

**TENNESSEE BOARD OF PHARMACY
JULY 15 - 16, 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
Robert Mitchell, 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 Tuesday, July 15, 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. President, Dr. Sheila Mitchell, welcomed Dr. Robert Mitchell, who had been unable to attend several of the meetings due to illness.

Executive Director, Dr. Kevin Eidson, introduced and welcomed two (2) new Board of Pharmacy employees, Ms. Marilyn Walker and Ms. Donna Swanson. Ms. Walker's duties will include the new pharmacy technician applications, manufacturer, wholesale and distributor applications and researchers and dog handlers; and Ms. Swanson will process the new pharmacist graduates, score transfer, foreign graduates, reciprocal candidates and the medical service representatives. Dr. Todd Bess thanked the staff in supporting the executive director and the Board appreciates the executive director and all his hard work.

Dr. Reggie Dilliard noted approximately 94 - 97 interns for Walgreens, from across the State of Tennessee, is in attendance to observe the meeting. President Sheila Mitchell explained to the interns that the Board is comprised of pharmacists from all practices of pharmacy and the Board's responsibility is to protect public safety. President Mitchell stated the executive director is stellar in his performance and he is assisted by an able and competent staff. Dr. Todd Bess

introduced two (2) U.T. law students and three (3) pharmacist students who are participating in the Tennessee Health Interdisciplinary Program.

APPROVAL OF THE MINUTES

The minutes of the **May 5 - 6, 2008** board meeting were presented. Mrs. Monica Franklin motioned to approve the minutes; seconded by Dr. Robert Mitchell. Dr. Brenda Warren noted in the Formal Hearing for Dr. Patricia Smith and Smith's Pharmacy 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. All were in favor and the motion carried.

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

Dr. David Powell and his attorney, Mr. Jay Slobey, appeared before the Board to request the reinstatement of his pharmacist license. Executive Director, Dr. Kevin Eidson mentioned Dr. Humble has furnished a letter stating Dr. Powell is able to return to the practice of pharmacy and the conservatorship has been settled. Dr. Eidson noted on December 14, 2007, Dr. Powell's license was revoked by an Agreed Order. Dr. Powell stated he understands the importance of taking his medication regularly; submits to blood tests every two months and meets with Dr. Humble every other month. Chief legal counsel, Mrs. Alison Cleaves recommended to the Board that Dr. Powell's license be placed on a term of probation with the following conditions: (1) the psychiatrist shall submit reports to the Board as to the status of Dr. Powell's condition; (2) follow doctor's orders; (3) provide copies of his prescriptions to the Board; (4) notify the Board of a change in psychiatrist; and (5) no pharmacist-in-charge and a report be furnished quarterly from the pharmacist-in-charge where Dr. Powell is employed. Dr. Todd Bess motioned to **place Dr. Powell's license on a five (5) year term of probation with the recommendations of counsel**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

CONSENT ORDERS

Revocation of License/Registration

DAVID H. DOUGLAS, DPH
1818 E. Westwood Drive
Maryville, TN 37803

NANCY KEMP, DPH
1441 Shelton Avenue
Nashville, TN 37216

JAMES A. OWEN, DPH
1529 Herring Drive
Covington, TN 38019

DAVID M. VOORHEES, DPH
2326 Connors Creek Circle
Knoxville, TN 37932

Mrs. Alison Cleaves, chief legal counsel, presented the above referenced Consent Orders for the revocation of the pharmacist license due to chemical dependency. Dr. Todd Bess motioned to **accept** the Consent Orders; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

AMY ATCHISON, RT
1041 Harness Road
Dyersburg, TN 38024

ASHLEY ROGERS, RT
853 County Road 660
Athens, TN 37303

TEKIA SMITH, RT
P. O. Box 1643
Madison, TN 37115

PATRICIA YOUNG, RT
1012 Curdwood Boulevard
Nashville, TN 37216

Chief legal counsel, Mrs. Alison Cleaves, presented the above referenced Consent Orders for the revocation of the pharmacy technician registrations, due to theft or diversion of controlled

substances from the pharmacy. Mrs. Monica Franklin motioned to **accept** the Consent Orders; seconded by Dr. Brenda Warren. All were in favor and the motion carried.

SHARON GODSEY, RT
616 Stewart Valley Drive
Smyrna, TN 37167

Mrs. Alison Cleaves, chief legal counsel, presented a Consent Order whereas Ms. Sharon Godsey admitted to the theft of money from the pharmacy. Ms. Godsey has agreed to her pharmacy technician registration being placed on a five (5) year term of probation. Mrs. Monica Franklin motioned to **accept** the Consent Order; seconded by Dr. Brenda Warren. All were in favor and the motion carried.

Reinstatement of License

STEVE A. JONES, DPH
316 West Lake Drive
Marion, AR 72364

Chief legal counsel, Mrs. Alison Cleaves, presented a Consent Order for the Reinstatement of License for Dr. Steve Jones with a probationary term of fifteen (15) years. Mrs. Monica Franklin motioned to **accept** the Consent Order for Reinstatement; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

Violations/Unprofessional Conduct

GEORGE MILLER, DPH
430 Longspur Trail
Sevierville, TN 37876

Mrs. Alison Cleaves, chief legal counsel, presented a Consent Order whereas Dr. George Miller was in violation of Rule 1140-2-.01 (11) relevant to filling prescriptions without authorization from the prescriber. Dr. Miller's license was placed on a five (5) year term of probation. Mrs. Monica Franklin motioned to **accept** the Consent Order; seconded by Dr. Todd Bess. There was one (1) nay vote. The motion carried.

Violation of Rule 1140-2-.02 (1)

Chief legal counsel, Mrs. Alison Cleaves presented the following Consent Orders who were in violation of Rule 1140-2-.02 (1) relevant to unregistered pharmacy technicians working in the pharmacy and were assessed civil penalties accordingly.

PHARMACIST	CIVIL PENALTY
JEREMY CRAIN, DPH 116 Camp Creek Road Hendersonville, TN 37075	\$1,900

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

ROBERT A. DODD, DPH 1728 Long Hollow Pike Gallatin, TN 37066	\$ 600
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Mrs. Monica Franklin motioned to **accept** the Consent Order; seconded by Dr. Todd Bess. All were in favor and the motion carried.

WILLIAM DONALDSON, DPH 1103 Jackson Street Celina, TN 38551	\$4,600
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Mrs. Monica Franklin motioned to **accept** the Consent Order; seconded by Dr. Todd Bess. All were in favor and the motion carried.

DAVID L. DOUGLASS, DPH 3990 Lake Forest Drive Memphis, TN 38128	\$ 250
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Dr. Bettie Wilson motioned to **accept** the Consent Order; seconded by Dr. Todd Bess. All were in favor and the motion carried.

ALLEN M. LYALL, DPH 227 Brown Circle Blountville, TN 37617	\$ 400
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Mrs. Monica Franklin motioned to **accept** the Consent Order; seconded by Dr. Todd Bess. All were in favor and the motion carried.

MICHAEL MCDUFFEE, DPH 1018 Brown's Lane Gallatin, TN 37066	\$2,100
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Mrs. Monica Franklin motioned to **accept** the Consent Order; seconded by Dr. Brenda Warren. All were in favor and the motion carried.

PATREASE PRUITT, DPH **\$ 500**
100 Woodcliff Court
Smyrna, TN 37167

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

ALEXANDER RHOTON, DPH **\$1,700**
4501 Brainerd Road
Chattanooga, TN 37411

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

SAMMIE THOMPSON, DPH **\$3,100**
5012 Porter Hurt Drive
Hermitage, TN 37076

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

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

Chief legal counsel, Mrs. Alison Cleaves, presented the following pharmacist/pharmacy Consent Orders who were in violation of Rule 1140-3-.01 (1) (a) and (f) for failure to perform or offer patient counseling and were assessed a civil penalty.

PHARMACIST	CIVIL PENALTY
LESLIE L. BEHRENS, DPH 116 Camp Creek Road Hendersonville, TN 37075	\$ 250
BRIAN L. CARTER, DPH 3063 Tyler Jacob Way Knoxville, TN 37931	\$ 250
DAVID A. DARNELL, DPH 277 Shadowridge Drive Jackson, TN 38350	\$ 250
MELISSA H. GOSSETT, DPH 2319 Gunbarrel Road Chattanooga, TN 37421	\$ 250
LORI K. LEWIS, DPH 512 W. Mountainview Road Johnson City, TN 37604	\$ 250

Chief legal counsel, Mrs. Alison Cleaves, presented a Consent Order for the revocation of Dr. Mitchell Dietrich's pharmacist license for unprofessional conduct.

**MITCHELL DIETRICH, DPH
315 Chestuee Road
Cleveland, TN 37323**

Mrs. Monica Franklin motioned to **accept** the Consent Order; seconded by Dr. Bettie Wilson.

All were in favor and the motion carried.

DOCKET NO.: 17.56-098454A

Mrs. Alison Cleaves, chief legal counsel, presented an Agreed Order for a pharmacist who pled guilty to the charges of Conspiracy to Resell Prescription Drugs in 2007 and was sentenced to four (4) years of probation. The pharmacist has agreed to the following terms/conditions:

1. Respondent's license is suspended for a period of six (6) months commencing on August 1, 2008;
2. Respondent's license placed on a ten (10) year term of probation commencing on the date the Agreed Order is approved by the Board.
3. Respondent shall submit quarterly reports to the Board office from the company owner;
4. Respondent shall notify the Board office when there is a change in employment within ten (10) days before the change occurs;
5. Respondent shall notify the Board office if there is a change in the status of his criminal probation within ten (10) days before the change occurs;
6. Respondent shall not be pharmacist-in-charge during this probationary period.

Mrs. Monica Franklin motioned to **accept** the Agreed Order; seconded by Dr. Brenda Warren.

All were in favor and the motion carried.

WAIVERS

**KIMBERLY N. KITCHENS, PHARM D
4905 Madison Circle
Northport, AL 35475**

Dr. Kimberly Kitchens is requesting a waiver of Rule 1140-1-.07 (3) (b) (5) relevant to the requirement of completing a period of pharmacy internship of three hundred twenty hours (320) for the reinstatement of her pharmacist license. Dr. Kitchens has been actively practicing in the State of Alabama at the Department of Veteran Affairs Medical Center and a retail pharmacy. Dr. Todd Bess motioned to **grant** the waiver request; seconded by Dr. Larry Hill. All were in favor and the motion carried.

EDWARD K. PITTMAN, JR., DPH
Jackson Hospital
4250 Hospital Drive
Marianna, FL 32446

Dr. Edward Pittman is requesting a waiver of Rule 1140-1-.07 (3) (b) (5) relevant to the requirement of completing a period of pharmacy internship of three hundred twenty hours (320) for the reinstatement of his pharmacist license. Dr. Pittman has been actively practicing pharmacy in the State of Florida. Mrs. Monica Franklin motioned to **grant** the request; seconded by Dr. Brenda Warren. All were in favor and the motion carried.

N. SCOTT POLK, DPH
3602 Doral Drive
Little Rock, AR 72212

Dr. Scott Polk is requesting a waiver of Rule 1140-1-.07 (3) (b) (5) in regards to the requirement of completing a period of pharmacy internship of three hundred twenty hours (320) for the reinstatement of his pharmacist license. Dr. Polk has owned and operated Polk Pharmacy since April, 1992. Dr. Brenda Warren motioned to **grant** the request; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

TOM MCLAIN, DPH
Professional Care Services of West Tennessee, Inc.
1997 Hwy. 51 S.
Covington, TN 38019

Dr. Tom McLain 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 Professional Care Services of West Tennessee, Inc. in Covington and J. B. Summers Counseling Center in Somerville, Tennessee. Dr. McLain stated Professional Care Services is open Monday through Thursday from 8:15 a.m. to 5:15 p.m. and Friday from 8:15 a.m. to 2:45 p.m. The J. B. Summers Counseling Center pharmacy will be open on Wednesday. Dr. Robert Mitchell motioned to not grant the waiver until further information is received on the hours of operation for J. B. Summers. The motion dies for lack of a second. The Board tabled the request until additional information is received. Dr. McLain advised the hours of operation for J. B. Summers Counseling Center on Wednesday will be from 8:15 a.m. to 5:15 p.m. Dr. John Phillips will be at the PCS Covington pharmacy on Wednesdays. Dr. Larry Hill motioned to **grant** the PIC waiver; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

JEFF PETTIS, PHARM D
Smoky Mountain Home Infusion, Inc.
250 Middle Creek Road
Sevierville, TN 37862

Dr. Jeff Pettis 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 Reams Drug Store and Smoky Mountain Home Infusion, Inc. in Sevierville, Tennessee. The hours of operation for Reams Drugs Store are Monday through Friday from 8 a.m. to 6 p.m., Saturday from 9 a.m. to 3 p.m. and closed on Sunday. Smoky Mountain Home infusion will operate solely as an on-call service. The space allocated for Smoky Mountain consists of a 140 square foot clean room, a 75 square foot business office and a 250 square foot storage room. Dr. Larry Hill motioned to **grant** the waiver; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

AMY WRIGHT, DPH
Elderscript Services, LLC
144 S. Thomas Street #101-1
Tupelo, MS 38801

Dr. Amy Wright 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 sites at Manchester Healthcare in Manchester, TN; Crestview Nursing Home in Nashville, TN; Glen Oaks Convalescent Center in Shelbyville, TN; Overton Park Healthcare in Memphis, TN; and Imperial Manor in Madison, TN. The pharmacy locations have Med Select automated dispensing machines in their med rooms. Dr. Terry Grinder, pharmacist investigator, did not have any issues with the setup. Dr. Brenda Warren motioned to **grant** the request; seconded by Dr. Larry Hill. There was one (1) nay vote. The motion carried.

JOHN Q. BUCHHEIT, DPH
P. O. Box 447
Jamestown, TN 38556

Dr. John Buchheit is requesting a waiver of Rule 1140-5-.01 relevant to the continuing education requirement of thirty (30) ACPE hours for the renewal of his pharmacist license, which expired on June 30, 2008. Dr. Buchheit has been unable to complete the CE requirement due to his wife's illness. Dr. Larry Hill motioned to **grant the waiver for a period of six (6) months to obtain the required thirty (30) continuing pharmaceutical education units, and to extend the waiver for an additional six (6) months if Dr. Buchheit is unable to obtain the required units;** seconded by Dr. Robert Mitchell. All were in favor and the motion carried.

BEVERLY DOGGRELL, DPH
1657 Peabody Avenue
Memphis, TN 38104

Dr. Beverly Doggrell is requesting the Board's consideration for a waiver of Rule 1140-5-.01 relevant to the thirty (30) ACPE continuing pharmaceutical education hours for the renewal of her pharmacist license. Dr. Doggrell explored and studied the "Global Healing Traditions of the Amazon Rainforest" in May, 2007. Dr. Doggrell indicated the Minnesota Board of Pharmacy

accepted the thirty (30) CE hours for this program. Dr. Todd Bess motioned to grant Dr. Doggrell six (6) non-ACPE continuing education hours; seconded by Mrs. Monica Franklin. After discussion, Dr. Bess withdrew his motion and Mrs. Franklin withdrew her second. The Board requested the waiver be tabled until the Minnesota Board could be contacted. Dr. Todd Bess motioned to **approve six (6) non-ACPE hours** pending what the Minnesota Board has authorized for credit; seconded by Dr. Brenda Warren. All were in favor and the motion carried. Executive Director, Dr. Kevin Eidson, contacted and verified the number of hours granted by the Minnesota Board.

**BARRY CRAIG, DPH - RECIPROCAL CANDIDATE
COLUMBIA, TN**

Dr. Kevin Eidson, Executive Director, advised the Board Dr. Barry Craig personally appeared at the March 12 - 13, 2008 meeting to seek approval of his reciprocity application which indicated disciplinary action had been taken against his license by the Oklahoma Board of Pharmacy. The Board motioned to deny reciprocity until additional information is provided.

Appearing with Dr. Barry Craig today and advocating on his behalf are Dr. Kevin Hartman and Dr. Hunter Culbertson with the Tennessee Pharmacist Recovery Network. Dr. Craig stated he is currently working for Walgreens as an intern. The issues in Oklahoma are now resolved and his license was reinstated in January, 2008 with a term of probation. Dr. Craig discussed his timeline since his sobriety date of December 19, 2004. From January 31, 2005 - May 1, 2005 Dr. Craig was in treatment for three (3) months in Hattiesburg, Mississippi. In May, 2005 Dr. Craig moved to Tennessee to re-unite with his family and began attending TPRN meetings. On February 18, 2007, Dr. Craig returned to Oklahoma to begin the process of reinstating his pharmacist license. In January, 2008, Dr. Craig fulfilled the requirements imposed by the Board

and his license was reinstated. On January 16, 2008 Dr. Craig returned to Tennessee to begin the reciprocal process. 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 stated he has a support network in place consisting of family and church members and attends A/A meetings. After discussion, Dr. Brenda Warren motioned to grant Dr. Craig's reciprocity application with a five (5) year term of probation; seconded by Mrs. Monica Franklin. During discussion, Dr. Todd Bess discussed extending the term of probation to a period of fifteen (15) years. Dr. Warren withdrew her motion and Mrs. Franklin withdrew her second. Chief legal counsel, Mrs. Alison Cleaves noted the Oklahoma Board of Pharmacy placed his license on a term of probation until March 28, 2011; he is directed to notify all future employers that he has entered into a contract with Oklahoma Pharmacists Helping Pharmacists (OPHP). Dr. Brenda Warren motioned to **grant reciprocity with a fifteen (15) year term of probation with the following terms/conditions:**

Said probation shall remain in effect for a period of **fifteen (15) years**, from **July 15, 2008 to July 15, 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, Dr. Walawork, except in the case of an emergency or upon a proper referral from the Respondent's primary physician. The Respondent shall immediately notify the Board office in writing of the name of the Respondent's primary physician each time the Respondent changes primary physicians;
- c) The Respondent shall not obtain or attempt to obtain any prescriptions in

the respondent's name for any legend drugs, controlled substances or devices containing same from a physician other than the Respondent's primary physician or from any other health care provider, such as a nurse practitioner, physician's assistant or psychiatrist;

- d) The Respondent shall destroy any unused controlled substances prescribed under the provisions of subsection (b) no later than thirty (30) days following the completion of the prescribed course of treatment;
- e) The Respondent shall report to the Board, in writing, the ingestion of any and all legend drugs or controlled substances (a copy of the prescription will satisfy the requirement);
- f) The Respondent shall submit to random sampling of urine, blood or bodily tissues for the presence of drugs and alcohol, at the Respondent's own expense, by agents of the Board, such as the Tennessee Pharmacists Recovery Network for as long as the Respondent has an active license. In the event that the sampling indicates the presence of drugs for which the Respondent does not have a valid prescription or the sampling indicates the presence of alcohol, then formal disciplinary charges may be brought against the Respondent which could result in the revocation of the Respondent's remaining term of probation or the suspension or revocation of the Respondent's license to engage in the practice of pharmacy. Prior to such disciplinary charges being heard by the Board, the Respondent's license may be summarily suspended;
- g) The Respondent shall comply with all of the terms and conditions of the extended aftercare contract he or she entered into with Tennessee Pharmacists Recovery Network. Respondent shall return a copy of said

contract with this Consent Order to the Board office;

- h) The Respondent shall not serve as pharmacist-in-charge for a period of three (3) years, however, after a period of two (2) years, the Respondent may petition the Board for a modification of this Consent Order to remove the restrictions upon a show of good cause. The Respondent shall not work as a “floater” for a period of three (3) years, meaning that the Respondent shall not work at more than one (1) pharmacy location at the same time without the permission of the Board;

Mrs. Monica Franklin seconded the motion. Dr. Robert Mitchell abstained. The motion carried.

LEGAL REPORT/COMPLAINTS

PROPOSED RULES - PUBLIC CHAPTER 1028 TELEPHARMACY

Mrs. Alison Cleaves, chief legal counsel, advised the Board that Public Chapter 1028 of the Public Acts of 2008 created a telepharmacy pilot program in federally qualified health centers (“FQHC”) for the dispensing of medications to uninsured or underinsured income-eligible patients. This Act requires that on or after July 1, 2008, the Department of Health and the Board shall identify one (1) federally qualified health center located in the eastern grand division of the state that will voluntarily participate in the program. The Act also provides that the Board shall promulgate rules for the implementation of this pilot program and that the pilot program shall report information regarding patient satisfaction and safety to the Board and the House Health and Human Resources Committee and the Senate General Welfare Health and Human Resources Committee by February 1, 2010. Dr. Robert Mitchell motioned to await further

information before proceeding with the rulemaking process. The motion dies for lack of a second. Mrs. Alison Cleaves, chief legal counsel, advised the Board to review the public necessity rules for discussion.

**PUBLIC CHAPTER 1035
TAMPER-RESISTANT PRESCRIPTION PADS**

Mrs. Alison Cleaves, chief legal counsel, advised Public Chapter 1035 was signed by the Governor on May 28, 2008 relative to the safeguarding and monitoring of prescription drugs. The provisions of this Act with respect to TennCare prescriptions shall take effect October 1, 2008 and non-TennCare related prescriptions shall take effect July 1, 2009. The Department of Health, Health Related Boards, has established a committee to develop a format for the state law that requires all prescriptions by July 1, 2009 to be on tamper-resistant prescription pads. Dr. Brenda Warren motioned to nominate Dr. Todd Bess to serve on the committee; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

APPROVAL OF NAPLEX CANDIDATES

BENJAMIN MAY
106 Battlefield Drive
Franklin, TN 37064

Dr. Kevin Eidson, Executive Director, stated Mr. Benjamin May, a NAPLEX candidate, had marked "yes" to a violation of being convicted of a felony or misdemeanor offense. In October, 2004, Mr. May was charged with being a minor in possession of alcohol. Mr. May completed a course and has paid all court costs. Mrs. Monica Franklin motioned to **allow Mr. May to proceed with the licensing process**; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

DANIEL RACKHAM
923 Ashbrooke Way #932
Knoxville, TN 37923

Executive Director, Dr. Kevin Eidson, presented a Score Transfer application on behalf of Mr. Daniel Rackham in which he marked “yes” to being convicted of a felony or misdemeanor offense for criminal mischief and a minor in possession in December, 2003. In June, 2004, the Circuit Court of the State of Oregon, County of Benton, dismissed the criminal mischief offense. Dr. Robert Mitchell motioned to deny the application; seconded by Dr. Todd Bess. After discussion, Dr. Mitchell withdrew his motion. The motion did not carry. Mrs. Monica Franklin motioned to **grant the processing of the application based upon the results of a criminal background check being performed**; seconded by Dr. Brenda Warren. All were in favor and the motion carried.

APPROVAL OF RECIPROCITY CANDIDATES

QUINN C. CUSSON, DPH
9346 Northcote Avenue
St. John, IN 46373

Executive Director, Dr. Kevin Eidson, presented Dr. Quinn Cusson’s reciprocity application to the Board in which he answered “yes” to being 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. Cusson received a DUI in Anchorage, Alaska on October 1, 2000, while serving in the United States Army, pled guilty and paid court fines. Dr. Cusson’s driver’s license was revoked for three (3) months. The United States Army issued a General Officer Letter of Reprimand which was placed in his official file for three (3) years. A Letter of Verification indicated no disciplinary action was taken by the Oregon Board of Pharmacy. Dr. Todd Bess motioned to **grant** reciprocity; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

JERRY GILLICK, DPH
7550 Loch Fyne Lane
Colorado Springs, CO 80908

Dr. Kevin Eidson, Executive Director, advised the Board Dr. Jerry Gillick indicated “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?” In November, 2001, Dr. Gillick was fined a \$500 civil penalty by the Arizona Board of Pharmacy for failure to use child safety caps on filled prescriptions. Mrs. Monica Franklin motioned to **grant** reciprocity; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

SHELLIE N. HENSLEY, DPH
13170 Central Avenue, SE, Ste. B #146
Albuquerque, NM 87123

Dr. Kevin Eidson, Executive Director, presented Dr. Shellie Hensley’s reciprocity application to the Board. Dr. Hensley answered “no” to the question, “Have you ever been charged or convicted of a felony or misdemeanor whether or not sentence was imposed, suspended, expunged, or whether you were pardoned from any such offense?”, and noted please see attachmet. Dr. Hensley stated she was not a pharmacist at the time of the DWI in 1993, when she received a DWI in New Mexico. Dr. Hensley fulfilled the requirements imposed by the Bernalillo County Metropolitan Court. Dr. Bettie Wilson motioned to **grant** reciprocity; seconded by Dr. Larry Hill. All were in favor and the motion carried.

DEBRA SLUSHER-BROCK, DPH
P. O. Box 1239
Pineville, KY 40977

Executive Director, Dr. Kevin Eidson, noted Dr. Debra Slusher-Brock had marked “yes” to, “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. Slusher-Brock indicated in August, 1999, she failed to complete an HIV CE course and was fined \$100 by the Kentucky Board of Pharmacy. In December, 1995, Dr. Slusher-Brock entered into an Agreed Order with the Kentucky Board for filling a fraudulent

prescription for phentermine without authorization from a prescriber. Dr. Slusher-Brock was fined a \$3,000 civil penalty and her license was suspended for ninety (90) days and placed on a two (2) year term of probation. Mrs. Monica Franklin motioned to **grant** reciprocity; seconded by Dr. Todd Bess. All were in favor and the motion carried.

JOSEPH UDEAJA, PHARM D
1168 William Penn Drive
Bensalem, PA 19020

Dr. Kevin Eidson, Executive Director, stated Dr. Joseph Udeaja had answered “no” to the questions asked under the Professional History portion of the reciprocity application that was submitted to NABP. Dr. Udeaja stated he discovered through a criminal background check, he had been charged with a misdemeanor offense resulting from a car accident and a verbal exchange of words with an ex-wife. The cases were dismissed by the court without any trial or entry of a plea of any kind and the response to NABP was based on the understanding that since the cases were dismissed, it would not be on Dr. Udeaja’s record. Dr. Todd Bess motioned to **approve** the reciprocity application; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

APPROVAL OF PHARMACY TECHNICIANS

MITCHELL ANDERSON
356 Old Lexington Highway
Parsons, TN 38363

Mrs. Alison Cleaves, chief legal counsel, presented Mr. Mitchell Anderson’s pharmacy technician registration in which he answered “yes” to being convicted of a misdemeanor offense. Mr. Anderson stated he did not have a copy of the final court documents and would have to pay to obtain these records. Mrs. Monica Franklin motioned to **deny the registration**

until Mr. Anderson can provide the necessary documents; seconded by Dr. Todd Bess. All were in favor and the motion carried.

DEBRA O. BLEA
1165 Virgil Beaty Road
Clarkrange, TN 38553

Chief legal counsel, Mrs. Alison Cleaves, presented Ms. Debra Blea's pharmacy technician registration in which she had marked "yes" to being convicted of a misdemeanor offense for a DUI - 1st offense in May 16, 2006. Ms. Blea received a sentence of 11 months and 29 days, which was suspended all but 24 hours jail time and 24 hours trash pick up and assessed a \$350 fine. Ms. Blea has fulfilled the requirements imposed by the courts. Dr. Todd Bess motioned to **approve** the registration; seconded by Dr. Brenda Warren. All were in favor and the motion carried.

AARON BUTCHER
536 Singer Drive
Madison, TN 37115

Mrs. Alison Cleaves, chief legal counsel, advised the Board Mr. Aaron Butcher had answered "yes" to being convicted of a misdemeanor offense on his pharmacy technician registration for a DUI 1st Offense on August 23, 2006, which was previously denied at the March 12 - 13, 2008 meeting. Dr. Mark Sullivan, Director of Inpatient Pharmacy Operations at Vanderbilt University Hospital furnished a letter of recommendation on behalf of Mr. Butcher. In 2005, Mr. Butcher received an honorable discharge from the U. S. Army. Mrs. Monica Franklin motioned to deny the registration. The motion dies for lack of a second. Dr. Todd Bess motioned to **approve** the registration; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

VIOLATION OF RULE 1140-2-.02 (1) - VANDERBILT UNIVERSITY HOSPITAL

Mrs. Monica Franklin motioned to assess a civil penalty of \$500 to Vanderbilt University Hospital Pharmacy for allowing an unregistered pharmacy technician to work in the pharmacy; seconded by Dr. Brenda Warren. All were in favor and the motion carried.

ROCHELLE CONNORS
65540 Gallan Drive #172
Memphis, TN 38134

Dr. Kevin Eidson, Executive Director, advised in November, 2006, Ms. Rochelle Connors was convicted of a DUI offense in Maine and the Board denied the pharmacy technician registration at the March 12 - 13, 2008 meeting. Ms. Connors is appearing before the Board, along with Dr. Barry Williams, a TPRN advocate, to ask reconsideration of the Board's previous decision. Ms. Connors provided a letter in which she had an alcohol and substance abuse evaluation conducted on May 5, 2008, and there was no evidence of a substance abuse problem. Dr. Williams Humphrey, Director of Pharmacy Operations at St. Jude Children's Research Hospital, stated Ms. Connors is an excellent employee who possesses many skills, abilities and work ethics in a highly specialized practice setting. Dr. Todd Bess motioned to **allow Ms. Connors to obtain her pharmacy technician registration**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

ALBERT DENNIS
613 Hollandale Road
LaVergne, TN 37086

Mrs. Alison Cleaves, chief legal counsel, noted Mr. Albert Dennis had stated "yes" on his pharmacy technician registration to being convicted of a misdemeanor offense for being in a gambling establishment and received a citation in October, 1997. Mr. Dennis was fined \$50 and given thirty (30) days which was suspended. Mrs. Monica Franklin motioned to **approve** the registration; seconded by Dr. Todd Bess. All were in favor and the motion carried.

KRISTYN HEIM
1061 Todd Preis Drive
Nashville, TN 38221

Chief legal counsel, Mrs. Alison Cleaves, advised the Board Ms. Kristyn Heim acknowledged being convicted of a misdemeanor in May, 2003, for a DUI offense on her pharmacy technician registration. Ms. Heim paid a \$350 fine and was placed on probation for 11 months and 29

days, which was completed on May 14, 2004. Mrs. Monica Franklin motioned to **approve** the registration; seconded by Dr. Todd Bess. All were in favor and the motion carried.

MONTY F. HILL
1100 Sheraton Drive
Cookeville, TN 38501

Mrs. Alison Cleaves, chief legal counsel, presented Mr. Monty Hill's pharmacy technician registration in which he responded "yes" to being convicted of a misdemeanor for a DUI in 1977. Mr. Hill paid a fine of \$380; received a sentence of 11 months and 29 days with all but 48 hours suspended, and his driver's license was suspended for one (1) year. Mrs. Monica Franklin motioned to **grant** the registration; seconded by Dr. Todd Bess. All were in favor and the motion carried.

RICHARD JOHNSON
116 Lynwood Lane
Gray, TN 37615

Chief legal counsel, Mrs. Alison Cleaves, advised Mr. Richard Johnson had marked "yes" to the questions, "Are there any charges pending against you?" and "Charges of any kind in another state?" on his pharmacy technician registration. On April 25, 2008, Mr. Johnson was arrested for sexual battery or sexual abuse and charges are pending. Dr. Robert Mitchell motioned to **deny** the technician registration; seconded by Dr. Todd Bess. All were in favor and the motion carried.

AARON NUTTER
8843 Gentle Mist Circle
Ooltewah, TN 37363

Mrs. Alison Cleaves, chief legal counsel, informed the Board that Mr. Aaron Nutter had checked "yes" to "Have you been convicted of a misdemeanor offense?" and "Are there any charges pending against you?" - DUI. In November, 1996, Mr. Nutter had a DUI conviction for drinking

and driving under the age of 21. Mrs. Cleaves noted Mr. Nutter has fulfilled the obligations imposed by the court. Dr. Todd Bess motioned to **approve** the registration; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

TAQUITA TAYLOR
4536 Windchime Cove
Memphis, TN 38128

Chief legal counsel, Mrs. Alison Cleaves, presented Ms. Taquita Taylor's pharmacy technician registration in which Ms. Taylor acknowledged being convicted of a misdemeanor offense. In November, 1999, Ms. Taylor was convicted of a DUI plus possession of a controlled substance, paid a fine of \$350, placed on supervised probation for 11 months 25 days, and required to attend an Alcohol Safety School. In August, 2003 Ms. Taylor was convicted of a DUI and reckless driving, fined \$1,000 and placed on probation for 11/29. Dr. Todd Bess motioned to **deny** the registration; seconded by Dr. Robert Mitchell. All were in favor and the motion carried.

EDDIE TYUS
4625 Skye Drive #103
Memphis, TN 38125

Mrs. Alison Cleaves, chief legal counsel, presented Mr. Eddie Tyus' pharmacy technician registration to the Board. Mr. Tyus had checked "yes" on the application for being convicted of a misdemeanor offense. In November 19, 2001, Mr. Tyus was charged with under age consumption of an alcoholic beverage and was fined \$25. Mrs. Monica Franklin motioned to **grant** the registration; seconded by Dr. Todd Bess. There was one (1) nay vote. The motion carried.

RYAN FLYNN
124 Lancaster Drive
Medina, TN 38355

Chief legal counsel, Mrs. Alison Cleaves, advised Mr. Ryan Flynn had marked "yes" to being convicted of a misdemeanor offense on his pharmacy technician registration. In June, 2005, Mr. Flynn was convicted in the General Sessions Courts of Madison County of a DUI, paid a

\$350 fine plus probation for 11 months 29 days plus convicted of speeding. In December, 2007, Mr. Flynn was convicted of a second DUI. Dr. Todd Bess motioned to **deny** the registration; seconded by Dr. Larry Hill. All were in favor and the motion carried.

COMPLAINTS

1. Case No.: L08-PHR-RBS-200800108

Complainant alleges that the Respondent mistakenly filled a prescription for him for Hydrocodone was not authorized by his physician. The prescription was filled in the Complainant's name, but never picked up. Because this prescription now appears on his patient print-out and the pharmacy has failed to correct the error, it has placed his pain management treatment in jeopardy.

PIC responded to the complaint stating that the incorrect prescription was keyed into the pharmacy computer under the Complainant's name (similar name, similar date of birth). The prescription information was then sent to the controlled substance monitoring database. When the error was brought to the PIC's attention, she contacted the Complainant's physician and the PIC explained the error to him. Complainant's physician documented this in the patient's profile and indicated it was not a problem. Pharmacy supervisor also contacted the doctor's office and was told the same thing.

Prior complaints:

PIC: None

Pharmacy: 1999, customer service, dismissed; 2001, medication misfills, dismissed.

Recommendation: Dismiss

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

2. Case No.: L08-PHR-RBS-200800120

Complaint generated from a May 27, 2008 compliance inspection in which BOP investigator found that a unlicensed technician had been working at the pharmacy for two (2) months.

Prior complaints:

PIC: None

Pharmacy: 1992, expired medicine, closed; 1995, used unsanitary methods, closed

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

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

3. Case No.: L08-PHR-RBS-200800116

Complainant (patient caregiver) alleges that the patient's prescription for Oxycodone was mistakenly filled with Metoclopramide. Complainant alleges that she called the hospice nurse on February 20, 2008 who was treating the patient and the nurse told the caregiver not to give

the patient either pill, but to give her the fast-acting Oxycodone (liquid). Complainant indicates the patient was in pain because she was not given the correct medication. The patient expired the next day, February 21, 2008.

PIC responded to the complaint stating that there was not a misfill. In terms of a time line, on February 19, 2008, Oxycodone HCL 5mg and Metoclopramide 10mg tablets were dispensed through the automated dispensing system for next day delivery. On February 20, 2008, Oxycodone HCL CR 10mg tablets were dispensed through the automated delivery system for next day delivery. Medications were delivered to the patient on February 20, 2008, but then were returned on the 21st because the patient passed away.

Prior complaints:

PIC: None

Pharmacy: Open complaint

Recommendation: Dismiss

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

4. Case No.: L08-PHR-RBS-200800121

Complainant alleges that the pharmacist was very rude to him, called him a drug addict, and spoke badly about his doctor.

Respondent admits that he was irritated because the Complainant wanted his Methadone prescription filled close to store closing hours and he was trying to close the store up. Respondent indicated that he did exchange words with the Complainant and apologized to him later. Respondent denies calling the Complainant a drug addict or speaking ill of the Complainant's doctor. Respondent does admit that he hesitated filled the Methadone prescription because the strength was written incorrectly and the physician's office was unavailable at the late hour.

Prior complaints:

Pharmacy: None

PIC: None

Recommendation: Dismiss

Dr. Larry Hill motioned to **dismiss**, seconded by Dr. Todd Bess. All were in favor and the motion carried.

5. Case No.: L08-PHR-RBS- 200800137

Respondent, pharmacy technician, admitted to the theft of Hydrocodone from the pharmacy where she was employed.

Recommendation: Authorize formal hearing (revocation)

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

6. Case No.: L08-PHR-RBS-200800138

Respondent, pharmacy technician, admitted to the theft of Hydrocodone from the pharmacy where she was employed.

Recommendation: Authorize formal hearing (revocation)

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

7. Case No.: L08-PHR-RBS-200800102

Complaint alleges that the Respondent, pharmacist, was disciplined (license indefinitely suspended) by another state for violating that state's terms of probation. Respondent failed to take a drug test before he started new employment. As a result, Respondent was suspended from their PRN program. Respondent states that he was not notified to take a drug test, but only to notify them if he worked, which he did do. Respondent states that he began to experience failing health (diagnosed with prostate cancer in 2003) and told the other state's board that he could not comply with the terms of probation. Board suspended the Respondent's license.

Prior complaints:

*1999- chemical dependency, revocation and the reinstatement with five (5) years probation;
2007-unprofessional conduct, dismissed*

Recommendation: Authorize formal

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

8. Case No.: L08-PHR-RBS-200800125

May 29, 2008 compliance inspection revealed that an unregistered technician was working at the pharmacy. Technician's registration expired on December 31, 2007. Technician indicated that she did not get a renewal notice, but tried to renew online, but was not able to do so. Board office did not have a current address on file. Investigator told the technician to send in the renewal as soon as possible. PIC responded to the complaint indicating that having the technician work with an expired registration was an oversight on his part and that in an effort to prevent this from happening in the future, he will do a periodic check of all registrations to ensure that they are current. Since the filing of this complaint, the technician has renewed.

Prior complaints:

*Pharmacy: 1995, inspection deficiencies
PIC: None*

Recommendation: Authorize formal hearing (\$300.00 civil penalty to PIC)

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

9. Case No.: L08-PHR-RBS-200800126

Complainant alleges that the Respondent, technician, was observed stating controlled substances from the pharmacy by pharmacy staff.

Recommendation: Authorize formal hearing (revocation)

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

10. Case No.: L08-PHR-RBS-200800123

Complainant alleges that the Respondent was unprofessional when she tried to explain to the Respondent pharmacist that the pharmacy had been paid twice for her prescription (once from her and once from the insurance company).

Respondent denies the allegations and states that he attempted to explain to the Complainant that because she had a primary and secondary insurance, it has to be billed as a "split-bill" prescription. Both insurances were rejecting the claim and the Respondent told the Complainant to call the insurance company and that he could correct the problem. Respondent does recall another meeting with the Complainant in which she was angry because her insurance was not resolved. Respondent states that he tried to rebill her insurance, but it was only rejected. Since that time, Respondent researched the situation and Respondent has since learned that there is medi-gap coverage insurance and learned how to process the Complainant's insurance.

Prior complaints:

Pharmacy: None

PIC: None

Recommendation: Dismiss

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

11. Case No.: L08-PHR-RBS-200800113

Respondent, a pharmacist, surrendered his license in another state because of chemical impairment. Respondent had his license reinstated on or about March 31, 2008 with numerous terms and conditions.

Prior complaints: None

Recommendation: Authorize formal hearing (mirror other state's order)

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

12. Case No.: L08-PHR-RBS-200706506

Respondent, pharmacy technician, was terminated from the pharmacy for unlawful activity that including using the company credit card to make purchases for herself.

Prior complaints: None

Recommendation: Authorize formal hearing

Dr. Larry Hill motioned to **give counsel the latitude to take appropriate action**; seconded by Mrs. Monica Franklin. Dr. Brenda Warren recused from voting. The motion carried.

13. Case No.: L07-PHR-RBS-200706507

Respondent, pharmacy technician, was terminated from the pharmacy for theft and diversion of controlled substances.

Prior complaints: None

Recommendation: Authorize formal hearing (revocation)

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

14. Case No.: L08-PHR-RBS-200800110

Respondent, pharmacy technician, admitted to taking Hydrocodone from the pharmacy without a prescription.

Prior complaints:

Recommendation: Authorize formal hearing (revocation)

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

15. Case No.: L08-PHR-RBS-200800098

Complainant (physician) alleges that the Respondent, pharmacist was unprofessional in his conduct toward him. Complainant alleges that the pharmacist called the physician's office demanding to speak to him, but would not tell the physician's staff about the nature of his phone call. Complainant claims that the Respondent did speak to him, but would not give him any identifying information such as the name of the patient or the name of the drug. Complainant alleges that the Respondent would only say that he would no longer accept referrals from him and that at the time of the writing of this letter, he still does not know the Respondent's concerns.

Respondent indicates that he contacted the Complainant's office to inquire about Hydrocodone prescription. The prescription was left on the pharmacy voicemail, but the technician informed the Respondent that it was too early to fill the prescription. Patient called shortly thereafter and indicated that his dentist measured his pain and that he needed more medication. Respondent told him that it was too early and patient indicated that he would pay in cash. Respondent became suspicious and called another nearby pharmacy; pharmacy staff there indicated that the patient had come in with a forged Lortab prescription a few days earlier. This caused the Respondent to contact the Complainant's office to verify the Hydrocodone prescription. The nurse answered and told the Respondent the dosage amount on the patient's prescription which was different than what was called in. Respondent asked to speak to the Complainant directly,

but was told he was out of town. Complainant then calls back and asked Respondent why he was not consulted on the prescription and seemed angry that Respondent was questioning the validity of the Rx.

Prior complaints: None

Recommendation: Dismiss

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

16. Case No.: L08-PHR-RBS-200708075

Complainant alleges that the Respondent, pharmacist, is operating an internet pharmacy that is unlicensed. A flyer was circulated indicated that Pharmacy A (unlicensed) was providing pharmaceutical services. Investigator made phone calls to the name and number on the flyer and it was traced back to an individual who does deliveries for a licensed pharmacy. The unlicensed individual indicated to the investigator that all pharmaceutical services were provided by the licensed pharmacy. Investigator told the unlicensed individual to stop distributing the flyers with an unlicensed pharmacy's name on it. Investigator also spoke to the PIC at the licensed pharmacy who indicated that she was unaware of her deliveryman's conduct.

Prior complaints: None

Recommendation: Cease and Desist letter to the unlicensed individual and copy the PIC at the licensed pharmacy.

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

17. Case No.: L08-PHR-RBS-200708031

Complainant alleges that the Respondent, pharmacist, admitted to forging prescriptions in another person's name and then keeping the medication for himself. Respondent took the following drugs from the pharmacy without a prescription: forging prescriptions in another person's name and then keeping the medication for himself. Respondent took the following drugs from the pharmacy without a prescription: Hydrocodone 10/325, 2481 tablets and 10 bottles of Tramadol 50mg.

*Prior complaints:
1994, CII Shortage,
1994, Chemical Impairment,
2006, Medication Error, Letter of Warning*

Recommendation: Authorize formal hearing (revocation)

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

18. Case No.: L08-PHR-RBS-200708015

Respondent, a pharmacist, self-reported that he was convicted of a DUI on September 25, 2007.

Prior complaints: None

Recommendation: Place conviction in the file pursuant to Board policy

Dr. Larry Hill motioned to **accept counsel's recommendation**; seconded by Dr. Bettie Wilson. There was one (1) nay vote. The motion carried.

19. Case No.: L08-PHR-RBS-200800140

Respondent, a pharmacist, self-reported that she was disciplined by another state through the imposition of a \$1,000 civil penalty for administering a Fluarix vaccine to an 11 year old child when it should only be administered to those over 18 years of age.

Prior complaints: None

Recommendation: Authorize formal hearing (mirror other state's order)

Mrs. Monica Franklin motioned to **issue a Letter of Warning**; seconded by Dr. Brenda Warren. All were in favor and the motion carried.

20. Case No.: L08-PHR-RBS-200800124

Complainant, physician, alleges that the Respondent, pharmacist, refused to fill his prescriptions because of rumors and innuendos about how the Complainant treats his patients and his prescription practices. Respondent states that she has refused to fill the Complainant's prescriptions because she is uncomfortable with his prescribing practices for pain management. The Respondent's reluctance in filling the Complainant's prescriptions is based on the following: the Complainant's patients would often travel 50 miles to see the Complainant; it was her belief and understanding that the Complainant was being investigated by the TBI; that one of the Complainant's patients felt uncomfortable having the prescriptions filled written by the Complainant; the Respondent was not comfortable with the pain medication dosage increases prescribed by the Complainant; a patient told the Respondent that one of the Complainant's staff approached the patient and offered to buy the prescription from the patient.

Prior complaints: None

Recommendation: Dismiss

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

21. Case No.: L08-PHR-RBS-200800071

Complainant alleges that her prescription for Cardura was misfilled with Coumadin. Patient consumed the incorrect medication.

PIC and dispensing pharmacist admit that the misfill occurred and it is blamed on human error in entering the prescription incorrectly. This was a new prescription and in the DPh response, he indicates that only an offer to counsel was made.

Prior complaints:

1999- medication error, closed;

1999- pharmacist questioned doctor's orders, dismissed;

2006- medication error, \$100 civil penalty to the DPh, LOI to the PIC, and \$500 civil penalty to the pharmacy

Recommendation: Authorize formal hearing (\$500 civil penalty to DPh; \$500.00 to PIC and \$1,000 to pharmacy)

Dr. Brenda Warren motioned to issue a **Letter of Warning to the dispensing pharmacist with a civil penalty of \$250 and attend a CE course on Medication Error Prevention; to issue the same recommendations to the PIC; and a \$1,000 civil penalty to the pharmacy;** seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

22. Case No.: L08-PHR-RBS-200800112

Upon an April 28, 2008 periodic compliance inspection, investigator noted that two (2) pharmacy technicians had been working at the pharmacy with expired registrations. One technician was working for approximately two (2) months unregistered and the other technician was working for approximately one (1) month while unregistered.

Prior complaints:

Pharmacy: 2006- medication error, dismissed;

PIC: 2002-

2004- duplication of prescription costs, dismissed

2006- medication error, dismissed.

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

Mrs. Monica Franklin 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-200800115

Complainant alleges that the Respondent, facility was operating as a pharmacy without a license. Investigator visited the facility and found that there are no controlled substances and no prescription drugs at this facility. There was no activity at the facility which will remain locked until a full-time pharmacist is hired. A pharmacist was hired to open the pharmacy, but it never got off the ground. Facility is hoping to be fully operational in a couple of months as a mail order pharmacy.

Prior complaints: None

Recommendation: C & D Letter letting them know that they cannot operate as a pharmacy without a license

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

24. Case No.: L08-PHR-RBS-200800122

Complaint was initiated based on an advertisement by a physician stating that he had an in-house pharmacy at his new facility. Respondent states that he has no plans to start a pharmacy in his practice and he apologizes for any confusion the advertisement may have caused.

Prior complaints: None

Recommendation: C & D Letter

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

25. Case No.: L08-PHR-200708019

Respondent, a formerly registered pharmacy technician reported to the Board that his employment was terminated when he tested positive for marijuana. A review of his licensure record indicates that his registration expired on November 30, 2007 and he has not renewed.

Prior complaints: None

Recommendation: Close and reopen in case of reapplication

Dr. Todd Bess 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-200800082

Complainant alleges that the pharmacy does not allow its pharmacists internet access to the controlled substance monitoring database. Pharmacy responded stating that because it is not a requirement that each pharmacy provide internet access to the database, they allow the pharmacists to submit requests for patient information by filling out an electronic request form or submitting a faxed request to the Board office. Pharmacy stated that internet access to the database was a potential security risk to the dispensing system and confidential patient information.

Prior complaints:

Pharmacy: 2003- Medication Error, Dismissed

Recommendation: Discuss

Mrs. Monica Franklin motioned to **issue a Letter of Instruction to the licensee plus send a carbon copy to the pharmacy manager and ask how they intend to comply with the law and report back to the Board**; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

27. Case No.: L07-PHR-RBS-200708000

Complainant alleges that the PIC was engaging in insurance fraud, reselling medication brought back from cancer patients, writing prescriptions for people who had not been to the doctor,

refilling expired prescriptions or prescriptions for controlled substances that did not have any refills authorized, failing to report his controlled substance inventory, and allowing employees to have keys to the pharmacy.

Similar allegations were considered in another complaint against the Respondent. PIC states that no one, other than he, has a key to the pharmacy. He does state that often his bookkeeper would come into the pharmacy with him to help him audit the daily reports. Respondent stated that he did estimate the inventory for 2005 and that a patient brought back some bottles of Neurontin and told the PIC to give them to someone and they gave them to another person at no charge. PIC denies the allegations of insurance fraud or dispensing medications without a prescription.

Prior complaints:

Pharmacy:

945721- Patient Counseling,

2007- Security Issues, open

2007- Rx Authorization, open

Recommendation: Letter of Warning about not re-dispensing medication that has left the pharmacy and then been returned.

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

28. Case No.: L08-PHR-RBS-200800141

Complaint generated from an inspection based on information that the pharmacy was missing controlled substances. When investigators arrived, they found out that the pharmacy had not had a PIC since March 8, 2008 and that the pharmacy had not reported the recent PIC changes to the Board. Investigators called corporate headquarters and got them to appoint a PIC while they were still in the pharmacy. The new PIC performed an inventory and it did not show a loss of controlled substances.

Prior complaints: None

Recommendation: Letter of Warning about PIC requirements

Dr. Robert Mitchell motioned to accept counsel's recommendation; seconded by Dr. Larry Hill. The motion did not carry. Dr. Todd Bess motioned to **authorize a formal hearing/\$300 civil penalty to the pharmacy**. Mrs. Monica Franklin seconded the motion. All were in favor and the motion carried.

29. Case No.: L07-PHR-RBS-200705691

Complainant alleges that there were significant shortages of controlled substances at the pharmacy that may have been caused by theft and diversion. Investigator conducted an audit which revealed that from March 7, 2007 to March 26, 2007, there was a total loss of over 16,000 dosage units of various controlled substances. An audit from March 13, 2007 to March 26, 2007 did not show any further losses. The investigator could not attribute the losses to any one individual at the pharmacy.

Prior complaints: None

Recommendation: Dismiss

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

30. Case No.: L08-PHR-RBS-200800073

Complainant alleges that the pharmacy filled her prescription for Lotrel 5-10mg with the brand name when the generic was available for a period of eight (8) months. PIC responded. Although he has not been the PIC at this location since September, 2007, he checked with the new PIC and the District Manager who told him that the Complainant was not dispensed the incorrect medication. Complainant was receiving the brand name drug and when the generic came out, they attempted to fill the Complainant's prescription with the generic, but her insurance would not cover it. Pharmacy staff then continued to dispense the brand name until the Complainant asked for the generic. Pharmacy then reimbursed the Complainant to difference in the two (2) prescription costs back to when generic became available.

Prior complaints:

Pharmacy and PIC: 2006- Lack of Patient Counseling, \$500 civil penalty against pharmacy, \$100 civil penalty against DPh and LOI to PIC

Recommendation: Dismiss

Dr. Robert Mitchell 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-200800018

Complainant alleges that a pharmacy is being operated out of a physician's office. Investigator determined that the doctor was not operating a pharmacy, but a dispensary for his patients only.

Prior complaints: None

Recommendation: Dismiss

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

32. Case No.: L08-PHR-RBS-200800085

This case is being re-presented to you. At the last Board meeting, I reported that the Respondent, pharmacist, generated a prescription for Hydrocodone, 30 tablets for an employee of the pharmacy. Respondent also generated three (3) prescriptions for another pharmacy employee for Z-Pack, Gentex LA#20, and a nasal spray. At the last Board meeting, the Board voted to have the Respondent get a treatment evaluation and then I would come back with the results of that evaluation. Respondent's evaluation did not show signs of substance abuse, but she was diagnosed with depression. The recommendations from the evaluation are that the

Respondent should seek medication management with a psychiatrist or other licensed professional. Respondent should continue with individual therapy to address co-dependency issues and the negative effect of co-dependency in the Respondent's life.

Prior complaints: None

Recommendation: Authorize a formal hearing (two (2) year term of probation with the following conditions: Respondent shall abide by all laws and rules relating to the practice of pharmacy and to drugs; and Respondent shall continue to attend sessions with psychiatrist or other licensed health care professional to address the Respondent's issues of co-dependency and comply with any and all treatment recommendations

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

33. Case No.: L08-PHR-RBS-200800069

Complainant alleges that the pediatric doctor's office is operating a pharmacy at the facility without a pharmacy license. Complainant indicated that he received a transferred prescription from the doctor's office. Investigator visited the facility and observed that the medications that were there were typical of what would be used for pediatric patients. Investigator also observed that there was a sign about the medication room that said "pharmacy". The two (2) doctors at the facility supervise the two (2) individuals who administer the medication to the patients. The doctors indicated that medication is only given to the patients that are seen at the doctor's office.

Prior complaints:

Recommendation: Cease and Desist Letter reminding them to remove the designation of "pharmacy" from the facility and that while they can give medications to their own patients, they cannot transfer prescriptions to another pharmacy or accept transferred prescriptions from another pharmacy.

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

34. Case No.: L07-PHR-RBS-200708044

Respondent, pharmacy technician was terminated for theft and diversion of controlled substances from the pharmacy. Respondent's registration expired on December 31, 2007.

Prior complaints: None

Recommendation: Close and re-open upon reapplication

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

35. Case No.: L08-PHR-RBS-200800083

Complainant alleges that three (3) store locations have been refilling prescriptions for a single patient too early.

Store #1: Investigator visited and obtained responses from Store #1. The PIC at Store #1 stated that there no pattern of early refills and the investigator substantiated same. Investigator found that only two (2) controlled substance prescriptions were filled for the named patient. On September 6, 2007, 30 Alprazolam 2mg was filled two (2) days before the prescription was scheduled to run out. On the same day, Butorphanol Nasal Spray was filled 38 days past due.

Store #2: PIC states that they will not fill controlled substance prescriptions until two (2) days before the medication runs out. Investigator found differently. Investigator found that the pharmacy filled a prescription for Alprazolam 2mg for the named patient and discovered that it was refilled two (2) days early on four (4) occasions, three (3) days early on one (1) occasion, and six (6) days early on another occasion. There was also a duplicate (possibly an oversight) of a three (3) day early refill covering an additional thirty (30) day supply being dispensed thirty (30) days early. By calculating the early refills, it appears from the period of time from April 23, 2007 to November 27, 2007, the patient had been dispensed a fifty-two (52) day supply beyond what should have been dispensed. Investigator also found that Amitriptyline was refilled early ten (10) times between April 20, 2007 and January 10, 2008. Six (6) of these were seven (7) days early; one (1) of theses was eight (8) days early; two (2) of these were six (6) days early and one (1) was one (1) day early.

Store #3: Investigator found that there was one (1) early refill of Alprazolam for the named patient.

Prior complaints:

PIC:

949218-

200102440- Dispensing Out of Date Medication,

200206542- Medication Shortage,

2002077461- Incorrect prescription, Dismissed

Recommendation: Letters of Warning to the PIC's at Pharmacy #1 and #3. Pharmacy #2 to authorize formal hearing (\$500.00 civil penalty to all dispensing DPh's at pharmacy #2 for failure to properly perform a DUR)

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

36. Case No.: L05-PHR-RBS-200421675

Complainant against Respondent, a pharmacist, took a bottle from the pharmacy shelf and subsequently placed it in his pocket and later into his bag; this was where the Alprazolam was stocked which was caught on CCTV tape. DEA 106 showed a shortage of Alprazolam 1mg, 1,800 tablets. Respondent denied taking a bottle of Alprazolam from the pharmacy shelf. Respondent did state that he took one (1) Alprazolam 0.5mg from the pharmacy shelf and then brought it a prescription for it the next day. Investigator pulled all of the original prescriptions from all of the pharmacies where the Respondent worked and all prescriptions appeared to be

authentic since they are in the physician's handwriting. The CCTV tape supplied by loss prevention was misplaced and they did not retain a copy.

Prior complaints: None

Recommendation: Dismiss

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

37. Case No.: L07-PHR-RBS-200708045 (See #31)***

Complainant alleges that the Respondent, technician, took controlled substances from the pharmacy with a prescription. Respondent was employed at the pharmacy in number 31 on this legal report and suspected of causing the shortages in controlled substances, but the losses could not be linked to the Respondent. Respondent registration has since expired and she is outside the grace period to renew.

Prior complaints: None

Recommendation: Close and flag in case of reapplication

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

38. Case No.: L07-PHR-RBS-200705936

Complainant alleges that the Respondent, pharmacy technician took controlled substances from the pharmacy without a prescription. Respondent's registration expired and she is outside the grace period in which to renew.

Prior complaints: None

Recommendation: Close and flag in case of reapplication

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

39. Case No.: L08-PHR-RBS-200800084

Respondent, pharmacist, completed rehab for Amitriptyline abuse. Respondent is currently under the care of and doctor for treatment of her ADHD and is under contract with the TPRN. Respondent is currently being treated with Strattera in lower doses than what she was previously prescribed and Lexapro for her ADHD. The doctor indicated to the investigator that the Respondent's treatment is going very well.

Prior complaints: None

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

Mrs. Monica Franklin motioned to **accept counsel's recommendation**. The motion dies for lack of a second. Mrs. Monica Franklin motioned to **dismiss the complaint**; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

40. Case No.: L08-PHR-RBS-200800078

Complainant alleges that her prescription for Metformin HCL ER 500 mg was misfilled with Metformin HCL 500 mg. Complainant contacted the pharmacy and they told her that she had another prescription ready for pick-up there for Metformin HCL ER. Complainant indicated that she had not requested and pharmacy staff responded that since there were no more refills left, the computer automatically called the doctor's office and requested refill authorization. Complainant indicates that she did not sign up for the automatic refill program and was placed on the program without her consent.

PIC responded that ...

Prior complaints: None

Recommendation: Letter of Warning to dispensing DPh about misfill

Chief legal counsel, Mrs. Alison Cleaves, requested the complaint be skipped, since it is a duplicate complaint.

41. Case No.: L08-PHR-RBS-200806506

Complainant alleges that the Respondent, pharmacy technician used the pharmacy's credit card to purchase personal items. Respondent's employment was terminated.

Prior complaints: None

Recommendation: Authorize formal hearing (Two (2) year term of probation)

Complaint No. 200806506 is a duplicate complaint.

42. Case No.: L07-PHR-RBS-200708097

Respondent, pharmacy technician terminated for theft and diversion of controlled substances from the pharmacy.

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.

43. Case No.: L08-PHR-RBS-200800093

Respondent, pharmacy, was sending Schedule II Controlled Substances to hospice patients prior to or without receiving a physician's signature in accordance with federal regulations. Respondent entered into a Settlement Agreement with the US Attorney's Office and agreed to pay a civil penalty in the amount of \$540,000. According to the DEA report, there were

approximately 7,000 Schedule II Controlled Substances that had already been sent to hospice patients, but were still awaiting a physician's signature.

Prior complaints: None

Recommendation: Authorize formal hearing (civil penalty and two (2) year term of probation with one of the terms being that they will submit to quarterly inspections by a BOP investigator)

The complaint was tabled for further information.

44. Case No.: L08-PHR-RBS-200800109

On or about October 11, 2006, the Respondent, pharmacy, was disciplined by another state Board through the imposition of a \$1,000 civil penalty for operating without a license for approximately two and ½ months (from April 1, 2006 to June 21, 2006).

Prior complaints: None

Recommendation: Authorize formal hearing (\$1,000.00 civil penalty)

Dr. Todd Bess motioned to **issue a Letter of Warning**; seconded by Dr. Robert Mitchell. All were in favor and the motion carried.

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

Complainant alleges that the pharmacist misfilled a patient's prescription for Zebeta with Glyburide. The patient was a resident at a nursing home. The physician's orders were faxed to the pharmacy when the resident returned from the hospital. The pharmacist stated that he misread the Zebeta for Diabeta and entered Diabeta into the pharmacy computer. The Glyburide was administered to the resident from April 9, 2007 through April 30, 2007 when the resident did not have a diagnosis of diabetes. On April 30 2007, the resident was found unresponsive with a glucose level too low to register on the accucheck. Resident was transferred to the hospital and diagnosed with Metabolic Encephalopathy. The resident was readmitted to the facility on May 7, 2007, remained NPO and unresponsive and died on May 17, 2007.

Complainant also sent Requip to a resident who was ordered Mirapex. The nurses at the facility did not administer the Requip, but the resident did not have Mirapex available to be given to the patient for four (4) days.

DPh admits that he misfilled the prescription and states that the reason for the error is that he entered the data incorrectly. Once the medications when to the nursing home facility, they were not verified correctly by the nursing staff.

Prior complaints:

Pharmacy: 2002- Medication Pricing, Dismissed

Recommendation: Authorize formal hearing (10 day suspension and requiring the Respondent to take a medication error course). Also, send this matter to the Nursing Board for consideration.

Complaint No. 200708005 is a duplicate complaint.

46. Case No.: L08-PHR-RBS-200800144

Respondent, pharmacy technician, admitted to the theft and diversion of Hydrocodone and Alprazolam from the pharmacy. Respondent's employment was terminated.

Prior complaints: None

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.

47. Case No.: L08-PHR-RBS-200708091

During a routine compliance inspection, the investigator found that the pharmacist intended to dispense drug samples ordered by a nurse practitioner at the mental health clinic where the pharmacy will be located. Pharmacist stated that it was her understanding that labels were put on the samples by the pharmacy for which the pharmacist works and then given to the pharmacist to dispense to patients. Investigator told pharmacist to discontinue this practice before opening the pharmacy. This practice does not appear to be permitted by Tenn. Code Ann. §63-10-409 because the manufacturers or their agents did not distribute the samples.

Prior complaints: None

Recommendation: Letter of Instruction

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

48. Case No.: L07-PHR-RBS-200708043

Complainant alleges that the Respondent, pharmacy technician, is selling drugs that she obtains from the pharmacy. Complainant indicated that Hydrocodone was the drug that the Respondent allegedly took from the pharmacy and gave to her mother; however, there was no Hydrocodone dispensed to the Respondent's mother from the pharmacy location where the Respondent worked. Also, the statements obtained from the Respondent and members of the pharmacy staff do not substantiate the allegation of theft and diversion.

Prior complaints: None

Recommendation: Dismiss

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

49. Case No.: L08-PHR-RBS-200800114

Complainant (doctor) alleges that the pharmacy staff dispensed a prescription that they suspected was a forgery. Complainant states that the pharmacy staff called her office to check to see if it was a forgery and before the Complainant could respond back, the pharmacy dispensed the medication. Complainant also states that there were clear error on the forged prescription, such as listing Xanax as a Schedule 2 drug and misspelling the doctor's first name.

PIC states that she received a prescription for Xanax 2mg. She asked the individual a series of questions about patient's address, phone number, allergies and insurance information, which the person was able to answer. PIC recently received a memo about forged prescriptions bearing the Complainant's name, so she called the Complainant's office to verify the Rx. PIC reached the answering service who agreed to page the Complainant. After 20-25 minutes the Complainant's office did not call back. PIC asked for a picture ID and the individual came back about an hour later. PIC realized that the individual who presented the prescription was not the patient and the individual indicated that she was the patient's mother. Since the PIC still had not heard from Complainant, the PIC dispensed the medication. The doctor called back after the individual left and that is when the PIC realized that the prescription was forged.

Prior complaints:

Pharmacy: 1999- Medication Error, Closed;

2001- Unprofessional Conduct, Dismissed

PIC: None

Recommendation: Dismiss

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

50. Case No.: L08-PHR-RBS-200708074

Complainant alleges that the Respondent, internet pharmacy, is engaging in the practice of pharmacy in Tennessee without a pharmacy license.

Prior complaints: None

Recommendation: Cease and Desist Letter

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

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

Complainant alleges that the Respondent, an internet pharmacy, is engaging in the practice of pharmacy in Tennessee without a pharmacy license.

Prior complaints: None

Recommendation: Cease and Desist Letter

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

52. Case No.: L08-PHR-RBS-200800018

Complainant alleges that the Respondent took Tussionex from the hospital pharmacy where she was employed as a pharmacy technician. Complainant indicates that the diversion occurred at two (2) points – when the medication was received from the wholesaler, counted, and recorded in the narcotic locker system and when the drug was directed from the narcotic locker to the prepak area. Investigator indicates that there is no way to link the loss to the Respondent.

Prior complaints: None

Recommendation: Dismiss

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

53. Case No.: L08-PHR-RBS-200800092

Complainant alleges that the Respondent pharmacy repeatedly refused to send Complainant her medication stating the order was input was done incorrectly. In the meantime, the Complainant was told to get the medication from a local pharmacy and that the Respondent would transfer the Rx. Complainant states that this never occurred and that she has gone without her intestinal medication.

Respondent replied to the complaint stating that Complainant's complain involves payor limits and Complainant's request to obtain a ninety (90) day supply of the medication rather than a sixty (60) day supply authorized by her payor. Respondent received the Rx on January 16th and began to work with the insurance company to obtain approval for the ninety (90) day supply; however, prior authorization was only received for a sixty (60) day supply. Shipment originally scheduled for January 23rd was held because the payor would not approve the ninety (90) day quantity. Respondent attempted to contact the Complainant to let her know on January 25, 26, and 27, but were unable to contact her or leave a message because Complainant does not have an answering machine. On January 28th, Complainant contacted the Respondent and although she wanted a ninety (90) day supply, gave authorization to ship the sixty (60) day supply. Complainant continues to want the Respondent to have the payor waive its limit requirement and authorize a ninety (90) day supply.

Prior complaints:

*Pharmacy: 2006- Out of Date Drugs, \$250.00 civil penalty;
2007- Refuse to Fill, Dismissed*

Recommendation: Dismiss

Dr. Todd Bess motioned to **accept counsel's recommendation**; seconded by Dr. Bettie Wilson. Dr. Brenda Warren recused from voting. Mrs. Monica Franklin was not present during voting. The motion carried.

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

Respondent, pharmacy, entered into a civil settlement agreement with the U.S. Department of Justice by agreeing to pay \$450,000 because it failed to keep or furnish records and order forms required for controlled substances. Specifically, from May 1, 2004 to November 30, 2005, Respondent failed to indicate the total number of commercial containers of each finished form in a biennial inventory; failed to record the number of commercial containers acquired from its supplier on twenty-one (21) receipt records; failing to maintain thirty-five (35) controlled substance receipt records from the firm's suppliers; failing to maintain twelve (12) controlled substance prescription records; and failing to maintain complete and accurate record to account for controlled substances.

Prior complaints: None

Recommendation: Discuss

Dr. Todd Bess motioned to **place the pharmacy license on a five (5) year term of probation and to submit routine periodic inspections**; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

55. Case No.: L08-PHR-RBS-200800095

Complainant alleges that he waited over 2 ½ hours to obtain his medication and after having to ask multiple times for the price on the 3 Rxs: Antibiotic; Trivent and Pseudovent. Complainant was not dispensed the Pseudovent.

PIC and DM responded to the complaint. The prescriptions were dropped off at a busy time of the day and admit the Rxs may not have been filled as efficiently as they would have liked, but the fact that the pharmacy closed for lunch may have contributed to the perception that the prescriptions took too long to be filled. The dispensing DPh decided not to fill the Pseudovent because it was duplication in therapy with the Trivent. PIC also states that the Pseudovent Rx was cancelled because of the therapeutic interaction with the Trivent which also contributed to the Complainant's wait for his prescriptions.

Prior complaints:

PIC: 2005- Chemical Impairment, Five (5) year term of Probation;

Pharmacy: 2005- Failure to Notify about Change in PIC, LOW

Recommendation: Dismiss

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

56. Case No.: L07-PHR-RBS-200602344

Respondent, pharmacy technician, allegedly engaged in the theft and diversion of controlled substances from the pharmacy. NHC were filed, but we were unable to obtain proper service on the Respondent. Respondent's registration expired on November 30, 2007 and has not been renewed.

Prior complaints: None

Recommendation: Close and flag upon reapplication

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

57. Case No.: L06-PHR-RBS-200603986

Respondent, pharmacy technician, allegedly engaged in the theft and diversion of controlled substances from the pharmacy. NHC were filed, but we were unable to obtain proper service on the Respondent. Respondent's registration expired on September 30, 2007 and has not been renewed

Prior complaints: None

Recommendation: Close and flag upon reapplication

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

58. Case No.: L03-PHR-RBS-200315913

In 2003, BOP investigator observed four (4) technicians begin supervised by one pharmacist. Board previously voted to send a \$100 civil penalty that was not served on the PIC despite attempts. Took another look at the file, one of the techs was a certified tech, which can bring the ratio up to 3:1 and it appears that the technicians were rotating the cashier position so that while one was functioning as a cashier, the others would do tech duties so during the same shift the techs that were at times functioning as the cashier would also change and then function as a tech.

Recommendation: Letter of Warning

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

**ROBERT HAFNER, DPH - RECIPROCAL CANDIDATE
KNOXVILLE, TN**

Dr. Robert Hafner appeared before the Board to request approval of his reciprocal application, which indicated disciplinary action had been taken against his license by the South Carolina Board of Pharmacy. Advocating on his behalf was Dr. Janet Hicks with TPRN. Dr. Hafner stated from January to February, 2007, he diverted controlled substances from the pharmacy without a prescription from an authorized practitioner, was arrested and entered treatment at Cornerstone. Dr. Hafner's South Carolina license was reinstated on March 19, 2008, with a five (5) year term of probation. Dr. Hafner completed the 90/90 meetings in South Carolina and has

complied with the pharmacist network monitoring programs in South Carolina and Florida, where he now resides. Dr. Hafner's support network consists of other pharmacists in the TPRN program. Dr. Hafner will be signing a contract with TPRN today.

The South Carolina order states:

1. Respondent shall completely abstain from the consumption of mood-altering substances, including alcohol, except as prescribed by a duly license practitioner for a documented legitimate medical purpose.
2. Respondent shall be subject to periodic, unannounced blood and urine alcohol and/or drug analysis.
3. Respondent must have a written contract with and be an active participant in the activities of the Recovering Professional Program.
4. Respondent shall not practice as a pharmacist-in-charge or permit holder status for a period of five (5) years.
5. Respondent shall submit to and cooperate with reasonable random inspections.
6. Respondent shall promptly advise the Board in writing of any changes in address, practice, professional status.

Dr. Larry Hill motioned to **grant reciprocity with a five (5) year term of probation and to mirror the South Carolina Board of Pharmacy Order**; seconded by Mrs. Monica Franklin. Mrs. Franklin made a **friendly amendment to the motion to have Dr. Hafner sign the TPRN contract; to notify the Board of a change in your primary physician and Dr. Hafner shall not serve as pharmacist-in-charge for a period of three (3) years, however, after a period of two (2) years, may petition the Board for a modification of this Consent Order to remove the restrictions upon a show of good cause. The Respondent shall not work as a "floater" for a period of three (3) years, meaning that the Respondent shall not work at more than one (1) pharmacy location at the same time without the permission of the Board.** Dr. Larry Hill seconded the amendment to the motion. All were in favor and the motion carried.

DAVID VOORHEES, DPH - REQUEST FOR REINSTATEMENT OF LICENSE

KNOXVILLE, TN

Dr. David Voorhees appeared before the Board to request the reinstatement of his pharmacist license. Advocating on his behalf was Dr. Janet Hicks with the Tennessee Pharmacist Recovery Network. Dr. Voorhees advised the Board in May, 2006, he took Soma for a sore muscle and sore back and slowly increased the number and frequency until December 2007, when he admitted taking Soma to his supervisor. In December, 2007, the EAP recommended an evaluation by Cornerstone and then he subsequently entered treatment. In March, 2008, Dr. Voorhees was discharged from Cornerstone. The 90/90 meetings were completed in June, 2008. Dr. Hicks advised Dr. Voorhees is compliant with the recommendations of the TPRN and also attends A/A meetings. Dr. Voorhees has a supportive family network in place. Dr. Todd Bess motioned:

Respondent does hereby agree to the reinstatement of license number **11865** with the following probationary conditions. Said probation shall remain in effect for a period of **five (5) years**, from **July 15, 2008 to July 15, 2013**.

- a) 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, Dr. Darrell Riegel, 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) 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 to include Soma;
- 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.

**GREG YOUNG, DPH
ASSOCIATE DEAN
LIPSCOMB UNIVERSITY COLLEGE OF PHARMACY**

Dr. Greg Young, with Lipscomb University College of Pharmacy, appeared before the Board to request approval of non-ACPE continuing education hours for the Preceptor Orientation and Training Program on behalf of the Tennessee Alliance for Pharmacy Educations (T.A.P.E.), which is composed of the faculty of the five (5) colleges of pharmacy in Tennessee. Dr. Brenda Warren motioned to **approve** Dr. Young’s request for continuing education credits; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

ADJOURNMENT

Mrs. Monica Franklin motioned to adjourn the Board of Pharmacy meeting on Tuesday, July 15, 2008 at 4:45 p.m. CDT; seconded by Dr. Brenda Warren. All were in favor and the motion carried.

RECONVENED

The Board of Pharmacy reconvened on Wednesday, July 16, 2008 at 9:00 a.m. CDT in the Iris Room, 227 French Landing, Nashville, Tennessee. A quorum of the members being present, President, Dr. Sheila Mitchell called the meeting to order.

CHIEMEZIE OTI, DPH 2846 Schaeffer Drive Eads, TN 38028

Dr. Kevin Eidson, Executive Director, advised the Board at the March 12 - 13, 2008, Dr. Chiemezie Oti had requested 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 Medipharm, an internet pharmacy, and Kroger Pharmacy. The Board denied the request until further information was obtained as to the type of practice site. At the May 5 - 6, 2008 meeting, Mrs. Nyanday Oti appeared on behalf of her husband but the request was denied until Dr. Chiemezie Oti could personally appear. Dr. Oti, accompanied by his wife, Nyanday, appeared before the Board to discuss the business and operation of Medipharm, and the waiver of Rule 1140-3-.14 (12). Dr. Oti stated Medipharm is a "mail order" pharmacy, not an Internet pharmacy, as initially stated on the application. Medipharm wants to be able to give discounts on approximately 398 drugs as well as provide other types of medications with an insurance plan approved by the Department of Commerce and Insurance, which the consumer will be required to purchase. Medipharm will eventually employ a staff of eight to ten pharmacists and technicians. The prescriptions will originate from the prescriber and patient counseling will be conducted over the phone in addition to materials being provided on the drug. The Board expressed concern with patient counseling, limited drugs for chronic conditions and other rules and regulations. Mrs. Monica Franklin

motioned to **deny** the request and to confirm the Board's previous vote; seconded by Dr. Brenda Warren. All were in favor and the motion carried. President, Dr. Sheila Mitchell advised the Board is concerned with patient safety and welfare. The application needs to be updated with Dr. Joseph Huber, as the PIC and to list the pharmacy as a "mail order". Dr. Oti stated Medipharm will not offer any insurance plan and that he will be resigning his position as PIC at Kroger. The Board advised to submit an amended pharmacy application with Dr. Huber's signature if he is to accept the PIC responsibilities.

DIRECTOR'S REPORT

MALTA-GON October 6 - 8, 2008 Tunica, MS

Dr. Kevin Eidson, Executive Director, advised the Board that the MALTA-GON meeting will be held at the Grand Casion Resort at Tunica, Mississippi on October 6 - 8, 2008. Dr. Brenda Warren motioned to request approval for the Executive Director and one board member to attend the meeting; seconded by Mrs. Monica Franklin. Dr. Warren amended the motion for Dr. Todd Bess to attend the meeting; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

NABP/AACP DISTRICT III ANNUAL MEETING August 17 - 19, 2008 Sandestin, FL

Executive Director, Dr. Kevin Eidson, noted the NABP/AACP District III meeting will be held on August 17 - 19, 2008 in Sandestin, Florida. Dr. Larry Hill motioned to request approval for the Executive Director plus one (1) other board member, the President of the Board, to attend; seconded by Dr. Robert Mitchell. All were in favor and the motion carried. Dr. Robert Mitchell has asked to be notified if the request is rejected!

MR. DAVID BARON
Porzio Pharmaceutical Services, Inc.
100 Southgate Parkway
Morristown, NJ 07962

Executive Director, Dr. Kevin Eidson, received an e-mail inquiry relevant to whether a manufacturer wholesale distributor's license would be required for a company located within Tennessee that distributes only non-prescription (over-the-counter) drugs. Dr. Robert Mitchell motioned the company must have a license; seconded by Mrs. Monica Franklin. During discussion, Dr. Mitchell withdrew his motion. Dr. Brenda Warren motioned the company would not be required to have a MWD license; seconded by Dr. Larry Hill. There was one (1) nay vote. The motion carried.

PHARMACY NEWSLETTER

Dr. Brenda Warren questioned whether the Board would consider funding the publication of a pharmacy newsletter and may be an administrative issue to have e-mail addresses for all of our licensees. Executive Director, Dr. Kevin Eidson, noted a new statute was signed into law, which requires all our licensees to be notified of any new laws. Dr. Brenda Warren motioned to request that the NABP format be used as an educational tool, in an electronic format, and if the state does not allocate funds for this request, the Board will pay for it; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

PUBLIC CHAPTERS

Dr. Kevin Eidson discussed the following Public Chapters with the Board:

Public Chapter 914 - Disclosure of Information on the Controlled Substance Database

Public Chapter 936 - Labels on prescription drugs for the elder persons

Any person dispensing a legend drug for an "elder person", meaning any person who is sixty (60) years of age or older, shall include on the label of the container the indication or indications for which the drug is being prescribed.

Public Chapter 966 - Standards for dispensing prescriptions

Each pharmacy participating in centralized prescription processing shall be licensed by the Board of Pharmacy, and gives the Board the authority to promulgate rules.

Public Chapter 1072 - Pharmacy Practice

The Board of Pharmacy shall notify each holder of a pharmacy or a pharmacist license of any newly promulgated or amended statutes, rules, policies or guidelines. The Board shall maintain a link on the Board's website of these changes.

UNLICENSED CONDUCT

Mrs. Alison Cleaves, chief legal counsel, stated a pharmacist, who was not licensed at the time but was working as a pharmacist dispensing medications. Pharmacist investigator, Dr. Richard Hadden, furnished an affidavit which stated the individual was a new graduate and had completed the exams and paid the licensing fees but had not obtained a license number. Dr. Hadden closed the pharmacy and the owner was contacted. Dr. Hadden maintained possession of the keys to the pharmacy until the PIC arrived as the individual was working by himself. Mrs. Cleaves, chief legal counsel, recommended to the Board that a \$1,000 civil penalty be issued to the PIC for allowing an unlicensed individual to practice the profession of pharmacy. Dr. Larry Hill motioned to **accept counsel's recommendation**; seconded by Dr. Robert Mitchell. All were in favor and the motion carried.

In regards to the unlicensed pharmacist, Dr. Larry Hill motioned to **grant** the pharmacist license; seconded by Dr. Todd Bess. All were in favor and the motion carried.

Mrs. Monica Franklin motioned to **issue a Letter of Instruction** to accompany the new license reminding the individual what an intern can and cannot do; seconded by Dr. Todd Bess. All were in favor and the motion carried.

FAREWELL

Dr. Brenda Warren expressed her appreciation, on behalf of the Board, to President, Dr. Sheila Mitchell for her dedication to the Board of Pharmacy.

ADJOURNMENT

President, Dr. Sheila Mitchell adjourned the Board of Pharmacy meeting on Wednesday, July 16, 2008 at 1:05 p.m., CDT.

The Board of Pharmacy approved the July 15 - 16, 2008 minutes at the September 9 - 10, 2008 board meeting.