

**TENNESSEE BOARD OF PHARMACY
JANUARY 30 - 31, 2007
ROOM 160 – DAVY CROCKETT TOWER
NASHVILLE, TN**

BOARD MEMBERS PRESENT:

Sheila Mitchell, President
Monica Franklin, Consumer Member
Todd Bess Member
Bettie Wilson Member
Larry Hill, Member
Julie Frazier, Member

STAFF PRESENT:

Terry Grinder, Interim Executive Director
Alison Z. Cleaves, Chief Legal Counsel
Martha Agee, Board Administrator
Tommy Chrisp, Pharmacist Investigator
Ralph Staton, Pharmacist Investigator

The Tennessee Board of Pharmacy convened on Tuesday, January 30, 2007, in Room 160 of the Davy Crockett Tower, 500 James Robertson Parkway, Nashville, Tennessee. A quorum of the members being present, the meeting was called to order at 9:00 a.m. CST, by Dr. Sheila Mitchell, President. President Sheila Mitchell noted for the record Dr. Robert Mitchell will not be in attendance due to illness. Interim Executive Director, Dr. Terry Grinder, introduced and welcomed the new pharmacist investigator, Dr. Tommy Chrisp. President Sheila Mitchell, on behalf of the Board, extended a welcome to Dr. Chrisp, who previously worked in a retail pharmacy setting.

APPROVAL OF THE MINUTES

Mrs. Monica Franklin motioned to **accept** the August 29 - 30, 2006 minutes with the clarification of language in a memorandum dated January 25, 2007; seconded by Dr. Julie Frazier. All were in favor and the motion carried.

FORMAL HEARINGS

Chief legal counsel, Mrs. Alison Cleaves noted there were three (3) formal hearings scheduled for Tuesday, January 30, 2007.

#1 Docket No.: 12.12-094259A

Revocation of a pharmacy technician's registration due to the theft and diversion of controlled substances. The technician has admitted to the allegations.

RECOMMENDATION: Revocation of technician registration.

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

#2 Docket No.: 12.12-

To Continue for Service

#3 Docket No.: 12.12-080548A

Technician has entered into an Agreed Order with a term of probation.

The technician sought treatment during the past two (2) years and is under a doctor's care. The technician would like to re-enter the profession as she has since become certified. As part of the settlement offer, the technician has been placed on a term of probation for three (3) years along with the following terms and conditions:

Shall not consume any drugs without a prescription requiring such;
Shall report to the Board all prescribed drugs that the Respondent is taking or will take in the future;
Shall submit to a random urine screen;
Shall not fill any prescriptions for herself or her family members;
Shall continue doctor's counseling until such time as it is no longer necessary, and;
Shall notify all future pharmacists-in-charge of the probationary term with the Board and the terms and conditions of said probation.

RECOMMENDATION: Accept Agreed Order

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

COMPLAINTS/LEGAL REPORT

1. Case No.: L04-PHR-RBS-200419173

Complainant alleges that the Respondent, pharmacy, made an error in compounding a prescription for a hormone replacement. There was a test result showing that the incorrect substance was in the compounded product; however, investigator indicates that records were reviewed by the FDA in this matter and that there was not a mistake or an improper medication in the products.

Litigation in the matter filed by the Complainant has been dismissed with prejudice.

Prior complaints:
DPh: None
PIC: None
Pharmacy: None

Recommendation: Dismiss

Dr. Ralph Staton made a personal appearance at the request of the Board. Dr. Staton commented there was no misfill and is supported with the proper documentation to show as proof. Dr. Julie Frazier motioned to **accept counsel's recommendation**; seconded by Dr. Todd Bess. All were in favor and the motion carried.

2. Case No.: L06-PHR-RBS-200603706

Complainant alleges that the Respondent, pharmacist, misfilled a patient's prescription for Buspirone with Warfarin. Patient consumed the incorrect medication and experienced mood swings, vision problems, headaches and sleeplessness; Patient was also hospitalized for six (6) days. The matter was in litigation, which was concluded with a \$25,000.00 settlement.

Respondent states that the error was made when the technician mislabeled the bottles. Respondent states that she did check the NDC numbers, but made an error in failing to identify the pills as the correct ones in the bottles. To prevent future errors, the Respondent indicates that every vial for which she is responsible has been opened and checked for its proper contents as well as the correct NDC number.

Prior complaints:

DPh: None

Recommendation: Formal Hearing; \$500.00 civil penalty

Dr. Julie Frazier motioned to **accept counsel's recommendation of a \$500 civil penalty**; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

3. Case No.: L06-PHR-RBS-200603279

Complaint initiated by Board of Pharmacy staff based on a National Practitioner Data Bank report providing that the Respondent, pharmacist, told the patient to take 30 mg instead of 120 mg of a medication, which is not disclosed in the report. Report indicates that the patient suffered minor temporary injury, such as the irregular operation of her thyroid, fatigue and weight gain. Patient filed a claim against the pharmacist, which was settled for \$5,750.00.

Respondent denies the allegations. Respondent states that he told her that her 30mg thyroid medication was supposed to be taken with her 120mg thyroid medication. Respondent states that they told the Complainant this verbally and wrote it on her prescription bag. Also told the Complainant that it was too early to refill her 120mg thyroid medication. Respondent does admit a mistaken in not labeling the 30mg prescription to be taken along with the 120mg prescription.

Prior complaints:

DPh: maintaining a sanitary condition-Closed

Recommendation: Letter of Warning to dispensing DPh

Dr. Julie Frazier motioned to **issue a Letter of Instruction**; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

4. Case No.: L06-PHR-RBS-200602352

Complainant alleges that the Respondent, pharmacist, misfilled a child's prescription for Zantac syrup by placing the incorrect dosage instructions on the label. Prescription provided that the child should have gotten 1 ½ ml, but the label provided 1 ½ tsp 2X daily. The child consumed the incorrect dosage and experienced nausea, trembling and an ill feeling. Matter was brought to litigation with a \$1,500.00 settlement. This was a new prescription.

Investigator obtained a response to the complaint, in which Respondent admits the error and states that he was stressed due to the volume of work that day. When he entered the information into the computer for label directions, the wrong "quick" code was entered. Respondent also states that he is sure that he asked if there were any questions on the prescription and offered to counsel.

Prior complaints:

DPH: Unprofessional Conduct- Ltr of Warning

Recommendation: Authorize Formal Hearing; Consent Order with \$100.00 civil penalty for DPH; LOI against PIC; Consent Order with \$500.00 civil penalty against pharmacy; LOW against dispensing pharmacist about misfill.

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

5. Case No.: L01-PHR-RBS-200102529

Complaint was generated from an investigator routine compliance inspection in which the investigator observed that the pharmacist to technician ratio rule was violated by having one (1) pharmacist working with five (5) pharmacy technicians. Board voted to send a Consent Order with a five hundred dollar (\$500.00) civil penalty to the pharmacy, which has been paid and a one hundred dollar (\$100.00) civil penalty against the pharmacist, which has not been paid. I had been in contact with the pharmacist who was under the impression that the pharmacy would be paying his civil penalty; however, this never occurred. A recent search of RBS indicates that this pharmacist is no longer an active licensee.

Recommendation: Accept civil penalty paid and close case

Dr. Julie Frazier motioned to **accept counsel's recommendation and note in the pharmacist file**; seconded by Dr. Todd Bess. All were in favor and the motion carried.

6. Case No.: L06-PHR-RBS-200604343

Board staff received a complaint providing that the Respondent, pharmacy technician, admitted to the theft and diversion of Hydrocodone. Staff received the complaint on or about November 10, 2006. Board records provide that the Respondent's registration expired on March 31, 2006.

Recommendation: Close and reopen upon reapplication

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

7. Case No.: L05-PHR-RBS-200500407

Complainant alleges that the Respondent, pharmacies filled multiple prescriptions for controlled substances without the physician's authorization. A physician's assistant was disciplined for forging the prescriptions in the Complainant's name. Complainant alleges that the four (4) different pharmacies that filled the prescriptions when they were aware that they were forged.

Investigator visited the pharmacies involved in the incident and all four (4) pharmacies denied that they knew the prescriptions were forged. When investigator showed the pharmacists the order disciplining the physician's assistant, they indicated to the investigator that they would not longer fill prescriptions from that individual.

Prior complaints:

Pharmacy:

PIC:

DPH

Recommendation: Dismiss

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

8. Case No.: L98-PHR-RBS-9013 (949155)

Complainant alleges that the Respondent, pharmacist, refilled prescriptions for Lortab 7.5mg, 130 tablets, Diazepam 10mg, 130 tablets for a patient too frequently. Respondent engaged in this behavior for approximately ten (10) months. Out of deference for a sister agency, we waited to proceed with out administrative case. To the best of our knowledge, this conduct has not occurred since 1997.

Prior complaints:

DPH: None

Recommendation: Authorize formal; \$1,000.00 civil penalty

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

9. Case No.: L99-PHR-RBS-199901533

Complainant alleges that the Respondent, pharmacist, was practicing medicine without a license by prescribing controlled substances to patients. Case was previously authorized by the Board for a formal hearing.

Respondent states that he had collaborative care agreement with a physician that was only memorialized after the complaint was filed against him. The agreement stated that the pharmacist get obtain subjective information, such as past medical history, family history, allergies, etc.; objective information, such as a physical examination, lab test, x-ray and EKG results; development of therapeutic plan; review and correct health maintenance problems; consultation and referral; document patient interactions and therapeutic plans; prescribe over-the-counter products; and dispense samples. Respondent indicates that he believes that writing

controlled substance prescriptions is within the definition of the practice of pharmacy and would be covered by the collaborative care agreement. Also, the prescriptions were signed by the Respondent, but Respondent signed it with both his name and the physician's name. Respondent states that all of his documentations on each patient were written or typed in the patient's charts and were signed by the Respondent and the physician. Respondent states that after he was visited by our investigators, he stopped writing prescriptions for controlled substances.

Prior complaints:

DPH:

Recommendation: Discuss

Collaborative care - patient by patient basis - not a blanket approval from the physician. Pharmacist is in violation of DEA laws as he does not have a DEA Registration.

Dr. Julie Frazier stated a Letter of Warning. No authority over a written agreement since the physician signed off on the patient record, as that is substantial evidence it was patient specific.

Dr. Todd Bess motioned to issue a **Letter of Instruction** as actual practice agreement is patient by patient basis + DEA, no C/S to prescribe; seconded by Dr. Julie Frazier. All were in favor and the motion carried.

10. Case No.: L04-PHR-RBS-200440102

Complaint alleges that the Respondent, pharmacist, violated the terms of his probation by stealing 1 x 30 Levitra 2.5 mg tablets from the pharmacy. Respondent was placed on a three (3) year term of probation with the Board and paid a five hundred dollar (\$500.00) civil penalty for having several unlabeled bottles of controlled substances in his possession without prescriptions for any of them. A review of staff's records indicates that the Respondent's license expired in 2005.

Prior complaints:

DPH:

Recommendation: Close

Dr. Julie Frazier motioned to **close and flag** the complaint; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

11. Case No.: L05-PHR-RBS-200500636

Complainant alleges that the Respondent, a clinical pharmacist, provided sub-standard patient care. Complainant alleges that the Respondent failed to refer a patient to a psychiatrist and failed to have the managing physician countersign when the patient presented with "worry, depression, poor sleep latency, feelings of guilt, decrease in excitability and hostility with homicidal ideation." Respondent's notes indicate to increase Zoloft 100 mg qam and rtc 6 weeks. Complainant also alleges that the Respondent acted outside the scope of practice by stating a personal opinion in the medical notes. Also alleged is that Respondent failed to refer another patient to a psychiatrist when he communicated thoughts of hanging self, drowning self in river, poisoning himself, shooting himself and overdosing. The treatment response was to get

the patient to agree to a non harm/suicide contract and sent him home to return the next day. Complainant alleges that the Respondent failed to refer another patient to a medical provider after the patient communicated and he choked his wife, pulled a gun on her, tied a man to a truck grille, and handcuffing two (2) policemen to a tree. This complaint came to the Board's attention because one of the patient's treated by the Respondent went on a shooting spree at his work place.

Respondent states that she is a clinical pharmacist specializing psychiatry. In this capacity, she treats veterans and she indicates in her response that her patients are unlike the general psychiatric population. While homicidal and suicidal thoughts are generally considered an emergency situation, she would have 10 to 50 patients at a time that were homicidal or suicidal at one time. Respondent states that the primary forms of maintenance for this population are psychiatric pharmacology, stress reduction techniques and a no harm contract. If hospitalization was the first line of treatment, then all of her patients would be hospitalized, states the Respondent. Respondent denies all of the allegations and states that she worked closely with the physicians on the instant cases and that for these patients a physician signature or countersignature was only required when the patient symptoms dramatically increased that required hospitalization or involuntary commitment.

Recommendation: Discuss

Mrs. Monica Franklin motioned to defer the complaint; seconded by Dr. Bettie Wilson. Dr. Todd Bess recused from voting. The motion carried.

Chief legal counsel, Mrs. Alison Cleaves, advised the Board there was no violation of pharmacy rule. The supervising physician provided documentation in which he OK'd authorization.

Dr. Julie Frazier motioned to **dismiss** the complaint; seconded by Mrs. Monica Franklin. Dr. Todd Bess recused from voting. The motion carried.

12. Case No.: L03-PHR-RBS-200312490

Complainant alleges that the Respondent, pharmacist, admitted to agents of a drugs and narcotics agency that he had taken controlled substances for his own personal use from a pharmacy and without a valid prescription. Respondent was arrested. When I first presented this to the Board, the Respondent's pharmacist license had already expired, and I recommended that the Respondent be presented with an offer to sign a CO stating the he will appear before the Board if he should reapply. Currently, Respondent's license is still expired and has been in this status since December, 2002.

Recommendation: Close and re-open upon reapplication

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

13. Case No.: L06-PHR-RBS-200602770

Complainant alleges that her daughter's prescriptions for Tegretol and Depakote were misfilled in 2004. Complainant further alleges that the patient consumed the incorrect medication (length of time unknown) and as a result slept a lot. Complainant alleges that the patient's prescriptions

were misfilled again at the same pharmacy in 2005, but at that time the misfill was caught before the patient consumed any of the incorrect medication.

In response to the allegations, the Respondent only responded to the 2005 misfill and stated that the patient's prescription for Depakote 125mg Sprinkle was dispensed as Depakote 125mg. Respondent claims that at that time, it was the pharmacy policy to provide counseling for all medications being dispensed to a patient. Respondent states that she does not recall providing counseling to the Complainant and assumes that counseling was refused.

Prior complaints:

Pharmacy:

PIC:

DPh:

Recommendation: Letter of Warning for the misfill to the original dispensing pharmacist.

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

14. Case No.: L06-PHR-RBS-200603834

Complainant alleges that the Respondent pharmacist refused to fill her prescription for Soma because he accused her in front of other patients of altering the DAW line on the prescription. Respondent states that the patient did present him with a Soma prescription that looked to him like the "dispense as written" area had been altered and that was presented after the physician office hours. Respondent states that he did not tell the Complainant that he thought that she had changed the DAW line; he told her that he thought the prescription had been altered and that he needed to call the physician to verify.

Prior complaints:

Pharmacy:

PIC:

DPh: 2003- Impaired Pharmacist; 2004- Reinstatement with probation.

Recommendation: Dismiss

Mrs. Monica Franklin 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-200604544

Complainant alleges that the Respondent, pharmacy technician, was terminated from her employment at the pharmacy for theft and diversion of controlled substances. Respondent's registration expired on August 31, 2006 and has not been renewed.

Recommendation: Close and re-open upon reapplication

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

16. Case No.: L06-PHR-RBS-200604173

Complainant alleges that when she went to pick up her prescription for Zymar 0.3% Ophth Soln 5ml., the pharmacy also gave her a prescription for Hydrocodone/APAP 10mg/325mg tablets that was not prescribed. Complainant states that she took one of the Hydrocodone tablets and experienced dizziness that left her as she describes "virtually bedridden". When Complainant realized that she took a pill that was not prescribed to her, she contacted the pharmacy and was told that she was given someone else's prescription with a similar name. Complainant also alleges that sometime after the misfill, she received a voice mail from the pharmacy indicating that there was another prescription to pick up when the Complainant did not have any other prescriptions.

PIC responded that the technician filled the Hydrocodone prescription under the wrong patient name and the DPh failed to notice the error. PIC also states that an automated call was mistakenly sent to the Complainant to pick up a prescription that was not hers. PIC admits a breakdown in procedure occurred and states that steps have been taken to prevent these errors from happening in the future. Also now as PIC, he states that he has a policy about providing counseling on all new prescriptions.

Prior complaints:

Pharmacy:

PIC:

DPh:

Recommendation: Authorize formal hearing; Consent Order with \$500.00 civil penalty to pharmacy; Consent Order with \$100.00 civil penalty to DPh; LOI to PIC at the time the incident occurred. Letter of Warning to DPh about the misfill

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

17. Case No.: L06-PHR-RBS-200604399

Complainant alleges that the pharmacist misfilled her prescription for antibiotic ear drops with eye drops. Complainant states that when she brought this to the attention of the pharmacist, he told her that she could use eye drops in her ears and refused to correct the mistake. Complainant also states that when she went to return the eye drops, pharmacist would not take them back and treated her rudely.

Pharmacist states that the prescription was written as Augmentin 500mg, take one (1) tablet, three (3) times a day, and Sulfacetamide/Prednisolone drugs, take two (2) drops every four (4) hours for ten (10) days. Pharmacist filled the prescription exactly as it was written. In the signature line, the pharmacist put "instill 2 drops in affected eye every four hours for 10 days" because the product is available exclusively as an ophthalmic preparation. So, he wrote in use in the affected eye because the doctor did not specify where to use the product. When the Complainant noticed that the prescription label directed her to use it in her eyes, the pharmacist told the Complainant that often ophthalmic preparations can be and are quite often used in the ears. Shortly thereafter, the physician called the pharmacy stating that he did not realize that he ordered an ophthalmic preparation and issued another prescription for Cortisporin Otic suspension, which was dispensed to the Complainant. When Complainant came to pick up the second prescription, Complainant began to yell stating that the prescription had not been filled

correctly and to take it back. Pharmacy technician tried to explain to the Complainant that prescription could not be taken back because it had left the pharmacy and the seal on the product had been broken.

Prior complaints:

Pharmacy: None

Recommendation: Dismiss

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

18. Case No.: L06-PHR-RBS-200604175

Complainant alleges that he was treated with hostility and aggression when trying to understand a program at the Respondent, facility. The program helps uninsured and underinsured patients obtain medications. When the staff inquired about the Complainant's household income, Complainant became belligerent and confrontational causing security to be called.

Prior complaints:

Pharmacy: None

Recommendation: Dismiss

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

19. Case No.: L05-PHR-RBS-200503602

Complainant alleges that the Respondent, pharmacy technician, admitted prior to an employer drug screen that she had consumed marijuana, although her drug screen came out negative. Complainant was entered into the pharmacy's last chance program. DM informs me that the Respondent was removed from the program approximately one (1) month later because she had a positive drug test. Board previously authorized a formal hearing, but also authorized me to resolve the case with a Consent Order for a one (1) year term of probation. When that was voted on by the Board, the Board did not have the knowledge that the Respondent was removed from the program and tested positive.

Recommendation: Authorize Formal Hearing (Consent Order for Revocation)

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

20. Case No.: L07-PHR-RBS-200604398

Complainant alleges that the Respondent, a licensed pharmacist in another state, is engaging in the practice of pharmacy in Tennessee without a license. Respondent works for a research facility under the direction of a medical doctor. Respondent conducts studies to determine the toxicity and safety of cancer drugs and manages the doctor's drug storage area. Complainant further alleges that the drug storage area from which the Respondent works is not licensed as a pharmacy, when it should be.

Response provides that the Respondent does not need a pharmacist license in Tennessee because she is administering drug to research subjects and because she works under the supervision of the physician. The drug storage area referenced by the Complainant is not a retail pharmacy, but analogous to a drug storage area in a physician's office and it is operated under the auspices of the Principal Investigator in FDA regulated studies.

Prior complaints: None

Recommendation: Discuss

Dr. Julie Frazier motioned to **have an investigator verify if it is a pharmacy**; seconded by Dr. Todd Bess. All were in favor and the motion carried.

21. Case No.: L06-PHR-RBS-200602386

Complainant alleges that Respondent, a pharmacist, was indicted with conspiracy to sell stolen prescriptions. Respondent plead guilty to that charge and is awaiting sentencing.

Recommendation: Authorize Formal Hearing (Consent Order for Revocation)

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

22. Case No.: L07-PHR-RBS-200604077

Complainant alleges that she has had the following problems with the Respondent pharmacy: (1). The pharmacy completely closes down for lunch and there is no one at the pharmacy; (2). The pharmacy closes before it is time to close; (3). The pharmacy has been slow to get approvals from doctors; (4). The pharmacy failed to get authorization for a prescription for the Complainant's child. When the Complainant asked the pharmacy to see if they could get insurance coverage on the child, she was told it would be a 1 to 2 hour wait. When Complainant wanted it done sooner, the pharmacy refused to fill the prescription. Complainant states that the pharmacist was threatening and used inappropriate remarks and actions.

PIC states that the pharmacy was not able to meet the Complainant's time demand for processing her son's prescription. Complainant presented the prescription to the pharmacy in the late afternoon when the pharmacy was very busy. Since the pharmacy was unable to process the prescription quickly, the PIC suggested that she try two (2) other pharmacies. PIC gave her the prescription back and apologized for the extended wait.

Prior complaints:

Pharmacy:

PIC:

DPH:

Recommendation: Dismiss

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

23. Case No.: L07-PHR-RBS-200603430

Complainant alleges that his prescription for Lisinopril 20mg was misfilled twice with 10mg pills. Complainant consumed two (2) pills of the incorrect dosage and experienced weakness, nervous feeling and skipped heart beats. Complainant further alleges that he went back to the pharmacy and the pharmacist told him that he was given the same medication as before. Complainant states that he showed the pills to a pharmacist friend who stated that the tablets were the incorrect dosage.

PIC denies that there was a misfill. PIC states that they did fill the prescription with another brand and that the change in brands might have been the problem and the reason why the Complainant believed it was misfilled.

Prior complaints:

Pharmacy:

PIC:

DPh:

Recommendation: Dismiss

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

24. Case No.: L07-PHR-RBS-200603431

Complainant alleges that her prescription for an antibiotic was improperly labeled as take three (3) times a day until all is taken instead of take two (2) times a day for seven (7) days. Complainant did not consume any of the medication at the incorrect dosage instructions.

PIC admits the misfill. PIC states that the prescription read "Take one tablet twice daily" and pharmacy staff typed it in as "take three times daily until all is taken". PIC states that the standard dosage for this antibiotic is bid or tid, so the dosage was not an excessive dosage for the patient. PIC states that the error was caught by pharmacy staff as an extra check that they do when putting up prescriptions and verifying if the information is correct.

Prior complaints:

Pharmacy:

PIC:

DPh:

Recommendation: Letter of Instruction to dispensing pharmacist.

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

25. Case No.: L07-PHR-RBS-200603737

Complainant alleges that her son's Singulair prescription was misfilled with Simvastatin. The patient did not consume the incorrect medication.

PIC admits that the Complainant's son's prescription Singular 5mg was filled with Zocor 5mg. PIC states that when he spoke with the Complainant, she also told him that her son did not consume the incorrect medication. PIC apologized to the Complainant for the error and indicated that they would correct the mistake. PIC did not indicate in his response as to whether patient counseling occurred.

Prior complaints:

Pharmacy:

PIC:

DPh:

Recommendation: Letter of Warning to dispensing pharmacist for the misfill.

Dr. Julie Frazier motioned to issue a civil penalty of \$100 to the pharmacist, \$500 civil penalty to the pharmacy for lack of counseling, a Letter of Instruction to the PIC and a Letter of Warning to the pharmacist who dispensed; seconded by Dr. Larry Hill. All were in favor and the motion carried.

Dr. Julie Frazier inquired as to whether it was a new prescription or a refill. Chief legal counsel, Mrs. Alison Cleaves noted it was not a new prescription; it was a refill.

Dr. Julie Frazier motioned to rescind the previous motion and to **issue a Letter of Warning to the dispensing pharmacist** for the misfill; seconded by Dr. Larry Hill. All were in favor and the motion carried.

26. Case No.: L06-PHR-RBS-200602936

Complainant alleges that the Respondent, pharmacy technician, took prescriptions from the pharmacy where she was employed without paying for the co-pays. It appears that the Respondent had legitimate prescriptions, but just failed to pay approximately \$250.00 to \$300.00 in co-pays. Respondent blames her actions on financial difficulty because her husband had been laid off.

Recommendation: Authorize Formal Hearing (Consent Order with probation)

Dr. Julie Frazier motioned to **accept counsel's recommendation with one (1) year probation**; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

27. Case No.: L07-PHR-RBS-200704673

November 9, 2006 compliance inspection revealed the following violations: (1) There was one pharmacist on duty and four technicians working. One or more of the technicians were certified so the ratio was exceeded by one technician; (2) One of the pharmacists' wall certificate was not posted at the pharmacy; and (3) There was no BOP law and rule book at the pharmacy.

In response, the PIC indicates that the pharmacist who did not have his wall certificate posted, lost it in a fire in his home. PIC has since called the Board to request a new certificate. PIC acknowledges that the law book that they have in the pharmacy is not a new edition. PIC has submitted an order form to the district manager for a new book. In response to the ratio violation, PIC states that he was told not to worry about the ratio, that it was no longer being enforced and that the rule was going to change.

Prior complaints: None

Recommendation: Authorize Formal Hearing (Consent Order with a \$250.00 civil penalty) and Letter of Instruction to PIC for Violation of Rules - Law Book

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

28. Case No.: L06-PHR-RBS-200603702, 200603703

Complainant alleges that the pharmacy technician was creating prescriptions for Zyrtec, Prevacid and Zithromax, filled the forged prescriptions and then collected the insurance payments. Complainant further alleges that after the PIC became aware of the technician's activity, he continued to allow her to work at the pharmacy.

PIC denies the allegations against him and states that he fired the technician as soon as he found out about the forged prescriptions.

Prior complaints:

Recommendation: Dismiss against the PIC and authorize a formal against the technician

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

29. Case No.: L05-PHR-RBS-200500942

Complainant alleges Respondent was terminated from her employment as a pharmacy technician for theft and diversion of controlled substances. Investigator was unable to locate the Respondent and suspects the Respondent is currently in Virginia. Respondent's Tennessee registration is expired.

Recommendation: Close and send the matter to the Virginia Board of Pharmacy

Mrs. Monica Franklin motioned to **accept counsel's recommendation**; seconded by Dr. Todd Bess. All were in favor and the motion carried. (Flag and reopen).

30. Case No.: L06-PHR-RBS-200602393

Complainant alleges that the Respondent was operating as a pharmacy without a license. Investigation revealed that the Respondent has been providing links and URL's to foreign pharmacies. Respondent told investigator that the site was for education only and he did not receive any compensation from any foreign pharmacy. Respondent also indicated to investigator that he was not involved with the transfer or storage of prescription drugs or controlled substances.

Recommendation: Close with Cease and Desist Letter

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

31. Case No.: L06-PHR-RBS-200603701

Complainant, a registered nurse, alleges that someone at the pharmacy misfilled a prescription for a patient by giving a patient Coumadin 5mg po instead of Coumadin 1mg po. Complainant states that the patient did not consume any of the incorrect medication. Complainant realized the error when he patient was admitted into the long term care facility.

PIC states that the prescription was misfilled with 5mg Warfarin Sodium with 1mg Warfarin Coumadin. PIC did not indicate whether counseling was performed.

Prior complaints:

Pharmacy:

PIC:

DPh:

Recommendation: Letter of Warning to dispensing DPh

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

32. Case No.: L06-PHR-RBS-200604347

Complainant alleges that unlicensed technicians are working at the pharmacy and asked to perform duties that should have been performed by a pharmacist. Investigator visited the pharmacy and found out that the pharmacy has two (2) full-time licensed technicians working there. PIC denied the allegations to the two (2) technicians told the investigator that they always work under the supervision of a pharmacist and the pharmacist checks on and verifies their work. Investigator could not get verification of the allegations from the other pharmacists or technicians there or obtain a response from the PIC specifically about the Complainant because the Complainant did not want her identity revealed to the Respondent.

Prior complaints:

Pharmacy:

PIC:

DPh:

Recommendation: Dismiss

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

33. Case No.: L07-PHR-RBS-200603061

Complainant alleges that her mother's prescription for Zylflo was mistakenly filled with Zyvox. Complainant alleges that her mother consumed the incorrect medication which made the patient very ill and required emergency care.

Dispensing pharmacist responded and admits that the misfill occurred; prescription was written for Zylflo 600mg and it was filled with Zyvox 600mg. DPh apologized for the error. PIC states that the technician misread the prescription and the dispensing DPh did not catch the error. PIC

attributes the incident to human error. I do not know if this was an original or refilled prescription and if patient counseling was offered or performed.

Prior complaints:

Pharmacy:

1999- closed;

2003- dismissed

Recommendation: Letter of Warning to dispensing DPh

Dr. Julie Frazier motioned to **send an investigator to review**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

Dr. Todd Bess motioned to request the investigators include as part of their inspection, a Quality Improvement Assessment to track on patient counseling; seconded by Dr. Larry Hill. During discussion, President Sheila Mitchell inquired as to what type of tool Dr. Bess could suggest for the investigator to utilize. Dr. Julie Frazier noted this could be a project for the pharmacy students. The motion did not carry. Dr. Frazier stated it is a great idea but the Board does not need to use that information as an affinity measure, and could only be used as an internal document as FYI.

**PHIL BURGESS, DPH
NATIONAL DIRECTOR, PHARMACY AFFAIRS
WALGREENS CO.
200 Wilmot Road
Deerfield, IL 60015**

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.

**MARCO BISA HAWKINS MORAN, DPH - DISCIPLINED IN ANOTHER STATE
MEMPHIS, TN**

Dr. Marco Moran, a reciprocal candidate, appeared before the Board to discuss the disciplinary action taken against his license by the Louisiana Board of Pharmacy. Interim Executive Director, Dr. Terry Grinder stated in November, 2001, Dr. Moran voluntarily surrendered his Louisiana pharmacist license and admitted to removing Hydrocodone without a prescription being on file. Dr. Moran stated his Louisiana license was placed on a ten (10) year term of probation from November 15, 2001 to November 14, 2011 with conditions. Dr. Moran noted he has obtained advocacy from TPRN.

1. Shall not violate any local, state or federal pharmacy laws;
2. Shall accept employment at Board-approved Louisiana pharmacy sites only; and,
3. Prohibited from holding the position of pharmacist-in-charge.

After board discussion, Mrs. Monica Franklin motioned to **grant** the reciprocal application and to mirror the Louisiana Board of Pharmacy's consent order with a term of probation in effect from January 30, 2007 to November 14, 2011.

- a) The Respondent is prohibited from holding the position of pharmacist-in-charge;
- b) 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;
- c) The Respondent shall not violate any state, local or federal pharmacy laws;
- d) The Respondent shall accept Board-approval of two (2) sites for employment.

Dr. Julie Frazier seconded the motion. All were in favor and the motion carried.

CONSENT ORDERS

NATALIE COKER, DPH
2933 Six Point Way
Sevierville, TN 37876

Chief legal counsel, Mrs. Alison Cleaves, presented a Consent Order for the Revocation of License for Dr. Natalie Coker. Based on information received by the Board, Dr. Coker pled guilty to having a conflict of interest by participating as a government official in a matter involving a company with whom Dr. Coker was negotiating for prospective employment, in violation of 18 USC §§208 (a) and 216 (a) (2) while employed as a pharmacist. Dr. Coker was sentenced to forty-six (46) months of incarceration. Dr. Bettie Wilson motioned to **accept** the Consent Order for Revocation; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

KELLY B. JENKINS MAYO, RT
6243 McChestnut Bluff Road
Friendship, TN 38034

Mrs. Alison Cleaves, chief legal counsel, presented a Consent Order for the Revocation of Ms. Kelly Mayo's pharmacy technician registration who admitted taking Xanax tablets from the pharmacy without a prescription. Mrs. Monica Franklin motioned to **accept** the Consent Order; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

AMY LYNN MOORE, RT
6325 Hwy. 64 East
Wartrace, TN 37183

Chief legal counsel, Mrs. Alison Cleaves, presented a Consent Order for the Revocation of Ms. Amy Moore's pharmacy technician registration for theft of controlled substances from the pharmacy without a prescription. Dr. Todd Bess motioned to **accept** the Consent Order; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

MATTHEW BLEDSOE, DPH
103 Forest Hill Circle
Dickson, TN 37055

SARA DAVIS, DPH
704 Phillip Avenue
Knoxville, TN 37920

KEVIN STAPF, DPH
8223 Jack Russell Court
Powell, TN 37849

Mrs. Alison Cleaves, chief legal counsel, presented three (3) Consent Orders for the Reinstatement of License on behalf of Dr. Matthew Bledsoe, Dr. Sara Davis and Dr. Kevin Stapf. Mrs. Monica Franklin motioned to **accept** the Consent Orders for Reinstatement; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

ACCREDITO HEALTH GROUP, INC.
1640 Century Center Parkway
Memphis, TN 38134

Chief legal counsel, Mrs. Alison Cleaves, presented a Consent Order whereas Accredo Health was in violation of T.C.A. § 53-10-106 (a) (1) relevant to the distribution of expired products. A civil penalty of \$250 was assessed. Dr. Julie Frazier motioned to **accept** the Consent Order; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

CHERYL BASHAM, DPH
1702 Cape York Court
Mt. Juliet, TN 37122

Mrs. Alison Cleaves, chief legal counsel, presented a Consent Order whereas an investigator observed Dr. Cheryl Basham supervising four (4) pharmacy technicians in violation of Board of Pharmacy Rule 1140-2-.02 (6). Dr. Basham was assessed a civil penalty of \$250. Mrs. Monica Franklin motioned to **accept** the Consent Order; seconded by Dr. Larry Hill. All were in favor and the motion carried.

STEPHANIE BATEY, DPH
P. O. Box 518
Charlotte, TN 37036

Chief legal counsel, Mrs. Alison Cleaves, presented a Consent Order whereas Dr. Stephanie Batey was in violation of Rule 1140-2-.02 (1) by allowing an individual to work as a pharmacy technician without first having the individual registered with the Board. Dr. Batey was assessed a civil penalty of \$100. Mrs. Monica Franklin motioned to **accept** the Consent Order; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

EDWIN BILLS, DPH
6710 Ball Road
Knoxville, TN 37931

RANDY BLEDSOE, DPH
303 Tedlo Lane
Knoxville, TN 37920

Mrs. Alison Cleaves, chief legal counsel, presented two (2) Consent Orders in regards to Board of Pharmacy Rule 1140-2-.01 (1), whereas a misfill in a hospital occurred in which the patient expired. A civil penalty of \$1,000 was assessed to each pharmacist. Dr. Julie Frazier motioned to **accept** the Consent Orders; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

STEPHANIE BOURQUE, DPH
1223 Limerick Lane
Franklin, TN 37067

Chief legal counsel, Mrs. Alison Cleaves, presented a Consent Order whereas Dr. Stephanie Bourque was in violation of Rule 1140-3-.01 (1) (a) and (f) relevant to an investigator's observation of the lack of patient counseling being offered. A civil penalty of \$100 was assessed to Dr. Bourque. Dr. Julie Frazier motioned to **accept** the Consent Order; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

SHEILA CALDWELL, DPH
1489 Airways
Memphis, TN 38114

Mrs. Alison Cleaves, chief legal counsel, presented a Consent Order whereas Dr. Sheila Caldwell was in violation of T.C.A. §53-10-109 (a) and T.C.A. §53-10-106 (a) (1). In August, 2003, an investigator found seventeen (17) out of the eighty (80) Baker cells had incorrect expiration dates and three (3) did not contain any identifying data; and on April 22, 2004, two (2) Baker cells had labels on them indicating the product had expired and eighteen (18) out-of-date drugs were found on the shelves. Dr. Caldwell was assessed a civil penalty of \$500 which was not enclosed with the consent order. Dr. Todd Bess motioned to **accept** the Consent Order; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

ALICE JANE DOWELL, DPH
13249 Carr Ridge Road
Silver Point, TN 38582

Mrs. Alison Cleaves, chief legal counsel, presented a Consent Order whereas Dr. Alice Dowell was in violation of T.C.A. §53-10-105 and Rule 1140-2-.01 (4) relevant to dispensing a prescription without authorization from a prescriber. Dr. Dowell was placed on a two (2) term of probation and assessed a civil penalty of \$500. Mrs. Monica Franklin motioned to **accept** the Consent Order; seconded by Dr. Julie Frazier. All were in favor and the motion carried.

JOHN BARRY JACOBS, DPH
200 South Crest Road
Chattanooga, TN 37404

Chief legal counsel, Mrs. Alison Cleaves, presented a Consent Order whereas Dr. John Jacobs was in violation of T.C.A. §63-10-305; §53-10-104 and §53-10-105 relevant to taking medications without a prescription plus other merchandise. A \$500 civil penalty was assessed. Dr. Bettie Wilson motioned to **accept** the Consent Order; seconded by Dr. Larry Hill. All were in favor and the motion carried.

TERRY KINCAID, DPH
1311 Willow Bend
Clarksville, TN 37043

Mrs. Alison Cleaves, chief legal counsel, presented a Consent Order whereas Dr. Terry Kincaid was in violation of Rule 1140-2-.01 (1) whereas a child's prescription for Depakote was misfilled with Paxil. Dr. Kincaid was assessed a civil penalty of \$500. Dr. Julie Frazier motioned to **accept** the Consent Order; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

DIANNE LODGE, DPH
3102 Wesley Court
Memphis, TN 38119

Chief legal counsel, Mrs. Alison Cleaves, presented a Consent Order whereas Dr. Dianne Lodge was in violation of Rule 1140-2-.02 (1) whereas an investigator observed an individual working at the pharmacy and was performing pharmacy technician duties without being registered with the Board. A \$100 civil penalty was assessed. Dr. Bettie Wilson motioned to **accept** the Consent Order; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

MARIA NETTERVILLE, DPH
178 E. Nolley Drive
Collierville, TN 38017

Mrs. Alison Cleaves, chief legal counsel, presented a Consent Order on behalf of Dr. Maria Netterville, who was in violation of Rule 1140-3-.01 (1) (a) relevant to the failure to provide a patient with an original prescription with patient counseling. Dr. Netterville was assessed a civil penalty of \$100. Dr. Julie Frazier motioned to **accept** the Consent Order; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

JASON SWALLOWS, DPH
635 Morgan Road
Charleston, TN 37301

Chief legal counsel, Mrs. Alison Cleaves, presented a Consent Order on Dr. Jason Swallows who was in violation of Rule 1140-2-.02 (1). An investigator observed two (2) individuals acting

as pharmacy technicians by performing pharmacy technician duties without being registered with the Board. Dr. Swallows was assessed a civil penalty of \$200. Dr. Julie Frazier motioned to **accept** the Consent Order; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

WALGREENS #09465
2615 Lake Road
Dyersburg, TN 38024

Mrs. Alison Cleaves, chief legal counsel, presented a Consent Order whereas a violation of Rule 1140-3-.01 (1) (a) occurred due to the failure to provide patient counseling on an original prescription. As a result, the patient's prescription was misfilled with Atenolol instead of Atarax. Walgreens #09465 was assessed a civil penalty of \$500. Mrs. Monica Franklin motioned to **accept** the Consent Order; seconded by Dr. Todd Bess. All were in favor and the motion carried.

JAMES WEBB, DPH
926 Cooper
Dyersburg, TN 38024

Chief legal counsel, Mrs. Alison Cleaves, presented a Consent Order whereas Dr. James Webb was in violation of Rule 1140-3-.01 (1) (a) for failure to provide patient counseling which resulted in a patient's prescription being misfilled with Atenolol instead of Atarax. Dr. Webb was assessed a civil penalty of \$100. Mrs. Monica Franklin motioned to **accept** the Consent Order; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

WALLACE WHITAKER, DPH
2404 Rambling Road
Johnson City, TN 37604

and

KROGER PHARMACY #261
112 Sunset Drive
Johnson city, TN 37604

Mrs. Alison Cleaves, chief legal counsel, presented Consent Orders for Dr. Wallace Whitaker and Kroger Pharmacy #261, who were in violation of Rule 1140-3-.01 (1) (a) relevant to patient

counseling. A civil penalty of \$100 was assessed to Dr. Whitaker and a \$500 civil penalty was assessed to the pharmacy. Dr. Julie Frazier motioned to **accept** the Consent Orders; seconded By Dr. Bettie Wilson. All were in favor and the motion carried.

CVS PHARMACY #6399
101 Farrier Lane
Franklin, TN 37064

Chief legal counsel, Mrs. Alison Cleaves, presented a Consent Order whereas CVS Pharmacy #6399 was in violation of Rule 1140-3-.01 (1) (a) and (f) for dispensing an incorrect medication and failure to provide patient counseling. CVS #6399 was assessed a civil penalty of \$500. Mrs. Monica Franklin motioned to **accept** the Consent order; seconded by Dr. Todd Bess. All were in favor and the motion carried.

JAMA LEANN BOS, DPH
307 East Broadway Street
Rogersville, TN 37857

Mrs. Alison Cleaves, chief legal counsel, presented a Consent Order on behalf of Dr. Jama Bos who violated Board of Pharmacy Rule 1140-3-.03 (6) (a) by misfiling her own prescription for Gabapentin with Lyrica and then falsifying an insurance claim by billing the insurance company for Gabapentin. Dr. Bos has agreed to a two (2) year term of probation; and during the probationary period, she cannot fill any prescriptions for herself or family members. Dr. Bos was assessed a civil penalty of \$500. Dr. Julie Frazier motioned to **accept** the Consent order; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

KAREN ESCHMAN
CHEROKEE HEALTH SYSTEMS
501 Adesa Boulevard #A-150
Lenoir city, TN 37771

Dr. Terry Grinder advised the Board at the May 16 - 17, 2006, Mr. Neil Lawley, pharmacy service coordinator with Cherokee Health Pharmacy, submitted a request for approval of a pharmacy policy and procedure for remote access of pharmacy services. Cherokee Health Systems would like to be able to fill a prescription at one of the in-house pharmacies and deliver

it approximately forty (40) miles to the clinic site for the patient to pick-up. The Board expressed concern with patient counseling and the areas of receipt and dispensing. The Board referenced Rule 1140-3-.05 and noted Cherokee Health would not have a pharmacist present at the dispensing site.

MITAL KEYURKUMAR PATEL
42 Tipton Ridge Cove
Munford, TN 38058

Ms. Mital Patel, a foreign pharmacy graduate, is requesting a waiver of Rule 1140-1-.04 (1) (d), relevant to completing five hundred (500) hours of pharmacy internship in Tennessee within a period of six (6) consecutive months. Ms. Patel completed 1,520 internship hours, which were certified by the Wisconsin Board of Pharmacy and has completed approximately two hundred (200) hours in Tennessee. Dr. Julie Frazier motioned **Rule 1140-1-.04 (1) (d) is not a Rule that can be waived, so Ms. Patel will have to complete 500 hours**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

JOHN CHRISTOPHER BROCK, DPH
1019 Wildlife Court
Kingston Springs, TN 37082

Dr. John Brock is requesting a waiver of Rule 1140-1-.07 (3) (b) (3) and (5) relevant to the requirements for the successful completion of the Jurisprudence examination and a period of pharmacy internship for the reinstatement of his pharmacist license. Dr. Julie Frazier motioned to **deny** the request; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

DAVID HART, DPH
4 Samson Drive
Westborough, MA 01581

Dr. David Hart is requesting a waiver of Tennessee Board of Pharmacy Rule 1140-1-.07 (3) (b) (3) and (5) relevant to the requirements for the successful completion of the Jurisprudence examination and to complete a period of pharmacy internship hours for the reinstatement of his pharmacist license. Dr. Julie Frazier motioned to **deny the waiver request for the MPJE** and to **waive the period of pharmacy internship hours since Dr. Hart is actively practicing in**

the State of Massachusetts; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

EARL SCONIERS, DPH
749 Hayes Court
College Park, GA 30349

Dr. Earl Sconiers is requesting a waiver of Tennessee Board of Pharmacy Rule 1140-1-.07 (3) (b) (3) and (5) relevant to the requirements for the successful completion of the Jurisprudence examination and to complete a period of pharmacy internship hours for the reinstatement of his pharmacist license. Dr. Julie Frazier motioned to **deny the waiver request for the MPJE** and to **defer the period of pharmacy internship hours**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

LEIGH ANN WILLS, DPH
1111 Vinings Falls Drive
Smyrna, GA 30080

Dr. Leigh Wills is requesting a waiver of Tennessee Board of Pharmacy Rule 1140-1-.07 (3) (b) (3) and (5) relevant to the requirements of the successful completion of the Jurisprudence examination and to complete a period of pharmacy internship hours for the reinstatement of her pharmacist license. Dr. Wills placed her license in an inactive/retired status in May, 2003. Mrs. Monica Franklin motioned to **waive the period of pharmacy internship hours** since Dr. Wills is actively practicing in Georgia and she **must complete the MPJE**; seconded by Dr. Larry Hill. All were in favor and the motion carried.

LORI COPELAND, DPH
804 Estuary Drive
Odenton, MD 21113

Interim Executive Director, Dr. Terry Grinder, advised the Board in November 7 - 8, 2006, Dr. Copeland's waiver requests of Rule 1140-1-.07 (3) (b) (3) and (5) were denied. Dr. Copeland has indicated that she desires to reciprocate her license to the State of Maryland and is requesting consideration from the Board for a waiver of Rule 1140-1-.07 (3) (b) (5). Mrs. Monica Franklin motioned to deny the request. The motion dies for the lack of a second. Dr.

Julie Frazier motioned to **allow Dr. Copeland to complete the one-hundred sixty (160) pharmacy internship hours in the State of Maryland and must complete the Multi-State Pharmacy Jurisprudence Examination.** Dr. Todd Bess seconded the motion. All were in favor and the motion carried.

ANTHONY W. TRAVIS, DPH
54 Clover Drive
Ringgold, GA 30736

Dr. Anthony Travis is requesting a waiver of Tennessee Board of Pharmacy 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. Dr. Julie Frazier motioned to **waive** the period of pharmacy internship hours for the reinstatement of Dr. Travis' pharmacist license; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

CYNTHIA RHEA HELTON, DPH
via e-mail: cindy@helton.ws

Dr. Cynthia Helton is requesting a waiver of Tennessee Board of Pharmacy Rule 1140-1-.07 (3) (c) (3) relevant to the requirement for the successful completion of the NAPLEX® examination for the reinstatement of her pharmacist license, as the license has been in an inactive status since April, 1998. Mrs. Monica Franklin motioned to **deny** the waiver request based on the fact that Dr. Helton has not been working since that time. Dr. Bettie Wilson seconded the motion with a **"friendly amendment"** made to the motion to **request additional information regarding Dr. Helton's current practice status.** All were in favor and the motion carried. **The Board suggested it may be beneficial to complete the Pharmacist Self-Assessment Mechanism (PSAM), which is offered by NABP, and would reconsider the request for a waiver.**

JAMES ALLEY, DPH
51 New London Drive
Lynchburg, VA 24502

Dr. James Alley is requesting a waiver of Rule 1140-1-.07 (3) (c) (5) relevant to the requirement for completing a period of pharmacy internship in Tennessee of three hundred twenty (320) hours within one hundred eighty (180) consecutive days and to extend the timeframe for the completion of the hours beyond the one hundred eighty (180) days for the reinstatement of his pharmacist license. Dr. Julie Frazier motioned to **allow Dr. Alley to complete the three hundred twenty (320) pharmacy internship hours under a licensed pharmacist and who is in good standing in the Commonwealth of Virginia; and to allow the sixty (60) internship hours already completed in December 2006 and January 2007. The internship hours must be completed by December 2007;** seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

DEBRA J. CLINE, RT
3723 C Jim Warren Road #3
Spring Hill, TN 37174

Ms. Debra Cline, a registered pharmacy technician, is requesting a waiver of Board of Pharmacy Rule 1140-1-.10 (12) relevant to the renewal of her registration due to illness. Dr. Julie Frazier motioned to **allow Ms. Cline to submit a new application along with a statement from the physician whenever she is able to return to work;** seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

TIM FRANCE, DPH
Director of Pharmacy
River Park Hospital
1559 Sparta Street
McMinnville, TN 37110

Dr. Tim France is requesting a waiver of Tennessee Board of Pharmacy Rule 1140-3-.14 (12) relevant to being the designated pharmacist in charge of more than one (1) pharmacy practice site at River Park Hospital and Middle Tennessee Surgical Center of River Park. Dr. France would like to share the number of hours between the two pharmacies, spending twenty (20)

hours at the Center and thirty (30) hours at the hospital. The distance between the two pharmacies is approximately one-half mile apart.

Dr. Todd Bess motioned to obtain additional information and to have an investigator to inspect the two pharmacies; seconded by Mrs. Monica Franklin. There were four (4) nays. The motion did not carry. Dr. Julie Frazier motioned to **deny** the waiver request; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

JOHN B. AVERY, III
Administrator
Perry Community Hospital
2718 Squirrel Hollow Drive
Linden, TN 37096

Mr. John Avery, administrator for Perry Community Hospital is requesting a waiver of Tennessee Board of Pharmacy Rule 1140-3-.14 (12) relevant to allowing Dr. Michael Hardy to being the designated pharmacist in charge of more than one (1) pharmacy practice site at Hickman Community Hospital in Centerville, TN and Perry Community Hospital in Linden, Tennessee. The two hospital pharmacies are thirty-five (35) miles apart and Dr. Hardy will be on site approximately fifteen (15) hours per week at Perry Community. Dr. Larry Hill motioned to **deny** the waiver request; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

ALISON SUMMERS, DPH
Interim Director of Pharmacy
Skyline Medical Center /
Tennessee Christian Medical Center
3441 Dickerson Pike
Nashville, TN 37207

Dr. Alison Summers is requesting an extension of a waiver of Tennessee Board of Pharmacy Rule 1140-3-.14 (13) relevant to Dr. Amy Huffines, the designated pharmacist in charge at Tennessee Christian Medical Center, being on duty a minimum of fifty percent (50%) of the hours that the pharmacy is in operation. Interim Director, Dr. Terry Grinder, advised the Board granted approval to allow Dr. Huffines to serve a period of six (6) months as PIC for two (2)

twelve-hour shifts/week at the July 13 - 14, 2006 meeting. Dr. Todd Bess motioned to allow Dr. Huffines to be PIC for three (3) months at Tennessee Christian Medical Center until a permanent director can be found; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

RACHEL G. MCCAULEY, DPH
via e-mail: racric@bellsouth.net

Dr. Rachel McCauley is requesting a waiver of Tennessee Board of Pharmacy Rule 1140-5-.01 (2) relevant to a pharmacist not being required to complete any continuing pharmaceutical education during a two-year license cycle if enrolled in a recognized academic program pursuing an advanced or graduate degree in a health-related science. Dr. McCauley is pursuing a Masters degree in Marriage and Family Therapy. Dr. Julie Frazier motioned to **allow six (6) non-ACPE continuing education hours to count towards the renewal of her license and is not to be considered as Live**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

STEPHANIE KORNECHUK, PHARM D
Genoa Healthcare
4508 Auburn Way North
Suite A-104
Auburn, WA 98002

Dr. Stephanie Kornechuk is seeking a waiver of Tennessee Board of Pharmacy Rule 1140-1-.08 (3) (a) (8) which requires an out-of-state pharmacy to have the designated PIC hold a current Tennessee pharmacist license. Mrs. Monica Franklin motioned to **deny** the request, seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

TARIQ WAQAR, DPH
6096 Brentwood Chase Drive
Brentwood, TN 37027

Dr. Tariq Waqar is requesting a waiver of Tennessee Board of Pharmacy Rule 1140-3-.14 (12) relevant to being the designated pharmacist in charge of more than one (1) pharmacy practice site at Kroger Pharmacy #515 and a closed-door compounding pharmacy. Dr. Waqar is

currently working seventy-six (76) hours during a two week period and plans to operate the compounding pharmacy during his days off. Mrs. Monica Franklin motioned to **deny** the waiver request; seconded by Dr. Julie Frazier. All were in favor and the motion carried. The Board expressed concern with providing good patient care.

JAMIE GUNNELLS, RPH
Director of Pharmacy Services
ElderScript Services, LLC
144 S. Thomas Street #101-1
Tupelo, MS 38801

Dr. Jamie Gunnells is requesting a waiver of Tennessee Board of Pharmacy Rule 1140-4-.14 (c) Absence of Pharmacist and the designated individual(s) who are authorized through policy of the facility to have access to the pharmacy practice site within an institutional facility. Dr. Julie Frazier motioned the **Rule cannot be waived**; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

J. PATRICK DEVEREAUX, DPH
423 Joe Barnes Road
Byron, GA 31008

Dr. Patrick Devereaux is requesting a waiver of Tennessee Board of Pharmacy Rule 1140-5-.01 (3) in regards to the Board waiving the fifteen (15) Live ACPE continuing education requirement upon a showing of emergency, illness or other good cause. Dr. Devereaux stated he was not able to obtain the fifteen (15) Live CE hours, but has obtained thirty-one (31) journal hours. Dr. Julie Frazier motioned to **grant a six (6) month extension from January 30-31, 2007** in which to obtain. If Dr. Devereaux is unable to complete the CE's in six (6) months, he must request the waiver again and these hours cannot count towards the next cycle.

ADJOURNMENT

President Sheila Mitchell entertained for a motion to adjourn. Mrs. Monica Franklin motioned to adjourn the Board of Pharmacy meeting on Tuesday, January 30, 2007 at 4:45 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 31, 2007 at 9:00 a.m. CST in Room 160 of the Davy Crockett Tower, Nashville, Tennessee. A quorum of the members being present, President Sheila Mitchell called the meeting to order. Dr. Frazier was attending a conference call and was not present at roll call. Dr. Frazier joined the meeting at 9:55 a.m. CST.

CHARLES JACKSON, DPH - REQUEST FOR REINSTATEMENT OF LICENSE MANCHESTER, TN

Dr. Charles Jackson, accompanied by his wife, appeared before the Board to request the reinstatement of his pharmacist license. Advocating on his behalf were Dr. Cliff Weiss and Dr. Mike Matheny with the Tennessee Pharmacist Recovery Network. Dr. Weiss noted his appreciation for the opportunity that was extended by Dr. Mike Kinzer for allowing Dr. Jackson to seek treatment. Interim Executive Director, Dr. Terry Grinder, advised the Board that Dr. Charles Jackson signed a Consent Order for the indefinite suspension of his pharmacist license in July, 2006. Dr. Jackson expressed his appreciation to the Board for the opportunity to appear. Dr. Jackson stated he was addicted to alcohol which started as a casual affair. Dr. Jackson admitted to taking Ambien from the pharmacy to help him sleep at night, which began a vicious cycle. Dr. Jackson noted his supervisor; Dr. Mike Kinzer extended his hand and offered him the help that he needed. Dr. Weiss stated Dr. Jackson was willing to accept change; has met the requirement of the 90/90 meetings and feels he is ready to re-enter the practice of pharmacy. Dr. Kinzer stated he was kept abreast of Dr. Jackson's weekly progress and also visited with him at Cornerstone. Dr. Kinzer noted Dr. Jackson gained employment in November, 2006 as a technician/clerk and Fred's would like to invite him to return to work. Mrs. Jackson stated she is supportive of her husband's involvement in the program. President Sheila Mitchell, on behalf of the Board, commended Dr. Kinzer and Fred's Pharmacy for their

willingness to try to make a difference in someone's life. After board discussion, Mrs. Monica Franklin motioned to:

1. Respondent does hereby agree to the reinstatement of license number **5714** with the following probationary conditions. Said probation shall remain in effect for a period of five (5) years, from **January 31, 2007 to January 31, 2012**.

- 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, **Glenn Davis, 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.

**WILLIAM BRUCE BADGER, DPH - REQUEST FOR REINSTATEMENT OF LICENSE
OLD HICKORY, TN**

Dr. Bruce Badger, who was accompanied with his wife, appeared before the Board to request the reinstatement of his pharmacist license. Advocating on his behalf was Dr. Cliff Weiss with the Tennessee Pharmacist Recovery Network. Interim Executive Director, Dr. Terry Grinder, noted in July, 2006, Dr. Badger signed a Consent Order for the indefinite suspension of his pharmacist license due to chemical dependency. Director Terry Grinder, noted Dr. Mike Kinzer, district manager for Fred's, extended Dr. Badger an opportunity to allow him to seek treatment instead of being prosecuted. Dr. Badger stated he occasionally took drugs from the pharmacy but was not successful in controlling this behavior. Dr. Badger stated he sought treatment at Cornerstone when he failed a drug screen. Dr. Cliff Weiss stated Dr. Badger was compliant with the TPRN recommendations. Dr. Badger stated his wife and family were very supportive. Dr. Kinzer mentioned he received progress reports and updates while Dr. Badger was at Cornerstone. After board discussion, Dr. Bettie Wilson motioned to:

1. Respondent does hereby agree to the reinstatement of license number **25433** with the following probationary conditions. Said probation shall remain in effect for a period of five (5) years, from **January 31, 2007 to January 31, 2012.**

- 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, **Ashok Mehta, 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. Todd Bess seconded the motion. All were in favor and the motion carried.

Dr. Mike Kinzer applauded Dr. Cliff Weiss for his commitment to the TPRN which has allowed many pharmacists to receive a second chance.

**WILLIAM JASON WARREN - NAPLEX CANDIDATE
NASHVILLE, TN**

Interim Executive Director, Dr. Terry Grinder, stated in July, 2005, the Board of Pharmacy was notified that Jason Warren had tested positive for methamphetamine during a routine drug test prior to beginning a residency program at St. Thomas. Mr. Warren is a May, 2005 graduate from Auburn University School of Pharmacy. In August, 2005 Mr. Warren was referred for an evaluation by the Georgia Board and a recommendation was made to seek a professional program such as TPRN. In October, 2005, the Board allowed Mr. Warren to sit for the NAPLEX and was advised he would be required to appear before the Board prior to the license being granted. Mr. Warren expressed his appreciation to the Board for allowing him the opportunity to appear and a special thanks to Dr. Todd Bess, whose supervision he was under while attending the residency program at St. Thomas. Mr. Warren stated Dr. Jay Dickerson with CVS allowed him to work as an intern. Mr. Warren entered into a contract with TPRN on January 31, 2006. Dr. Cliff Weiss stated Mr. Warren is attending meetings and working with his sponsor and has fulfilled the TPRN requirements. Advocate, Dr. Mike Matheny with TPRN noted Mr. Warren has a support network in place and should be given an opportunity to practice pharmacy. After board discussion, Mrs. Monica Franklin motioned to extend an opportunity for Mr. Jason Warren to obtain a pharmacist license in Tennessee with the following restrictions:

1. Said probation shall remain in effect for a period of ten (10) years from **January 31, 2007 to January 31, 2017.**

- 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, **Dan Halford, 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;

Dr. Todd Bess seconded the motion. All were in favor and the motion carried.

**NANCY HORN, DPH - RECIPROCAL CANDIDATE
MADISON, TN**

Dr. Nancy Horn appeared before the Board to request consideration and approval of her reciprocal application. Dr. Cliff Weiss with the TPRN was in attendance advocating on Dr. Horn's behalf. Dr. Horn stated in February, 2005, she surrendered her North Carolina pharmacist license due to diverting controlled substances for personal use. Dr. Horn entered into a long-term in-patient treatment facility program and successfully completed the treatment program and subsequently entered into a contract with the North Carolina Pharmacist Recovery Network (NC PRN). Dr. Horn relocated to the State of Tennessee and in February, 2006 signed a contract with the Tennessee Pharmacist Recovery Network. Dr. Cliff Weiss noted Dr. Horn has participated in the twelve-step program and is compliant with the TPRN recommendations. Dr. Horn's license was reinstated on October 17, 2006 with conditions by the North Carolina Board of Pharmacy. Dr. Horn noted there are no charges pending. After board discussion, Dr.

Julie Frazier motioned to allow Dr. Nancy Horn to reciprocate to Tennessee with the following conditions:

1. Said probation shall remain in effect for a period of ten (10) years from

January 31, 2007 to January 31, 2017.

- 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, Lee Tucker, 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;

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

**JOSEPH B. PICKETT - NAPLEX CANDIDATE
MEMPHIS, TN**

Chief legal counsel, Mrs. Alison Cleaves, stated on April 16, 2004, Mr. Joseph Pickett, was convicted of a DUI, first offense. Mr. Pickett paid fines, received a term of probation which was

completed on April 5, 2005, and attended Alcohol Safety School. Dr. Julie Frazier motioned to **accept** the NAPLEX candidate, seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

**LISA M. BRADFORD
BRIGHTON, TN**

Mrs. Alison Cleaves, chief legal counsel, noted Ms. Lisa Bradford indicated on her pharmacy technician registration that she had been convicted of a misdemeanor for a DUI in 2004. Ms. Bradford furnished documentation whereas she paid fines, completed DUI school and lost the privilege of her driver's license for a period of one (1) year. Dr. Julie Frazier motioned to **allow** Ms. Bradford to move forward with the processing of the pharmacy technician registration; seconded by Dr. Todd Bess. All were in favor and the motion carried.

**JESSICA D. FAGAN
HURON, TN**

Chief legal counsel, Mrs. Alison Cleaves, stated Ms. Jessica Fagan indicated "yes" on her pharmacy technician registration relevant to being convicted of a felony. Ms. Fagan has met all the requirements imposed by the Courts. The Board received a letter dated December 29, 2006 from the District Attorney's Office stating Ms. Fagan, along with her husband, was indicted with possession of marijuana. In June, 2003, Ms. Fagan completed her probationary period and is currently attending school. Ms. Fagan is interested in becoming a veterinarian, physical therapist or EMT. Dr. Julie Frazier motioned to **deny** the registration; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

**CHARLES A. VIA
OAK RIDGE, TN**

Mrs. Alison Cleaves, chief legal counsel, advised the Board that Mr. Charles Via had marked "yes" to being convicted of a misdemeanor on his pharmacy technician registration. On the application, Mr. Via stated he had a DWI conviction in 1978 in Morgan County, Tennessee. The court documents revealed Mr. Via paid a fine plus court costs and his Tennessee driver's

license was suspended for five (5) months and 29 days. Dr. Julie Frazier motioned to **grant** the pharmacy technician registration; seconded by Dr. Larry Hill. All were in favor and the motion carried.

**BETSY WEST
OLD HICKORY, TN**

Mrs. Alison Cleaves, chief legal counsel, noted Ms. Betsy West submitted a pharmacy technician registration on February 8, 2006 in which she stated she had been convicted of a misdemeanor for a DUI approximately eleven (11) years ago. The Board office sent a letter requesting additional information and Ms. West stated she was arrested in October, 1995 and the charges were dropped to “wreck less” driving. No jail time. Ms. West was requested to furnish court documents for the Board’s review. Ms. West responded, “DUI eleven years ago, arrested, never convicted”. Dr. Todd Bess motioned to **deny** the registration, seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

**MARCIA G. COHEN, DPH - RECIPROCAL CANDIDATE
ORANGE, CT**

Chief legal counsel, Mrs. Alison Cleaves, advised the Board Dr. Marcia Cohen had indicated on the reciprocity application of a disciplinary action taken against her pharmacist license. Dr. Cohen indicated in 1997, she received a one month suspension of her license and two (2) years probation for diversion of non-controlled prescription drugs. The probationary term was completed and full restitution was made to the facility. Dr. Julie Frazier motioned to **grant** the reciprocity process; seconded by Dr. Todd Bess. All were in favor and the motion carried.

**MARK T. MASINGILL, DPH - RECIPROCAL CANDIDATE
DELAND, FL**

Mrs. Alison Cleaves, chief legal counsel, noted Dr. Mark Masingill has submitted a reciprocity application to the Tennessee Board whereas he indicated disciplinary action was taken against his license by the Florida Board of Pharmacy for excessive prescription filling for Ritalin. Dr. Masingill was fined and his license placed on a one (1) year term of probation and required to

complete an additional twelve (12) hours of continuing education. The case involved a patient who was forging prescriptions as the medical doctor had died and Dr. Masingill was not aware of the death and he continued to fill the prescription. Dr. Masingill pleaded not guilty but accepted a Consent Order on July 29, 1990. Dr. Julie Frazier motioned to **grant** reciprocity; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

**JENNIFER A. RUNFOLO, DPH - RECIPROCAL CANDIDATE
HAMMONTON, NJ**

Chief legal counsel, Mrs. Alison Cleaves, advised the Board that Dr. Jennifer Runfola indicated “no” on her reciprocal application when asked if the license had ever been voluntarily surrendered and then provided additional information. Dr. Runfola was in violation of the continuing education requirements during 2003 - 2005, and was assessed a penalty of \$1,100. The Board rescinded the fine since Dr. Runfola was able to provide proof of compliance. Dr. Julie Frazier motioned to **grant** the reciprocity process; seconded by Dr. Todd Bess. All were in favor and the motion carried.

**TENNESSEE CODE ANNOTATED §63-10-304. Enforcement of pharmaceutical laws --
Rules and regulations.**

Chief legal counsel, Mrs. Alison Cleaves, discussed the Board's authority and power under Tennessee Code Annotated §63-10-304. Mrs. Cleaves questioned, “Does the Board want to delegate that authority to the Commissioner?” Dr. Julie Frazier stated to delegate to the Executive Director to work with the Commissioner and Department of Personnel to meet the requirements of state government. The Executive Director shall and can bring any matters before the Board as Dr. Terry Grinder is the agent for the Board. Dr. Sheila Mitchell noted the Board should be involved with the process and the Board's decision is as is. Dr. Mitchell further stated before the matter is discussed further, it will be brought before the Board.

**DAVID PAUL MARTINSON, DPH - RECIPROCAL CANDIDATE
FLOYDS KNOBS, IN**

Mrs. Alison Cleaves, chief legal counsel, noted in September, 2000, Dr. David Martinson entered into an Agreed Order with the Kentucky Board of Pharmacy and was assessed a penalty of \$100 due to a HIV continuing education violation. 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. Bettie Wilson. All were in favor and the motion carried.

DIRECTOR'S REPORT

TRIPARTITE COMMITTEE MEETING

Interim Executive Director, Dr. Terry Grinder, provided the members with a memorandum from Assistant Commissioner Meredith Sullivan pursuant to the advice received from the Department of Commerce and Insurance's General Counsel in regards to the Board's participation in the Tennessee Pharmacists' Association's Tripartite Committee Meeting on February 22, 2007. Since this meeting is not an official meeting of the Board, issues which cannot be discussed include but are not limited to the Executive Director position, pending rules and other regulatory matters. If this group wants to discuss matters that are pending before the Board, the Board members and staff should be excused and leave that portion of the meeting.

**COMPREHENSIVE TRAVEL REGULATIONS
New Reimbursement Rate Schedule**

Dr. Terry Grinder, executive interim director, provided the members with the state's new reimbursement rate schedule that became effective on January 15, 2007.

2007 PHARMACY UPDATE SEMINARS

Interim executive director, Dr. Terry Grinder, advised the Board that he had received approval for Kolleen Matthews and himself to attend the update seminars to assist the pharmacists with issues relevant to the Controlled Substance Database Monitoring.

**ETSU COLLEGE OF PHARMACY - WHITE COAT CEREMONY
JOHNSON CITY, TN**

Dr. Terry Grinder, interim executive director, advised the Governor attended the White Coat Ceremony at East Tennessee State University College of Pharmacy on January 8, 2007, where he welcomed the inaugural class of seventy-two (72) students.

FRAUD RISK ASSESSMENT - DEPARTMENT OF COMMERCE & INSURANCE

Dr. Terry Grinder, executive interim director, advised due to the Legislature enacting a law requiring audit committees for certain entities in and administratively attached to government entities, the board members will be required to complete the fraud risk assessment inquiry.

NABP 2007 MPJE LETTER OF AGREEMENT

Interim executive director, Dr. Terry Grinder, advised the members that the Board is currently under Agreement with the National Association of Boards of Pharmacy (NABP) for the Multistate Pharmacy Jurisprudence Examination. NABP revised the 2007 MPJE Agreement so that it is renewable for one (1) year periods beginning on January 1, 2007 and will run through December 31, 2007 until December 31, 2011. Director Grinder is requesting the Board's permission to sign the 2007 MPJE Letter of Agreement, which was granted.

**IBA MOLECULAR
100 Executive Drive #100
Sterling, VA 20166**

Interim executive director, Dr. Terry Grinder, received correspondence from IBA Molecular relevant to licensure in the State of Tennessee. IBA Molecular is engaged in the I-124 radiolabeling of an antibody and is to be administered to patients with renal cell carcinoma under a third party, Investigational New Drug Application, which has been approved by FDA. The Board advised if IBA is shipping into Tennessee at a clinical trial site for research purposes, a manufacturer, wholesale, distributor's license would be required. Dr. Bettie Wilson motioned for IBA to be licensed as a manufacturer, wholesale, distributor; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

2007 PHARMACY UPDATES

The following dates outline the Board's participation in the 2007 Pharmacy Update Seminars.

Sunday, February 11, 2007	Memphis, TN
Sunday, February 18, 2007	Knoxville, TN
Saturday, March 3, 2007	Jackson, TN
Saturday, March 10, 2007	Chattanooga, TN
Sunday, April 15, 2007	Nashville, TN
Saturday, April 21, 2007	Johnson City, TN
Saturday, April 28, 2007	Cookeville, TN

CONTROLLED SUBSTANCE ADVISORY COMMITTEE MEETING

Dr. Terry Grinder, interim executive director, informed the Board that a Controlled Substance Advisory Committee Meeting has been scheduled for March 13, 2007 at 2:00P. Dr. Julie Frazier and I will test the pharmacy side for access and Ms. Robbie Bell, Director of Health Related Boards will test the access for Health Related Boards Division.

NABP'S 103RD ANNUAL MEETING MAY 19 - 22, 2007 PORTLAND, OR

Dr. Terry Grinder, interim executive director, advised a travel request will need to be submitted for one (1) board member and the executive director to attend NABP's 103rd Annual Meeting in Portland, Oregon during May 19 - 22, 2007. Dr. Grinder noted the Board cannot accept any funding from NABP. Mrs. Monica Franklin requested Dr. Grinder's assistance in securing travel reimbursement as the Board should allow the consumer member to attend.

AD HOC RULES COMMITTEE

President, Dr. Sheila Mitchell appointed Dr. Julie Frazier, Dr. Bettie Wilson and herself to review and evaluate "sterile product" rules.

BOARD BUSINESS

Executive Director Vacancy

Dr. Julie Frazier informed the members she met with Ms. Sandy Groff with the Department of Personnel; Assistant Commissioner Meredith Sullivan; Ms. Shannon Parker, Director of Personnel with the Department of Commerce and Insurance and Dr. Terry Grinder on January

4, 2007 to discuss ways to enhance an interest in the executive director position and to secure an increase in salary. The Department of Personnel suggested for the Board to use "direct mailers" listing the job description, salary and how to give back to the profession with the positive sides of the job. Dr. Frazier noted the position could be advertised in the newspapers, Career Builders, Tennessee Pharmacist Association, Board of Pharmacy's website and possibly utilize a "retain search". Dr. Frazier stated the Board could ask for a budget improvement request and an equity adjustment with the proper approvals from the Department of Personnel and Department of Commerce and Insurance. Dr. Frazier motioned to move forward with the posting of the position with the Department of Personnel's assistance with all the suggestions they made and proceed with the interview process. Mrs. Monica Franklin seconded the motion. All were in favor and the motion carried.

ADJOURNMENT

President, Dr. Sheila Mitchell motioned to adjourn the Board of Pharmacy meeting on Wednesday, January 31, 2007 at 12:55 p.m. CST.

The Board of Pharmacy approved the January 30 - 31, 2007 minutes at the May 15 -16, 2007 board meeting.