

**TENNESSEE BOARD OF PHARMACY
MARCH 12 - 13, 2008
227 FRENCH LANDING- POPLAR ROOM
NASHVILLE, TN**

BOARD MEMBERS PRESENT:

Sheila Mitchell, President
Todd Bess, Vice President
Monica Franklin, Consumer Member
Bettie Wilson, Member
Larry Hill, Member
Brenda Warren, Member

STAFF PRESENT:

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

The Tennessee Board of Pharmacy convened on Wednesday, March 12, 2008, in the Poplar Room, 227 French Landing, Heritage Place - Metro Center, Nashville, Tennessee. A quorum of the members being present, the meeting was called to order at 9:00 a.m. CDT, by President Dr. Sheila Mitchell. For the record, Dr. Robert Mitchell was not present due to illness.

APPROVAL OF THE MINUTES

The minutes of the January 29 - 30, 2008 board meeting were presented. Mrs. Monica Franklin motioned to **approve** the minutes; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

CONSENT ORDERS

**TIMOTHY C. SIMEK, DPH
823 Sugarloaf Lane
Seymour, TN 37865**

Mrs. Alison Cleaves, chief legal counsel, presented a Consent Order for the Revocation of Dr. Timothy Simek's license due to chemical impairment. Mrs. Monica Franklin motioned to **accept** the Consent Order; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

**STEPHANIE M. JACOBS, RT
2231 Grays Bend Road
Centerville, TN 37033**

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

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

Chief legal counsel, Mrs. Alison Cleaves, presented a Consent Order for the Reinstatement of License for Dr. Stacy Hazelwood with a five (5) year term of probation. Mrs. Monica Franklin motioned to **accept** the Consent Order; seconded by Dr. Larry Hill. All were in favor and the motion carried.

KIM LAUGHMILLER, DPH
2130 Exeter Road
Germantown, TN 38138

Mrs. Alison Cleaves, chief legal counsel, presented a Consent Order whereas Dr. Kim Laughmiller was in violation of Rule 1140-2-.02 (1) relevant to allowing two (2) individuals to operate as pharmacy technicians without being registered with the Board. Dr. Laughmiller was assessed a civil penalty of \$200. Mrs. Monica Franklin motioned to **accept** the Consent Order; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

KITA G. MAPPIN, DPH
5324 Buena Vista Pike
Nashville, TN 37218

Chief legal counsel, Mrs. Alison Cleaves, presented a Consent Order on behalf of Dr. Kita Mappin, who failed to offer patient counseling to a patient or patient's caregiver or failed to ensure that an offer for patient counseling was made by an individual designated by the pharmacist after the patient or patient's caregiver was dispensed a refilled prescription as referenced in Rule 1140-3-.01 (1) (a). Dr. Mappin was assessed a civil penalty of \$100. Dr.

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

HORTON L. JONES, DPH
815 Russleo Drive
Nashville, TN 37209

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

ASHLEY J. MERRITT, DPH
414 N. 17TH Street
Nashville, TN 37206

Chief legal counsel, Mrs. Alison Cleaves, presented a Consent Order on behalf of Dr. Ashley Merritt, who was in violation of Rule 1140-3-01 (1) (a) and (f) for failure to offer patient counseling to a patient or patient's caregiver or failed to ensure that an offer for patient counseling was made by an individual designated by the pharmacist after the patient or patient's caregiver was dispensed a refilled prescription. Dr. Merritt was assessed a civil penalty of \$100. Dr. Larry Hill motioned to **accept** the Consent Order; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

KROGER PHARMACY #533
3930 Clarksville Highway
Nashville, TN 37218

Mrs. Alison Cleaves, chief legal counsel, presented a Consent Order on behalf of Kroger Pharmacy #533 for violation of Rule 1140-3-01 (1) (a) and (f) relevant to patient counseling. A civil penalty of \$500 was assessed. Dr. Larry Hill motioned to **accept** the Consent Order; seconded by Dr. Brenda Warren. All were in favor and the motion carried.

WALGREENS PHARMACY #5869
313 Clarksville Pike
Nashville, TN 37218

Chief legal counsel, Mrs. Alison Cleaves, presented a Consent Order on Walgreens Pharmacy #5869, who was in violation of Rule 1140-3-.01 (1) (a) and (f) for the failure to provide patient counseling on all new prescriptions and failed to make an offer to counsel on refilled prescriptions. A civil penalty of \$500 was assessed. Mrs. Monica Franklin motioned to **accept** the Consent Order; seconded by Dr. Todd Bess. All were in favor and the motion carried.

KATHRYN A. ANDERSON, RT
112 Rose Street
LaVergne, TN 37086

Mrs. Alison Cleaves, chief legal counsel, presented a Consent Order on Ms. Kathryn Anderson for the revocation of her pharmacy technician registration due to theft of controlled substances from the pharmacy without authorization from a licensed prescriber. Dr. Larry Hill motioned to **accept** the Consent Order; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

WAIVERS

KIMSEY O'NEAL, DPH
2488 Highway 16 West
Carthage, MS 39051

Dr. Kimsey O'Neal is requesting a waiver of Rule 1140-1-.07 (3) (b) (5) relevant to the requirement to complete a period of pharmacy internship of one-hundred sixty (160) hours within ninety (90) days for the reinstatement of her pharmacist license. Dr. O'Neal stated she is actively practicing in Mississippi in a supervisory position. Dr. Todd Bess motioned to **approve** the waiver request; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

WILLIAM FARMER, DPH
2305 Heather McCarter Lane
Sevierville, TN 37862

Dr. Kevin Eidson, Executive Director, stated at the September 11 - 12, 2007 board meeting, the Board tabled Dr. William Farmer's waiver request of Rule 1140-1-.07 (3) (c) 3) and (5) relevant to the successful completion of the NAPLEX and a period of pharmacy internship of three

hundred twenty (320) hours for the reinstatement of his license and requested additional work history information. At the November 8 - 9, 2007 meeting, Dr. Farmer stated he has been actively practicing in Florida and the board motioned to provide the additional information requested and he would be required to take the MPJE. Dr. Farmer has been actively practicing pharmacy since January, 1950 and provided his employment history. Mrs. Monica Franklin motioned to **grant** the waiver request; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

MIKE BIRDWELL, PHARM D
TRI-MED PHARMACY SERVICES, LLC #4
2195 Varnett Road
Cleveland, TN 37111

Dr. Mike Birdwell is requesting a waiver of Rule 1140-1-.12 (3) (d) relevant to the requirement for a pharmacy to occupy space of not less than one-hundred eighty (180) square feet. A Med Locker will be installed in the space and will service the Hospice wing. The pharmacist inspector is comfortable with the set up. Dr. Bettie Wilson motioned to **grant** the waiver request; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

CHIEMEZIE OTI, DPH
2846 Schaeffer Drive
Eads, TN 38028

Dr. Chiemezie Oti is requesting a waiver of Rule 1140-3-.14 (12) relevant to being the designated Pharmacist in Charge of more than one (1) pharmacy practice site. Dr. Oti is currently the PIC at Kroger's Pharmacy with a "heavy" week of 38 hours in week #1 and a "light" week of 24 hours in week #2 and will work a minimum of twenty hours per week at MediPharm, an internet pharmacy. The Board expressed concern with the patient/physician relationship at MediPharm, as well as the type of practice site. Mrs. Monica Franklin motioned to **deny** the request until further information is obtained; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

BEVERLY MCCURRY, DPH

CVS PHARMACY
5401 Clinton Highway
Knoxville, TN 37912

Dr. Beverly McCurry is requesting a waiver of Rule 1140-3-.14 (13) in regards to the designated pharmacist-in-charge at a particular pharmacy practice site shall be on duty a minimum of fifty percent (50%) of the hours that the pharmacy is in operation. Dr. McCurry is requesting a reduced schedule of 30 - 35 hours/week due to personal medical issues through April 30, 2008. Dr. John Williams, CVS Pharmacy Supervisor, was in attendance during the presentation of the waiver request and noted Dr. McCurry cannot meet the requirements of the rule as she is working only twenty (20) hours per week. Dr. Brenda Warren motioned to **deny** the request; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

LYNNE WHEELESS, DPH
7282 Paul Jones Road
Duck River, TN 38454

Dr. Lynne Wheelless is requesting a waiver of Rule 1140-5-.01 (2) relevant to completing the continuing pharmaceutical education requirements if enrolled in a recognized academic program for the renewal of your pharmacist license. Dr. Wheelless is currently enrolled at the University of Florida College of Pharmacy and is attending their Masters of Pharmacy Policy and Regulations Program. Dr. Larry Hill motioned to **grant the waiver request and to submit copies of the transcripts while enrolled at the University of Florida College of Pharmacy Master of Pharmaceutical Sciences courses**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

PAGE DUNLAP, PHARM D
P. O. Box 354
Hartselle, AL 35640

Dr. Page Dunlap is requesting consideration from the Board of the reciprocity fees under Tennessee Board of Pharmacy Rule 1140-1-.10. Dr. Dunlap stated she was working for Dr. Baeteena Black at the Tennessee Pharmacists Association and became gravely ill and had to

have surgery. Dr. Dunlap's reciprocity application was received in the Board office on July 17, 2006 and the fees expired after one (1) year. Dr. Larry Hill motioned to **grant the extension of the reciprocity application and fees**; seconded by Mrs. Monica Franklin. The Board noted Dr. Dunlap should contact NABP for their requirements for reciprocity and fees. All were in favor and the motion carried.

**CHARLES CUTHBERT, DPH - REQUEST FOR REINSTATEMENT OF LICENSE
DAVENPORT, IA**

Dr. Charles Cuthbert appeared before the Board to request the reinstatement of his Tennessee pharmacist license. Advocating on his behalf were Dr. Cliff Weiss and Dr. Kim Roberts with the Tennessee Pharmacist Recovery Network (TPRN). Executive Director, Dr. Kevin Eidson, stated at the January 17 - 18, 2006, board meeting, Dr. Cuthbert's license was summarily suspended due to chemical dependency and was reinstated at the May 16 - 17, 2006 meeting with a five (5) year term of probation. On March 29 - 30, 2007 the Board summarily suspended Dr. Cuthbert's license due to relapse. Dr. Cuthbert stated between May 2005 and November 2005, he began stealing Lortab from his employer due to troubled times in his life and voluntarily admitted to this action. In November, Dr. Cuthbert sought treatment at Cornerstone, completed the 90/90 meetings and continued weekly TPRN meetings but was not working the twelve step program and was not being truthful to his sponsor and in May, 2006, the Board reinstated his license with a five (5) year term of probation. Dr. Cuthbert stated between June 2006 - August 2006, he began stealing Lortab again and was not using the A/A program to cope. In August, 2006, Dr. Cuthbert stated he changed jobs but the daily use continued until a urine screen tested positive on February 18, 2007. Dr. Cuthbert sought treatment at Bradford Health Services in Alabama from March, 2007 - October, 2007. Dr. Cuthbert stated he is in compliance with the Iowa Pharmacist Recovery Network (IPRN).

Dr. Brenda Warren motioned for Dr. Cuthbert to move to Tennessee and **to appear before the Board in six (6) months with TPRN advocacy, and attest to the fact that Dr. Cuthbert is in**

compliance with the recommendations of TPRN; and demonstrate some type of family support is in place. Mrs. Monica Franklin seconded the motion. All were in favor and the motion carried. President Sheila Mitchell noted Dr. Cuthbert could be working as an intern to become established in Tennessee. Dr. Larry Hill noted it is the Board's responsibility to protect the health, safety and welfare of the citizens of Tennessee and we are responsible for your well being also.

**DENISE SEALAND, DPH - REQUEST FOR REINSTATEMENT OF LICENSE
COLUMBIA, TN**

Dr. Denise Sealand appeared before the Board along with TPRN advocates, Dr. Cliff Weiss, Dr. Nancy Horn and Dr. Kim Roberts to request the reinstatement of her pharmacist license. Dr. Sealand stated in 1993 she was prescribed antidepressants due to her sister's death and started experiencing headaches and was prescribed Floricet. From 1993 - 2007, she was prescribed different types of medications as well as Hydrocodone. In 2007, Dr. Sealand stated she forged a prescription in her sister's name and the pharmacist caught the transaction and thought it was a forgery. Dr. Sealand stated the pharmacy did not press charges and there are no criminal charges pending. In August, 2007, Dr. Sealand entered treatment at Cornerstone. Dr. Roberts stated Dr. Sealand is in compliance with the TPRN recommendations and she utilizes the twelve step program. Dr. Weiss and Dr. Horn are supportive in her return to the practice of pharmacy. After board discussion, Dr. Larry Hill motioned,

Respondent does hereby agree to the reinstatement of license number **7631**, with the following probationary conditions. Said probation shall remain in effect for a period of **five (5) years, from March 12, 2008 to March 12, 2013**.

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

Kennedy, 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.

**BARRY CRAIG, DPH - RECIPROCAL CANDIDATE
KREMLIN, OK**

Dr. Barry Craig, a reciprocal candidate from Oklahoma, appeared before the Board to request the approval of his reciprocity application for licensure in the State of Tennessee. Dr. Kevin Hartman, Dr. Hunter Culbertson and Dr. Randall Jean with the Tennessee Pharmacist Recovery

Network were also in attendance. Dr. Craig advised the Board that he entered into an Agreed Order with the Oklahoma Board of Pharmacy on March 28, 2001, in which his license was placed on a term of probation for a period of ten (10) years for diverting Hydrocodone for personal use. On November 21, 2002, Dr. Craig entered into an Agreed Order whereby his probation was revoked and the suspension reinstated as Dr. Craig was non-complaint in fulfilling the terms of his contract with the Oklahoma Pharmacists Helping Pharmacists (OPHP). On July 6, 2003, Dr. Craig was arrested for DUI and reported the incident to the "OPHP" in August, 2003. In December, 2003, Dr. Craig entered into a half-way house in Tennessee and after returning to Oklahoma, he failed to notify the OPHP. On January 21, 2004, the Board determined Dr. Craig had violated the terms of the Agreed Orders of March 28, 2001 and of November 21, 2002 and Dr. Craig's probation was revoked. The Oklahoma Board of Pharmacy noted Dr. Craig may petition the Board and request probation upon a showing of two (2) years of demonstrated sobriety and full compliance with the OPHP contract. On April 18, 2007, Dr. Craig was in compliance with the Board's recommendation and was granted an intern license for a period of one (1) year with terms and conditions. Dr. Craig may appear before the Board to request probation after the successful completion of the requirements imposed by the Oklahoma Board. Dr. Craig stated he has submitted the reciprocity application to NABP. Advocate, Dr. Hartman noted Dr. Craig has been participating in the TPRN group since 2005. Dr. Culbertson stated Dr. Craig is compliant with the TPRN recommendations. Dr. Craig has been employed as an intern in Tennessee since January 20, 2008 and prior to that time, worked as an intern in Oklahoma from June, 2007 until moving to Tennessee in January, 2008. Dr. Craig appeared before the Oklahoma Board of Pharmacy on January 25, 2008. Mrs. Monica Franklin motioned to **deny reciprocity until additional information is received**; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

ADJOURNMENT - LUNCH

Dr. Larry Hill motioned to adjourn the board meeting for lunch at 12:40 p.m. CDT on Wednesday, March 12, 2008; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

**APRIL COLEMAN, DPH - REQUEST FOR REINSTATEMENT OF LICENSE
LEXINGTON, TN**

Dr. April Coleman appeared before the Board to request the reinstatement of her pharmacist license along with advocate, Dr. Cliff Weiss with the Tennessee Pharmacist Recovery Network. Executive Director, Dr. Kevin Eidson, advised in 1993, Dr. Coleman's license was revoked and the Board reinstated her license with a five (5) year term of probation in March, 1999. On January 17, 2006 the Board indefinitely suspended her license due to a relapse. The TPRN advocate for West Tennessee was unable to attend, but advised that Dr. Coleman is complaint with their recommendations and recommends her return to the practice of pharmacy. After discussion, Dr. Todd Bess motioned:

Respondent does hereby agree to the reinstatement of license number **10727** with the following probationary conditions. Said probation shall remain in effect for a period of **ten (10) years, from March 12, 2008 to March 12, 2018.**

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

- g) The Respondent shall comply with all of the terms and conditions of the extended aftercare contract he or she entered into with Tennessee Pharmacists Recovery Network. Respondent shall return a copy of said contract with this Consent Order to the Board office;
- h) The Respondent shall not serve as pharmacist-in-charge for a period of three (3) years, however, after a period of two (2) years, the Respondent may petition the Board for a modification of this Consent Order to remove the restrictions upon a show of good cause. The Respondent shall not work as a “floater” for a period of three (3) years, meaning that the Respondent shall not work at more than one (1) pharmacy location at the same time without the permission of the Board;
- i) If the license has been inactive, delinquent, suspended or revoked:
 - (ii) **One (1) year to not more than five (5) consecutive years, the pharmacist shall:**
 - I. Provide written notice requesting an active license;
 - II. Satisfy all past due continuing pharmaceutical education;
 - III. Successfully complete the Multi-State Pharmacy Jurisprudence Examination (MPJE);
 - IV. Pay all cumulative license renewal fees and any applicable penalties;
 - V. Complete a period of pharmacy internship in Tennessee.
 - A. From one (1) year to not more than three (3) consecutive years, one hundred sixty (160) hours within ninety (90) consecutive days.

Mrs. Monica Franklin seconded the motion based upon the term of the probationary period from Dr. Bess. All were in favor and the motion carried.

ROD PRESNELL, DPH

**MEDCO HEALTH SOLUTIONS
CENTRAL FILL RULES**

Dr. Rod Presnell with Medco Health Solutions and Mr. Guilford Thornton, Jr., an attorney with Adams and Reese, LLP representing Accredo Health, Inc., an affiliate of Medco Health Solutions, Inc., appeared before the Board to discuss the Proposed Rules of Chapter 1140-3 relevant to the Central Fill Rules. Dr. Brenda Warren will recuse herself from any voting. Dr. Presnell requested clarification of the following items. #1. Under definitions, (6) "Centralized Prescription Processing" is the filling or refilling of a lawful prescription order written by the patient's authorized prescriber by one (1) pharmacy licensed by the State of Tennessee at the request of another pharmacy licensed by the State of Tennessee for the delivery of the prescription drugs to the patient or patient' agent. Dr. Presnell stated the term "filling or refilling" is not defined or mentioned in Tennessee statute or rule. The terms "dispense" and the "practice of pharmacy" is defined in the statute. The Board noted the term "fill or refill" is taken from the model language. Dr. Julie Frazier, a past Board historian, noted the end step has to be the element of counseling as it relates to the intent of the words of "filling or refilling". It is a process. #2. Does the term "common electronic file" in Rule 1140-3-.16 (1)(b) mean a common database and what does the term fill or refill mean in this section. If the pharmacies share a common database, then is it the intent of this section to allow the dispensing and practice of pharmacy without transfer? The Board noted under Rule 1140-3-.16 Automated Dispensing Devices for Pharmacy Practice. Centralized Prescription Processing:

- (1) A pharmacy may perform or outsource centralized prescription processing services to another pharmacy, provided that the following criteria are satisfied:
 - (a) both pharmacies shall be licensed by the State of Tennessee; and

The Board agreed.
 - (b) both pharmacies shall share a common electronic file or both shall have the appropriate technology to allow each other access to information that is necessary to fill or refill a prescription order; and

The Board response:

(b) per electronic file and referred to Rule 1140-3-.03 relevant to the transfer inquiry.

PAULA B. HINSON, DPH
BAPTIST MEMORIAL HOSPITAL MEMPHIS
6019 Walnut Grove Road
Memphis, TN 38120

Dr. Paula Hinson, Director of Pharmacy Services with Baptist Memorial Hospital Memphis is requesting guidance in regards to a proposed arrangement for pharmacy services between Baptist Memorial Restorative Care Hospital (“RCHB”) and Baptist Memorial Hospital Memphis (BMHM”). Currently the RCHB pharmacy has a contractual agreement for the BMHM pharmacy to provide after hours services. RCHB is a 30-bed long-term acute care hospital located on the first floor of BMHM and it serves only RCHB patients. BMHM Pharmacy has installed a robotic dispensing system (McKesson Robot-RX System) as an integral part of their distributive drug process and RCHB would like to avail itself of the multiple advantages offered by the BMHM robotic pharmacy system. Dr. Hinson noted RCHB will continue to maintain a pharmacy unit in its space and the drugs stored will be limited for use in emergency situations; RCHB will continue to have a pharmacist on staff to coordinate the provision of clinical and distributive pharmacy services and to supervise the operations of the RCHB pharmacy; the use of BMHM’s robotic dispensing system would consolidate the patient’s pharmacy profile into one computer system from which both pharmacy staffs could view the same patient clinical information; the electronic order for a RCHB patient would be transmitted to the BMHM pharmacy where the medications would be filled by the bar-coded robotics system and delivered to the patient care location for subsequent bar-coded medication verification prior to drug administration; and, the arrangement between RCHB and BMHM pursuant to which RCHB will obtain prescribed drugs for its patients from the pharmacy at BMHM will be memorialized in a memorandum and will be maintained by both facilities.

The inventory transfer from one pharmacy to another pharmacy would be tracked through the BMHM computer. The tracking of controlled substance distribution and administration would be a joint responsibility of the pharmacist in charge at each pharmacy. Dr. Hinson stated RCHB proposed to provide pharmacy services in accordance with the arrangement outlined below:

BMHM Pharmacy must validate that no more than 5% of the total controlled substance units purchased per year is sold to other licensed pharmacies.

Transfer of controlled substances would have to meet the DEA requirements for the sale of controlled substances on the BMHM Pharmacy for DEA form 222 or invoice tracking for the controls in other classes.

Receipt of the controlled substances would have to meet DEA requirements for the receipt of controlled substances on the RCHB side.

Both pharmacies would maintain their respective DEA licensure.

Automation regulation would define specific par level ranges established by the two pharmacy directors through which monitoring would be conducted through a perpetual inventory process and in accordance with Rule 1140-4-.15.

Tracking controlled substances administered to the RCHB through automation would enhance the distribution system by replacing the paper based documentation system. Reporting would be available through the computer based monitoring system to provide tracking and trending. Time stamped computer logs will indicate when drugs are accessed and by whom.

Design of the current automation system and policies in place regulate which individuals have access to the system, can immediately remove access to the drugs when necessary and can limit access to only certain classes of drugs.

Records would be "shared" when appropriate for either pharmacist in charge or either pharmacy site to review and track.

All controlled substances purchased or sold would be tracked through the automation capabilities at BMHM. Established policies and procedures would establish the task-by-task

responsibilities. Reports and other requested information would be available in a readily retrievable manner to the pharmacist in charge at the RCHB location.

Dr. Bettie Wilson motioned to **accept the proposal based upon the presentation as it does not violate any laws or rules**; seconded by Dr. Larry Hill. All were in favor and the motion carried.

LEGAL REPORT/COMPLAINTS

1. Case No.: L08-PHR-RBS-200800031

Complaint was generated from a January 23, 2008 compliance inspection in which the investigator observed that there were four (4) individuals working as pharmacy technicians at the Respondent pharmacy without being registered with the Board. The PIC responded to the complaint stating that all four (4) of the technicians have since been registered.

Prior complaints:

Pharmacy: 2001- Medication Shortage- Closed; 2003- Refused to Fill- Dismissed
PIC: None

Recommendation: Authorize formal hearing (Consent Order with a \$250.00 civil penalty) against PIC for violating the ratio and a civil penalty against the PIC for allowing unregistered technicians in the pharmacy.

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

2. Case No.: L08-PHR-RBS-2000800035

Complainant alleges that she did not receive on bottle of her medication (type of medication was not indicated) and that she received the correct medication but it was mislabeled and put into the wrong bottle. As a result of the mislabeling, the Complainant consumed the incorrect dosage of the medication.

PIC responded to the allegation of medications being placed in the incorrect bottles. PIC states that they filled two (2) prescriptions for the Complainant, one for 60 Metoprolol 25mg and one for 30 Simvastatin 20 mg. PIC indicates that he is confident that the medications were placed in the correct bottles because he, as well as all of the other pharmacists at the pharmacy, initials and verifies to ensure that the four digits of the NDC number on the label match the stock bottle. Also, he not only verifies the NDC number, but he also does a visual check of each prescription filled by opening the lid and comparing what is being dispensed with the medication in the stock bottle. PIC also indicates visually the two drugs dispensed to the Complainant are very different; one is paperclip-shaped and a peach color and the other is round, white and has a big "M" on it.

PIC obtained a statement from the pharmacist on duty that day (January 22nd). Pharmacist recalls the Complainant coming to the pharmacy indicating that she was shorted thirty (30)

tablets of Metoprolol 25 mg; when she complained she brought with her both medication bottles. Pharmacy technician brought both bottles to the pharmacist and they decided that they may have shorted her thirty (30) tablets, so they have the Complainant thirty (30) more. While they were giving the Complainant the additional medication, the pharmacist compared the contents of the bottles brought in with the stock bottles and confirmed that the medications were in the correct bottles. Complainant then came in on the next day (January 23rd) claiming that the wrong medications were dispensed in the wrong bottles, but she did not bring the bottles with her this time.

Prior complaints:
2007- Chemical Impairment -Dismissed

Recommendation: Dismiss

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

3. Case No.: L08-PHR-RBS-200800019

January 1, 2008 compliance inspection of the pharmacy revealed that a pharmacy technician was working at the pharmacy with a registration that expired on April 30, 2006. PIC responded to the complaint stating that the expired technician registration was an unintentional oversight. Since the filing of this complaint, the technician has reapplied for registration. To prevent this from happening in the future, PIC states that he is requiring all technicians to pay for their registrations first and then submit paperwork for reimbursement. Also, in terms of renewals, he now requires all technicians to bring their renewal forms to him as soon as possible.

Prior complaints: None

Recommendation: Authorize formal hearing (Consent Order with \$2,100 civil penalty to the PIC).

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

4. Case No.: L08-PHR-RBS-200800053

Respondent, a licensed manufacturer/wholesaler/distributor, was disciplined by another state with a civil penalty of \$75,000 and a reprimand for purchasing prescription medications between November, 2002 to March, 2003 from a source that was not appropriately licensed. The Consent Order from the other state provides that a former employee, in violation of company policy and without the Respondent's knowledge, made the purchases. Since the violation occurred, the Respondent has instituted comprehensive controls designed to prevent a reoccurrence and to insure that the product is only purchased from licensed suppliers.

Prior complaints: None

Recommendation: Authorize formal hearing (discuss)

Dr. Todd Bess motioned **pending validation of receipt of the fines that a follow up with a Letter of Warning be sent**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

5. Case No.: L07-PHR-RBS-200708084

Complainant alleges that the PIC at this pharmacy practice site has been dispensing Percocet 10mg and Oxycodone 20mg without a prescription to a patient. Investigation revealed that there was no evidence gathered to substantiate the allegation. Also, a controlled substance inventory performed in January, 2008 did not reveal any shortages.

Prior complaints:

Pharmacy: None

PIC: 2006- Chemical Dependency- License reinstated with five (5) years of probation

Recommendation: Dismiss

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

6. Case No.: L07-PHR-RBS-200708069

Complainant alleges that the Respondent has been stealing medications from the pharmacy where he was employed as a floater pharmacist. Audits were conducted at several pharmacies where the Respondent was employed as a pharmacist. At one pharmacy loss prevention noticed that there was a loss of Oxycodone (two (2) pills). At another store, loss prevention discovered four (4) missing tablets of Oxycodone. At a third pharmacy, an audit was conducted and discrepancies were found with Endocet (-2); Oxycodone 5/325 (-2); Oxycodone 7.5/325 (-3); Oxycodone 7.5/500 (-2); and Oxycodone 10/325 (-2). At a fourth pharmacy, an audit discovered five (5) tablets of Oxycodone missing. In determining these losses, loss prevention determined that the Respondent was the only pharmacist on duty at the time the losses occurred. CCTV camera captured the Respondent taking medications from the pharmacy shelves, but loss prevention was unable to determine which medications were taken from the shelves.

Prior complaints: None

Recommendation: Authorize formal hearing

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

7. Case No.: L08-PHR-RBS-200800062

Respondent, pharmacy technician was terminated from her employment with the pharmacy for theft of controlled substances. Respondent admitted to the conduct.

Prior complaints: None

Recommendation: Authorize formal hearing (revocation)

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

8. Case No.: L08-PHR-RBS-200800026

Respondent, pharmacy technician was terminated from his employment with the pharmacy for theft of controlled substances. CCTV tape shows Respondent taking Lortab from the pharmacy shelves. Respondent also admitted to the conduct. Law enforcement was contacted.

Prior complaints: None

Recommendation: Authorize formal hearing (revocation)

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

9. Case No.: L08-PHR-RBS-200800027

Complainant, DPh alleges that the Respondent, pharmacist and pharmacy inhibited, delayed or otherwise fail to provide pharmaceutical care to a patient with mental illness. Patient appeared to have been prescribed duplicate therapy with Lexapro and Cymbalta. DPh contacted the physician's office that indicated that the patient was to choose which medication. When the Complainant, DPh relayed this to the patient, the patient asked what would be an appropriate recommendation to give to the doctor. Complainant, DPh stated that it would not be appropriate to discuss this without the doctor as a part to the conversation. At some point subsequent to this conversation, a complaint was filed by the patient against the Complainant alleging poor customer service. Complainant now alleges that the pharmacy leadership assumed that he gave poor customer service to the patient before all of the facts were received. Also, after the complaint was filed, Complainant states that he received a call from the doctor to take the patient off of Lexapro.

Pharmacy manager responded to the complaint indicating that the complaint filed by the patient against the Complainant, DPh stemmed from the Complainant's lack of empathy with respect to the patient's drug protocol. Patient called the DPh in tears to complain about the manner in which the Complainant spoke to her indicating that the Complainant refused to speak to her about her drug therapy. Pharmacy manager called the doctor the next day and the doctor put the patient back on Lexapro. Pharmacy manager claims that it is his understanding that the Complainant contacted the doctor's office and indicated that he disagreed with that therapy choice.

Patient's doctor also submitted a letter in response indicating that the Complainant acted unprofessionally toward the patient. Doctor also indicates that despite Complainant's characterization that the patient suffers from mental illness, but she never had any psychotic episodes.

Prior complaints:

DPh: 1999- refuse to fill – closed;

2006- unprofessional conduct – dismissed.

Recommendation: Dismiss

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

10. Case No.: L08-PHR-RBS-200800028

Complainant, pharmacist, alleges that while working at the pharmacy practice site location as a dispensing pharmacist, he discovered that patients with new prescriptions were not receiving state mandated counseling. Complainant also alleges that while he was on duty, there were six (6) pharmacy technicians in the pharmacy when he was the only pharmacist on duty. Complainant states the he informed his pharmacy supervisor of the violation and Complainant claims that he was told that there is going to be a change in the law to be at the discretion of the pharmacy manager.

PIC responded to the complaint denying the allegations. PIC stated that there were only two (2) registered pharmacy technicians working that day, one was a certified technician, two (2) were functioning as cashiers and the others were pharmacy technicians in training. PIC also states that the pharmacy computer software that they use to make schedules helps them to ensure that they do not violate the pharmacist to pharmacy technician ratio. PIC also indicates that often the technicians will switch duties from cashier to technician duties during his or her shift so that they don't spend the entire shift doing one or the other. PIC also denies any violation of patient counseling. PIC states that that they have made patient counseling the focal point of their patient care.

Prior complaints:

PIC (current): None

Pharmacy- 2006- Lack of patient counseling – Letter of Instruction sent to former PIC

Recommendation: Dismiss

Mrs. Monica Franklin motioned to **send a pharmacy investigator to observe**; seconded by Dr. Todd Bess. All were in favor and the motion carried.

11. Case No.: L08-PHR-RBS-200800039

Complainant alleges that the pharmacy failed to fax its policy to her about retrieving information from the pharmacy computers about her son's prescription history. In the process, one of the pharmacy staff inadvertently gave the Complainant someone else's protected health information. Complainant also alleges that pharmacy staff failed to give her information about her son.

DPh responded to the complaint admitting that someone else's health information was mistakenly given to the Complainant when she was handed the pharmacy policy. When the DPh spoke to the Complainant she asked her to bring the other patient's information back to the pharmacy or shred it; Complainant would do neither and gave the information to the other patient.

Prior complaints: None

Recommendation: Letter of Warning to dispensing DPh about confidentiality

Dr. Todd Bess motioned to **ensure compliance with HIPPA, to issue a Letter of Warning to the dispensing pharmacist about confidentiality.** Mrs. Monica Franklin seconded the motion. All were in favor and the motion carried.

12. Case No.: L08-PHR-RBS-200800067

Complaint alleges that the Respondent, pharmacy technician took controlled substances from the pharmacy without a prescription. Law enforcement was contacted and the Respondent's employment was terminated.

Prior complaints: None

Recommendation: Authorize formal hearing (revocation)

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

13. Case No.: L08-PHR-RBS-200800037

Complainant, pharmacist, alleges that the Respondent, pharmacy manager lacks clinical pharmacy knowledge and has impaired the Complainant's ability to deliver patient care by misconstruing rude and unempathetic care with assertiveness being employed as a counseling technique in the course of professional practice. Complainant requests that the Board require the Respondent's continuing education credits be audited for the last decade, particularly in the areas in which the Complainant claims that the Respondent is deficient and then have the Respondent remedy the situation.

Respondent responded to the complaint as being unfounded. He also indicated that he has received several complaints about the Complainant and had to speak to him about his concerns that he was scaring the patients into not taking their prescription medications.

Prior complaints: 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.

14. Case No.: L08-PHR-RBS-200800047

Respondent, pharmacist was disciplined in another state with a three (3) year term of probation starting in or around December, 2007 for compounding a potentially contaminated product; the compounded medication was Albuterol/Ipratropium. The terms of the probation are that the Respondent shall keep the Board apprised of his current home and work addresses and phone numbers; Respondent shall not engage in compounding; Respondent shall pay required renewal fees; Respondent shall comply with applicable laws and rules; Respondent agrees to notify Board if he accepts a position as PIC two (2) weeks in advance of accepting the position; Respondent shall not serve as preceptor for interns; Respondent shall report to the Board once every six (6) months for the first six (6) months of the probationary term stating whether he has complied with the provisions of the Board order; and Respondent shall make himself available for personal interviews conducted by Board members of the Board of Pharmacy Staff.

Prior complaints: None

Recommendation: Discuss

Dr. Brenda Warren motioned to **mirror the entire Consent Order of the Missouri Board of Pharmacy with the dates of probation to be concurrently from December, 2007 - December, 2010**; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

15. Case No.: L08-PHR-RBS-200800033

Complainant, pharmacist, alleges that the Respondent, pharmacist PIC has failed to meet the BOP professional standard relative to maintaining patient profiles. Complainant indicates that while he was working at the pharmacy practice site, he attempted to retrieve identifying information (date of birth and phone number) from providers who issued verbal prescription orders in order to create an accurate patient profile. Complainant then questioned the pharmacy technician who was on duty and asked what the PIC would do in this instance and the pharmacy technician answered that the PIC would have filled the prescription without the identifying information. Complainant then reported this incident to the pharmacy manager.

PIC responded to the complaint stating that they are unsubstantiated allegations. PIC states that the pharmacy technician named in the complaint was not even on duty the day in which the Complainant claims that he had a conversation with her. PIC also states that often when a prescription is phoned in, the pharmacist does not have access to the provider to ask for the patient's date of birth and will often have to obtain this information from the patient or the patient's agent before dispensing.

Prior complaints:

Recommendation: Dismiss

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

16. Case No.: L08-PHR-RBS-200800054

Complaint generated during a February 11, 2008 compliance inspection in which the Board of Pharmacy Investigator observed two (2) patients pick up prescriptions without even an offer to counsel. Investigator also observed an individual performing pharmacy technician functions without being registered by the Board. This technician was transferred to the PIC's store on September 5, 2007.

PIC responded to the allegations and stated that the dispensing pharmacist who failed to ensure that patient counseling was performed in accordance with laws and rules is a part-time pharmacist. In terms of the unregistered technician, the PIC acknowledged the error and stated it was an oversight.

Prior complaints:

Pharmacy and PIC: None

Recommendation: Authorize formal hearing. (Civil penalty of \$100.00 to dispensing pharmacist for lack of counseling and \$500 to pharmacy for same violation with a LOI to the PIC; civil penalty of \$400 for the unregistered pharmacy technician).

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

Dr. Brenda Warren is requesting a \$500 civil penalty to pharmacy; \$100 to the dispensing pharmacist and a Letter of Instruction to be issued.

Dr. Brenda Warren motioned to issue the following for failure to counsel a civil penalty of of \$250 - pharmacist; \$1,000 to the pharmacy and Letter of Warning to the PIC; seconded by Dr. Bettie Wilson. The motion did not carry.

Dr. Brenda Warren motioned for lack of counseling to issue a civil penalty of \$250 - pharmacist; \$1,000 to the pharmacy; Letter of Instruction to the PIC for a 1st offense; and a Letter of Warning for a 2nd offense; seconded by Mrs. Monica Franklin. Dr. Todd Bess requested to include staffing issues in the letter. All were in favor and the motion carried.

17. Case No.: L08-PHR-RBS-200800056

Complaint generated during a February 14, 2008 compliance inspection in which Board of Pharmacy Investigator observed four (4) patients to through the pharmacy drive-thru without even an offer to counsel. Investigator also observed three (3) patients come to the pharmacy counter without even an offer to counsel. While investigator was there, he discovered that one (1) individual had been working at the pharmacy for approximately eleven (11) months as a pharmacy technician without being properly registered with the Board.

PIC states that although his standard practice is to counsel in accordance with laws and rules, on that particular day, they were short-staffed at the pharmacy and did not counsel properly. In response to the unregistered technician, the PIC states that they have now changed their policy such that the PIC can mail in registrations directly to the Board to ensure compliance.

Prior complaints:

PIC: 1995 – Medication error – closed;

1998- Substitution error – closed.

Recommendation: Authorize formal hearing (civil penalty of \$250.00 to dispensing pharmacist for lack of counseling and \$1,000 to pharmacy for same violation with a LOI to the PIC to include staffing issues; civil penalty of \$900 to the PIC for the unregistered pharmacy technician).

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

18. Case No.: L08-PHR-RBS-200800023

Complaint generated from a January 23, 2008 compliance inspection in which Board of Pharmacy Investigator observed that an individual was performing pharmacy technician functions at the pharmacy without ever being properly registered.

PIC admitted the conduct and the individual is not properly registered.

Prior complaints:

PIC: 206- Unprofessional conduct - dismissed

Recommendation: Authorize formal hearing (civil penalty of \$300 to PIC)

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

19. Case No.: L08-PHR-RBS-200800004

Complaint generated from January 3, 2008 compliance inspection in which Board of Pharmacy Investigator observed that there were numerous expired drugs on the shelves (15 expired drugs, not controlled substances) and that the dispensing area was unkempt. Also investigator observed patients or caregivers picking up prescriptions without even an offer to counsel being made.

PIC responded to the complaint stating that the expired drugs were taken off of the shelves and that he has made all pharmacy employees aware of laws and rules relative to patient counseling.

Prior complaints:

PIC: None

Pharmacy: None

Recommendation: Authorize formal hearing (\$500 civil penalty for having expired drugs on the shelves; and \$250 civil penalty to the dispensing pharmacist, \$1,000 to the pharmacy and a LOI to the PIC for failure to counsel)

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

20. Case No.: L08-PHR-RBS-200800011

Complaint initiated by staff based on two (2) phone calls from two (2) different pharmacists stating that they were missing drugs from the order received by the Respondent, manufacturer/wholesaler/distributor and that it appeared that someone tampered with the drugs received. Specifically, one pharmacist reported a missing bottle of Hydrocodone and a bottle of No-Tuss had a hole punched in the seal of the bottle and about 80 ml were missing. The other pharmacist reported that twenty-seven (27) tablets of Hydrocodone 10/500 were missing from a bottle received and that twenty-nine (29) tablets of Endocet were missing from a bottle as well.

Respondent responded to the complaint stating that to date they have not received any reports of missing products. Since the complaint, they conducted an investigation with their courier service. The driver for this courier service was terminated because he would not submit to a drug screen. All other courier drivers have submitted to a screen. They also reported the incidents to the local police and contacted the DEA.

Recommendation: Dismiss

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

21. Case No.: L08-PHR-RBS-200800050, 200800051, 200800058

Complaint initiated as a result of a February 14, 2008 compliance inspection in which Board of Pharmacy Investigator observed patients or caregivers picking up prescriptions without even an offer to counsel. Investigator also discovered that two of the individuals performing pharmacy technician functions were not registered with the Board. Both individuals were working as a technician for five (5) months.

PIC accepts responsibility for not having the technicians registered. PIC states that she was not present at the pharmacy at the time that the investigator observed the counseling violations, so she cannot address the incidents specifically, but states that she believes that the investigator's findings were due in part to the pharmacy being short-staffed.

Prior complaints:
Pharmacy: None
PIC: None

Recommendation: Authorize formal hearing. (\$250 civil penalty to dispensing pharmacist, \$1,000 to pharmacy, and LOI to PIC; \$600 civil penalty for unregistered technicians)

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

22. Case No.: L08-PHR-RBS-200606152

Complaint generated because the Respondent, pharmacist lost his TPRN advocacy and violated the Board order which directed the Respondent not to consume non-prescribed controlled substances. On January 29, 2008, the Respondent tested positive for Hydromorphone when he did not provide a prescription for this drug.

Prior complaints:
2006- Chemical impairment – 10 year term of probation

Recommendation: Authorize formal hearing (revocation)

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.: L08-PHR-RBS-200800024

Complaint generated from a January 25, 2008 compliance inspection performed by Board of Pharmacy Investigator who discovered that an individual performing pharmacy technician functions was not properly registered with the Board.

PIC responded to the complaint stating that he submitted the technician's application in or around June, 2007. Board records show that the technician's application was received on January 28, 2008.

Prior complaints:
Pharmacy: None

PIC: 2007- Medication error –closed

Recommendation: Authorize formal hearing. (Civil penalty of \$600.00 to PIC)

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

24. Case No.: L08-PHR-RBS-200800032

Complaint alleges that the Respondent, a formerly registered pharmacy technician, now expired as of March 31, 2006, admitted to forging prescriptions and allowing an individual with whom the Respondent is in debt to pick them up at a reduced price. The medication was generic Lortab. Although the Respondent is not a current registrant, he was functioning as a pharmacy intern and demonstrated this conduct while he was an intern. Respondent is graduating from pharmacy school in Virginia in May.

Prior complaints:

Pharmacy: None

PIC: None

Recommendation: Authorize formal hearing (civil penalty and notify the Virginia Board of Pharmacy).

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

25. Case No.: L08-PHR-RBS-200708095

Complainant alleges that his mother (nursing home resident) was given duplicate prescriptions for Hydrocodone and that the pharmacy accepted a return for one of the prescriptions but stated it was against state law to accept the second one. Patient was billed for the Hydrocodone when only two (2) tablets were administered.

PIC stated that there was an order for Hydrocodone for the patient; the facility noted "do not send" Pharmacy overlooked the order and sent the medication to the facility. Since the pharmacy failed to note that there was "do not send" on the patient's Hydrocodone order, the order was sent back to the pharmacy so that the patient would not be billed. At a facility site visit, the consultant pharmacist destroyed a total of 88 tablets. The only order that was charged to the patient was for the two (2) Hydrocodone tablets.

Prior complaints:

Pharmacy: 2001- medication error - dismissed

Recommendation: Dismiss

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

26. Case No.: L08-PHR-RBS-200708005

Complainant alleges that the pharmacist misfilled a prescription for Zebeta with Glyburide. Pharmacist misread Zebeta for Diabeta. The Glyburide was administered to the patient (nursing

home resident) for approximately twenty-one (21) days when the patient did not have a diagnosis of diabetes. As a result, the patient's pulse rate increased and respirations increased. Patient became unresponsive to a sternal rub, diaphoretic, foaming at the mouth, with a glucose level too low to register on the accucheck. Patient was transferred to the hospital and diagnosed with Metabolic Encephalopathy. Patient was brought back to the facility, remained "NPO" and unresponsive and expired.

PIC responded to the complaint and admitted to the error and indicates that what contributed to the error was that there was no diagnosis included with the Zebeta order and the order did not include both the brand and the generic names. To prevent this incident from happening in the future, they have amended their P & P to have an additional pharmacist check along with including both the brand and the generic names on the label. Also contained in the P & P is to include both the brand and the generic names on the order as well as the diagnosis. Also, the pharmacy is exploring the possibility of barcoding to further safeguard the patients. PIC indicates that the dispensing pharmacist has been reprimanded and placed on probation for one (1) year with the understanding that a second error of this type will lead to termination.

Prior complaints:

Pharmacy: 2002- Medication pricing- dismissed

Recommendation: Discuss

Dr. Brenda Warren motioned to **issue a civil penalty of \$1,000 to the dispensing pharmacist**; seconded by Dr. Bettie Wilson. There was one nay vote. The motion carried.

Dr. Larry Hill motioned to include a **Letter of Warning to the PIC**; seconded by Dr. Todd Bess. All were in favor and the motion carried.

27. Case No.: L08-PHR-RBS-200419174

Respondent, a pharmacist, was arrested for theft of a controlled substance by going through a drive-thru to pick up the medication dispensed from a forged prescription.

Prior complaints: 2004- chemical impairment- revocation and subsequently placed on probation

Recommendation: Authorize formal hearing (revocation)

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

28. Case No.: L08-PHR-RBS-200800029

Complaint generated from a civil settlement agreement between the Respondent, pharmacy and the DEA based on an audit conducted at the pharmacy from May, 2004 through November, 30, 2005. The Respondent did not take full and complete control of the facility until April, 2006 because the Respondent purchased it from another company. After completing its audit, the DEA found violations regarding the maintenance and retention of controlled substance records; the allegations do not involve patient safety or diversion. In the agreement, there are no findings or admissions and therefore no discipline administered by the DEA; however, the Respondent agreed to \$450,000 as the full settlement amount.

Prior complaints: None

Recommendation: Discuss

The Board deferred taking action on the complaint pending additional information on the previous owners and the reason why the civil penalty was imposed and for what purpose.

29. Case No.: L08-PHR-RBS-200708011

Complainant alleges that the theft by a nurse at a health care facility was attributed to the pharmacy's failure to have a system in place that recorded controlled drug receipts and dispositions to accurately reconcile those controlled drugs. Complainant also claims that the consultant pharmacist had not discovered the discrepancies of the controlled drugs from the discontinued drug box and did not have an audit trail of controlled drugs from the medication cart to the discontinued drug box.

PIC responded to the complaint and stated as an institutional pharmacy, they send out all controlled substances in a sealed bubble pack card and that along with each card, they send a reconciliation sheet specific to that card. Each time a nurse administers a drug, he/she audits each sheet. The nurse also signs a delivery log for receipt of that controlled substance. An additional audit is performed at the shift change by the out-going charge nurse and the on-coming charge nurse. The Director of Nursing or Assistant Director of Nursing or the consultant pharmacist could remove a card of controlled medication for a discontinued drug or a discharged patient from the narcotic drawer. The pharmacist would then destroy the discontinued controlled medication with the nursing supervisor as a witness. This complaint was generated because a nurse was stealing discontinued or discharged patients' controlled substances. The procedure that only allowed the Director of Nursing or Assistant Director of Nursing or the pharmacist to remove the controlled substance cards from the narcotic drawer was not followed properly and the facility allowed the nurse to remove the cards from the narcotic drawer and take them to the Director of Nursing's office for destruction.

Since this incident, the Respondent has new P & P to provide that the pharmacy and the facility shall keep a copy of the delivery receipts; the delivery receipts will be kept at the pharmacy for at least three (3) years; removing any card from the narcotic drawer will require the signature of both the Director of Nursing and the administrator of the facility; and random audits of controlled substances will be conducted five (5) days a week by the Director of Nursing/Assistant Director of Nursing and conducted monthly by the pharmacist.

*Prior complaints:
2003- Medication error -Dismissed*

Recommendation: Dismiss and refer the matter to the Board of Nursing

Dr. Bettie Wilson motioned **since there is a diversion occurring to rewrite the policy and procedures**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

30. Case No.: L08-PHR-RBS-200708052

Complainant alleges that her intrathecal pain pump that was supposed to inject her with Fentanyl was adulterated and misfilled. After the pump was inserted into the patient, she began to experience difficulty breathing and numbness in her chest and shoulders.

PIC responded to the complaint and stated that the prescription was filled and labeled according to the physician's orders. The PIC attributes the discrepancy between what was compounded and what was in the patient's pump to issues involving the manufacture of the ingredients; the length of time it took the patient to receive the preparation and the method of storage; or the length of time between the preparation of the drug and the laboratory testing.

Investigation determined the following:

- The prescription order was for Fentanyl 1200mcg/cc and Bupivacaine 1.5% (15mg/cc) in a 20cc syringe for intrathecal pump refill;
- Prescription was prepared on April 19, 2007;
- Physician's office refilled the pump on April 24, 2007;
- Also on April 24, 2007, the patient was placed on antibiotics for upper respiratory tract/sinus infection;
- On April 24, 2007, patient was taken to the hospital;
- On April 27, 2007, the medication was removed from the pump;
- On May 14, 2007, the medication was received by the laboratory to determine the contents;
- On May 17, 2007 and June 1, 2007, the lab analysis was completed and revealed Fentanyl at 950mcg/cc and Bupivacaine at 4.56mg/cc.

Prior complaints: None

Recommendation: Discuss

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

ADJOURNMENT

Dr. Brenda Warren motioned to adjourn the Board of Pharmacy meeting on Wednesday, March 12, 2008 at 4:40 p.m. CDT; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

RECONVENED

The Board of Pharmacy reconvened on Thursday, March 13, 2008 at 9:10 a.m. CDT in the Poplar Room, 227 French Landing, Nashville, Tennessee. A quorum of the members being present, President Sheila Mitchell called the meeting to order. For the record, Dr. Robert Mitchell is not present due to illness.

**DAVID POWELL, DPH - REQUEST FOR REINSTATEMENT OF LICENSE
WHITE BLUFF, TN**

Dr. David Powell appeared before the Board to request the reinstatement of his pharmacist license. Also in attendance was Dr. Powell's attorney, Mr. Jay Slobey, with James A. Freeman & Associates, P.C.

Executive Director, Dr. Kevin Eidson, advised the Board on Friday, December 14, 2007, a teleconference was conducted to consider possible disciplinary action against Dr. Powell's pharmacist license.

Mrs. Alison Cleaves, chief legal counsel, stated Dr. Powell had exhibited erratic behavior by leaving the pharmacy practice site open for business without a licensed pharmacist present; dispensing medications plus controlled substances to patients without having any labels on the bottle and handing the pills to the patient; and a non-pharmacist having keys to the pharmacy.

Upon the proper motion made and seconded, the Board accepted the Consent Order for the Revocation of Dr. David Powell's license.

White Bluff Drug Company is owned by Dr. Powell and he is listed as the PIC of the pharmacy. After board action, the pharmacy was allowed to remain a licensed pharmacy and a new pharmacist accepted the PIC responsibilities.

Mr. Slobey, attorney, presented to the Board an assessment letter from Dr. Stephen Humble relevant to Dr. Powell's medical condition. Mr. Slobey stated Dr. Powell has complied with Dr. Humble's request and he should be able to pursue his career as a pharmacist and to be placed on a term of probation is acceptable. Mr. Slobey noted Dr. Powell has never taken drugs illegally or abused alcohol. Dr. Powell's condition is an illness, not a drug addiction. Mr. Slobey further noted Dr. Powell will not have any problems with his stability if he continues taking his medication and being monitored.

Dr. Brenda Warren motioned to **deny** Dr. Powell's petition for reinstatement of license request on the bases pursuant to T.C.A. §63-10-305 (5); seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

APPROVAL OF PHARMACY TECHNICIAN REGISTRATIONS

AARON D. BUTCHER
536 Singer Drive
Madison, TN 37115

Executive Director, Dr. Kevin Eidson, stated Mr. Aaron Butcher marked “yes” on his pharmacy technician registration as having been convicted of a misdemeanor including alcohol or drug related offenses. Court documents furnished from the Commonwealth of Kentucky, Warren County Court System revealed Mr. Butcher was arrested on August 23, 2006, for a DUI 1st offense and pled guilty to the offense. Mr. Butcher indicated on his registration that the charge will be expunged from his record on August 23, 2011. Mrs. Monica Franklin motioned to **deny** the registration, seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

ROCHELLE L. CONNORS
216 Brier Ridge Court
Madison, AL 36757

Dr. Kevin Eidson, Executive Director, presented Ms. Rochelle Connors’s pharmacy technician registration in which she marked “yes” to being convicted of a misdemeanor including alcohol or drug related offenses. Ms. Connors pled guilty to a DUI offense in November, 2006 in the State of Maine, District Court of Lewiston and paid a fine of \$690. Mrs. Monica Franklin motioned to **deny** the pharmacy technician registration; seconded by Dr. Todd Bess. All were in favor and the motion carried.

BRITTANY L. HODGE
201 Boone Drive
Manchester, TN 37355

Executive Director, Dr. Kevin Eidson, presented a pharmacy technician registration on behalf of Ms. Brittany Hodge, who was convicted of a DUI - 1st offense on July 9, 2007 in the Criminal Sessions Court of Coffee County. Ms. Hodge completed a 28-day in-patient rehab treatment

program. The charge has not been expunged from her record. Dr. Brenda Warren motioned to **deny** the pharmacy technician registration; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

LATOYA D. RANDLE
3520 Boxdale #4
Memphis, TN 38118

Dr. Kevin Eidson, Executive Director, stated Ms. LaToya Randle checked “yes” to being convicted of a felony offense on her pharmacy technician registration. Ms. Randle was convicted of setting fire to personal property on November 5, 2003 and placed on a two (2) year term of probation and required to attend a domestic violence assessment program. Dr. Brenda Warren motioned to **deny** approval of the pharmacy technician registration; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

STEPHEN H. SIEMSSSEN
1321 Sunray Drive
Murfreesboro, TN 37127

Executive Director, Dr. Kevin Eidson, stated Mr. Stephen Siemssen marked “yes” on his pharmacy technician registration of being convicted of a misdemeanor including alcohol or drug related offense. In April, 1977, Mr. Siemssen was charged with possession of marijuana in the Twenty-fourth Judicial District Court of the State of Louisiana. In September, 1975, the charges were dismissed due to insufficient evidence. Mrs. Monica Franklin motioned to **grant approval** of the pharmacy technician registration; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

TERESA L. SWANSTON
1127 Panorama Drive
Maryville, TN 37801

Dr. Kevin Eidson, Executive Director, advised the Board Ms. Teresa Swanston indicated she had been convicted of a misdemeanor offense for DUI in 1991 on her pharmacy technician

registration. Ms. Swanston provided a document from the Commonwealth of Virginia, Fairfax County General District Court which states that the case no longer exists and the court records are destroyed at the expiration of the appropriate retention period of ten (10) years. Mrs. Monica Franklin motioned to **approve** the registration; seconded by Dr. Todd Bess. All were in favor and the motion carried.

TIMOTHY M. TIEMAN
1736 Edgeburg Lane
Memphis, TN 38016

Executive Director, Dr. Kevin Eidson, stated Mr. Timothy Tieman marked “yes” to being convicted of a misdemeanor including alcohol or drug related offenses for a DUI in May, 2005. Mr. Tieman furnished documents from the General Sessions Court in Memphis, Tennessee whereas it states all the requirements have been met. The document does not indicate that it has been expunged. Dr. Todd Bess motioned to **approve** the pharmacy technician registration; seconded by Dr. Larry Hill. All were in favor and the motion carried.

APPROVAL OF RECIPROCAL CANDIDATE

JOHN A. BAILEY, DPH
P. O. Box 12932
Alexandria, LA 71315

Dr. Kevin Eidson, Executive Director, noted Dr. John Bailey had answered “yes” on his reciprocity application to the question, “Has your pharmacist license in any jurisdiction ever been revoked, suspended, restricted, terminated or otherwise been subject to disciplinary action by any board of pharmacy or other state authority?” Dr. Bailey was disciplined by the Louisiana Board of Pharmacy in September 27, 2006 for placing a forged pharmacist license at his place of employment to satisfy the store manager, as he was unable to locate the original license during a recent move. Dr. Bailey was issued a Letter of Warning and paid \$250 in administrative hearing costs and \$862.70 in investigation costs. Dr. Bailey has met the

requirements imposed by the Board. Dr. Todd Bess motioned to **grant** the reciprocity application; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

MICHAEL LENCZYNSKI, DPH
735 Quince Lane
Secane, PA 19018

Dr. Kevin Eidson, Executive Director, presented a reciprocal application on behalf of Dr. Michael Lenczynski in which he answered “yes” to his pharmacist license being revoked, suspended, restricted, terminated or otherwise been subject to disciplinary action by any board of pharmacy. Dr. Lenczynski stated in February, 1992, the Pennsylvania Board of Pharmacy revoked his license to practice pharmacy due to violating a prior Board Order and Stipulation, in which his license was placed on a probationary status from a 1990 Board Order due to impairment for the “use of intoxicating beverages or substances”. In November 1997, Dr. Lenczynski was allowed to petition the Board for reinstatement of his license. In March, 1998, the Pennsylvania Board granted the petition and allowed the reinstatement of his pharmacist license upon passing the NAPLEX and FDLE examinations and was on a probationary status for two (2) years after passing the examinations. The examinations were taken in June, 1998 and the reinstated license was restored to a non-probationary status in August, 2000. Dr. Todd Bess motioned to ask Dr. Lenczynski **to appear before the Board**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

JULIE ANN LAWRENCE, DPH
376 Winding Wolf Place #104
Memphis, TN 38120

Executive Director, Dr. Kevin Eidson, presented a reciprocity application on behalf of Dr. Julie Lawrence in which she answered “yes” to, “Have you ever been charged or convicted (including a nolo contendere plea or guilty plea) of a felony or misdemeanor whether or not sentence was imposed, suspended, expunged, or whether you were pardoned from any such offense?” The documents furnished by the Batesville District Court indicate that the charges of domestic

battery filed in 2003 in regards to her ex-daughter in-law were Nolle Prossed in May, 2003. The charges were dismissed. Mrs. Monica Franklin motioned to **grant** the reciprocal application; seconded by Dr. Todd Bess. All were in favor and the motion carried.

GLAXOSMITHKLINE BIOLOGICALS
605 Fifth Street
Bristol, TN 37620

Dr. Kevin Eidson, Executive Director, received an inquiry from Mr. James Tracy with GlaxoSmithKline in regards to the type of license required for either a researcher or MWD in which to obtain vaccines for their study. Mr. Tracy stated a license is required so GlaxoSmithKline can purchase comparator vaccines from other manufacturers to be used in conjunction with the GSK vaccines in the clinical studies. Dr. Todd Bess motioned for GlaxoSmithKline to be licensed as a MWD; seconded by Dr. Larry Hill. All were in favor and the motion carried.

MR. KEVIN LLOYD
MANAGER OF REGULATORY AFFAIRS
ZEE MEDICAL, INC.
8150 Woodland Drive
Indianapolis, IN 46278

Executive Director, Dr. Kevin Eidson, stated Zee Medical, Inc. is seeking licensure in the State of Tennessee as a manufacturer, wholesale and distributor. Board of Pharmacy Rule 1140-1-.08 (3) (b) requires the applicant to submit a copy of the most recent inspection report and a copy of their state license. The State of Indiana does not require licensure for legend medical device distributors. Zee Medical, Inc. has registered with FDA as a drug and medical device repackager and will undergo periodic inspections by FDA. Dr. Brenda Warren motioned that Zee Medical is required to be licensed in Tennessee and to submit the FDA inspection. Zee

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Medical must notify the Board if it expands its business outside the automated external defibrillators or "AED" as described. Dr. Todd Bess seconded the motion. Dr. Brenda Warren motioned to amend the motion to restrict to the AED as outlined in the letter; seconded by Dr. Todd Bess. All were in favor and the motion carried.

**NATIONAL ASSOCIATION OF BOARDS OF PHARMACY
104TH Annual Meeting
May 17 - 20, 2008
Baltimore, Maryland**

Executive Director, Dr. Kevin Eidson, stated at the January 29 - 30, 2008 board meeting and upon the proper motion made and seconded, the Board voted to allow every member to attend the NABP meeting. Assistant Commissioner Christy Allen has agreed to allow three (3) individuals to attend. Dr. Todd Bess motioned to support the consumer member, Mrs. Monica Franklin to attend the meeting; seconded by Dr. Larry Hill. All were in favor and the motion carried.

NABP 2008 OFFICIAL DELEGATE

Dr. Bettie Wilson nominated Dr. Todd Bess as an Alternate. Dr. Wilson rescinded her motion. Dr. Bettie Wilson nominated Dr. Brenda Warren, the newest member of the Board as the Delegate and the public member, Mrs. Monica Franklin as the Alternate to attend NABP's 104th Annual Meeting; seconded by Dr. Larry Hill. All were in favor and the motion carried.

**DISTRICT III
August 17 - 19, 2008
San Destin, Florida**

Executive Director, Dr. Kevin Eidson, noted that Florida will host the District III meeting this year in San Destin during August 17 - 19, 2008.

**U. S. DRUG ENFORCEMENT ADMINISTRATION
17TH NATIONAL CONFERENCE ON DRUG AND CHEMICAL DIVERSION
Charleston Doubletree
June 17 - 19, 2008
Charleston, South Carolina**

Dr. Kevin Eidson, Executive Director, has received an invitation to attend the 17th DEA National Conference on Pharmaceutical and Chemical Diversion. The agenda will include topics on Pseudoephedrine Tracking Programs, Buprenorphine Abuse, Physician Education Programs, and DEA legal, regulatory and scheduling updates. Assistant Commissioner Christy Allen has approved for one (1) investigator and the Executive Director to attend. Dr. Todd Bess motioned to accept Assistant Commissioner's Allen recommendation; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

RULE 1140-1-.03 (6) - RECIPROCAL / FOREIGN GRADUATES

Tennessee reciprocal requirements as outlined in NABP's Survey of Pharmacy Law state that whatever state that the applicant is coming from requires, then Tennessee will accept that State Board's requirement.

The State of Michigan does not have any restrictions for reciprocal licensees and many foreign graduates are licensing in Michigan due to the difference in the Test of Spoken English (TSE) score of 45 which Michigan accepts, as opposed to 50 as being the minimum score accept by the Tennessee Board of Pharmacy.

The Board noted the candidate will need to meet the requirements established by the Rule that states, "if the applicant has been licensed for twelve (12) or more months in another state, then an applicant shall apply for a license in Tennessee by reciprocity".

**MARTY WINTER, DPH
METHODIST HEALTHCARE
ELECTRONIC SIGNATURE
RULE 1140-3-.04 (2)**

Dr. Kevin Eidson, Executive Director received an e-mail inquiry from Dr. Marty Winter with Methodist Healthcare relevant to the definition of electronic signatures. At the July 22 - 23, 2003, board meeting, the Board adopted the following policy statement which discusses Electronically-Generated Signature.

ELECTRONICALLY GENERATED SIGNATURE STATEMENT

Prescriptions with electronically-generated signatures on them are acceptable; this means that the prescription has a prescriber's signature on it that has been generated by a computer. These prescriptions can be transmitted directly from the prescriber's computer to the pharmacist's computer, or directly from the prescriber's computer to the pharmacist's facsimile machine or a printed prescription generated by the prescriber's computer and handed to the patient. However, these prescriptions must have a prescriber's signature on it, whether it is a signature in ink or an electronically generated signature. (July 22 - 23, 2003)

Executive Director, Dr. Kevin Eidson also mentioned Board of Pharmacy Rule 1140-3-.04 Facsimile and Electronic Medical and Prescription Orders discuss the various formats of electronic and facsimile prescriptions.

The requirements for controlled substances are detailed in the Code of Federal Regulations (CFR) 1306.11 - "Requirements of Prescription" which discusses Schedule II Prescriptions and method of transmission of controlled substances. CFR 1306.21 discusses Schedule III, IV and V prescription requirements. DEA does not allow an electronic prescription for controlled substances and the prescription must be presented by facsimile with the signature of the prescriber.

MEDICAID "TAMPER PROOF" PRESCRIPTION PADS

Dr. Todd Bess noted beginning April 1, 2008, all written prescriptions for Medicaid recipients must be on paper with at least one tamper-resistant feature as outlined by CMS and defined by the State of Tennessee. Beginning October 1, 2008, these same prescriptions must be on paper that meets all three baseline characteristics of tamper-resistant pads. CMS has outlined the three baseline characteristics as those that: (1) prevent unauthorized copying of a completed or blank prescription form; (2) prevent the erasure or modification of information written on the prescription by the prescriber; or (3) prevent the use of counterfeit prescription forms.

BOARD BUSINESS

Tennessee Board of Pharmacy
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President, Dr. Sheila Mitchell commented on Dr. Kevin Eidson's expertise and invaluable knowledge as the Executive Director of the Board and he has done a tremendous job and should be required to attend all forums as a representative of the Board. Dr. Bettie Wilson motioned to **accept Dr. Mitchell's statement**; seconded by Dr. Larry Hill. All were in favor and the motion carried.

ADJOURNMENT

Dr. Larry Hill motioned to adjourn the Board of Pharmacy meeting on Thursday, March 13, 2008 at 12:30 p.m. CDT; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

The Board of Pharmacy approved the March 12 - 13, 2008 minutes at the May 5 - 6, 2008 board meeting.