

**TENNESSEE BOARD OF PHARMACY
NOVEMBER 7 - 8, 2006
ROOM 160 – DAVY CROCKETT TOWER
NASHVILLE, TN**

BOARD MEMBERS PRESENT:

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

STAFF PRESENT:

Terry Grinder, Interim Executive Director
Alison Z. Cleaves, Chief Legal Counsel
Martha Agee, Board Administrator

The Tennessee Board of Pharmacy convened on Tuesday, November 7, 2006, in Room 160 of the Davy Crockett Tower, 500 James Robertson Parkway, Nashville, Tennessee. A quorum of the members being present, the meeting was called to order at 9:00 a.m. CST, by Dr. Julie Frazier, President. President Julie Frazier noted for the record Mrs. Monica Franklin would not be in attendance on Tuesday, November 7, 2006. On behalf of the Board, President Julie Frazier introduced and welcomed the newest member, Dr. Albert Larry Hill from Rockwood, Tennessee. Interim Executive Director, Dr. Terry Grinder, welcomed Dr. Hill on behalf of the Board staff. President Julie Frazier congratulated Mrs. Alison Cleaves and her husband, Rob on the arrival of their bundle of joy, Ms. Charlotte.

**INFORMAL CONFERENCE
COMPLAINT # 200600561**

Mrs. Alison Cleaves, chief legal counsel, advised the board members at the August 29 - 30, 2006 board meeting and upon proper motion made and seconded, the Board accepted counsel's recommendation for an Informal Conference relevant to a complaint that was filed. Mrs. Cleaves noted for the record there will not be any disciplinary action taken against CVS. Appearing on behalf of CVS were Mr. Robert Delaney, Legal Counsel; Dr. Steve Phillips, District Manager; District Manager for the Chattanooga area and Dr. Kristina Roper, pharmacist in charge at CVS #3733.

The Board expressed concern relevant to compromising patient care when a pharmacist felt it was necessary to close the drive-thru window since he was the only pharmacist on duty, supervising a technician and a new trainee, answering the phone, filling prescriptions and servicing the drive-thru window. As a result of the pharmacist's actions in closing the drive-thru window, he was asked to either resign or be fired from CVS for violating company policy. Chief legal counsel, Mrs. Alison Cleaves stated it is not in the purview of the Board of Pharmacy in regards to employment issues. After discussing the volume of prescriptions filled, pharmacy hours, and staff scheduled to work, Dr. Bettie Wilson referenced Board of Pharmacy Rule 1140-2-.01 (11) which states, "A pharmacist shall provide pharmaceutical service which is as complete as the public may reasonably expect". Dr. Wilson motioned to **dismiss** the complaint regarding the issue; seconded by Dr. Todd Bess. All were in favor and the motion carried.

**MATTHEW BLEDSOE, DPH - REQUEST FOR REINSTATEMENT OF LICENSE
DICKSON, TN**

Dr. Matthew Bledsoe, who was accompanied by his wife, appeared before the Board to request the reinstatement of his pharmacist license. Advocating on his behalf were Dr. Mike Matheny and Dr. Morris Haddox with TPRN; and Representative David Shepard. Interim Executive Director, Dr. Terry Grinder, stated in early 2006, Dr. Bledsoe admitted to theft and tested positive on a drug screen. Dr. Bledsoe entered into a Consent Order to summarily suspend his license which was accepted by the Board in July 13 - 14, 2006. Dr. Bledsoe stated he stole liquid cough medicine with Hydrocodone and filled prescriptions for himself that were not authorized. Dr. Mike Matheny noted Dr. Bledsoe has completed his 90/90; is attending three (3) meetings weekly and is compliant with the TPRN recommendations. Representative Shepard advised the Board that Dr. Bledsoe's wife and family are very supportive in his recovery and he is likewise advocating on his behalf. After Board discussion, Dr. Sheila Mitchell motioned:

1. Respondent does hereby agree to the reinstatement of license number **12145** with the following probationary conditions. Said probation shall remain in effect for a period

of **five (5) years**, from **November 7, 2006 to November 7, 2011.**

- 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, Robert Orgain, 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. All were in favor and the motion carried.

**SARA DAVIS, DPH - REQUEST FOR REINSTATEMENT OF LICENSE
KNOXVILLE, TN**

Dr. Sara Davis appeared before the Board along with TPRN advocates Dr. Raymond Frederick and Dr. Janet Hicks to request the reinstatement of her pharmacist license. Interim Executive Director, Dr. Terry Grinder, noted Dr. Davis' license was summarily suspended by the Board at the May 16 - 17, 2006 meeting due to chemical dependency. Dr. Davis stated approximately five years ago she began to take Hydrocodone due to her work schedule and then self-reported herself to the company. Dr. Frederick noted Dr. Davis is attending meetings and is compliant with the TPRN recommendations. Dr. Davis stated her parents are very supportive and she also has the support of her friends. After board discussion, Dr. Sheila Mitchell motioned:

1. Respondent does hereby agree to the reinstatement of license number 4286 with the following probationary conditions. Said probation shall remain in effect for a period of **five (5) years**, from **November 7, 2006 to November 7, 2011**.

- 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, Rebecca Jackson, MD, except in the case of an emergency or upon a proper referral from the Respondent's primary physician. The Respondent shall immediately notify the Board office in writing of the name of the Respondent's primary physician each time the Respondent changes primary physicians;
- c) The Respondent shall not obtain or attempt to obtain any prescriptions in the respondent's name for any legend drugs, controlled substances or

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

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

(i) Less than one (1) year, the pharmacist shall:

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

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

**KEVIN STAPF, DPH - REQUEST FOR REINSTATEMENT OF LICENSE
POWELL, TN**

Dr. Kevin Stapf appeared before the Board to request the reinstatement of his pharmacist license. Advocating on his behalf were Dr. Janet Hicks and Dr. Raymond Frederick with the TPRN. Interim Executive Director, Dr. Terry Grinder, noted in January 17 - 18, 2006, Dr. Stapf's license was summarily suspended due to chemical dependency. At the May 16 - 17, 2006 meeting, the request for reinstatement was deferred until the pending criminal charges had been resolved. Interim Executive Director, Dr. Terry Grinder stated the Pre-Trial Diversion was accepted and Dr. Stapf was placed on a one (1) year term of probation. Dr. Stapf was charged with theft over \$1,000 plus possession. Advocate, Dr. Raymond Frederick noted Dr. Stapf's record will be expunged after one (1) year. Dr. Stapf stated he was involved in a motorcycle accident and due to the lack of proper medical care, he started to self-medicate. Dr. Frederick

advised Dr. Stapf is compliant with the recommendations of the TPRN and has a support network in place. After board discussion, Dr. Robert Mitchell motioned:

1. Respondent does hereby agree to the reinstatement of license number 11167 with the following probationary conditions. Said probation shall remain in effect for a period of **five (5) years**, from **November 7, 2006 to November 7, 2011.**

- 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, Arbinder Sachdev, 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. Sheila Mitchell seconded the motion. All were in favor and the motion carried.

EXECUTIVE DIRECTOR VACANCY

President Julie Frazier advised the members of the Board that a candidate has been selected and an offer of the position to the candidate needs to be made for the salary amount of \$83,627, which has been approved by the Department of Commerce and Insurance.

Dr. Frazier requested the following salaries be listed for the record for an Executive Director of State Boards of Pharmacy: Alabama Board of Pharmacy - \$125,000; Kentucky Board of Pharmacy - \$109,000; and Arkansas Board of Pharmacy - ranging from \$110,000 to \$120,000.

The Tennessee Board of Pharmacy's initial salary request was within reasoning. Dr. Sheila Mitchell motioned **to make an offer to the candidate for the salary that has been approved by the Department**; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

APPROVAL OF THE MINUTES

The **minutes of the July 13 - 14, 2006** board meeting were presented and reviewed by the Board. Dr. Todd Bess motioned to **accept** the minutes; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

CONSENT ORDERS

REVOCAION OF REGISTRATIONS

Chief legal counsel, Mrs. Alison Cleaves, presented two (2) Consent Orders for the Revocation of Pharmacy Technician Registrations for theft and/or diversion of Controlled Substances.

**TERYL CHEFFINS, RT
NASHVILLE, TN**

**COURTNEY LAWHORN, RT
JACKSON, TN**

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

REINSTATEMENT OF LICENSE

**DAVID DOUGLAS, DPH
MARYVILLE, TN**

Chief legal counsel, Mrs. Alison Cleaves, presented a Consent Order for the Reinstatement of License for Dr. David Douglas. Dr. Sheila Mitchell motioned to **accept** the Consent Order for Reinstatement; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

VIOLATIONS/UNPROFESSIONAL CONDUCT

Mrs. Alison Cleaves, chief legal counsel, presented the following Consent Orders whereas a violation of Rule 1140-3-.01 (1) (a) and (f) occurred relevant to Patient Counseling and a civil penalty of \$100 was assessed to the pharmacist and a \$500 civil penalty was assessed to the pharmacy.

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| KRISTOPHER BROWN, DPH CVS PHARMACY #6414 PHILIP JOHNSON, DPH CHRISTINA SCHAU, DPH SHELLY SHEBETICH, DPH JERRY SPILLMAN, DPH WALGREENS #7659 WAL MART #10-3495 ECKERDS #3362 ECKERDS #3643 | SPRINGFIELD, TN SMYRNA, TN FRANKLIN, TN WINCHESTER, TN LAVERGNE, TN NASHIVLLE, TN COLUMBIA, TN CLARKSVILLE, TN NASHVILLE, TN NASHVILLE, TN |
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Dr. Sheila Mitchell inquired if there were any pharmacy investigators available for comment. President Julie Frazier noted to the Board that the investigator's travel to the board meetings has not been approved and this is the first board meeting that the investigators have not been present.

Dr. Sheila Mitchell stated she has a number of questions regarding patient counseling and is requesting feedback from the investigators as there are many issues that need to be discussed in order to communicate effectively.

Dr. Sheila Mitchell motioned to **approve** the Consent Orders relevant to the patient counseling violations; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

REVOCAATION OF LICENSE

JOHN HOLLIS, DPH NASHVILLE, TN

Mrs. Alison Cleaves, chief legal counsel, presented a Consent Order for the indefinite suspension of Dr. John Hollis' pharmacist license due to chemical dependency. Dr. Todd Bess motioned to **accept** the Consent Order; seconded by Dr. Robert Mitchell. All were in favor and the motion carried.

WAIVERS

WILLIAM D. BROWN, DPH 314 South Mission Ridge Drive Rossville, GA 30741

Dr. William Brown is requesting a waiver of Tennessee Board of Pharmacy Rule 1140-5-.01 relevant to the requirement of furnishing thirty (30) contact hours of continuing education of which a minimum of fifteen (15) contact hours shall be acquired through live contact programs, as determined by the ACPE designation for the renewal of his pharmacist license. Dr. Sheila Mitchell motioned to **grant an extension until March, 2007** in which to obtain the Live ACPE hours and these hours may be used for this renewal cycle only; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

DANA M. BROWN, DPH 7022 Balsa Glen Drive Millington, TN 38053

Dr. Dana Brown is requesting a waiver of Tennessee Board of Pharmacy Rule 1140-1-.07 (3) (b) (3) and (5) relevant to the requirements for the successful completion of the Jurisprudence

examination and pharmacy internship hours for the reinstatement of her pharmacist license.

Dr. Todd Bess motioned to **waive the internship hour requirement but to deny the waiver for the MPJE**; seconded by Dr. Sheila Mitchell. All were in favor and the motion carried.

ROBERT DELLA VALLE, DPH
3801 William D. Tate Avenue #400
Grapevine, TX 76051

Dr. Robert Della Valle is requesting a waiver of Tennessee Board of Pharmacy Rule 1140-1-.07 (3) (c) (5) regarding the requirement to complete a period of pharmacy internship hours in Tennessee to reinstate his pharmacist license. Dr. Della Valle is requesting consideration for the pharmacy internship hours which were performed in Texas. Dr. Todd Bess motioned to **accept the internship hours he has performed and to waive the "Tennessee" portion of the requirement**; seconded by Dr. Larry Hill. All were in favor and the motion carried.

LORI COPELAND, DPH
804 Estuary Drive
Odenton, MD 21113

Dr. Lori Copeland 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 a period of one-hundred and sixty (160) pharmacy internship hours to reinstate her pharmacist license. Dr. Copeland stated her husband is on active duty in the United States Marine Corps and has experienced difficulty in obtaining the Live ACPE continuing education hours. Dr. Copeland stated she contacted the board office in reference to the Live CE's and her husband's military status and was advised not to renew until all the continuing education was completed and to pay the late fees. Dr. Sheila Mitchell motioned to **deny** the waiver requests; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

CHIU-YU LOK, DPH

**1121 S. California Street
San Gabriel, CA 91776**

Dr. Chiu-Yu Lok is requesting a waiver of Tennessee Board of Pharmacy Rule

1140-1-.07 (3) (b), in reference to completing a period of pharmacy internship and to satisfy the past due continuing pharmaceutical education hours. Dr. Robert Mitchell motioned to deny the request, seconded by Dr. Sheila Mitchell. During discussion, the term “practice” of pharmacy was evaluated in Dr. Lok’s present capacity. Dr. Robert Mitchell withdrew his motion. The motion failed. Dr. Todd Bess motioned to **waive the internship hours**; seconded by Dr. Bettie Wilson. All were in favor and the motion carried. Dr. Todd Bess motioned to **deny the reduction in the past due CE’s**; seconded by Dr. Larry Hill. All were in favor and the motion carried.

**LEA ANNE WILES, PharmD
3800 North Roan Street
Johnson City, TN 37601**

Dr. Lea Wiles is requesting a waiver of Tennessee Board of Pharmacy Rule 1140-1-.07 (3) (c) (3) relevant to the requirement for the successful completion of the NAPLEX® examination and MPJE® for the reinstatement of her pharmacist license. Dr. Robert Mitchell motioned to **deny** the request; seconded by Dr. Todd Bess. All were in favor and the motion carried.

**ROBERT HEAD, DPH
55 Carmen Drive
Paris, TN 38242**

Dr. Robert Head is requesting a waiver of Tennessee Board of Pharmacy

Rule 1140-1-.12 (2) (3) (d) and (e) regarding the standards for pharmacies and the prescription department security for a specialty pharmacy mail order business. Dr. Sheila Mitchell motioned to **deny** the waiver requests, seconded by Dr. Robert Mitchell. The Board noted that they have several questions about the practice and suggested Dr. Head request for an investigator to inspect the site after which Dr. Head may appeal their decision. One (1) member abstained from voting. The motion carried.

CHARLES LUSTICK, DPH
12730 Fig Road
Wilton, CA 95693

Dr. Charles Lustick is requesting a waiver of Rule 1140-5-.01 (3) in regards to waiving the requirements of completing continuing pharmaceutical education hours for the renewal of license upon a showing of emergency, illness or other good cause. Dr. Lustick has obtained thirty (30) continuing education credits but was not able to obtain the fifteen (15) Live ACPE hours due to the circumstances involving Hurricane Katrina. Dr. Sheila Mitchell motioned to **grant an extension for six (6) months in which to obtain the Live ACPE hours and that these hours cannot count towards the next renewal cycle**; seconded by Dr. Todd Bess. All were in favor and the motion carried.

JANE PAYSINGER, DPH
N/R Ghana, West Africa

Dr. Jane Paysinger is requesting a waiver of Tennessee Board of Pharmacy Rule 1140-1-.07 (3) (b) (3) and (5) relevant to the successful completion of the Jurisprudence examination and pharmacy internship hours for the reinstatement of her license as she has been out of the country. Dr. Sheila Mitchell motioned to **waive the internship hours until Dr. Paysinger takes the MPJE, which could fall within the timeframe that she may risk taking the NAPLEX**; seconded by Dr. Todd Bess. There was one (1) nay vote. The motion carried.

DIRECTOR'S REPORT

Interim Executive Director, Dr. Terry Grinder provided the members with an updated 2007 Board Calendar for their information.

TENNESSEE BOARD OF PHARMACY 2007 BOARD CALENDAR

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|-----------------|----------------|--|
| January | 9 | 106th Tennessee General Assembly Convenes |
| | 15 | Martin Luther King, Jr. (Holiday) |
| | 30 - 31 | <u>Board Meeting</u> |
| February | 10 - 11 | Memphis Update Seminar |
| | 17 - 18 | Knoxville Update Seminar |

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| | 19 26 - 27 | President's Day (Holiday) TPA Midyear Meeting |
| March | 3 - 4 10 - 11 29 - 30 | Jackson Update Seminar Chattanooga Update Seminar <u>Board Meeting</u> |
| April | 6 14 - 15 21 - 22 28 - 29 | Good Friday (Holiday) Nashville Update Seminar Johnson City Update Seminar Cookeville Update Seminar |
| May | 15 - 16 19 - 22 28 | Board Meeting NABP's 103rd Annual Meeting - Portland, OR Memorial Day (Holiday) |
| July | 4 17 - 18 31st - 8/3/07 | Independence Day (Holiday) Board Meeting TPA 119 TH Annual Convention |
| August | () | District III - (Orlando, FL will host) |
| September | 3 () 18 - 19 | Labor Day (Holiday) MALTAGON – Board Meeting |
| October | () | Tripartite – |
| November | 11 14 - 15 22 - 23 | Veteran's Day (Holiday) Board Meeting Thanksgiving (Holiday) |
| December | 25 | Christmas (Happy Holidays!!) |

CONTROLLED SUBSTANCE DATABASE MONITORING - TRAINING FOR PHARMACIST

Dr. Julie Frazier discussed with the Board various methods in which to conduct training sessions for pharmacists relevant to the reporting of data to the Controlled Substance Database. Dr. Frazier suggested these sessions could be conducted at the yearly update seminars; or by means of a video conference; and also by posting a link to Optimum Technology on the websites of the Board of Pharmacy and the Tennessee Pharmacists Association; and to seek assistance from Optimum Technology with the training.

CONTROLLED SUBSTANCE MONITORING DATABASE ADVISORY COMMITTEE MEMBERS

Dr. Julie Frazier expressed concern with the replacement of the existing members of the Controlled Substance Monitoring Database Advisory Committee (CSMDAC) since there is no term set for serving on the Committee. Dr. Sheila Mitchell motioned for **Dr. Julie Frazier to continue serving as a committee member on the Controlled Substance Monitoring Database Advisory Committee**; seconded by Dr. Todd Bess. All were in favor and the motion carried.

**KEN HENJUM, RPH
PRAIRIESTONE PHARMACY
2800 Campus Drive #30
Plymouth, MN 55441**

Dr. Terry Grinder, Interim Executive Director, acknowledged receiving correspondence from Prairiestone Pharmacy, a traditional retail pharmacy in Minnesota, who is interested in marketing a multi-dose medication packaging product, *DailyMed*, to patients in Tennessee. *DailyMed* allows the patients to have their medications sorted into single dose packets, with each packet containing multiple medications for administration at a specific date/time. The Board requested Interim Director, Dr. Terry Grinder to obtain additional information.

**TIMOTHY R. KOCH, DPH
WAL-MART PHARMACY
702 S.W. 8th Street
Bentonville, AR 72717-0230**

Interim Executive Director, Dr. Terry Grinder, stated Wal-Mart Pharmacy is requesting permission to allow the utilization of secured will-call bin technology called "APM". The APM is a "will-call" kiosk for self check out of finished, refill prescriptions. The APM will be located adjacent to the licensed pharmacy premises. The benefits derived from the installation of the APM would allow patients to have access to refilled prescriptions during and after pharmacy hours; prescriptions are more secured in the locked and alarmed kiosk; the identification of the person is established with an ID and PIN number as well as an electronic signature and digital

photo; reduction in the check-out errors with a match between the patient ID and bar coded package; allows pharmacist “free-up” time as unsold finished inventory is automatically returned to stock by the APM software; the APM can communicate to the patient in different languages; and counseling is provided either in person or over a phone on the APM, if requested. The Board expressed concern as there are no rules currently in place for this technology and the pharmacy dispensing process, but will be forthcoming. The Board requested Interim Executive Director, Dr. Terry Grinder to advise Wal-Mart that it does not fit within the Board’s rules for dispensing.

SCHERING-PLOUGH CORPORATION
2000 Galloping Hill Road
Kenilworth, NJ 07033

Dr. Terry Grinder, Interim Executive Director, stated Schering-Plough issued a news release relevant to the transition from the chlorofluorocarbon (CFC) containing Albuterol asthma inhaler to a hydrofluoroalkane (HFA) inhalation aerosol. To prevent possible shortages, Schering-Plough intends to reduce the CFC inhaler supply to the market on November 1, 2006, and increase the supply of HFA in early 2007.

INSTITUTE OF MEDICINE OF THE NATIONAL ACADEMIES
“July 2006 - What You Can Do To Avoid Medication Errors”

Dr. Terry Grinder, Interim Executive Director, noted an article entitled, “What You Can Do To Avoid Medication Errors” was published by the Institute of Medicine of the National Academies in July, 2006 and provided guidelines in the categories of Personal/Home Care; Pharmacy; Ambulatory Care/Outpatient Clinic; and Hospital Inpatient Care to assist in identifying and preventing medication errors. Dr. Todd Bess motioned to **add this information to the Board’s website and to link to Tennessee Pharmacists Association website**, as this is another tool for the prevention of medication errors. Mrs. Monica Franklin seconded the motion. All were in favor and the motion carried.

LEGAL REPORT

CHARITABLE CLINIC PHARMACY RULES

Chapter 1140-12

Chief legal counsel, Mrs. Alison Cleaves, advised Chapter 919 of the Public Acts of 2006 created a prescription drug donation pilot program (the “Nina Norman Prescription Drug Donation Acts of 2006”) which requires the Board to promulgate rules and regulations to effectuate the purposes of the chapter. Section 1 of the Act specifically granted the Board of Pharmacy the authority to promulgate rules to effectuate the intent of the Act. This Act became effective on July 1, 2006 and also requires the Board of Pharmacy in cooperation with the Department of Health to monitor this pilot program.

Mrs. Cleaves, chief legal counsel, presented the following definition of the term, “Unit-Dose Packaging” as it relates to the Charitable Clinic Pharmacy rules. Mrs. Cleaves, chief legal counsel, noted comments were also received from the Department of Health.

“Single Unit Dose” means sealed, tamper-evident packaging of medication from a manufacturer, a repackager licensed by the Food and Drug Administration, or from a pharmacy when packaged in individual dosage units in United States Postal Service Class B packaging and labeled with the appropriate product information including full product name, dosage form, strength, lot number, and expiration date.

Dr. Sheila Mitchell motioned to **accept and to forward the rules to the Attorney General’s Office with chief legal counsel’s definition of “unit-dose-packaging”**; seconded by Dr. Robert Mitchell. All were in favor and the motion carried.

Executive Order Number 38

Mrs. Cleaves, chief legal 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 chief legal counsel, Mrs. Alison Cleaves, that assessment has been made. Dr. Todd Bess motioned to **accept counsel’s statement**; seconded By Dr. Sheila Mitchell. All were in favor and the motion carried.

**PHARMACY TECHNICIAN RULES
Chapters 1140-1 and 1140-2**

Chief legal counsel, Mrs. Alison Cleaves, presented a draft copy of the amendments made to rules and new rules of Chapters 1140-1 and 1140-2 in reference to pharmacy technicians. After board discussion, Dr. Robert Mitchell motioned to **accept the pharmacy technician rules in their entirety**; seconded by Dr. Sheila Mitchell. All were in favor and the motion carried. Chief legal counsel, Mrs. Alison Cleaves, advised a rulemaking hearing will now be conducted.

In compliance with Executive Order Number 38 and based upon the review of all the rules and laws from chief legal counsel, Mrs. Alison Cleaves, that assessment has been made. Dr. Sheila Mitchell motioned to **accept counsel's statement**; seconded by Dr. Robert Mitchell. All were in favor and the motion carried.

**BOARD OF PHARMACY
EXECUTIVE DIRECTOR POSITION**

President, Dr. Julie Frazier advised the Board she met with the Department's Human Resources personnel and made an offer to the candidate at the Department's approved salary request which the candidate immediately stated "no". Dr. Frazier stated the candidate had very valid concerns and he would address those concerns which have not yet been received. The candidate did state he would give the matter some consideration. Dr. Frazier noted since the Board does not meet until January, 2007, the Board has only two (2) choices, to either: #1. Re-advertise the position with the salary posted; or, #2. Select from the other two (2) candidates.

Dr. Robert Mitchell motioned **to wait until the Board receives a letter from the candidate and then conduct a teleconference to seek the Director of the Board**; seconded by Dr. Bettie Wilson. There was one (1) nay vote. The motion carried.

CONTROLLED SUBSTANCE DATABASE REPORT

Chief legal counsel, Mrs. Alison Cleaves, advised the Board approximately one-hundred and five (105) Requests for a Waiver or an Exemption From Reporting had been received from

hospitals relevant to reporting information to the Controlled Substance Database. Mrs. Cleaves, chief legal counsel, requested that the document be revised to include under the "Type of Pharmacy" - Hospital, the language ("**In-patient**" **Only**).

Optimum Technology has conducted progress status meetings in regards to the hardware and software issues.

COMPLAINTS

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

Complainant alleges that the Respondent, pharmacy, made an error in compounding a prescription for a hormone replacement.

Litigation in the matter filed by the Complainant has been dismissed with prejudice. After having reviewed the file, investigators determined that there may have been a misfill.

Prior complaints:

DPh: None

PIC: None

Pharmacy: None

Recommendation: Discuss

Dr. Sheila Mitchell motioned to **defer the complaint until the investigator can provide additional information since there was no investigator available for comment**; seconded by Dr. Robert Mitchell. All were in favor and the motion carried

President Julie Frazier requested for Mrs. Alison Cleaves, chief legal counsel, to submit a formal request to have the investigators present for comments.

2. Case No.: L06-PHR-RBS-200603184(2) and 200603184(1)

Complainant alleges that the pharmacy failed to fill one of her husband's prescriptions, a prescription for Warfarin. Complainant states that her husband was going to be out of town for a week and went to pick up his prescriptions for Nexium and Warfarin. When he arrived at the pharmacy, only the Nexium prescription was filled. Pharmacy told the Complainant that they did not fill the Warfarin prescription because her husband only had ten (10) pills left on his prescription. Pharmacy did not fill the prescription with the remaining ten (10) pills; instead, pharmacy faxed the doctor's office and requested a month's refill.

Respondent, pharmacy manager, indicates that a partial refill may have been overlooked in this instance and that the patient or caregiver may have not been informed that they needed to contact the patient's doctor for refills. In order to prevent an incident like this from happening in the future, the pharmacy now attaches an "alert" notice to the prescription bag which informs that patient that there are no refills remaining and that the patient's doctor will need to be contacted.

Prior complaints:

DPh: None

PIC: None

Pharmacy: 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.

3. Case No.: L06-PHR-RBS-200602601

Complainant alleges that she had several prescriptions filled at the pharmacy, including Prednisone and Zyrtec. Complainant alleges that the Prednisone bottle **contained** Zyrtec. The Complainant realized the error after having consumed some of the incorrect medication and experiencing fatigue, the inability to focus, and agitation.

Respondent, pharmacist, states that she reattached the labels to the two (2) bottles and in doing so, the medications were placed in the incorrect bottles. Pharmacist indicates that although it is her usual practice to check the medication in the bottle prior to affixing the label, she must have overlooked this step on that day. To prevent this error from recurring, pharmacist states that she will now make it a habit to start the verification process from the beginning when any change occurs. Also, pharmacist states that she has reviewed the pharmacy's policy and procedure regarding the final verification of prescriptions with the pharmacy supervisor who provided her with advice and guidance about preventing prescription errors.

Prior complaints:

DPh: None

PIC: None

Pharmacy: None

Recommendation: Letter of Warning

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

4. Case No.: L06-PHR-RBS-200603208

Complainant alleges that he was not given his prescription for Zoloft by the pharmacy until September 2nd even though the pharmacy states that he signed for the medications twice on August 2, 2006 and once on August 11, 2006. Complainant also references an offer that he did not take.

Pharmacist in charge responds that the Complainant did not receive his prescription for Zoloft on August 2nd, but did receive it on August 11th. One of the pharmacists at the pharmacy remembers giving the Complainant his medication. PIC states that it is his belief that the Complainant misplaced his medication. PIC also states that they did offer to give the Complainant enough medication to last until TennCare would pay for a refill.

Prior complaints:

DPh: None

PIC & Pharmacy: Medication Re-fill issue- Dismissed

Recommendation: Dismiss

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

5. Case No.: L06-PHR-RBS-200603305(2) and 200603305(1)

Complainant alleges that the pharmacy failed to fill his prescription for Rantidine 300mg twice a day and Prevacid 30mg twice a day. Complainant alleges that he was told that the pharmacy would fill his prescriptions and that TennCare would pay for them if the Complainant's doctor filled out a certain form. When the Complainant went to pick up his medications, he was told that there was difficulty with having TennCare pay for the prescriptions. Complainant then asked for his prescriptions back and was told that they were thrown away.

Pharmacist states that the technician does not recall receiving prescriptions for Prevacid or Zantac at the same time, but does know that a prescription for Zantac (generic) was filled. Pharmacist hypothesizes that the Prevacid prescription may have been misfiled and indicates that there must have been a breakdown of communication between pharmacist and patient.

Prior complaints:

DPh: None

PIC: None

Pharmacy: None

Recommendation: Dismiss

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

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

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

Respondent has not responded to the complaint.

Prior complaints:

DPh: None

Recommendation: Discuss

The Board directed Mrs. Alison Cleaves, chief legal counsel, to refer the complaint to the Investigations Division for further action.

7. Case No.: L06-PHR-RBS-200603257

Complainant alleges that the Respondent, pharmacist, took medications such as Zoloft, Lezapro, Vaproxen, HC Cream and Ambien from the pharmacy as well as merchandise, such

as DVD's and a printer cartridge. A conversation with the DM revealed that there were no addiction issue identified and that the Respondent took the medication for his wife and child and that he took it out of the bottles from the pharmacy shelf. To the best of the DM's knowledge, there were no prescriptions for the medications.

Prior complaints: None

Recommendation: Authorize Formal Hearing (Consent Order with a five (5) year term of probation.

Dr. Sheila Mitchell motioned to accept counsel's recommendation. The motion died for lack of a second. Dr. Todd Bess motioned to **issue a Consent Order for unprofessional conduct and to assess a civil penalty of \$500**; seconded by Dr. Robert Mitchell. All were in favor and the motion carried.

8. Case No.: L06-PHR-RBS-200600619

Complainant, a podiatrist, filed a complaint against the Respondent pharmacy noting that someone at the pharmacy threw away a patient's prescription for Merpergan. Complainant states that he provided his patient with a prescription for Merpergan prior to the patient's surgery and then with an additional prescription for Merpergan because she needed more medication. When she took both prescriptions to the pharmacy, the patient was told that only one prescription would be filled and that the other was a duplicate and would be thrown away. Complainant states that he was never contacted by anyone at the pharmacy about the two (2) prescriptions; it was brought to his attention when the patient called requesting a refill. Complainant called the pharmacy for an explanation, left a message and had not heard back as of the date of his complaint (two (2) day period of time).

Pharmacist states that she received two (2) prescriptions for Merpergan, 30 tablets; the technician thought one was a duplicate, so she destroyed it. Pharmacist says that if the physician wanted the patient to have 60 tablets, then he would have written one prescription.

Prior complaints:

PIC: Medication Error- Ltr of Warning

Pharmacy: Medication Error- Ltr of Warning;

Medication Error-Closed

DPh: None

Recommendation: Dismiss

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

9. Case No.: L05-PHR-RBS-200421459

Complainant alleges that the Respondent, pharmacy technician, was arrested for theft of controlled substances. Respondent's registration expired before an investigation could be completed in this case.

Recommendation: Close and reopen upon reapplication

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

10. Case No.: L06-PHR-RBS-2006034332, 2006034331

Complainant alleges that her prescription for Motrin 600 mg was misfilled because the pharmacist placed the incorrect directions on the prescription bottle. The prescription should have said "take one (1) tablet three (3) times a day" and instead it said "take two (2) tablets three (3) times a day". Complainant took the incorrect dosage for five (5) days until she realized the error.

Pharmacist admits the error of placing incorrect directions on the prescription bottle. The directions appeared to him to say "2 po tid prn". Pharmacist states that he knows that this daily dose is over the maximum amount. Pharmacist also states that he should have caught the mistake and called the doctor. In terms of preventing an error like this from happening in the future, pharmacist states that he will take extra care in the verification process.

Prior complaints:

Pharmacy: None

PIC: None

DPh: None

Recommendation: Letter of Instruction to dispensing DPH

Dr. Robert Mitchell motioned to accept counsel's recommendation; seconded by Dr. Bettie Wilson. There was one nay vote. The motion carried.

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

11. Case No.: L06-PHR-RBS-200603512

Complainant alleges that he did not receive patient counseling in accordance with laws and rules. Complainant alleges that when he picked up his new prescription for Cephalexin, the technician asked him if he had any questions. Complainant told the technician that he wanted to be counseled by a pharmacist. Complainant states that the technician then attempted to counsel him. Complainant stopped the technician and then the technician asked the Complainant if he wanted to speak to a pharmacist. Complainant states that he just went home and then contacted the pharmacist who told the Complainant that she was sure that the technician gave him accurate information and that she had full faith in her technicians.

Pharmacist states that he does recall hearing the technician speak to a patient and state the following: "any questions for the pharmacist?" and then "would you like to speak to a pharmacist?" Pharmacist denies receiving a phone call from the Complainant and therefore denies telling the Complainant the statements about the technician.

Prior complaints:

Pharmacy: Medication Shortage- Dismissed;

PIC: Medication Shortage- Dismissed

Recommendation: Letter of Warning about patient counseling on new prescriptions

Dr. Todd Bess motioned to **authorize a formal hearing and/or Consent Order with a civil penalty of \$500 to the pharmacy, \$100 to the dispensing pharmacist and a Letter of Instruction to the PIC regarding patient counseling**; seconded by Dr. Sheila Mitchell. All were in favor and the motion carried.

12. Case No.: L06-PHR-RBS-200603708

Complaint generated from the National Practitioner's Database alleging that the Respondent misfilled a prescription written for Ventolin (dropper) with Ventolin (inhaler); patient was a child. The only injury reported from this misfill was emotional injury. The claim was settled for five hundred dollars (\$500.00).

Pharmacist states that the misfill did occur. The prescription was written as Albuterol liquid, 1 ml q6 prn cough & wheezing, but it was filled with Albuterol Inhalation Solution with a sig of 1 ml every six (6) hours and directed for cough and wheezing. The mistake was not detected by the pharmacist in the verification process, but was found when the mother called the pharmacy requesting clarification of the directions. Pharmacist confirmed that the patient did not consume any of the incorrect medication.

Prior complaints:

DPh: 2002 – impaired pharmacist; license indefinitely suspended; license reinstated with a term of probation; Respondent currently on probation with the Board

Recommendation: Letter of Warning

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

13. Case No.: L06-PHR-RBS-200603435

Complainant alleges that he was given the incorrect insulin by the pharmacy. Complainant states that his prescription provided for Novolog Flexpen Mix 70/30, but the Complainant does not state what he received, other than "the wrong insulin". Complainant states that the pharmacy told him that the doctor gave him the wrong medication.

Respondent states that they dispensed what the Complainant's physician prescribed, which was Novolog Flex Pen (3ml). Respondent states that there was a misunderstanding with the Complainant about what they were processing (Novolog Flex Pen) and what the Complainant wanted (Novolog Mix 7/30 Flex Pen). When the Complainant called stating that he got the incorrect medication, the pharmacy contacted the physician's office. Physician's office told the pharmacy that it was their error and provided the pharmacy with a new prescription for Novolog Mix 70/30 Flex Pen. Although the pharmacy had not misfilled the prescription, as a good will gesture, they refunded the Complainant's money.

Prior complaints:

Pharmacy: None

PIC: None

Recommendation: Dismiss

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

14. Case No.: L06-PHR-RBS-200603439(1), 200603439(2)

Complainant alleges the following: that the pharmacist owner's nine (9) year old daughter sells prescriptions to customer, counts pills and runs the register at the Respondent pharmacy; that the owner of the pharmacy has employees that are not registered, but are performing technician duties and not wearing identification tags; that the pharmacy owner has not locked up the Schedule II Controlled Substance drugs even after two (2) break-ins or conducted an inventory after the break-ins; and the owner takes boxes of Pseudoephedrine off of the shelves and never records them.

Pharmacist states the following in response: her daughter is at the pharmacy everyday after school and she does ring people up, but does not count or dispense pills; she did hire a high school student to work as a technician in her pharmacy and should have had her registered in August, but is doing so now; the Complainant is incorrect about the C II Inventory. They completed an inventory after each break-in; and that she has never taken plain pseudoephedrine. She has taken Sudafed Nondrying Sinus, which is in a gel cap containing Pseudoephedrine and guaifenesin, which is not regulated by the Methamphetamine law.

Prior complaints:

*Pharmacy: 2002- Letter of Instruction – Rec'd another patient's medication; 2004- Dismiss
PIC: Rec'd another consumer's meds- Ltr of I 200208719; Customer Service- Dismissed
DPh: Customer Service- Dismissed*

Recommendation: Formal Hearing (Consent Order with \$100.00 civil penalty for failure to have the technician registered in a timely manner)

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

15. Case No.: L06-PHR-RBS-200603824(1), 200603824(2)

Complaint generated from an investigator compliance inspection alleges that the pharmacist on duty was supervising four (4) pharmacy technicians and at least two (2) of the four (4) technicians were certified. All four (4) of the individuals characterized by the investigator as technicians were engaging in technician functions when he was observing in the pharmacy.

Pharmacist states that the technician ratio rule was violated because of a training project. Since there was a time limit in which the training needed to be completed, the ratio was not correct during this training period.

Prior complaints:

*Pharmacy: None
PIC: None
DPh: None*

Recommendation: Authorize Formal Hearing (Consent Order with \$250.00 civil penalty)

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

16. Case No.: L06-PHR-RBS-200603561(1), 200603561(2)

Complainant alleges that her prescription for Copaxone was filled by the pharmacy when it should not have been filled and the Complainant incurred the prescription cost when filling the prescription is not necessary. Pharmacist in charge states that the pharmacy is owned and operated by a drug manufacturer. PIC states that the pharmacy was established for the sole purpose of dispensing, free of charge to Copaxone patients, a prescription device called the autoject 2 for glass syringe. The pharmacy does not inventory or dispense prescription drugs or other devices. The only prescription that the PIC filled for the Complainant is for the syringe and that neither she nor any other pharmacist has filled any other prescriptions for the Complainant.

Prior complaints:

Pharmacy: None

PIC: None

DPh: None

Recommendation: Dismiss

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

17. Case No.: L06-PHR-RBS-200603825(1), 200603825(2), 200603825(3)

Complainant alleges that her daughter's prescription for Zyrtec was mistakenly filled with a blood pressure medication. The patient did consume some of the incorrect medication (quantity unknown) and began to feel faint.

Dispensing pharmacist admits that the misfill occurred. The patient's prescription for Zyrtec 10mg was mistakenly filled with Norvasc 10mg. A pharmacist states that both of the drugs were located in the "fast-mover" department of the pharmacy and because of the similarity of the bottles, the Norvasc was placed in the wrong position. Pharmacist states that the patient consumed one (1) tablet before the error was detected and that she corrected the mistaken immediately. When the pharmacist realized that the mistake had been made, she contacted the board and reported it. In order to prevent an error of this nature from occurring in the future, the pharmacist has placed the two (2) products far away from each other in the pharmacy.

Prior complaints:

Pharmacy: Out of Date drugs- Dismissed

PIC: None

DPh: Out of Date drugs- Dismissed; Mislabeled Rx-Closed

Recommendation: Letter of Warning to dispensing DPh and PIC

Dr. Todd Bess motioned to issue a **Letter of Instruction to the pharmacist dispensing and the PIC and for the pharmacists to review the "fast movers" section**; seconded by Dr. Larry Hill. All were in favor and the motion carried.

18. Case Nos.: L06-PHR-RBS-200603281(1), 200603281(2)

Complainant alleges that someone from the pharmacy told a nurse from the physician's office and others that her husband, who recently had cardiac surgery, that he had a problem with narcotics and that he was a drug addict.

Pharmacist denies the allegations. Pharmacist states that the only statement from the pharmacy about the Complainant's husband is a conversation between the pharmacist on duty and the doctor's office sharing information that the patient was listed in the local newspaper as being arrested and booked on drug charges. Pharmacist on duty shared this information to inform the doctor of potential diversion since he was prescribed several controlled substances.

Prior complaints:

Pharmacy: None

PIC: None

DPh: None

Recommendation: Dismiss

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

19. Case Nos.: L06-PHR-RBS-200603734(1), 200603734(2)

Complainant alleges that the pharmacy filled her prescription for Hylira Hydrating Lotion 2000 ml was filled twice, once for 1000 ml and then again for 2000 ml without the Complainant's knowledge. When Complainant initially went to fill the prescription for Hylira Hydrating Lotion 2000 ml, she was told that her insurance would only cover 1000 ml. After Complainant purchased the lotion, she went back to the pharmacy and requested a refund, which she received. Complainant's insurance company stated that the script was billed to the insurance company again for 2000 ml.

DPh states that claims are not reversed in the pharmacy's system without calling the district office. Pharmacy staff forgot to do this, which caused the problem. PIC states that to the best of her knowledge, no one from the pharmacy retransmitted the prescription to the Complainant's insurance company.

Prior complaints:

Pharmacy: Pharmacy(4)Patient Counseling-Closed; Unprofessional Conduct- Contamination of Med-Ltr of I; Medication Misfill-Ltr of W to Dph, Pic with training; Medication Error- Ltr of W to Dph

Recommendation: Dismiss

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

20. Case No.: L06-PHR-RBS-200603426

Complainant alleges that a pharmacist failed to fill the Complainant's prescription for Dolgic Liquid claiming that the Complainant's husband's doctor had taken him off of that medication and that he did not feel comfortable filling the prescription for the Complainant. Complainant further alleges that when she questioned the pharmacist and asked what her husband's

prescription had to do with her, the pharmacist did not have an answer. Complainant alleges that the pharmacist has violated BOP rules about confidentiality and discrimination between or among patients.

DPh states that he did refuse to fill the prescription and explained to the Complainant that he was refusing based on a documented phone conversation with her husband's physician in which the physician stated that the Complainant's husband had abused Dolgic Liquid in the past. DPh asserts that it would have been unethical of him to dispense this medication to the Complainant knowing the information from the physician. DPh explained to the Complainant that she could have the prescription filled at any other pharmacy.

Prior complaints:

Pharmacy: None

PIC: None

DPh: None

Recommendation: Dismiss

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

21. Case No.: L06-PHR-RBS-200601831

Complainant alleges that her prescription for Atarax 25 mg po tid was filled with Atenolol; Complainant states that she took two (2) tablets of the incorrect medication before realizing the error. When Complainant's husband brought the incorrect medication back to the pharmacy, the pharmacist put the correct medication in the bottle, but put the incorrect directions on the bottle (one every day instead of twice a day).

PIC responds that the misfill did occur and she along with her supervisor, the corporate office and the other pharmacist involved with this incident have researched what might have caused the error and have taken steps to prevent the error from occurring in the future, such as more training and education for all pharmacy staff. PIC also indicates that patient counseling was most likely not performed.

Prior complaints:

Pharmacy: None

PIC: None

DPh: None

Recommendation: Letter of Warning to dispensing DPh about misfill. Authorize formal Consent Order with \$250.00 civil penalty for lack of patient counseling

Dr. Robert Mitchell motioned to **issue a Consent Order with a civil penalty of \$500 to the pharmacy; Consent Order with a \$100 civil penalty to the dispensing pharmacist and a Letter of Instruction to the PIC**; seconded by Dr. Todd Bess. All were in favor and the motion carried.

22. Case No.: L05-PHR-RBS-200313312

Complainant alleges that the Respondent, pharmacist, entered a Pre-Trial Diversion for a period of one (1) year and was ordered to pay a fine of \$1,000.00 to resolve criminal charges of insurance fraud.

Recommendation: Formal Hearing

Chief legal counsel, Mrs. Alison Cleaves stated the Consent Order was refused by the pharmacist and she is requesting authorization to proceed with a formal hearing.

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

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

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

Respondent did not respond to this complaint.

Prior complaints:

DPh: maintaining a sanitary condition-Closed

Recommendation: Letter of Warning to DPh

Dr. Robert Mitchell motioned to accept counsel's recommendation; seconded by Mrs. Monica Franklin. After board discussion, Dr. Mitchell withdrew his motion. The motion died.

Dr. Robert Mitchell motioned to **request that an investigator obtain a response from the pharmacist**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

24. Case No.: L06-PHR-RBS-200603979

Complainant alleges that the Respondent, pharmacist, changed her legitimate prescription for Gabapentin 600 mg to Lyrica 150 mg. The pharmacist allegedly billed the insurance company for Gabapentin, but billed the insurance company for Lyrica. Pharmacist has admitted the conduct to pharmacy staff and stated that the reason for her conduct is that Lyrica works better for her Fibromyalgia, but her insurance company will not cover the expense.

Prior complaints:

DPh: None

Recommendation: Formal Hearing

Dr. Todd Bess motioned to proceed with a Formal Hearing or issue a Consent Order; seconded by Dr. Bettie Wilson. Chief legal counsel, Mrs. Alison Cleaves, inquired as to a suspension period or probation of license. After board discussion, Dr. Todd Bess withdrew his motion. Dr. Sheila Mitchell motioned to **issue a Consent Order with a civil penalty of \$500 with a term of**

probation for a period of two years; and the pharmacist cannot fill prescriptions for herself or members of her family. Mrs. Monica Franklin seconded the motion. All were in favor and the motion carried.

25. Case No.: L06-PHR-RBS-200602632(1), 200602603(1)

Complainant alleges that a physician in Tennessee issued an internet prescription for a patient in Arkansas. An internet pharmacy located in Florida, but also licensed in Tennessee, filled the prescription.

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

Recommendation: Letter of Instruction about filling internet generated prescriptions

Mrs. Monica Franklin motioned to accept counsel's recommendation. The motion died for lack of a second. Dr. Todd Bess motioned to **accept counsel's recommendation**; seconded by Dr. Robert Mitchell. All were in favor and the motion carried.

26. Case No.: L06-PHR-RBS-200603822

Complainant alleges that the Respondent, pharmacist, dispensed Doxycycline 100 mg, approximately twenty (20) to thirty (30) tablets without a prescription. Complainant also alleges that the Respondent did not ask for another prescription when she went to see her doctor on September 1st. Complainant alleges that in a statement by the Respondent, Respondent indicates that she has purchased medications from the pharmacy where she was employed without prescriptions in the past.

Respondent admits that she purchased the medication without a prescription on August 20th and then obtained a valid prescription on September 7th after making a statement to loss prevention. Respondent stated that the reasons for her conduct were that she is a travelling pharmacist and she exhausted her supply of Doxycycline and needed more of the medication before she could get to the doctor; Respondent indicates that she had made an appointment with her doctor for September 1st, which was the first available appointment. Respondent also indicates that she was under stress because a family member was in the hospital.

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

Recommendation: Formal Hearing (Consent Order with a term of probation)

Dr. Robert Mitchell motioned to **accept counsel's recommendation to issue a Consent Order with a civil penalty of \$500; a term of probation for a period of two years; and the pharmacist cannot fill prescriptions for herself or members of her family**; seconded by Dr. Sheila Mitchell. All were in favor and the motion carried.

27. Case No.: L06-PHR-RBS-200603836(2), 200603836(1)

Complainant alleges that the Respondent pharmacy received a “cease and desist” letter from the Missouri Board of Pharmacy because it filled a prescription that was generated online when the Respondent was not licensed as a pharmacy in Missouri.

Pharmacy owner, who is a pharmacist, states that he was unaware of the regulations about receiving out-of-state mail order prescription drugs. Owner indicates that they have stopped receiving and shipping any orders to Missouri.

Prior complaints: Pharmacy: None

PIC: None

DPH: None

Recommendation: Letter of Warning about filling prescriptions generated online, which are not considered valid prescriptions

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

28. Case No.: L06-PHR-RBS-200603843(2), 200603843(1)

Complainant alleges that the following violations occurred in the filling of her husband's prescription for Morphine IR 10 mg: (1) new prescription and no counseling was provided; (2) the outside label on the bottle instructed that the medication was to be taken orally, when in the inside print-out indicated that the drug was an injectable; and (3) the wrong co-pay was charged for the medication.

Respondent stated that he called the patient's insurance company about the large co-pay, but could not get an answer. Respondent also states that he did not provide any patient counseling because the patient's sister picked up the medication and to provide her with counseling would have violated HIPAA. The Respondent did not address the discrepancy between the label on the bottle and the print-out that stated the medication was an injectable.

Prior complaints:

Pharmacy: None

PIC: None

DPH: None

Recommendation: Authorize Formal Hearing. (Consent Order with \$500.00 civil penalty to pharmacy, \$100.00 civil penalty to DPH and Letter of Instruction to PIC for failure to provide patient counseling). Letter of Warning to DPH about the discrepancy between the label and the print-out.

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

******Chief legal counsel, Mrs. Alison Cleaves, requested Dr. Julie Frazier to recuse herself. President Frazier relinquished her duties as President and appointed Dr. Sheila Mitchell as President. ******

29. Case No.: L06-PHR-RBS-200603889

Complainant, the Department of Health, alleges that it identified some concerns about the pharmacy services provided at the Respondent, a long-term care pharmacy. Some of the problems identified were a widespread problem of medications that were borrowed from one resident and given to another, the absence of a system to ensure accurate documentation for the disposition of controlled drugs dispensed, and the inability to account for numerous controlled drugs that were documented as signed out, but not documented as given to the resident.

Pharmacist responded that the deficiencies cited by the Department of Health dealt with the improper documentation by the nursing staff relative to the administration of controlled substances. Pharmacist states that the administration of medication and the documentation of that administration is a nursing function. The pharmacy's responsibility is to monitor and report to the facility the areas that need improvement. To that end, the pharmacy provides in-service education to the staff twice a year about proper pharmacy procedures, including borrowing medication. The pharmacy also performs a QA audit of prn controlled substance documentation on a monthly basis, med pass observation with the nursing staff quarterly to identify areas of improvement and provide education, and a Quality Assurance Evaluation of the cart.

Prior complaints:

*Pharmacy: (3) Customer Service-Dismissed; Medication Error-Dismissed;
Medication Error-Ltr of Warning*

PIC: 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.

******Dr. Sheila Mitchell, relinquished her duty as Chair over to Dr. Julie Frazier, President. ******

30. Case No.: L03-PHR-RBS-200312649

Complainant alleges that the pharmacy employed two (2) technicians who were not certified, thereby violating that pharmacist to pharmacy technician ratio and that two (2) of the pharmacy employees were not wearing appropriate identification. Board previously voted to extend an offer of settlement in the form of a five hundred dollar \$500.00 civil penalty. Respondent paid four hundred dollars (\$400.00).

Recommendation: Accept amount of civil penalty paid and close case

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

31. Case No.: L06-PHR-RBS-200601862

Complainant alleges that the Respondent, pharmacist, violated the terms of his Consent Order with the Board in which he agreed that he would not be the pharmacist in charge for the duration of his probation with the Board (November 25, 2005 to November 25, 2007) by signing a statement to be pharmacist in charge at a pharmacy through a staffing agency. In response to the complaint, Respondent states that he has been operating as a pharmacist through a

temporary agency. When he received the job, he signed a whole stack of paperwork given to him by the agency and unwittingly signed a paper saying he agreed to be the pharmacist in charge. Respondent also states that he did not consider this to be a pharmacist in charge position since there already was a pharmacist in charge for this service district.

Recommendation: Letter of Warning

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

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

Respondent, pharmacy technician, admitted to smoking marijuana to her employer although her employment drug screen was negative. As a result of the admission, the Board voted to place the Respondent on a term of probation. Employer allowed the Respondent to return to work as long as she completed the employer drug program. Investigator has been unable to locate the Respondent and the investigator understands that the Respondent did not complete the drug program.

Recommendation: Formal Hearing

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

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

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

Respondent did not respond to the complaint.

*Prior complaints:
DPh: Unprofessional Conduct- Ltr of W*

Recommendation: Letter of Warning

Dr. Robert Mitchell motioned to **have the investigator obtain a response from the pharmacist**; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

34. Case No.: L05-PHR-RBS-200500784

Complainant alleges that the Respondent, pharmacy technician, was arrested for theft and diversion of Lortab from the pharmacy where she was employed.

Recommendation: Formal Hearing (Consent Order for Revocation)

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

35. Case No.: L06-PHR-RBS-200603888

Complainant alleges that the Respondent took Alprazolam, Clonazepam, Flexeril and Hydrocodone tablets from the pharmacy where she was employed.

Recommendation: Formal Hearing (Consent Order for Revocation)

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

36. Case No.: L06-PHR-RBS-200603437

Complainant alleges that the pharmacists at Respondent pharmacy refused to fill her prescription; Complainant did not identify the drug prescribed.

Respondent states that the Complainant did attempt to get a prescription filled at the pharmacy, but did refuse to fill it because the Complainants are restricted from shopping at the pharmacy because they created a hostile environment for the employees.

Recommendation: Dismiss

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

37. L06-PHR-RBS-200603839

Complainant alleges that the Respondent pharmacy dispensed expired MICRO PINs®. Respondent admits that they did distribute an expired product. The manufacturer received a complaint from a patient about the expired product on or about May, 2006 (product expiration date was 8/05). Manufacturer notified Respondent of the complaint on July 27, 2006. On that same day, the Respondent quarantined the product, removed it from inventory, and moved it to a sequestered area to prevent further dispensing of the product. In order to prevent this error from happening in the future, the Respondent has taken the following corrective measures: immediately discussed errors during employee communication meetings and retrained distribution staff on responsibilities related to entering expiration dates and checking expiration dates as a part of the verification process; identified the 118 patients who received the expired product; sent a notification letter to the 118 patients. Respondent states that at the date of the letter (October 26, 2006), that 65 out of the 118 patients have responded to the notification.

Recommendation: Authorize Formal Hearing (\$500.00 civil penalty)

Dr. Todd Bess motioned to **issue a civil penalty of \$250**; seconded by Dr. Sheila Mitchell. There was one (1) nay vote. The motion carried.

ADJOURNMENT

Dr. Julie Frazier, President, requested that the Board of Pharmacy reconvene on Wednesday, November 8, 2006 at 8:30 a.m. CST instead of the 9:00 a.m. regularly scheduled time due to

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the remaining agenda items to be discussed. Dr. Julie Frazier adjourned the Board of Pharmacy meeting on Tuesday, November 7, 2006 at 4:30 p.m. CST.

RECONVENED

The Board of Pharmacy reconvened on Wednesday, November 8, 2006 at 8:30 a.m. CST in Room 160 of the Davy Crockett Tower, Nashville, Tennessee. A quorum of the members being present, President Julie Frazier called the meeting to order. *For the record, Mrs. Monica Franklin arrived at 8:55 a.m. CST, but was unaware of the rescheduling of the meeting time since she was not in attendance on Tuesday.

**JOSH BOULIN, DPH, LIAISON
NATIONAL ASSOCIATION OF BOARDS OF PHARMACY
1600 Feehanville Drive
Mt. Prospect, IL 60066**

Dr. Terry Grinder advised Dr. Josh Boulin, Liaison with the National Association of Boards of Pharmacy, provides legislative support and regulation matters for the "Boards" and referenced legislative amendments/changes for manufacturers, wholesale and distributors, and Pedigree provisions.

**MARK STEPHENS, PHARM D
AMPHARM HEALTH SERVICES
1000 Ridgeway Loop Road #320
Memphis, TN 38120**

Interim Executive Director, Dr. Terry Grinder, introduced Dr. Mark Stephens and Dr. Brad Hopkins who are appearing to request approval to allow Ampharm Health to be a central fill pharmacy. Dr. Stephens stated AmPharm Health Services and AmPharm-Huntsville, a licensed pharmacy in Huntsville, Alabama, are owned and operated by American Health Companies. Dr. Stephens noted on April 4, 2003, the Alabama Board of Pharmacy enacted new Central Prescription Filling Rules. Dr. Grinder stated that the Tennessee Board of Pharmacy's Central Fill Rules are still pending approval from the Attorney Generals' Office. Dr. Stephens and Dr. Hopkins discussed the responsibilities of the dispensing and filling pharmacies; maintenance of records for compliance with state and federal laws; labeling of prescriptions; and policy and

procedures. President Dr. Julie Frazier stated to allow as long as Ampharm is complying with the Alabama Board of Pharmacy Rules and are not in violation of these rules since Tennessee does not have any central fill rules.

**BRENDA WARREN, PHARM D
ACCREDITO HEALTH, INC.
1640 Century Center Parkway #101
Memphis, TN 38134**

Dr. Brenda Warren and Dr. Sherry Townsend with Accredo Health appeared before the Board to discuss the Return to Inventory of Prescription Drugs. Accredo Health is a unique pharmacy which specializes in chronic and rare disease therapies. Due to the high acquisition costs of the medication and the special handling involved, Accredo wishes to reiterate their procedures and to discuss the definition of the term “dispense”, as defined in T.C.A. §63-10-404 (11). Dr. Warren noted in certain circumstances, the medications are returned to Accredo due to the discontinuance of the therapy, death or hospitalization of the patient after the shipment has occurred and that the “actual delivery of” the prescription drug has not taken place. In reference to Rule 1140-4-.10 Unused Drugs, Devices and Related Materials, the Rule would allow Accredo to re-stock and re-issue the medications if the integrity of the product is intact according to the professional judgment of the pharmacist.

Mrs. Alison Cleaves, chief legal counsel, noted in the scenarios presented, that if the medication is delivered by their agent, Federal Express, to the doctor’s office and kept stored in the refrigerator and the patient does not show up, there are guidelines that must be met prior to accepting the return of the drugs pursuant to Rule 1140-4-.10. Rule 1140-3-.03 (8) Medical and Prescription Orders - makes an exception to Rule 1140-4-.10 in reference to the return of any portion of an order that has been taken from the premises of the pharmacy practice site.

The Board expressed concern if Federal Express delivered to an address and the homeowner contacted Federal Express to report that the package was left on the wrong porch and is retrieved and returned to Accredo it may be a Pedigree issue. Another issue of concern discussed was the accepting of packages from the physician's office and the Board advised Accredo should inspect their facility.

The Board requested a change be made in the process Accredo has previously been following.

The Board would also like to see "red" tape on the styrofoam.

CONTROLLED SUBSTANCE DATABASE MONITORING

President Julie Frazier, speaking on behalf of the Board, wished to acknowledge their appreciation to Ms. Kolleen Matthews and Mr. Brad Meyers for their commitment and dedication to the Controlled Substance Database.

REQUEST FOR APPROVAL OF PHARMACY TECHNICIAN REGISTRATIONS

HERBERT E. ARDILA
2206 Winford Avenue
Nashville, TN 37211

Chief legal counsel, Mrs. Alison Cleaves, advised Mr. Herbert Ardila had indicated "yes" under the Violations section on the pharmacy technician registration to having been convicted of a misdemeanor including alcohol and drug related offenses. Mr. Ardila was arrested and charged with a DUI offense in 2003 in the State of Florida and was placed on probation for six (6) months. The probationary term ended April 9, 2004 and a copy showing the completion of the DUI program was furnished to the Board. Dr. Bettie Wilson motioned to **allow the processing** of Mr. Ardila's application; seconded by Dr. Larry Hill. All were in favor and the motion carried.

DAWN M. JOSHLIN
1202 Clearview Drive
Mt. Juliet, TN 37122

Mrs. Alison Cleaves, chief legal counsel, noted Ms. Dawn Joshlin had indicated she had been arrested in 1988 and paid a fine relevant to her pharmacy technician application. Mrs. Monica

Franklin motioned to **allow the processing** of the technician pharmacy application; seconded by Dr. Todd Bess. All were in favor and the motion carried.

DAVID E. LACKEY
4805 Illinois Avenue
Nashville, TN 37209

Chief legal counsel, Mrs. Alison Cleaves advised the Board that Mr. David Lackey pled guilty to a misdemeanor in 2003 resulting in the loss of his driver's license for one (1) year. Mr. Lackey provided copies of the General Sessions disposition. Dr. Bettie Wilson motioned to **approve** the pharmacy technician application; seconded by Dr. Larry Hill. All were in favor and the motion carried.

CHRISTINA M. MCINTYRE
2134 Fairfax Avenue #E-13
Nashville, TN 37212

Mrs. Alison Cleaves, chief legal counsel, noted in 2003 Ms. Christina McIntyre was arrested and charged with a DUI - first offense and paid in full the fines plus court costs. Dr. Todd Bess motioned to **approve** the pharmacy technician application; seconded by Dr. Robert Mitchell. All were in favor and the motion carried.

BRENDA F. OWENS
419 35TH Avenue North #”C”
Nashville, TN 37209

Mrs. Alison Cleaves, chief legal counsel, noted Ms. Brenda Owens indicated on her pharmacy technician registration of a misdemeanor violation. Mrs. Cleaves stated the misdemeanor charge may have been expunged. The Board **deferred approval of the registration pending counsel's action.**

BRENETTA PHELPS
300 Royal Oaks #404
Franklin, TN 37067

Chief legal counsel, Mrs. Alison Cleaves, stated Ms. Brenetta Phelps did not indicate whether she had been convicted of a misdemeanor but noted in the comment section, “10 years or more was working and did not tell caseworker, but payed back money”. A more detailed response

was requested from Ms. Phelps to clarify the comment and she responded there are no felonies or any charges pending. The **Board deferred action until the next meeting.**

JENNIFER A. TAYLOR
334 Hermitage Avenue
Cookeville, TN 38501

Mrs. Alison Cleaves, chief legal counsel, noted Ms. Jennifer Taylor had two (2) previous DUI, in 2003 and 2004 in Arizona and is a certified pharmacy technician in Tennessee. Dr. Todd Bess motioned to **provide evidence that she has completed the requirements imposed by the courts;** seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

REQUEST FOR APPROVAL OF RECIPROCITY APPLICATIONS

MICHAEL RAY BARTON, DPH
1002 River Bend Road
Chattanooga, TN 37419

Chief legal counsel, Mrs. Alison Cleaves, noted in 2002, Dr. Michael Barton was issued a Letter of Reprimand and assessed a civil penalty of \$2,750 by the Louisiana Board of Pharmacy for an issue related to being the PIC of the pharmacy and responsibility of utilizing non-approved electronic beta testing Rx prescription transmissions. Dr. Sheila Mitchell motioned to **allow Dr. Barton to pursue the licensure process;** seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

MICHELE L. BRADSHAW, DPH
1421 Lanridge Court
Raleigh, NC 27603

Mrs. Alison Cleaves, chief legal counsel, advised the Board in 2004, Dr. Michele Bradshaw was charged with a misdemeanor for breaking and entering. The charges were dismissed in December, 2004, and a no plea was entered nor was no sentence or judgement imposed. Dr. Todd Bess motioned to **accept** the reciprocal candidate; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

KENTON L. CROWLEY, DPH
40970 Alton Ct.
Temecula, CA 92591

Mrs. Alison Cleaves, chief legal counsel, stated Dr. Kenton Crowley had disciplinary action taken by the California Board of Pharmacy as a result of self-administration of Demerol. In September 2004, Dr. Crowley voluntarily participated and was released from the Nevada PRN program. Dr. Crowley's license in California was reinstated with conditions in April, 2005. Dr. Todd Bess motioned **to deny the reciprocal application request and if Dr. Crowley wants to pursue a Tennessee license, he will need to obtain advocacy from the Tennessee Pharmacist Recovery Network (TPRN)**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

CARMEN C. INQUILLA, DPH
7471 Harding Cove #101
Germantown, TN 38138

Chief legal counsel, Mrs. Alison Cleaves, advised Dr. Carmen Inquilla noted on the reciprocal application that she had received a formal reprimand in April, 1999 from the Michigan Board of Pharmacy for not having the correct generic manufacturer listed on the prescription bottle. There was no disciplinary action or fine imposed. Dr. Sheila Mitchell motioned to **grant** the reciprocity application; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

REQUEST FOR CONSIDERATION TO CHANGE LICENSE STATUS

JAMES BRADFORD BECK, DPH
3491 Avocado Huill Way
Hacienda Heights, CA 91745

Mrs. Alison Cleaves, chief legal counsel, advised Dr. James Beck personally appeared before the Board at the May 16 - 17, 2006 meeting in regards to a complaint that was filed and to request a change in his Tennessee pharmacist license from inactive to active.

The Nevada Board of Pharmacy took disciplinary action against Dr. Beck's license due to Medicaid fraud. Dr. Beck noted the felony conviction had been expunged but an OIG restriction was placed upon his license. At the May 2006, the Board suggested for Dr. Beck to apply to HHS to have the OIG restriction lifted. Dr. Beck furnished the Board with a letter dated

September 14, 2006 from the Department of Health and Human Services, Office of the Inspector General in which Dr. Beck's reinstatement of eligibility to participate as a provider of services by the Title XVIII program had been approved. Dr. Sheila Mitchell motioned to **allow Dr. Beck to proceed with the reinstatement of his license from an inactive to active status**; seconded by Dr. Todd Bess. All were in favor and the motion carried.

REQUEST FOR APPROVAL OF MANUFACTURER, WHOLESALE, DISTRIBUTOR APPLICATIONS

**ZLB BEHRING, LLC
Route 50 North
Bradley, IL 60915**

**ZLB BEHRING, LLC
195 Bradford Avenue
Bradley, IL 60915**

Chief legal counsel, Mrs. Alison Cleaves, advised the Board that ZLB Behring has submitted two (2) applications for licensure in the State of Tennessee as a manufacturer, wholesale, distributor. ZLB Behring has been under an FDA Consent Decree since 1997 and no expiration date to the Consent Decree is noted. There has been no action or problems for the past ten to eleven years but the company is required to report this information on all applications submitted to other states. There are, however, pages of conditions. Dr. Sheila Mitchell motioned to **deny** the MWD applications, seconded by Dr. Robert Mitchell. All were in favor and the motion carried.

REQUEST FOR MODIFICATION TO CONSENT ORDERS

**JOHN FLANDERS, DPH
812 Coal Hill Road
Harriman, TN 37748**

Chief legal counsel, Mrs. Alison Cleaves, received a request from Dr. John Flanders relevant to a Modification to the Consent Order he entered into with the Board in July, 2006, to allow him to work as a "floater" at two (2) CVS Pharmacies. Dr. Flanders does not have the support from his

TPRN advocate. Dr. Robert Mitchell motioned to **deny** the request, seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

WILLIAM SCANDLYN, DPH
P.O. Box 628
Harriman, TN 37748

Mrs. Alison Cleaves, chief legal counsel, noted Dr. William Scandlyn is requesting a Modification to the Consent Order he entered into with the Board on January 20 - 21, 2004, to allow him to serve as PIC. The language contained in the Consent Order states, "... shall not serve as PIC for a period of three years, however, after a period of two (2) years, may petition the Board for a Modification. Dr. Sheila Mitchell motioned to **approve** the Modification to the Consent Order; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

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

Chief legal counsel, Mrs. Alison Cleaves, received a request from Dr. Cephas Sloan for a Modification to the Consent Order he entered into on September 20, 2005 with the Board, to allow him to be a "floater". Dr. Sloan's advocate is not recommending this as a permanent change, but is seeking consideration of a temporary modification for ninety (90) days. Dr. Todd Bess motioned to **deny** the request, seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

LARRY LARKIN, DPH
9713 Tallahassee Drive
Knoxville, TN 37923

Chief legal counsel, Mrs. Alison Cleaves noted Dr. Larry Larkin is seeking a Modification to the Consent Order he entered into with the Board on July 13 - 14, 2006, to allow him to work at two (2) different pharmacies on a temporary basis. There was no accompanying letter from his advocate. Dr. Sheila Mitchell motioned to **deny** the request; seconded by Dr. Robert Mitchell. All were in favor and the motion carried.

ELECTION OF OFFICERS

President Julie Frazier asked for nominations for the President of the Tennessee Board of Pharmacy for 2007. Dr. Todd Bess nominated **Dr. Sheila Mitchell as President**; seconded by Dr. Bettie Wilson. Dr. Todd Bess motioned to **accept the nomination** for President; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

Dr. Julie Frazier, President, asked for nominations for Vice President of the Tennessee Board of Pharmacy. Dr. Todd Bess nominated **Dr. Robert Mitchell as Vice President**, seconded by Dr. Sheila Mitchell. Mrs. Monica Franklin motioned to **accept the nomination** for Vice-President; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

FAREWELLS

Dr. Julie Frazier expressed to the members and staff of having the pleasure to serve as President of the Tennessee Board of Pharmacy and has been a rewarding learning experience. Dr. Sheila Mitchell speaking on behalf of the Board thanked Dr. Frazier for doing an admirable job and has dealt with many issues relevant to the pharmacy profession.

ADJOURNMENT

President Julie Frazier entertained for a motion to adjourn. Dr. Bettie Wilson motioned to adjourn the Board of Pharmacy meeting on Wednesday, November 8, 2006 at 1:00 p.m. CST; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

Respectfully submitted,

Julie Frazier, DPH
President

Terry W. Grinder, DPH
Interim Executive Director