

**TENNESSEE BOARD OF PHARMACY
JANUARY 29 – 30, 2008
227 FRENCH LANDING – IRIS/POPLAR ROOM
NASHVILLE, TN**

BOARD MEMBERS PRESENT:

Todd Bess, Vice President
Sheila Mitchell, Member
Monica Franklin, Consumer Member

Bettie Wilson, Member
Larry Hill, Member
Brenda Warren, Member

STAFF PRESENT:

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

The Tennessee Board of Pharmacy convened on Tuesday, January 29, 2008, in the Iris/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 8:30 a.m. CST, by Vice President Dr. Todd Bess. For the record, Dr. Robert Mitchell was not in attendance.

ELECTION OF OFFICERS

Executive Director, Dr. Kevin Eidson, advised the Board that he had received a letter from Dr. Robert Mitchell stating he is respectfully declining the position of President of the Tennessee Board of Pharmacy due to some personal issues but would like to retain his position as a member of the Board.

Dr. Brenda Warren motioned for Dr. Sheila Mitchell to continue as President until her term expires on the Board in July, 2008 and then Dr. Todd Bess would officiate as President; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

Dr. Brenda Warren motioned to allow Dr. Bettie Wilson to be appointment as Vice President of the Board for the last six (6) months of the 2008 calendar year when Dr. Todd Bess becomes President; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

Vice President, Dr. Todd Bess turned the meeting over to President-elect, Dr. Sheila Mitchell. For the record, Dr. Bess will be attending a funeral and Dr. Sheila Mitchell noted on behalf of the Board, we are sending our condolences to Dr. George Gregory.

**INTRODUCTION OF NEW HEALTH RELATED BOARDS
DIRECTOR and PHARMACY BOARD EMPLOYEE**

Dr. Kevin Eidson introduced Ms. Elizabeth Miller as the new Director for Health Related Boards.

Dr. Eidson introduced Mr. Walter Philpot who is a Statistician II with the Board and he will be assisting with compiling data for the Controlled Substance Database and the handling of complaints.

Dr. Eidson also introduced Mr. Al Partee, General Counsel with the Department of Health. Mr. Partee was formerly with the Attorney General's Office.

APPROVAL OF THE MINUTES

The minutes of September 11 - 12, 2007; November 8- 9, 2007 and the Teleconference Meeting of December 14, 2007 were presented. Mrs. Monica Franklin motioned to **defer the minutes until Wednesday, January 30, 2008**; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

The minutes of the **September 11 – 12, 2007** board meeting was presented. Mrs. Monica Franklin motioned to **approve** the Minutes; seconded by Dr. Larry Hill. During discussion, Dr. Hill noted on page 4 when **referring to an “unlicensed” technician, the minutes should be reflected as “unregistered”**. Mrs. Franklin made an amendment to the motion to include Dr. Hill's request, seconded by Dr. Hill. All were in favor and the motion carried.

The minutes of the **November 8 – 9, 2007** board meeting were presented. In reference to the portion of the minutes regarding Accredo, it states,

**ACCREDO HEALTH, INC.
1640 Century Center Parkway, #101
Memphis, TN 38134**

Dr. Brenda Warren is requesting clarification of the November 7 - 8, 2006 minutes in regards to the Return of Inventory of Prescription Drugs and is reflected as follows:

Dr. Brenda Warren and Dr. Sherry Townsend with Accredo Health appeared before the Board to discuss the Return to Inventory of Prescription Drugs Accredo Health is a unique pharmacy which specializes in chronic and rare disease therapies. Due to the high

acquisition costs of the medication and the special handling involved, Accredo wishes to reiterate their procedures and to discuss the definition of the term “dispense”, as defined in T.C.A. §63-10-404 (11). Dr. Warren noted in certain circumstances, the medications are returned to Accredo due to the discontinuance of the therapy, death or hospitalization of the patient after the shipment has occurred and that the “actual delivery of” the prescription drug has not taken place. In reference to Rule 1140-4-.10 Unused Drugs, Devices and Related Materials, the Rule would allow Accredo to re-stock and re-issue the medications if the integrity of the product is intact according to the professional judgment of the pharmacist. Mrs. Alison Cleaves, chief legal counsel, noted in the scenarios presented, that if the medication is delivered by their agent, Federal Express, to the doctor’s office and kept stored in the refrigerator and the patient does not show up, there are guidelines that must be met prior to accepting the return of the drugs pursuant to Rule 1140-4-.10. Rule 1140-3-.03 (8) Medical and Prescription Orders - makes an exception to Rule 1140-4-.10 in reference to the return of any portion of an order that has been taken from the premises of the pharmacy practice site. The Board expressed concern if Federal Express delivered to an address and the homeowner contacted Federal Express to report that the package was left on the wrong porch and is retrieved and returned to Accredo it may be a Pedigree issue. Another issue of concern discussed was the accepting of packages from the physician’s office and the Board advised Accredo should inspect their facility. The Board requested a change be made in the process Accredo has previously been following. The Board would also like to see “red” tape on the Styrofoam. (November 7 - 8, 2006)

Accredo is requesting the following proposed changes be made to the minutes:

While the Board did advise that Accredo inspect physician offices, they realized the impracticality of that recommendation when reminded that Accredo is a national company. We do not believe that Accredo was to be held to that recommendation.

The Board did request a change be made to Accredo’s current process when the package was left on the wrong porch – these drugs should not be returned to the inventory. Accredo requests that this be clarified in the minutes as without that clarification, it appears that Accredo was asked to change their entire process and not return any drugs to stock.

The Board did request that Accredo use some form of tamper evidence such as tamper-evident tape in the Styrofoam box (which is the inner part of the shipping container). Accredo asked the Board if the tamper-evidence method had to be tape on the Styrofoam box and they responded it did not have to be that specific, but some form of tamper-evidence must be used. I believe some tamper-evident tape is red, but request the proposed changes because Accredo believes the Board clarified their intent was the shipping container should be tamper evident.

Dr. Larry Hill motioned to **accept** the clarification; seconded by Dr. Bettie Wilson. Dr. Brenda Warren recused from voting. The motion carried.

and

the portion of the May 15 - 16, 2007 minutes relevant to Attorney, Nora Liggett, which states,

**NORA L. LIGGETT
WALLER LANSDEN DORTCH & DAVIS, LLP
Nashville City Center
511 Union Street #2700
Nashville, TN 37219**

Dr. Terry Grinder, interim executive director, received a request from Ms. Nora Liggett with Waller Lansden Dortch & Davis for a clarification of the standards of practice for their client, Specialty Care Pharmacy to deliver patient medications to a dialysis clinic rather than to the patient’s home or business. This practice would be in violation of Board Rules 1140-3-.05 Areas of Receipt and Dispensing. Mrs. Monica Franklin motioned to **deny** the request as there is no pharmacist present at the dispensing site and it is not a licensed pharmacy; seconded by Dr. Larry Hill. All were in favor and the motion carried. (May 15 - 16, 2007)

Dr. Bettie Wilson motioned the **Board upheld their previous decision**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

Dr. Brenda Warren motioned to **approve the November 8 - 9, 2007** minutes to include the language of the May 15 - 16, 2007 minutes for clarification; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

The **Teleconference Meeting minutes of December 14, 2007** were reviewed and presented to the Board. Mrs. Monica Franklin motioned to **accept** the teleconference minutes; seconded by Dr. Todd Bess. All were in favor and the motion carried.

CONSENT ORDERS

MORRIS HADDOX, DPH
850 Loretta Drive
Goodlettsville, TN 37072

Mrs. Alison Cleaves, chief legal counsel, presented a Consent Order for the Revocation of Dr. Morris Haddox's pharmacist license due to being addicted to the use of alcohol, narcotics or other drugs. Mrs. Monica Franklin motioned to **accept** the Consent Order; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

STACY HAZELWOOD, DPH
220 Cedar Bluff Drive
Winchester, TN 37398

DENISE SEALAND, DPH
918 Azalea Drive
Columbia, TN 38401

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

JAMES COOK, DPH
1507 Meadows Drive
Corinth, MS 38834

JOHN PHILLIPS, DPH
110 Eagle Trace Road
Covington, TN 38019

Mrs. Alison Cleaves, chief legal counsel, presented Consent Orders for the Reinstatement of License whereas Dr. James Cook and Dr. John Phillips have agreed to the reinstatement of their license to engage in the practice of pharmacy and were placed on a ten (10) years term of probation from November 8, 2007 - November 8, 2017. Mrs. Monica Franklin motioned to **accept** the Consent Orders; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

WILLIAM JASON WARREN
7126 Sonya Drive
Nashville, TN 37209

Mrs. Alison Cleaves, chief legal counsel, presented a Consent Order for Probation with a ten (10) year term of probation for the period of January 31, 2007 - January 31, 2017 for William Warren. At the January 31, 2007 board meeting, the Board granted Mr. Warren's application for licensure while placing him on a term of probation. Dr. Brenda Warren motioned to **accept** the Consent Order for Probation; seconded by Dr. Larry Hill. All were in favor and the motion carried.

BERTON STIMSON, DPH
279 Denny Road
Clarksville, TN 37043

Mrs. Alison Cleaves, chief legal counsel, presented a Consent Order whereas Dr. Berton Stimson was in violation of Rule 1140-2-.02 (6) relevant to the actual working ratio of pharmacy technicians to pharmacists. Dr. Stimson was assessed a civil penalty of \$100. Mrs. Monica Franklin motioned to **accept** the Consent Order; seconded by Dr. Brenda Warren. All were in favor and the motion carried.

TODD WILSON, DPH
378 Julianna Circle
Franklin, TN 37064

Chief legal counsel, Mrs. Alison Cleaves, presented a Consent Order on behalf of Dr. Todd Wilson who was in violation of Rule 1140-3-.01 (1) (a) for failure to provide patient counseling. Dr. Wilson was assessed a civil penalty of \$100. Mrs. Monica Franklin motioned to **accept** the Consent Order; seconded by Dr. Brenda Warren. All were in favor and the motion carried.

WAIVERS

JITESH KAWEDIA
University of Cincinnati
Department of Molecular Genetics,
Biochemistry and Microbiology
P. O. Box 670524
Cincinnati, OH 45267

Dr. Kevin Eidson, Executive Director, presented a request from Mr. Jitesh Kawedia, a foreign pharmacy graduate who has received his FPGE certificate. Mr. Kawedia is planning to participate in a clinical research fellowship program at St. Jude Children's Research Hospital and is inquiring whether the clinical research hours would count towards the pharmacy internship hours necessary for licensure in the State of Tennessee as referenced in Rule 1140-1-.04. The Board **tabled** the request pending additional information as to the type of research at St. Jude's.

Dr. Eidson contacted Mr. Kawedia and was advised he was collecting blood samples at St. Jude's. Dr. Brenda Warren motioned to **accept four-hundred (400) internship hours in a non-traditional pharmacy practice setting**. Mrs. Monica Franklin seconded the motion.

There was one (1) nay vote. The motion carried.

PRISCILLA M. AYERITE, PHARM D
5514 Springstone Court
League City, TX 77573

Dr. Priscilla Ayerite is requesting a waiver of Rule 1140-1-.07 (3) (b) (5) relevant to the requirement to complete a period of pharmacy internship of one-hundred sixty (160) hours within ninety (90) consecutive days for the reinstatement of her pharmacist license. Dr. Ayerite's license expired on October 31, 2004 and is currently practicing pharmacy at the University of Texas Medical Branch. Dr. Ayerite has passed the MPJE, submitted the required fees and provided the continuing education hours. Dr. Larry Hill motioned to **accept** the waiver request; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

EUGENE C. COULTER, DPH
P. O. Box 494556
Port Charlotte, FL 33949

Dr. Eugene Coulter is requesting a waiver of Rule 1140-1-.07 (3) (b) (5) (ii) relevant to the requirement to complete a period of pharmacy internship of three-hundred twenty (320) hours within one-hundred eighty (180) consecutive days for the reinstatement of his pharmacist license. Dr. Coulter's license expired on December 31, 2003 and he has submitted the appropriate fees, continuing education hours and has been practicing at Publix in Florida. Mrs. Monica Franklin motioned to **grant** the request; seconded by Dr. Brenda Warren. All were in favor and the motion carried.

ALAN FRASHIER, DPH
3714 Wilder Lane
Orlando, FL 32804

Dr. Alan Frashier is requesting a waiver of Rule 1140-1-.07 (3) (b) (5) relevant to the requirement to complete a period of pharmacy internship of one-hundred sixty (160) hours within ninety (90) consecutive days for the reinstatement of his pharmacist license. Dr. Frashier placed his license in an "inactive/retired" status on April 26, 2005. Dr. Frashier is gainfully employed at Leesburg Regional Medical; has provided proof of his continuing education hours and paid the appropriate fees. Mrs. Monica Franklin motioned to **grant** the request; seconded by Dr. Brenda Warren. All were in favor and the motion carried.

TANZANIE V. WILLIAMS, DPH
3500 Lake Arrowhead Drive
Harvey, LA 70058

Dr. Tanzanie Williams is requesting a waiver of Rule 1140-1-.07 (3) (b) (5) relevant to the requirement to complete a period of pharmacy internship of one-hundred sixty (160) hours within ninety (90) consecutive days for the reinstatement of her pharmacist license. Dr. Williams' license expired on January 31, 2006 and she has provided the continuing education hours and renewal licensing fees. Dr. Williams has been working at Novartis Pharmaceuticals and desires to reinstate her Tennessee license in order to reciprocate to Texas. Mrs. Monica Franklin motioned to **grant** the waiver request; seconded by Dr. Larry Hill. All were in favor and the motion carried.

DAVID PARK, DPH
70 Shiloh Road
Covington, TN 38019

Dr. David Park is requesting a waiver of Rule 1140-3-.14 (12) relevant to being the designated PIC at more than one (1) pharmacy practice site. Dr. Park is employed with Professional Care Services Pharmacy of West TN, Inc. and would like to work at Susan E. Ingram Counseling Center in Millington, Tennessee on Monday, Wednesday and Friday from 8:30 a.m. till 5:30 p.m. and at J. B. Summers Counseling Center in Somerville, Tennessee on Tuesday from 8:30 a.m. until 5:30 p.m. Dr. Bettie Wilson motioned to **approve** the request; seconded by Dr. Larry Hill. All were in favor and the motion carried.

LEGAL/COMPLAINT REPORT

1. Case No.: L07-PHR-RBS-200706298

Complainant alleges that the Respondent, pharmacist, overdosed on some controlled substances leading him to emergency room where he was unconscious. While the Respondent admits to the accidental overdose of Oxycontin, the emergency room personnel indicate that the

Respondent had Morphine, Oxycontin, Oxycodone, and Lortab in a plastic bag on his person. Respondent had a prescription for the Oxycontin, but did not have a prescription for the other drugs. Urine screen indicated that the Respondent tested positive for Diazepam, Pethidine, Oxycodone and Morphine.

Recommendation: Authorize formal hearing (Five (5) year term of probation)

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

2. Case No.: L07-PHR-RBS-200708004

Complainant alleges that the staff at the Respondent pharmacy disclosed confidential patient information relative to a patient's condition. PIC investigated the situation. While a pharmacy technician at the pharmacy stated that she was approached by others, not at her initiation, in which she was asked about the medicine the patient was taking, without any mention of the patient's name. PIC states that technician stated to him that neither she nor the person inquiring mentioned a patient name.

Previous complaints: None

Recommendation: Dismiss

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

3. Case No.: L07-PHR-RBS-200708077

Complainant is a physician and this complaint involves three (3) different pharmacies. Complainant alleges that she was checking the controlled substance monitoring database and realized that three (3) prescriptions that were under her DEA number were filled at three (3) separate pharmacies.

All three (3) pharmacies replied that the prescriptions were keyed in and labeled with the incorrect practitioner's DEA number; Complainant did not authorize the prescriptions and all three (3) pharmacies had the wrong DEA number for the Complainant.

Prior complaints: None

Recommendation: Dismiss

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

4. Case No.: L08-PHR-RBS-2000800013

During a routine compliance inspection conducted on January 11, 2008, investigator found that a pharmacy technician was working at the pharmacy with an expired registration (registration had expired on October 31, 2007). PIC responded to the complaint recognizing the error and stating that the technician's registration has been renewed.

Prior complaints:

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

Dr. Brenda Warren 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-200800012

In accessing her own patient profile in the controlled substances monitoring database, the Complainant alleges that there is someone else who has been picking up controlled substance prescriptions in her name at the Respondent pharmacy. PIC responded to the complaint stating that he nor anyone else at the pharmacy has filled prescriptions for the Complainant, but they have filled prescriptions for a person with the same name and date of birth as the Complainant, but with a different social security number.

Prior complaints:

DPh: None

Pharmacy: 1997, early refills, \$1,000 civil penalty

Recommendation: Dismiss

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

6. Case No.: L08-PHR-RBS-200800003

Complainant is a pharmacy distributor with a pharmacy in another state. When a patient attempted to reorder her medication, the pharmacy realized that the patient's prescription had expired. When the pharmacy contacted the doctor's office, they were told by the physician that the patient should starting getting her prescriptions filled at the pharmacy located at the back of the doctor's clinic.

PIC responded to the complaint and stated that she has no control over what the physician stated to the Complainant.

Prior complaints: 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.

7. Case No.: L08-PHR-RBS-200800017

Complaint initiated against Respondent, pharmacy technician alleging theft and diversion of Hydrocodone. Respondent admitted to the conduct and the police were contacted.

Prior complaints: None

Recommendation: Authorize formal (revocation)

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

8. Case No.: L08-PHR-RBS-200800001

Complaint initiated against Respondent, pharmacy technician alleging theft of Tramadol. Respondent admitted to the conduct.

Prior complaints: None

Recommendation: Authorize formal (revocation)

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

9. Case No.: L08-PHR-RBS-200800009

During the course of an investigation into a pharmacy technician based on allegations of theft and diversion of drugs from the pharmacy where she was employed, investigator discovered that the technician's registration expired on July 31, 2006 and that the theft occurred in or around April, 2007. PIC at this practice site allowed the technician to work there without a valid registration for approximately nine (9) months.

Prior complaints: None

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

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

After discussion, Dr. Brenda Warren motioned to change the recommendation to concur with the fees discussed in complaint #10 to issue a \$900 civil penalty to the PIC (July 31, 2006 to April 30, 2007); seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

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

Complaint initiated based on a phone call complaint alleging that the Respondent, pharmacy technician was stealing and diverting Hydrocodone from the pharmacy. During the course of an investigation against the Respondent, technician, it was discovered that her technician registration expired on March 31, 2006 and from that date to present; she had been continuously employed at the pharmacy. PIC states that he intended to terminate her the week that the investigator visited him.

Prior complaints: None

Recommendation: Close against technician and flag upon reapplication. Open complaint against pharmacy and authorize a formal against the PIC (\$100.00 civil penalty)

The Board discussed Rule 1140-2-.02 and stated the PIC is responsible for complying with this Chapter. Mrs. Monica Franklin motioned for a period of six months, the technician should be responsible and for a period over six months, the fee should be split between the technician and the PIC for \$50 per month. There was no second to the motion. The motion dies for lack of a second.

Dr. Brenda Warren motioned for a period of 90 days to six months, the PIC should incur a \$100 civil penalty; six months or greater, an increase on the PIC plus the technician and should share the fee. \$100 per technician to the PIC for the first three (3) months; after three (3) months they share \$100; seconded by Dr. Bettie Wilson. During discussion, for a period of one to three months - \$100 to the PIC; after three (3) months, the initial amount of \$100 plus \$100 per tech. All were in favor and the motion carried.

Mrs. Alison Cleaves, chief legal counsel, suggested for a technician up to ninety (90) days delinquent, \$100 to the PIC per technician; beyond ninety (90) days, issued a \$250 civil penalty to the PIC.

Dr. Brenda Warren motioned for a period of zero to three months - \$100 to the PIC per technician; beyond three months (90 days) \$250 PIC per technician with \$50 to the technician (a one time fee); seconded by Dr. Bettie Wilson. After discussion, Dr. Warren withdrew her motion; and Dr. Wilson withdrew the second. The motion dies.

Dr. Bettie Wilson motioned for a period of zero to three months – issue \$100 to the PIC; after three months - \$100 per month per technician to the PIC + \$50 per month for the technician. Dr. Wilson withdrew her motion.

Dr. Bettie Wilson motioned **for a period up to three months – issue a \$100 civil penalty to the PIC per technician; after three months, issued \$100 per month per technician to the PIC.** Mrs. Monica Franklin seconded the motion. All were in favor and the motion carried.

Mrs. Monica Franklin motioned for the Board to take a ten minute break, seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

11. Case No.: L08-200800071

Complainant alleges that the pharmacy dispensed her prescriptions for Subutex to someone not authorized by her to pick up her medications. More specifically, Complainant alleges that her prescription for Subutex could not be filled because the pharmacy was out of the drug; Complainant states that she was told to come back later. Complainant states that she went back to the pharmacy on July 5th and she was told that her prescription had already been dispensed. Complainant also alleges that the pharmacy failed to fill her prescriptions for Percocet and Avinza because they were out of the drugs. Complainant also claims that she had two prescriptions for Percocet 10/335 x 60 and 10/650 x 60, but the pharmacy would only fill one of those prescriptions.

PIC responded stating that the Complainant did pick up her prescription for Subutex; pharmacy records show that it was filled for the full quantity and the electronic signature capture show that the Complainant signed for and picked up the prescription. PIC denies the other allegations. Pharmacy attempted to fill the Complainant's prescription of Avinza 60mg with ninety (90)

tablets, but insurance rejected it and only allowed the pharmacy to fill it with sixty (60) tablets. PIC told the Complainant to contact her insurance company to get prior authorization to fill the prescription for ninety (90) tablets. Prescription for Percocet 10/325 was not filled on January 2, 2008 because Complainant's insurance rejected the claim and would not pay until January 7, 2008; Complainant received one hundred and twenty (120) Percocet 10/325 filled on December 15, 2007. Complainant did get her Percocet prescription filled on January 10, 2008.

Prior complaints: None

Recommendation: Dismiss

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

12. Case No.: L08-PHR-RBS-200708081

Complainant, physician, alleges that a prescription that he wrote for Hydrocodone 7.5 was refilled three (3) days after the original prescription was filled.

PIC responded to the complaint and stated that the prescription was filled too early. When the Complainant, with no insurance, called in her prescription number early, it inadvertently went through the computer system. PIC indicates that they are a very high volume pharmacy.

Prior complaints:

Recommendation: Letter of Warning

Dr. Bettie Wilson motioned to **accept counsel's recommendation to issue a Letter of Warning to the dispensing DPH**; seconded by Dr. Larry Hill. All were in favor and the motion carried.

13. Case No.: L08-PHR-RBS-200800010

During a January 8, 2008 routine periodic inspection, an investigator found two (2) pharmacy technicians working at the pharmacy without registrations and one (1) technician working at the pharmacy with a registration that expired on August 31, 2005.

Prior complaints:

Recommendation: Authorize formal hearing (civil penalty) - Discuss

Dr. Brenda Warren motioned to accept counsel's recommendation with the same calculations previously noted. There was no second to the motion. The motion dies for lack of a second. President Sheila Mitchell clarified to **authorize a formal hearing and settle with calculations as deemed and discussed. The investigator would have to determine the date of employment. Dr. Bettie Wilson accepted Dr. Sheila Mitchell's recommendation**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

14. Case No.: L07-PHR-RBS-200705967

Complainant alleges that the Respondent, pharmacy technician, took Hydrocodone from the pharmacy without a prescription. Respondent's employment was terminated and police were contacted. Respondent's registration expired on July 31, 2006.

Prior complaints: None

Recommendation: Close and flag upon reapplication

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

15. Case No.: L06-PHR-RBS-200504316

Respondent's license to engage in the practice of pharmacy was revoked during a teleconference meeting. This is a prior complaint on that Respondent that was not resolved because of some evidence problems.

Recommendation: Close

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

16. Case No.: L08-PHR-RBS-200708008

Complainant alleges that the he presented the pharmacy with a prescription for Imitrex one hundred and two (102 day supply) and the pharmacist told him that insurance would only pay for seventy-two (72) tablets, but then only gave the Complainant fifty (50) tablets.

PIC responded to the complaint. Complainant presented the prescription at the pharmacy and there was not a quantity on the prescription; Complainant told the technician that he called the insurance company and that they would allow 72 Maxalt 10mg tablets at a 102 day supply. The prescription was entered for seventy-two (72) tablets and rejected with a "plan limits exceeded" message. Technician called the Complainant's insurance company help desk who informed the technician that there was no record of authorization for 72 tablets for a 102 day supply, but that the maximum that they would allow is 36 tablets for a 90 day supply. Pharmacist also contacted the physician's office to get a quantity on the prescription since it was unclear to the pharmacist as to what a 102 day supply would be given that Maxalt 10mg would be taken by the patient on an "as needed" basis to stop a headache from becoming a migraine. Also at the bottom of the prescription, it said "dispense 102 day supply and max 3/24 hours". Pharmacist also stated to the physician's office that she did not feel comfortable dispensing 306 tablets. Nurse indicated to pharmacist that the quantity did seem excessive. Nurse and pharmacist discussed what the patient had gotten in the past, and pharmacist heard the doctor tell the nurse "50 tablets" and that was what was dispensed to the patient.

Prior complaints: None

Recommendation: Dismiss

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

17. Case No.: L08-PHR-RBS-200708076

During a September 17, 2007 routine compliance inspection, investigator found that two (2) technicians were working at the pharmacy without proper registration. Investigator observed the two techs filling out applications while he was still there. PIC did not provide the investigator with any explanation as to why the technicians had not been registered with the Board.

Prior complaints: None

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

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

18. Case No.: L08-PHR-RBS-200800022

During a routine periodic inspection conducted on January 28, 2008 the investigator found five (5) pharmacy technicians who were not properly registered. PIC assured the Board office that all five (5) will be registered within the week.

Prior complaints: None

Recommendation: Authorize formal hearing (\$500.00 civil penalty to PIC)

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

19. Case No.: L08-PHR-RBS-200708090

During a routine compliance inspection conducted on November 9, 2007, investigator found that there was a pharmacy technician working at the pharmacy with a registration that expired on August 31, 2007. Both PIC and technician responded to the complaint. PIC contacted the District Manager when she realized that the technician's registration had expired. PIC stated that she was told by the DM that she was working out the renewal with the technician. Technician states that she was told by the DM to renew online; technician says that she thought she renewed online, but it did not get to the proper people.

Prior complaints: None

Recommendation: Letter of Instruction

Mrs. Monica Franklin motioned to accept counsel's recommendation as well as the calculations; There was no second to the motion. The motion dies for lack of a second. Dr. Larry Hill motioned to **accept counsel's recommendation**; seconded by Dr. Bettie Wilson. There was one (1) nay vote. The motion carried.

20. Case No.: L08-PHR-RBS-200708098

Complaint alleges the theft of Hydrocodone from the pharmacy by a pharmacy technician. CCTV tape shows the Respondent taking medications from the shelves and putting the tablets in her pocket. Respondent also admits to the conduct.

+

Prior complaints: None

Recommendation: Authorize formal hearing (revocation)

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

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

Complaint alleges the theft and diversion of Hydrocodone by the Respondent, pharmacy technician, from the pharmacy. Respondent admitted the conduct and the DEA 106 form showed losses of Hydrocodone in various strengths.

Prior complaints: None

Recommendation: Authorize formal hearing (revocation)

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

22. Case No.: L08-PHR-RBS-200708097

Complaint alleges the theft and diversion of Hydrocodone from the pharmacy by the Respondent, pharmacy technician. CCTV tape captured the theft and the Respondent admitted to the conduct.

Prior complaints: None

Recommendation: Authorize formal hearing (revocation)

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

23. Case No.: L08-PHR-RBS-200706635

Complainant, nurse, is complaining on behalf of a patient who states that when he gets his controlled substances dispensed at the pharmacy, they are always 2 to 10 pills short. Investigator spoke to the PIC who states that they always double count their controlled drugs before dispensing and that the patient never complained to the PIC that his prescription was shorted.

Prior complaints: None

Recommendation: Dismiss

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

24. Case No.: L08-PHR-RBS-200708020

Complaint alleges theft and diversion of controlled substances, including, but not limited to Oxycodone, Hydrocodone, and Clonazepam from the pharmacy by the Respondent, pharmacy technician. Respondent admitted to the conduct and upon interviewing the Respondent the pills were found on her person and there was no prescription for the drugs.

Prior complaints: None

Recommendation: Authorize formal hearing (revocation)

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

25. Case No.: L08-PHR-RBS-200708037

Complaint alleges theft and diversion of controlled substances from the pharmacy by the Respondent, pharmacy technician. Respondent admitted to the conduct.

Prior complaints: None

Recommendation: Authorize formal hearing (revocation)

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

26. Case No.: L08-PHR-RBS-200708096

During a routine periodic compliance inspection conducted on December 3, 2007, the investigator found an individual operating as a pharmacy technician without registration; the individual had been working at the pharmacy practice site since December, 2006 without registration.

Prior complaints: None

Recommendation: Authorize formal hearing (\$100 civil penalty)

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

27. Case No.: L08-PHR-RBS-200708051

Complaint alleges theft and diversion of controlled substances from the pharmacy by the Respondent, pharmacy technician. Respondent admitted to the conduct. On his pharmacy technician application, Respondent indicated that he did not have any convictions; however, a criminal background check performed by the pharmacy indicated that the Respondent was found guilty of Simple Possession of Marijuana and Possession of Schedule IV Drugs.

Prior complaints: None

Recommendation: Authorize formal hearing (revocation)

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

28. Case No.: L08-PHR-RBS200708060

Complainant alleges that a physician's group was operating as a pharmacy without a license. Investigation revealed that the pharmacy was in a separate room in the physician's group, that it was labeled "pharmacy", and it was being operated by an unregistered pharmacy technician. Technician indicated that the doctors would stop by the pharmacy, but that nobody verified the prescriptions filled. Technician stated that he only filled the prescriptions written by the physician's group. Controlled drug prescriptions are filled and the physician's counsel the patients. Based on the pharmacy's answering machine message, it is unclear as to whether the pharmacy fills prescriptions transferred from other pharmacies or written by other doctors.

Recommendation: Discuss

Dr. Brenda Warren motioned to **issue a Cease and Desist**; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

STERILE PRODUCT PREPARATION RULES

Mrs. Alison Cleaves advised the Board the Sterile Product Preparation Rules are on the computer based with the Department of Commerce and Insurance. Mrs. Cleaves will review the rules and see if there are any changes that need to be made.

PUBLIC CHAPTER NO.182 – CRIMINAL BACKGROUND CHECKS

The Board acknowledged Public Chapter No. 182.

SEQUENTIAL PRESCRIPTION NUMBERS

**Mr. Roberto Pulver
Attorney
Quarles & Brady, LLP
One Renaissance Square
Two North Central Avenue
Phoenix, Arizona 85004**

Dr. Kevin Eidson, executive director, received an e-mail inquiry from Mr. Roberto Pulver relevant to sequential prescription numbers. Mr. Pulver's client plans to have Tennessee pharmacists provide educational consults to patients. The patient is given a prescription for a smoking cessation product from their physician and takes the prescription to a pharmacy of his choice. The pharmacy dispenses the prescription and provides the state mandated counseling. If the pharmacy chooses to participate in the program, the pharmacist asks the patient if he

would be interested in an educational consult about smoking cessation. The patient is free to accept or reject the invitation. If the patient accepts, the pharmacist provides a five minute consultation about environmental cues that facilitate a person's desire to smoke and literature on how to stop smoking. After the consultation, the pharmacist enters an electronic consultation claim into the computer system using an NCPDP approved format. This generally will automatically populate the claim field with the next sequential Rx number.

Dr. Larry Hill motioned it **does not violate Board rules under 1140-3-.03**; seconded by Dr.

Brenda Warren. All were in favor and the motion carried.

APPROVAL OF PHARMACY TECHNICIANS

AMANDA BURGESS
420 Elysian Fields Rd. #A-12
Nashville, TN 37211

Mrs. Alison Cleaves, chief legal counsel, presented a pharmacy technician registration on behalf of Ms. Amanda Burgess who had checked "yes" to being convicted of a misdemeanor including alcohol or drug related offenses. Ms. Burgess had two (2) offenses relating to alcohol in 2001 and 2006. In 2001, Ms. Burgess was given court supervision and was released in 2002. In 2006, Ms. Burgess completed alcohol counseling and given court supervision. Ms. Burgess has passed the Pharmacy Technician Certification exams and has applied and been accepted to nursing school. Mrs. Monica Franklin motioned to deny registration. There was no second to the motion. The motion dies for lack of a second. Dr. Bettie Wilson motioned to **approve** the registration; seconded by Dr. Brenda Warren. There was one (1) nay vote. The motion carried.

BRETT BUTLER
1003 Fellowship Road
Mt. Juliet, TN 37122

Chief legal counsel, Mrs. Alison Cleaves, noted Mr. Brett Butler stated he had been convicted of a misdemeanor of a DWI "Pretrial Diversion". The matter was expunged from Mr. Butler's

record by the Criminal Court for Wilson County, Tennessee on December 14, 2005. Dr. Larry Hill motioned to **approve** the registration; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

CATHY S. CORBITT
322 Thompson Road
Dickson, TN 37055

Mrs. Alison Cleaves, chief legal counsel, presented Ms. Cathy Corbitt's pharmacy technician registration whereas she had indicated "yes" to being convicted of a misdemeanor involving alcohol that took place thirty (30) years ago in Virginia. The Virginia Department of Motor Vehicles furnished a letter to the Board advising Ms. Corbitt's privilege to operate a motor vehicle in Virginia is not under suspension or revocation. Mrs. Monica Franklin motioned to **approve** the registration; seconded by Dr. Larry Hill. All were in favor and the motion carried.

RONALD D. CUNNINGHAM, JR.
4952 Cloverhill Drive
Murfreesboro, TN 37128

Chief legal counsel, Mrs. Alison Cleaves, presented a pharmacy technician registration on behalf of Mr. Ronald Cunningham who had indicated he had been convicted of a misdemeanor offense including alcohol or drug related offenses. On September 9, 2004, Mr. Cunningham pled guilty and was fined \$250 for domestic assault and placed on probation for eleven months and twenty-nine days, possession of marijuana and drug paraphernalia; May 25, 2003 pled guilty to DUI and possession of marijuana; January 18, 2003 pled guilty to possession of marijuana; December 16, 2000 pled guilty to possession of marijuana; and on May 13, 2000 - consumption of alcohol by a minor. Mrs. Monica Franklin motioned to **deny**; seconded by Dr. Larry Hill. All were in favor and the motion carried.

JASON A. FILIPPELLI

**5652 Montpelier
Bartlett, TN 38134**

Mrs. Alison Cleaves, chief legal counsel, noted Mr. Jason Filippelli had marked “yes” on his technician registration to being convicted of a misdemeanor. In July, 2001, he was arrested for DUI and driving on roadways laned for traffic. Mr. Filippelli was fined \$250 in court costs and some of the charges were dismissed. Dr. Brenda Warren motioned to **approve** the registration; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

**LESLIE J. HORN
1325 Lincoya Bay Drive
Nashville, TN 37214**

Chief legal counsel, Mrs. Alison Cleaves, noted Ms. Leslie Horn stated she was convicted of a misdemeanor offense in November, 2003 of a DUI in Broward County, Florida. Ms. Horn provided court documents satisfying the fines imposed, a six month term of probation and community service. Ms. Horn has met the requirements for a certified pharmacy technician. Dr. Larry Hill motioned to **approve** the registration; seconded by Dr. Brenda Warren. All were in favor and the motion carried.

**LARRY A. MATHIS, II
455 Lakeshore Drive
Lexington, TN 38351**

Mrs. Alison Cleaves, chief legal counsel, presented a pharmacy technician registration whereas Mr. Larry Mathis marked “yes” to being convicted of a misdemeanor for a DUI (1st offense) on March 20, 2005, paid \$350 fine; 11/29 suspended all but 48 hours and driver’s license suspended for one (1) year. Dr. Bettie Wilson motioned to **approve** the pharmacy technician registration; seconded by Dr. Brenda Warren. All were in favor and the motion carried.

**TARA PROFITT
P. O. Box 126
Jellico, TN 37762**

Mrs. Alison Cleaves, chief legal counsel, presented a pharmacy technician registration on behalf of Ms. Tara Profitt who was convicted of a DUI on September 9, 1999. Mrs. Cleaves noted Ms.

Profitt has completed the term of probation and has no other blemishes on her report that was provided by the Court. Dr. Brenda Warren motioned to **approve** the registration; seconded by Dr. Larry Hill. All were in favor and the motion carried.

BYRON O. RAY
160 North Wesley Oaks Circle #103
Memphis, TN 38109

Chief legal counsel, Mrs. Alison Cleaves, advised the Board Mr. Byron Ray had marked “yes” to being convicted of a misdemeanor offense on his pharmacy technician registration. In August, 1999, Mr. Ray had a DUI conviction and his driver’s license was suspended for one (1) year and paid fines. Dr. Larry Hill motioned to **approve** the pharmacy technician registration; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

LATRECIA H. ROBERTSON
3294 East Oaks Drive
Memphis, TN 38118

Chief legal counsel, Mrs. Alison Cleaves, noted Ms. Latrecia Robertson had checked “yes” to being convicted of a misdemeanor in April, 1999 for theft of property over \$500 and served two (2) days. Dr. Brenda Warren recused herself. Mrs. Monica Franklin motioned to **grant** the registration; seconded by Dr. Bettie Wilson. The motion carried.

SARAH L. CANADA
1401 University Blvd. #B-10
Kingsport, TN 37660

Mrs. Alison Cleaves, chief legal counsel, advised the Board, Ms. Sarah Canada had indicated on her pharmacy technician registration that she had been convicted of a misdemeanor offense. In January, 2002, Ms. Canada was trespassing in a public park after dark in Virginia. Mrs. Monica Franklin motioned to **accept** the registration; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

APPROVAL OF RECIPROCITY

REMY ONIMOE, DPH
3581 Century Trail

Ypsilanti, MI 48197

Mrs. Alison Cleaves, chief legal counsel, stated the Board received a letter dated December 17, 2007 from Mr. Christopher Pencak, an attorney representing Dr. Remy Onimoe who advised Dr. Onimoe's Michigan license has been summarily suspended based in part on Dr. Onimoe's employing unlicensed pharmacists in his pharmacy in October, 2007. Mrs. Monica Franklin motioned to **deny** reciprocity; seconded by Dr. Larry Hill. All were in favor and the motion carried.

**CYNTHIA J. SMITH, DPH
1509 Everhart Drive
Cleveland, TN 37311**

Chief legal counsel, Mrs. Alison Cleaves, advised Dr. Cynthia Smith had checked "yes" to having been subject to disciplinary action by another board of pharmacy or other state authority. On September 14, 2006 during a routine inspection by the South Carolina Board of Pharmacy, Dr. Smith was performing duties of a pharmacist in which she did not have a current pharmacist license. On January 25, 2007, Dr. Smith entered into a Consent Order with the South Carolina Board placing her license on a three year term of probation; cannot serve as pharmacist-in-charge while on probation and paid a fine of \$500. Mrs. Cleaves, chief legal counsel, advised the Board it has the authority to place conditions upon a license. Dr. Brenda Warren motioned to **approve the reciprocity application with conditions that Dr. Smith not be PIC in South Carolina**; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

**LEE TROTTER, DPH
204 N.W. Shagbark
Lee's Summit, MO 64064**

Mrs. Alison Cleaves, chief legal counsel, advised Dr. Lee Trotter was disciplined in 1991 by the Missouri State Board of Pharmacy for prescription label mislabeled, and missing documentation on substitution authorizations for oral prescriptions. Dr. Trotter's license was placed on probation for a period of one (1) year; must take and pass the Missouri law test and shall have

two chances to take and pass the examination; and must cooperate with the board investigator to ensure compliance with the disciplinary terms. Dr. Bettie Wilson motioned to **approve** the reciprocity application; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

DAVID PAUL MARTINSON, DPH
6001 Grouse Court
Floyds Knobs, IN 47119

Chief legal counsel, Mrs. Alison Cleaves, noted in September, 2001 Dr. David Martinson entered into an Agreed Order with the Kentucky Board of Pharmacy due to an HIV continuing education violation. Dr. Martinson was assessed a civil penalty of \$100. Dr. Martinson did complete an HIV ACPE course but it was not approved by the Kentucky Cabinet for Health Sciences. Mrs. Monica Franklin motioned to **grant** reciprocity; seconded by Dr. Larry Hill. All were in favor and the motion carried.

REQUEST FOR REINSTATEMENT OF PIC PRIVILEGES

ROBERT KILPATRICK, DPH
126 Whispering Winds Drive
Manchester, TN 37355

Executive Director, Dr. Kevin Eidson, presented a request from Dr. Robert Kilpatrick for the reinstatement of the pharmacist in charge privileges. Dr. Kilpatrick entered into a Consent Order with the Board on November 15 – 16, 2005 which states,

“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.”

Dr. Kilpatrick’s TPRN advocate, Dr. Kevin Hartman, furnished a letter of support in accepting the PIC responsibilities. Mrs. Monica Franklin motioned to **grant** the request; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

JON WHITT, DPH
674 Whippoorwill Drive
Talbott, TN 37877

Dr. Kevin Eidson, executive director, received a request from Dr. Jon Whitt to allow him to be the PIC at Mosheim Pharmacy. Dr. Whitt entered into a Consent Order with the Board on September 18 – 19, 2001. Dr. Edwin Bills, TPRN advocate, advised by letter that Dr. Whitt has been in compliance with the recommendations of the committee and noted Dr. Whitt is a great candidate to fill this position. Mrs. Monica Franklin motioned to **grant** the reinstatement of Dr. Whitt's PIC privileges; seconded by Dr. Larry Hill. All were in favor and the motion carried.

**PHIL BURGESS, DPH
WALGREENS CO.
“Stickerless Program”**

Dr. Phil Burgess appeared before the Board to discuss Walgreen's "Stickerless Program" which he stated has received approval from several other state boards of pharmacy. Dr. Burgess made an appearance at the January 30 -31, 2007 board meeting to discuss this matter and a copy of the minutes is noted.

Dr. Phil Burgess appeared before the Board to request approval of Walgreen's "Stickerless" program which would no longer require the prescription label to be placed on the back side of the prescription. Dr. Burgess noted by eliminating this step in the workflow, it would allow more time for pharmacists and pharmacy technicians to do other tasks and provide a higher level of patient care. Dr. Burgess stated there would be no changes made to CII's prescriptions and would be handled in the normal procedure. A new report would be generated the following morning for the CIII - CV prescriptions that were product reviewed the previous day. The report would contain a copy of the image, any comments or clarifications previously placed on the back of the hard copy and then signed by the pharmacist on duty. In order to comply with DEA regulations for Controlled Substances in Schedules 3, 4, and 5, Walgreens proposes to have one (1) record, an electronic record and it is permanent. The prescription is not lost and the consumer can go into any pharmacy to receive prescription information. Chief legal counsel, Mrs. Alison Cleaves noted an interpretation of the current rules would not require a waiver. Dr. Julie Frazier quoted in Rule 1140-3-.03 (4), "As an alternative to recording refill information on the back of medical and prescription orders, an automated data processing system may be used for the storage and retrieval of refill information for medical and prescription orders.....", it meets the intent of the rule; seconded by Mrs. Monica Franklin. All were in favor and the motion carried. (January 30 - 31, 2007)

The Board stated it cannot approve this system and can only make the determination whether it meets the requirements of the rule. Dr. Burgess stated the program has never been implemented and now Walgreens' intends to move forward with the program.

**STACY HAZELWOOD, DPH – REQUEST FOR REINSTATEMENT OF LICENSE
WINCHESTER, TN**

Dr. Stacy Hazelwood appeared before the Board to request the reinstatement of his pharmacist

license. Dr. Kim Roberts, with the Tennessee Pharmacist Recovery Network appeared to advocate on his behalf and noted Dr. Cliff Weiss is Dr. Hazelwood's advocate. Dr. Hazelwood stated in May 2006 he was prescribed Hydrocodone after developing a kidney stone. Dr. Hazelwood stated he started stealing from the pharmacy as he felt like he could handle situations better. Advocate, Dr. Kim Roberts advised Dr. Hazelwood attended Cornerstone for three (3) months and he completed the 90/90 meetings last week and is compliant with the recommendations of TPRN. Dr. Mike Kinzer with Fred's Pharmacy approached the Board to request that Dr. Hazelwood be given a second chance. After board discussion, Dr. Todd Bess motioned:

Respondent does hereby agree to the reinstatement of license number #**8235** with the following probationary conditions. Said probation shall remain in effect for a period of **five (5) years**, from **January 29, 2008 to January 29, 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, Walter Boyanton, 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. Larry Hill seconded the motion. All were in favor and the motion carried.

KAREN ESCHMAN, DPH
CHEROKEE HEALTH SYSTEMS
2018 Western Avenue
Knoxville, TN 37921

Dr. Karen Eschman with Cherokee Health Systems, a federally qualified health center in East Tennessee, submitted a letter regarding telepharmacy as described in Senate Bill 3122 and whether it is permissible by law. Ms. Christi Granstaff with Tennessee Primary Care Association, an association which represents all of the federally qualified health centers in the state, was in attendance. The Board expressed concerns with Rule 1140-2-.02 (8) which states, “All pharmacy technician functions shall be performed under the supervision of a pharmacist, who shall direct and verify the accuracy of all pharmacy technician functions. Supervision requires the physical presence of the pharmacist making appropriate in-process and end-process verifications of the pharmacy technician’s activities.” The Board noted the “physical presence” does not meet the requirement of the Rule. The Board referenced Rule 1140-3-.01 (1) (a) relevant to patient counseling, which states, “Upon the receipt of a medical or

prescription order and following a review of the patient's records, a pharmacist shall personally counsel the patient or caregiver "face-to-face" if the patient or caregiver is present. If the patient or caregiver is not present, a pharmacist shall make a reasonable effort to counsel through alternative means." The Board further reviewed the definitions of "deliver" and "dispense" as defined in Tenn. Code Annotated § 63-10-204 (7) and (11).

**JOHN JONES, DPH
PRESCRIPTION SOLUTIONS**

Dr. Kevin Eidson, executive director, advised at the November 8 - 9, 2007 meeting, the Board requested Dr. John Jones to appear to discuss the various job duties of a document preparer, scanner operator, order creator, packers and shippers and whether these functions required the registration as a pharmacy technician. After discussion, President Sheila Mitchell referred Dr. Jones to Rule 1140-2-.02 Pharmacy Technicians, and advised if Dr. Jones' employees are performing any of these tasks, they are considered a technician.

DIRECTOR'S REPORT

**ABBOTT DIABETES CARE, INC.
1360 South Loop Road
Alameda, CA 94502**

Dr. Kevin Eidson, executive director, advised the Board that Abbott Diabetes Care, Inc., has submitted a manufacturer, wholesale distributor's application for licensure in the State of Tennessee, and provided a copy of the device manufacturing license from the State of California's Department of Health Services (Food and Drug Branch). Dr. Eidson advised Abbott is not licensed and are not required to have a license issued by the California Board of Pharmacy as the FDA has regulatory oversight. Dr. Eidson referred to Rule 1140-1-.08 Manufacturer or wholesaler, (2) which states, "Submit a copy of the most recent inspection report resulting from an inspection conducted by the regulatory or licensing agency of the state in which the manufacturer or wholesaler is physically located." The Board noted it was OK to grant a license and referenced the term, "a regulatory agency".

ADJOURNMENT

President, Dr. Sheila Mitchell entertained for a motion to adjourn. Mrs. Monica Franklin motioned to adjourn the Board of Pharmacy meeting on Tuesday, January 29, 2008 at 4:00 p.m. CST; seconded by Dr. Todd Bess. All were in favor and the motion carried.

RECONVENED

The Board of Pharmacy reconvened on Wednesday, January 30, 2008 at 9:05 a.m. CST in the Poplar Room, 227 French Landing, Nashville, Tennessee. A quorum of the members being present, President Sheila Mitchell called the meeting to order. For the record, Dr. Robert Mitchell is not present due to illness.

DIRECTOR'S REPORT (CONT)

KAPLAN UNIVERSITY 6301 Kaplan University Avenue Ft. Lauderdale, FL 33309

Dr. Kevin Eidson, executive director, received an inquiry from Kaplan University relevant to becoming an approved Pharmacy Technician Certification Program provider. In Rule 1140-1-.01 Definitions, (6) states, "Certified pharmacy technician" means an individual who is certified by a national or state certification organization whose certification program is approved by the Board." The Pharmacy Technician Certification Board is recognized and endorsed by NABP as the testing for certification of technicians. The Board noted until NABP makes a determination that there are other equivalent, sound testing for technicians, the Board concurs with NABP's recommendation.

CONTROLLED SUBSTANCE DATABASE MONITORING

Dr. Kevin Eidson, executive director, stated for the period of January 1 through December 31, 2007, there were 259 prescription data uploads; 3,317 active registrations approved on-line; 19 investigators (TBI and OIG); 1,651 pharmacists; 2,454 prescribers; 1,073 patient prescription

history reports; have received several subpoenas from Judges; and health related boards made twenty-four (24) requests for documents and noted the program is being utilized in the proper manner. If a dispenser of controlled substances is not reporting in a timely manner, a letter is being sent regarding this issue. Twenty-five (25) veterinarians have received a waiver request for electronic reporting and are required to submit data manually via other means.

CHARITABLE CLINIC PHARMACIES

Executive director, Dr. Kevin Eidson, stated a report to the 105th Tennessee General Assembly was made by the deadline of January 1, 2008. The Dispensary of Hope along with several other requests has been made relevant to the charitable clinic pharmacies.

EAST TENNESSEE STATE UNIVERSITY JOHNSON CITY, TN

Dr. Kevin Eidson, executive director, stated the Board has received an invitation for an ACPE site visit at East Tennessee State University College of Pharmacy on February 10, 2008. Dr. Bettie Wilson stated she is the chair on the committee at ETSU and cannot represent the Board. Dr. Brenda Warren motioned for Dr. Terry Grinder to attend the invitation; seconded by Dr. Todd Bess. All were in favor and the motion carried.

REPRINT 2002 EDITION OF TENNESSEE PHARMACY LAWS

Executive director, Dr. Kevin Eidson, stated Lexis Nexis is able to provide the Board office with 290 copies of the 2002 Edition of Tennessee Pharmacy Laws at a rate of \$10.96/copy for a total of \$3,178.40 plus shipping and handling. Dr. Larry Hill motioned to **grant approval for the reprinting of the law books**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

NABP NEW EXECUTIVE OFFICER'S ORIENTATION MEETING MARCH 26 - 27, 2008 MT. PROSPECT, IL

Dr. Kevin Eidson, Executive Director, has received an invitation to attend the New Executive Officer's Orientation Meeting to be held on March 26 - 27, 2008 in Mt. Prospect, Illinois. Dr. Bettie Wilson motioned to **allow Dr. Eidson to attend the meeting**; seconded by Dr. Larry Hill. All were in favor and the motion carried.

**NABP 104TH ANNUAL MEETING
MAY 17 - 20, 2008
BALTIMORE, MD**

Executive director, Dr. Kevin Eidson, stated NABP 104th Annual Meeting: "Charting the Course – New Passages to Protecting the Public Health" will be held on May 17 - 20, 2008 in Baltimore, Maryland. Dr. Todd Bess noted in previous years, the new pharmacist board member usually attended and he supports the public member to attend the meeting as well. Dr. Bettie Wilson motioned to **request for all board members to attend to include the Executive Director** with the understanding that it is approved by the higher powers; seconded by Dr. Larry Hill. All were in favor and the motion carried.

**DISTRICT III MEETING
AUGUST 17 - 19, 2008
SAN DESTIN, FL**

Dr. Kevin Eidson, executive director, advised the Board that the District III Meeting will be hosted by the Florida Board of Pharmacy on August 17 - 19, 2008 in San Destin, Florida.

PHARMACIST WALL CERTIFICATES

Executive director, Dr. Kevin Eidson, discussed with the Board the calligraphy wall certificates when a board member is not present at the meeting to sign and perhaps utilizing a computerized wall certificate to be printed from the Regulatory Boards System of Health Related Boards. Dr. Eidson mentioned Mrs. Sheryl Bracey has increased her fee to \$4 and this new process may expedite the issuance of the wall certificates. Dr. Todd Bess motioned to **approve** the new process with the wall certificates to be verbatim; to use the gold seals and to update the signatures when a new board member is appointed; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

2008 LEGISLATION

The following legislation was provided to the Board members for their information:

<u>Senate Bill</u>	<u>House Bill</u>	
2755		Prescription drugs for transplant patients
	3110	Safeguarding and monitoring of prescription drugs
3122		Dispensing of certain drugs in federally qualified health centers
3127		Labels on prescription drugs for elder persons
3214	3206	Pharmacist Dispensing to the Database
	3214	Contracts with health care providers
3551		Providing standards for the dispensing or refilling of prescriptions from a central location
3763		Sales of tobacco and tobacco products

ADJOURNMENT

President, Dr. Sheila Mitchell entertained for a motion to adjourn. Dr. Todd Bess motioned to adjourn the Board of Pharmacy meeting on Wednesday, January 30, 2008 at 10:30 a.m. CST; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

The Board of Pharmacy approved the January 29 - 30, 2008 minutes at the March 12 - 13, 2008 board meeting.