

**TENNESSEE BOARD OF PHARMACY
NOVEMBER 3 - 4, 2008
227 FRENCH LANDING - POPLAR ROOM
NASHVILLE, TN**

BOARD MEMBERS PRESENT:

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

STAFF PRESENT:

Kevin K. Eidson, Executive Director
Alison Cleaves, Chief Legal Counsel
Martha Agee, Board Administrator
Terry Cannada, Pharmacist Investigator
Tommy Chrisp, Pharmacist Investigator
Terry Grinder, Pharmacist Investigator
Richard Hadden, Pharmacist Investigator
Ralph Staton, Pharmacist Investigator

The Tennessee Board of Pharmacy convened on Monday, November 3, 2008, in the Poplar Room, 227 French Landing, Heritage Place - Metro Center, Nashville, Tennessee. A quorum of the members being present, the meeting was called to order at 9:00 a.m. CST, by President, Dr. Todd Bess. Dr. Robert Mitchell was not in attendance.

APPROVAL OF THE MINUTES

The minutes of the **September 9 - 10, 2008** board meeting were presented. Mrs. Monica Franklin motioned to **approve** the minutes; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

**PATRICK NEBLETT, DPH
RECIPROCITY CANDIDATE**

Dr. Patrick Neblett, a reciprocity candidate, is personally appearing before the Board to discuss the prior disciplinary action taken against his license as stated on his NABP reciprocity application. Dr. Kevin Eidson, Executive Director stated Dr. Neblett answered "yes" to the following questions.

(1) "Have you ever voluntarily surrendered your pharmacist license or any pharmacist registration issued by a federal or state controlled substance authority?";

(2) "Has your pharmacist license in any jurisdiction ever been revoked, suspended, revoked, terminated, or otherwise been subject to disciplinary action by any board of pharmacy or other state authority?";

(3) "Have you ever been charged or convicted of a felony or misdemeanor whether or not sentence was imposed, suspended, expunged, or whether you were pardoned from any such offense?", and;

(4) "Have you ever had any application for initial licensure, renewal licensure, or licensure by transfer denied by any licensing authority whether in pharmacy or any other profession?".

Dr. Neblett stated he plead guilty to child pornography, and was sentenced in April 2001 and spent 29 months in Federal prison. In July 2004, the West Virginia Board of Pharmacy reinstated Dr. Neblett's license with a three (3) year probationary period. The Kentucky Board of Pharmacy revoked his license for a period of five (5) years and one day but Dr. Neblett stated the license has not been active since 1980. Dr. Neblett stated none of the felony charges was related to the practice of pharmacy or drugs. Mrs. Monica Franklin motioned to **grant** reciprocity; seconded by Dr. Charles Stephens. During discussion, Dr. Brenda Warren requested Dr. Neblett to give the board a statement regarding this issue and Dr. Neblett replied, "no longer engaged in this activity". All were in favor and the motion carried.

KEVIN KNISBECK, PHARMACY TECHNICIAN APPLICANT
2190 Memorial Drive #A-28
Clarksville, TN 37043

Executive director, Dr. Kevin Eidson, advised Mr. Kevin Knisbeck's pharmacy technician registration was denied at the September 9 -10, 2008 board meeting and he is appearing today to request reconsideration of the Board's decision. In May, 2008, Mr. Knisbeck was convicted of a misdemeanor for a DUI offense; paid \$4,000 in fines/court costs; attended DUI school and was placed on unsupervised probation until May 2009. After discussion, Dr. Brenda Warren motioned to **wait on approving the application until the unsupervised probation has ended in May 2009**; seconded by Dr. Larry Hill. Dr. Warren **amended the motion to include if there are no further problems, the application can then be approved**; seconded by Dr. Charles Stephens. All were in favor and the motion carried.

CONSENT ORDERS

Probationary Term

**BEVERLY MCCURRY, DPH
2109 Red Grouse Drive
Lenoir City, TN 37772**

Mrs. Alison Cleaves, chief legal counsel, presented a Consent Order on behalf of Dr. Beverly McCurry, who was in violation of T.C.A. §53-10-104 (a) and (b), and §53-10-105 (a) for generating prescriptions for pharmacy employees without a prescription from an authorized prescriber. Dr. McCurry's has agreed for her license to be placed on a two-year term of probation with terms and conditions. Mrs. Monica Franklin motioned to **accept** the Consent Order; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

Revocation of Registration

**STEPHANIE BROOM, RT
5418 Sunny Dell Lane
Chattanooga, TN 37412**

**KAMI DAVIS, RT
9203 Ramblewood Drive
Harrison, TN 37341**

**JEAN KOLIFRATH, RT
2038 Nashboro Blvd.
Nashville, TN 37217**

**SHIRLEY REED, RT
474 Towne Falls Road
Tellico Plains, TN 37385**

Chief legal counsel, Mrs. Alison Cleaves, presented the above referenced pharmacy technician Consent Orders for the revocation of their pharmacy technician registrations due to theft and diversion of controlled substances from the pharmacy. Mrs. Monica Franklin motioned to **accept** the Consent Orders; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

Surrender of License

**BETTY FARMER, DPH
2420 Paul Bunyan Drive
Bimidji, MN 56601**

Mrs. Alison Cleaves, chief legal counsel, presented a Consent Order for the surrender of Dr. Betty Farmer's pharmacist license whereas she admitted to the violation of Rules 1140-1-.12 (3) (h); 1140-1.12 (1) and T.C.A. §53-10-106 (a) (1). Dr. Farmer failed to keep the pharmacy prescription department secured by allowing patients behind the pharmacy counter where medications are stored; failure to maintain the pharmacy practice site in a clean, orderly and sanitary condition; kept outdated drugs on the pharmacy shelves; and failed to maintain proper recordkeeping by failing to file prescriptions numerically. Mrs. Monica Franklin motioned to **accept** the Consent Order; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

Reinstatement of License

**CHARLES CUTHBERT, DPH
4848 Jersey Ridge Road #21
Davenport, IA 52807**

**KAREN M. LONG, DPH
41 Norma Drive
Greenville, TN 37743**

**CHRISTY THOMPSON, DPH
107 Jones Street
Martin, TN 38237**

Chief legal counsel, Mrs. Alison Cleaves, presented three (3) Consent Orders for Reinstatement of License on behalf of Dr. Charles Cuthbert, Dr. Karen Long and Dr. Christy Thompson. Dr. Bettie Wilson motioned to **accept** the Consent Orders; seconded by Dr. Brenda Warren. All were in favor and the motion carried.

Violations/Unprofessional Conduct

Rule 1140-2-.02 (1) and (2)

	<u><i>Civil Penalty</i></u>
MICHAEL CLEPPER, DPH 701 Clearview Drive Nashville, TN 37205	\$200
ROBERT DANIEL, DPH 8720 Highway 22, Suite A Dresden, TN 38225	\$300
NATHAN HORTON, DPH 317 Camille Court Cane Ridge, TN 37013	\$100
MART JAMES, DPH 487 Oakridge Road Ext. Dyersburg, TN 38024	\$900

Mrs. Alison Cleaves, chief legal counsel, presented Consent Orders for the above referenced pharmacists who were in violation of Rule 1140-2-.02 (1) and (2) relevant to allowing an unregistered pharmacist technician to work in the pharmacy and were assessed civil penalties accordingly. Mrs. Monica Franklin motioned to **accept** the Consent Orders; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

Rule 1140-3-.01 (1) (a) and (f)

	<u><i>Civil Penalty</i></u>
JENNIFER TRITT, DPH 4493 Johnson Grove Road Bells, TN 38006	\$ 500
GEORGE YOUNG, DPH 8246 Mill Race Drive Ooltewah, TN 37363	\$ 250
RAINES PHARMACY 13049 N. Highway 79 Bells, TN 38006	\$1,000
RITE AID PHARMACY #1151 14978 Rankin Avenue Dunlap, TN 37327	\$1,000

WALMART PHARMACY #10-1561 \$ 500
3950 Austin Peay Highway
Memphis, TN 38128

Mrs. Alison Cleaves, chief legal counsel, presented the Consent Orders for the above referenced pharmacists and pharmacies who were in violation of Rule 1140-3-.01 (1) (a) and (f), for failing to perform or offer patient counseling to a patient or the patient's caregivers and were assessed civil penalties accordingly. Mrs. Monica Franklin motioned to **accept** the Consent Orders; seconded by Dr. Larry Hill. All were in favor and the motion carried.

MARTHA JONES, DPH
277 Shadowridge Drive
Jackson, TN 38350

Mrs. Alison Cleaves, chief legal counsel, presented the Consent Order whereas Dr. Martha Jones was in violation of Rule 1140-3-.01 (1) (a) and (f), for failing to perform or offer patient counseling to a patient or the patient's caregivers and was assessed a civil penalty of \$500. Mrs. Monica Franklin motioned to **accept** the Consent Order; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

T.C.A. §53-10-104 (b)

DAVID H. PARK, DPH
70 Shiloh Road
Covington, TN 38019

Chief legal counsel, Mrs. Alison Cleaves, presented the Consent Order whereas Dr. David Park was in violation of T.C.A. §53-10-104 (b) for altering prescriptions for medications such as Adderall without any authorization from the prescriber. Dr. Park obtained an evaluation and he has agreed to his license being placed on a two (2) year term of probation; cannot dispense any prescriptions for himself or his family members; PIC where Dr. Park is employed shall submit quarterly reports to the Board about the performance of his duties; shall attend sessions with a psychiatrist and comply with all recommendations; the psychiatrist shall submit an annual report to the Board about the status of his treatment; and, shall stay on all medical regimens

pharmacy practice site and, were assessed a civil penalty. Mrs. Monica Franklin motioned to **accept** the Consent Orders; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

WAIVERS

BARBARA KOSKA, DPH
1458 Jack White Drive
Rock Hill, SC 29732

Dr. Barbara Koska is requesting a waiver of Rule 1140-1-.07 (3) (b) relevant to completing a period of pharmacy internship of one-hundred (160) hours for the reinstatement of her pharmacist license. Dr. Koska is actively practicing pharmacy in South Carolina. Dr. Larry Hill motioned to **grant** the waiver request; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

ANGIE SPOONAMORE, DPH
935 Gravel Lane
Clarksville, TN 37010

Dr. Angie Spoonamore is requesting a waiver of Rule 1140-1-.07 (3) (b) in regards to completing a period of pharmacy internship of one-hundred sixty (160) hours and the MPJE for the reinstatement of her pharmacist license. Dr. Larry Hill motioned to **grant the waiver for the internship hours but must take the MPJE**; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

CHERYL LEARNED, DPH
8914 Kilbirnie cove
Germantown, TN 38139

Dr. Cheryl Learned is requesting a waiver of Rule 1140-1-.07 (3) (c) relevant to the requirements of completing a period of pharmacy internship of three hundred twenty (320) hours and successfully completing the NAPLEX examination for the reinstatement of her pharmacist license. Dr. Learned's pharmacist license has been in an "inactive/retired" status since December 12, 2002. Dr. Brenda Warren motioned to **waive the internship hours**; seconded by Dr. Bettie Wilson. During discussion, Dr. Warren motioned to **amend her motion to provide**

proof of being currently engaged in the practice of pharmacy and provide proof of an active license in Arkansas; seconded by Dr. Bettie Wilson. All were in favor and the motion carried. In regards to the NAPLEX waiver, the Board tabled the request until further information is received.

Executive Director, Dr. Kevin Eidson, stated Dr. Learned has been employed at the Department of Veteran's Affairs since January 11, 2004 and she maintains an active Arkansas license. Dr. Larry Hill motioned to **grant the NAPLEX waiver**, seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

**RICK LEARNED, DPH
8914 Kilbirnie cove
Germantown, TN 38139**

Dr. Rick Learned is requesting a waiver of Rule 1140-1-.07 (3) (c) relevant to the requirements of completing a period of pharmacy internship of three hundred twenty (320) hours and successfully completing the NAPLEX examination for the reinstatement of his pharmacist license. Dr. Learned had placed his pharmacist license in an "inactive/retired" status on December 12, 2002. Dr. Learned is currently employed with Pfizer, Inc. The Board tabled the waiver request pending further information from Pfizer.

Executive Director, Dr. Kevin Eidson stated Dr. Learned is a "medical outcome specialist" for Pfizer and has been employed since July 12, 1999 to present. After discussion, Mrs. Monica Franklin motioned to **waive the internship hours and NAPLEX at the discretion of the Director, after receiving information on the relationship of Pfizer and the practice of pharmacy;** Dr. Bettie Wilson seconded the motion. All were in favor and the motion carried.

**JAMIE GUNNELLS, DPH
ELDERSCRIPT
144 S. Thomas Street #101-1
Tupelo, MS 38801**

Dr. Jamie Gunnells' is requesting a waiver for The Palace Healthcare of Rule 1140-1-.12 (3) (d) relevant to the requirement of a pharmacy occupying a space of not less than one hundred

eighty (180) square feet. Dr. Terry Cannada advised the Board the square footage is approximately 125 square feet and is adequate for the installation of the automated dispensing machine. Dr. Larry Hill motioned to **approve** the waiver per Dr. Cannada's comment; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

KAREN EVERS, DPH
2955 Dominique Drive
Galveston, TX 77551

Dr. Karen Evers is requesting a waiver of Rule 1140-5-.01 in regards to completing thirty (30) hours of continuing pharmaceutical education for the renewal of her pharmacist license. Dr. Evers stated her continuing education certificates were in a storage space that received flood damage due to Hurricane Ike in September. Mrs. Monica Franklin motioned to **grant a six-month extension until April 2009** to complete the CE requirement; seconded by Dr. Brenda Warren. All were in favor and the motion carried.

LEGAL REPORT/COMPLAINTS

1. Case No.: L08-PHR-RBS-200800189

Complainant alleges that the patient was unable to get her prescription for Bacl ofen 10mg filled at the pharmacy, ultimately cancelled the prescription, and subsequently had the prescription called into a pharmacy where the patient was vacationing. Pharmacy had difficulty processing the prescription and received a rejection from the insurance company, which stated, "missing/invalid provider identification". Pharmacy indicates that it is the normal practice when receiving a message such as this to enter the provider's DEA number in the doctor profile. When the technician called the doctor's office, the doctor refused because the prescription was not for a controlled substance. Physician called the insurance company that indicated that an error was being made by the pharmacy in entering the prescription and that it did not need the doctor's DEA number. Pharmacy contacted the insurance carrier and was finally able to process the prescription, but the patient had already requested that the prescription be cancelled and then called in to a pharmacy where the patient was vacationing.

Recommendation: Dismiss

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

2. Case No.: L08-PHR-RBS-200800173

Complainant alleges that the pharmacy staff at the Respondent pharmacy refused to fill her prescriptions.

DPh responded stating that when the patient requested that her Rx's be filled, the pharmacy staff processed the Complainant's request by refilling her valid and active refills written by Dr. A. After the Complainant picked up her prescriptions, the Complainant contacted the pharmacy stating that the incorrect doctor's name was on her prescription bottles. At that time, the Complainant made the DPh aware that she had new prescriptions on file at the pharmacy from Dr. B. DPh apologized for the miscommunication and then verified that the new prescriptions written by Dr. B were the same drug, strength and directions as the refills from Dr. A that she just picked up. DPh told the Complainant that she would void the refills written by Dr. A and would fill the prescriptions written by Dr B the next month so that she would not have to come back to the pharmacy. Attached to her response to this complaint, the DPh provided documentation showing that Dr A's prescriptions were voided.

Recommendation: Dismiss

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

3. Case No.: L08-PHR-RBS-200800179

Complainant alleges that pharmacy staff put charges on her credit card from the pharmacy. Complainant brought this to the attention of the district manager and Complainant was reimbursed in cash for the charges that she did not make.

Investigator spoke to the PIC who indicates that an error was made at the pharmacy when a new credit card number was entered into the "express pay" under the incorrect patient with almost the same name as the Complainant. A cash refund was authorized because management did not want the Complainant to wait for the corporate check to be sent.

Prior complaints:
Pharmacy: None
PIC: None

Recommendation: Dismiss

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

4. Case No.: L08-PHR-RBS-200800143

Respondent, a pharmacist, has admitted chemical addiction. He entered a treatment program that he completed, completed his 90/90, and he is currently under the advocacy of the TPRN. Board staff has spoken with the Respondent's advocate who indicates to Board staff that the Respondent is ready to reenter the practice of pharmacy. By the time the Board office became aware of the Respondent entering treatment, he has already completed his 90/90.

Prior complaints: None

Recommendation: Authorize formal hearing (five (5) year term of probation with the usual terms and conditions)

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

5. Case No.: L08-PHR-RBS-200800191

Complainant alleges that the Respondent misfilled a patient's prescription for Cardizem 30 mg with Cardizem 300mg. The patient consumed the incorrect medication. Sometime after the consumption of the medication, the patient suffered a stroke. Ten (10) months after the misfill, the patient expired. Respondent admits that the misfill occurred.

Prior complaints:

DPh: 2004- Medication error, dismiss

Recommendation: Discuss

The Board tabled the complaint until the January 12 - 13, 2009 board meeting.

6. Case No.: L08-PHR-RBS-200708000

Complainant alleges that the Respondent took Adderall from the pharmacy without authorization from a licensed prescriber. A CCTV tape was obtained through an investigation into the matter, which revealed that the Respondent took a bottle from the CII cabinet at the pharmacy during the course of a robbery. Respondent admitted to this theft and returned the bottle upon being questioned by Loss Prevention. Respondent also admitted to taking Lortab and Ambien CR from the pharmacy, but that he forgot to get his Rx's for these drugs from home until after he dispensed them to himself.

Prior complaints:

1992- chemical dependency

2004- unlicensed technician- closed

2002- selling, bartering, giving away or obtaining, \$600.00 civil penalty

Recommendation: Authorize formal hearing (\$500.00 civil penalty and a three (3) year term of probation with the terms that shall abide by all applicable laws and rules and that the Respondent shall not fill any prescriptions for himself or any family members)

Mrs. Monica Franklin motioned to have the pharmacist appear before the Board. The motion dies for the lack of a second. Dr. Larry Hill motioned to **locate the pharmacist and have an evaluation conducted**; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

7. Case No.: L08-PHR-RBS-200708017

Complainant alleges that the Respondent, a pharmacy technician, was terminated from the pharmacy where she was employed for theft and diversion. Respondent's technician registration is expired.

Prior complaints: None

Recommendation: Close and flag upon reapplication

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

8. Case No.: L08-PHR-RBS-200800194

Complaint was generated based on a September 29, 2008 compliance inspection in which the investigator found that an individual was operating as a pharmacy technician with a registration that expired on August 31, 2008. As of the date of the inspection, the technician renewal was being processed.

Prior complaints:
Pharmacy: None
DPh: None

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

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

9. Case No.: L08-PHR-RBS-200800187

Complainant alleges that the pharmacist contacted the Complainant's physician without her permission and told her physician that she did not need pain medications anymore.

DPh responded to the complaint stating that he did contact the prescriber because of possible drug interactions. On August 3, 2008 the patient presented with two (2) prescriptions at the pharmacy, one for Vicodin 10/500, #120, thirty (30) day supply and the other was written for Oxycontin 20mg, #90 for a thirty (30) day supply. When the DPh performed a DUR, he determined that according to the directions written and previous patient history of the same medications dispensed, that it was inappropriate to dispense the medicines at the time. On September 3, 2008, patient presented with the prescriptions for the same drugs. DPh called the prescriber and the nurse told the DPh he could fill the Vicodin on September 6th and the Oxycontin on September 4th. Later that same day, when staff entered the Rx's in the computer, the DUR showed that the patient had prescriptions for Subutex prescribed by another prescriber. DPh called the prescriber's office again and made them aware of this history. He denies telling the prescriber that the patient did not need pain medications anymore.

Prior complaints:
D.Ph. 2006, medication error, dismissed

Recommendation: Dismiss

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

10. Case No.: L08-PHR-RBS-200800177

Complainant alleges that either the Respondent (PIC) or the Respondent's pharmacy staff is engaging in fraudulent behavior by dispensing a reduced amount of medication at the same price as a full prescription bottle. Investigation into this complaint revealed that all prescriptions

for the Complainant for Dilantin 50mg and Dovonex C.R. were dispensed in strict conformity with prescriber's directions. The Complainant/patient is a TennCare recipient and under his insurance plan, there is no deductible on generics and \$3.00 co-pay for brand name medications; Complainant's medications only come in brand name and do not come in generic. Also in accordance with the Complainant's insurance plan, he cannot get anything more than a thirty (30) day supply. All of this may have contributed to the Complainant's claim that he was getting less than what he expected.

Prior complaints:

PIC: 2000, medication error, dismissed

Recommendation: Dismiss

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

11. Case No.: L08-PHR-RBS-200800167

Complainant alleges that her prescriptions for short-acting Percocet 10/325 QID PRN and long-acting MS Contin 30 mg BID were misfilled with MSIR 30 mg. Because of this error, it is alleged that the Complainant's insurance company denied paying for her short-acting Percocet. Complainant alleges that the pharmacist told the patient to dispose of the medication and that the doctor needed to write another prescription.

DPh admits the misfill occurred; the prescription was written for MS Contin 30mg, but was dispensed as MSIR 30mg. The patient returned the incorrect medication and the pharmacy staff filled the prescription with MS Contin 30mg and Percocet.

Prior complaints:

*D.Ph.: 2004, chemical addiction, revocation;
2006, reinstatement and probation.*

Recommendation: Letter of Warning about the misfill. Authorize formal hearing (\$500.00 civil penalty to DPh; \$1,000 civil penalty to the pharmacy; and LOI to PIC for lack of patient counseling)

Mrs. Monica Franklin motioned to **accept counsel's recommendation**; seconded by Dr. Brenda Warren. Dr. Warren *recommended medication error prevention education be included in the LOI to the PIC*. All were in favor and the motion carried.

12. Case No.: L08-PHR-RBS-200800175

Complainant alleges that the PIC refused to speak to the Complainant when she realized that her prescription for Paxil was misfilled with Plavix. Complainant alleges that the PIC cut her off while she was trying to explain her symptoms to her and told the Complainant she needed to speak to a doctor. Complainant also indicates that someone else got on the phone and told the Complainant that the PIC was too busy to speak to her.

PIC denies the allegation of refusing to speak to the patient.

There is another corresponding complaint against the dispensing DPh about the alleged misfill that is currently being investigated to determine whether the misfill occurred and whether patient counseling was performed or offered in accordance with BOP rules.

Prior complaints:

PIC: None

Recommendation: Dismiss

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

Chief legal counsel, Mrs. Alison Cleaves, advised **the portion of the complaint relevant to the misfill is still being investigated.**

13. Case No.: L08-PHR-RBS-200800168

Complainant alleges that the pharmacist failed to fill her prescription with the generic name medication for Fluticasone 0.05% Cream 60gm, #60 and gave her 120 count instead of 60 count. Complainant says that PIC told her that the cream did not come in generic. Complainant states that she went to another pharmacy and they filled it with a generic.

PIC responded to the complaint and states that the Complainant was being dispensed at the drive-thru. When the Complainant questioned the Rx, the PIC spoke to her and told her that there was no generic for the drug.

Prior complaints:

PIC: None

Recommendation: Letter of Instruction about T.C.A. §53-10-203

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

14. Case No.: L08-PHR-RBS-200800152

Complainant alleges that his prescription for Simvastatin 40 mg was misfilled for approximately four (4) months with Diovan. Complainant consumed the incorrect medication for that period of time. Complainant is also taking a Diuretic, Potassium and a blood pressure medication.

PIC responded to the complaint denying that the Complainant's prescription was misfilled four (4) times. PIC ran a dispensing report for the days that the Complainant had her prescriptions filled and the pharmacy did not dispense any Diovan 160mg to her on any of those days. Pharmacy records do show that they filled the Rx's with Simvastatin on four (4) occasions and on the last fill switched manufacturers. Also PIC states that while the Complainant states she is on a Diuretic, Potassium and a blood pressure medication, she has not gotten any of those prescriptions filled at the pharmacy. PIC also states that the pharmacy has a system, which is designed to ensure accurate filling through a prospective DUR and patient counseling that is monitored by the system. PIC also notes that the medications are not close to each other on the shelves and do not look alike in shape or color, thereby reducing the chances of a misfill.

Prior complaints:

Pharmacy: 2001- unprofessional conduct, dismissed
PIC: None

Recommendation: Dismiss

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

15. Case No.: L08-PHR-RBS-200800165

Complainant alleges that the Respondent is an impaired pharmacist.

Investigation did not reveal any evidence to support this allegation. Investigator obtained statements from the pharmacy staff who all indicated that the Respondent was not impaired or taking medications not prescribed. Respondent suffers from chronic pain and is taking pain medications. Respondent indicated that he has had a surgical implant to help relieve his pain and his consumption of pain medications has reduced over the past six (6) months.

Prior complaints:
2002- theft of merchandise, 2 yr. probation

Recommendation: Dismiss

Dr. Bettie Wilson motioned to **dismiss** the complaint; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

16. Case No.: L08-PHR-RBS-200800172

Complainant alleges that the Respondent, pharmacist, is operating as a manufacturer by manufacturing Celestone Solupsan. Respondent is a compounding pharmacist. Respondent responded to the complaint stating that generally, he does not perform wholesaling of compounded products, but does do that in cases of Celestone and other products unavailable from manufacturers and he understood that this practice was acceptable.

Prior complaints:

Recommendation: Letter of Warning

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

17. Case No.: L07-PHR-RBS-200708088

Case previously presented to the Board in which the Board voted to offer a civil penalty assessment against the pharmacy and the dispensing DPh for lack of patient counseling. When the DPh received the offer, she called with mitigating circumstances that she wanted presented to the Board for its consideration. The complaint involved a misfill of Alprazolam for Lorazepam. When I initially inquired about whether the Rx was new or a refill and whether patient counseling was appropriately performed or offered depending on the answer to the first question, I was told that it was a new Rx and patient counseling was not performed. Respondent indicates that while it was technically a new Rx, the patient had taken the medication sometime in the past, so

Respondent considered it a refill. Respondent cannot recall if she made an offer to counsel. Respondent also offers as an explanation that since both drugs were Benzodiazepines and both were 2mg, both given twice a day, patient counseling may not have caught the error.

Prior complaints: None

Recommendation: Discuss

Mrs. Monica Franklin motioned to **uphold the Board's prior decision**; seconded by Dr. Charles Stephens. All were in favor and the motion carried.

18. Case No.: L08-PHR-RBS-200800184

Complainant alleges that the following medication errors have occurred at the pharmacy: (1) pharmacy filled Complainant's prescription for Zolpidem in her husband's name; both husband and wife are on the same drug; (2) Complainant's husband's prescription was filled with the incorrect dosage amount; (3) Complainant was given and left with a bag containing both her husband's prescriptions and prescriptions for another individual; (4) Other prescriptions on other occasions have been filled with either the wrong dosage amount of or the wrong quantity.

PIC responded to the complaint cooperatively with the other members of the pharmacy staff. PIC denies allegation numbers 1 and 2. PIC indicates that he and staff have reviewed the prescriptions and they were filled correctly. PIC provided us with a copy of those prescriptions that appear to be filled correctly. PIC cannot deny or affirm number 3; staff does not remember this occurring and they have double-checked all records and patient profiles for notations of this occurrence and they could not find any indication that this error occurred. Before dispensing the medication, pharmacy staff verifies name and date of birth as well as one other identifier, such as address or telephone number. PIC also cannot confirm or deny number 4 without more specific information.

Prior complaints:

Pharmacy: None

PIC: None

Recommendation: Dismiss

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

19. Case No.: L08-PHR-RBS-200800197

Complainant alleges that the pharmacy staff uses its own DEA number to prescribe for certain patients.

Investigation revealed that there was no evidence to substantiate this allegation. Investigator visited the pharmacy and pulled patient records for the patients named in the complaint and discovered that two (2) prescribers had been mistakenly entered into the pharmacy system under the pharmacy's DEA number; both prescriber's were newly licensed. The pharmacy had also recently purchased a new computer system a few months ago and some of the information fields are reversed from the old system. Both records were corrected while the investigator was present in the pharmacy.

Prior complaints:
Pharmacy: None
PIC: None

Recommendation: Dismiss

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

20. Case No.: L08-PHR-RBS-200800186

Complainant alleges that the pharmacy shorted the patient's prescription for Oxycodone. The patient was prescribed twenty (20) tablets and only received eighteen (18).

PIC responded to the complaint and states that when the Complainant contacted the pharmacy to indicate that the patient's prescription bottle contained only eighteen (18) and not the prescribed twenty (20) tablets, DPh on duty completed an inventory for Oxycodone/APAP 5mg-325mg and determined that the pharmacy's on-hand count was accurate. PIC also performed an inventory reconciliation for this drug and could find no discrepancy. PIC notes that there was a six (6) hour period of time between the purchase of the medication and the discovery of the alleged missing tablets.

Prior complaints:
Pharmacy and PIC: 2002, medication error, letter of warning
2005, medication error, letter of warning

Recommendation: Dismiss

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

21. Case No.: L08-PHR-RBS-200800188

Complainant alleges that he received someone else's prescription. Complainant was prescribed Hydrocodone/APAP 7.5mg/650mg and instead received Acyclovir 400mg. The Complainant consumed one tablet of the incorrect medication.

PIC responded to the complaint and admits the medication error. Technician mistakenly gave the Complainant another individual's medication. Both the Complainant and the other individual had the same last name. Outside label on the bag as well as the prescription bottle were labeled with the other individual's name.

Prior complaints:
Pharmacy: 2001, unprofessional conduct, letter of instruction
PIC: None

Recommendation: Letter of Warning

The Board tabled the complaint pending further investigation.

22. Case No.: L08-PHR-RBS-200800196

Complaint generated from a compliance inspection in which an investigator found that the Respondent, pharmacist allowed a technician to perform compounding without the physical presence of the pharmacist. The pharmacy is a closed-door pharmacy located inside a DME supplier and is licensed as a m/w/d. Technician indicated to the investigator that he has a key to the pharmacy and that he usually opens the pharmacy and works in the pharmacy without the pharmacist being present. Pharmacist indicated to the investigator that he thought that practice was acceptable in a closed-door pharmacy. Respondent indicates that after the inspection, no one but a pharmacist has a key to the pharmacy and that no one will be in the pharmacy without the pharmacist being present.

Prior complaints:
Pharmacy: None
PIC: None

Recommendation: Authorize formal hearing (\$100 civil penalty for the key violation and civil penalty for the unlicensed conduct)

Dr. Larry Hill motioned to **issue a \$1,000 civil penalty for the key violation and \$1,000 civil penalty for the unlicensed conduct to the PIC**; seconded by Dr. Bettie Wilson; **and the Respondent must cease being the pharmacist-in-charge at two locations and to designate which location he will continue being the PIC and to notify the Board office.** All were in favor and the motion carried.

23. Case No.: L05-PHR-RBS-200500796

Complainant (FDA) alleges that the Respondent, pharmacists were engaging in unlicensed conduct as manufacturers, wholesalers and distributors by distributing drugs to a charitable organization outside the U.S. Respondents deny the allegations of unlicensed conduct. The FDA never pursued this complaint; and will not release its file to the Board of Pharmacy.

Prior complaints: None

Recommendation: Close

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

24. Case No.: L08-PHR-RBS-200800020

Complainant alleges that the Respondent, pharmacy technician, was involved in the theft and/or diversion of Hydrocodone from the pharmacy where she was employed. Investigation into this matter could not show a significant loss of Hydrocodone and any loss that there was, could not be linked to the Respondent.

Prior complaints: None

Recommendation: Dismiss against the technician and a LOW to the PIC about federal recordkeeping violation.

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

25. Case No.: L08-PHR-RBS-200800075

Complainant (former PIC at the hospital pharmacy) alleges that the Respondent, hospital pharmacy, is violating BOP rules by having a nurse enter orders after hours and not a pharmacist. Prior to nurse order entry, Complainant indicates that the nurse was able to access the automated dispensing system for emergency doses when the hospital pharmacy was closed and for non-emergency orders, the pharmacist would review those orders before dispensing. Applicable rule is Rule 1140-4-.04. Investigation into the matter revealed that the hospital pharmacy was implementing the nurse order-entry system as the Complainant described, but it is no longer being implemented by the Respondent.

Prior complaints: None

Recommendation: Letter of Warning to the Pharmacy

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

26. Case No.: L03-PHR-RBS-200312011

Complainant alleges that a prescription for Tussi 12 D was dispensed with the incorrect directions. Prescription directions were "take 2 ml po bid prn" and the Rx was dispensed with directions "take two teaspoonfuls by mouth twice daily as needed for pain." Statement from the PIC and copies of the dispensing label confirm that the error occurred. Also, the Respondent dispensed Tannate which is not the generic equivalent to the prescribed medication.

Prior complaints:

Pharmacy: None

PIC: None

Recommendation: Letter of Warning to Dispensing Pharmacist

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

27. Case No.: L08-PHR-RBS-200800162

This is a re-presentation of a complaint to the Board. Board previously authorized a settlement offer of \$1,300 dollars to the PIC for allowing an unregistered individual to operate as a pharmacy technician for a period of fifteen (15) months. PIC responded to my offer of settlement and indicated that while the individual began his employment with the pharmacy in June 2007, he did not begin to operate a technician in the pharmacy until December 2007.

Recommendation: Discuss

Dr. Larry Hill motioned to **accept the PIC statement and to issue a civil penalty of \$700**; seconded by Dr. Charles Stephens. All were in favor and the motion carried.

APPROVAL OF RECIPROCITY CANDIDATE

SCOTT EFFINGER, DPH
2415 W. Long Shadow Trail
Phoenix, AZ 85085

Mrs. Alison Cleaves, chief legal counsel, presented Dr. Scott Effinger's reciprocity application in which he answered "yes" to "Have you ever been charged or convicted of a felony or misdemeanor whether or not sentence was imposed, suspended, expunged, or whether you were pardoned from any such offense?" Dr. Effinger stated assault charges were filed against him in 1998 in Colorado. Court documents indicate restitution was paid and he was placed on unsupervised probation for eighteen months/work release for thirty (30) days. The probation ended on April 5, 1999. Ms. Cleaves, legal counsel, stated there are no other restrictions. Mrs. Monica Franklin motioned to **grant** reciprocity; seconded by Dr. Larry Hill. All were in favor and the motion carried.

APPROVAL OF PHARMACY TECHNICIAN CANDIDATES

RICKA BREWER
194-A Cartwright Road
Shelbyville, TN 37160

Executive Director, Dr. Kevin Eidson, presented a pharmacy technician application on Ms. Ricka Brewer who checked "yes" to the violation of "Have you been convicted of a misdemeanor including alcohol or drug related offenses?" On September 18, 2007, Ms. Brewer pled guilty of a DUI 1st offense. Ms. Brewer has completed the requirements and terms of the probation, and the fines were paid in full. Mrs. Monica Franklin motioned to deny the application; seconded by Dr. Bettie Wilson. After discussion, Mrs. Franklin withdrew her motion. The Board tabled the application. After reconsideration of the Board, Dr. Larry Hill motioned to **grant** Ms. Brewer's pharmacy technician registration; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

MARC DAVIS
6458 Lickton Pike
Goodlettsville, TN 37072

Dr. Kevin Eidson, Executive Director, stated Mr. Marc Davis' pharmacy technician registration was denied at the May 5 - 6, 2008 meeting and he is seeking reconsideration from the Board. Mr. Davis answered "yes" to a DUI conviction on September 29, 2006 and he was given an order for probation. Mr. Davis furnished the Board with a letter from his employer, OmniCare, stating he has been employed since December 14, 2007. Mr. Davis has successfully secured a diploma from a Pharmacy Technician School in California and he is interested in taking the PTCB Certification examination. The Board inquired on the probationary term, which will end on September 29, 2009. The Board tabled the application. The Board reconsidered Mr. Davis' application and Mrs. Monica Franklin motioned to **grant the registration and must provide documentation when the term of probation is completed successfully**; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

WILLIAM GLASCOCK
1105 Dartmouth Street
Chattanooga, TN 37405

Mrs. Alison Cleaves, chief legal counsel, presented Mr. William Glascock's pharmacy technician registration in which he answered "yes" to being convicted of a misdemeanor for underage drinking in Athens, Georgia. Mr. Glascock has met all the requirements imposed by the Municipal Court of Athens-Clarke County dated February 3, 2006. Mrs. Monica Franklin motioned to **grant** the application; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

ELIZABETH HICKS
1833 Glen Echo Road
Johnson City, TN 37604

Executive Director, Dr. Kevin Eidson, presented a pharmacy technician registration on behalf of Ms. Elizabeth Hicks. Ms. Hicks checked "yes" to being convicted of a misdemeanor of a DUI in July 2006. Ms. Hicks paid fines/court costs of \$480; completed a counseling session for alcohol

treatment on December 28, 2006; completion of 24 hours of community service in 30 days and her driver's license privileges were reinstated. Dr. Charles Stephens motioned to **grant** the registration; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

FELICIA STEPHENS
2516 Devereux #4
Memphis, TN 38128

Mrs. Alison Cleaves, chief legal counsel, presented Ms. Felicia Stephens' pharmacy technician registration whereas she marked "yes" to "Are there any charges pending against you?" Ms. Stephens was convicted of a DUI offense in 2001. Ms. Stephens completed community service and paid court costs/fines of \$350. Mrs. Monica Franklin motioned to **grant** the registration; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

AMANDA VANDERGRIF
11038A Old Dayton Pike
Soddy Daisy, TN 37379

Dr. Kevin Eidson, Executive Director, presented Ms. Amanda Vandergriff's pharmacy technician registration in which she answered "yes" to being convicted of a misdemeanor for simple possession on October 7, 2006. Ms. Vandergriff was placed on six (6) months unsupervised probation and stated the offense can be expunged from her record. Mrs. Monica Franklin motioned to deny the registration because it has not been expunged from her record. Mrs. Franklin withdrew her motion. Dr. Eidson advised court costs and fines were paid. Mrs. Monica Franklin motioned to **grant** the application; seconded by Dr. Charles Stephens. All were in favor and the motion carried.

DUSTIN VO
4975 Kaye Road
Memphis, TN 38117

Mrs. Alison Cleaves, chief legal counsel, presented a pharmacy technician registration for Mr. Dustin Vo who answered "yes" to being convicted of a misdemeanor for a DUI in 2001. Mr. Vo was placed on a period of probation of 11 months/29 days and furnished a Certificate of Completion for Memphis Alcohol and Drug Council for Alcohol Safety School dated June 22,

2002. Mrs. Monica Franklin motioned to **grant** the pharmacy technician registration; seconded by Dr. Brenda Warren. All were in favor and the motion carried.

**ASSISTANT COMMISSIONER CHRISTY ALLEN
BUREAU OF HEALTH LICENSURE & REGULATION**

At the September 9-10, 2008 board meeting, the Board had requested Assistant Commissioner Christy Allen to appear to discuss a breakdown of the items listed on the financial statement ending June 30, 2008. President, Dr. Todd Bess expressed to Assistant Commissioner Christy Allen in regards to meeting with her and addressing the board's concerns of the financial statement, that he was not refusing her request to meet privately and that the issues brought up were the concern of the board members.

Assistant Commissioner Allen noted the Board pays approximately \$18 square foot for rent. The Board inquired as to travel and specifically addressed Dr. Kevin Eidson attending the 2009 Update Seminars and Assistant Commissioner Allen responded she did not see a problem. The Board inquired as to the cost of moving the Board of Pharmacy to 227 French Landing and Assistant Commissioner Allen advised there were no additional costs involved. The Board inquired about the cost incurred in publishing a newsletter in an electronic format. Assistant Commissioner Allen indicated this would be a non-competitive contract from F&A. Mrs. Monica Franklin commented to Assistant Commissioner Allen that Dr. Kevin Eidson was doing a fine job and President Dr. Todd Bess expressed his appreciation of Dr. Eidson as the Executive Director and the Board's chief legal counsel, Mrs. Alison Cleaves. The Board thanked Assistant Commissioner Allen for her time.

**ELIZABETH MAYES - PHARMACY TECHNICIAN APPLICANT
7403 Tate Road
White House, TN 37188**

Executive Director, Dr. Kevin Eidson, advised Ms. Elizabeth Mayes' registration was presented at the September 9 - 10, 2008 meeting which the Board denied and requested her to appear to discuss the misdemeanor violations listed on her pharmacy technician registration application.

Ms. Mayes stated in 2003 she was convicted of possession of alcohol under age 21, pled guilty and paid a fine of \$50. In February, 2005, Ms. Mayes stated she was charged with disorderly conduct; paid a \$50 fine and sentenced to serve 30 days in jail, which was suspended. Mrs. Monica Franklin motioned to **grant** the application; seconded by Dr. Charles Stephens. All were in favor and the motion carried.

**MARTHA BRYANT, DPH - REQUEST FOR REINSTATEMENT OF LICENSE
MORRISTOWN, TN**

Dr. Martha Bryant appeared before the Board along with TPRN advocates, Dr. Janet Hicks and Dr. Edwin Bills, to request the reinstatement of her pharmacist license. Executive Director, Dr. Kevin Eidson, stated in November 2002, the Board reinstated Dr. Bryant's license with a five (5) year term of probation. Dr. Bryant stated in November 2003, she transferred her license to Alabama and entered into a contract with Al Corip. Dr. Bryant stated she was attending the AA/NA meetings, and was working the 12-step program. In June 2007, Dr. Bryant's husband broke his leg and she became his caregiver while continuing to work. In July 2007, Dr. Bryant began taking her husband's hydrocodone but was never impaired at work. In November 2007, a drug screen revealed to be positive. Dr. Bryant surrendered her license to the Alabama Board in December 2007 and went for a three-day evaluation at Cornerstone. Dr. Bryant completed her 90/90 meetings and on September 17, 2008 her Alabama license was reinstated with a five (5) year term of probation. Dr. Edwin Bills stated Dr. Bryant was compliant with TPRN recommendations. Mrs. Monica Franklin motioned to **grant** the reinstatement of Dr. Bryant's license with a ten (10) year term of probation.

Mrs. Franklin asked Dr. Bryant to read the terms and conditions for reinstatement:

Respondent does hereby agree to the reinstatement of license number **1461** with the following probationary conditions. Said probation shall remain in effect for a period of **ten (10) years, from November 3, 2008 to November 3, 2018.**

- a) The Respondent shall completely abstain from the consumption of

alcohol or any other drugs, except as specified in (b).

- b) Respondent shall be able to consume legend drugs or controlled substances prescribed by the Respondent's primary physician, Roger Beck, MD, except in the case of an emergency or upon a proper referral from the Respondent's primary physician. The Respondent shall immediately notify the Board office in writing of the name of the Respondent's 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 a 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, such as the Tennessee Pharmacists Recovery Network 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 a 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 of the terms and conditions of the extended aftercare contract he or she entered into with Tennessee Pharmacists Recovery Network. 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. 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;
- i) If the license has been inactive, delinquent, suspended or revoked:
 - (i) **Less than one (1) year, the pharmacist shall:**
 - I. Provide written notice requesting an active license;
 - II. Satisfy all past due continuing pharmaceutical education; and
 - III. Pay all cumulative license renewal fees and any applicable penalties.

Dr. Bettie Wilson seconded the motion. All were in favor and the motion carried.

**DONNA CLARKSON, DPH - REQUEST FOR REINSTATEMENT OF LICENSE
JACKSON, TN**

Dr. Donna Clarkson appeared before the Board along with her former husband, Mr. Russell Clarkson, to request the reinstatement of her pharmacist license. Advocating on her behalf was Dr. Janet Hicks with Cornerstone Recovery. Dr. Clarkson stated in the fall of 2002 she suffered a neck injury, and was prescribed hydrocodone. In November 2004, Dr. Clarkson began diverting to cover the lapse in her prescription while her alcohol usage increased. In December 2004, Dr. Clarkson entered Cresthaven but was not committed to dealing with her alcohol dependency and left the facility and relinquished her pharmacist license in July 2005. In November 2006, she was involved in a car accident and entered Cornerstone in February 2007. In May 2007, Dr. Clarkson was discharged upon successfully complying with the treatment program and completed her 90/90. Dr. Vance Argo and Dr. Jennifer Spivey, TPRN advocates, were not able to attend but are supportive of her return to the practice of pharmacy. Dr. Clarkson stated she has no charges pending. After discussion, Dr. Bettie Wilson motioned to **grant** the reinstatement of Dr. Clarkson's pharmacist license with a five (5) year term of probation.

Dr. Clarkson read the following terms and conditions for the reinstatement of her pharmacist license.

Respondent does hereby agree to the reinstatement of license number **8208** with the following probationary conditions. Said probation shall remain in effect for a period of **five (5) years**, from **November 3, 2008 to November 3, 2013**.

- a) The Respondent shall completely abstain from the consumption of alcohol or any other drugs, except as specified in (b).
- b) Respondent shall be able to consume legend drugs or controlled substances prescribed by the Respondent's primary physician,

David Bryan, MD, except in the case of an emergency or upon a proper referral from the Respondent's primary physician. The Respondent shall immediately notify the Board office in writing of the name of the Respondent's 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 a 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, such as the Tennessee Pharmacists Recovery Network 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 a 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 of the terms and conditions of the extended aftercare contract he or she entered into with Tennessee Pharmacists Recovery Network. 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. 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;
- i) If the license has been inactive, delinquent, suspended or revoked:
 - (ii) **One (1) year to not more than five (5) consecutive years, the pharmacist shall:**
 - I. Provide written notice requesting an active license;
 - II. Satisfy all past due continuing pharmaceutical education;
 - III. Successfully complete the Multi-State Pharmacy Jurisprudence Examination (MPJE);
 - IV. Pay all cumulative license renewal fees and any applicable penalties;
 - V. Complete a period of pharmacy internship in Tennessee.
 - B. For more than three (3) consecutive years but not more than five (5) consecutive years, three hundred twenty (320) hours within one hundred eighty (180) consecutive days.

Mrs. Monica Franklin seconded the motion. All were in favor and the motion carried.

DIRECTOR'S REPORT

TOPICS FOR 2009 UPDATE SEMINARS

1. Educate PIC responsibilities
2. Pharmacy technicians - DUI
3. FAQ's (Frequently Asked Questions)
4. CE Issue - January 2009
5. CSMD Statistics
6. General discussion of the Board's responsibilities
7. Criminal background checks
8. Internet drug sales
9. Tamper Resistant Rx Pads

Dr. Kevin Eidson, Executive Director, stated the above listed topics would be discussed at the Update Seminars for 2009. Dr. Larry Hill acknowledged to Dr. Eidson and the staff for doing a good job. Dr. Larry Hill motioned for **Dr. Eidson to attend the updates and to be reimbursed for his time and expenses**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

2009 BOARD CALENDAR - SCHEDULING OF MEETINGS

Dr. Kevin Eidson, Executive Director, stated the dates previously requested by the Board for the May, September and November 2009 board meetings were unavailable. The Board provided the following dates as alternatives:

May	7/8, 11/12
September	15/16, 16/17
November	12/13, 16/17, 19/20

BOARD OF PHARMACY STAFF ORGANIZATIONAL CHART

Executive Director, Dr. Kevin Eidson, provided the members with a copy of the Organizational Chart for the board staff.

CONFLICT OF INTEREST STATEMENT

Dr. Kevin Eidson, Executive Director, provided the board members with a copy of the Conflict of

Interest Statement and requested a signed copy be returned to the board office.

**NABP 2008 SYMPOSIUM
TUCSON, ARIZONA
December 4 - 5, 2008**

Executive Director, Dr. Kevin Eidson, stated the NABP 2008 Symposium will be held on December 4 - 5, 2008, in Tucson, Arizona and it will address issues on doctor shopping and counterfeit drugs, etc. Dr. Brenda Warren motioned to **allow the Executive Director to attend the meeting and to include having all expenses paid**; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

**AMERICAN COUNCIL FOR PHARMACY EDUCATION (ACPE) SITE VISITS
UNIVERSITY OF TENNESSEE COLLEGE OF PHARMACY
KNOXVILLE AND MEMPHIS**

Dr. Kevin Eidson participated in the American Council for Pharmacy Education (ACPE) site visits as an observer at the University of Tennessee Colleges of Pharmacy in Knoxville and Memphis on September 29, 2008 - October 1, 2008. The American Council for Pharmacy Education (ACPE) is responsible for accrediting the colleges of pharmacy in the United States. Dr. Eidson's attendance at the site visits were to ensure that T.C.A. §63-10-306 and Board of Pharmacy Rule 1140-1-.03 are being satisfied with the accreditation process and to determine whether there were enough experimental sites for the college of pharmacy students. Dr. Eidson discussed the licensing of interns, which the Board could take disciplinary action against; and advised the Board has the capability of licensing interns.

**AMERICAN COUNCIL FOR PHARMACY EDUCATION (ACPE) CONTINUING EDUCATION
HOURS**

Dr. Kevin Eidson advised the American Council for Pharmacy Education (ACPE) has made changes in their approval of the Live CE for pharmacy and discussed obtaining fifteen (15) Live ACPE hours for the District meetings.

LIPSCOMB UNIVERSITY COLLEGE OF PHARMACY

Dr. Kevin Eidson, Executive Director, advised he received a e-mail from Dr. Roger Davis, Dean and Professor of Pharmacy Practice at the Lipscomb University College of Pharmacy regarding having members of the Board of Pharmacy participate in Lipscomb's committee structure. Dr. Eidson noted Dr. Todd Bess is associated with University of Tennessee and Dr. Bettie Wilson is associated with East Tennessee State University. Dr. Brenda Warren feels it is a Conflict of Interest to participate. Chief legal counsel, Mrs. Alison Cleaves, noted one person cannot speak for the entire board or show favoritism over one college or another. Dr. Brenda Warren motioned to **decline the offer**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

**2008 MALTAGON (+ FLORIDA and KENTUCKY)
TUNICA, MISSISSIPPI
October 6 - 8, 2008**

Executive Director, Dr. Kevin Eidson, stated Dr. Charles Stephens, Dr. Brenda Warren and he attended the MALTAGON meeting in Tunica, Mississippi on October 6-8, 2008. The meeting was very informative and advised Tennessee will be hosting the meeting in Nashville, in 2009. Dr. Brenda Warren requested that all board members be able to attend the meeting next year in Nashville, Tennessee.

**2008 NADDI CONFERENCE
NASHVILLE, TENNESSEE
November 11 - 14, 2008**

Executive Director, Dr. Kevin Eidson, stated he and the pharmacy investigators have been approved to attend the 2008 National Association of Drug Diversion Investigators Conference on November 11 - 14, 2008 at the Maxwell House Hotel in Nashville.

BOARD OF PHARMACY

President, Dr. Todd Bess noted for the record, the Board is pleased with Dr. Kevin Eidson's performance as the Executive Director of the Board of Pharmacy; and the administrative staff's work ethics.

ADJOURNED

Dr. Brenda Warren motioned to adjourn the Board of Pharmacy meeting on Monday, November 3, 2008 at 4:30 p.m. CST; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

RECONVENED

The Board of Pharmacy reconvened on Tuesday, November 4, 2008 at 9:00 a.m. CST in the Poplar Room, 227 French Landing, Nashville, Tennessee. A quorum of the members being present, President, Dr. Todd Bess called the meeting to order. Dr. Robert Mitchell was not present.

PHARMACY TECHNICIANS DENIED - MISDEMEANOR/FELONY CONVICTIONS

Chief legal counsel, Mrs. Alison Cleaves advised the Board that she would like to obtain a greater sampling of the previous technicians who were denied a registration based on a misdemeanor or felony conviction not for a lack of information being provided.

DEREK GATLIN, DPH - REQUEST FOR REINSTATEMENT OF LICENSE DELLROSE, TN

Dr. Derek Gatlin appeared before the Board to request the reinstatement of his pharmacist license along with his mother, Mrs. Gatlin and an uncle. Advocating on his behalf was Dr. Cliff Weiss with the Tennessee Pharmacist Recovery Network (TPRN). Executive Director, Dr. Kevin Eidson, stated Dr. Gatlin surrendered his license, which was accepted by the Board at the May 5 - 6, 2008 meeting. Dr. Gatlin stated in 2001, he was diagnosed with depression. In May 2007, Dr. Gatlin graduated from pharmacy school and began using Hydrocodone for migraine headaches, which were obtained without a prescription from his grandmother. From September 2007 - February 2008, he began experimenting with Fentanyl patches while his depression continued to deepen. In March 2008 he became employed at a retail pharmacy and

began diverting until April 17, 2008, when he was intervened upon. Dr. Gatlin entered treatment at Cornerstone on April 17, 2008, and successfully completed the 90 days treatment. Dr. Cliff Weiss, TPRN advocate, advised Dr. Gatlin has completed the 90/90 meetings in 90 days and is compliant with the TPRN recommendations. After discussion, Dr. Larry Hill motioned to reinstate Dr. Gatlin's license with a five (5) year term of probation beginning today, November 4, 2008.

Respondent does hereby agree to the reinstatement of license number 31937 with the following probationary conditions. Said probation shall remain in effect for a period of **five (5) years**, from November 4, 2008 to November 4, 2013.

- a) The Respondent shall completely abstain from the consumption of alcohol or any other drugs, except as specified in (b).
- b) Respondent shall be able to consume legend drugs or controlled substances prescribed by the Respondent's primary physician, Willie Jones, MD, except in the case of an emergency or upon a proper referral from the Respondent's primary physician. The Respondent shall immediately notify the Board office in writing of the name of the Respondent's 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 a 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, such as the Tennessee Pharmacists Recovery Network 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 a 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 of the terms and conditions of the extended aftercare contract he or she entered into with Tennessee Pharmacists Recovery Network. 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. 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;

- i) If the license has been inactive, delinquent, suspended or revoked:
 - (i) **Less than one (1) year, the pharmacist shall:**
 - I. Provide written notice requesting an active license;
 - II. Satisfy all past due continuing pharmaceutical education; and
 - III. Pay all cumulative license renewal fees and any applicable penalties.

Dr. Bettie Wilson seconded the motion. All were in favor and the motion carried.

**TAMPER-RESISTANT PRESCRIPTION PAD COMMITTEE MEETING
NOVEMBER 4, 2008**

Dr. Kevin Eidson, Executive Director, advised the Tamper-Resistant Prescription Pad Committee will be conducting a meeting on Tuesday, November 4, 2008 at 2:30 to discuss the proposed public necessity rules.

Dr. Todd Bess, President, expressed his appreciation to Mrs. Alison Cleaves, Chief Legal Counsel and Dr. Kevin Eidson Executive Director for composing the proposed tamper resistant rules.

**DONNA CLEMENS, LCSW
QI Clinical Reviewer
Megellan Health Services
222 Second Avenue, North #220
Nashville, TN 37201**

Dr. Kevin Eidson, Executive Director, received an e-mail inquiry from Ms. Donna Clemens relevant to pharmacists prescribing medication. Ms. Clemens had received a response from the Executive Director for the Board of Medical Examiners, relevant to a medical order for pharmacist management of drug therapy and stated the document constitutes the practice of medicine. A physical assessment of a patient is within the scope of practice of medicine and can not be delegated to a Pharm D. The Executive Director further states pursuant to T.C.A.

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63-10-204 (31) (B), it specifically prohibits a Pharm D from ordering laboratory tests or prescription drugs except to a medical order by the patient's attending physician. The Board of Pharmacy noted a pharmacist may convey orders for laboratory tests and prescription orders where required to carry out a medical order when authorized by the attending physician for each patient under a collaborative care agreement between the physician and the pharmacist. Dr. Larry Hill motioned **it is a practice of pharmacy**; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

ADJOURNED

Mrs. Monica Franklin motioned to adjourn the Board of Pharmacy meeting on Tuesday, November 4, 2008 at 11:55 a.m. CST; seconded by Dr. Brenda Warren. All were in favor and the motion carried.

The Board of Pharmacy approved the November 3-4, 2008 minutes at the January 12-13, 2009 board meeting.