or any other profession?” Dr. Joyce’s license was denied renewal by the Kentucky Board of Pharmacy for being short 0.5 continuing education hours. After discussion, Dr. Stephens made the motion to approved Dr. Joyce’s application for licensure by reciprocity once she has successfully completed all the requirements. Dr. Bess seconded the motion. The motion carried.

Dale Patrick Fisher, D.Ph.

Dr. Fisher is applying for licensure by examination in the State of Tennessee. Dr. Fisher answered yes to the questions that asked “Have you ever been convicted of a felony of misdemeanor other than a routine traffic violation?” After discussion, Dr. Bess made the motion to approve Dr. Fisher’s application for licensure by examination once he has successfully completed all the requirements. Dr. Warren seconded the motion. The motion carried.

David Wight Persinger, D.Ph.

Dr. Persinger is applying for licensure by reciprocity in the State of Tennessee. Dr. Persinger answered yes to the question that asked “Has your pharmacist license in any jurisdiction ever been suspended, restricted, terminated or otherwise been subject to disciplinary action (public or private) by any board of pharmacy or other state authority?” Dr. Persinger’s license was disciplined by the Iowa Board of Pharmacy for a dispensing error and failure to counsel. After discussion, Dr. Stephens made the motion to approve Dr. Persinger’s application for reciprocity once he has successfully completed the requirements. Dr. Bess seconded the motion. The motion carried.

Caroline Carlisle Dennis, D.Ph.

Dr. Dennis is applying for licensure by examination in the State of Tennessee. Dr. Fisher answered yes to the questions that asked “Have you ever been convicted of a felony or misdemeanor other than a routine traffic violation?” After discussion, Dr. Warren made the motion approve Dr. Dennis’ license by

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examination once she has successfully completed the requirements. Dr. Stephens seconded the motion. The motion carried.

David M. Hill, D.Ph.

Dr. Hill is applying for licensure by examination in the State of Tennessee. Dr. Hill answered yes to the questions that asked “Have you ever been convicted of a felony or misdemeanor other than a routine traffic violation?” After discussion, Dr. Stephens made the motion approve Dr. Hill’s license by examination once he has successfully completed the requirements. Dr. Warren seconded the motion. The motion carried.

David Mafdali, D.Ph.

Dr. Mafdali is applying for licensure by reciprocity in the State of Tennessee. Dr. Mafdali answered yes to the question that asked “Have you ever been charged or convicted of a felony or misdemeanor whether or not sentence was imposed, suspended, expunged or whether you were pardoned from any such offense?” After discussion, Ms. McDaniel made the motion to defer Dr. Mafdali’s application for reciprocity until he can appear before the Board. Dr. Bess seconded the motion. The motion carried.

Lara T. Dennison, D.Ph.

Dr. Dennison is applying for licensure by examination in the State of Tennessee. Dr. Dennison answered yes to the question that asked “Have you ever been convicted of a felony or misdemeanor other than a routine traffic violation?” After discussion, Dr. Warren made the motion approve Dr. Dennison’s license by examination once she has successfully completed the requirements. Dr. Stephens seconded the motion. The motion carried.

Archana Ghanta, D.Ph.

Dr. Ghanta is applying for licensure by reciprocity in the State of Tennessee. Dr. Ghanta submitted documentation stating that her malpractice insurance settled a claim for an alleged misfill for \$1,000,000.00 on March 15, 2010. After discussion, Dr. Stephens made the motion to defer Dr. Ghanta’s application until she can appear before the Board and additional information is received from the Georgia Board of Pharmacy. Dr. Bess seconded the motion. The motion carried.

Vivienne Anh Ngoc Le, D.Ph.

Dr. Le is applying for licensure by reciprocity in the State of Tennessee. Dr. Le answered yes to the questions that asked “Has your pharmacist license in any jurisdiction ever been suspended, restricted, terminated or otherwise been subject to disciplinary action (public or private) by any board of pharmacy or other state authority?” and “Have you ever voluntarily surrendered your pharmacist license or any pharmacist registration issued by a federal or state controlled substance authority?” Dr. Le’s license was disciplined by the Nevada Board of Pharmacy for a dispensing error. After discussion, Dr. Bess made the

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motion to approve Dr. Le's application for licensure by reciprocity once she has successfully completed the requirements. Dr. Kizer seconded the motion. The motion carried.

Kevin A. Lyles, D.Ph.

Dr. Lyles is applying for licensure by examination in the State of Tennessee. Dr. Lyles answered yes to the question that asked "Have you ever been convicted of a felony of misdemeanor other than a routine traffic violation?" After discussion, Dr. Stephens made the motion approve Dr. Dennison's license by examination once he has successfully completed the requirements. Dr. Kizer seconded the motion. The motion carried. Dr. Bess asked that Dr. Eidson contact Dr. Lyles with information for the Tennessee Pharmacy Recovery Network.

Michael T. Prodoehl, D.Ph.

Dr. Prodoehl is applying for licensure by examination in the State of Tennessee. Dr. Prodoehl answered yes to the question that asked "Have you ever been convicted of a felony of misdemeanor other than a routine traffic violation?" After discussion, Dr. Bess made the motion approve Dr. Prodoehl's license by examination once he has successfully completed the requirements. Dr. Stephens seconded the motion. The motion carried.

Andrew Carl Faust, D.Ph.

Dr. Faust is applying for licensure by reciprocity in the State of Tennessee. Dr. Faust answered yes to the question that asked "Have you ever been charged or convicted of a felony or misdemeanor whether or not sentence was imposed, suspended, expunged or whether you were pardoned from any such offense?" After discussion, Dr. Stephens made the motion to approve Dr. Faust's application for licensure by reciprocity once he has successfully completed the requirements. Dr. Bess seconded the motion. The motion carried.

Michael Andrew Crouch, D.Ph.

Dr. Crouch is applying for licensure by reciprocity in the State of Tennessee. Dr. Crouch answered yes to the question that asked "Have you ever been charged or convicted of a felony or misdemeanor whether or not sentence was imposed, suspended, expunged or whether you were pardoned from any such offense?" After discussion, Dr. Stephens made the motion to approve Dr. Crouch's application for licensure by reciprocity once he has successfully completed the requirements. Dr. Bess seconded the motion. The motion carried.

David Bryan Fitch, D.Ph.

Dr. Fitch is applying for licensure by reciprocity in the State of Tennessee. Dr. Fitch answered yes to the question that asked "Has your pharmacist license in any jurisdiction ever been suspended, restricted, terminated or otherwise been subject to disciplinary action (public or private) by any board of pharmacy

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or other state authority?" Dr. Fitch's license was disciplined by the Colorado Board of Pharmacy for a dispensing error. After discussion, Ms. McDaniel made the motion to approve Dr. Fitch's application for licensure by reciprocity once he has successfully completed the requirements. Dr. Bess seconded the motion. The motion carried. Dr. Bess also wanted the board staff to make Dr. Fitch aware that patient counseling is a requirement in the State of Tennessee.

Courtney Lora Fowler, D.Ph.

Dr. Fowler is applying for licensure by examination in the State of Tennessee. Dr. Fowler answered yes to the question that asked "Have you ever been convicted of a felony of misdemeanor other than a routine traffic violation?" After discussion, Dr. Stephens made the motion to approve Dr. Fowler's license by examination once she has successfully completed the requirements. Dr. Warren seconded the motion. The motion carried.

Justin Scott Walker, D.Ph.

Dr. Walker is applying for licensure by examination in the State of Tennessee. Dr. Walker answered yes to the question that asked "Have you ever been convicted of a felony of misdemeanor other than a routine traffic violation?" After discussion, Dr. Bess made the motion approve Dr. Walker's license by examination once he has successfully completed the requirements. Ms. McDaniel seconded the motion. The motion carried.

Pharmacy Technicians

Amanda Hitchcock

Ms. Hitchcock is seeking to reinstate her registration as a pharmacy technician in the State of Tennessee. Ms. Hitchcock's registration expired on July 31, 2006. After discussion, Dr. Bess made the motion to deny Ms. Hitchcock's request to reinstate her registration. Dr. Warren seconded the motion. The motion carried.

Donna Faye Raines

Ms. Raines is applying for registration as a pharmacy technician in the State of Tennessee. Ms. Raines answered yes to the question that asked "Have you ever been convicted of a misdemeanor (except minor traffic offenses) including alcohol or drug related offenses (including marijuana or hallucinogens)?" After discussion, Dr. Stephens made the motion to approve Ms. Raines's application for registration as a pharmacy technician. Dr. Kizer seconded the motion. The motion carried.

Corey Bills

Mr. Bills is applying for registration as a pharmacy technician in the State of Tennessee. Mr. Bills answered yes to the question that asked "Have you ever been convicted of a felony?" After discussion,

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Dr. Warren made the motion to approved Mr. Bills' application for registration as a pharmacy technician. Dr. Kizer seconded the motion. The motion carried.

Billie Jo Crowley

Ms. Crowley is applying for registration as a pharmacy technician in the State of Tennessee. Ms. Crowley answered yes to the question that asked "Have you ever been convicted of a misdemeanor (except minor traffic offenses) including alcohol or drug related offenses (including marijuana or hallucinogens)?" After discussion, Dr. Stephens made the motion to approve Ms. Crowley's application for registration as a pharmacy technician. Dr. Bess seconded the motion. The motion carried.

Deidra D. Sullivan

Ms. Sullivan is applying for registration as a pharmacy technician in the State of Tennessee. Ms. Sullivan answered yes to the question that asked "Have you ever been convicted of a misdemeanor (except minor traffic offenses) including alcohol or drug related offenses (including marijuana or hallucinogens)?" After discussion, Dr. Bess made the motion to approve Ms. Sullivan's application for registration as a pharmacy technician. Ms. McDaniel seconded the motion. The motion carried.

Donna Ford Bearden

Ms. Bearden is applying for registration as a pharmacy technician in the State of Tennessee. Ms. Bearden answered yes to the question that asked "Have you ever been convicted of a misdemeanor (except minor traffic offenses) including alcohol or drug related offenses (including marijuana or hallucinogens)?" After discussion, Dr. Warren made the motion to defer Ms. Bearden's application for registration as a pharmacy technician until the next meeting. Dr. Stephens seconded the motion. The motion carried.

Angela Denise Odom

Ms. Odom is applying for registration as a pharmacy technician in the State of Tennessee. Ms. Odom answered yes to the question that asked "Have you ever been convicted of a felony?" After discussion, Dr. Stephens made the motion to approve Ms. Odom's application for registration as a pharmacy technician. Dr. Kizer seconded the motion. The motion carried.

Iliana Carolina Hernandez

Ms. Hernandez is applying for registration as a pharmacy technician in the State of Tennessee. Ms. Hernandez answered yes to the question that asked "Are there any charges pending against you?" After discussion, Dr. Stephens made the motion to approve Ms. Hernandez's application for registration as a pharmacy technician. Dr. Bess seconded the motion. The motion carried.

Juanita Marie Tucker

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Ms. Tucker is applying for registration as a pharmacy technician in the State of Tennessee. Ms. Tucker answered yes to the question that asked “Have you ever been convicted of a felony?” After discussion, Ms. McDaniel made the motion to approve Ms. Tucker’s application for registration as a pharmacy technician. Dr. Kizer seconded the motion. The motion carried with Dr. Bess voting in the negative. Dr. Warren stated that she is concerned that Ms. Tucker may not be able to get a job.

Timothy Philip Clark

Mr. Clark is applying for registration as a pharmacy technician in the State of Tennessee. Ms. Clark answered yes to the question that asked “Have you ever been convicted of a misdemeanor (except minor traffic offenses) including alcohol or drug related offenses (including marijuana or hallucinogens)?” After discussion, Dr. Stephens made the motion to approve Mr. Clark’s application for registration as a pharmacy technician. Dr. Warren seconded the motion. The motion carried.

Emily M. Grammer

Ms. Grammer is applying for registration as a pharmacy technician in the State of Tennessee. Ms. Grammer answered yes to the question that asked “Have you ever been convicted of a misdemeanor (except minor traffic offenses) including alcohol or drug related offenses (including marijuana or hallucinogens)?” After discussion, Ms. McDaniel made the motion to approve Ms. Grammer’s application for registration as a pharmacy technician. Dr. Bess seconded the motion. The motion carried with Dr. Warren voting in the negative.

Benjamin Gadd

Mr. Gadd is applying for registration as a pharmacy technician in the State of Tennessee. Mr. Gadd answered yes to the question that asked “Have you ever been convicted of a misdemeanor (except minor traffic offenses) including alcohol or drug related offenses (including marijuana or hallucinogens)?” After discussion, Dr. Stephens made the motion to approve Mr. Gadd’s application for registration as a pharmacy technician. Dr. Bess seconded the motion. The motion carried.

Yogi Sanwal

Mr. Sanwal is applying for registration as a pharmacy technician in the State of Tennessee. Mr. Sanwal answered yes to the question that asked “Have you ever been convicted of a misdemeanor (except minor traffic offenses) including alcohol or drug related offenses (including marijuana or hallucinogens)?” After discussion, Dr. Stephens made the motion to approve Mr. Sanwal’s application for registration as a pharmacy technician. Dr. Warren seconded the motion. The motion carried.

Edward James Hearn

Mr. Hearn is applying for registration as a pharmacy technician in the State of Tennessee. Mr. Hearn answered yes to the question that asked “Have you ever been convicted of a misdemeanor (except minor

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traffic offenses) including alcohol or drug related offenses (including marijuana or hallucinogens)?" After discussion, Dr. Stephens made the motion to approve Mr. Hearn's application for registration as a pharmacy technician. Dr. Hearn seconded the motion. The motion carried.

Manufacturer/Wholesaler/Distributor

Tri-Anim Health Services, Inc.

Tri-Anim Health Services, Inc. is applying for licensure as a manufacturer/wholesaler/distributor in the State of Tennessee. Tri-Anim answered yes to the question that asked "Are there any pending charges involving moral turpitude or violation of pharmacy, or any other laws pending against you?" Documentation submitted indicates that the Louisiana Board of Wholesale Drug Distributors issued a cease and desists against Tri-Anim Health Services, Inc. for operating as a Manufacturer/Wholesaler/Distributor in Louisiana without appropriate licensure. After discussion, Dr. Stephens made the motion to approve Tri-Anim Health Services, Inc. application for licensure as a manufacturer/wholesaler/distributor in Tennessee. Ms. McDaniel seconded the motion. The motion carried.

Webster Veterinary Supply, Inc., c/o Patterson Companies, Inc.

Webster Veterinary Supply, Inc. is applying for licensure as a manufacturer/wholesaler/distributor in the State of Tennessee. Webster Veterinary Supply, Inc. answered yes to the question that asked "Are there any pending charges involving moral turpitude or violation of pharmacy, or any other laws pending against you?" Webster Veterinary Supply, Inc. is a subsidiary of Patterson-Companies and it is Patterson-Companies that have had several violations not Webster Veterinary Supply, Inc. After discussion, Dr. Stephens made the motion to approve Webster Veterinary Supply, Inc. application for manufacturer/wholesaler/distribution. Ms. McDaniel seconded the motion. The motion carried.

Pharmacy

Wellpartner, Inc.

Wellpartner, Inc. is applying for licensure as an out of state pharmacy in the State of Tennessee. Wellpartner, Inc. license was disciplined by the Oregon Board of Pharmacy for allowing an individual to perform a duty that they were not licensed to perform. After discussion, Ms. McDaniel made the motion to approve Wellpartner, Inc.'s application for licensure as an out of state pharmacy once all the requirements have been met. Dr. Stephens seconded the motion. The motion carried.

WAIVERS

Board rule 1140-1-.07 (3) (b)

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Dr. Warren made the motion to approve the request from **Sarah McGhee, D.Ph.** to waive the internship hours but Dr. McGhee must successfully take and pass the MPJE and submit the required hours of continuing education needed to reinstate. Dr. Bess seconded the motion. The motion carried.

Dr. Bess made the motion to approve the request from **Michael D. Vascocu, D.Ph.** to waive the internship hours needed to reinstate. Ms. McDaniel seconded the motion. The motion carried.

Dr. Warren made the motion to deny the request from **Sigsbee Duck, B.S. in pharmacy. MD.**, to waive the internship hours, MPJE, NAPLEX and the continuing education hours needed for reinstatement. Dr. Bess seconded the motion. The motion carried.

Dr. Bess made the motion to approve the request from **David L. Loesch, RPH** to waive the internship hours but Dr. Loesch must successfully take and pass the MPJE. Dr. Warren seconded the motion. The motion carried. Dr. Loesch submitted the required continuing education hours.

Dr. Stephens made the motion to approve the request from **Anita Patel, D.Ph.** to waive the internship hours and MPJE and approved her renewal until September 30, 2010. Ms. McDaniel seconded the motion. The motion carried. Dr. Patel submitted a renewal application for the renewal cycle 2008-2010 with fifteen (15) hours of continuing education but needed a total of thirty (30) hours to renew. Dr. Patel stated that she didn't receive a letter requesting the additional information but has submitted proof

Dr. Stephens made the motion to deny the request from **Jean Ellen Baker, D.Ph.** to waive the internship hours based upon documentation submitted does not indicate that she has been employed as a pharmacist. Dr. Warren seconded the motion. The motion carried with Ms. McDaniel voting in the negative.

Dr. Bess made the motion to approve the request from **Russell J. Rackley, BS. Pharm, Ph. D.**, to waive the internship hours. Dr. Kizer seconded the motion. The motion carried. After further discussion, Ms. McDaniel made the motion to deny Dr. Rackley's request to waive the MPJE. Dr. Warren seconded the motion. The motion carried.

Board rule 1140-3-.14(12)

Ms. McDaniel made the motion to deny the request from **Chris Masters, D.Ph.** to be PIC at Palace in Red Boiling Springs and Church Hill Health and Rehab in Church Hill, TN. Dr. Warren seconded the motion. The motion carried. Dr. Stephens abstained.

Ms. McDaniel made the motion to approve the request from **Jimmy N. Hayman, Administrative Director for Pharmaceutical Services at Vanderbilt Medical Center** to allow two (2) PIC's. Dr. Stephens seconded the motion. After discussion, Dr. Stephens amended the motion that one (1) PIC will be for the University Hospital and one (1) PIC for the Vanderbilt Clinics. Dr. Kizer seconded the amended motion. The motion carried with Dr. Warren voting in the negative. Dr. Warren suggested that there be a scope of responsibility for each PIC.

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Ms. McDaniel made the motion to approve the request from **Henry Ferguson, D.Ph.** to be PIC at Quillen Rehabilitation Hospital and Princeton Transitional Care in Johnson City, TN. Dr. Stephens seconded the motion. The motion carried.

Board rule 1140-1-.04

Ramy Raafat Naguib Attia, Phd., in Pharmacology,

Dr. Attia submitted a request to use his research hours in the Pharmacology Program at UTHSC as part of the 1500 internship hours required for licensure as a pharmacist in Tennessee. After discussion, Dr. Warren made the motion to allow only 200 non traditional hours in research hours to be used toward the 1500 hours of internship with supervision from a licensed pharmacist in good standing. Ms. McDaniel seconded the motion. The motion carried.

Board rule 1140-5-.01 (3)

Dr. Bess made the motion to grant David Simpson, D.Ph. a six (6) month extension beginning June 8, 2010, to acquire the continuing education hours needed to renew. The hours acquired during the extension may not be used toward the 2010-2012 renewal cycle. Ms. McDaniel seconded the motion. The motion carried.

CONSENT ORDERS

Ms. McDaniel made the motion to accept the Consent Orders as presented. Dr. Kizer seconded the motion. The motion carried.

VIOLATED BOARD RULE 1140-3-14 (2)

Rite Aid Pharmacy #11868-\$1000.00 civil penalty-paid

VIOLATED BOARD RULE 1140-3-01 (1) (a) and (f)

Rite Aid Pharmacy #11868- \$100.00 civil penalty-paid

Walgreens Pharmacy #4158-\$1000.00 civil penalty-paid

Adam Charles Pace, D.Ph., #29424-\$1000.00 civil penalty-paid

Walgreens Pharmacy #2161-\$1000.00 civil penalty-paid

Minnis Drug Store, Inc. -1000.00 civil penalty-paid

Jennifer Lynn Myers, D.Ph., #26991, \$1000.00 civil penalty-paid

VIOLATED BOARD RULE 1140-1-108(1)

RecoverCare, LLC-\$5100.00 civil penalty-paid

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REVOCAATION

Regina Huff, RT

Albert Ray Crane, RT

Jada Meyer, RT

DeMarcus Danyiel Brazelton, RT

Jessica Jean Burke, D.Ph.

Vickie L. Hill, RT

Jessica D. Morrow, RT

Rhonda S. Turner, RT

Merari Nicholi Rogers, RT

Teresa Dority, RT

Robert Hafner, D.Ph.

REINSTATEMENT

Mitchell Dietrich, D.Ph

Meredith Brown, D.Ph

TELEPHARMACY

Dr. Karen Clawson of Cherokee Health Systems and Bill Husky appeared before the Board to discuss the pilot program for telepharmacy in the Federal Qualified Health Center (FQHC). Dr. Bess stated that his issue was patients leaving the pharmacy without receiving counseling. Dr. Clawson stated that she did another audit and only had one incident where there was no patient counseling and it was because the patient did not want to wait. Dr. Clawson stated that is has been stressed to the technicians not to take payment for the prescription until that patient has been counseled by the pharmacist. Dr. Bess stated that the pharmacist must be engaged at all times. Dr. Bess stated that he was under the impression that the technician did not release the medication but that the pharmacist would via the monitor. Dr. Clawson stated that it is hard for the pharmacist to watch the monitor all the time and they do rely on the technician to inform them when a patient is there to pick up a prescription. Dr. Warren stated that she would like to see instruction in place to teach the technicians the responsibility to contact the pharmacists when counseling is needed. Dr. Warren asked about the AV Link and what happened if the link was down? Dr. Clawson stated that the AV Link has been down only twice and they did not issue any medications. Dr. Wilson asked if the board can approve another site? Dr. Eidson stated that the law allows the board to expand the program. Dr. Wilson stated that the big issue is that some patients may not have transportation to receive the medication or that they would not be able to afford them otherwise and that

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we cannot make exception to the rules but need to remember the patients that need this service. Mr. Mezer read the last part of T.C.A. § 63-10-601(e) which states that “If the board of pharmacy determines that the data demonstrates the pilot is successful, then the board may expand the project beyond the one (1) FQHC to as many FQHC as it deems appropriate”. Dr. Wilson stated that Cherokee Health Systems is not a really a new FQHC but another practice site. Dr. Clawson asked if the Board is allowed to extend the timeframe of the pilot program to review further data if they open another site? Mr. Mezer stated that there is no provision in the law and only one report. The law provides for a second pharmacy and each pharmacy is to have no more than two eligible clinics. Mr. Mezer stated that he is not sure if the law allows one pharmacy to have several satellite clinics. T.C.A. § 63-10-601(e) states “The Department of Health and The Board of Pharmacy shall identify one (1) FQHC for a voluntary pilot program originating in a county located in the eastern grand division of the state in order to implement the telepharmacy provisions at no more than two (2) eligible satellite clinics as described in this section. Dr. Warren stated that the ratio is for one pharmacy with two (2) satellite clinics and asked Dr. Clawson if she is asking to change the ratio to one pharmacy with three (3) satellite clinics? Dr. Clawson stated that this would be the case and if she had to she could close the Maynardville satellite location and open the Blount County-Alcoa location with the telepharmacy. Dr. Clawson stated that closing the Maynardville location would cause the patients to wait a week for their medications or have them mailed or she can go back before the legislations to ask for an expansion. Mr. Mezer stated that Cherokee Health Systems could have another pharmacy with its own license and DEA number with two (2) satellite clinic under the law as it is written. Dr. Clawson stated that Cherokee Health Systems has a pharmacy in Lenoir City, TN and it could be the site that is closer to Alcoa, TN. Dr. Warren asked how many pharmacists and technicians working at the Lenoir City location? Dr. Clawson stated that the pharmacy at Lenoir City location has one pharmacist, two technicians and fill roughly 100 prescriptions a day. Dr. Clawson stated that all the clinics under Cherokee Health Systems are listed as FQHC’s. Mr. Mezer stated that he can research the legislation intent of the pilot program and how it was to be expanded. Dr. Stephens asked that the board wait until the July meeting to make a motion after Mr. Mezer has completed his research. Dr. Warren asked Dr. Clawson if she would be comfortable waiting until July when counsel can do the research on the intent of the statute or go ahead and open the telepharmacy with another FQHC? Dr. Clawson stated that it is another added expense to add the camera to the Lenoir City location and it would cost roughly \$5000.00 and the clinic will not be opened in July. Dr. Clawson will come back in July.

REINSTATEMENT

James Don Wilson, D.Ph.

Dr. Eidson introduced Dr. Wilson to the Board. Dr. Wilson’s license was suspended and he came before the Board at the November 2009 meeting requesting reinstatement. The Board voted to defer Dr. Wilson’s request for reinstatement due Dr. Wilson not having all the court documents showing that he had completed all the requirements. After discussion, Dr. Stephens made the motion to reinstate Dr. Wilson’s license and waive the NPLEX, but he must take and successfully pass the MPJE, complete 320 hours of internship within 180 days, and submit all back continuing pharmaceuticals education and not allowed to be PIC for 5 years. Ms. McDaniel seconded the motion. The motion carried.

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DIRECTORS REPORT

Dr. Eidson stated that he met with the Drug Enforcement Agency (DEA) on June 7, 2010 to discuss the new rule that went into effect June 1, 2010 that allows for the electronic prescribing of controlled substances. Pharmacies and practitioners that have the authority to prescribe and dispense controlled substances are affected. Dr. Eidson stated that the DEA new rule requires the software equipment to be certified by an outside vendor and to his knowledge the DEA has not issued a list of vendors who will certified the pharmacy or the prescriber's equipment. Dr. Stephens asked is it the pharmacist's responsibility to determine if the prescriber's equipment has been certified by an authentic provider? Dr. Eidson stated that when speaking with the DEA Diversion Agent, he was told that pharmacists will have a corresponding liability to make sure that the equipment has been certified. The DEA will put the list of certified vendors on their website once it has been established. Dr. Eidson asked if there was anyone in Tennessee who has been certified and the Agent stated that he was unaware on anyone being a certified vendor. Dr. Eidson stated there has to be two (2) of three (3) factors in place to authentic the credentials of a provider like a password, hard token and biometrics (retinal scan, fingerprints, etc.). Dr. Bess asked if this is per prescription per patient and that batching can not be done? Dr. Eidson stated that the Agent told that that batching can occur and that the rule states that to transmit it as quickly as possible. The DEA is looking into what does quickly as possible mean? Dr. Stephens stated that what it sounds like they are trying to do is use the same procedure that is used to order Scheduled II's which consist of a password and hard token. Dr. Eidson stated that the board had an emergency teleconference meeting on October 10, 2008 to interpret the board rules on what could be an electronic signature and the board stated that it could be a series of numbers that could be identify or go back and be audited by to that particular prescriber and that this was for non controlled substances only. It did not apply to controlled substances. Dr. Bess stated that this was because there were some e-prescribing programs that prescribers were using that would let you log into the system like you do your email and the system could just stay up on the screen and it did not require anytime of electronic signature for the drug prescribed. Dr. Bess stated that is a concern to him that the DEA allows for batch patients and that it will still open it up for some risks. Dr. Wilson stated that the DEA rule didn't say that you could or couldn't do batch patients. Dr. Warren stated that her understanding that the prescriber could sign off on multiple prescriptions for the same patient at one time but not on multiple patients. They could sign off individually and give it to the administrative person under a different header information saying which pharmacy the prescription went to. Dr. Warren stated that some states had rules that matched the DEA rules and didn't allow electronic prescribing for controlled substances and the board only mentions not allowing electronic signature for controlled substance in the policy issued from the October 10, 2008 meeting. Dr. Warren asked if we want to align with the DEA then we would have to make some type of statement saying so? The Board is on record stating that we don't allow electronic signatures and the greater risk is that we need to get the information to the pharmacist that they can't accept a facsimile of electronic signatures. Dr. Bess stated that he has spoken to several companies that do e-scribing but no one has developed the software. Dr. Eidson stated that he asked if each one of the clinic sites must be certified, each DEA certificate needs to be certified. Dr. Stephens asked if they need to be certified by the DEA or from the vendor? Dr. Stephens made the motion that for the Tennessee Board of Pharmacy that the electronic signature as defined by the DEA is acceptable for the issuance and filling of controlled substance. Dr. Bess seconded the motion. The motion carried. Dr. Bess asked Mr. Mezer to ask the DEA "When a system is certified, does the system

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block a prescription that didn't meet the requirements"? Dr. Bess suggested that the pharmacist be reminded of the DEA electronic prescription requirements and for the board to add a link to the DEA to the board's website. Dr. Stephens suggested that we contact other agencies to inform the public of the board's decision and that electronic prescription for controlled substances are still illegal.

Dr. Eidson spoke with the Board about reciprocity and submitted a report for review of all states that require the original state of license. At the March 23-24, 2010 board meeting, the question was asked concerning an applicant that was applying for licensure by reciprocity into Tennessee on another state's license and not the original state of licensure. Alabama and Georgia required the original state of licensure to be active in order for an applicant to reciprocate to their state. Dr. Eidson asked the board if they would allow an applicant to reciprocate off an active license or do they need to maintain the original state of licensure? Dr. Bess stated that he thinks that there are benefits to having an original state of licensure and discipline. Dr. Warren asked Dr. Eidson what the pros and cons are to the applicant keeping an active original state of licensure. Dr. Eidson stated that he didn't know if every state utilizes the NABP Clearinghouse for adverse licensure action and that he fears that the some disciplinary action may not be reported. Dr. Eidson asked the board about a licensee that was licensed in California and they did not require the NAPLEX, is that someone that you would want to be brought before the board if they were applying for reciprocity? Dr. Kizer asked when a pharmacist renews, are we checking the NABP Clearinghouse? Dr. Eidson stated that it is adverse action that we usually see from the clearinghouse. Dr. Bess asked if all state boards report to the NABP Clearinghouse? Dr. Eidson stated yes. Dr. Warren stated that they see some variation to what is reported and that different states report different things. Dr. Eidson stated that even in Tennessee Letters of Warning and Letters of Instruction are not reported. Dr. Stephens asked if a licensee from Tennessee is trying to reciprocate to another state would Letters of Warning and Letters of Instructions and the other state contacts the board, would we report it? Dr. Eidson explained that they are not disciplinary action and it would not be reported. Ms. McDaniel asked what is the purpose of requiring the original state of licensure? Dr. Stephens stated that before NABP Clearinghouse, all violations were reported to the original state of licensure. Dr. Kizer asked what the percentage is of pharmacist still having an active Tennessee license, as the original state of licensure, but working in another state? Dr. Eidson stated that he did know. Dr. Stephens asked if the boards rule requires an active original state of licensure? Dr. Eidson stated that the board does not. Dr. Wilson asked when NABP required started requiring original state of licensure to reciprocate? Dr. Bess stated that before Katrina, the NABP held a meeting in New Orleans, LA and one of the issues presented was the requirement for an active original state of licensure when applying for reciprocity. The delegates at that meeting voted against requiring the original state of licensure as a requirement for reciprocity in the model rules, knowing that some states would still have it in their statutes and rules. Dr. Warren stated that in the most recent NABP meeting, the delegates voted to conduct a study on a pact licensure for individual pharmacists. The pact licensure would allow pharmacist to be licensed in multiple states. Dr. Bess asked if the original state of licensure would be notified if a licensee has been disciplined in other state? Dr. Eidson stated that NABP would have a file on the licensee that has been disciplined in other states. Dr. Bess asked how would the boards get that information? Dr. Eidson explained that NABP notifies all the states that a pharmacist has had a license in about the disciplinary action by mail. Dr. Stephens made the motion that the board will not require original state of licensure when applying by reciprocity. Ms. McDaniel seconded the motion. The motion carried.

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Dr. Eidson informed the board that LexisNexis can add the electronic version of the law book to our website for \$6,900.00 for updates. The updates will be once a year. After discussion, Ms. McDaniel made the motion to approve the electronic version. Dr. Bess seconded the motion. Dr. Stephens asked if we put the electronic version online, what does the rule say about the pharmacy being required to have a law book? Dr. Eidson stated that the rule says "printed or electronic". Mr. Mezer quoted board rule 1140-3-.15 which states that "Each pharmacy practice site shall maintain in its library at least one (1) reference book (printed or electronic) from either of the last two (2) editions that address each category listed below: (11) current Tennessee Pharmacy Laws issued by the Tennessee Board of Pharmacy and updates". The motion carried.

Dr. Eidson informed the board that we are running out of Board seals that we place on verifications, official documents and the wall certificate. The Board of Pharmacy has its own seal separate from what the other boards under Health Related Boards use. Dr. Eidson asked the board if they would consider whether to continue to use the Board of Pharmacy seal or the State of Tennessee seals. Ms. McDaniel made the motion to use the State seal. Dr. Warren seconded the motion. The motion carried.

Dr. Eidson informed the board that Walgreens is asking permission to have a drop off box for new and refills at their locations. Mr. Mezer referred the board to rule 1140-3-.03(9) which states "Medical and prescription orders cannot be accepted, solicited, collected or advertised at a location other than a pharmacy practice site for which a license has been issued by the board, and such pharmacy practice site shall be actively engaged in compounding and dispensing medical and prescription orders". Dr. Eidson states that this was taken up with the board about 15 years ago and at that time, the board indicated that the practice site was the licensed pharmacy. As with a lot of practice sites, you can enclose an area within the facility and it is the pharmacy practice site. Dr. Eidson is not sure where the drop box would be at the facility and if it will be out-side of the facility. Dr. Eidson stated that he does not consider the outside of the facility the pharmacy, with hot and cold running water and all the other requirements as per the board rules. Dr. Bess stated that he would imagine that the drop off box would be near the prescription area of a pharmacy, not the parking lot. Dr. Kizer stated that if it was on an outside wall it would need to be deposited into the prescription area. Dr. Warren asked about the large department stores that have a pharmacy location, what is considered the pharmacy area? Dr. Eidson stated that if it is enclosed and able to be secured, it is the pharmacy practice site. Dr. Bess asked if they are aware of the disadvantage on new prescriptions and they don't have the patient in the system and cannot do a patient profile. Dr. Eidson stated that the board may see an increase in complaints. Ms. McDaniel asked if we can have Walgreen do a pilot program and come back within a couple of months with a report on how the program fared. Mr. Mezer stated that he thinks that Walgreens is envisioning something different than what the board is envisioning. Mr. Mezer stated that Walgreens is envisioning a mailbox outside the actual pharmacy, but if it is like a bank deposit and it goes right into the prescription area, he thinks that the board could ask for a pilot program. Mr. Mezer stated that the board rules do not allow for drop off boxes outside the facility. Dr. Wilson stated that in the proposal Walgreens has given several examples, such as, a device attached to the outside of the building, a device inside of the building or a slot door in the pharmacy department. Ms. McDaniel stated that she has a problem with it being outside of the building. Dr. Warren stated that she agrees with Mr. Mezer that the board rules do not allow for drop off boxes outside the facility and she is

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worried about how they are going to protect patient privacy. Dr. Stephens asked what is the difference between the drop box outside the facility and the pneumatic tubes in the parking lot that feed right into the pharmacy and goes out again? Dr. Stephens stated that he is asking the question for reference because where the pneumatic tube is located in the parking lot is not part of the practice site. Dr. Eidson stated that the difference is that the pharmacy practice site is operational and there is someone on the inside. Mr. Mezer stated that there some community pharmacy that the whole pharmacy needs to be shut down because they don't have a gate to pull down but in the chain stores, the pharmacy practice site can be closed and the rest of the store is still open outside the pharmacy hours. Mr. Mezer stated that the difference with the pneumatic tubes is that they go directly into the practice site and the drop boxes, whether a mail box or slot in the door, once the gate comes down that is considered outside the practice site. Dr. Kizer asked if any of the Investigators have seen the drop boxes in the stores? Dr. Denaburg stated that some retail stores have drop boxes but that it does go into the practice site. Ms. McDaniel made the motion to allow Walgreens two options: 1) if using a drop box that it goes directly into the practice site or 2) mail drop outside the practice site that goes directly into the practice site and submit the report at the September 21-22, 2010. Dr. Stephens suggested that since it is a large chain, that they be limited to 2 stores. Dr. Kizer seconded the motion. The motion carried. Dr. Bess asked if they would be looking for lost prescriptions and did it create any patient safety issues in the report. Dr. Warren stated that she would also like to see if there was a privacy issue. Dr. Warren amended the motion to have them report back at the September 21-22, 2010 meeting with a report that dealt with patient issues, privacy issue, diversion, and process issues. Dr. Stephens seconded the motion. The motion carried.

Dr. Eidson spoke to the board about phone calls that the administrative office has received concerning taking back unused medications that need to be destroyed. There are some vendors talking to pharmacists about putting collection boxes in the pharmacy that can be used for unused medication that needs to be destroyed. Dr. Mac Wilhoit submitted a request for the board to consider this matter. Mr. Mezer directed the board to rule 1140-3-.03(8) which states "It is unlawful for any pharmacy practice site, pharmacist or pharmacy intern or pharmacy technician under the supervision of a pharmacist, or any other place of business engaged in compounding and dispensing prescription drugs and devices and related materials for human consumption to received from any patient or other person the return of any portion of an order that has been taken from the premises of the pharmacy practice site or other place of business, except, pursuant to 1140-1-.10. Dr. Warren stated that the rules prevent the board from approving the request. Dr. Eidson stated that there are several options that could be consider, one being the community pharmacy working with the local police departments because they can obtain the authority to take back medications including controlled substances. Dr. Warren asked if the DEA prohibits a pharmacy from taking back medications? Dr. Eidson stated that this is correct. Dr. Wilson stated that NCPA informed the audience that they would have to check with their board of Pharmacy to see if it is legal to do so. Ms. McDaniel asked if "premise" considered the building? Mr. Mezer stated that the rule says premises of the practice site and the board would have to define what premises means. Dr. Stephens stated that rule 1140-1-.12 Standards for Pharmacies and Prescription Department Security defines that a store is the pharmacy site and the pharmacy is the prescription department. Dr. Stephens stated that his understanding of this rule is that where the front counter stops whether you have a gate that comes down and lock is considered the prescription department within the practice site but not the practice site. Mr. Mezer stated that if that is the case then every mercantile establishment would be considered a practice site. Dr. Kizer stated that it

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would have to say dispensing area. Dr. Stephens stated that you cannot say that the practice site is the place where the gate comes down because you are excluded the over the counter preparations. Dr. Stephens referred the board to rule 1140-1-.12(3) which states “The prescription department at the pharmacy practice site shall meet the following standards. Dr. Eidson asked Dr. Stephens to look at rule 140-1-.12(7) which states “A pharmacy practice site where prescription drugs and devices and related materials are received, stored, compounded and dispensed shall not be opened for business or any other reason unless a licensed pharmacist is present. Furthermore, no medical or prescription order shall be dispensed except during the presence and under the direct supervision of a pharmacist. Dr. Kizer asked if it is the company’s program or the pharmacy’s program when it is placed in the store? Dr. Wilson would like to know for the July meeting, what verbiage other states are using for taking back unused medication? She also stated that history for this rule was that it was not good for the public to see the pharmacist taking back the medication because they don’t know what you are going to do with it. Dr. Wilson stated that the rule cannot be changed today but it is something that the board needs to work on. Dr. Eidson recommended to the board that he and Mr. Mezer will look at the NABP model rules and then bring their findings to the board in July. Dr. Warren stated that is against the rules to take back prescriptions into the pharmacy once they have been dispensed and Dr. Eidson will send the letter to address the inquiry.

Mr. Mezer informed the board of the request from Lipscomb University to have 200 of the 400 hours of external internship hours approved for student pharmacists participating in internships within external academic healthcare facilities, investigational drug services, pharmaceutical companies and clinical research organizations in the Middle Tennessee area within the Lipscomb University’s College of Pharmacy. After discussion, Dr. Warren made the motion to approve the request for 200 of the 400 hours of external internship hours requested by Lipscomb University’s College of Pharmacy. Dr. Bess seconded the motion. The motion carried.

Dr. Eidson informed the board of the Council on Licensure, Enforcement and Regulation (CLEAR) 2010 Annual Education Conference to be held in Nashville, TN on September 23-25, 2010. Dr. Eidson asked the board for approval for the Investigators to attend. Ms. McDaniel made the motion to approve the request that all of the Investigators attend the CLEAR Conference, fully funded. Dr. Kizer seconded the motion. The motion carried.

Dr. Eidson informed the board of the Tennessee Pharmacist Association (TPA) 123rd Annual Convention to be held in Memphis, TN on July 19-22, 2010. Dr. Eidson will be a speaker at the convention. Dr. Kizer made the motion to approve the request for Dr. Eidson, and the Investigators to attend the TPA 123rd Annual Convention, fully funded. Dr. Stephens seconded the motion. The motion carried. The motion carried. Dr. Bess made the motion that the public member to attend the TPA 123rd Annual Convention, fully funded. Dr. Stephens seconded the motion. The motion carried.

Dr. Eidson informed the board of the NABP-AACP 2010 District III Meeting to be held in Blowing Rock, NC on August 15-17, 2010. Dr. Eidson asked the board to consider sending Mr. Mezer to meeting. Dr. Kizer made the motion to send Mr. Mezer to the NABP-AACP 2010 District III Meeting, fully funded. Ms. McDaniel seconded the motion. The motion carried. Dr. Stephens made a motion to ask for

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the registration fee to be paid for any member of the board who decides to attend the NABP-AACP 2010 District III Meeting. Dr. Warren seconded the motion. The motion carried.

Dr. Eidson informed the board new legislation, Public Chapter 663 changed the verbiage concerning doctor shopping, Public Chapter 767 allows ninety (90) days worth of data to be available for law enforcement and becomes effective on July 1, 2010 and Public Chapter 795 requires prescription for controlled substance to be written on separate blanks and becomes effective January 1, 2011.

Dr. Eidson asked the board for guidance on what information changes may a pharmacist make to a Schedule II prescription as it relates to the new rule that went into effect November 2007 from the DEA that allowed for the multiple issuance of a scheduled II controlled substance up to a ninety (90) day supply. This new rule negated the 1999 interpretation of the DEA rule that allows the pharmacist to make certain changes to a CII prescription, which consists of patient address changes, drug strength, drug quantity and directions for use after verification from the prescriber. The pharmacist is not allowed to make changes to the patient's name, controlled substance prescribed or the prescriber's signature. After discussion, Dr. Warren made the motion to adopt the memorandum dated December 7, 1999 as the board's policy statement. Dr. Kizer seconded the motion. The motion carried.

FINANCIAL REPORT

Dr. Eidson presented the financial report to the board with expenditures that ended on March 31, 2010. Ms. Miller stated that the financial report presented is for direct cost and not indirect cost. Ms. McDaniel asked what printing and duplicating means? Dr. Eidson stated that he will find out and bring the answer to the July meeting. Ms. Miller stated that the total direct expenditures for the period ending March 31, 2010 is \$772,048.17. Dr. Wilson asked about civil penalties and why the amount is so small. Dr. Eidson stated that the coding in the RBS system was different but it has been corrected to show the civil penalties separate from miscellaneous. Miscellaneous fees contain fees for law books and late fees. Ms. McDaniel asked if all pharmacists renew at the same time or every two (2) years from the date that they originally registered? Dr. Eidson explained that it is on the date of initial licensure. Dr. Wilson asked what is federal revenue? Ms. Miller stated that they would have to look at the object code to see what that means. Ms. McDaniel asked if the list of object codes can be available at the next meeting? Dr. Eidson stated that he will have that information for the next meeting. Dr. Wilson asked if the budget for the 2011 fiscal year be based on the financial report presented? Ms. Miller stated that the financial report presented is not the budget. Ms. Miller stated that she doesn't think that there will be a budget report but she can provide the financial report for the fiscal year 2009 in October.

REINSTATMENTS

David Robinson, D.Ph.

Dr. Eidson introduced Dr. Robinson to the Board. Dr. Robinson is requesting to have his license

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reinstated. Dr. Robinson came before the Board at the March 24-25, 2010 board meeting and the board deferred his request until he submits a letter from his primary care physician and have an evaluation from a psychiatrist or another mental health provider. Dr. Robinson presented the letter from his primary care physician and his evaluation from a psychiatrist. After discussion, Dr. Stephens made a motion to reinstate the license. Dr. Warren seconded the motion. The motion carried. Dr. Robinson's license will be on two (2) year probation from June 8, 2010 to June 8, 2012, with the following conditions:

- (a) The Respondent shall not serve as pharmacist-in-charge for a period of two (2) years. The Respondent shall not work as a "floater" for a period of two (2) years, meaning that the Respondent shall not work at more than one (1) pharmacy location at the same time without the permission of the Board;
- (b) The Respondent's pharmacist –in-charge shall submit to the Board quarterly reports detailing Respondent's work performance for a period of two (2) years.
- (c) The Respondent's may not fill nor process any medications for himself, or family members.

GENERAL DISCUSSION

Dr. Wilson asked Dr. Eidson about over the counter medications being sold at Flea Markets. Dr. Eidson stated that we have been receiving a lot of calls about the selling of expired over the counter medications and that he will be meeting with the Department of Agriculture to discuss the matter. Dr. Eidson stated that the Board of Pharmacy does not have jurisdiction over Flea Markets.

LEGAL REPORT

1. Case No.: L10-PHR-RBS-2010001051

Complaint arises from an investigation initiated by the Washington Board of Pharmacy. Complaint alleges that respondent pharmacy refused to fill a patient's Gamunex until the patient's medical records were released. After an investigation, the Washington Board concluded that the pharmacy in question was not located in TN but in Washington. This mail-order pharmacy has numerous locations throughout the country.

Prior discipline: 1/31/07, distribution of expired drugs, \$250 cp; 6 other dismissed complaints

Recommendation: dismiss

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Dr. Stephens made the motion to **accept counsel's recommendation**. Ms. McDaniel seconded the motion. The motion carried. Dr. Warren abstained.

2. Case No.: L10-PHR-RBS-2010000691

Respondent pharmacist failed to notify the board of a change in address.

Prior discipline: none

Recommendation: authorize formal hearing, \$100 cp

Dr. Stephens made the motion to **authorize a formal hearing** with a \$100.00 civil penalty. Ms. McDaniel seconded the motion. The motion carried.

3. Case No.: L10-PHR-RBS-2010000971

Complainant alleges that respondent manufacturer/wholesaler/distributor failed to notify the board office of the closing of one of their locations. Respondent replied that they closed the location, but forwarded all of the calls and business to another location. They are in the process of notifying the board of the change. The m/w/d did not notify the office for 3 months.

Prior discipline: none

Recommendation: authorize formal hearing, \$500 cp

Dr. Warren made the motion to **authorize a formal hearing** with a \$500.00 civil penalty. Dr. Kizer seconded the motion. The motion carried.

4. Case No.: L10-PHR-RBS-2010000801

Respondent technician admitted to loss prevention to stealing 3 bottles of hydrocodone 10/500 and selling them for \$5/pill. Respondent also admitted to stealing one bottle of amoxicillin, one bottle of omnicef and one tube of bactroban ointment.

Prior discipline: none

Recommendation: authorize formal hearing, revoke

Dr. Bess made the motion to **authorize a formal hearing** for revocation. Dr. Stephens seconded the motion. The motion carried.

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5. Case No.: L10-PHR-RBS-2010000671

Complainant, a PA, alleges that respondent pharmacy refilled a patient's Xanax prescription 9 times when no refills were authorized. The PA also filed a complaint with the DEA, and the local police.

Respondent pharmacy stated that the error was in the input process where a technician mistakenly entered the quantity of 901 instead of 90. They missed it on the 4-point check. Since this was a medication that the patient had taken before, the pharmacists did not think that it was abnormal to have refills. Since the computer stated it was a refill and the patient had been on this medication before, counseling was offered each time, but refused. In a 5 month period, the prescription was refilled a total of 10 days early. When the pharmacist spoke to the PA, he asked if she told the patient that they did not have any refills on the rx and that they needed to come back if they wanted more, and the PA said no.

Prior discipline: \$500 cp for counseling, 2009

Recommendation: authorize formal hearing, \$250 cp to each dispensing for improper DUR

Dr. Bess made the motion to accept counsel recommendation. The motion died for lack of a second. Dr. Kizer made the motion to **authorize a formal hearing** for the misfil of 901 tablets with a \$250.00 civil penalty. Dr. Stephens seconded the motion. The motion carried.

6. Case No.: L10-PHR-RBS-2010000861

Respondent mail order pharmacy shipped 160 maintenance prescriptions to residents in Tennessee without authorization from a licensed prescriber. The patients were all on those medications but were out of authorized refills. Respondent also failed to perform 203 DURs.

Prior discipline: none

Recommendation: require quarterly reporting from PIC, authorize formal hearing; \$100 cp to PIC for each unauthorized medication dispensed; \$1,000 cp to pharmacy for each prescription shipped that was not authorized; \$250 cp to pharmacy for each failure to perform a DUR.

Ms. McDaniel made the motion to **authorize a formal hearing** with a \$100.00 civil penalty to the PIC for each unauthorized medication dispensed, a \$1000.00 civil penalty to the pharmacy for each prescription shipped that was not authorized, a \$250.00 civil penalty to the pharmacy for each failure to perform a DUR and require quarterly reporting for the PIC, suspending the penalty to half and requiring a corrective plan of action because they self-reporting. Dr. Kizer seconded motion. The motion carried.

7. Case No.: L10-PHR-RBS-2010001131

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Complaint alleges that physician's office is not properly counseling patients when dispensing medication and that there are no checks in place to make sure that the prescriptions are filled correctly. There is no evidence that they are filling outside prescriptions.

Prior discipline: none

Recommendation: dismiss, refer to BME

Dr. Warren made the motion to **accept counsel's recommendation** to dismiss and to refer complaint to the Board of Medical Examiners. Dr. Bess seconded the motion. The motion carried.

8. Case No.: L10-PHR-RBS-2010000991

Respondent technician was terminated for forging prescriptions for approximately 11,000 hydrocodone 10/500.

Prior discipline: none

Recommendation: authorize formal hearing, revoke

Dr. Stephens made the motion to **authorize a formal hearing** for revocation. Ms. McDaniel seconded the motion. The motion carried.

9. Case No.: L10-PHR-RBS-2010000851

Respondent pharmacy did not report a change in PIC. The current and former PIC also failed to report the change.

Prior discipline: none

Recommendation: authorize formal hearing, \$100 cp to pharmacy and both pharmacists

Dr. Stephens made the motion to **authorize a formal hearing** with a \$100.00 civil penalty to the pharmacy and both pharmacists. Ms. McDaniel seconded the motion. The motion carried.

10. Case No.: L10-PHR-RBS-2010001181

Complainants, two PICs at nearby pharmacies, allege that respondent pharmacy is transferring prescriptions without patients' knowledge from their pharmacies. The complainants gave two specific patients as examples.

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Respondent replied that the two complainants are unwilling to transfer prescriptions over to her pharmacy and that they are very difficult to deal with. The respondent provided the typed and written statement of one of the named patients stating that they did request the transfer and were unhappy with the delay the complainants' pharmacies were causing.

Prior discipline: none

Recommendation: dismiss

Dr. Stephens made the motion to **accept counsel's recommendation**. Ms. McDaniel seconded the motion. The motion carried.

**11. Case No.: L10-PHR-RBS-2010000731
L10-PHR-RBS-2010000761**

Respondent technician worked on an expired registration for 3 months.

Prior discipline: none

Recommendation: authorize formal hearing, \$100 cp to tech and \$100 PIC

Dr. Warren made the motion to **authorize a formal hearing** with a \$100.00 civil penalty to the technician and a \$100.00 civil penalty to the PIC. Ms. McDaniel seconded the motion. The motion carried.

12. Case No.: L10-PHR-RBS-2010000711

Case was originally presented last board meeting. Respondent pharmacies did not have access to the CSMD starting January 1, 2010 as required by TCA 53-10-310. The bill requiring access starting January 1, 2010 was passed on May 11, 2009.

\$100 cp per store per day was authorized and is the max fine allowed by statute. Counsel now recommends fining ½ the max \$50/day for the first couple of board meetings with an increased fine for repeat offenders and then increase it for all beginning January 1, 2011.

Recommendation: authorize formal hearing, \$50 civil penalty per store per day of no CSMD access.

Ms. McDaniel made the motion to **authorize a formal hearing** with a \$50.00 civil penalty per store per day with not CSMD access. Dr. Stephens seconded the motion. The motion carried.

13. Case No.: L10-PHR-RBS-2010000871

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Complaint alleges that respondent pharmacy was refusing to fill his wife's Oxycontin 40mg without first speaking to the prescriber because it was a Florida physician. After verification, the prescription was filled. The next time, the complainant alleges that the pharmacist said that they would fill it this time, but not again because TN law does not allow out of state prescriptions to be filled. Allegedly, the complainant called the pharmacy's headquarters who stated that it was a TN law that they could not fill out of state prescriptions.

Respondent pharmacists replied that they had questions about the prescription because it was from Florida and it was not on tamper resistant paper, but that since the patient had used this chain's pharmacies in Florida, they ok'd the dispensing. The denied telling the patient that they could not fill out of state prescriptions.

Prior discipline: none

Recommendation: dismiss

Ms. McDaniel made the motion to **accept counsel's recommendation**. Dr. Warren seconded the motion. The motion carried.

14. Case No.: L10-PHR-RBS-2010000911

Respondent Pharmacist failed to replace her renewal certificate when it expired. She had a valid license, just failed to hang up the new one. Also, a tech was working unlicensed for 2 weeks.

Prior discipline: none

Recommendation: LoI to pharmacist for renewal certificate

Dr. Warren made the motion to issue a **Letter of Instruction** to the pharmacist. Dr. Stephens seconded the motion. The motion carried.

15. Case No.: L10-PHR-RBS-2010000821

Complaint arises from a routine inspection. Pharmacy Board investigator found PIC working without notifying the change of practice location to the Board office for 11 months. The investigator also found a technician working on an expired registration for 6 months. Violation end of March

Prior discipline: none

Recommendation: authorize formal hearing; \$100 cp to tech for working on expired registration, \$100 cp to PIC for not informing the board office of change, \$400 cp PIC for unregistered tech, \$100 cp to Pharmacy.

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Dr. Warren made the motion to **authorize a formal hearing** for a \$100.00 civil penalty to the technician for working on an expired registration, a \$100.00 civil penalty to the PIC for not informing the board's office of practice address change, a \$400.00 civil penalty to the PIC for the unregistered technician and a \$100.00 civil penalty to the pharmacy for not notifying the board of the change in PIC. Dr. Kizer seconded the motion. The motion carried.

16. Case No.: L10-PHR-RBS-2010000401

Complaint arises from a routine inspection. Pharmacy Board investigator found a technician working for 6 months on an expired registration. The violation occurred February 2010.

Prior discipline: 2004, LoW for out of date drugs

Recommendation: authorize formal hearing, \$400 cp to PIC for unregistered tech, \$100 cp to tech for working on an expired registration.

Dr. Stephens made the motion to **authorize a formal hearing** with \$400.00 civil penalty to the PIC for the unregistered technician, a \$100.00 civil penalty to the technician for working on an expired registration. Ms. McDaniel seconded the motion. The motion carried.

17. Case No.: L10-PHR-RBS-2010000961

Complaint arises from a routine inspection. Pharmacy Board investigator found a technician working for 6 months on an expired registration. The violation occurred April 2010.

Prior discipline: 98, customer service complaint, closed; 99, customer service complaint, closed; 07, unprofessional conduct, dismiss.

Recommendation: authorize formal hearing, \$400 cp to PIC for unregistered tech, \$100 cp to tech for working on an expired registration.

Dr. Bess made the motion to **authorize a formal hearing** with \$400.00 civil penalty to the PIC for the unregistered technician, a \$100.00 civil penalty to the technician for working on an expired registration. Dr. Stephens seconded the motion. The motion carried.

18. Case No.: L10-PHR-RBS-2010000401

Complaint arises from a routine inspection. Pharmacy Board investigator found one technician working for 6 months on an expired registration and one working on an expired registration for 2 months. The violation occurred February 2010.

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Prior discipline: 2002, mislabeled meds, closed.

Recommendation: authorize formal hearing, \$500 cp to PIC for unregistered techs, \$100 cp to each tech for working on an expired registration.

Dr. Stephens made the motion to **authorize a formal hearing** with a \$500.00 civil penalty to the PIC for unregistered technicians and a \$100.00 civil penalty to each technician working on an expired registration. Ms. McDaniel seconded the motion. The motion carried.

19. Case No.: L10-PHR-RBS-2010000661

Complaint alleges that respondent pharmacy was charging the insurance company more than they should. Complainant thought this because at this compounding pharmacy, they attempt to charge cash patients less than insurance companies.

Respondent replied that they try to charge cash patients less and that in this case, the complainant asked for the pharmacy to run her insurance for the compounded medication. After the insurance company reimbursed the pharmacy, the complainant was very upset that the pharmacy would bill the insurance more than a cash customer. Respondent stated that this was the price the insurance company reimbursed them for and that they have recently gone through an extensive insurance audit which resulted in a satisfactory outcome.

Prior discipline: cust serv issues, dismissed 09

Recommendation: dismiss, refer to Commerce and Insurance.

Dr. Warren made the motion to **accept counsel's recommendation** and to refer complaint to the Department of Commerce and Insurance. Ms. McDaniel seconded the motion. The motion carried.

20. Case No.: L10-PHR-RBS-2010000801

Respondent technician admitted to loss prevention to stealing controlled substances from the pharmacy and was subsequently terminated.

Prior discipline: none

Recommendation: authorize formal hearing, revoke

Dr. Stephens made the motion to **authorize a formal hearing** for revocation. Ms. McDaniel seconded the motion. The motion carried.

21. Case No.: L10-PHR-RBS-2010001001

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Complaint arises from a tip from OIG alleging that a father and son with the same name are engaging in TNCARE fraud by having the father's prescriptions filled under his son's name and billed to his TNCARE ID number.

Pharmacy Board investigator reviewed the DURs for both father and son and found that all prescriptions were entered into the system correctly and that the son (age 16) only had one prescription written for hydrocodone which was a concern of OIG.

Prior discipline: none

Recommendation: dismiss

Ms. McDaniel made the motion to **accept counsel's recommendation**. Dr. Warren seconded the motion. The motion carried. Dr. Bess was recused.

22. Case No.: L10-PHR-RBS-2010000901

Complainant alleges that respondent pharmacy did not transfer her prescriptions properly to another pharmacy and that she had refills on her controlled drugs but that when they were transferred, there were no more refills left. This caused the complainant's PCP to drop her as a patient.

Respondent pharmacy, the pharmacy that the scripts were transferred to and the PCP all responded. The PCP stated that the patient violated her pain management contract by changing pharmacies and forging prescriptions because she never wrote those prescriptions. The respondent replied that when they saw that the PCP called in prescriptions with 5 refills, they called to verify because this MD does not usually authorize refills. It was then confirmed that the scripts were fraudulently called in. The last pharmacy had nothing additional to add, but its story supported the other two.

Prior discipline: none

Recommendation: dismiss

Dr. Bess made the motion to **accept counsel's recommendation**. Ms. McDaniel seconded the motion. The motion carried.

23. Case No.: L10-PHR-RBS-2010001031

Respondent technician failed to notify the board of a change in address.

Prior discipline: none

Recommendation: authorize formal hearing, \$100 cp

Dr. Bess made the motion to **authorize a formal hearing** with a \$100.00 civil penalty. Ms. McDaniel seconded the motion. The motion carried.

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24. Case No.: L09-PHR-RBS-2009002411

Complaint was originally presented at a former board meeting. Complaint alleges that respondent pharmacy dispensed a Diastat Acudial that was not properly dialed and locked. The Diastat Acudial was for a patient at a group home who had 17 seizures that night.

PIC replied that she told the technician to ask the other pharmacist if he knew how to dial the Diastat Acudial and if he did not, to tell her and she would do it. The technician asked the other pharmacist, “are you supposed to do anything with this Acudial before it goes out?” The other pharmacist replied, “no I do not think so.” He has sent a statement stating that he never filled a prescription for this before. The patient’s nurse picked up the Acudial and the pharmacists assumed that she knew how to use it, so no counseling was performed.

After discussions with the respondents’ attorney, it was discovered that this pharmacy has two different pharmacies, one is an institutional pharmacy and the other is community. The Acudial was for a patient in a long-term care facility and was dispensed from the institutional pharmacy. Letters of Warning for the misfills were already sent out.

Prior discipline: none

Recommendation: keep the LoWs for the misfill, but dismiss the counseling complaint based on the institutional pharmacy dispensing to a patient in the institution.

Ms. McDaniel made the motion to issue a **Letter of Warning** for the misfill and dismiss the counseling complaint based on the institutional pharmacy dispensing to the patient in the institution. Dr. Warren seconded the motion. The motion carried.

25. Case No.: L09-PHR-RBS-2009002111

Complaint arises from a report from the TN Dept of health, communicable and environmental disease services. 2 patients that were injected with a syringe of Avastin that was drawn up by this pharmacy developed symptoms of endophthalmitis. The doctor’s office would drop off the stock bottle and have the pharmacy draw up 113 syringes and then pick it up later that day. Samples of the batch of Avastin that was administered were analyzed and showed no contamination in the pharmacy product. The pharmacy was visited numerous times and no problems with aseptic techniques were noted.

This is the same pharmacy and ophthalmologist’s office that had a similar occurrence in November. The board heard the complaint and dismissed it.

Prior discipline: none

Recommendation: dismiss

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Dr. Stephens made the motion to **accept the counsel's recommendation**. Ms. McDaniel seconded the motion. The motion carried.

26. Case No.: L10-PHR-RBS-2010000161

Respondent technician was arrested for creating prescriptions and dispensing them to his girlfriend without authorization from a licensed prescriber. The prescriptions were for Phentermine and Allegra.

Prior discipline: none

Recommendation: authorize formal hearing, revoke

Ms. McDaniel made the motion to **authorize a formal hearing** for revocation. Dr. Kizer seconded the motion. The motion carried.

27. Case No.: L10-PHR-RBS-2010000331

Respondent pharmacist created and dispensed prescriptions for Amoxicillin and Doxycycline Hyclate for a patient that was not authorized by a licensed prescriber. She was terminated for this action.

Prior discipline: none

Recommendation: authorize formal hearing; 2 yr probation with no PIC and quarterly reporting from PIC.

Ms. McDaniel made the motion to **authorize a formal hearing** with probation for 2 years with no PIC and quarterly reporting from the PIC. Dr. Bess seconded the motion. The motion carried.

28. Case No.: L09-PHR-RBS-2009001221

Respondent technician was terminated for testing positive for THC, there was no evidence of impairment while working and no admission statement.

Prior discipline: none

Recommendation: dismiss

Dr. Stephens made the motion to **accept counsel's recommendation**. Ms. McDaniel seconded the motion. The motion carried.

29. Case No.: L10-PHR-RBS-2010000471

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Complainant alleges that the respondent pharmacist refused to fill his wife's prescription for lortab. The complainant's wife was dispensed oxycodone in the morning and according to the respondent, was not due for more for another 6 days. The complainant alleges that his wife threw up the meds in the morning and that is why the doctor called in the prescription for Lortab because it might be easier on her stomach. The respondent did not believe the complainant and refused to fill the script.

Prior discipline: none

Recommendation: dismiss

Dr. Stephens made the motion to **accept counsel's recommendation**. Dr. Bess seconded the motion. The motion carried.

30. Case No.: L10-PHR-RBS-2010000781

Respondent technician admitted to loss prevention to creating prescriptions and dispensing them to her boyfriend without authorization from a licensed prescriber. The prescriptions were for Hydrocodone 10/325, Xanax and Soma, it is unclear how many scripts she forged. She also admitted to taking 80 bottles of Hydrocodone 10/500, 1 bottle of Oxycontin 80mg and selling them for \$200/bottle and \$400/bottle, respectively.

Prior discipline: none

Recommendation: authorize formal hearing, revoke

Ms. McDaniel made the motion to **authorize a formal hearing** for revocation. Dr. Stephens seconded the motion. The motion carried.

31. Case No.: L10-PHR-RBS-2010001071

Complaint alleges that respondent mail-order pharmacy substituted generic medications without informing the patient which name drug the generic was replacing. The patient is on 9 different medications. The respondent received a new prescription for Bystolic Tabs Fl/5 5mg and it was filled and mailed out. The patient at one point had a prescription for Metoprolol Tartrate Tabs C73 25mg that was transferred from respondent pharmacy in 2009.

When the patient called the help number, the pharmacist stated that Bystolic was probably the generic for Metoprolol Tartrate since they were in the same class of medication. When the patient complained of cold extremities, the pharmacist stated that this might be a side effect of the Bystolic and that even though they were in the same class, they might have different side effects.

Prior discipline: med shortage, dismissed 2009

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Recommendation: discuss

Dr. Stephens made the motion to **authorize a formal hearing** with \$1000.00 civil penalty to the PIC and \$1000.00 civil penalty to the pharmacy for inappropriate patient counseling. Ms. McDaniel seconded the motion. The motion carried. Dr. Warren was recused.

32. Case No.: L10-PHR-RBS-2010000701

Respondent, out-of-state, mail-order pharmacy was disciplined by the TX board of pharmacy for a misfill. The prescription was for 180 Warfarin 1mg and was dispensed as 180 Warfarin 10mg. The patient, a 84 year old, caught the mistake before taking any pills and there was no patient harm. In 2004, the pharmacy was also disciplined by the TX board for a similar misfill, a prescription for Thioridazine 10mg was filled as Thioridazine 100mg.

Prior discipline: none

Recommendation: dismiss

Dr. Warren made the motion to **accept counsel's recommendation**. Ms. McDaniel seconded the motion. The motion carried.

33. Case No.: L10-PHR-RBS-2010000951

Respondent pharmacist was disciplined by the IN board of pharmacy in 2005 for creating fraudulent prescriptions for himself, Methylphenidate and Amphetamine Salts. He was given a 5 year term of probation with the peer assistance group monitoring. In January, 2010, he petitioned the Indiana board for the removal of his probation which was granted. He never informed the board of the 2005 Indiana action.

Prior discipline: none

Recommendation: authorize formal hearing, require within 1 year, 6 additional hours of CPE in Tennessee law that will not count towards the 30 required hours.

Dr. Stephens made the motion to issue a **Letter of Warning** for not reporting the disciplinary action, not updating the practitioner profile and take a refresher course in Tennessee Law. Ms. McDaniel seconded the motion. The motion carried.

34. Case No.: L10-PHR-RBS-2010000751

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Respondent pharmacy employed a pharmacist who had a revoked license. The revoked pharmacist worked for 2 months.

Prior discipline: absence of pharmacist, still open, 2009

Recommendation: authorize formal hearing, \$200 cp

Dr. Stephens made the motion to dismiss. The motion died for a lack of a second. Case deferred until the next meeting.

35. Case No.: L10-PHR-RBS-2010001061

Complaint arises from a routine inspection. Pharmacy Board investigator found a technician working for 16 months on an expired registration. Violation in April.

Prior discipline: 2003, med error, dismissed

Recommendation: authorize formal hearing, \$1,400 cp to PIC for unregistered tech, \$100 cp to tech for working on an expired registration.

Dr. Bess made the motion to **authorize a formal hearing** for \$1,400.00 civil penalty to the PIC for the unregistered technician, a \$100.00 civil penalty to the technician for working on an expired registration. Ms. McDaniel seconded the motion. The motion carried.

36. Case No.: L10-PHR-RBS-2010001121

Respondent technician failed to notify the board of a change in address.

Prior discipline: none

Recommendation: authorize formal hearing, \$100 cp

Dr. Bess made the motion to **authorize a formal hearing** with a \$100.00 civil penalty. Dr. Stephens seconded the motion. The motion carried.

37. Case No.: L09-PHR-RBS-2009002591

Complaint arises from a routine inspection. Respondent wholesaler did not have a law book, no certificate was displayed, no written policies or procedures were found, and no record keeping of any kind. Respondent replied that they have ordered the law book and are addressing the other deficiencies. Respondent stated that they opened this satellite location because it was needed to fulfill some bid

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requirements for state contracts and at that time, they have not gained any business in TN. They wanted this office to address any potential business that could be gained.

Prior discipline: none

Recommendation: LoW

Ms. McDaniel made the motion to issue a **Letter of Warning**. Dr. Kizer seconded the motion. The motion carried.

38. Case No.: L10-PHR-RBS-2010000681

Respondent W/M/D closed 12/31/08 and failed to notify the board office. Pharmacy board investigator inspected the site on March 10, 2010 to find it vacated. Respondent stated that they faxed the board office to notify them of the closing prior to 12/31/08 but there is no record of that fax in the office and the respondent could not provide a copy of the fax verification.

Prior discipline: none

Recommendation: authorize formal hearing, \$500 cp

Dr. Stephens made the motion to **authorize a formal hearing** for \$500.00 civil penalty. Dr. Bess seconded the motion. The motion carried.

39. Case No.: L10-PHR-RBS-2010000741

Respondent worked as a pharmacist on a suspended license for 2 months.

Prior discipline: 94-unprofessional conduct; 04-tech ratio; 08-Rx authorization, indefinite suspension.

Recommendation: authorize formal hearing, \$200 cp

Dr. Stephens made the motion to **authorize a formal hearing** for \$200.00 civil penalty. Dr. Warren seconded the motion. The motion carried.

40. Case No.: L10-PHR-RBS-2010000171

Complaint alleges unlicensed activity by a medical clinic for operating a pharmacy. Investigators found no violation.

Prior discipline: none

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Recommendation: dismiss

Dr. Bess made the motion to **accept counsel's recommendation**. Dr. Kizer seconded the motion. The motion carried.

41. Case No.: L10-PHR-RBS-2010001141

Respondent technician admitted to PIC to creating fraudulent scripts for 2 friends without authorization from a licensed provider. The prescriptions were for Hydrocodone. Approximately 3840 Hydrocodone 10/500 pills were dispensed and 1200 Hydrocodone 7.5/500.

Prior discipline: none

Recommendation: authorize formal hearing, revoke

Dr. Kizer made the motion to **authorize a formal hearing** for revocation. Dr. Bess seconded the motion. The motion carried.

42. Case No.: L10-PHR-RBS-2010000681

Respondent W/M/D failed to notify the board office of its closing. Pharmacy board investigator inspected the site on March 1, 2010 to find it vacated.

Prior discipline: none

Recommendation: authorize formal hearing, \$500 cp

Dr. Warren made the motion to **authorize a formal hearing** with a \$500.00 civil penalty. Dr. Stephens seconded the motion. The motion carried.

43. Case No.: L10-PHR-RBS-2010000811

Respondent allegedly changed the quantity on hand by 60 of hydrocodone 10/500. An audit revealed the shortage and the only people working when the quantity was changed was the PIC and the respondent technician. Technician was told that if she changed the count and took the drugs, that she should quit, but if she didn't, she should stay. The tech quit.

Prior discipline: none

Recommendation: authorize formal hearing, revoke

Dr. Bess made the motion to **authorize a formal hearing** for revocation. Dr. Stephens seconded the motion. The motion carried.

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44. Case No.: L10-PHR-RBS-2010001101

Respondent internet veterinary pharmacy is advertising in Tennessee. The pharmacy is not licensed by the Board.

Prior discipline: none

Recommendation: C&D

Dr. Stephens made the motion to **accept counsel's recommendation** to issue a cease and desist letter. Dr. Bess seconded the motion. The motion carried.

45. Case No.: L10-PHR-RBS-2010000771

Complainant alleges that she received two bottles of the same medication from the pharmacy. The complainant also complained about counseling...she was upset that she was not able to tell the tech that she didn't want counseling and had to wait to tell the pharmacist.

Respondent replied that the physician electronically sent in the prescription for furosemide with two different Rx numbers. They assumed that the patient was going on vacation or needed it filled as such for some other reason. They were not able to ascertain this information because the patient immediately refused counseling and was very upset.

Prior discipline: 2009, counseling \$1,000 both disp and pharm; 2008, med refill, open; 2002, misfill, dismissed; 2002 med shortage, dismissed; 2001, out of date drugs, closed; 1999, med error, closed; 1994, misfill, closed.

Recommendation: dismiss

Dr. Bess made the motion to **accept counsel's recommendation**. Dr. Warren seconded the motion. The motion carried.

46. Case No.: L10-PHR-RBS-2010000881

Complainant alleges that respondent pharmacy shorted her 30 Oxycontin 20mg and 25 Percocet 5/325.

Respondent replied that they double counted the prescriptions as evident by the quantity being circled. The patient did not notify the pharmacy of the alleged shortage until several days later.

The response from the respondent indicates that proper counseling is not being performed at this pharmacy. The respondent stated that, "the prescriptions in question were "maintenance" prescriptions

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that the patient had received during the past several months. Since the prescriptions in question were both C-II's, a new hard copy prescription is required for each fill. As the patient had previously received both prescriptions, counseling was offered on the prescriptions by the technician, but it was refused.”

Prior discipline: none

Recommendation: dismiss misfill, authorize formal hearing for counseling violation; \$1,000 cp to dispensing; \$1,000 cp to pharmacy; LoI to PIC

Dr. Stephens made the motion to **dismiss the misfill, authorize a formal hearing** for the counseling violation with a \$1,000.00 civil penalty to the dispensing pharmacists, a \$1,000.00 civil penalty to the pharmacy and a Letter of Instruction to the PIC. Dr. Warren seconded the motion. The motion carried.

47. Case No.: L10-PHR-RBS-2010000521

Complainant alleges that respondent pharmacy dispensed to her another patient's medication. The other patient had the same last name and different first name.

The respondent admitted to the misfill and stated that this was a refill and counseling was offered but refused.

Prior discipline: med error, dismissed 2005

Recommendation: LoW to dispensing for misfill

Dr. Stephens made the motion to issue to a **Letter of Warning** to the dispensing pharmacist for the misfill. Dr. Warren seconded the motion. The motion carried.

48. Case No.: L09-PHR-RBS-2009000271

Complainant alleges that he had an allergic reaction to Terbinafine 250mg. He had no known allergies (both according to him and the respondent's statement based on the patient file). He got better.

Prior discipline: 2002, unprofessional conduct, dismissed; 2008, med shortage, dismissed.

Recommendation: dismiss

Dr. Kizer made the motion to **accept counsel's recommendation**. Dr. Bess seconded the motion. The motion carried.

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49. Case No.: L10-PHR-RBS-2010000791

Respondent technician admitted to loss prevention to taking a Z-pack, birth control, phentermine, promethazine and alprazolam from the pharmacy without authorization from a licensed prescriber. The technician gave the drugs to friends.

Prior discipline: none

Recommendation: authorize formal hearing, revoke

Dr. Bess made the motion **authorize a formal hearing** for revocation. Dr. Stephens seconded the motion. The motion carried.

Dr. Stephens made the motion to adjourn at 5:21 p.m. Dr. Kizer seconded the motion. The motion carried.

The minutes were ratified at the July 14-15, 2010 Board Meeting.