

**TENNESSEE BOARD OF PHARMACY  
JUNE 9-10, 2009  
227 FRENCH LANDING, IRIS ROOM  
NASHVILLE, TN**

**BOARD MEMBERS PRESENT:**

Todd Bess, President  
Bettie Wilson, Vice President  
Larry Hill, Member  
Joyce McDaniel, Consumer Member  
Robert Mitchell, Member  
Charles Stephens, Member

**STAFF PRESENT:**

Kevin K. Eidson, Executive Director  
Alison Cleaves, Chief General Counsel  
Terry Grinder, Pharmacist Investigator  
Ralph Staton, Pharmacist Investigator  
Tommy Chrisp, Pharmacist Investigator  
Richard Hadden, Pharmacist Investigator  
Sheila Bush, Administrator Manager

**MEMBER ABSENT:**

Brenda Warren, Member

The Tennessee Board of Pharmacy convened on Tuesday, June 9, 2009 in the Iris Room, 227 French Landing, Nashville, TN. A quorum of the members being present, the meeting was called to order at 9:09 a.m., C.D.T., by President Dr. Todd Bess. Dr. Bess asked each member to introduce themselves and recognized Ms. Joyce McDaniel as the new public member. Dr. Bess also acknowledge the service of Ms. Monica Franklin, former public member.

**APPROVAL OF MINUTES**

Dr. Robert Mitchell made a motion to accept the minutes from the March 11-12, 2009 as presented. Dr. Bettie Wilson seconded the motion. The motion carried.

**PRESENTATION**

Dr. Kevin K. Eidson, Executive Director of the Board of Pharmacy asked Dr. Baeteena M. Black, Executive Director of the Tennessee Pharmacy Association (TPA), to formally introduce Dr. Merrill Norton. Dr. Norton is a Clinical Associate Professor at the University of Georgia, School of Pharmacy, a National Accredited Addictionologist and the former director of Talbott Recovery. Dr. Norton was invited by the Board of Pharmacy to speak concerning the recovery process for a person who has a substance abuse problem.

Dr. Norton stated that pharmacist, physicians and social workers have scored the highest for substance abuse potential with 11-15% of pharmacists may experience alcohol and/or drug dependence during their professional careers. The number of chemical dependent pharmacists is 10-18% with a ratio of 1 in every 8 pharmacists. Dr. Norton informed the Board that in his experience, the treatment of professionals has become diluted, state pharmacy recovery networks

are not being funded, the My Brother's Keeper Code is not being taught in professional schools, there is a lack of appropriate professional academic training and the pioneers of the movement are gone and who will take their place. According to Dr. Norton, a profile for an impaired pharmacist could be stress, genetic history, trauma history, perfectionistic traits, the number of hours worked, self medication, lack of education and stigma. Addiction is similar to other chronic illnesses because the recovery from it is often a long-term process requiring repeated treatments, relapses to drug abuse can occur during or after successful treatment episodes and participation in self-help support programs during and following treatment can be helpful in sustaining long-term recovery.

In treating addiction, Dr. Norton states that we need have a team approach with roles and responsibilities which would include treatment facilities, pharmacist recovery networks, state regulatory boards and the recovery pharmacist.

## **REQUEST FOR REINSTATEMENTS**

### **Morris B. Haddox III, DPH**

Dr. Eidson introduced Dr. Haddox to the Board. Dr. Haddox is requesting to have his license reinstated. Dr. Haddox's license was revoked on January 29, 2008. After discussion, Dr. Charles Stephens made a motion to reinstate Dr. Haddox's license. Dr. Robert Mitchell seconded the motion. The motion carried. Dr. Haddox's license will be on probation for ten (10) years beginning June 9, 2009 until June 9, 2019 with the following terms and conditions:

- (a) The Respondent shall completely abstain from the consumption of alcohol or any other drugs, except as specified in (b);
- (b) The Respondent shall be able to consume legend drugs or controlled substances prescribed by the Respondent's primary physician, Dan Halford, M.D. The Respondent shall immediately notify the Board office of the name of his primary physician each time the Respondent changes primary physicians;
- (c) The Respondent shall not obtain or attempt to obtain any prescriptions in the Respondent's name for any legend drugs, controlled substances or devices containing same from the physician other than the Respondent's

- primary physician or from any other health care provider, such as a nurse practitioner, physician's assistant or psychiatrist;
- (d) The Respondent shall destroy any unused controlled substances prescribed under the provisions of subsection (b) no later than thirty (30) days following the completion of the prescribed course of treatment;
  - (e) The Respondent shall report to the Board, in writing, the ingestion of any and all legend drugs or controlled substances (a copy of the prescription will satisfy the requirement);
  - (f) The Respondent shall submit to random sampling of urine, blood or bodily tissues for the presence of drugs and alcohol, at the Respondent's own expense, by agents of the Board, for as long as the Respondent has an active license. In the event that the sampling indicates the presence of drugs for which the Respondent does not have the valid prescription or the sampling indicates the presence of alcohol, then formal disciplinary charges may be brought against the Respondent which could result in the revocation of the Respondent's remaining term of probation or the suspension or revocation of the Respondent's license to engage in the practice of pharmacy. Prior to such disciplinary charges being heard by the Board, the Respondent's license may be summarily suspended;
  - (g) The Respondent shall comply with all terms and conditions of the extended aftercare contract he entered into with Tennessee Pharmacist Recovery Network (TPRN). Respondent shall return a copy of said contract with this Consent Order to the Board office;
  - (h) The Respondent shall not serve as pharmacist-in-charge for a period of three (3) years; however, after a period of two (2) years, the Respondent

may petition the Board for a modification of this Consent Order to remove the restrictions upon a show of good cause;

- (i) The Respondent shall not work as a “floater” for a period of three (3) 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;
- (j) The Respondent shall provide written notice requesting an active license, satisfy all past due continuing education, and pay all cumulative license renewal fees and any applicable penalties;
- (k) The Respondent shall complete a pharmacy internship period in Tennessee of one hundred and sixty (160) hours within ninety (90) consecutive days.

**Jan Horn, DPH**

Dr. Eidson introduced Dr. Horn to the Board. Dr. Horn is requesting to have his license reinstated. Dr. Horn’s license was suspended on January 12, 2009. After discussion, Dr. Albert Hill made a motion to reinstate Dr. Horn’s license. Dr. Bettie Wilson seconded the motion. The motion carried. Dr. Horn’s license will be on probation for five (5) years from June 9, 2009 until June 9, 2014 with the following terms and conditions:

- (a) The Respondent shall completely abstain from the consumption of alcohol or any other drugs, except as specified in (b);
- (b) The Respondent shall be able to consume legend drugs or controlled substances prescribed by the Respondent’s primary physician, Michael Collier M.D. The Respondent shall immediately notify the Board office of the name of his primary physician each time the Respondent changes primary physicians;
- (c) The Respondent shall not obtain or attempt to obtain any prescriptions in the Respondent’s name for any legend drugs, controlled substances or devices containing same from the physician other than the Respondent’s primary

- (d) physician or from any other health care provider, such as a nurse practitioner, physician's assistant or psychiatrist;
- (e) The Respondent shall destroy any unused controlled substances prescribed under the provisions of subsection (b) no later than thirty (30) days following the completion of the prescribed course of treatment;
- (f) the Respondent shall report to the Board, in writing, the ingestion of any and all legend drugs or controlled substances (a copy of the prescription will satisfy the requirement);
- (g) The Respondent shall submit to random sampling of urine, blood or bodily tissues for the presence of drugs and alcohol, at the Respondent's own expense, by agents of the Board, for as long as the Respondent has an active license. In the event that the sampling indicates the presence of drugs for which the Respondent does not have the valid prescription or the sampling indicates the presence of alcohol, then formal disciplinary charges may be brought against the Respondent which could result in the revocation of the Respondent's remaining term of probation or the suspension or revocation of the Respondent's license to engage in the practice of pharmacy. Prior to such disciplinary charges being heard by the Board, the Respondent's license may be summarily suspended;
- (h) The Respondent shall comply with all terms and conditions of the extended aftercare contract he entered into with Tennessee Pharmacist Recovery Network (TPRN). Respondent shall return a copy of said contract with this Consent Order to the Board office;

- (i) The Respondent shall not serve as pharmacist-in-charge for a period of three (3) years; however, after a period of two (2) years, the Respondent may petition the Board for a modification of this Consent Order to remove the restrictions upon a show of good cause;
- (j) The Respondent shall not work as a “floater” for a period of three (3) 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;
- (k) The Respondent shall provide written notice requesting an active license, satisfy all past due continuing education, and pay all cumulative license renewal fees and any applicable penalties;
- (l) The Respondent shall complete a pharmacy internship period in Tennessee of one hundred and sixty (160) hours within ninety (90) consecutive days.

**Alvis D.Simmons, DPH**

Dr. Eidson introduced Dr. Simmons to the Board. Dr. Simmons is requesting to have his license reinstated. Dr. Simmons’s license was suspended on January 12, 2009. After discussion, Dr. Wilson made a motion to reinstate Dr. Simmons’s license. Dr. Hill seconded the motion. The motion carried. Dr. Simmons’s license will be on probation for five (5) years from June 9, 2009 until June 9, 2014 with the following terms and conditions:

- (a) The Respondent shall completely abstain from the consumption of alcohol or any other drugs, except as specified in (b);
- (b) The Respondent shall be able to consume legend drugs or controlled substances prescribed by the Respondent’s primary physician, William B. Robinson, M.D. The Respondent shall immediately notify the Board office of the name

- of his primary physician each time the Respondent changes primary physicians;
- (c) The Respondent shall not obtain or attempt to obtain any prescriptions in the Respondent's name for any legend drugs, controlled substances or devices containing same from the physician other than the Respondent's primary physician or from any other health care provider, such as a nurse practitioner, physician's assistant or psychiatrist;
  - (d) The Respondent shall destroy any unused controlled substances prescribed under the provisions of subsection (b) no later than thirty (30) days following the completion of the prescribed course of treatment;
  - (e) The Respondent shall report to the Board, in writing, the ingestion of any and all legend drugs or controlled substances (a copy of the prescription will satisfy the requirement);
  - (f) The Respondent shall submit to random sampling of urine, blood or bodily tissues for the presence of drugs and alcohol, at the Respondent's own expense, by agents of the Board, for as long as the Respondent has an active license. In the event that the sampling indicates the presence of drugs for which the Respondent does not have the valid prescription or the sampling indicates the presence of alcohol, then formal disciplinary charges may be brought against the Respondent which could result in the revocation of the Respondent's remaining term of probation or the suspension or revocation of the Respondent's license to engage in the practice of pharmacy. Prior to

such disciplinary charges being heard by the Board, the Respondent's license may be summarily suspended;

- (g) The Respondent shall comply with all terms and conditions of the extended aftercare contract he entered into with Tennessee Pharmacist Recovery Network (TPRN). Respondent shall return a copy of said contract with this Consent Order to the Board office;
- (h) The Respondent shall not serve as pharmacist-in-charge for a period of three (3) years; however, after a period of two (2) years, the Respondent may petition the Board for a modification of this Consent Order to remove the restrictions upon a show of good cause;
- (i) The Respondent shall not work as a "floater" for a period of three (3) 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;
- (j) The Respondent shall provide written notice requesting an active license, satisfy all past due continuing education, and pay all cumulative license renewal fees and any applicable penalties;
- (k) The Respondent shall complete a pharmacy internship period in Tennessee of one hundred and sixty (160) hours within ninety (90) consecutive days.

Ms. Joyce McDaniel left the meeting at 3:30 p.m.

### **Kimberly Terry Mullen, DPH**

Dr. Eidson introduced Dr. Mullen to the Board. Dr. Mullen is requesting to have her license reinstated. Dr. Mullen's license was suspended on March 12, 2009. After discussion, Dr. Hill made a motion to reinstate Dr. Mullen's license. Dr. Wilson seconded the motion. The motion carried. Dr. Mullen's license will be placed on probation for five (5) years from June 9, 2009 until June 9, 2014 with the following terms and conditions:

- (a) The Respondent shall completely abstain from the consumption of alcohol or any other drugs, except as specified in (b);
- (b) The Respondent shall be able to consume legend drugs or controlled substances prescribed by the Respondent's primary physician, Elizabeth Bray M.D. The Respondent shall immediately notify the Board office of the name
- (c) of his primary physician each time the Respondent changes primary physicians;
- (d) The Respondent shall not obtain or attempt to obtain any prescriptions in the Respondent's name for any legend drugs, controlled substances or devices containing same from the physician other than the Respondent's primary physician or from any other health care provider, such as a nurse practitioner, physician's assistant or psychiatrist;
- (e) The Respondent shall destroy any unused controlled substances prescribed under the provisions of subsection (b) no later than thirty (30) days following the completion of the prescribed course of treatment;
- (f) The Respondent shall report to the Board, in writing, the ingestion of any and all legend drugs or controlled substances (a copy of the prescription will satisfy the requirement);
- (g) The Respondent shall submit to random sampling of urine, blood or bodily tissues for the presence of drugs and alcohol, at the Respondent's own expense, by agents of the Board, for as long as the Respondent has an active license. In the event that the sampling indicates the presence of drugs for which the Respondent does not have the valid prescription or the sampling indicates the presence of alcohol, then formal disciplinary charges may be brought against the Respondent which could result in the revocation of the

Respondent's remaining term of probation or the suspension or revocation of the Respondent's license to engage in the practice of pharmacy. Prior to such disciplinary charges being heard by the Board, the Respondent's license may be summarily suspended;

- (h) The Respondent shall comply with all terms and conditions of the extended aftercare contract he entered into with Tennessee Pharmacist Recovery Network (TPRN). Respondent shall return a copy of said contract with this Consent Order to the Board office;
- (i) The Respondent shall not serve as pharmacist-in-charge for a period of three (3) years; however, after a period of two (2) years, the Respondent may petition the Board for a modification of this Consent Order to remove the restrictions upon a show of good cause;
- (j) The Respondent shall not work as a "floater" for a period of three (3) 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;
- (k) The Respondent shall provide written notice requesting an active license, satisfy all past due continuing education, and pay all cumulative license renewal fees and any applicable penalties;
- (l) The Respondent shall complete a pharmacy internship period in Tennessee of one hundred and sixty (160) hours within ninety (90) consecutive days.

**David Park, DPH**

Dr. Eidson introduced Dr. Park. Dr. Park is requesting to have his license reinstated. Dr. Park was accompanied by Randy Camp, Attorney. Mr. Camp explained to the Board that he was not present as legal counsel for Dr. Park but as a friend and cousin. Dr. Park's license is currently on probation for two (2) years effective November 3, 2008. Dr. Park's has signed a Consent Order placing his license on indefinite suspension that was also to be presented to the Board.

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After discussion, Dr. Stephens made a motion to deny Dr. Park's request to reinstate his license due to a multitude of offenses with diverting prescriptions. Dr. Wilson seconded the motion. The motion carried. Dr. Stephens made a motion to accept the Consent Order that will place Dr. Park's license on indefinite suspension. Dr. Hill seconded the motion. The motion carried. Dr. Wilson made a motion to allow Dr. Park's license to be reinstated once he has successfully completed up to eight (8) hours of continuing education pharmaceutical hours in legal and ethics and successfully complete and pass the MPJE. Dr. Stephens seconded the motion. The motion carried. Dr. Parks can submit the proof of completion of the continuing education pharmaceutical hours and the passage of the MPJE for approval by Dr. Eidson. Dr. Wilson made a motion to place Dr. Parks' license back on probation until November 3, 2010 once he has successfully completed the requirements to reinstate his license. Dr. Stephens seconded the motion. The motion carried.

### **CONSENT ORDERS-REVOCATION**

Dr. Hill made a motion to accept the following Consent Orders as presented. Dr. Mitchell seconded the motion. The motion carried.

#### **Nichols J. Hood, RT**

Ms. Cleaves, Chief legal counsel, presented the Consent Order for the revocation of Mr. Hood's registration as a pharmacy technician. Mr. Hood was found guilty of violating T.C.A. § 63-10-305 (4) and (6), T.C.A. §53-10-104(a) and (b) and T.C.A. § 53-10-105(a).

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#### **Melody Suzanne Vaughn, RT**

Ms. Cleaves, Chief legal counsel, presented the Consent Order for the revocation of Ms. Vaughn's registration as a pharmacy technician. Ms. Vaughn was found guilty of violating T.C.A. § 63-10-305 (4) and (6), T.C.A. § 53-10-104(a) and (b) and T.C.A. § 53-10-105(a).

#### **Melissa Ann Smallen, RT**

Ms. Cleaves, Chief legal counsel, presented the Consent Order for the revocation of Ms. Smallen's registration as a pharmacy technician. Ms. Smallen's was found guilty of violating T.C.A. § 63-10-305 (4) and (6), T.C.A. § 53-10-104(a) and (b) and T.C.A. § 53-10-105(a).

**Lindy Nicole Crockett, RT**

Ms. Cleaves, Chief legal counsel, presented the Consent Order for the revocation of Ms. Crockett's registration as a pharmacy technician. Ms. Crockett was found guilty of violating T.C.A. § 63-10-305 (4) and (6), T.C.A. § 53-10-104(a) and (b) and T.C.A. § 53-10-105(a).

**Verdella Broadus, RT**

Ms. Cleaves, Chief legal counsel, presented the Consent Order for the revocation of Ms. Broadus's registration as a pharmacy technician. Ms. Broadus was found guilty of violating T.C.A. § 53-10-104(a) and (b) and T.C.A. § 53-10-105(a).

**Debbie L. Chadwell, RT**

Ms. Cleaves, Chief legal counsel, presented the Consent Order for the revocation of Ms. Chadwell's registration as a pharmacy technician. Ms. Chadwell was found guilty of violating T.C.A. § 63-10-305(1).

**CONSENT ORDERS-INDEFINITE SUSPENSION**

Dr. Stephens made a motion to accept the following Consent Orders as presented. Dr. Hill seconded the motion. The motion carried.

**Laura Leigh Allen, DPH**

Ms. Cleaves, Chief legal counsel, presented the Consent Order to place Dr. Allen's license on indefinite suspension. Dr. Allen was found guilty of violating Tenn. Comp. R & Regs. Rule 1140-2-.01(4)

**Stephen R. Goss, DPH**

Ms. Cleaves, Chief legal counsel, presented the Consent Order to place Dr. Goss's license on indefinite suspension. Dr. Goss was found guilty of violating Tenn. Comp. R & Regs. Rule 1140-2-.01(4).

**Wesley F. Ball, DPH**

Ms. Cleaves, Chief legal counsel, presented the Consent Order to place Dr. Ball's license on indefinite suspension. Dr. Ball was found guilty of violating Tenn. Comp. R & Regs. Rule 1140-2-.01(4).

**Jennifer Brown Herrell, DPH**

Ms. Cleaves, Chief legal counsel, presented the Consent Order to place Dr. Herrell's license on indefinite suspension. Dr. Herrell was found guilty of violating Tenn. Comp. R & Regs. Rule 1140-2-.01(4).

**James A. Parker, DPH**

Ms. Cleaves, Chief legal counsel, presented the Consent Order to place Dr. Parker's license on indefinite suspension. Dr. Parker was found guilty of violating Tenn. Comp. R & Regs. Rule 1140-2-.01(4).

**Christina McCartney, DPH**

Ms. Cleaves, Chief legal counsel, presented the Consent Order to place Dr. McCartney's license on indefinite suspension. Dr. McCartney was found guilty of violating Tenn. Comp. R & Regs. Rule 1140-2-.01(4).

**Kevin M. Brown, DPH**

Ms. Cleaves, Chief legal counsel, presented the Consent Order to place Dr. Brown's license on indefinite suspension. Dr. Brown was found guilty of violating Tenn. Comp. R & Regs. Rule 1140-2-.01(4).

**Shari Fox Wall, DPH**

Ms. Cleaves, Chief legal counsel, presented the Consent Order to place Dr. Wall's license on indefinite suspension. Dr. Wall was found guilty of violating T.C.A. §63-10-305(3), (5) and (6).

**CONSENT ORDERS-PROBATION**

**Melissa Brunson Bradley, DPH**

Ms. Cleaves, Chief legal counsel, presented the Consent Order to place Dr. Bradley's license on probation for two (2) years with the following conditions: Dr. Bradley shall not fill prescriptions for herself or her family members; must continue to see a medical doctor who specializes in pain management to treat and monitor her medical condition (chronic neck and upper extremity pain) and follow any and all treatment recommendations; and abide by all federal and state laws and rules relating to drugs and to the practice of pharmacy. Dr. Stephens made a motion to accept the Consent Order as presented. Dr. Wilson seconded the motion. The motion carried.

**Marshall V. Jones, Jr., DPH**

Ms. Cleaves, Chief legal counsel, presented the Consent Order to place Dr. Jones's license on probation for two (2) years with the following conditions: Dr. Jones cannot be PIC for one (1) year from the date of this Consent Order; complete a record keeping class and pay five thousand seven hundred and twenty dollar (\$5720.00) civil penalty. Dr. Hill made the motion to accept the Consent Order as presented. Dr. Wilson seconded the motion. The motion carried.

**Kent D. Coleman, DPH**

Ms. Cleaves, Chief legal counsel, presented the Consent Order to place Dr. Coleman's license on probation for two (2) years with the following conditions: Dr. Coleman must successfully complete a continuing education course on medication safety within sixty (60) days upon execution of this Consent Order and provide the Board with proof of having completed this course; and shall abide with all federal and state laws and rules relative to drugs and to the practice of pharmacy. Dr. Wilson made a motion to accept the Consent Order as presented. Dr. Hill seconded the motion. The motion carried.

**Jason D. Heck, DPH**

Ms. Cleaves, Chief legal counsel, presented the Consent Order to place Dr. Heck's license on probation for two (2) years with the following conditions: Dr. Heck must pay a five hundred dollar (\$500.00) civil penalty due and payable immediately upon execution of this Consent Order; shall not fill prescriptions for himself or his family members; and shall abide by all federal and state laws and rules relating to drugs and to the practice of pharmacy. Dr. Wilson made a motion to accept the Consent Order as presented. Dr. Hill seconded the motion. The motion carried.

**CONSENT ORDER-RESTRICTION**

**Jeffrey G. Street, DPH**

Ms. Cleaves, Chief legal counsel, presented the Consent Order for Dr. Street. Dr. Street must surrender his state Drug Enforcement Administration license (DEA) and to the restriction of his license to engage in the practice of pharmacy, such that he cannot dispense controlled substances. Dr. Stephens made a motion to accept the Consent Order as presented. Dr. Wilson seconded the motion. The motion carried.

**CONSENT ORDERS-VIOLATION OF BOARD RULE 1140-3-.01 (1) (a) and (f)**

Dr. Wilson made a motion to accept the following Consent Orders as presented. Dr. Mitchell seconded the motion. The motion carried.

**Lanny Tallyn Mize, DPH**

Ms. Cleaves, Chief legal counsel, presented the Consent Order for Dr. Mize. Dr. Mize was found guilty of violating Tenn. Comp. R. & Regs. Rule 1140-3-.01 (1) (a) and (f) and assessed a five hundred dollar (\$500.00) civil penalty.

**Katherine Cole Hudson, DPH**

Ms. Cleaves, Chief legal counsel, presented the Consent Order for Dr. Hudson. Dr. Hudson was found guilty of violating Tenn. Comp. R. & Regs. Rule 1140-3-.01 (1) (a) and (f) and assessed a five hundred dollar (\$500.00) civil penalty.

**Lois P. McClure, DPH**

Ms. Cleaves, Chief legal counsel, presented the Consent Order for Dr. McClure. Dr. McClure was found guilty of violating Tenn. Comp. R. & Regs. Rule 1140-3-.01 (1) (a) and (f) and assessed a five hundred dollar (\$500.00) civil penalty.

**Sharonda Lachelle Bass, DPH**

Ms. Cleaves, Chief legal counsel, presented the Consent Order for Dr. Bass. Dr. Bass was found guilty of violating Tenn. Comp. R. & Regs. Rule 1140-3-.01 (1) (a) and (f) and assessed a five hundred dollar (\$500.00) civil penalty.

**Titilola O. Ogundiya, DPH**

Ms. Cleaves, Chief legal counsel, presented the Consent Order for Dr. Ogundiya. Dr. Ogundiya was found guilty of violating Tenn. Comp. R. & Regs. Rule 1140-3-.01 (1) (a) and (f) and assessed a five hundred dollar (\$500.00) civil penalty.

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**Kroger Pharmacy #895**

Ms. Cleaves, Chief legal counsel, presented the Consent Order for Kroger Pharmacy #895. Kroger Pharmacy #895 was found guilty of violating Tenn. Comp. R. & Regs. Rule 1140-3-.01 (1) (a) and (f) and assessed a one thousand dollar (\$1000.00) civil penalty.

**CVS Pharmacy #6412**

Ms. Cleaves, Chief legal counsel, presented the Consent Order for CVS Pharmacy #6412. CVS Pharmacy #6412 was found guilty of violating Tenn. Comp. R. & Regs. Rule 1140-3-.01 (1) (a) and (f) and assessed a one thousand dollar (\$1000.00) civil penalty.

**CVS Pharmacy #6434**

Ms. Cleaves, Chief legal counsel, presented the Consent Order for CVS Pharmacy #6434. CVS Pharmacy #6434 was found guilty of violating Tenn. Comp. R. & Regs. Rule 1140-3-.01 (1) (a) and (f) and assessed a one thousand dollar (\$1000.00) civil penalty.

**Mohamed Bamsa, DPH**

Ms. Cleaves, Chief legal counsel, presented the Consent Order for Dr. Bamsa. Dr. Bamsa was found guilty of violating Tenn. Comp. R. & Regs. Rule 1140-3-.01 (1) (a) and (f) and assessed a five hundred dollar (\$500.00) civil penalty.

**Ejike Arinze, DPH**

Ms. Cleaves, Chief legal counsel, presented the Consent Order for Dr. Arinze. Dr. Arinze was found guilty of violating Tenn. Comp. R. & Regs. Rule 1140-3-.01 (1) (a) and (f) and assessed a five hundred dollar (\$500.00) civil penalty.

**Matthew Donio, DPH**

Ms. Cleaves, Chief legal counsel, presented the Consent Order for Dr. Donio. Dr. Donio was found guilty of violating Tenn. Comp. R. & Regs. Rule 1140-3-.01 (1) (a) and (f) and assessed a five hundred dollar (\$500.00) civil penalty.

**Gus W. House, DPH**

Ms. Cleaves, Chief legal counsel, presented the Consent Order for Dr. House. Dr. House was found guilty of violating Tenn. Comp. R. & Regs. Rule 1140-3-.01 (1) (a) and (f) and assessed a five hundred dollar (\$500.00) civil penalty.

**Walgreens Pharmacy #3221**

Ms. Cleaves, Chief legal counsel, presented the Consent Order for Walgreens Pharmacy #3221. Walgreens Pharmacy #3221 was found guilty of violating Tenn. Comp. R. & Regs. Rule 1140-3-.01 (1) (a) and (f) and assessed a one thousand dollar (\$1000.00) civil penalty.

**Mark Wilson, DPH**

Ms. Cleaves, Chief legal counsel, presented the Consent Order for Dr. Wilson. Dr. Wilson was found guilty of violating Tenn. Comp. R. & Regs. Rule 1140-3-.01 (1) (a) and (f) and assessed a five hundred dollar (\$500.00) civil penalty.

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**Wal-Mart Pharmacy #5122**

Ms. Cleaves, Chief legal counsel, presented the Consent Order for Wal-Mart Pharmacy #5122. Wal-Mart Pharmacy #5122 was found guilty of violating Tenn. Comp. R. & Regs. Rule 1140-3-.01 (1) (a) and (f) and assessed a one thousand dollar (\$1000.00) civil penalty.

**Wal-Mart Pharmacy #2322**

Ms. Cleaves, Chief legal counsel, presented the Consent Order for Wal-Mart Pharmacy #2322. Wal-Mart Pharmacy #2322 was found guilty of violating Tenn. Comp. R. & Regs. Rule 1140-3-.01 (1) (a) and (f) and assessed a one thousand dollar (\$1000.00) civil penalty.

**Wal-Mart Pharmacy #710**

Ms. Cleaves, Chief legal counsel, presented the Consent Order for Wal-Mart Pharmacy #710. Wal-Mart Pharmacy #710 was found guilty of violating Tenn. Comp. R. & Regs. Rule 1140-3-.01 (1) (a) and (f) and assessed a one thousand dollar (\$1000.00) civil penalty.

**CONSENT ORDERS-VIOLATION OF BOARD RULE 1140-2-.02 (1) AND (2)**

Dr. Hill made a motion to present the following Consent Orders as presented. Dr. Wilson seconded the motion. The motion carried.

**Joseph R. Knisley, DPH**

Ms. Cleaves, Chief legal counsel, presented the Consent Oder for Dr. Knisley. Dr. Knisley was found guilty of Tenn. Comp. R. & Regs. Rule 1140-2-.02 (1) and (2) and assessed one thousand eight hundred dollar (\$1800.00) civil penalty.

**William B. Staggs, DPH**

Ms. Cleaves, Chief legal counsel, presented the Consent Oder for Dr. Knisley. Dr. Knisley was found guilty of Tenn. Comp. R. & Regs. Rule 1140-2-.02 (1) and (2) and assessed one thousand five hundred dollar (\$1500.00) civil penalty.

**Tabitha G. Ragland, DPH**

Ms. Cleaves, Chief legal counsel, presented the Consent Oder for Dr. Knisley. Dr. Knisley was found guilty of Tenn. Comp. R. & Regs. Rule 1140-2-.02 (1) and (2) and assessed one thousand six hundred dollar (\$1600.00) civil penalty.

**CONSENT ORDER-VIOLATION OF BOARD RULE 1140-1-.09 (1)**

Dr. Stephens made a motion to accept the following Consent Order as presented. Dr. Wilson seconded the motion. The motion carried.

**CVS PHARMACY #3963**

Ms. Cleaves, Chief legal counsel, presented the Consent Order for CVS Pharmacy #3963. CVS Pharmacy #3963 was found guilty of violating Tenn. Comp. R. & Regs. Rule 1140-3-.09 (1) and assessed a two hundred dollar (\$200.00) civil penalty.

**CONSENT ORDER-VIOLATION OF BOARD RULE 1140-2-.2 (6) AND 1140-3-.01 (1) (a) and (f)**

Dr. Wilson made the motion to accept the following Consent Order as presented. Dr. Hill seconded the motion. The motion carried.

**Coleman Clark, DPH**

Ms. Cleaves, Chief legal counsel, presented the Consent Order for Dr. Clark. Dr. Clark was found guilty of violating Tenn. Comp. R. & Regs. Rule 1140-2-.02 (6) and 1140-3-.01(1) (a) and (f) and assessed a total of seven hundred and fifty dollar (\$200.00) civil penalty.

**CONSENT ORDER-VIOLATION OF BOARD RULE 1140-2-.02 (6)**

Dr. Wilson made a motion to accept the Consent Order as presented. Dr. Hill seconded the motion. The motion carried.

**Tariq Waqar, DPH**

Ms. Cleaves, Chief legal counsel, presented the Consent Order for Dr. Waqar. Dr. Waqar was found guilty of violating Tenn. Comp. R. & Regs. Rule 1140-2-.02 (6) and assessed a total of two hundred and fifty dollar (\$250.00) civil penalty.

**CONSENT ORDER-VIOLATION OF BOARD RULE 1140-1-.09 (1)**

Dr. Wilson made a motion to accept the following Consent Order as presented. Dr. Mitchell seconded the motion. The motion carried.

**CVS Pharmacy #4428**

Ms. Cleaves, Chief legal counsel, presented the Consent Order for CVS Pharmacy #4428. CVS Pharmacy #4428 was found guilty of violating Tenn. Comp. R. & Regs. Rule 1140-3-.09 (1) and assessed a four hundred dollar (\$400.00) civil penalty.

**CONSENT ORDER-VIOLATION OF BOARD RULES 1140-1-.02, 1140-3-.03 (9) and 1140-3-.01 (1) (a) and (f)**

Dr. Hill made a motion to accept the following Consent Order as presented. Dr. Wilson seconded the motion. The motion carried.

**Phillip Bradley, DPH**

Ms. Cleaves, Chief legal counsel, presented the Consent Order for Dr. Bradley. Dr. Bradley was found guilty of violating Tenn. Comp. R. & Regs. Rules 1140-1-.02, 1140-3-.03 (9) and 1140-3-.01 (1) (a) and (f) and assessed a one thousand dollar (\$1000.00) civil penalty. Dr. Bradley was also issued a **Cease and Desist** for operating an unlicensed pharmacy practice site at any location on behalf of Bradley Health Services, Bradley Drug Company, Bradley Home Health Care or Bradley Extended Care.

**CONSENT ORDER-VIOLATION OF BOARD RULES 1140-3-.07 and 1140-3-.01 (1) (a) and (f)**

Dr. Stephens made a motion to accept the following Consent Order as presented. Dr. Wilson seconded the motion. The motion carried.

**Maurice Tyree, DPH**

Ms. Cleaves, Chief legal counsel, presented the Consent Order for Dr. Tyree. Dr. Tyree was found guilty of violating Tenn. Comp. R. & Regs. Rules 1140-3-.07, 1140-3-.03 (1) (a) and (f) and assessed a one thousand dollar (\$1000.00) civil penalty.

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**CONSENT ORDER-REINSTATMENT**

Dr. Wilson made a motion to accept the following Consent Order as presented. Dr. Hill seconded the motion. The motion carried.

**Grady L. Saxton, Jr., DPH**

Ms. Cleaves, Chief legal counsel, present the Consent Order to reinstate Dr. Saxton. Dr. Saxton's license will be placed on probation for five (5) years from January 13, 2009 to January 13, 2014 with the following terms and conditions:

- (a) Respondent shall completely abstain from the consumption of alcohol or any other drugs, except as specified in (b);
- (b) The Respondent shall be able to consume legend drugs or controlled substances prescribed by the Respondent's primary physician. The Respondent shall immediately notify the Board office of the name of his primary physician each time the Respondent changes primary physicians;
- (c) The Respondent shall not obtain or attempt to obtain any prescriptions in the Respondent's name for any legend drugs, controlled substances or devices containing same from the physician other than the Respondent's primary
- (d) physician or from any other health care provider, such as a nurse practitioner, physician's assistant or psychiatrist;
- (e) The Respondent shall destroy any unused controlled substances prescribed under the provisions of subsection (b) no later than thirty (30) days following the completion of the prescribed course of treatment;
- (f) The Respondent shall report to the Board, in writing, the ingestion of any and all legend drugs or controlled substances (a copy of the prescription will satisfy the requirement);
- (g) the Respondent shall submit to random sampling of urine, blood or bodily tissues for the presence of drugs and alcohol, at the Respondent's own

- expense, by agents of the Board, for as long as the Respondent has an active license. In the event that the sampling indicates the presence of drugs for which the Respondent does not have the valid prescription or the sampling indicates the presence of alcohol, then formal disciplinary charges may be
- (h) brought against the Respondent which could result in the revocation of the Respondent's remaining term of probation or the suspension or revocation of the Respondent's license to engage in the practice of pharmacy. Prior to such disciplinary charges being heard by the Board, the Respondent's license may be summarily suspended;
- (i) The Respondent shall comply with all terms and conditions of the extended aftercare contract he entered into with Tennessee Pharmacist Recovery Network (TPRN). Respondent shall return a copy of said contract with this Consent Order to the Board office;
- (j) The Respondent shall not serve as pharmacist-in-charge for a period of three (3) years; however, after a period of two (2) years, the Respondent may petition the Board for a modification of this Consent Order to remove the restrictions upon a show of good cause;
- (k) The Respondent shall not work as a "floater" for a period of three (3) 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;
- (l) The Respondent shall provide written notice requesting an active license, satisfy all past due continuing education, and pay all cumulative license renewal fees and any applicable penalties;
- (m) The Respondent shall complete a pharmacy internship period in Tennessee of one hundred and sixty (160) hours within ninety (90) consecutive days.

## **GENERAL DISCUSSION**

Ms. Cleaves asked the Board for permission for Dr. Eidson to sign the Consent Orders that the Board has already approved from the legal report and that a list of the Consent Orders will be available and brought before the Board for approval. After discussion, Dr. Wilson made a motion to allow the President of the Board and the Executive Director to sign the Consent Orders that have Board approval from the legal report. Dr. Hill seconded the motion. The motion carried.

Dr. Hill made a motion to adjourn at 5:15 p.m. Dr. Wilson seconded the motion. The motion carried.

## **JUNE 10, 2009**

The Tennessee Board of Pharmacy convened on Wednesday, June 10, 2009 in the Iris Room, 227 French Landing, Nashville, TN. A quorum of the members being present, the meeting was called to order at 8:15 a.m., C.D.T., by President Dr. Todd Bess.

## **FORMAL OPINIONS**

### **Omnicare, Inc.**

Omnicare submitted a letter asking the Board's permission to use their proprietary dispensing robot known as Automated Label Verification (ALV) and do they need to have a pharmacist approve the dispensing? The ALV robot labels unit dose bingo cards and unit dose medication boxes that have been checked by a pharmacist or are from the manufacturer. The ALV robot performs the labeling and verifies the accuracy of the patient, product and quantity via a series of five bar code scans ensuring the right medication, to the right patient, in the right quantity for patients in long-term care facilities. After discussion, Dr. Wilson made a motion to allow Omnicare to use the ALV robot to dispense medication and to have the pharmacist verify the medication at 2%. Dr. Hill seconded the motion. The motion carried.

### **Repackaging and/or Dispensing**

Ms. Kristi M. Faulkner, Special Counsel to the Commissioner of Children's Services submitted a request asking "How to get medication from the original container to a duplicate container without violating any repackaging and/or dispensing rules regulated by the Board of Pharmacy". The main concern is for children in State custody that take medication and how to dispense the medication when they are allowed home visitations. After discussion, Dr. Stephens made a motion that the Dept. of Children's Services designee, with custody, can transfer the medication from one container to another and it does not constitute the practice of pharmacy and encourages the Dept of Children's Services to ask for duplicate containers when filling prescriptions. Dr. Wilson seconded the motion. The motion carried.

### **Floor stock and Emergency Kits**

Mr. Wes Avery, representing, Turenne Pharmed Co. asked the Board for clarification of floor stock and emergency kits and their use in nursing homes. Dr. Stephens stated the floor stock only applies to legend drugs in licensed facilities with a licensed pharmacy (ex. hospitals). Nursing homes are only licensed as facilities and do not have a licensed pharmacy onsite. Legend drugs are only for a particular patient or in emergency kits. Dr. Stephens also stated that according to the Drug Enforcement Agency (DEA) rules and regulations, nursing homes cannot store controlled substances onsite because they do not have a licensed pharmacy. Mr. Avery stated that the information given was very helpful.

Dr. Stephens also stated that the Board of Pharmacy had a policy statement concerning emergency kits that were approved by the DEA and asked that the policy be listed on the Board's website.

### **WELCOME**

Dr. Bess welcomed Walgreens Pharmacy Interns to the Board meeting and explained to them as well as to Ms. McDaniel the process of a contested case.

### **CONTESTED CASE**

#### **Sarah K. Tennyson, RT**

Ms. Tennyson was not present nor represented by legal counsel. Ms. Alison Cleaves, Chief Deputy General Counsel represented the State. Ms. Lynn England was the Administrative Law Judge. Ms. Cleaves asked for a motion to proceed in default. After discussion, Dr. Stephens made a motion to proceed in default. Dr. Mitchell seconded the motion. The motion carried. Ms. Cleaves passed out the Notice of Charges. Ms. Tennyson is charged with violating T.C.A. §53-10-104(a) (b) and T.C.A. §53-10-105(a). After discussion, Dr. Hill made a motion to revoke Ms. Tennyson's registration as a pharmacy technician. Dr. Wilson seconded the motion. The motion carried. A roll call vote was taken all in the affirmative.

### **APPROVAL OF PHARMACY TECHNICIANS**

Ms. McDaniel made a motion to approve the following applicants for registration as pharmacy technicians in the State of Tennessee.

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Robert Douglas  
Ashley Fatheree  
Thomas Eugene Odom  
Tameisha T. Moore  
Marla Shelly  
Mary Springer

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Jermeika Battle  
Virginia Curtis

### **APPROVAL OF MANUFACTURER/WHOLESALERS**

Dr. Stephens made a motion to approve the following application for manufacturer/wholesalers in the State of Tennessee.

Bedford Laboratories, A Division of Ben Venue Laboratories, Inc.

### **APPROVAL OF PHARMACISTS**

Dr. Stephens made a motion to approve the following applicants for licensure by reciprocity or examination with the exception of Paul E. Dufresne in the State of Tennessee. The Board has requested that Dr. Dufresne appear before the board to ask for licensure. Dr. Mitchell seconded the motion. The motion carried.

Travis Fleming  
Allen David Knee  
James Schumacher  
Harriett Manis  
Jamison Albert Powell  
Timothy John Boehmer  
Russell Gates  
Gregory L. Goodson  
Patrick Durham  
Brandon Michael Markley

### **DENIAL APPEAL**

#### **Valencia Walker, RT**

Ms. Walker registration as a pharmacy technician was denied by the Board at the March 29-30, 2007 board meeting. Ms. Walkers submitted two (2) applications, one showing that she had been convicted of a misdemeanor and the other one did not show that she had been convicted of a misdemeanor. Ms. Walker was issued the registration in error.

Ms. Walker has submitted a new application and a request to appeal the denial of her registration. After discussion, Dr. Stephens made a motion to lift the denial of Ms. Walker's registration and approve her application for registration. Ms. McDaniel seconded the motion. The motion carried with Dr. Mitchell voting no.

## **Michael Rand**

Mr. Rand registration as a pharmacy technician was denied by the Board at the March 2009 board meeting. Mr. Rand was charged with embezzlement and placed on probation for five (5) years. The Board office is in receipt of documents from Mr. Rand showing that the charges have been expunged. After discussion, Dr. Stephens made a motion to lift the denial of Mr. Rand's registration and approve his application for registration. Dr. Wilson seconded the motion. The motion carried.

## **WAIVERS**

**Dr. Timothy W. Holt**, submitted a request to the Board asking for a waiver of board rule 1140-3-14(12). Dr. Holt had previously requested the waiver to allow him to be the pharmacist in charge for Cornerstone Health Systems, LLC as well as his current pharmacy site. Dr. Holt would now like to cancel the above waiver since Cornerstone Health Systems LLC has closed, and have the waiver apply to At Home Meds, LLC. After discussion, Dr. Hill made a motion to allow Dr. Holt to be the pharmacist in charge at his current pharmacy site as well as at At Home Meds, LLC. Dr. Wilson seconded the motion. The motion carried.

**Dr. David W. Powell**, submitted a request to amend his board order. Dr. Powell's license was reinstated on July 15, 2008 with five (5) years probation, with terms and conditions that does not allow him to be the pharmacist in charge for three (3) years. Dr. Powell is requesting that the Board allow him to be the pharmacist in charge for The Dispensary of Hope located in Metro Center Nashville, TN. The Dispensary of Hope does not stock or sell any controlled substances and does not have a DEA registration. After discussion, Dr. Hill made a motion to allow Dr. Powell to be the pharmacist in charge only at The Dispensary of Hope located in Metro Center, Nashville, TN. Dr. Wilson seconded the motion. The motion carried.

**Dr. Sherry Arnhart**, submitted a request to the Board asking for a waiver of board rule 1140-1-.07(3) (b) and 5(i) which is required when reinstating after the license has been expired between one (1) to three (3) years. Dr. Arnhart license in Tennessee expired on October 31, 2007 and she is applying for licensure in the state of Washington. The Washington Board of Pharmacy requires an active license in your original state of licensure before you can apply by reciprocity. Ms. Arnhart will be required to take the MPJE for the state of Washington. After discussion, Dr. Stephens made a motion to grant Dr. Arnhart's request to waive the 160 internship hours and the successful completion of the MPJE need for reinstatement. Dr. Wilson seconded the motion. The motion carried. Dr. Mitchell abstained and Dr. Hill voted no.

## **REQUEST FOR REINSTATEMENT**

### **James P. McNally, DPH**

Dr. Eidson introduced Dr. McNally to the Board. Dr. McNally is requesting to have his license reinstated. Dr. Simmons's license was suspended on January 12, 2009. After discussion, Dr.

Stephens made a motion to reinstate Dr. McNally's license. Dr. Wilson seconded the motion. Dr. Mitchell abstained. The motion carried. Dr. McNally's license will be on probation for five (5) years from June 10, 2009 until June 10, 2014 with the following terms and conditions:

- (a) The Respondent shall completely abstain from the consumption of alcohol or any other drugs, except as specified in (b);
- (b) The Respondent shall be able to consume legend drugs or controlled substances prescribed by the Respondent's primary physician, Christine Schmitz, M.D. The Respondent shall immediately notify the Board office of the name of his primary physician each time the Respondent changes primary physicians;
- (c) The Respondent shall not obtain or attempt to obtain any prescriptions in the Respondent's name for any legend drugs, controlled substances or devices containing same from the physician other than the Respondent's primary physician or from any other health care provider, such as a nurse practitioner, physician's assistant or psychiatrist;
- (d) The Respondent shall destroy any unused controlled substances prescribed under the provisions of subsection (b) no later than thirty (30) days following the completion of the prescribed course of treatment;
- (e) The Respondent shall report to the Board, in writing, the ingestion of any and all legend drugs or controlled substances (a copy of the prescription will satisfy the requirement);
- (f) The Respondent shall submit to random sampling of urine, blood or bodily tissues for the presence of drugs and alcohol, at the Respondent's own expense, by agents of the Board, for as long as the Respondent has an active license. In the event that the sampling indicates the presence of drugs for which the Respondent does not have the valid prescription or the sampling

indicates the presence of alcohol, then formal disciplinary charges may be brought against the Respondent which could result in the revocation of the Respondent's remaining term of probation or the suspension or revocation of the Respondent's license to engage in the practice of pharmacy. Prior to such disciplinary charges being heard by the Board, the Respondent's license may be summarily suspended;

- (g) The Respondent shall comply with all terms and conditions of the extended aftercare contract he entered into with Tennessee Pharmacist Recovery Network (TPRN). Respondent shall return a copy of said contract with this Consent Order to the Board office;
- (h) The Respondent shall not serve as pharmacist-in-charge for a period of three (3) years; however, after a period of two (2) years, the Respondent may
- (i) petition the Board for a modification of this Consent Order to remove the restrictions upon a show of good cause;
- (j) The Respondent shall not work as a "floater" for a period of three (3) 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;
- (k) The Respondent shall provide written notice requesting an active license, satisfy all past due continuing education, and pay all cumulative license renewal fees and any applicable penalties;
- (l) The Respondent shall complete a pharmacy internship period in Tennessee of one hundred and sixty (160) hours within ninety (90) consecutive days.

## LEGAL/COMPLAINT REPORT

### 1. Case No.: L09-PHR-RBS-2009000851

Complainant, physician, alleges that the pharmacy failed to note on the prescription label that the drug prescribed (Ibuprofen) was prescribed on a “prn” basis.

PIC responded to the complaint and notes that while the original Rx contained a frequency of “QD prn”, the request for a refill did not note that and as a result, it was deleted from the prescription directions.

*Prior discipline: None*

#### **Recommendation: Letter of Instruction/ Dismiss**

Dr. Hill made a motion to issue a **Letter of Instruction**. Dr. Wilson seconded the motion. The motion carried.

### 2. Case No.: L09-PHR-RBS-2009010031

Complaint generated from a May 7, 2009 compliance inspection in which an investigator found that there had not been a PIC at this institutional pharmacy for approximately two (2) weeks. While the investigator was still in the pharmacy, the administrator told the investigator that another PIC was not due to come to the hospital for one (1) week. Investigator told her she had one (1) hour to find a PIC and made everyone leave the pharmacy practice area until one was found. There is currently a PIC at the facility.

*Prior discipline:  
2005, no PIC, \$500.00 civil penalty*

#### **Recommendation: Authorize formal hearing (\$1,000.00 civil penalty to the pharmacy)**

Dr. Hill made a motion to **accept counsel’s recommendation** to authorize a formal hearing with fines to the pharmacy. Dr. Mitchell seconded the motion. The motion carried.

### 3. Case No.: L09-PHR-RBS-2009000811

Complainant alleges that she received another patient’s medication (prenatal vitamins) when picking up her prescribed medications.

PIC (who was also the dispensing pharmacist in this instance) responded to the complaint stating that the medication error did occur. The Complainant received several refilled prescriptions at the pharmacy. In the process of picking up her medications, she received another patient's medication, which contained prenatal vitamins. The bag containing the vitamins was inadvertently stapled together with the bags for the Complainant's other medications because both the Complainant and the other patient had the same last name. Once the patient was home, she called the pharmacy to indicate that she had another patient's medication. Pharmacy staff told the Complainant not to take the medication and bring it back to the pharmacy. Complainant returned the vitamins and it was counted to ensure that none of the tablets had been taken.

*Prior discipline: None*

**Recommendation: Letter of Warning to PIC as dispensing pharmacist**

Dr. Mitchell made a motion to **accept counsel's recommendation** to issue a Letter of warning to the PIC as dispensing pharmacist to included language concerning a HIPPA violation. Dr. Wilson seconded the motion. The motion carried.

**4. Case No.: L09-PHR-RBS-2009000661**

Complainant alleges that the pharmacy lost his insurance card. Complainant states that when he dropped off two (2) prescriptions at the pharmacy to be filled, he gave the technician his insurance card and the technician indicated that when he returned to pick up his prescriptions, he would get it back. When the Complainant went to pick up his Rx's, he claims that the pharmacy staff could not locate the card.

Dispensing DPh responded to the complaint stating that whenever she sees an insurance card in the basket, she first puts it in the prescription bag and then writes on the bag "Card in Bag". She did not get any insurance card in the basket with the medication when she dispensed it. After the Complainant indicated that he did not get his insurance card back, the pharmacy staff searched all of the trash containers, prescription filling areas, and the prescription will call area and could not find the Complainant's insurance card. The pharmacy staff contacted the Complainant's insurance company to request a replacement card, but for privacy reasons, as not able to honor the request. The pharmacy staff also contacted other patients who picked up their prescriptions in or around the same time as the Complainant to see if they picked up the insurance card by mistake, but to no avail.

*Prior discipline: None*

**Recommendation: Dismiss**

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

**5. Case No.: L09-PHR-RBS-2009000911**

Complainant alleges that the pharmacy staff refused to fill his wife's Percocet prescription when she picked up her six (6) other prescriptions. Complainant states that when he questioned the technician about not having the Percocet prescription and the technician told him to have the patient call her. The patient contacted the technician who told her that the pharmacy did not have Percocet in stock. Complainant also indicates that she did not receive the prescription back from the technician when the technician stated that she gave it to her.

PIC responded to the complaint stating that the patient did not receive her Percocet because the pharmacy did not have it in stock. Pharmacy staff also explained to the patient that it would be at least five (5) days before the pharmacy received the medication in. PIC states that they then returned the prescription to the patient by stapling it to the bag with her other medications.

*Prior discipline:*

*2007- Lack of patient counseling, \$500.00 CP to pharmacy; \$100.0 CP to DPh.*

**Recommendation: Dismiss**

Dr. Mitchell made a motion to **accept counsel's recommendation**. Dr. Wilson seconded the motion. The motion carried.

**6. Case No.: L09-PHR-RBS-2009000831**

Complainant, physician, alleges that the patient's prescription for Clonazepam was misfilled in that the prescription label did not indicate "prn" and also did not indicate that the medication had to last for thirty (30) days. The original Rx was for 0.25mg Clonazepam, #50 tablets, frequency bid, prn with a notation that it should not be refilled within thirty (30) days. The Rx was filled with Clonazepam 0.5mg, #25 tablets, with no notation of frequency or that it must last thirty (30) days.

PIC admits the errors and also indicates that because of the error, the patient received seventy-five (75) tablets in approximately eighty-seven (87) days from January 19, 2009 to April 16, 2009.

*Prior discipline: None*

**Recommendation: Letter of Warning**

Dr. Stephens made a motion to **accept counsel's recommendation** to issue a Letter of Warning. Ms. Joyce McDaniel's seconded the motion. The motion carried.

**7. Case No.: L09-PHR-RBS-2009000861**

Complainant, physician, alleges that he was receiving requests to sign Rx's for a patient for #360 tablets of Morphine Sulfate ER 60mg along with "emergency supplies" of either eighteen (18) or twelve (12) tablets each week. Complainant indicates that these are massive quantities and would not sign for these. When the Complainant contacted the Respondent, pharmacy, he spoke to a pharmacist who indicated that the Complainant could sign the Rx's but that he would not dispense that many at one time. Pharmacist also told the Complainant that the Complainant could change the quantity. Complainant believes that there is a potential for fraud of abuse of controlled substances with such large quantities prescribed with the potential that drugs will be left over after the expiration or discharge of the patient.

PIC responded to the complaint indicating that they were trying to obtain a prescription for a sixty (60) day supply so that there will not be an interruption in the patient's care, which they may fill in partial quantities. The doctor can always change this quantity at his or her discretion prior to returning the signed Rx to the pharmacy. The PIC also referenced the pharmacy's ability to fill a CSII Rx in partial quantities for a patient with a terminal illness.

*Prior discipline: None*

**Recommendation: Dismiss**

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

**8. Case No.: L08-PHR-RBS-2008002381**

Complainant alleges that the Respondent, physician dispensary, is operating as pharmacy without a license. The matter was investigated again and there is no evidence that this dispensary is operating as a pharmacy.

*Prior discipline: 2009, C & D Letter*

**Recommendation: Dismiss**

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

**9. Case No.: L08-PHR-RBS-2008000021**

Complainant alleges that her prescription for Quinine 200mg was erroneously filled with Quinidine 200mg and that she received the incorrect medication in excess of two (2) years.

PIC responded to the complaint stating that the Complainant did receive the incorrect medication, but only on one (1) occasion (when the original Rx was filled); the error was detected when the Complainant went to have the Rx refilled. Also, the dispensing pharmacist on the original Rx did not perform patient counseling.

*Previous discipline: None*

**Recommendation: Authorize formal hearing (\$1,000.00 to the pharmacy; \$500.00 to the dispensing D.Ph.; and LOI to the PIC) Letter of Warning to the dispensing D.Ph. for the medication error.**

Dr. Stephens made a motion to **accept counsel's recommendation** to authorize a formal hearing with fines to the pharmacy and the dispensing pharmacist, a Letter of Instruction to the PIC and a Letter of Warning to the dispensing pharmacists for the medication error. Dr. Wilson seconded the motion. The motion carried.

**10. Case No.: L09-PHR-RBS-2009000991**

Complaint generated by BOP office alleges that the Respondent, distributor has been operating unlicensed for several years; this violation was detected when the Respondent submitted an application for licensure with the Board. Respondent is also a licensed manufacturer, but failed to have its distribution center licensed with the Board.

*Prior discipline: None*

**Recommendation: Authorize formal hearing (civil penalty)**

Dr. Stephens made a motion to **authorize a formal hearing** and to assess a civil penalty in the amount of eight thousand (\$8000.00) dollars, five hundred (\$500.00) dollars for each year that the distributor was operating in Tennessee without a valid license. Dr. Wilson seconded the motion. The motion carried.

**11. Case No.: L09-PHR-RBS-2009000971**

Complainant, physician, alleges that numerous patients of his have been unable to get their prescriptions filled at the Respondent pharmacy over the past nineteen (19) years.

Complainant refers to some specific incident in which a patient did not receive his antibiotic.

D.Ph. responded to the complaint and responded to the specific incident only. Patient presented with a Rx for Levaquin written by the Complainant. Patient had seen his primary care provider the day before and received a Rx for Bactrim DS. After cultures were returned it was determined that the organisms involved were not sensitive to Bactrim. The patient then saw the Complainant and Levaquin was prescribed. D.Ph. contacted the primary care provider who agreed to change the therapy from Bactrim to Levaquin. An oral prescription was taken from her and the patient received Levaquin without interruption of therapy.

*Prior discipline: None*

**Recommendation: Dismiss**

Dr. Mitchell made a motion to **accept counsel's recommendation**. Dr. Wilson seconded the motion. The motion carried. Dr. Hill recused himself.

**12. Case No.: L09-PHR-RBS-2009000901**

Complainant, physician, alleges that the pharmacy staff refilled a patient's prescription for Lortab earlier than what was prescribed. Complainant alleges that patient was prescribed Lortab 7.5, 2 to 3 times a day, #75, a thirty (30) day supply, with specific instructions not to fill prior to thirty (30) days and with three (3) refills. The Rx was originally filled on January 5, 2009; refilled on January 28, 2009; and then refilled again on February 5, 2009.

Pharmacist responded to the complaint and admits the error of refilling prior to thirty (30) days. D.Ph. states that when she refilled it the first time, the patient indicated to her that she was out of medicine; D.Ph. counseled the patient that if she was having to take more than what was prescribed, then she needed to talk to her doctor. On the second refill, the patient indicated to the pharmacist that she was going out of town for a dying family member. D.Ph. agreed to fill the Rx, but rerun it the day that it was due. D.Ph. states that she again counseled the patient that if she needed more medication, she needed to contact her physician.

*Prior discipline: None*

**Recommendation: Letter of Warning**

Dr. Stephens made a motion to **accept counsel's recommendation** to issue a Letter of warning to the pharmacist. Dr. Mitchell seconded the motion. The motion carried.

**13. Case No.: L09-PHR-RBS-2009000681**

Complainant alleges that the pharmacy staff indicated incorrect instructions on her daughter's prescription. Complainant's daughter was prescribed Lithobid. The instructions on the prescription bottle were to take ½ tablet at bedtime one week then one at bedtime for one week, ½ tablet in the morning and 1 tablet at bedtime. Complainant indicates that her concern is that Lithobid is time-released and to cut the tablet in half would counteract the reason for the time-released effect and may subject her to increased side effects. Complainant indicates that she did speak with the pharmacist who told her that he did talk to the nurse who asked the doctor and the doctor indicated that it was acceptable to split the pill in half. Complainant believes that the pharmacist should not have filled the Rx until speaking with the doctor.

D.Ph. responded to the complaint indicating that a new Rx was called in for Lithobid 300mg #35 (150mg at bedtime for one week, then 300mg at bedtime for one week then 150mg in the morning and 300mg at bedtime. Because the Rx was calling for extended release tablets, he called the prescriber's office to confirm that the doctor wanted to dispense 300mg tablets and that he wanted them cut in half because Lithobid does not come in 150mg. D.Ph. spoke to the nurse who indicated that that was in fact the physician's intent. D.Ph. states that when the Complainant came to pick up the Rx, the offer to counsel was made and the Complainant refused (it was a new Rx).

*Prior discipline: None*

**Recommendation: Dismiss**

After discussion, Dr. Hill made a motion to send a **Letter of Instruction** to the pharmacist. Dr. Wilson seconded the motion. The motion carried.

**14. L08-PHR-RBS-2008002331**

Complaint generated from a November 20, 2008 period compliance inspection during which a BOP investigator found that an unregistered pharmacy technician was working at the pharmacy. Tech's registration expired on August 31, 2008. The technician is currently registered.

*Prior discipline: None*

**Recommendation: Authorize formal hearing (\$100.00 civil penalty to PIC)**

Dr. Mitchell made a motion to **authorize a formal hearing**, assess a one hundred (\$100.00) dollar civil penalty to the PIC and to send a Letter of Warning to the pharmacy technician. Dr. Wilson seconded the motion. The motion carried.

**15. Case No.: L09-PHR-RBS-2009000441**

Complainant alleges that the Respondent committed a medication error by dispensing Amlodipine 5mg when 10mg was prescribed. The patient consumed forty-six (46) tablets that resulted in unstable blood pressure.

Pharmacist responded to the complaint stating that the medication error did occur. It was a refilled prescription and that while the pharmacist did counsel the patient, he never caught that 5mg was dispensed instead of 10mg.

*Prior discipline: None*

**Recommendation: Letter of Warning**

Dr. Stephens made a motion to **accept counsel's recommendation** to send a Letter of Warning. Dr. Mitchell seconded the motion. The motion carried.

**16. Case No.: L09-PHR-RBS-2009000411**

Complainant, physician, alleges that the pharmacy staff refused to fill a child's prescription for Doxycycline stating that prior authorization was needed. Doxycycline was prescribed for persistent fever and rash because of a possibility of a tick born disease. Complainant indicates that a Grier override should have been attempted.

D.Ph. responded to the complaint stating that the Rx was rejected by the insurance company because prior authorization was required. Pharmacy policy is to contact the doctor immediately to see if substitution or prior authorization is preferred. A Grier override was not attempted in this situation because the pharmacy did not have all of the information that it needed. D.Ph. indicates that the pharmacy technician faxed the prescriber twice to ask if prior authorization or substitution was preferred and did not receive an answer other than the physician's dissatisfaction with the patient not receiving the medication. Ultimately, the Rx was never picked up and placed on the patient's profile in a hold status.

*Prior discipline:*

*Pharmacy: 2006, lack of patient counseling, \$500.00 civil penalty*

**Recommendation: Dismiss**

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

**17. Case No.: L09-PHR-RBS-2009000601**

Complainant alleges that there are two (2) unregistered individuals working at the pharmacy as pharmacy technicians without registration with the Board.

Investigator went to the pharmacy on March 13<sup>th</sup> and observed two (2) individuals performing pharmacy technician duties, both of which are unregistered with the Board. They stated that they believed that the PIC sent in an application approximately two (2) weeks prior to the investigator's visit. Investigator verified with the BOP office that there were no pending registration applications. Both technicians had been working at the pharmacy for less than one (1) month. As March 25<sup>th</sup>, both technicians have been registered with the Board.

*Prior discipline:*

*Pharmacy: 2005, unprofessional conduct, letter of warning*

**Recommendation: Letter of Warning**

Dr. Stephens made a motion to **dismiss the complaint**. Dr. Mitchell seconded the motion. The motion carried.

**18. Case No.: L08-PHR-RBS-2008111811**

Complaint generated from a DEA investigation alleging that the Respondent has been filling a high rate of prescriptions for approximately four (4) prescribers. As a part of the DEA investigation, the Respondent was interviewed and indicated that the reason for the unusually high volume of controlled substance prescriptions was that the pharmacy has a \$3.00 prescription fee. Our investigator performed an audit of controlled drugs at the pharmacy and did not see any anomalies.

*Prior discipline:*

*Pharmacy: 1995, Rx authorization, 2 yrs. Probation and \$5,000 civil penalty*

**Recommendation: Dismiss**

Dr. Hill made a motion to **accept counsel's recommendation**. Dr. Wilson seconded the motion. The motion carried.

**19. Case No.: L08-PHR-RBS-2008001831**

Complainant alleges and the Respondent admits to filling fraudulent prescriptions for Hydrocodone and Tussionex several times. Respondent states that she was convinced to write the prescriptions for another individual who paid cash for them for which the Respondent received approximately \$1,500.00.

*Prior discipline: None*

**Recommendation: Authorize formal hearing (\$500.00 civil penalty and 2 year term of probation)**

Dr. Stephens made a motion to **accept counsel's recommendation** for a formal hearing with two (2) year probation and assessed five hundred (\$500.00) civil penalty. Dr. Mitchell seconded the motion. The motion carried.

**20. Case No.: L08-PHR-RBS-2008001821**

Complainant, advanced practice nurse, alleges that a member of the pharmacy staff told a patient of hers that Oxycontin 20mg only comes in brand name when the patient went to fill his Oxycontin prescription and that TennCare would not pay for it. Complainant also alleges that a member of the pharmacy staff told the patient that the APN should write the Rx for Oxycontin 40mg and that the patient could then cut the pills in half.

PIC responded to the complaint indicating that based on a search of the pharmacy records, she cannot find where the pharmacy filled an Oxycontin Rx for the patient named by the Complainant in any strength. The pharmacy named in the complaint as well as a nearby pharmacy in the same retail chain filled CII Rxs, but never Oxycontin. PIC also made a search of another nearby pharmacy (different retail chain) and Oxycontin was not filled for the patient there either.

*Prior discipline:  
Pharmacy: None*

**Recommendation: Dismiss**

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

**21. Case No.: L09-PHR-RBS-2009000231**

Complaint generated by BOP staff after receiving information that the Respondent pharmacy filled prescriptions for a controlled substance for a pregnant woman. While the pharmacy filled the controlled substance Rx's for the patient, the patient was not visibly pregnant nor did the patient indicate that she was pregnant.

*Prior discipline: 2007, lack of patient counseling, \$500.00 civil penalty*

**Recommendation: Dismiss**

Dr. Mitchell made a motion to **accept counsel recommendation**. Dr. Wilson seconded the motion. The motion carried.

**22. Case No.: L08-PHR-RBS-2008000061**

Respondent pharmacist has been disciplined in another state for having pre-packaged vials of controlled substances at the pharmacy where she was the pharmacist in charge that were either misbranded or mislabeled. Other state board placed the Respondent on a five (5) year term of probation from January 1, 2007 to January 1, 2012 with the following terms: shall not violate laws or rules; shall remain alcohol and drug free; shall be prohibited from being a pharmacist in charge; shall continue treatment from the addictionologist; shall submit to random urine screens; shall provide the board with a copy of medical records.

**Recommendation: Authorize formal hearing (mirror other state's discipline)**

Dr. Stephens made a motion to **authorize a formal hearing** to mirror the other state's discipline. Dr. Wilson seconded the motion. The motion carried.

**23. Case No.: L09-PHR-RBS-2009000921**

Complaint indicates that the Respondent pharmacist has been disciplined in another state. Review of BOP records indicate that the Respondent's license to engage in the practice of pharmacy in Tennessee expired on March 31, 2007.

*Prior discipline: None*

**Recommendation: Close and flag upon reapplication**

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

**24. Case No.: L08-PHR-RBS-2008000441**

Complainant alleges that the Respondent, pharmacist, was exhibiting behavior of a suspicious nature while working at the pharmacy.

In February, 2009, BOP investigators obtained a statement from the Respondent who denied any unauthorized or illegal drug use or any theft of drugs from the pharmacy. Investigators also conducted an audit at that time which revealed a loss of Ambien 5mg (67 were in the initial inventory, none were dispensed and all were unaccounted); Ambien 10mg (a loss of 326); Zolpidem 10mg (a loss of 511); Diazepam 5mg (a loss of 944); Diazepam 10mg (1,181 short); Clonazepam 1mg (359 short); Hydrocodone 5/500 (1,187); Hydrocodone 7.5/500 (2,566 short); and Hydrocodone 10/500 (9,620 short). The Respondent did not know the reason for the losses.

In March, 2009, BOP investigators conducted another audit and found the following: Ambien 5mg (0 losses); Zolpidem 5mg (1 short); Ambien 10mg (62 short); Zolpidem 10mg (191 short); Diazepam 5mg (38 overage); Diazepam 10mg (635 shortage); Clonazepam 1mg (2 short); Hydrocodone 5/500 (1,511 short); Hydrocodone 7.5/500 (286 over); Hydrocodone 10/500 (287 short).

Investigator could not link the losses to the D.Ph. or anyone else specific in the pharmacy.

*Prior discipline: None*

**Recommendation: Authorize formal hearing (\$1,000.00 civil penalty and five (5) year term of probation)**

Dr. Stephens made a motion to **authorize a formal hearing** with five (5) years of probation and one thousand (\$1000.00) civil penalty for the pharmacist. Dr. Mitchell seconded the motion. The motion carried. After discussion, Dr. Hill made a motion to **authorize a formal hearing** to include the pharmacy. Dr. Wilson seconded the motion. The motion carried.

**25. Case No.: L09-PHR-RBS-2009000961**

Complainant alleges that the pharmacist misfilled his prescription for Levaquin 750mg. Complainant states that the prescription was written for fourteen (14) tablets, but he was dispensed and charged for twenty-eight (28) tablets. A copy of the Rx was provided with

the complaint which provides 1 (one) tablet, oral, daily, 28 days X 14 tablet. In the quantity section of the prescription, it says 14 and the days supply says 28.

Dispensing pharmacist responded to the complaint stating that she filled the Rx with twenty-eight (28) tablets because of the therapy duration (28 days) believing that fourteen (14) tablets may be sub-therapeutic. The patient did not pay anything to the pharmacy and the pharmacy is working with the Complainant's insurance company to rebill the claim for fourteen (14) tablets.

*Prior discipline:: None*

**Recommendation: Dismiss**

Dr. Mitchell made a motion to **accept counsel's recommendation**. Dr. Wilson seconded the motion. The motion carried.

**26. Case No.: L09-PHR-RBS-2009001041**

Complainant alleges that his prescription for Levothyroxine 125mcg was misfilled with 25mcg. The patient consumed the medication (the period of time is unknown).

Dispensing pharmacist responded to the complaint stating that the medication error did occur. It was a refilled Rx and patient counseling was offered (D.Ph. did not state whether counseling actually occurred). The error occurred in selecting a different NDC number for the drug and the wrong strength was selected.

*Prior discipline: 2007, Medication error, LOI*

**Recommendation: Letter of Warning**

Dr. Mitchell made the motion to **accept counsel's recommendation** to issue a Letter of Warning to the pharmacy. Dr. Stephens seconded the motion. The motion carried.

**27. Case No.: L09-PHR-RBS-2009000871**

Complainant alleges that when her husband went to pick up her prescription for Nexium, a new Rx, she was not counseled. When she got the Rx, she read the information along with it which provided that she should not take it if she is on Lanoxin (which the patient is taking).

PIC responded to the complaint and states that he has reviewed the pharmacy records and cannot find any record that they filled a Rx for the patient for Nexium and has no

recollection of the alleged incident. Although the complaint provides that the pharmacy filled the Nexium Rx for the patient on January 17, 2008, pharmacy records indicate that the pharmacy did not fill any Rx's for the patient between December 31, 2008 and February 6, 2009.

*Prior discipline:*

*Pharmacy: None*

*PIC: 2008, registration of technicians, \$800.00 civil penalty*

**Recommendation: Dismiss**

Dr. Mitchell made a motion to **accept counsel's recommendation**. Dr. Wilson seconded the motion. The motion carried.

**28. Case No.: L09-PHR-RBS-2009000791**

Complainant alleges that the Respondent, pharmacy technician, admitted to removing Hydrocodone and Alprazolam from the pharmacy without authorization. Respondent's pharmacy technician registration expired on May 31, 2007.

**Recommendation: Close and flag upon reapplication**

Dr. Hill made a motion to **accept counsel's recommendation**. Dr. Wilson seconded the motion. The motion carried. After discussion, Dr. Wilson made a motion to ask counsel to research if the pharmacy technician worked after registration expired. Dr. Hill seconded the motion. The motion carried.

**29. Case No.: L09-PHR-RBS-2009000741**

Complaint generated from a routine compliance inspection in which an investigator discovered that there was no PIC at the pharmacy practice site and there had not been one there since October, 2008. Also discovered was an individual operating as a pharmacy technician without registration for approximately six (6) months.

*Prior discipline: None*

**Recommendation: Authorize formal hearing (\$250.00 civil penalty to pharmacy for no PIC and \$400.00 civil penalty to the pharmacy for unregistered technician)**

Dr. Stephens made a motion to **authorize a formal hearing** with a two hundred and fifty (\$250.00) dollar civil penalty to the pharmacy for no PIC, a four hundred (\$400.00) dollar civil penalty to the pharmacy for unregistered technician and a Letter of Warning

for the pharmacy technician for not being registered. Dr. Wilson seconded the motion. The motion carried.

**30. Case No.: L08-PHR-RBS-2008001631**

Complainant (husband of the patient) alleges that his wife's prescription for iron pills was misfilled with Clonazepam that was prescribed for another patient.

PIC admits that the error occurred. This was a new Rx. PIC indicates that patient counseling was offered, that it did occur, but it was brief. When the dispensing counseled the patient, he did not look in the bag.

*Prior discipline:*  
*D.Ph. None*

*Pharmacy: 2007, unlicensed activity, \$100.00 civil penalty*

**Recommendation: Letter of Warning for the misfill and discussion about patient counseling**

Dr. Stephens made a motion to **accept counsel's recommendation** to issue a Letter of Warning and a Letter of Instructions. Dr. Mitchell seconded the motion. The motion carried.

Dr. Mitchell left the meeting at 1:30 p.m.

**31. Case No.: L09-PHR-RBS-2009000751**

Complaint generated from an April 1, 2009 opening inspection for a new pharmacy. When the investigator arrived at the practice site, controlled drugs had already been received and were already placed on shelves.

*Prior discipline; None*

**Recommendation: Letter of Warning**

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

**32. Case No.: L09-PHR-RBS-2009000761**

Respondent, pharmacist was sent a Letter of Admonishment from another Board of Pharmacy for purchasing drugs from an unlicensed wholesaler. When he realized the error, the Respondent's pharmacy stopped purchasing from the unlicensed wholesaler. Respondent, as the pharmacist in charge at the pharmacy, also indicates that he has put procedures into place to prevent this oversight from happening again.

*Prior discipline: None*

**Recommendation: Letter of Warning**

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

**33. Case No.: L08-PHR-RBS-2008002601**

Complainant alleges that the pharmacy failed to reverse the charges to her credit card for her Topamax prescription after she did not want it filled.

PIC responded to the complaint stating that the Complainant mailed four (4) Rx's for Topamax 50mg to the pharmacy. The pharmacy staff left a message for the Complainant for an update on her credit card information. Before she could call them back, the pharmacy found the information and began to dispense the medications and process the orders. When the Complainant called back, pharmacy staff advised her of the price of the drugs and she cancelled the order; however, staff advised her that the order was in packaging and unable to be stopped. Pharmacy indicated that they would take whatever steps are necessary to adjust her account balance to reflect that no funds are or will be owed.

*Prior discipline: None*

**Recommendation: Dismiss**

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

**34. Case No.: L08-PHR-RBS-2008001741**

Complainant alleges that the Respondent pharmacist misfilled the patient's prescription for Paxil with Plavix. Patient consumed the medication for an undisclosed number of days and experienced panic attacks, nervousness, dizziness, and weakness.

PIC responded to the complaint indicating that the misfill had occurred and that the PIC was the dispensing pharmacist in this case. Another pharmacist completed the dispensing process by delivering the medication to the patient and failed to perform patient counseling on this new Rx.

*Prior discipline:*

*PIC: 2006, medication error, \$100.00 CP for lack of patient counseling*

**Recommendation: Letter of Warning to dispensing for misfill. Authorize formal hearing (LOI to PIC; \$500.00 civil penalty to dispensing; and \$1,000.00 civil penalty to pharmacy for lack of patient counseling)**

Dr. Hill made a motion to issue a **Letter of Warning** to the dispensing pharmacist for a misfill along with a five hundred dollar (\$500.00) civil penalty, authorize a formal hearing with a Letter of Instruction to the pharmacist in charge and a one thousand dollar (\$1000.00) civil penalty to the pharmacy for lack of patient counseling. Dr. Wilson seconded the motion. The motion carried.

### **35. Case No.: L09-PHR-RBS-2009010051**

Complainant alleges that pharmacy staff failed to perform patient counseling in dispensing an original Rx for Promethazine and Relenza about the proper usage and assembly of the products.

PIC responded to the complaint stating that it is the pharmacy policy to offer counseling to patients for all new and refilled Rxs. Pharmacy technician indicates that the patient was given an offer to counsel by the pharmacist, but declined the offer.

*Prior discipline: None*

**Recommendation: Authorize formal hearing (LOI to PIC; \$500.00 civil penalty to dispensing; and \$1,000.00 civil penalty to pharmacy for lack of patient counseling)**

Dr. Hill made a motion to **authorize a formal hearing** with a Letter of Instruction to the pharmacist in charge, a five hundred dollar (\$500.00) civil penalty to dispensing and a one thousand dollar (\$1000.00) civil penalty to the pharmacy for lack of patient counseling. Dr. Wilson seconded the motion. The motion carried.

**36. Case No.: L09-PHR-RBS-2009000951**

Complainant alleges that her child's prescription was misfilled. Patient was a four (4) month old child who had thrush. Patient was dispensed Fluconazole Oral Suspension 35ml 40mg/ml. The directions on the Rx stated "Take 4cc on day one and take two cc on days 2-10. Prior to being dispensed this medication, the patient had already had three rounds of Nystatin and one round of fluconazole from the same pediatric office. Complainant states that after administering the medication as stated on the directions, the child spit up blood twice. Complainant brought the child back to the Dr. and Dr. stated that the Rx was written for the incorrect dosage based on the child's weight. Complainant stated that the pharmacist should have asked about the weight of the child before dispensing.

PIC (in this instance the verifying pharmacist) stated that they filled the Rx in strict conformity to the Rx. There was no weight of the child recorded on the Rx. Although the PIC thought that the day 1 dose was high, she thought it was not excessive because of the previous failed therapies. The pharmacist who completed the dispensing process by delivering the Rx to the Complainant could not recall whether patient counseling was performed in accordance with BOP rules.

*Prior discipline: None*

**Recommendation: Discuss**

Dr. Hill made a motion to **dismiss** the complaint. Dr. Wilson seconded the motion. The motion carried.

**37. Case No.: L09-PHR-RBS-2008002421**

Respondent pharmacy technician tested positive for drugs (names of drugs not disclosed) when applying for a position as a pharmacy technician. We received the case in December, 2008 and sent it for investigations to obtain additional evidence, such as the UDS and in the pendency, the Respondent's registration expired in January, 2009.

**Recommendation: Close and Flag**

Dr. Wilson made a motion to **accept counsel's recommendation**. Dr. Hill seconded the motion. The motion carried.

**38. Case No.: L08-PHR-RBS-2008000491**

Respondent, pharmacy technician, was terminated for removing Hydrocodone from the pharmacy without prescriber authorization. Respondent's registration expired on June 30, 2008.

**Recommendation: Close and Flag**

Dr. Hill made a motion to **accept counsel's recommendation**. Dr. Wilson seconded the motion. The motion carried.

**39. Case No.: L09-PHR-RBS-2009000641**

Complainant alleges that a medication error occurred at the pharmacy. Complainant (patient) was prescribed Amoxil 500mg and Polysproin Opthal Ointment for conjunctivitis. Complainant was dispensed Amoxil and the pharmacy brand double antibiotic ointment instead of the Polysproin Othal Ointment. Complainant put the incorrect ointment in his eyes.

PIC responded to the complaint stating that the medication error did occur and it was as new Rx. Patient was not performed. In order to prevent this error from happening in the future, they are completed an internal report in the pharmacy's strategic tracking and record system as well as reinforcing to employees the laws and rules relative to patient counseling.

*Prior discipline:*

*Pharmacy: 2004, medication error, LOW*

**Recommendation: Letter of Warning to dispensing Authorize formal hearing (LOI to PIC; \$500.00 civil penalty to dispensing; and \$1,000.00 civil penalty to pharmacy for lack of patient counseling) Question: who gets the LOW for the misfill – PIC check drug, dosage, frequency and physician. Another pharmacist on duty completed the product review.**

Dr. Wilson made a motion to issue a **Letter of Warning** to the dispensing pharmacist and the pharmacist in charge, **authorize a formal hearing** with a Letter of Instruction to the pharmacist in charge, a five hundred dollar (\$500.00) civil penalty to the dispensing pharmacist and a one thousand dollar (\$1000.00) civil penalty to the pharmacy for lack of patient counseling. Dr. Hill seconded the motion. The motion carried.

**40. Case No.: L09-PHR-RBS-2009000731**

Complainant alleges that she did not receive her Plavix Rx. Complainant went to the pharmacy to pick up her prescriptions for Alprazolam and Plavix and claims that she only received the Alprazolam Rx.

PIC responded to the complaint indicating that the Complainant signed for both Rxs and paid for them. PIC also attached a copy of the patient profile and DPC scan for both medications indicating that both medications were dispensed to the Complainant. PIC also indicates that pharmacy staff searched the pharmacy and did not find the Complainant's Plavix Rx left behind. PIC also mentions that the Complainant was dispensed both medications on February 14, 2009 and the first time they were made aware that she was missing medication was on March 26, 2009.

*Prior discipline:*

*Pharmacy: 2007, absence of a pharmacist, \$250.00 civil penalty to pharmacy*

**Recommendation: Dismiss**

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

**41. Case No.: L08-PHR-RBS-2008002351**

Complaint generated from a periodic compliance inspection conducted in which BOP investigator found two (2) individuals operating as pharmacy technicians without registration by the Board. At the time of the inspection, only a temporary PIC was at the pharmacy; he was PIC at the practice site from October 6, 2008 to October 15, 2008. The majority of the time in which the technicians were unregistered was with another pharmacist who was the PIC there from 2000 to October 6, 2008.

*Prior discipline:*

*Pharmacy: 2006, medication error, LOW to dispensing DPh*

**Recommendation: Authorize formal hearing (\$1,000.00 civil penalty to the PIC)**

Dr. Stephens made a motion to **authorize a formal hearing** with a one thousand dollar (\$1000.00) civil penalty to the pharmacist in charge. Dr. Wilson seconded the motion. The motion carried.

**42. Case No.: L09-PHR-RBS-2009000461**

Complaint (patient) alleges that she was given the generic for her blood pressure medication and had an allergic reaction to taking this medication. Complainant also alleges that she was not counseled on the new Rx's that she presented to the pharmacy.

PIC responded to the complaint. Complainant was prescribed Acyclovir 400mg, Norvasc 5mg, and Rozerem 8mg. She was dispensed the generic for the Norvasc and the Acyclovir. Complainant did not complain about being dispensed the generic for Acyclovir and only complained about being dispensed the generic for Norvasc when she brought it back to the pharmacy. PIC states that the complainant never indicated to the pharmacy staff that she wanted the brand name for Norvasc when she presented or picked up the Rx. Pharmacy staff attempted to counsel the Complainant, but repeatedly stated her dissatisfaction with the pharmacy and would not listen.

*Prior discipline: None*

**Recommendation: Dismiss**

Dr. Hill made a motion to **accept counsel's recommendation**. Dr. Wilson seconded the motion. The motion carried.

**43. Case No.: L09-PHR-RBS-2009000501**

Complainant, physician, alleges that the pharmacist refused to fill a Rx written for Mepergan and refused to substitute two (2) separate vials (one for Demerol and one for Phenergan). Pharmacist responded to the complaint stating that he told the physician that Mepergan was taken off the market and no longer available. He also indicated to the physician that he would fill the two (2) components of Mepergan if the physician gave him two (2) hardcopy prescriptions for each drug, which the physician did not do; the physician only gave a verbal order.

*Prior discipline: None*

**Recommendation: Dismiss**

Dr. Wilson made a motion to **accept counsel's recommendation**. Dr. Hill seconded the motion. The motion carried.

**44. Case No.: L09-PHR-RBS-2009000621**

Respondent, m/w/d, has been distributing medical devices in Tennessee since 2004 without a license. Respondent obtained a license in 2009 once they realized that they needed one. The medical devices shipped to TN are AV Fistula Needle Sets and Apheresis Needle Sets.

*Prior discipline: None*

**Recommendation: Authorize formal hearing (\$6,000.00 civil penalty)**

Dr. Stephens made a motion to **authorize a formal hearing** with a two thousand five hundred (\$2500.00) civil penalty. Dr. Wilson seconded the motion. The motion carried.

**45. Case No.: L09-PHR-RBS-2009000491**

Complaint generated by BOP staff alleging that an unregistered technician working at the pharmacy; pharmacy technician's registration expired on August 31, 2007 and she renewed on February 11, 2009.

*Prior discipline: None*

**Recommendation: Authorize formal hearing (\$1,400.00 civil penalty to the PIC)**

Dr. Stephens made a motion to **authorize a formal hearing** with a one thousand four hundred dollar (\$1400.00) civil penalty to the pharmacist in charge and a Letter of Warning to the pharmacy technician. Dr. Hill seconded the motion. The motion carried. Dr. Hill made a motion to issue a Letter of Warning to all pharmacy technicians that the pharmacist in charge has been discipline for allowing the pharmacy technician to work without current registration. Dr. Wilson seconded the motion. The motion carried.

**46. Case No.: L09-PHR-RBS-2009000331**

Complainant alleges that the pharmacy staff refused to fill his Rx (drug name undisclosed by Complainant)

Pharmacy staff dispensed a Rx for Roxicodone 30mg, #180 tablets. PIC responded to the complaint stating that after attempting to verify the prescription, they found out that the Rx was not legitimate and that it was obtained by over the internet and without a legitimate doctor/patient relationship. The pharmacy staff verified the complaint because the Complainant was located in Tennessee, but the doctor was located in Florida.

*Prior discipline: None*

**Recommendation: Dismiss**

Dr. Hill made a motion to **accept counsel's recommendation**. Dr. Wilson seconded the motion. The motion carried.

**47. Case No.: L09-PHR-RBS-2009000061**

Complainant alleges that the Respondent pharmacist refused to fill his prescriptions (drug names undisclosed)

Dispensing pharmacist responded to the complaint stating that the Complainant came to the pharmacy to have several controlled substance prescriptions filled. D.Ph. states that she did refuse to fill the Complainant's prescriptions because of an earlier complaint made by the Complainant to the pharmacy that the D.Ph. shorted or miscounted her Rx's. At the same time, the pharmacy technician told the dispensing D.Ph. to make sure to double count all prescriptions for the Complainant. Because the D.Ph. did not want to be accused of misfilling another prescription, she refused to fill and told the Complainant that another pharmacist would be in tomorrow (she was the only one on duty at that time) and that the other pharmacist would fill the Rx's. Unfortunately, after the Complainant left the pharmacy, the dispensing pharmacist realized that the Complainant was not the individual who filed a complaint on her in the past for miscounting prescriptions.

*Prior discipline: None*

**Recommendation: Dismiss**

Dr. Wilson made a motion **to accept counsel's recommendation**. Dr. Hill seconded the motion. The motion carried.

**48. Case No.: L09-PHR-RBS-2009000471**

Complainant was ordered a Saliva Test Kit to test for hormonal levels. Complainant asked that the results be sent to the pharmacy. After the results were produced to the pharmacy, the Complainant alleges that the pharmacy staff refused to give the results to the Complainant without making an appointment with the pharmacist.

PIC responded to the complaint stating that when the Complainant spoke to the physician's office, the physician's office wanted the PIC to make recommendations after receiving the results. At that time, the PIC told the Complainant that before he could make any recommendations, he would have to consult with her to review her results, symptoms, goals of therapy, lifestyle modification, etc. PIC informed the Complainant

that they would have faxed the results to her, but with no recommendations without a consult.

*Prior discipline: None*

**Recommendation: Dismiss**

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

**49. Case No.: L09-PHR-RBS-2009000431**

Complainant, physician, alleges that the Respondent pharmacy refilled a prescription for a patient of his for Fenoprofen when the Complainant had previously refused to allow Complainant to obtain this medication. Complainant states that he received a phone call from the patient complaining that the Fenoprofen refill that she received from the Respondent pharmacy was not the normal 45 tablets. Complainant then called the pharmacy and informed them that he did not authorize the prescription.

PIC responded to the complaint stating that a prescription was called into the pharmacy for the patient for Fenoprofen on March 13, 2008. The patient called in and stated that she did not need the medication at that time and the Rx was put on hold. Because the Rx was never cancelled, when the patient called the pharmacy on January 30, 2009 requesting her medication, the Rx was dispensed. Neither the PIC nor any member of the pharmacy staff knew or should have known that the Rx was not authorized.

*Prior discipline: None*

**Recommendation: Dismiss**

Dr. Hill made a motion to **accept counsel's recommendation**. Dr. Wilson seconded the motion. The motion carried.

**50. Case No.: L09-PHR-RBS-2009000691**

Complainant alleges that a medical clinic is operating as a pharmacy by having a physician dispensary.

*Prior discipline: None*

**Recommendation: Cease and Desist Letter**

Dr. Wilson made a motion to send a **Cease and Desist Letter** to medical clinic. Dr. Hill seconded the motion. The motion carried.

**51. Case No.: L08-PHR-RBS-2008000771**

Complaint generated from a routine compliance inspection conducted on March 18, 2008 during which a BOP investigator found that an unregistered technician was working at the pharmacy with a registration that expired on November 30, 2007.

*Prior discipline: None*

**Recommendation: Authorize formal hearing (\$200.00 civil penalty to PIC)**

Dr. Hill made a motion to **authorize formal hearing** with a two hundred dollar (\$200.00) civil penalty and a Letter of Warning to the pharmacy technician. Dr. Wilson seconded the motion. The motion carried.

**52. Case No.: L08-PHR-RBS-2008001071**

Complaint generated from an April 28, 2008 periodic compliance inspection during which the BOP investigator found five (5) pharmacy technician who were not registered with the Board. Tech #1 has never been registered and she has been employed by the pharmacy for 10 years; Tech #2 has never been registered and she has been employed by the pharmacy for 26 years; Tech #3's registration expired on June 30, 2007 and she has been employed at the pharmacy since May, 2005; Tech #4 has never had a pharmacy technician registration and has been employed at the pharmacy since October, 2006; Tech #5 has never had a pharmacy technician registration, but has been an employee of the pharmacy for 13 years.

*Prior discipline: None*

**Recommendation: Authorize formal hearing (civil penalty to the PIC)**

Dr. Hill made a motion to **authorize a formal hearing** with a civil penalty of one thousand dollars (\$1000.00) for each pharmacy technicians for a total of five thousand dollars (\$5000.00), a continuing pharmaceutical education course dealing with legal issues and a Letter of Warning to each pharmacy technician. Dr. Stephens seconded the motion. The motion carried.

**53. Case No.: L08-PHR-RBS-2008001181**

Complainant, DVM, alleges that the pharmacy staff placed the incorrect directions on the label for a Rx for Metoclopramide 10mg, #30 tablets; Rx label had directions of "take one tablet every 24 hours" when it should have been "take ¼ tablet twice a day".

PIC responded to the complaint admitting to the error. In an effort to prevent the error from happening in the future, the PIC will be reviewing work flow procedures at the pharmacy.

*Prior discipline; None*

**Recommendation: Letter of Warning**

Dr. Hill made a motion to issue a **Letter of Warning** to the pharmacist in charge. Dr. Wilson seconded the motion. The motion carried.

**54. Case No.: L09-PHR-RBS-2009000301**

Complainant alleges that her prescription for Percocet 5/325 was shorted nine (9) tablets. Complainant states that she noticed the error when she got home with the medication, informed the pharmacy and did not ask for the remainder of the Rx.

Dispensing pharmacist responded to the complaint stating that she filled, dispensed and counseled on the two (2) new prescriptions for the Complainant, one for Oxycodone/APAP 5/325 and the other for Methylprednisolone Dose Pack. D.Ph. states that she personally counted twenty (20) tablets of Oxycodone for the patient twice and circled and initialed the Rx label.

PIC also responded to the complaint and indicated that while they are not admitting the error, they are making changes to their procedures for dispensing controlled substances, one of those changes being that the pharmacist will be counting the medications (in addition to the double count prior to circling and initialing) at the point that counseling is performed for a new Rx. They are also annotating in the patient profile the claim made by the patient that they were shorted and the date that it allegedly occurred.

*Prior discipline: None*

**Recommendation: Dismiss**

Dr. Wilson made a motion to **accept counsel's recommendation**. Dr. Hill seconded the motion. The motion carried.

**55. Case No.: L08-PHR-RBS-2008001611**

Complainant alleges that the Respondent, pharmacy technician, was allowing her boyfriend's forged prescriptions to be filled at the pharmacy. Respondent denied the allegation and stated that the boyfriend gave her the Rxs and she did not know that they were forged. LP investigation was inconclusive relative to her actions. The police were not contacted and no employment action was taken.

*Prior discipline: None*

**Recommendation: Dismiss**

Dr. Stephens made a motion **accept counsel's recommendation**. Dr. Wilson seconded the motion. The motion carried.

**56. Case No.: L08-PHR-RBS-2008000251**

Complainant alleges that the Respondent, pharmacist, may have removed medications from the pharmacy without prescriber authorization.

Investigation into this matter revealed that there was no evidence to support this claim. BOP investigator reviewed the CCTV tape and could not find proof of diversion. Also, LP at the pharmacy could not substantiate the allegation and no adverse employment action was taken against the pharmacist.

*Prior discipline: None*

**Recommendation: Dismiss**

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

**57. Case No.: L09-PHR-RBS-2009000241**

Complainant alleges that the Respondent pharmacy dispensed controlled substance prescriptions to a patient who was pregnant.

PIC responded to the complaint stating that the pharmacy staff dispensed controlled substance prescriptions to the patient, but had not knowledge that the patient may have been pregnant. Pharmacy staff was never informed by the patient or primary care provider that the patient may have been pregnant and there were no signs that the patient was pregnant.

*Prior discipline: 2008, unlicensed conduct, \$1,000.00 civil penalty*

**Recommendation: Dismiss**

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

**58. Case No.: L09-PHR-RBS-2009000481**

Complainant alleges that the pharmacy staff cancelled his wife's prescription for Singular 10mg for no reason. When he called the pharmacy to inquire about the cancellation, he was unable to obtain an explanation and unable to speak to a pharmacist who could assist him.

PIC responded to the complaint. PIC states that the Rx was rejected because the patient's prescription benefit plan requires authorization for Singular coverage. Pharmacy contacted the patient to inform her that prior authorization was necessary; there was no answer and no opportunity to leave a message. Pharmacy also faxed the health care provider requesting prior authorization information or a new Rx, but the office did not respond to the fax. Pharmacy then made a final attempt at contacted the provider, but was unable to reach him. As a result, the pharmacy sent the patient a letter cancelling the Rx. PIC denies the allegation that a pharmacist would not assist him. PIC states that when the Complainant contacted the pharmacy, a pharmacist did speak with him.

*Prior discipline: None*

**Recommendation: Dismiss**

Dr. Hill made a motion to **accept counsel's recommendation**. Dr. Wilson seconded the motion. The motion carried.

**59. Case No.: L09-PHR-RBS-2009001081**

Complainant alleges that the Respondent, hospital pharmacy, failed to inform the Board office of a change of ownership. Ownership of the hospital was changed on May 14, 2008, but the facility did not notify us until May 13, 2009.

*Prior discipline: 2005, medication error, \$1,000.00 civil penalty*

**Recommendation: Letter of Warning**

Dr. Stephens made a motion to issue a **Letter of Warning**. Dr. Wilson seconded the motion. The motion carried with Dr. Hill being recused.

**60. Case No.: L09-PHR-RBS-2009000021**

Complainant alleges that prescriptions were charged to his insurance that were not prescribed to his children.

PIC responded to the complaint indicating that the prescriptions for the Complainant's children were legitimate Rxs that were billed correctly. The only discrepancy noted was

with a Singular prescription that was billed as 10mg, but then reversed and then rebilled at the 5mg strength.

*Prior discipline: None*

**Recommendation: Dismiss**

Dr. Wilson made a motion to **accept counsel's recommendation**. Dr. Hill seconded the motion. The motion carried.

**61. Case No.: L08-PHR-RBS-2008002411**

Complainant alleges that the Respondent pharmacy misfilled a compounded Rx for pain medication by placing adulterated products placed in the patients' intrathecal pumps. The doctor receiving the medication had concerns about the filling of the medical orders and sent the compounded product to a laboratory to determine if it was filled properly. While the laboratory results indicated that the compounded products indicated concentrations much less than what was ordered by the prescriber, further investigation revealed that the laboratory results were incorrect and that the product was compounded correctly.

*Prior discipline: 2008, unlicensed conduct, \$1,000.00*

**Recommendation: Dismiss**

Dr. Stephens made a motion to **dismiss** the complaint and forward the complaint to the Medical Laboratory Board. Dr. Wilson seconded the motion. The motion carried.

**62. Case No.: L09-PHR-RBS-2009000801**

Complainant alleges that his prescription for Ciprofloxacin 500mg was mistakenly filled with Cephalexin 500mg.

PIC responded to the complaint indicating that the misfill did occur. The Rx was a new Rx, but it was bagged as a refill. The patient was offered counseling, but denied. The patient noticed the error, brought the medication back and the pharmacy staff filled the Rx correctly at no charge. In order to prevent this error from happening in the future, the PIC has reviewed the importance of patient counseling and have instituted a step where they have placed a sticker on the outside of the bags to alert the cashier that it is a new Rx. PIC is also requiring a second technician (in addition to the one who assists with the dispensing process) to look over the leaflets before the Rx is bagged to make sure that the new Rxs get the sticker on them.

*Prior discipline: None*

**Recommendation: Letter of Warning to dispensing pharmacist. Authorize formal hearing (LOI to the PIC; \$500.00 civil penalty to the D.Ph.; \$1,000.00 civil penalty to the pharmacy)**

Dr. Wilson made a motion to issue a **Letter of Warning** to the dispensing pharmacist with a five hundred dollar (\$500.00) civil penalty, a **Letter of Instruction** to the pharmacist in charge and a one thousand dollar (\$1000.00) civil penalty to the pharmacy. Dr. Hill seconded the motion. The motion carried.

**63. Case No.: L09-PHR-RBS-2009000211**

Complainant alleges that the pharmacy staff dispensed controlled substance prescriptions to a pregnant patient.

PIC responded to the complaint indicating that the patient was dispensed Xanax on two (2) occasions and Methadone on two (2) occasions. PIC does not specifically remember the patient.

*Prior discipline: None*

**Recommendation: Dismiss**

Dr. Hill made a motion to **accept counsel's recommendation**. Dr. Wilson seconded the motion. The motion carried.

**64. Case No.: L09-PHR-RBS-2009000981**

Complainant alleges that pharmacy staff committed a medication error in dispensing his Cephalexin 500mg. Complainant alleges that the directions on the prescription stated "Take 1 capsule by mouth 3 times for 5 days", indicating that fifteen (15) tablets should have been dispensed. Complainant states that he was only dispensed nine (9) tablets. Prescription was written for Keflex 500mg #9 1 PO TID x 5D".

The dispensing pharmacist recognized that the quantity identified on the Rx did not match the quantity calculated from the sig. PIC states that the dispensing pharmacist used his/her professional judgment and dispensed nine (9) tablets because he/she thought that the nine (9) doses was the appropriate therapy. This was a new Rx and the pharmacy delivered the Rx to the patient's agent at the surgery center. While the dispensing pharmacist did not provide face to face counseling, PIC indicates that they tried to counsel through alternative means by delivering the Rx with a patient information sheet and providing the patient with the pharmacy telephone number.

*Prior discipline: None*

**Recommendation: Authorize formal hearing (LOI to the PIC; \$500.00 civil penalty to the dispensing D.Ph.; and \$1,000.00 civil penalty to the pharmacy). Discussion about possible medication error.**

Dr. Stephens made a motion dismiss the complaint. Dr. Hill seconded the motion. The motion carried.

**65. Case No.: L07-PHR-RBS-2007080931**

Complainant alleges that a medication error occurred in which Respondent, pharmacist, misfilled a prescription for blood pressure medication with Coumadin.

Investigation into the matter revealed that a prescription for sixty (60) Atenolol 50mg was misfilled with Coumadin. Patient consumed the incorrect medication for approximately one (1) week to ten (10) days and did not experience any permanent harm.

*Prior discipline: None*

**Recommendation: Letter of Warning**

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

**66. Case No.: L05-PHR-RBS-2005025821**

Complaint provides that the Respondent pharmacy was responsible for the death of a patient who was receiving controlled substances from the pharmacy. Board heard this case before in a probable cause presentation and based on what was dispensed to the patient, there was a failure to perform a DUR such that the patient received too much Acetaminophen. The authorization from the Board was to proceed to a formal hearing, but that the matter could be settled with a five hundred dollar (\$500.00) civil penalty. Respondent did not accept the offer and as we prepared for trial, a closer look at the file revealed that there was only one (1) instance in which the pharmacy dispensed in excess of acceptable Acetaminophen levels.

*Prior discipline: None*

**Recommendation: Letter of Warning**

Dr. Wilson made a motion to issue a **Letter of Warning** to the pharmacy. Dr. Hill seconded the motion. The motion carried.

**67. Case No.: L09-PHR-RBS-2009000701**

Respondent, m/w/d, entered into a Consent Decree with the FDA for distributing adulterated products across state lines. The Consent Decree dated March 2, 2009 required the Respondent to destroy all drugs that were the subject of a recall as well as in-process drugs, drug components, and finished drugs. The degree also requires the Respondent to ensure that drugs are manufactured in conformity with CGMP; to establish and document management control over quality assurance; to establish and follow scientific product development and manufacturing process design procedures; to retain an independent person who is qualified to inspect the Respondent's drug manufacturing facilities; and to submit protocols that identifies a work plan for the CGMP.

Respondent representative provides that the products recalled were at the wholesale or retail level and were not at the consumer level; the products were primarily morphine sulfate. Upon the approval of the FDA, the products that were already in the consumer's hands, were already there. Although some consumer have filed suite, the Respondent is unaware of any harm associated with the recalled products.

*Prior discipline: None*

**Recommendation: Authorize formal hearing (five (5) year probation; abide by all terms contained in the Consent Decree and abide by all federal and state laws and rules relative to drugs and to the practice of pharmacy)**

Dr. Stephens made a motion to **defer** complaint. Dr. Wilson seconded the motion. The motion carried.

**68. Case No.: L09-PHR-RBS-2009000381**

Complainant alleged that the pharmacy staff at the respondent pharmacy failed to properly perform a DUR and as a result, dispensed Prevpac to her when her patient profile indicated that she was allergic to penicillin and naproxen. Complainant indicated that when she was dispensed the medication, she told the pharmacist that she was allergic to penicillin, but he dispensed it to her indicating that the drugs were different. As a result of consuming the prescribed medication, the Complainant broke out into hives and went to the emergency room.

Pharmacist admits that the Prevpac was dispensed, but denies that it caused the allergic reaction.

*Prior discipline: None*

**Recommendation: Letter of Warning to dispensing D.Ph. Discussion about DUR.**

Dr. Hill made a motion to issue a **Letter of Warning** to the dispensing pharmacist with a five hundred dollar (\$500.00) civil penalty. Dr. Wilson seconded the motion. The motion carried.

**69. Case No.: L02-PHR-RBS-2002100921**

Complaint provides that she was arrested for possession of controlled substances. Criminal charges against the Respondent were dismissed. Respondent's pharmacist license is currently expired.

*Prior discipline: None*

**Recommendation: Dismiss**

Dr. Wilson made a motion to **accept counsel's recommendation**. Dr. Hill seconded the motion. The motion carried.

**70. Case No.: L08-PHR-RBS-2008000141**

Complaint provides that the Respondent pharmacist was the dispensing DPh at a pharmacy in which the following violations occurred: C-II hard copies were missing; C-II were filled under the wrong prescriber and DEA number; C-II were filled before the date specified by the prescriber, etc. We have corresponding complaints against the pharmacy and the PIC. Investigation revealed that while the Respondent admitted to the conduct, she as a new employee at the pharmacy, trusted in the PIC and as she became more experienced and comfortable, began to question the practices at the pharmacy.

*Prior discipline: None*

**Recommendation: Dismiss**

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

**GENERAL DISCUSSION**

Dr. Bess wanted to know why the signature of the Executive Director was no longer on the Board's wall certificates. Dr. Bess stated that when the Board of Pharmacy transfer

from the Department of Commerce and Insurance to the Department of Health, Health Related Boards it was requested that the executive director's signature stay on the wall certificate. After discussion, Dr. Wilson made a motion to add the executive director's signature on the wall certificates. Dr. Hill seconded the motion. The motion carried.

Dr. Hill suggested that the Board look into taking disciplinary action against pharmacy technicians that work on an expired registration. Dr. Stephens agreed. This matter will be address at the July 14-15, 2009 board meeting.

## **DIRECTOR'S REPORT**

Dr. Eidson asked Ms. Cleaves to give a brief overview of the bills that became Public Chapters. Public Chapter 17 extends the Controlled Substance Database Advisory Committee until June 20, 2016; Public Chapter 29 gives the Director authority to issue subpoenas for witnesses and records, and to administer oaths to witnesses; Public Chapter 28 states that each practice site where a controlled substance is dispensed shall provide for electronic access to the database at all times when the dispenser provides health care services to a human patient potentially receiving a controlled substances.

This act will take effect January 1, 2010; and Public Chapter 285 states that "Nothing in this part or any other provision of law shall be construed as prohibiting the independent or partial owner of any hoofed mammal from using the milk from such animal for the owner's personal consumption or other personal use.

Ms. Cleaves also informed the Board that all the boards that comprise of the Tamper Resistant Prescription Pad Committee have promulgated rules for the tamper resistant prescription pads and they are in the Attorney General's office. The Physician Assistant Committee must wait until they have approval from the Board of Medical Examiners before a rulemaking hearing can be scheduled.

Dr. Eidson informed the Board that the NABP-AACP District III meeting is scheduled for August 2 -4, 2009 in Lexington, KY. After discussion, Dr. Hill made a motion to send Dr. Bess and Dr. Eidson to the NABP-AACP District III meeting. Ms. McDaniel seconded the motion. The motion carried.

Dr. Eidson informed the Board that the Tennessee Pharmacy Association (TPA) annual meeting is scheduled for July 19-22, 2009 in Hilton Head, SC. After discussion, Dr. Hill made a motion to send Dr. Eidson to the TPA annual meeting. Dr. Wilson seconded the motion. The motion carried.

Dr. Eidson informed the Board the Triparte is scheduled for June 25, 2009 at 2:30 p.m. Triparte members are the Tennessee Board of Pharmacy, Tennessee Pharmacy

Association and the Deans of Pharmacy. The meeting is being held to discuss education issues and rules and regulations that pertains to the pharmacy.

Dr. Eidson participated in the ACPE site visits at Lipscomb University, Belmont University and Union University. Mr. Pete Valsess will be looking into the ways to improve the process for the University's to move from pre-candidate status to candidate status. Students that are under the grandfather clause (students all ready enrolled before candidate status has been approved) will be allowed to set for the exam.

Ms. Cleaves is currently working with the NABP on the Board's newsletter.

Dr. Wilson made a motion to adjourn. Dr. Hill seconded the motion. The motion carried. The meeting adjourned at 4:10 p.m.