

**TENNESSEE BOARD OF PHARMACY  
MAY 5 - 6, 2008  
227 FRENCH LANDING- IRIS 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 Monday, May 5, 2008, in the Iris 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 **March 12 - 13, 2008** board meeting were presented. Dr. Larry Hill motioned to **approve** the minutes; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

**FORMAL HEARING**

**PATRICIA SMITH, DPH  
SMITH'S PHARMACY**

This matter came to be heard before the Tennessee Board of Pharmacy on the 5<sup>th</sup> day of May, 2008, pursuant to December 27, 2007 Notice of Charges filed against the Respondents. Presiding at the hearing was the Honorable Steve Darnell, Administrative Law Judge, assigned by the Secretary of State. Judge Darnell requested the members of the Board be introduced for the record. In attendance were Dr. Brenda Warren, Dr. Larry Hill, Dr. Bettie Wilson, Mrs. Monica Franklin, Dr. Todd Bess and Dr. Sheila Mitchell, which constitutes a quorum of the Board. The Board members acknowledged they have no knowledge of this matter pertaining to

Dr. Patricia Smith or Smith's Pharmacy. The State of Tennessee was represented by Mrs. Alison Cleaves, Chief Legal Counsel for the Department of Health. Mr. Edward Gross, Esq. represented Dr. Patricia Smith. Dr. Brenda Warren commented that she was not aware it was a formal hearing but advised Judge Darnell she feels she can make a fair determination on the case. Judge Darnell acknowledged his approval for Dr. Warren to participate. The Notice of Hearing and Charges outlined the following violations of Rules 1140-2-.01 (4); 1140-2-.01 (11) (a) and (c); 1140-2-.02 (3) (l) and (p); 1140-3-.12 (1); and were in violation of T.C.A. §63-10-305.

#### **FINDINGS OF FACT**

On #6 of the Allegations of Facts, strike "as a result" as it is not directly linked to #5.

On #4, "by dispensing drugs, including controlled substances, to patients without prescriber authorization" - the end of the sentence is referring to the first sentence.

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

#### **CONCLUSION OF LAW**

Mrs. Monica Franklin motioned to **accept the alleged conclusion of law as presented**; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

Mrs. Monica Franklin motioned to revoke Dr. Patricia Smith's license and the license of Smith's Pharmacy. There was no second made to the motion. The motion died for lack of a second.

Mrs. Monica Franklin motioned to revoke Dr. Smith's license. There was no second made to the motion. The motion died for lack of a second.

After discussion of the PIC responsibilities, Mrs. Monica Franklin motioned to **revoke Dr. Smith's pharmacist license**; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

Dr. Larry Hill motioned to **revoke the pharmacy license of Smith's Pharmacy**; seconded by Dr. Brenda Warren. All were in favor and the motion carried.

Dr. Bettie Wilson motioned that the **cost of the investigation be incurred by Dr. Patricia Smith**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

#### **POLICY STATEMENT**

Dr. Todd Bess motioned it is the Board's responsibility to protect the health, safety and welfare of the citizens of the State of Tennessee from Dr. Smith and Smith's Pharmacy; seconded by Dr. Larry Hill. All were in favor and the motion carried.

#### **CONSENT ORDER**

**STEVE JONES, DPH**  
**326 West Lake Drive**  
**Marion, AR 72364**

Mrs. Alison Cleaves, chief legal counsel, presented a Consent Order for the indefinite suspension of Dr. Steve Jones pharmacist license due to relapse. Dr. Larry Hill motioned to **accept** the Consent Order; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

#### **STEVE JONES, DPH - REQUEST FOR REINSTATEMENT OF LICENSE** **MARION, AR**

Dr. Steve Jones appeared before the Board along with TPRN advocate, Dr. Barry Williams to request the reinstatement of his pharmacist license. Dr. Jones stated in September, 2006 he had dental surgery and in August, 2007, underwent another surgery. Dr. Jones was prescribed Hydrocodone and relapsed. Dr. Williams stated Dr. Jones is compliant with the recommendations of TPRN and advocates on his return to the practice of pharmacy. After discussion, Dr. Bettie Wilson motioned:

Respondent does hereby agree to the reinstatement of license number **6866** with the following probationary conditions. Said probation shall remain in effect for a period of **fifteen (15) years**, from **May 5, 2008 to May 5, 2023**.

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

the Respondent does not have a valid prescription or the sampling indicates the presence of alcohol, then formal disciplinary charges may be brought against the Respondent which could result in the revocation of the Respondent's remaining term of probation or the suspension or revocation of the Respondent's license to engage in the practice of pharmacy. Prior to such disciplinary charges being heard by the Board, the Respondent's license may be summarily suspended;

- g) The Respondent shall comply with all of the terms and conditions of the extended aftercare contract he or she entered into with Tennessee Pharmacists Recovery Network. Respondent shall return a copy of said contract with this Consent Order to the Board office;
- h) The Respondent shall not serve as pharmacist-in-charge for a period of three (3) years, however, after a period of two (2) years, the Respondent may petition the Board for a modification of this Consent Order to remove the restrictions upon a show of good cause. The Respondent shall not work as a "floater" for a period of three (3) years, meaning that the Respondent shall not work at more than one (1) pharmacy location at the same time without the permission of the Board;
- i) If the license has been inactive, delinquent, suspended or revoked:
  - (i) **Less than one (1) year, the pharmacist shall:**
    - I. Provide written notice requesting an active license;
    - II. Satisfy all past due continuing pharmaceutical education; and
    - III. Pay all cumulative license renewal fees and any applicable penalties.

Dr. Larry Hill seconded the motion. All were in favor and the motion carried.

**NICOLE WILLIAMS, DPH  
HIXSON, TN**

Dr. Kevin Eidson, Executive Director, advised that the Board had denied Dr. Nicole Williams' NAPLEX application at the November 8 - 9, 2007, meeting due to disciplinary action taken by the South Carolina Board of Pharmacy. Dr. Williams stated her South Carolina pharmacist license was reinstated with the successful completion of the NAPLEX, MPJE and a medication error course. Dr. Williams stated she can not be PIC or own a pharmacy. Dr. Brenda Warren motioned to **grant Dr. Williams' NAPLEX application and for a period of one (1) year, cannot be PIC or own a pharmacy**; seconded by Dr. Todd Bess. All were in favor and the motion carried.

**CHIEMEZIE OTI, DPH  
2846 SCHAEFFER DRIVE  
EADS, TN**

Dr. Kevin Eidson, Executive Director, advised at the March 12 - 13, 2008 board meeting, the Board expressed concern with the patient/physician relationship at MediPharm, an internet pharmacy and the waiver request of Rule 1140-3-.14 (12) relevant to being the pharmacist in charge of more than one pharmacy practice site. The Board denied the request until further information was obtained. Mrs. Nyanday Oti appeared on behalf of her husband, who was unable to attend the meeting. Dr. Brenda Warren motioned to **deny** the request until Dr. Chiemezie Oti can personally appear; seconded by Dr. Larry Hill. All were in favor and the motion carried.

**CONSENT ORDERS**

**WILLIAM T. ANGLIN, RT  
230 Comb Ridge Road  
Maynardville, TN 37807**

Mrs. Alison Cleaves, chief legal counsel, presented a Consent Order for the Revocation of Mr. William Anglin's pharmacist technician registration due to the theft and diversion of controlled

substances from the pharmacy. Dr. Brenda Warren motioned to **accept** the Consent Order; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

**MARTHA BRYANT, DPH**  
**1739 Russell Avenue**  
**Jefferson City, TN 37760**

Chief legal counsel, Mrs. Alison Cleaves, presented a Consent Order for the indefinite suspension of Dr. Martha Bryant's license due to being addicted to the use of alcohol, narcotics or other drugs. Dr. Larry Hill motioned to **accept** the Consent Order; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

**JAMES H. CATRON, DPH**  
**Eight Lancelot Court**  
**Pikeville, KY 41501**

Mrs. Alison Cleaves, chief legal counsel, presented a Consent Order for the revocation of Dr. James Catron's pharmacist license due to violating the terms of the order he entered into with the Board. Dr. Todd Bess motioned to **accept** the Consent Order; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

**DEREK GATLIN, DPH**  
**1519 Old Elkton Pike**  
**Dellrose, TN 38449**

Chief legal counsel, Mrs. Alison Cleaves, presented a Consent Order on behalf of Dr. Derek Gatlin for the indefinite suspension of his license due to being addicted to the use of alcohol, narcotics or other drugs. Dr. Todd Bess motioned to **accept** the Consent Order; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

**ROBERT CANTWELL, DPH**  
**4705 Chucky River Road**  
**Morristown, TN 37813**

Mrs. Alison Cleaves, chief legal counsel, presented a Consent Order for the revocation of Dr. Robert Cantwell's license for being addicted to the use of alcohol, narcotics or other drugs. Dr. Bettie Wilson motioned to **accept** the Consent Order; seconded by Dr. Todd Bess. All were in favor and the motion carried.

**APRIL COLEMAN, DPH**  
**60 Hickory Lane**  
**Lexington, TN 38351**

Chief legal counsel, Mrs. Alison Cleaves, presented a Consent Order for the Reinstatement of Dr. April Coleman's license with a ten (10) year term of probation. Dr. Todd Bess motioned to **accept** the Consent Order for Reinstatement; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

**DENISE SEALAND, DPH**  
**918 Azalea Drive**  
**Columbia, TN 38401**

A Consent Order for the Reinstatement of Dr. Denise Sealand's license with a five (5) year term of probation was presented by Mrs. Alison Cleaves, chief legal counsel. Dr. Bettie Wilson motioned to **accept** the Consent Order for Reinstatement; seconded by Dr. Todd Bess. All were in favor and the motion carried.

**THE FOLLOWING PHARMACISTS WERE IN VIOLATION OF RULE 1140-2-.02 (1) AND (2) FOR ALLOWING AN UNLICENSED INDIVIDUAL TO WORK IN THE PHARMACY AND WERE ASSESSED A CIVIL PENALTY.**

**LONNY N. ALLISON, DPH**  
5237 Whispering Valley Drive  
Nashville, TN 37211

\$300 Civil Penalty

**MARY BETH BRANSTETTER, DPH**  
Walgreens Pharmacy #5474  
500 South Willow Avenue  
Cookeville, TN 38501

\$100 Civil Penalty

**WALTER E. HOLLAND, DPH**  
810 N. Rutherford Blvd.

\$1,900 Civil Penalty

Tennessee Board of Pharmacy  
May 5 - 6, 2008

Murfreesboro, TN 37130

**GLYN WALLACE, DPH** \$1,200 Civil Penalty  
Metro Medical Skyline Pharmacy  
3443 Dickerson Pike  
Nashville, TN 37207

**JOHN WOOD, DPH** \$700 Civil Penalty  
3501 Lakeside Court  
Somerset, KY 42503

Dr. Todd Bess motioned to **accept** the Consent Orders; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

**THE FOLLOWING PHARMACIST/PHARMACY WERE IN VIOLATION OF RULE 1140-3-.01 (1) (a) and (f) IN REGARDS TO PATIENT COUNSELING AND WERE ASSESSED A CIVIL PENALTY.**

**JANET PAMASA, DPH** \$100 Civil Penalty  
304 Bruch Creek Cemetery Road  
Lawrenceburg, TN 38464

**ALFRED DEL GANDIO, JR, DPH** \$100 Civil Penalty  
177 Maplemere Drive  
Clarksville, TN 37040

**BEN ROBERTSON, DPH** \$100 Civil Penalty  
CVS Pharmacy #6393  
122 Highway 70E  
Dickson, TN 37055

**CVS PHARMACY #6393** \$500 Civil Penalty  
122 Highway 70 E  
Dickson, TN 37055

**RITE AID PHARMACY #11891** \$500 Civil Penalty  
1104 8<sup>th</sup> Avenue N.  
Nashville, TN 37208

**WALGREENS PHARMACY #4710** \$500 Civil Penalty  
1509 Murfreesboro Road  
Franklin, TN 37067

**WALGREENS PHARMACY #9340** \$500 Civil Penalty  
2109 Wilma Rudolph Blvd.  
Clarksville, TN 37040

Dr. Todd Bess motioned to **accept** the Consent Orders; seconded by Dr. Brenda Warren. All were in favor and the motion carried.

## **ADJOURNMENT**

Dr. Bettie Wilson motioned to adjourn the Board of Pharmacy meeting on Monday, May 5, 2008 at 4:55 p.m. CDT; seconded by Dr. Larry Hill. All were in favor and the motion carried.

## **RECONVENED**

The Board of Pharmacy reconvened on Tuesday, May 6, 2008 at 9:00 a.m. CDT in the Iris 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.

## **CONSENT ORDERS**

**JERRY F. MEADERS, DPH**  
**9407 Shadow Point Circle**  
**Chattanooga, TN 37421**

Mrs. Alison Cleaves, chief legal counsel, presented a Consent Order for the Revocation of Dr. Jerry Meaders' pharmacist license for violating the terms of the 2003 Board Order placing him on probation by failing to maintain advocacy with the TPRN. Dr. Todd Bess motioned to **accept** the Consent Order; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

**JAY S. WYRICK, DPH**  
**7751 Trophy Run Lane**  
**Knoxville, TN 37920**

Chief legal counsel, Mrs. Alison Cleaves, presented a Consent Order whereas Dr. Jay Wyrick was in violation of Rule 1140-2-.02 (1) and (2) for allowing an unregistered individual to work in the pharmacy. Dr. Wyrick was assessed a civil penalty of \$900. Mrs. Monica Franklin motioned to **accept** the Consent Order; seconded by Dr. Todd Bess. All were in favor and the motion carried.

## **WAIVERS**

**CINDY DENT, DPH**  
**104 Chestnut Lane**  
**Helena, AL 35080**

Dr. Cindy Dent is requesting a waiver of Rule 1140-1-.07 (3) (b) (5) relevant to completing a period of pharmacy internship in Tennessee for the reinstatement of her pharmacist license. Dr. Dent has been actively practicing pharmacy in the State of Alabama since 1980 and has been employed with Tara Pharmacy since December, 2005. Dr. Larry Hill motioned to **grant** the waiver request; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

**CHHAYA PATEL, DPH**  
**1033 Wyndham Way**  
**Safety Harbor, FL 34695**

Dr. Chhaya Patel is requesting a waiver of Rule 1140-1-.07 (3) (b) (5) in regards to completing a period of pharmacy internship of three-hundred twenty (320) hours in Tennessee for the reinstatement of her pharmacist license. Dr. Patel has practiced pharmacy since 1985 and is actively practicing in the State of Florida. Dr. Todd Bess motioned to **grant** the request; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

**CAROLYN LIGHTFORD, DPH, MD**  
**9200 Brushboro Drive**  
**Brentwood, TN 37027**

Dr. Carolyn Lightford, a dual licensee, is seeking to reinstate her pharmacist license and is requesting a waiver of the three-hundred twenty (320) hours of internship as established under the Board's policy for the renewal of a pharmacist license for dual licensees, which was approved by the Board on September 18 - 19, 2001. Dr. Todd Bess motioned to **grant** the waiver request; seconded by Dr. Larry Hill. All were in favor and the motion carried.

**SUSAN GUPTON, DPH**  
**8194 Jackman Road**  
**Joelton, TN 37080**

Dr. Susan Gupton 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 at P & P Compounding Shop, P & P Prescription Shop and Ed Medical, Inc. Dr. Rodney McCormick was

previously the PIC at the three (3) locations and intends on being the PIC at a new pharmacy, McCormick's Pharmacy, Inc. Dr. Brenda Warren motioned to **allow Dr. Susan Gupton to be the PIC at the above mentioned three (3) pharmacies** and to allow Dr. McCormick to be PIC at McCormick's Pharmacy, Inc. Dr. Todd Bess seconded the motion. All were in favor and the motion carried.

**JOHN F. SIMONTON  
RIVER VALLEY PHARMACY & SUPPLY  
58 S. Main Street  
Lexington, TN 38351**

Mr. John Simonton is requesting a waiver of Rule 1140-3-.14 (13) relevant to the designated pharmacist in charge shall be on duty a minimum of fifty percent (50%) of the hours that the pharmacy is in operation on behalf of Dr. J. Phillips Wilkins. River Valley serves nursing homes and is a closed door pharmacy. Dr. Bettie Wilson motioned to **grant the waiver request for a period of six (6) months and to request a response from Dr. Wilkins;** seconded by Dr. Brenda Warren. During discussion, Dr. Todd Bess wants included in the response the hours of operation and the type of practice. All were in favor and the motion carried.

**STEVEN W. BROWN, DPH  
PROMEDICAL  
179 Hancock Street  
Gallatin, TN 37066**

Dr. Steven Brown is requesting a waiver of Rule 1140-1.12 (3) (d) and (e) relevant to the requirement to occupy a space of not less than one hundred eighty (180) square feet and hot and cold running water in the pharmacy. Promedical provides home medical equipment nebulizer patients with respiratory medications. Dr. Brenda Warren motioned to **approve the waiver request pending the investigator's inspection and if the nature of the business changes, it will be necessary to bring the requests before the Board;** seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

## **DIRECTOR'S REPORT**

### **NOVEMBER 2008 BOARD MEETING RESCHEDULED**

Dr. Kevin Eidson noted the November 20 - 21, 2008 board meeting will need to be rescheduled. The dates **have been changed to November 3 - 4, 2008** due to room availability at 227 French Landing.

### **2001 EDITION TENNESSEE PHARMACY LAWS**

Dr. Kevin Eidson advised the Board recently approved the purchase of 299 law books from Lexis Nexis and the supply is now exhausted. Lexis Nexis has quoted the following rates for 1,000 copies at \$18.25 and 2,000 copies at \$10.96 per book. Dr. Larry Hill motioned to **approve the reprinting of 2,000 law books at \$10.96 each**; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

### **BOARD OF PHARMACY NEWSLETTER**

Dr. Kevin Edison, Executive Director, stated the Board previously contracted with NABP for the quarterly printing of a newsletter. Dr. Eidson noted Health Related Boards has a template available for providing this type of publication electronically to our licensees.

### **THE UNIVERSITY OF UTAH SCHOOL ON ALCOHOLISM AND DRUG DEPENDENCY JUNE 15 - 20, 2008**

Dr. Kevin Edison, Executive Director, noted the University of Utah Alcoholism and Drug Dependence will hold their 57<sup>TH</sup> Annual Session on June 15 - 20, 2008 in Salt Lake City. The Board did not comment nor did any one express an interest in attending.

### **GARY JOHNSON, DPH TALYST**

Dr. Gary Johnson gave a presentation to the Board on Talyst, an automated dispensing machine to assist with the reengineered medication distribution, and to review an issue which eliminates the requirement that a pharmacist check meds intended to replenish Pyxis machines.

The Board referenced Board of Pharmacy Rule 1140-4-.04 - Prescription Orders, which states, "A pharmacist shall review all prescription orders before the drug is first dispensed"; and Rule 1140-4-.15 - Automated Dispensing of Devices in Institutional Practice Sites. The Board noted Talyst must have policy and procedures in place for Jackson Madison County Hospital Pharmacy.

## **LEGAL REPORT/COMPLAINTS**

### **1. Case No.: L08-PHR-RBS-200800104**

Complaint generated from an April 7, 2008 compliance inspection. Board investigator found that an individual had been operating as a pharmacy technician at the pharmacy since September 7, 2006. PIC indicated to investigator that he was sending in the technician's registration application to the Board.

*Prior complaints:*  
*Pharmacy: None*  
*PIC: None*

### **Recommendation: Authorize formal hearing (\$1,700.00 civil penalty)**

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

### **2. Case No.: L07-PHR-RBS-200708049**

Complainant alleges that the Respondent pharmacy dispensed Metformin to the patient when it was not prescribed. Complainant states that the Respondent consumed the incorrect medication which caused her to vomit and become very weak.

PIC responded to the complaint and indicated that because the alleged misfill occurred in 2006, she is unable to recall any of the details of the incident. PIC states that she was never contacted by the patient or doctor about this incident and never spoke to the patient about this incident either. The previous pharmacy manager indicates that the prescription was misfilled, the patient consumed the incorrect medication for a few days and then went to the doctor where the error was discovered. PIC states that this was an isolated incident and that she has taken remedial measures to avoid a similar occurrence in the future, such as double and triple checking all prescriptions that he enters and verifies; checking for the patient's name and date of birth to ensure that the patient's name on the prescription matches the profile; and counseling patients in accordance with BOP rule. PIC also intends to participate in continuing education courses addressing medical and prescription error prevention.

*Prior complaints:*

*Pharmacy: None*  
*PIC: None*

**Recommendation: Letter of Warning to Dispensing Pharmacist**

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

**3. Case No.: L08-PHR-RBS-200800096**

Complaint generated from an April 16, 2008 compliance inspection in which a Board of Pharmacy investigator observed one (1) patient pick up medication without any counseling performed or offered. Another patient was dispensed medication with only a statement of "any questions?"

PIC responded to the complaint and admitted the violations. PIC states that the violations occurred because of inappropriate training of technician staff. Training will occur for all pharmacy staff.

*Prior complaints:*  
*Pharmacy: None*  
*PIC: None*

**Recommendation: Authorize formal hearing (\$250.00 civil penalty to dispensing pharmacist; \$1,000.00 civil penalty to pharmacy; and LOI to 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-200800097**

Complainant alleges that the PIC allowed an individual (unregistered/unlicensed) to receive shipments of drugs from the manufacturer before the pharmacist arrived and the pharmacy opened. The individual stated that he regularly receives these drugs orders and that he opens the totes and checks in the drugs in a room adjacent to the pharmacy. Individual stated that he usually stays in the room with the drugs until the pharmacist arrived.

*Prior complaints:*  
*Pharmacy: 2005, selling, bartering, giving away or obtaining legend drugs, dismissed*  
*PIC: None*

**Recommendation: Letter of Warning**

Dr. Larry Hill motioned to **accept counsel's recommendation to issue a Letter of Warning to the PIC to cease and desist practice**; seconded by Dr. Brenda Warren. All were in favor and the motion carried.

**5. Case No.: L08-PHR-RBS-200800053**

This matter is being re-presented from the last Board meeting because the Board requested some additional information. This manufacturer/wholesaler/distributor was disciplined by another state through the assessment and payment of a \$75,000 fine and a reprimand because

a former employee, in violation of company policy and without Respondent's knowledge, purchased prescription medications from an unlicensed supplier from November, 2002 through March, 2003. When I presented this at the last meeting, the Board wanted to know if the Respondent had paid the civil penalty. Since then I received confirmation from the law firm representing the Respondent that the fine has been paid.

*Prior complaints: None*

**Recommendation: Letter of Warning to Cease and Desist**

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

**6. Case No.: L07-PHR-RBS-200708048**

Complainant alleges that the Respondent, pharmacy, disclosed his patient profile without his authorization to a doctor.

*Prior complaints:*  
*Pharmacy: None*  
*PIC: None*

**Recommendation: Dismiss**

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

**7. Case No.: L07-PHR-RBS-200708047**

Complainant alleges that the pharmacy staff asked for his social security number when he picked up his prescription for Lunesta which is not required by state law. Complainant alleges that the pharmacy staff told him that state law requires that they collect social security numbers.

PIC responded stating that they do request patient social security numbers that they use as an additional patient identifier so that the patient receives the correct medication. PIC states that she does have a sign at the pharmacy stating that state law requires each patient to produce his/her social security number and that the reason for the sign is so that the technicians do not get questioned about having to produce this information. PIC points out that social security numbers are required for controlled drugs to be included in the data submitted to the controlled substance monitoring database. So, she suggested changing the sign to indicate that social security numbers are required for database for controlled drugs.

*Prior complaints:*  
*Pharmacy: None*  
*PIC: None*

**Recommendation: Dismiss (informing PIC that state law does not require that a patient provide his or her social security number and suggesting that she reword or remove the sign)**

Dr. Todd Bess 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-200800052**

Complainant alleges that the Respondent, pharmacy technician, was employed as a technician at one of the pharmacies (same chain) that were robbed for controlled substances. It is further alleged that the Respondent aided in the theft that was committed by her boyfriend. At store number 1 a total of 8,624 dosage units of Hydrocodone and Alprazolam were taken and at store number 2, a total of 4,191 units of Hydrocodone and Xanax were taken. Respondent admitted to local police that she was involved with staging the robberies.

**Recommendation: Authorize formal hearing (revocation)**

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

**9. Case No.: L08-PHR-RBS-200800025**

This is a complaint against another pharmacy technician involved with the robberies detailed in number 8 above. She, too, admitted her involvement with the robberies.

**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.

**10. Case No.: L08-PHR-RBS-200800022**

Complaint generated as a result of a January 28, 2008 compliance inspection in which the Board investigator found that there were five (5) unregistered individuals working at the pharmacy without a license. Investigator determined that the current PIC at this location has been the PIC there since May 31, 2007. Individual #1 had been working at the pharmacy since August, 2007 (a total of 6 months, \$300); individual is currently registered. Individual #2 had been working at the pharmacy since October 2007 (a total of 4 months, \$200.00); individual is currently registered. Individual #3 had been working at the pharmacy since October 2007 (a total of 4 months, \$200.00); individual is currently registered. Individual #4 was in expired status for 12 months at the time of the inspection (\$900.00); individual is currently registered. Individual #5 had been working at the pharmacy on a part-time basis because she is a college student. She worked approximately 4 months without registration (\$200.00); her application for registration has been received by the Board office and is pending there.

*Prior complaints:*

*Pharmacy: None*

*PIC: None*

**Recommendation: Authorize formal hearing (\$1,900 civil penalty)**

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

**11. Case No.: L08-PHR-RBS-200800034**

Complainant alleges that the Respondent, pharmacist filled unauthorized prescriptions for controlled substances.

*Prior complaints: None*

**Recommendation: Authorize a formal hearing**

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

**12. Case No.: L08-PHR-RBS-200800068**

Duplicate case. This was presented at the last Board meeting and it was dismissed.

**Recommendation: Close**

Dr. Todd Bess motioned to **close the complaint**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

**13. Case No.: L08-PHR-RBS-200800068**

Complainant alleges that the Respondent, pharmacy technician, took \$100.00 from the pharmacy. Respondent was terminated and no criminal charges were filed.

*Prior complaints: None*

**Recommendation: Authorize formal hearing (probation)**

Dr. Brenda Warren motioned to **accept counsel's recommendation**; seconded by Dr. Bettie Wilson. Dr. Warren **amended the motion to include a five (5) year term of probation and if there are any other issues, the Board would consider revocation**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

**14. Case No.: L08-PHR-RBS-200800043**

Complainant alleges that the Respondent, pharmacist, refused to take a drug test requested by his employer after there was a break-in at the pharmacy. Complainant, director of pharmacy, indicates that there was a break-in at the hospital pharmacy indicates that a theft occurred at the pharmacy on January 9<sup>th</sup> between the hours of 8PM and 8AM. The DEA 106 form revealed losses of Zolpidem, Lorazepam, Propoxyphene, Chlordiazepoxide, Clonazepam, Hydrocodone, Butorphanol, and Alprazolam. When the pharmacy director realized that there was a break-in, he requested that all pharmacy staff submit to urine screens. All of the pharmacy submitted to the screens (which turned out negative), except the Respondent. The Respondent did not work on January 9, 2008 and entered the pharmacy with the other employees on the morning of January 10<sup>th</sup>. Also, the Respondent did not have the keys to the pharmacy and he only worked one day a week with another pharmacist. Investigator interviewed other members of the pharmacy staff and they stated that they did not observe any indicators of substance abuse

relative to the Respondent. The pharmacy did not have a reliably CCTV system, so there is no tape available to indicate who is responsible for the theft.

*Prior complaints: None*

**Recommendation: Dismiss**

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

**15. Case No.: L08-PHR-RBS-200708092**

Complainant alleges that the Respondent, pharmacy has been filling fraudulent prescriptions in a prescriber's name when the prescriber did not authorize the prescriptions. Investigation reveals that there are five (5) allegedly fraudulent prescriptions all written for Hydrocodone/APAP 10/500 and for either 90 or 120 tablets; all were for prescriptions called-in to the pharmacy for the same patient. The prescriptions were picked up at the drive-through windows. PIC informed investigator that they assumed it was a caregiver picking up the medication since the individual picking up the medication has the same last name of the patient. Also, the individual picking up the medication had knowledge of the prescription and the patient. Investigator indicates that this conduct has occurred at approximately three (3) other pharmacy practice sites. The police are aware and investigating the situation.

*Prior complaints:*

*Pharmacy:*

*2001, medication error, dismissed;*

*2002, medication shortage, closed;*

*2007, medical error, open*

**Recommendation: Dismiss**

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

**16. Case No.: L08-PHR-RBS-200800076**

Complainant alleges that her prescription for Percocet was seventeen (17) tablets short. Complainant called the pharmacy and pharmacy staff indicated to her that the count was correct.

PIC (who filled the Complainant's prescription) responded to the complaint indicating that she maintains a perpetual inventory of all Schedule II drugs and performs a monthly audit. PIC indicates that when she fills a prescription for a Schedule II drug, she counts the tablets remaining afterward and then labels the bottle. She does not release the prescription to the patient until she logs it into the inventory book and verifies that she has the correct number of tablets remaining, at which time, she places a check mark next to the remaining inventory quantity. In this instant case, when the Complainant called to say she was shorted, the PIC checked the book and found out that they had the correct number of tablets on hand. PIC also addresses an allegation made by the Complainant stating that a pharmacy employee must have taken the tablets out of the bottle. PIC states that they have not had any problems with missing Schedule II drugs. PIC concludes that the shortage occurred outside of the pharmacy.

*Prior complaints:*

*Pharmacy: 2004, medication error, letter of warning;*

*PIC: None*

**Recommendation: Dismiss**

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

**17. Case No.: L08-PHR-RBS-200800079**

Complainant alleges that his son's prescription for Concerta 54 mg was shorted seven (7) tablets. Pharmacy Supervisor responded to the complaint denying the allegations. PIC states that after receiving a call from the Complainant, he inquired with the dispensing pharmacist about filling the prescription and dispensing pharmacist indicated that the prescription was double counted before dispensing as he does for all controlled drugs. The record of Concerta 54 mg reflected the correct quantities being dispensed and the correct inventory remaining after the prescription was filled. The monthly balance sheet was also correct. All Schedule II prescriptions are kept at the pharmacy station until the customer comes for the prescription, and the stock is maintained in a safe only accessible by the pharmacist.

*Prior complaints:*

*1999, customer service, closed;*

*2001, medication error, letter of instruction;*

*2001, patient confidentiality, dismissed;*

*2007, unprofessional conduct, open*

**Recommendation: Dismiss**

Mrs. Monica Franklin 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-200800087**

Complaint generated from a April 9, 2008 compliance inspection in which a Board investigator observed patients pick up five (5) prescriptions without counseling being performed or offered.

PIC admits that counseling was not performed in accordance with Board rules. PIC intends to train his pharmacy staff about the importance of patient counseling.

*Prior complaints:*

*Pharmacy: None*

*PIC: None*

**Recommendation: Authorize formal hearing (\$250.00 civil penalty to dispensing DPh; \$1,000 civil penalty to pharmacy; and LOI to PIC)**

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

**19. Case No.: L08-PHR-RBS-200800080**

Complainant alleges that his mother's prescription for Toprol XL 50mg was misfilled with Metformin ER 500mg. Complainant states that his mother took one tablet of the incorrect medication. Complainant contacted the pharmacy and they indicated they would fill the prescription with the correct medication.

PIC admitted that the error occurred and was made when pharmacy staff attempted to change the NDC number of a generic drug. In order to ensure that this error does not occur in the future, the NDC change will be verified by a pharmacist or certified technician before completing the transaction.

*Prior complaints:*  
*Pharmacy: None*  
*PIC: None*

**Recommendation: Letter of Warning**

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

**20. Case No.: L08-PHR-RBS-200800085**

Complainant alleges that the Respondent, pharmacist, was terminated from her employment for generating prescriptions from two (2) employees without physician authorization. Respondent generated a prescription for Hydrocodone 30 tablets for a pharmacy technician and also generated three (3) prescriptions for another pharmacy employee for Z-Pak, Gentex LA twenty (20) tablets and a nasal spray.

*Prior complaints: None*

**Recommendation: Request that the Respondent get a psychological evaluation and a substance abuse evaluation or formal hearing.**

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

**21. Case No.: L08-PHR-RBS-200800006**

This is the companion case to number 20 listed above. Respondent is the pharmacy technician who received the Hydrocodone prescription written by the Respondent pharmacist in number 20 above.

*Prior complaints: None*

**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.

**22. Case No.: L08-PHR-RBS-200800046**

Complainant alleges that the Respondent, pharmacy filled her son's prescription for Trileptal with a generic when the patient and medical doctor agreed that this would not be best for the patient. Investigator contacted the director of pharmacy operations who indicated to the investigator that they did not have to abide by the Tennessee law for anti-epileptic medication because they were not located in Tennessee.

PIC responded to the complaint indicating the following: In October, 2007, the Complainant mailed in her son's prescription for Trileptal which did not indicate "DAW", but it was processed for the brand name because the generic was not available. When Complainant requested a refill in December, 2007, the generic drug was available and the refill was dispensed with the generic. Since the complaint, the prescription was reprocessed for the brand name as requested by the Complainant with a prepaid mailer so that the Complainant could send the generic medication back. The return package was received on March 4, 2008 and the contents were destroyed.

*Prior complaints:*  
*Pharmacy: None*  
*PIC: None*

**Recommendation: Letter of Instruction**

Dr. Todd Bess motioned to **accept counsel's recommendation with special terms mentioned in the letter**; seconded by Mrs. Monica Franklin. Dr. Brenda Warren recused from voting. The motion carried.

**23. Case No.: L08-PHR-RBS-200800089**

Complaint generated because Respondent, pharmacist plead guilty to two (2) misdemeanor charges of reckless driving and refusal to submit to a blood alcohol content test on March 31, 2008.

*Prior complaints: None*

**Recommendation: Place conviction in the file pursuant to Board policy**

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

**24. Case No.: L08-PHR-RBS-200800094**

Complainant alleges that the Respondent, pharmacy technician, was terminated from his employment from the pharmacy because he took some food from the deli in the store where the pharmacy is located without paying for it.

*Prior complaints: None*

**Recommendation: Authorize formal hearing (probation)**

Dr. Brenda Warren motioned to **accept counsel's recommendation with a term of probation for five (5) years**; seconded by Dr. Todd Bess. All were in favor and the motion carried.

**25. Case No.: L08-PHR-RBS-200800090**

Respondent, licensed wholesaler/manufacturer/distributor was disciplined in another state on March 12, 2008. The Final Order contains findings of fact which provide that the Respondent operated as a m/w/d after its license had expired. Respondent operated unlicensed from December 31, 2006 to approximately August 23, 2007. The discipline imposed was a two (2) year term of probation and a two thousand dollar (\$2,000) civil penalty.

*Prior complaints: None*

**Recommendation: Letter of Warning**

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

**26. Case No.: L08-PHR-RBS-200800091**

Same set of facts as outlined above.

*Prior complaints: None*

**Recommendation: Letter of Warning**

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

**27. Case No.: L05-PHR-RBS-200501875**

Complainant alleges that the Respondent, pharmacist, misfilled her son's compounded prescription for liquid nebulizer. Complainant alleges that the compounded drug was subpotent because it contained an undetermined quantity of alcohol. The tests performed on the substance indicate that alcohol was detected, but unable to determine when in the process that the adulteration occurred.

*Prior complaints: None*

**Recommendation: Dismiss**

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

**28. Case No.: L08-PHR-RBS-200800079**

Duplicate file with number 17 listed above.

**Recommendation: Close**

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

**29. Case No.: L08-PHR-RBS-200800040**

Complainant alleges that unauthorized prescriptions were being obtained from the Respondent pharmacy. Investigation revealed that there were four (4) prescriptions for Hydrocodone/APAP 10/500 120 tablets that are in question. All four (4) prescriptions were phoned-in, picked up at the drive thru by someone who identified him or herself as a family member, all filled by the same pharmacist, and all were not authorized by the prescriber. Investigator spoke to the pharmacist who filled the prescriptions and she indicated that there was nothing based on the phoned-in prescriptions that would indicate that they were not authorized. For example, the caller knew the patient's date of birth; doctor name; DEA number of the doctor; and asked if the patient was early in obtaining his medication. The pharmacy realized that something was wrong with these prescriptions that were already filled when another pharmacist transferred to the pharmacy who knew the doctor and knew that the doctor only called in prescriptions herself or had her nurse do it. The pharmacist who filled these prescriptions was not aware of this practice by the doctor.

*Prior complaints: None*

**Recommendation: Letter of Instruction suggesting that the pharmacy staff receive another form of identification (if someone other than the patient picks up the medication), when dispensing controlled substances to the patient themselves or the care giver. Remind the pharmacist to be utilizing the database.**

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

**30. Case No.: L07-PHR-RBS-200706462 (#08059)**

Complainant alleges that that her prescription for Zolpidem was mislabeled with the incorrect name; the bottle had the Complainant's middle and last name on the label. Also, the prescription was dispensed with the incorrect directions. The prescription should have said "take ½ tablet an hour and a second tablet if needed"; instead, the prescription said "take ½ tablet by mouth in the morning and one tablet in the evening."

PIC responded to the complaint. There was confusion about the patient's name because the patient's name changed which resulted in two patient profiles being created. PIC admits that the directions were not correct. He states that he should have called the physician for clarification because the directions were not clear. PIC also states that he did not properly communicate with patient about to make sure the patient understood how to take the medication.

*Prior complaints:*

*Pharmacy: None*

*PIC: 1995, Rx picked up by wrong individual, closed*

**Recommendation: Letter of Warning**

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

**31. Case No.: L08-PHR-RBS-200800070**

Complaint generated from a March 6, 2008 compliance inspection in which a Board investigator found that four (4) patients or patient caregivers picked up medications at the pharmacy without having patient counseling performed or offered.

PIC responded to the violation stating that he will make a concerted effort to counsel on new prescriptions and make an offer to counsel on refills.

*Prior complaints:*

*Pharmacy: None*

*PIC: 1997, patient counseling, closed; 2003, refill, letter of warning; 2005, registration of pharmacy technicians, dismissed.*

**Recommendation: Authorize formal hearing (\$250.00 civil penalty to dispensing pharmacist; \$1,000.00 civil penalty to pharmacy and LOI to PIC)**

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

**32. Case No.: L08-PHR-RBS-200800064**

Complainant alleges that the pharmacy technician at the Respondent pharmacy was involved with the theft of controlled substances. In the process of investigating this case, Board investigator determined that the technician was not registered with the Board. Upon further inquiry, the Board investigator determined that the individual categorized as a technician was not functioning as a technician; therefore, registration was not required. Also, investigator determined that there was no evidence to substantiate the theft allegation. A controlled substance audit was conducted at the pharmacy and no shortages were found.

*Prior complaints:*

*Pharmacy: None*

*PIC: None*

**Recommendation: Dismiss**

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

**33. Case No.: L08-PHR-RBS-200800072**

Complainant alleges that a pharmacy technician at the pharmacy was left at the pharmacy unsupervised by a pharmacist and that during the period of being unsupervised, the technician transferred prescriptions.

PIC states that he admitted that he left the pharmacy because of a medical emergency. PIC states that he locked the pharmacy when he left and that all pharmacy employees know that they cannot enter the pharmacy without a pharmacist present. Technician states that she was let into the pharmacy by the store manager to answer questions, answer phones and explain the circumstances of the pharmacist having to leave to customers. In asking the store manager what she could and could not do without a pharmacist present, the store manager told her to do what she could. So, in the course of her duties, the technician indicates that she may have transferred a prescription.

*Prior complaints:*  
*Pharmacy: None*  
*PIC: None*

**Recommendation: Letter of Warning about leaving the pharmacy unattended by a pharmacist (to pharmacy)**

Dr. Larry Hill motioned to issue a **Letter of Warning to the pharmacy with a “cc” to the pharmacist about leaving the pharmacy unattended; and a Letter of Instruction advising the technician cannot transfer prescriptions without being supervised by a pharmacist even in an emergency situation;** seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

**34. Case No.: L08-PHR-RBS-200800063**

Complainant alleges that the Respondent pharmacy lost his son’s prescription for Adderall. Complainant states that his son was given two prescriptions and that the doctor prescribed two medications (not controlled drugs) and on the other script the doctor prescribed the Adderall.

PIC responded to the complaint stating that neither he nor any other member of the pharmacy staff recalled taking a prescription for Adderall for the Complainant’s son and they cannot locate one in the pharmacy. PIC notes that while the Complainant states that his son was prescribed two non-controlled drugs on one script and then a controlled drug on the other prescription, pharmacy records show that the pharmacy did receive two prescriptions from the Complainant’s son, but one drug was written on each script. Seroquel and Lamictal were each written on their own blanks.

*Prior complaints:*  
*Pharmacy: None*  
*PIC: None*

**Recommendation: Dismiss**

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

**35. Case No.: L07-PHR-RBS-200708085**

Complaint filed against a mail order pharmacy alleging several violations in which unlicensed individuals were interpreting prescriptions, informing patients that certain drugs were the brand names for generics, informing patients that they receive the incorrect medications when they did not, informing patients and that they were pharmacists.

Pharmacy vice president responded that they were working to clarify and define roles better within the organization.

*Prior complaints:*  
*Pharmacy: None*

*PIC: None*

**Recommendation: Letter of Warning**

**The Board tabled the complaint and requested more information.**

**36. Case No.: L08-PHR-RBS-200800048**

Complainant alleges that staff at the Respondent, pharmacy filled a patient's prescription for Lortab too frequently.

Investigation revealed that the technician miskeyed in 320 tablets of Lortab instead of 30 tablets. The dispensing pharmacist (who is also the PIC), did not notice the error and filled the prescription which appeared as a partial fill of an order for 320 tablets Hydrocodone/APAP 5/500 tablets instead of a complete fill of 30 tablets with no refills; this allowed 320 tablets to be dispensed. In addition, investigator notes that some of the partial refills were early. The PIC filled the prescription early on three occasions. Another pharmacist at the pharmacy filled the prescription too early on four occasions. Investigator notes that a DUR was not a complete and thorough review which, in turn, allowed the original error to be repeated.

*Prior complaints:*

*Pharmacy: None*

*PIC: None*

**Recommendation: Authorize formal hearing (\$500 civil penalty to PIC and other dispensing DPh)**

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

**37. Case No.: L08-PHR-RBS-200800016**

Complaint initiated during a January 17, 2008 compliance inspection in which an investigator found that an individual had been operating as a technician since her registration expired on April 30, 2005. Technician has since renewed. The current PIC was the PIC when the technician's registration expired.

**Recommendation: Authorize formal hearing (\$3,100 civil penalty to PIC)**

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

**38. Case No.: L08-PHR-RBS-200800065**

Complaint generated from a DEA 106 form sent in by the pharmacy indicating a loss of controlled substances due to employee theft. Upon further inspection by the Board office, they found that the theft was attributed to an individual who was operating as a pharmacy technician, but was not registered with the Board. The individual was employed at the pharmacy from approximately August, 2007 to February, 2008. During that period of time, there were four (4) PICs at the pharmacy for a month here and a month there, but there was one PIC who was there from September, 2007 to part of January, 2008.

*Prior complaints:*  
*Pharmacy: None*  
*PIC: None*

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

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

**39. Case No.: L07-PHR-RBS-200708073**

Complainant alleges that the Respondent pharmacy was operating as an internet pharmacy where they were filling prescriptions in which there was not a legitimate doctor/patient relationship that generated the prescription. Complainant further alleges that through this internet pharmacy activity, medication was dispensed to a minor that resulted in an overdose.

Investigation revealed that the pharmacy was operating as an internet pharmacy but stopped in February, 2007 on their own accord because the PIC and other pharmacists working there became concerned with the volume (100 to 150 prescriptions a day) and that the prescriptions were only for 3 or 4 kinds of drugs (Tramadol, Carisoprodol and Fioricet) and soon they were only coming from one prescriber.

*Prior complaints:*  
*Pharmacy: None*  
*PIC: 2006, medication error, letter of warning*

**Recommendation: Letter of Warning to PIC**

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

**40. Case No.: L07-PHR-RBS-200708019**

Respondent, pharmacy technician tested positive for marijuana at his place of work and was terminated.

*Prior complaints: None*

**Recommendation: Authorize formal hearing/revocation**

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

**41. Case No.: L08-PHR-RBS-200800059**

Complainant alleges that he was given the wrong strength of Suboxone. Complainant's prescription was for 2mg and he was given 8mg. Complainant states that he consumed the incorrect medication and experienced lethargy, difficulty urinating and constipation.

PIC responded to the complaint and admitted to the misfill. He states that a few things contributed to the error: Suboxone was ordered in 2mg rather than the full strength of 2/0.5mg. Suboxone was new to the pharmacy and only the 8/2mg dose was listed. Also, more recent prescriptions for Suboxone have included the full strength of medication.

*Prior complaints:*  
*Pharmacy: None*  
*PIC: None*

**Recommendation: Letter of Warning**

The Board took no action as complaint had previously been heard.

**MICHAEL LENCZYNSKI, DPH**  
**735 Quince Lane**  
**Secane, PA 19018**

Dr. Kevin Eidson, Executive Director, stated at the March 12 - 13, 2008 board meeting, the Board requested Dr. Michael Lenczynski to personally appear. Dr. Lenczynski informed the Board that he practices in Pennsylvania and had been subject to disciplinary action for drug issues. Dr. Lenczynski stated he has met the requirements imposed by the Board and was placed on a term of probation. Dr. Lenczynski advised he attends meetings regularly and is in the recovery network. Dr. Bettie Wilson motioned to **grant** the reciprocal application; seconded by Dr. Todd Bess. All were in favor and the motion carried.

**LEGAL REPORT (continued)**

**APPROVAL OF PHARMACY TECHNICIANS**

**TAMARA L. BEACHY**  
**3100 Cruze Drive**  
**Powell, TN 37849**

Dr. Kevin Eidson, Executive Director, stated Ms. Tamara Beachy had marked "yes" to being convicted of a misdemeanor offense for a DUI in March, 1988. The documents provided from the Circuit Court Clerk in Pinellas County, Florida, indicate the records are no longer available and have been destroyed in compliance with the Supreme Court Rules of Court, Florida statutes

and the State Retention Guidelines. Dr. Todd Bess motioned to **approve** the pharmacy technician application; seconded by Dr. Larry Hill. All were in favor and the motion carried.

**MARC DAVIS**  
**6458 Lickton Pike**  
**Goodlettsville, TN 37072**

Executive Director, Dr. Kevin Eidson, advised Mr. Marc Davis had answered "yes" to a misdemeanor violation for a DUI on September 29, 2006 in California. Mr. Davis was given an order for probation. Dr. Larry Hill motioned to **deny** the pharmacy technician registration; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

**PATRICIA E. FENOFF**  
**242 J. M. Town Road**  
**Jonesboro, TN 37659**

Dr. Kevin Eidson, Executive Director, stated Ms. Patricia Fenoff acknowledged on her pharmacy technician registration that she had been convicted of a DUI in 2002. Ms. Fenoff was released from probation in 2003 and all fines have been paid. Mrs. Monica Franklin motioned to **grant** the application; seconded by Dr. Todd Bess. All were in favor and the motion carried.

**FRANKLIN R. LOTT, JR.**  
**1260 Oak Creek Drive**  
**Collierville, TN 38017**

Executive Director, Dr. Kevin Eidson, noted Mr. Franklin Lott had checked "yes" to being convicted to a misdemeanor offense. Mr. Lott had a DUI conviction in July, 1987 in Panola County, Mississippi. A letter from the Panola County Justice Court stated there is no record of a DUI conviction in Mississippi. A DUI remains on a person's record for a period of five (5) years. Mr. Lott provided a Certificate of completion for a course he attended at Mississippi State University dated September, 1987. Dr. Larry Hill motioned to **approve** the registration; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

**JAVIER L. MARTINEZ**  
**4501 Brookevalley**  
**Hermitage, TN 37076**

Dr. Kevin Eidson, Executive Director, Mr. Javier Martinez acknowledged being convicted of a misdemeanor for a DUI in Texas in 2005. Mr. Martinez provided a copy of a letter dated January 25, 2007 from Judge Karahan of the Harris County Criminal Court for the successful completion of the community suspension. Dr. Todd Bess motioned to **accept**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

**BRENDA F. OWENS**  
**419 35<sup>TH</sup> Avenue North #C**  
**Nashville, TN 37209**

Executive Director, Dr. Kevin Eidson, stated Mrs. Brenda Owens' registration was presented to the Board at the May 15 - 16, 2007 board meeting and additional information was requested. Mrs. Owens had answered "yes" to being convicted of a misdemeanor offense for alcohol and drug related offenses. On October 2, 1998, Mrs. Owens was arrested for driving on a revoked driver's license and was given six month's probation which was suspended and to perform forty (40) hours of public service work. Dr. Todd Bess inquired on background checks which the Board is able to use at their discretion. Dr. Brenda Warren motioned to proceed with a background check and depending on the outcome of the report, approve the technician registration; seconded by Dr. Bettie Wilson. There were four (4) nays. The motion did not carry. Mrs. Monica Franklin motioned to **grant** the application; seconded by Dr. Todd Bess. All were in favor and the motion carried.

**KYLE R. PINCKLEY**  
**157 A State Route 186 South**  
**Humboldt, TN 38343]**

Dr. Kevin Eidson, Executive Director, stated Mr. Kyle Pinckley had indicated on his pharmacy technician renewal, which expired on December 31, 2007, that he had pled guilty to public intoxication in September, 2007. Mr. Pinckley provided documents from the General Sessions Court of Gibson County, Tennessee, noting the charges were dismissed on March 28, 2008. A letter of accommodation was also submitted by his employer. Mrs. Monica Franklin motioned to

**grant the renewal** of his pharmacy technician registration; seconded by Dr. Larry Hill. All were in favor and the motion carried.

**JUSTIN C. TROUT**  
**6009 Old Dayton Pike**  
**Chattanooga, TN 37415**

Executive Director, Dr. Kevin Eidson, advised Mr. Justin Trout had checked “yes” to having been convicted of a misdemeanor offense on his pharmacy technician registration. Mr. Trout pled guilty and paid fines for a DUI in Casper, Wyoming in April, 1998. A document received from the county of Natrona, State of Wyoming, stating Mr. Trout was granted a full and complete discharge from probation on December 17, 1998. Dr. Todd Bess motioned to **approve** the technician registration; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

#### **APPROVAL OF NAPLEX CANDIDATES**

**DAVID ALLEN CARROLL**  
**116 Cheyenne Cove**  
**Savannah, TN 38372**

Dr. Kevin Eidson, Executive Director, stated Mr. David Carroll, a NAPLEX candidate, had answered “yes” to being convicted of a DUI offense in September, 2004 and paid a fine of \$425. Dr. Todd Bess motioned to **allow Mr. Carroll to proceed with the licensing process;** seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

**DANIEL D. KYLE**  
**9461 Hickory Knoll Lane**  
**Knoxville, TN 37931**

Executive Director, Dr. Kevin Eidson, advised Mr. Daniel Kyle, a NAPLEX candidate, answered “yes” to the question on his pharmacist application, “Are there any criminal charges pending against you in this state or any other state? Mr. Kyle replied, “A First Offense DUI in Tennessee” which occurred on October 21, 2006. A copy of an Affidavit of Complaint filed with the General Sessions Court of Knox Count, Tennessee, stated Mr. Kyle was following too closely to the vehicle in front of him and he struck it when the vehicle stopped. A court date is

set for June 20, 2008. Dr. Eidson, Executive Director, noted Mr. Kyle graduated from Mercer University College of Pharmacy on May 3, 2008. Mrs. Monica Franklin motioned to **allow Mr. Kyle to proceed with the licensing process**; seconded by Dr. Larry Hill. All were in favor and the motion carried.

**JOHN MANCELL**  
**8270 Hwy. 140E**  
**Buchanan, TN 38222**

Executive Director, Dr. Kevin Eidson, presented a pharmacist application on behalf of Mr. John Mancell, a NAPLEX candidate, who answered "yes" to being convicted of a misdemeanor offense. Mr. Mancell stated on December 14, 2007, he was stopped for a head light being out and had an open container in his possession. Mr. Mancell pled guilty; paid the fines incurred and furnished proof of payment. Mrs. Monica Franklin motioned to **allow Mr. Mancell to proceed with the licensing process**; seconded by Todd Bess. All were in favor and the motion carried.

**MATTHEW SCOTT WILLIAMS**  
**439 Mebanewood Drive**  
**Huntingdon, TN 38344**

Dr. Kevin Eidson, Executive Director, presented Mr. Matthew Williams' pharmacist application to the Board in which he checked "yes" to being convicted of a misdemeanor offense. Mr. Williams provided a certified copy of the judgment order from the Rutherford County General Sessions Court in which he pled guilty to underage consumption of alcohol on October 29, 2001. Mr. Williams paid court fines and was placed on a term of probation for one (1) year. Dr. Brenda Warren motioned to **allow Mr. Williams to proceed with the licensing process**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

#### **APPROVAL OF SCORE TRANSFER CANDIDATE**

**RANDY J. FERRETER, PHARM D**  
**5016 Brightmour Circle**  
**Orlando, FL 32837**

Executive Director, Dr. Kevin Eidson, advised Dr. Randy Ferreter, a score transfer candidate had marked "yes" to being convicted of a misdemeanor offense. In 1991, Dr. Ferreter pled *nolo contendere* to a DUI charge in Orange County, Florida. Dr. Ferreter stated his records were destroyed in 2004 and the Criminal Division and Traffic Division of Orange County Clerk of Courts were unable to locate any records of the offense. Dr. Ferreter paid court fines, attended traffic school and completed 100 hours of community service. Dr. Todd Bess motioned to **allow Dr. Ferreter to proceed with the licensing process**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

#### **APPROVAL OF RECIPROCAL CANDIDATE**

**TREVOR MCKIBBIN, DPH  
10 South Main #1103  
Memphis, TN 38103**

Dr. Kevin Eidson, Executive Director, presented Dr. Trevor McKibbin's reciprocal application whereas he answered "yes" to have you ever been charged or convicted of a felony or misdemeanor whether or not sentence was imposed, suspended, expunged or whether you were pardoned from any such offense? Dr. McKibbin stated on May 28, 2000, he was charged with a Stop Sign Violation and Operating a Vehicle under the influence of alcohol. On January 24, 2001, Dr. McKibbin entered into a diversion agreement relevant to the offense and there have been no other offenses of any nature. Mrs. Monica Franklin motioned to **grant** reciprocity; seconded by Dr. Todd Bess. All were in favor and the motion carried.

**TENNESSEE PHARMACIST ASSOCIATION 121<sup>ST</sup> ANNUAL CONVENTION  
CHATTANOOGA, TENNESSEE  
JULY 21 - 24, 2008**

Dr. Kevin Eidson, Executive Director, is requesting approval from the Board to allow Chief Legal Counsel, Mrs. Alison Cleaves, to attend the Tennessee Pharmacist Association 121<sup>st</sup> Annual Convention to be held in Chattanooga, Tennessee on July 21 - 24, 2008. Dr. Larry Hill

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motioned to **approve** the request; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

### **ADJOURNMENT**

Dr. Larry Hill motioned to adjourn the Board of Pharmacy meeting on Tuesday, May 6, 2008 at 12:50 p.m. CDT; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

*The Board of Pharmacy approved the May 5 - 6, 2008 minutes at the July 15 - 16, 2008 board meeting.*