

**TENNESSEE BOARD OF PHARMACY
SEPTEMBER 11 - 12, 2007
227 FRENCH LANDING - IRIS ROOM
NASHVILLE, TN**

BOARD MEMBERS PRESENT:

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

STAFF PRESENT:

Terry Grinder, Interim Executive Director
Robert J. Kraemer, Deputy General Counsel
Wilma James, Deputy General Counsel
Martha Agee, Board Administrator
Tommy Chrisp, Pharmacist Investigator
Richard Hadden, Pharmacist Investigator
Ralph Staton, Pharmacist Investigator

The Tennessee Board of Pharmacy convened on Tuesday, September 11, 2007, 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 9:15 a.m. CST, by Dr. Sheila Mitchell, President. Dr. Sheila Mitchell advised for the record, Dr. Julie Frazier is not present. President Sheila Mitchell, on behalf of the Board, expressed her appreciation to Commissioner Susan Cooper and Assistant Commissioner Christy Allen of the Department of Health for assisting in the Board of Pharmacy's transition.

President Sheila Mitchell introduced and welcomed the Board's new Executive Director, Dr. Kevin Eidson, who is a graduate of Mercer University College of Pharmacy, will begin employment on September 16, 2007. Interim Executive Director, Dr. Terry Grinder, advised the Board office will be moving on September 28, 2007. President Sheila Mitchell expressed a special "thank you" to Dr. Grinder for his guidance and expertise as the Interim Executive Director for the Board.

Dr. Mitchell welcomed the Board's new chief legal counsels, Mr. Robert Kraemer and Ms. Wilma James.

President Sheila Mitchell requested a moment of silence to be held in remembrance of September 11th! Dr. Robert Mitchell motioned to accept Dr. Sheila Mitchell's request; seconded by Dr. Todd Bess. All were in favor and the motion carried.

APPROVAL OF THE MINUTES

The minutes of the March 29 - 30, 2007 board meeting were presented and reviewed by the Board. Dr. Larry Hill motioned to **accept** the minutes; seconded by Dr. Todd Bess. All were in favor and the motion carried.

CONSENT ORDERS

Revocation of Registration/License

TINA R. HOSSE, RT
4364 Old Coopertown Road
Springfield, TN 37172

Interim executive director, Dr. Terry Grinder, presented a Consent Order whereas Ms. Tina Hosse agreed to the revocation of her pharmacy technician registration due to the theft of controlled substances from the pharmacy. Mrs. Monica Franklin motioned to **accept** the Consent Order; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

SERENITY J. PAYNE, RT
3036 Greenhaw Road
Decherd, TN 38324

Dr. Terry Grinder, interim executive director, presented a Consent Order for the Revocation of Ms. Serenity Payne's pharmacy technician registration. Ms. Payne admitted to the theft of controlled substances from the pharmacy. Mrs. Monica Franklin motioned to **accept** the Consent Order; seconded by Dr. Larry Hill. All were in favor and the motion carried.

PAT A. COLLINS, DPH
1423 Carowinds Circle
Maryville, TN 37803

Interim executive director, Dr. Terry Grinder, presented Consent Order whereas Dr. Pat Collins admitted to writing prescriptions for controlled substances for herself others and has agreed to the revocation of her pharmacist license. Dr. Larry Hill motioned to **accept** the Consent Order; seconded by Dr. Todd Bess. All were in favor and the motion carried.

Probationary Terms/Conditions

ANNEADRIA C. GREER, RT
1610 Allston Drive
Murfreesboro, TN 37128

Dr. Terry Grinder, interim executive director, presented a Consent Order whereas Ms. Anneadria Greer allowed a prescription to be dispensed to her sister without authorization from the prescriber. Ms. Greer has agreed to be placed on a one (1) year term of probation with the following terms/conditions:

1. Shall not fill or process any prescriptions written for herself or family members;
2. Shall inform the pharmacist in charge where she is employed at any time during the probation period that she is on probation with the Board.

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

KELLEY N. YUNKER, RT
4320 Stenberg Road
White Creeks, TN 37189

Interim executive director, Dr. Terry Grinder, presented a Consent Order whereas Ms. Kelley Yunker asked another pharmacy technician to process a refund for a prescription and then kept the refund money for herself. Ms. Yunker has agreed to enter into a one (1) year term of probation with the following terms/conditions:

1. Shall not fill, pick-up, delivery, refund or otherwise handle any prescriptions for herself, her family members or her friends;
2. Shall notify each and every pharmacist in charge under whose supervision she works that she is on probation with Board and the terms of that probation.

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

JAMES MONROE DAVIS, DPH
1487 Wilson Road
Crossville, TN 38571

Dr. Terry Grinder, interim executive director, presented a Consent Order for Probation for Dr. James Davis. At the June 20, 2007 board meeting, the Board allowed Mr. Davis to take the NAPLEX exam and was placed on a three (3) year term of probation. Mrs. Monica Franklin motioned to **accept** the Consent Order; seconded by Dr. Todd Bess. All were in favor and the motion carried.

Violations/Unprofessional Conduct

GARRY S. SHIPP, DPH
235 Co. Road 489
Etowah, TN 37331

Interim executive director, Dr. Terry Grinder, presented a Consent Order whereas Dr. Garry Shipp was in violation of Rule 1140-2-.02 (1) & (2) relevant to allowing an unregistered individual to perform pharmacy technician duties. Dr. Shipp was assessed a \$100 civil penalty. Mrs. Monica Franklin motioned to **accept** the Consent Order; seconded by Dr. Todd Bess. All were in favor and the motion carried.

JACOB TIBBE, DPH
5168 Tarrytown Drive
Memphis, TN 38117

Dr. Terry Grinder, interim executive director, presented a Consent Order on behalf of Dr. Jacob Tibbe was in violation of Rule 1140-2-.02 (2) for allowing an unregistered individual to work in the pharmacy. Dr. Tibbe was assessed a \$100 civil penalty. Mrs. Monica Franklin motioned to **accept** the Consent Order; seconded by Dr. Todd Bess. All were in favor and the motion carried.

CALETHA L. CHRISTIAN, DPH
1501 Woodland Pointe Drive #1203
Nashville, TN 37214

Dr. Terry Grinder, interim executive director, presented a Consent Order whereas Dr. Calettha Christian was in violation of Rule 1140-3-.01 (1) (a) for failure to provide or offer counseling to patients or caregivers picking up prescriptions at the pharmacy. Dr. Christian was assessed a \$100 civil penalty. Mrs. Monica Franklin motioned to **accept** the Consent Order; seconded by Dr. Todd Bess. All were in favor and the motion carried.

**CVS PHARMACY#6433
2516 Gallatin Road
Nashville, TN 37206**

Interim executive director, Dr. Terry Grinder, presented a Consent Order whereas a pharmacy investigator observed patients or patient caregivers picking up prescriptions at CVS Pharmacy #6433 to be in violation of Rule 1140-3-.01 (1) (a) relevant to patient counseling. A \$500 civil penalty was assessed. Mrs. Monica Franklin motioned to **accept** the Consent Order; seconded by Dr. Robert Mitchell. All were in favor and the motion carried.

**GEORGE S. PILKINTON, DPH
187 Storey Road
Goodspring, TN 38460**

Dr. Terry Grinder, interim executive director, presented a Consent Order whereas Dr. George Pilkinton failed to provide or offer counseling to the patients or caregivers picking up prescriptions at the pharmacy pursuant to Rule 1140-3-.01 (1) (a). A \$100 civil penalty was assessed. Mrs. Monica Franklin motioned to **accept** the Consent Order; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

**VICKIE TRAPENI, DPH
800 Saddleview Terrace
Franklin, TN 37076**

Dr. Terry Grinder, interim executive director noted the Consent Order has not been signed nor dated and will be held until the November. 8-9, 2007 board meeting.

**WAL-MART PHARMACY #10-0674
1112 Nashville Pike
Gallatin, TN 37066**

Interim executive director, Dr. Terry Grinder, presented a Consent Order whereas a misfill occurred due to lack of patient counseling pursuant to Rule 1140-3-.01 (1) (a) (f). A \$500 civil penalty was assessed. Mrs. Monica Franklin motioned to **accept** the Consent Order; seconded by Dr. Todd Bess. All were in favor and the motion carried.

ROBERT JOHN BRAIDWOOD, DPH
926 Two Notch Drive
Knoxville, TN 37920

Dr. Terry Grinder, interim executive director, presented a Consent Order whereas Dr. Robert Braidwood wrote prescriptions for himself without authorization from a licensed prescriber which is in violation of Rule 1140-3-.03 (6) (a). Dr. Braidwood agreed to a two (2) year term of probation with the Board commencing on the date Dr. Braidwood executed the Order on July 15, 2007. Dr. Braidwood was assessed a civil penalty of \$500. Mrs. Monica Franklin motioned to **accept** the Consent Order; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

JAMES R. MYRICK, DPH
1666 West Wilson Blvd.
Mount Juliet, TN 37122

Interim executive director, Dr. Terry Grinder, presented a Consent Order on behalf of Dr. James Myrick who was in violation of Rule 1140-3-.01 (1) (a) whereas a new prescription was dispensed for another patient and the patient was not provided mandatory patient counseling for new prescriptions. Dr. Myrick was assessed a \$100 civil penalty. Mrs. Monica Franklin motioned to **accept** the Consent Order; seconded by Dr. Todd Bess. All were in favor and the motion carried.

STANLEY OKPOR, DPH
1657 Double Tree Lane
Nashville, TN 37217

Dr. Terry Grinder, Interim executive director, presented a Consent Order for Dr. Stanley Okpor who failed to provide patient counseling or offered to counsel to the patient or patient's caregivers who picked up new and/or refilled prescriptions and is in violation of Rule 1140-3-.01 (1) (a). Dr.

Okpor was assessed a \$100 civil penalty. Dr. Todd Bess motioned to **accept** the Consent Order; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

**WALGREENS #2195
3049 Dickerson Pike
Nashville, TN 38207**

Dr. Terry Grinder, interim executive director, presented a Consent Order whereas Walgreens #2195 was in violation of Rule 1140-3-.01 (1) (a) relevant to the lack of patient counseling. A \$500 civil penalty assessed. Mrs. Monica Franklin motioned to **accept** the Consent Order; seconded by Dr. Larry Hill. All were in favor and the motion carried.

**CEPHAS SLOAN, DPH
347 New Summerville Road
Kingsport, TN 37663**

Interim executive director, Dr. Terry Grinder, presented a Consent Order whereas Dr. Cephas Sloan agreed to the revocation of his license due to violating the terms of his probation with the Board. Mrs. Monica Franklin motioned to **accept** the Consent Order; seconded by Dr. Todd Bess. All were in favor and the motion carried.

WAIVERS

**BRANDON HOWARD
4949 Lakeridge Drive
Old Hickory, TN 37138**

Interim Executive Director, Dr. Terry Grinder stated Mr. Brandon Howard is requesting a waiver of Rule 1140-1-.04 (1) (c) relevant to the requirement to complete four hundred (400) hours of pharmacy internship to be acquired in non-traditional pharmacy internship programs which have received prior approval of the Board. Mr. Howard completed four hundred (400) hours at Lac Courte Oreilles Pharmacy, an Indian Health Service (HIS) hospital pharmacy, which does not fall under the jurisdiction of any state. Mrs. Monica Franklin motioned to **accept the four hundred (400) hours** and in the future, review requests on a case by case basis. Dr. Todd Bess seconded the motion. All were in favor and the motion carried.

CYNTHIA R. PIPKIN, DPH
2067 Mallard Cove
Southaven, MS 38672

Dr. Cynthia Pipkin is requesting a waiver of Tennessee Board of Pharmacy Rule 1140-1-.07 (3) (b) (3) and (5) (i) relevant to the requirements for the successful completion of the Jurisprudence examination and to complete a period of pharmacy internship hours for the reinstatement of her pharmacist license. Dr. Pipkin maintains an active license in Mississippi. Dr. Larry Hill motioned to **waive the internship hours but denied the MPJE**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

THOMAS G. BILSKI, DPH
150 Belleview Blvd. #507
Belleair, FL 33756

Dr. Thomas Bilski is requesting a waiver of Tennessee Board of Pharmacy Rule 1140-1-.07 (3) (b) (5) (i) relevant to the requirement to complete a period of pharmacy internship of one-hundred sixty (160) hours within ninety (90) consecutive days. Dr. Bilski has been actively practicing in the State of Florida. Mrs. Monica Franklin motioned to **waive the one hundred sixty (160) hours**; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

MARK JAGGERS, DPH
80 Clara Belle Lane
Pontotoc, MS 38863

Dr. Mark Jagers is requesting a waiver of Tennessee Board of Pharmacy Rule 1140-1-.07 (3) (b) (5) (ii) relevant to the requirement to complete a period of pharmacy internship of three-hundred twenty (320) hours within one-hundred eighty (180) consecutive days. Dr. Todd Bess motioned to request Dr. Jagers to **submit copies of his W-2 tax forms** relevant to being employed in the practice; seconded by Dr. Robert Mitchell. All were in favor and the motion carried.

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

Dr. William Farmer is requesting a waiver of Tennessee Board of Pharmacy Rule 1140-1-.07 (3) (c) (3) and (5) relevant to the requirement for the successful completion of the NAPLEX® examination and completing a period of pharmacy internship of three hundred twenty (320) hours for the reinstatement of his pharmacist license. The **Board tabled Dr. Farmer's request pending additional information relevant to his work history and to submit a written statement specifically outlining the request for a waiver.**

**KRISTEL O'MALLEY, PHARM D
SUSAN E. INGRAM CENTER
5281 Navy Road
Millington, TN 38053**

Dr. Kristel O'Malley is requesting a waiver of Tennessee Board of Pharmacy Rule 1140-3-.14 (12) relevant to being the designated pharmacist in charge of more than one (1) pharmacy practice site at Susan E. Ingram Center in Millington, Tennessee and J. B. Summers Counseling Center in Somerville, Tennessee. Dr. O'Malley will work at Susan E. Ingram Center on Monday, Wednesday and Thursday; and on Tuesday at J. B. Summers Counseling. Mrs. Monica Franklin motioned to **grant** the waiver request; seconded by Dr. Todd Bess. All were in favor and the motion carried.

**MAX B. STANDEFER, DPH
ACCESS DRUGS
4062 Hixson Pike
Chattanooga, TN 37415**

Dr. Max Standefer is requesting a waiver of Tennessee Board of Pharmacy Rule 1140-3-.14 (12) relevant to being the designated pharmacist in charge of more than one (1) pharmacy practice site at Access Drugs and Access Specialized Care, a closed-door pharmacy in Chattanooga, Tennessee. Dr. Robert Mitchell motioned to **grant** the waiver request; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

CYNTHIA W. SUMMERS, DPH

**410 Savannah Trace
Clarksville, TN 37043**

Dr. Cynthia Summers is requesting a waiver of Tennessee Board of Pharmacy Rule 1140-5-.01 (3) relevant to the Board waiving thirteen and one-half hours (13.5) Live ACPE continuing education requirements upon a showing of emergency, illness or other good cause. Dr. Larry Hill motioned to **grant the waiver for a period of one (1) year and to allow Dr. Summers the ability to request a waiver of the "Live" hours if she is unable to complete.** Dr. Robert Mitchell seconded the motion. All were in favor and the motion carried.

**JACK DOWNING, DPH
DOWNING DRUGS
405 Main Street
Gamaliel, KY 42140**

Dr. Jack Downing is requesting a waiver of Tennessee Board of Pharmacy Rule 1140-1-.07 (3) (c) (3) and (5) relevant to the requirement for the successful completion of the NAPLEX® examination and completing a period of pharmacy internship of three hundred twenty (320) hours for the reinstatement of his pharmacist license. Dr. Downing has been actively practicing pharmacy in the Commonwealth of Kentucky since 1994 and is the owner of Downing Drugs. Dr. Larry Hill motioned to **waive the NAPLEX exam and internship hours;** seconded by Dr. Betty Wilson. All were in favor and the motion carried.

**JOE R. DOWNING, DPH
DOWNING DRUGS
405 Main Street
Gamaliel, KY 42140**

Dr. Joe Downing is requesting a waiver of Tennessee Board of Pharmacy Rule 1140-1-.07 (3) (c) (3) and (5) relevant to the requirement for the successful completion of the NAPLEX® examination and completing a period of pharmacy internship of three hundred twenty (320) hours for the reinstatement of his pharmacist license. Dr. Downing has been licensed to practice the profession of pharmacy since 1961 in the Commonwealth of Kentucky. Dr. Larry Hill motioned to

waive the **NAPLEX exam and internship hours**; seconded by Dr. Betty Wilson. All were in favor and the motion carried.

MEGAN F. SAALFRANK
1326 Landfair Drive #304
Germantown, TN 38138

Dr. Terry Grinder, interim executive director, stated Ms. Megan Saalfrank is requesting approval of internship hours she acquired while working as a graduate research assistant under the supervision of Lawrence Brown, Pharm D, Ph. D., associate professor of Health Outcomes and Policy Research in the Department of Pharmaceutical Sciences at the U. T. College of Pharmacy. Ms. Saalfrank completed 508 hours and she is requesting 400 of these hours to be granted for licensure pursuant to Rule 1140-1-.04. Dr. Todd Bess recused himself. Dr. Larry Hill motioned the **Board considers this traditional pharmacy practice and prior approval was not necessary**; seconded by Dr. Bettie Wilson. There were two (2) nay votes. Mrs. Monica Franklin was not present. The motion carried.

MICHAEL AZZOLIN, PHARM D, CCO
PHARM D ON DEMAND
2165 S. Milledge Avenue #A-3
Athens, GA 30605

Dr. Terry Grinder, interim executive director, advised Pharm D on Demand is seeking approval of a service request for Rhea Medical Center relevant to the issue of weekend remote order entry in Tennessee. Dr. Michael Azzolin advised the pharmacy department at Rhea Medical Center closes on Friday evening and does not reopen until Monday morning. The pharmacist in charge and hospital administration of Rhea Medical Center contacted Pharm D on Demand for the purpose of reviewing orders during this time to help prevent medication related events and errors from relapsing throughout out the weekend. A pool of Tennessee pharmacists will be reviewing orders on the weekends as a remote order entry from their Tennessee homes. After discussion, Dr. Todd Bess motioned to **approve** the request; seconded by Dr. Robert Mitchell. All were in favor and the motioned carried.

SHALIA LANKFORD
TLC MEDISEND
100 Covey Drive #310
Franklin, TN 38067

Dr. Terry Grinder, Interim Executive Director, received a waiver request from Ms. Shalia Lankford, owner of TLC Medisend, relevant to Rule 1140-3-.14 (12) to allow Dr. Lawrence Wilson to be the pharmacist-in-charge at more than one (1) pharmacy practice site. Dr. Grinder requested to **table** the request as the Board would feel more comfortable awaiting a response from the investigator rather than making a decision and to bring the matter before the Board at the November 8-9, 2007 meeting.

JULIE COLD KISSACK, DPH
420 Canterbury Lane
Lawrenceville, GA 30045

Dr. Julie Kissack is requesting a waiver of Rule 1140-1-.07 (3) (b) (5) relevant to the completion of 320 pharmacy internship hours for the reinstatement of her pharmacist license. Dr. Kissack is actively practicing in the State of Georgia. Dr. Todd Bess motioned to **grant** the waiver request; seconded by Dr. Larry Hill. All were in favor and the motion carried.

LEGAL REPORT/COMPLAINTS

1. Case No. L07-PHR-RBS – 200701450

Complainant alleges that Respondent failed to deliver an order for Procrit for anemia. Respondent asserts that a process failure occurred in December 2006 that may have been attributable to the high volume of refill orders placed and that the refill order was placed on a holiday. The order was not process in December. Corrective steps were taken and the process revised.

Recommendation: Letter of Instruction

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

2. Case No. L07-PHR-RBS-200706649

Complaint states that Respondent filled the prescription for Penicillin, but refused to fill the prescription for Lortab 5 because there had been a previous prescription for Hydrocodone earlier that same day. A physician prescribed the Hydrocodone for back problems, and a dentist (unaware of the prescription for the Hydrocodone) prescribed the Lortab 5 for an abscessed

tooth. Respondent indicated that Complainant is known by several names, and has been caught on numerous occasions in forgery situations. The Complainant's insurance company indicated that the Complainant had purchased 120 tablets of Hydrocodone at another pharmacy earlier the same day.

Recommendation: Discuss

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

3. Case No. L07-PHR-RBS-200706259

Complainant's mother was prescribed pain medication in association with a broken ankle and subsequent surgery. Complainant alleges that the pharmacist breach the obligation of confidentiality by discussing the matter with several individuals, including employees of the pharmacy and the prescribing physician. Complainant has stated that legal counsel will be consulted if the situation is not handled to complainant's satisfaction.

Respondent indicated concerns about the mother's weight loss. According to the pharmacist, the physician's nurse said that the doctor wished for the patient only to initiate request for pain medication.

Recommendation: Dismiss

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

4. Case No. L07-PHR-RBS-2007062202

Anonymous complaint filed with the Board alleges that the pharmacist is giving narcotics to her mother and sister without a prescription, giving employee's shots without a prescription, and dispensing oxygen machines without a prescription. The investigation revealed no violation of laws or rules, other than possibly failing to notify the Board of a name change.

Recommendation: Dismiss

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

5. Case No. L07-PHR-RBS-200701427

A Statement of Deficiencies was developed as a result of a reported incident investigation conducted at its Knoxville facility. It asserts that Total Parental Nutrition (TPN) medication error for patients receiving intravenous medications.

Complainant alleges that her infant granddaughter was admitted to the Respondent facility on June 29, 2007 for a blood transfusion and testing. The child is on the transplant list for a multiple organ transplant. Upon testing of the TPN, it was discovered that the solution had been mixed incorrectly in the pharmacy.

Respondent states that the original error resulted from misinterpretation of the home infusion facility TNP order by the physician. The pharmacist contacted the physician. Testing revealed excessively high calcium levels. The TPN orders were discontinued and the patient discharged to another facility.

Recommendation: Discuss

Dr. Todd Bess motioned to **issue a Letter of Instruction to the pharmacist in charge**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

6. Case No. L07-PHR-RBS-200706215

Anonymous complaint filed with the Board alleges that the pharmacy is a health hazard because of clutter, unsanitary practices, refrigeration and temperature problems, improper training of technicians, and an infestation of mice. The investigation revealed that there were no violations of the laws or rules.

Recommendation: Dismiss

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

7. Case No. L07-PHR-RBS-200701572

Anonymous complainant alleges that the Respondent, a license pharmacist has been working at is pharmacy and standing in front of his pharmacy naked except for this bathrobe. The complainant also made other general allegations about misfills.

Recommendation: Investigate complaint (It is believed that Respondent's erratic behavior may be due to physical problems, and not chemical issues.

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

8. Case No. L07-PHR-RBS-200706462

Complainant alleges that Respondent mislabeled a prescription for Zolpidem with the wrong name. The pharmacist acknowledged that a separate electronic record was created with a different name, and that he would fix the record. Directions were also allegedly changed. Previously the prescription directed complainant to take ½ tablet and a second tablet if needed. The new directions directed complainant to take ½ tablet by the mouth in the morning and one tablet by mouth in the evening. Complainant is presently taking one blood pressure medicine.

Respondent indicated that a change was made from Ambien to the generic, and that there was some confusion regarding the patient's name due to different names on the prescription. A second profile was therefore created. It is acknowledged that the doctor should have been called for clarity.

Recommendation: Consent for Letter of Warning to Pharmacy; \$500 penalty

**Consent for Letter of Instruction to Dispensing Pharmacist
\$100 penalty**

Mrs. Monica Franklin motioned to accept **a Letter of Warning to the PIC; a Letter of Instruction to the dispensing pharmacist + \$100 civil penalty and a \$500 civil penalty to the pharmacy**; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

APPROVAL OF PHARMACY TECHNICIAN REGISTRATIONS

**NICHOLAS BENTON
822 Belvoir Hills Drive
Chattanooga, TN 37412**

Dr. Terry Grinder, interim executive director, advised Mr. Nicholas Benton noted on the pharmacy technician registration that he had been convicted of a misdemeanor. On November 21, 2005, Mr. Benton was arrested for driving on a revoked license; incurred no fines nor served a probationary period. Dr. Robert Mitchell motioned to **deny** the registration; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

**HANNAH K. JOHNSON
4305 Alabama Avenue #3
Chattanooga, TN 37409**

Interim executive director, Dr. Terry Grinder, stated Ms. Hannah Johnson checked "yes" to being convicted of a misdemeanor in February, 2005 of a DUI. Ms. Johnson paid all fines and provided proof of Financial Responsibility, form "SR-22". On May 29, 2006, Ms. Johnson's driver's license was reinstated. Dr. Robert Mitchell motioned to **approve** the registration; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

**SHERRILL DENESE JOHNSON
1001 Meridian Street
Nashville, TN 37207**

Dr. Terry Grinder, interim executive director, advised Ms. Sherrill Johnson had indicated "yes" to being convicted of a felony on her pharmacy technician registration. On March 28, 2002, Ms. Johnson pleaded guilty to food stamp fraud and was placed on a six (6) year term of probation.

Dr. Robert Mitchell motioned to **deny** the registration; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

LASUNDRA PATRICE MCNARY
5439 Meadowlake Drive North
Memphis, TN 38115

Interim Executive Director. Dr. Terry Grinder stated Ms. LaSundra McNary marked "yes" on her pharmacy technician registration to having been convicted of a misdemeanor charge on January 26, 2005 for theft of property of \$500 or less. The General Sessions Court Shelby County expunged the record on April 21, 2006 as Ms. McNary had successfully completed all probation provisions and proceedings. Dr. Grinder noted the offense could not be held against her. Dr. Robert Mitchell motioned to **approve** the application; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

GEORGE J. WIDMANN
P. O. Box 352
Ringgold, GA 30736

Dr. Terry Grinder, Interim Executive Director, presented a statement furnished from Mr. George Widmann relevant to a misdemeanor conviction for a DUI in 1984, in Broward County, Florida. Mr. Widmann stated he was unable to obtain court documents for that time period but was given probation and community service which he fulfilled. Mr. Widmann is employed as a manager and the company wants all employees with access to the pharmacy to be registered. Mrs. Monica Franklin motioned to **approve** the application; seconded by Dr. Robert Mitchell. All were in favor and the motion carried.

APPROVAL OF RECIPROCITY APPLICATIONS

TAEHO OH, DPH
12685 Maple Road
North Miami, FL 33181

Dr. Terry Grinder, Interim Executive Director, advised the Board a complaint was filed with the Florida Board of Pharmacy against the pharmacy where Dr. Taeho Oh was listed as the Director

of Pharmacy or Pharmacist of Record for violating Florida Statutes, Chapters 455 and 465. The pharmacy was providing patient-specific products to hospitals that were compounded at the pharmacy and the hospital then dispensed same to the patients. The statute states in pertinent part that “the pharmacist, as an integral aspect of dispensing, shall be directly and immediately available to the patient or his direct agent for consultation and shall not dispense to a third party. No prescription shall be deemed to be properly dispensed unless the pharmacist is personally available.”

The pharmacy entered into a Final Order with the Board on January 6, 1997; was assessed a fine of \$2,000; and a representative of the pharmacy must complete a twelve (12) hour continuing education course on the laws of the State of Florida. Dr. Todd Bess motioned to **approve** Dr. Oh’s reciprocal application; seconded by Mrs. Monica Franklin. There was one nay vote. The motion carried.

HOWARD W. ROGERS, JR., DPH
125 Frank Davis Road
Waynesville, NC 28785

Dr. Terry Grinder, interim executive director, stated Dr. Howard Rogers marked “yes” on his reciprocal application as having disciplinary action taken against his license by the North Carolina Board of Pharmacy for dispensing Hydrocodone at a greater frequency than what was prescribed to multiple patients. Dr. Rogers entered into a Consent Order with the Board acknowledging his pharmacist license is hereby “warned”; must complete two (2) hours of continuing education relating to North Carolina pharmacy law within twelve months; shall not violate laws governing the practice of pharmacy or the distribution of drugs; and shall not violate no rules and regulations of the Board. Dr. Todd Bess motioned to **deny** the application; seconded by Mrs., Monica Franklin. All were in favor and the motion carried.

JOHN STEVEN YASKANICH, DPH
8283 Harbor Drive
Mentor, OH 44060

Dr. Terry Grinder, interim executive director, stated Dr. John Yaskanich marked “yes” on his reciprocal application as having been charged or convicted of a felony or misdemeanor offense taken against his license by the Ohio Board of Pharmacy. Dr. Robert Mitchell motioned to **deny** the application; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

APPROVAL OF SCORE TRANSFER APPLICANT

NIMESH MAGANBHAI PATEL
1519 Polk Street
Corinth, MS 38834

Dr. Terry Grinder, interim executive director, advised the Board Mr. Nimesh Patel submitted a score transfer application in which he indicated “yes” to being convicted of a misdemeanor charge. Mr. Patel stated in April, 2007 he was attending a conference in Texas and received a citation for public intoxication. Mr. Patel advised he pled “no contest” to the citation so he would not have to return to Texas and paid a fine of \$210 for the ticket. Mrs. Monica Franklin motioned to **grant** licensure; seconded by Dr. Larry Hill. There was one (1) nay vote. The motion carried.

THOMAS BREWER, DPH – REQUEST FOR REINSTATEMENT OF LICENSE **WINCHESTER, TN**

Dr. Thomas Brewer appeared before the Board to request the reinstatement of his pharmacist license. Advocating on his behalf was Dr. Cliff Weiss with the Tennessee Pharmacist Recovery Network. Dr. Terry Grinder, interim executive director, advised Dr. Brewer was observed consuming Hydro liquid off of the pharmacy shelf while working. On April 25, 2007, Dr. Brewer signed a Consent Order for the suspension of his pharmacist license. Dr. Brewer noted he was using cough syrup for approximately one and one-half years prior to being arrested on January 23, 2007. Dr. Brewer stated he sought treatment at Cornerstone and was released on May 3, 2007. Dr. Brewer noted he was not charged with a felony for the theft of controlled substances but received probation and the TPRN was considered as the court’s probation officer. Dr. Brewer stated restitution has been made to CVS. Advocate, Dr. Cliff Weiss, advised Dr. Brewer attends A/A meetings, has a support network at home and is compliant with the recommendation of the

TRPN. Dr. Weiss also mentioned Dr. Janet Hicks with Cornerstone is supportive in the reinstatement of Dr. Brewer's license. After board discussion, Dr. Bettie Wilson motioned:

1. Respondent does hereby agree to the reinstatement of license number **#4104** with the following probationary conditions. Said probation shall remain in effect for a **period of five (5) years, from September 11, 2007 to September 11, 2012.***

- a) The Respondent shall completely abstain from the consumption of alcohol or any other drugs, except as specified in (b).
- b) Respondent shall be able to consume legend drugs or controlled substances prescribed by the Respondent's primary physician, E. Gammoda, MD, except in the case of an emergency or upon a proper referral from the Respondent's primary physician. The Respondent shall immediately notify the Board office in writing of the name of the Respondent's primary physician each time the Respondent changes primary physicians;
- c) The Respondent shall not obtain or attempt to obtain any prescriptions in the respondent's name for any legend drugs, controlled substances or devices containing same from a physician other than the Respondent's primary physician or from any other health care provider, such as a nurse practitioner, physician's assistant or psychiatrist;
- d) The Respondent shall destroy any unused controlled substances prescribed under the provisions of subsection (b) no later than thirty (30) days following the completion of the prescribed course of treatment;
- e) The Respondent shall report to the Board, in writing, the ingestion of any and all legend drugs or controlled substances (a copy of the prescription will satisfy the requirement);

- f) The Respondent shall submit to random sampling of urine, blood or bodily tissues for the presence of drugs and alcohol, at the Respondent's own expense, by agents of the Board, such as the Tennessee Pharmacists Recovery Network for as long as the Respondent has an active license. In the event that the sampling indicates the presence of drugs for which the Respondent does not have a valid prescription or the sampling indicates the presence of alcohol, then formal disciplinary charges may be brought against the Respondent which could result in the revocation of the Respondent's remaining term of probation or the suspension or revocation of the Respondent's license to engage in the practice of pharmacy. Prior to such disciplinary charges being heard by the Board, the Respondent's license may be summarily suspended;
- g) The Respondent shall comply with all of the terms and conditions of the extended aftercare contract he or she entered into with Tennessee Pharmacists Recovery Network. Respondent shall return a copy of said contract with this Consent Order to the Board office;
- h) The Respondent shall not serve as pharmacist-in-charge for a period of three (3) years, however, after a period of two (2) years, the Respondent may petition the Board for a modification of this Consent Order to remove the restrictions upon a show of good cause. The Respondent shall not work as a "floater" for a period of three (3) years, meaning that the Respondent shall not work at more than one (1) pharmacy location at the same time without the permission of the Board;
- i) If the license has been inactive, delinquent, suspended or revoked:
 - (i) **Less than one (1) year, the pharmacist shall:**

- I. Provide written notice requesting an active license;
- II. Satisfy all past due continuing pharmaceutical education; and
- III. Pay all cumulative license renewal fees and any applicable penalties.

Dr. Robert Mitchell seconded the motion. *President, Dr. Sheila Mitchell asked Dr. Bettie Wilson if she would consider amending the probationary term to ten (10) years. **Dr. Wilson motioned to amend the term of probation from a period of five (5) years to ten (10) years. Dr. Robert Mitchell seconded the amendment to the motion.** All were in favor and the motion carried.

**TOM PROSE, DPH
KROGER PHARMACY**

Dr. Tom Prose appeared before the Board to discuss Kroger's central fill process. The Board noted the central fill process does not currently fall within the Board of Pharmacy rules and are awaiting approval from the Attorney General's Office. Dr. Prose referenced in the July 12- 13, 2005 minutes, the Board's legal counsel, Mrs. Alison Cleaves, made note there is no impediment to prevent Wal-Mart from the process as the Board does not have any rules in place. The Board is requesting Kroger's to furnish statistical data relevant to the Central Fill.

DIRECTOR'S REPORT

BOARD MEMBER PER DIEM INCREASE

Dr. Terry Grinder, interim executive director, announced effective July 1, 2007 the per diem for board members was increased to \$100 per day. The hotel rates of \$117 per day will become effective October 1, 2007.

INVESTIGATORS SALARIES

Interim executive director, Dr. Terry Grinder, advised the investigator's raises were finally approved.

January	8th 21 29 - 30	106th Tennessee General Assembly Convenes Martin Luther King, Jr. (Holiday) <u>Board Meeting</u>
February	2 - 3 9 - 10 16 - 17 18 24 - 26	Nashville Update Seminar Memphis Update Seminar Jackson Update Seminar President's Day (Holiday) TPA Midyear Meeting
March	1 - 2 8 - 9 12 - 13 21 29 - 30	Knoxville Update Seminar Johnson City Update Seminar <u>Board Meeting</u> Good Friday (Holiday) Cookeville Update Seminar
April	5 - 6 12 - 13	Chattanooga Update Seminar Murfreesboro Update Seminar
May	6 - 7 17 - 20 26	<u>Board Meeting</u> NABP's 104th Annual Meeting Memorial Day (Holiday)
July	4 15 - 16 21 - 24	Independence Day (Holiday) <u>Board Meeting</u> TPA 121st Annual Convention – Marriott, Chattanooga, TN
August	()	District III - (_____ will host)
September	1 () 9 - 10	Labor Day (Holiday) MALTAGON – <u>Board Meeting</u>
October	2 - 3	Tripartite – Franklin, TN
November	11 20 - 21 27 - 28	Veteran's Day (Holiday) <u>Board Meeting</u> Thanksgiving (Holiday)
December	25	Christmas (Happy Holidays!!)

**NATIONAL ASSOCIATION OF BOARDS OF PHARMACY
SUSPENSION OF NAPLEX AND GEORGIA MPJE EXAMINATIONS**

On August 23, 2007, the National Association of Boards of Pharmacy convened an emergency meeting of its Executive Committee to review the security involving NABP's North American

Pharmacist Licensure Examination and the Georgia Multistate Pharmacy Law Exam (GA MPJE). The Executive Committee suspended administrations of the NAPLEX and GA MPJE effective immediately beginning August 25, 2007. The decision to suspend the NAPLEX and GA MPJE was made to ensure that the integrity of the examinations is maintained and that NAPB develop and provide only valid and psychometrically sound examinations to the state boards of pharmacy.

**MPJE REVIEW – FT. LAUDERDALE, FLORIDA
JANUARY 10 - 13, 2008**

Dr. Terry Grinder, interim executive director, advised the Board that NABP will pay for two (2) members to attend the MPJE review which will be held in Ft. Lauderdale, Florida during January 10 -13, 2008. President Sheila Mitchell recommended the new executive director, Dr. Kevin Eidson, to attend.

LEGISLATIVE UPDATE

Dr. Terry Grinder, interim executive director, discussed and reviewed the following Public Chapters with the board members.

PC 83	Domestic Violence
PC 182	Criminal Activity – Criminal Background Checks
PC 224	Third Party
PC 298	Reconciliation Between Federal and State Controlled Substances
PC 370	Changes of New Information
PC 407	Transfer of Board of Pharmacy to Health
PC 410	Educational Program – Smoke Free (effective October 1, 2007)
PC 446	Offenses – Domestic Violence
PC 458	TennCare - Prescription for Controlled Substance
PC 464	Flexibility – Executive Order 38 – Analysis Impact on Small Business
PC 498	Controlled Substances
PC 518	Transfer Controlled Substance Data to Department of Health
PC 529	Disciplinary
PC 579	Uniform - Emergency Health Practice Act

ADJOURNMENT

President, Dr. Sheila Mitchell adjourned the board meeting on Tuesday, September 11, 2007 at 4:00 p.m. CDT. All were in favor and the motion carried.

RECONVENED

The Board of Pharmacy reconvened on Wednesday, September 12, 2007 at 9:50 a.m. CDT in the Iris Room, 227 French Landing, Nashville, Tennessee. A quorum of the members being present, President Sheila Mitchell called the meeting to order. For the record, Dr. Julie Frazier was not in attendance.

**PHARMACY TECHNICIAN RULES -
RULEMAKING HEARING HELD AUGUST 28, 2007**

Mr. Jerry Kosten, Regulations Manager, advised the Board on August 28, 2007, a rulemaking hearing was held in the Poplar Room, 227 French Landing, Nashville, Tennessee , to consider the promulgation of rules pursuant to T.C.A. §63-10-304 (b) (1).

Rule 1140-1-.01 Definitions

(1) ACPE

(6) "Certified pharmacy technician"

Rule 1140-1-.09 Renewal of Licenses

(2)

Rule 1140-1-.14 Prescription Drugs Dispensed by Health Departments

(n) Norelgestromin/ethinyl estradiol transdermal system (Ortho Evra®)

(o) Etonogestrel/ethinyl estradiol vaginal ring (Nuvaring®)

Rule 1140-2-.01 (16) Pharmacists and Pharmacy Interns

Rule 1140-02.02 Pharmacy Technicians

(1) (a) (b)

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

7) Pharmacy Technician to Pharmacist Ratio

(a) The pharmacy technician to pharmacist ratio shall not exceed 2:1; however the ratio may be increased up to a maximum of 4:1 by the pharmacist in charge based upon public safety

considerations but only if the additional pharmacy technicians are certified pharmacy technicians. However, the pharmacist in charge may request a modification of the ratio from the Board in writing which addresses:

1. the pharmacy technician's experience, skill, knowledge and training; and
2. the workload at the practice site; and
3. detailed information regarding the numbers of pharmacy technicians and the specific duties and responsibilities of each of the pharmacy technicians;
4. justification that patient safety and quality of pharmacy services and care can be maintained at the pharmacy.

(b) Requested modifications of the established ratios may not be implemented until the written request is considered and approved by the Board.

**NANCY WATTS, PHARM D
DIRECTOR – COMMUNITY HEALTH INSTITUTE
CHATTANOOGA STATE TECHNICAL COMMUNITY COLLEGE**

Dr. Nancy Watts appeared before the Board to address concerns regarding the wording of the proposed rule changes for pharmacy technicians under Rule 1140-2-.02 (2 (b) relevant to the exemption of a student enrolled in a formal training program shall not exceed 180 days from the date the student enrolled in the program. Dr. Watts noted Chattanooga State, as well as many of the 12-month ASHP accredited pharmacy technician programs are three (3) semesters in length and exceeds the 180 days. After board discussion, Dr. Bettie Wilson motioned for subsection (2) (b), to state:

- (b) A student enrolled in a formal pharmacy training program while performing experiential rotations as a part of the academic curriculum. The exemption shall not exceed one hundred and eighty (180) days in the training program.

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

Under Rule 1140-2-.02 (2) (b), Mrs. Monica Franklin motioned to add the word "technician" between "pharmacy" and "training". Dr. Bettie Wilson seconded the motion. All were in favor and the motion carried.

After discussion and review, the Board noted the following changes be made to the proposed pharmacy technician rules as submitted by the Tennessee Pharmacist Association.

Paragraph (1) of Rule 1140-1-.01 Definitions is amended by deleting the language of the

paragraph in its entirety and substituting instead the following:

- (1) "ACPE" means the Accreditation Council for Pharmacy Education.

Paragraph (3) of Rule 1140-1-.01 Definitions is amended by deleting the language of this paragraph in its entirety and substituting instead the following:

- (3) "Accreditation Council for Pharmacy Education (ACPE)" means the national organization for accreditation of professional degree programs in pharmacy and for approval of providers of continuing pharmacy education.

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

Paragraph (6) of Rule 1140-1-.01 Definitions is amended by deleting the language of the paragraph in its entirety by substituting instead the following:

"Certified pharmacy technician" means an individual who is certified by a national or state agency that offers a certification program that is recognized by the board.

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

Paragraph (2) of Rule 1140-1-.09 Renewal of Licenses is amended by deleting the paragraph in its entirety and substituting instead the following:

- (2) A pharmacist or pharmacy technician serving in the uniformed services of the United States shall not be required to pay license renewal fees during the period of active duty and the pharmacist shall not be required to complete continuing pharmaceutical education requirements during the period of active duty.

"TPA" proposes inserting the words "or registration" between the word "license" and the word "renewal". Mrs. Monica Franklin motioned to **accept** the language; seconded by Dr. Larry Hill. All were in favor and the motion carried.

"TPA" proposes changing the word "pharmaceutical" between the words continuing and education to "pharmacy". Dr. Larry Hill motioned to accept the language; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

Chapter 1140 -02

"TPA" proposes changing the above reference and all references to this Chapter in these proposed rules to Chapter 1140-2 to reflect the correct current rule number being amended.

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

Rule 1140-2-.02 Pharmacy Technician.

- (1)
 - (b) Submit an affidavit from his/her employer attesting that the applicant has read and understands the statutes and regulations pertaining to the practice of pharmacy in Tennessee. (A copy of this affidavit shall be retained at the place of employment).

“TPA” proposes adding an “s” at the end of the word “understand” to make “understands” to have subject verb agreement.

Mrs. Monica Franklin motioned to **accept** the subject verb agreement; seconded by Dr. Larry Hill. All were in favor and the motion carried.

Rule 1140-2-.02 Pharmacy Technician

- (9) All pharmacy technician functions shall be performed under the supervision of a pharmacist, who shall direct and verify the accuracy of all pharmacy technician functions. Supervision requires the *physical presence of* a pharmacist making appropriate in-process and end-process verifications of the pharmacy technician’s activities.

Dr. Bettie Wilson motioned to **delete the words "physical presence of"** as TPA discussed there was no circumstance where it is in the best interest of public health, safety and welfare for the Board to waive the requirement that pharmacists make appropriate in-process and end-process verification of a pharmacy technician's activities; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

Deputy General Counsel, Mr. Robert Kraemer, discussed with the Board the legality of their authority to waive a Rule.

- (12) The board may waive the requirements contained in paragraph (9) of this rule upon a showing of good cause.

Executive Order 38 Public Chapter 464

Mr. Robert Kraemer, Deputy General Counsel, advised the members on May 22, 2006, the Governor signed Executive Order Number 38, which requires state agencies to assess the impact of new regulations on small businesses prior to initiating a rulemaking process. Based upon the review of all the rules and laws from Deputy General Counsel, Mr. Robert Kraemer, that assessment has been made. Mrs. Monica Franklin motioned to **accept**; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

Dr. Bettie Wilson **motioned to adopt #7 and #12 as discussed and to adopt the rules as amended to include the economic impact referred to in Public Chapter #464.**

A Roll Call Vote was taken:

Monica Franklin	Yes
Todd Bess	Yes
Bettie Wilson	Yes
Larry Hill	Yes
Sheila Mitchell	Yes

For the record, Dr. Robert Mitchell was not in attendance during the roll call vote. All were in favor and the motion carried.

ADJOURNMENT

Dr. Bettie Wilson motioned to adjourn the Board of Pharmacy meeting on Wednesday, September 12, 2007 @ 12:45 p.m., CDT; seconded by Dr. Todd Bess. All were in favor and the

motion carried.

The Board of Pharmacy approved the September 11 - 12, 2007 minutes at the January 29 - 30, 2008 board meeting.

