

**TENNESSEE BOARD OF PHARMACY  
NOVEMBER 8 - 9, 2007  
227 FRENCH LANDING - IRIS ROOM  
NASHVILLE, TN**

**BOARD MEMBERS PRESENT:**

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

**STAFF PRESENT:**

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

The Tennessee Board of Pharmacy convened on Thursday, November 8, 2007, in the Iris Room, 227 French Landing, Heritage Place - Metro Center, Nashville, Tennessee. A quorum of the members being present, the meeting was called to order at 9:15 a.m. CST, by Dr. Sheila Mitchell, President. Dr. Sheila Mitchell advised for the record, Dr. Robert Mitchell is not present. President Sheila Mitchell introduced and welcomed Mrs. Alison Cleaves, Chief Legal Counsel. Mrs. Cleaves advised the Board she is now in a supervisory capacity over all the attorneys for Health Related Boards and will be the sole counsel for the Board of Pharmacy.

President Mitchell also welcomed the Board's new Executive Director, Dr. Kevin Eidson. Dr. Mitchell expressed a special "thank you" to Dr. Julie Frazier for sharing her expertise and knowledge while serving on the Board of Pharmacy, as she was not present at the last board meeting.

Dr. Kevin Eidson, Executive Director, introduced Dr. Calita Richards, who is the Interim Director of Pharmacy, for the Department of Health, the position vacated by Dr. Eidson.

**APPROVAL OF THE MINUTES**

The minutes of the May 15 - 16, 2007 and June 20 - 21, 2007 board meetings were presented. The Board requested the minutes be deferred until Friday. After the minutes were reviewed, Mrs. Monica Franklin motioned to **accept the minutes of the May 15 - 16, 2007 and June 20 -**

**21, 2007**; seconded by Dr. Bettie Wilson. For the record, Dr. Brenda Warren was not present at these meetings. All were in favor and the motion carried.

**CONSENT ORDERS**

**THOMAS BREWER, DPH**  
**394 Cedar Bluff Drive**  
**Winchester, TN 37398**

Executive director, Dr. Kevin Eidson, presented a Consent Order for the Reinstatement of License for Dr. Thomas Brewer. Dr. Brewer has agreed to a term of probation of ten (10) years. Dr. Todd Bess motioned to **accept** the Consent Order; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

**KELLY SLAVEN, RT**  
**500 Scattersville Road**  
**Portland, TN 37148**

Dr. Kevin Eidson, Executive Director, presented a Consent Order for the revocation of Ms. Kelly Slaven's pharmacy technician registration due to the theft and diversion of controlled substances from the pharmacy. Dr. Bettie Wilson motioned to **accept** the Consent Order; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

**THURSTON MOORE, DPH**  
**107 Gwendolyn Court**  
**LaVergne, TN 37086**

Executive Director, Dr. Kevin Eidson, presented a Consent Order for the surrender of Dr. Thurston Moore's pharmacist license due to violating the terms of his probation with the Board. Mrs. Monica Franklin motioned to **accept** the Consent Order for Surrender; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

**VICKIE TRAPENI, DPH**  
**and**  
**CVS PHARMACY #6399**  
**800 Saddleview Terrace**  
**Franklin, TN 37087**

Dr. Kevin Eidson, Executive Director, presented an unsigned Consent Order on behalf of Dr. Vickie Trapeni for violating Board of Pharmacy Rule 1140-3-.01 (1) (a) in regards to patient counseling. A \$100 civil penalty was assessed and paid by CVS Pharmacy. Dr. Todd Bess motioned to **accept**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

## **WAIVERS**

**DOTY DEES, DPH**  
**10866 Country Ostrich Drive**  
**Pensacola, FL 32534**

Dr. Doty Dees is requesting a waiver of Tennessee Board of Pharmacy Rule 1140-1-.07 (3) (b) (5) (ii) relevant to the requirement to complete a period of pharmacy internship of three-hundred twenty (320) hours within one-hundred eighty (180) consecutive days for the reinstatement of her pharmacist license. Dr. Dees is actively practicing pharmacy in the State of Florida. Dr. Larry Hill motioned to **grant** the request; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

**ROGER CHADWICK GIBSON, DPH**  
**140 Triple Crown Court**  
**Bowling Green, KY 42104**

Dr. Roger Gibson is requesting a waiver of Tennessee Board of Pharmacy Rule 1140-1-.07 (3) (b) (5) (ii) relevant to the requirement to complete a period of pharmacy internship of three-hundred twenty (320) hours within one-hundred eighty (180) consecutive days for the reinstatement of license. Dr. Gibson retired his Tennessee license on July 28, 2004, but has been actively practicing pharmacy in the Commonwealth of Kentucky. Dr. Bettie Wilson motioned to **grant** the waiver request; seconded by Dr. Larry Hill. All were in favor and the motion carried.

**DOUGLAS S. MERRELL, DPH**  
**128 Coral Avenue #B**  
**Redington Shores, FL 33708**

Dr. Douglas Merrell is requesting a waiver of Rule 1140-1-0-7 (3) (b) (5) in regards to completing a period of pharmacy internship of one hundred sixty (160) hours within ninety (90) consecutive days for the reinstatement of his license. Dr. Kevin Eidson, Executive Director, noted Dr. Merrell's license expired in February, 2006 and he verified Dr. Merrell is actively practicing in the State of Florida. Dr. Eidson mentioned Dr. Merrell will need an extension of five (5) Live ACPE hours as only ten (10) Live hours were submitted. Mrs. Monica Franklin motioned to **grant an extension for six months for the five (5) Live ACPE hours and to grant a waiver for the internship hours.** Dr. Larry Hill seconded the motion. All were in favor and the motion carried.

**RONALD H. SCOTT, DPH**  
**810 Enclave Walk**  
**Roswell, GA 30075**

Dr. Ronald Scott is requesting a waiver of the one-hundred sixty (160) pharmacy internship hour requirement outlined in Rule 1140-1-.07 (3) (b) for the reinstatement of his pharmacist license. Dr. Scott placed his license in inactive/retired status in May, 2005 and he has been actively practicing pharmacy in South Carolina and Georgia. Dr. Scott has successfully passed the MPJE. Dr. Bess inquired if the CE's were in order and Dr. Eidson confirmed they were. Dr. Todd Bess motioned to **grant** the waiver request; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

**BRAD BECK, DPH**  
**3491 Avocado Hill Way**  
**Hacienda Heights, CA 91745**

Dr. Brad Beck is requesting a waiver of Rule 1140-1-.07 (3) (c) (3) (5) relevant to the requirements for the successful completion of the NAPLEX and Jurisprudence Exam and pharmacy internship of three-hundred twenty (320) hours for the reinstatement of his pharmacist license. Dr. Beck has been gainfully employed as a pharmacist at the Indian Health Services. Dr. Todd Bess motioned to **approve the waiver request for the NAPLEX and internship**

**hours, but to deny the request for the MPJE;** seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

In a letter dated September 5, 2007, Dr. Beck stated he lacked 10.5 Live ACPE hours. Dr. Todd Bess motioned to **allow Dr. Beck six (6) months to obtain the remainder of the 10.5 Live CE's to comply with the Rule requirement ;** seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

**WILLIAM J. FARMER, DPH  
2305 Heather McCarter Lane  
Sevierville, TN 37862**

At the September 11 - 12, 2007 board meeting, Dr. William Farmer had requested a waiver of Rule 1140-1-.07 (3) (c) (3) and (5) relevant to the requirements of the successful completion of the NAPLEX and Jurisprudence examination and completion of a period of three hundred twenty (320) pharmacy internship hours to reinstate his pharmacist license. Dr. Farmer responded on September 20, 2007, stating he has been actively practicing in Florida. Mrs. Monica Franklin **motioned for Dr. Farmer to provide the additional information the Board had requested and he will need to take the MPJE;** seconded by Dr. Todd Bess. All were in favor and the motion carried.

**TRINA KAYLOR, PHARM D  
HCA SUPPLY CHAIN SERVICES  
HCA TRISTAR DIVISION**

Dr. Kevin Eidson, Executive Director, stated Dr. Trina Kaylor is requesting a waiver of Rule 1140-1-.08 (8) relevant to the designated pharmacist in charge holding a current Tennessee pharmacist license at a pharmacy practice site. Nashville Supply Chain Services operates a Centralized Order Entry Center (COE Center) in Nashville and provides remote or telepharmacy services to ten (10) Tennessee and two (2) Kentucky facilities. The Board expressed concern with medication errors and disciplinary issues. Mrs. Monica Franklin motioned to deny the request. There was no second made to the motion. The motion died. Mrs. Monica Franklin

motioned to request Dr. Trina Kaylor to **appear before the Board** for further discussion;  
seconded by Dr. Todd Bess. All were in favor and the motion carried.

**SHALIA LANKFORD**  
**OWNER**  
**TLC MEDISEND, INC.**  
**100 Covey Drive #310**  
**Franklin, TN 37067**

Ms. Shalia Lankford is requesting a waiver of Rule 1140-1-.12 (3) (d) & (e) relevant to the one hundred eighty (180) square footage; hot and cold running water and refrigeration requirements for a pharmacy. Dr. Terry Grinder inspected the pharmacy and is OK with the waiver requests.

Dr. Todd Bess motioned to **approve the requests based upon Dr. Grinders' recommendation** and to notify the Board if the practice changes as they will need to come back before the Board; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

**REBECCA W. CHATER, RPH, MPH, FAPHA**  
**KERR DRUG**  
**3220 Spring Forest Road**  
**Raleigh, NC 27616**

Dr. Kevin Eidson, Executive Director, received a letter from Dr. Rebecca Chater stating Kerr Drug has been approved to participate in Blue Cross/Blue Shield of Alabama's Medicare Part D Medication Therapy Management (MTM) program and is requesting consideration to waive requirements of pharmacy licensure in order for pharmacists in North Carolina to contact Tennessee residents for an MTM consult. Dr. Chater noted a similar request was made approximately two (2) years ago when Sullivan County employees required diabetes care as part of an APhA Foundation project. Kerr Drug was asked by the Foundation to provide pharmacists as caregivers until Sullivan County pharmacists could be recruited to provide the care. Dr. Todd Bess requested for Dr. Baeteena Black to investigate the accusation mentioned in the letter. Chief legal counsel, Mrs. Alison Cleaves, advised this is an interpretation of the Rule 1140-3-.02 – Location of Practice, not a waiver. The "MTM" constitutes the practice of

pharmacy and the pharmacist performing these tasks should be licensed as a pharmacist. Dr. Bettie Wilson motioned to **deny the request** and the pharmacist must be licensed with the State of Tennessee; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

**JAMIE GUNNELLS, DPH  
ELDERSCRIPT  
144 S. Thomas Street #101-1  
Tupelo, MS 38801**

Dr. Jamie Gunnells, Director of Pharmacy Services at Elderscript, is requesting a waiver for **Glen Oaks Convalescent Center** in Shelbyville, Tennessee of Rules 1140-1-12 (3) (d) relevant to the minimum square footage and 1140-3-14 (12) in regards to the pharmacist in charge being designated at more than one (1) pharmacy practice site. Elderscript utilizes Med Select automated dispensing machines and is requesting a waiver of the minimum 180 square footage requirement for a pharmacy. Dr. Gunnells is requesting Dr. Amanda Milam be the pharmacist in charge at three (3) pharmacy practice locations. Dr. Todd Bess noticed the request is not from Dr. Amanda Milam and motioned to ask Dr. Milam if **she is willing to accept these responsibilities and if she responds “yes”, the waiver is to be approved;** seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

During discussion on the square footage requirement, the investigator feels it is adequate to house the Pyxis machine. Dr. Bettie Wilson motioned to **approve** the waiver request; seconded by Dr. Larry Hill. All were in favor and the motion carried.

**JAMIE O'BAR, DPH  
PINNACLE MEDICAL SOLUTIONS PHARMACY  
9741 Taylor Drive  
Olive Branch, MS 38654**

Dr. Jamie O'Bar is requesting a waiver of Rule 1140-3-14 (12) relevant to being the designated pharmacist-in-charge at more than one (1) pharmacy practice site. Dr. O'Bar is currently the PIC

at a closed door mail order facility in Memphis, Tennessee, and is requesting to be PIC at Pinnacle Medical, which handles diabetic testing supplies. Pinnacle Medical has no set hours of operation at this time and will be based on an as needed basis. Dr. Todd Bess motioned to approve the request with the understanding that if responsibilities changes or the scope of practice, that the Board be notified; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

**DIANA HARSHBARGER, DPH  
THE MEDICINE SHOPPE  
1567 N. Eastman Road  
Kingsport, TN 37664**

Dr. Diana Harshbarger is requesting a waiver of Rule 1140-3-.14 (12) in regards to being the designated pharmacist-in-charge at more than one (1) pharmacy practice site. The Medicine Shoppe in Kingsport, Tennessee and AIMS Pharmacy, a home infusion pharmacy will be located in the same location. Dr. Todd Bess motioned to **approve** the waiver; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

**KENDALL M. LYNCH, DPH  
MAXOR CORRECTIONAL PHARMACY SERVICES  
416 Mary Lindsay Polk Drive #515  
Franklin, TN 37067**

Dr. Kendall Lynch is requesting a waiver of Rule 1140-5-.01 relevant to the "Live" continuing education hours to be ACPE designated for the renewal of license. In the past, the Board has granted a waiver of Paragraph (3) of the Rule and allowed hours designated by another state board of pharmacy to be considered as "Live" hours in Tennessee. The Alabama Board of Pharmacy designated 11.8 hours of a continuing education program as "Live". Mrs. Monica Franklin motioned to **grant** the waiver request; seconded by Dr. Todd Bess. All were in favor and the motion carried.

**JAMES KING, DPH – VIOLATED TERMS OF PROBATION  
KNOXVILLE, TN**

Dr. James King is appearing before the Board along with TPRN advocate, Dr. Kenny Archer, relevant to Violating the Terms of Probation that he entered into with the Board on March 7 - 8, 2006. Dr. King noted in March, 2006, his pharmacist license was reinstated with a ten (10) year term of probation after he completed a treatment program. Dr. King advised the Board in October, 2006, he was suffering from an upper respiratory infection and took two (2) Oxy Contin tablets. Dr. King sought treatment after receiving a positive urine screen. Advocate, Dr. Kenny Archer note Dr. King is compliant with TPRN recommendations. President Sheila Mitchell noted Dr. King removed himself from the practice of pharmacy while attending treatment. Chief legal counsel, Mrs. Alison Cleaves, advised that the term of probation could be extended. Dr. Todd Bess motioned to **extend Dr. King's probationary term to fifteen (15) years from today, November 8, 2007 - November 8, 2022 and should Dr. King fall outside the terms of this contract, that he notify the Board of Pharmacy**; seconded by Dr. Larry Hill. There was one (1) nay vote. The motion carried.

**LOIS HOPPSTEIN, DPH – VIOLATED TERMS OF PROBATION  
MARYVILLE, TN**

Dr. Lois Hoppstein appeared before the Board along with TPRN advocate, Dr. Janet Hicks. Dr. Kevin Eidson, Executive Director, stated Dr. Hoppstein's license was reinstated on May 15 - 16, 2006 with a five (5) year term of probation. Dr. Hoppstein advised the Board in December, 2006, she received a DUI in Cherokee National Park and contacted Dr. Edwin Bills with TPRN to report the incident. Dr. Hoppstein noted the drug screens results were negative. In January, 2007, Dr. Hoppstein attended a thirty (30) day in-patient relapse program at Cornerstone and an eight (8) week outpatient program and was discharged in April, 2007. Dr. Hoppstein stated the DUI was a misdemeanor conviction but since it was received on federal grounds, the Judge sentenced her to two (2) months in a federal detention center. On August 8, 2007, Dr. Hoppstein reported to the center and was released on October 5, 2007. Dr. Hoppstein reported she is not on probation and has paid all fines incurred. Dr. Janet Hicks, TPRN advocate stated

Dr. Hoppstein attends Caduceus and A/A meetings and has completed the 90/90 and is compliant with the TPRN recommendations. After discussion, Dr. Larry Hill motioned to **extend Dr. Hoppstein's term of probation to ten (10) years with all the terms and conditions from November 8, 2007 to November 8, 2017**; seconded by Dr. Bettie Wilson. There was one (1) nay vote. The motion carried.

**JAMES COOK, DPH – REQUEST FOR REINSTATEMENT OF LICENSE  
CORINTH, MS**

Dr. James Cook appeared before the Board with a TPRN advocate, Dr. Cliff Weiss to request the reinstatement of his pharmacist license. Dr. Weiss advised the Board Dr. Cook's TPRN advocate, Dr. Barry Williams was not able to be in attendance due to a conflict. Dr. Kevin Eidson noted in June, 1998, Dr. Cook was placed on a five (5) year term of probation for chemical dependency. Dr. Cook advised the Board in late 2005 he experienced some personal issues and quit attending meetings. In February, 2007, Dr. Cook was caught on tape taking controlled substances from the pharmacy. Dr. Weiss advised Dr. Cook has met the 90/90 meetings, attends A/A, has a sponsor and support network in place and is working the 12-step program. Dr. Tom Brewer was also in attendance for moral support. After board discussion, Dr. Todd Bess motioned:

Respondent does hereby agree to the reinstatement of license number **6284** with the following probationary conditions. Said probation shall remain in effect for a period of **ten (10) years, from November 8, 2007 to November 8, 2017**.

- 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, Carl

Welch, 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.

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

**JOHN PHILLIPS, DPH – REQUEST FOR REINSTATEMENT OF LICENSE  
COVINGTON, TN**

Dr. John Phillips appeared before the Board to request the reinstatement of his pharmacist license. Advocating on his behalf was Dr. Cliff Weiss with TPRN and Dr. Tom Brewer. Dr. Phillips stated in March, 2007, he was confronted by his employer for theft of controlled

substances which he attributed to health issues. Dr. Phillips sought treatment at Cornerstone and received support from his wife and family. Dr. Weiss advised the Board Dr. Phillips has met the 90/90 meetings and is compliant with TPRN recommendations. Dr. Phillips stated he has made restitution to Rite Aid and there are no criminal charges pending. After discussion Dr. Bettie Wilson motioned:

Respondent does hereby agree to the reinstatement of license number **4123** with the following probationary conditions. Said probation shall remain in effect for a period of **ten (10) years, from November 8, 2007 to November 8, 2017.**

- 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, Zack Maxwell, 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 Pharmacist Recovery Network. Respondent shall return a copy of said contract with this Consent Order to the Board office;
- h) The Respondent shall not serve as pharmacist-in-charge for a period of three (3) years, however, after a period of two (2) years, the Respondent may petition the Board for a modification of this Consent Order to remove the restrictions upon a show of good cause. The Respondent shall not work as a "floater" for a period of three (3) years, meaning that the Respondent shall not work at more than one (1) pharmacy location at the

same time without the permission of the Board;

- i) If the license has been inactive, delinquent, suspended or revoked:

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

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

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

**LEGAL REPORT/COMPLAINTS**

**1. Case No.: 200708067**

An October 22, 2007 compliance inspection revealed that the PIC violated the pharmacist to pharmacy technician ratio. Investigator observed five (5) individuals performing technician functions with only one (1) pharmacist on duty. PIC responded to the complaint stating that the reason for the ratio imbalance was that the second pharmacist who was scheduled to appear that day was late to work, creating a violation of the ratio requirement.

*Prior complaints:*

*Pharmacy: None*

*PIC: None*

**Recommendation: Authorize formal hearing (\$250.00 civil penalty to PIC)**

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

**COMPLAINTS #2 - #9 ARE RELEVANT TO THE FAILURE TO OFFER OR CONDUCT PATIENT COUNSELING. THIS WAS OBSERVED BY THE BOARD'S PHARMACIST INVESTIGATORS.**

**THE BOARD COMMENDED THE PHARMACIST'S INVESTIGATORS ON THEIR OBSERVATIONS. PRESIDENT SHEILA MITCHELL ACKNOWLEDGED "GOOD JOB!!"**

**2. Case No.: 200708066**

October 22, 2007 compliance inspection revealed that the investigator observed two (2) patients receive an offer to counsel when they were new prescriptions. Investigator also observed three

(3) patients pick up prescriptions at the drive-thru without even an offer to counsel. Relative to the last three (3) scripts, the investigator is unsure if the scripts were new or refill, which does not matter since an offer to counsel was not even made.

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

**Recommendation: Letter of Instruction to the PIC; Authorize formal hearing (\$500.00 civil penalty authority to the pharmacy and \$100.00 civil penalty to the dispensing DPh).**

Mrs. Monica Franklin motioned to **accept counsel's recommendations for complaints #2 - #9**; seconded by Dr. Todd Bess. All were in favor and the motion carried.

**3. Case No.: 200708056**

October 15, 2007 compliance inspection revealed that a prescription was dispensed by a technician in the drive-thru without an offer to counsel. The investigator approached the pharmacist on duty that had no explanation as to why the violation occurred even though DPh indicated that it was their policy to counsel on all new prescriptions and make an offer to counsel for refills. DPh indicates in her written response that she will review counseling policy with the entire pharmacy staff and have them sign the policy once they review it and place it in her policy acknowledgement file.

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

**Recommendation: Letter of Instruction to the PIC; Authorize formal hearing (\$500.00 civil penalty authority to the pharmacy and \$100.00 civil penalty to the dispensing DPh).**

Mrs. Monica Franklin motioned to **accept counsel's recommendations for complaints #2 - #9**; seconded by Dr. Todd Bess. All were in favor and the motion carried.

**4. Case No.: 200708061**

October 25, 2007 compliance inspection revealed that the pharmacy technician released a prescription in the drive-thru without even an offer to counsel. Investigator also observed a store manager ring up two prescriptions, one for Z-pak and the other for Naproxen and did not notify the pharmacist. Investigator spoke to the PIC and dispensing DPh on duty that day and the PIC indicated that the failure to perform patient counseling in accordance with laws and rules is a company-wide problem and that he is personally struggling with how to ensure that patient counseling occurs or an offer occurs (whichever is appropriate). PIC provides in a written response that he will stress the importance of counseling and that counseling is mandatory for all new prescriptions.

**Recommendation: Letter of Instruction to the PIC; Authorize formal hearing (\$500.00 civil penalty authority to the pharmacy and \$100.00 civil penalty to the dispensing DPh).**

Mrs. Monica Franklin motioned to **accept counsel's recommendations for complaints #2 - #9**; seconded by Dr. Todd Bess. All were in favor and the motion carried.

**5. Case No.: 200708034**

October 11, 2007 compliance inspection revealed that investigator observed that a patient or patient's caregiver was not presented with an offer to counsel on a refilled prescription. In response, PIC admits the error and indicates that the technician who failed to offer counseling will be reprimanded and that this problem will be corrected.

*Prior complaints:*

*Pharmacy: 2006- Unprofessional conduct; dismissed*

*PIC: 2006- Unprofessional conduct; dismissed*

**Recommendation: Letter of Instruction to the PIC; Authorize formal hearing (\$500.00 civil penalty authority to the pharmacy and \$100.00 civil penalty to the dispensing DPh).**

Mrs. Monica Franklin motioned to **accept counsel's recommendations for complaints #2 - #9**; seconded by Dr. Todd Bess. All were in favor and the motion carried.

**6. Case No.: 200708033**

October 11, 2007 compliance inspection revealed that investigator observed patients picking up prescriptions without even an offer to counsel.

*Prior complaints:*

*Pharmacy: None*

*PIC: None*

**Recommendation: Letter of Instruction to the PIC; Authorize formal hearing (\$500.00 civil penalty authority to the pharmacy and \$100.00 civil penalty to the dispensing DPh).**

Mrs. Monica Franklin motioned to **accept counsel's recommendations for complaints #2 - #9**; seconded by Dr. Todd Bess. All were in favor and the motion carried.

**7. Case No.: 200708012**

September 25, 2007 compliance inspection revealed that the investigator observed two (2) patients who did not receive counseling for a new script and did not receive an offer to counsel on a refilled prescription. PIC responded to the complaint and admitted to the violation. He indicates that he takes full responsibility and pledges to correct the situation.

*Prior complaints:*

*Pharmacy: None*

*PIC: None*

**Recommendation: Letter of Instruction to the PIC; Authorize formal hearing (\$500.00 civil penalty authority to the pharmacy and \$100.00 civil penalty to the dispensing DPh).**

Mrs. Monica Franklin motioned to **accept counsel's recommendations for complaints #2 - #9**; seconded by Dr. Todd Bess. All were in favor and the motion carried.

**8. Case No.: 200708010**

October 2, 2007 compliance inspection revealed that the investigator observed two (2) patients picking up prescriptions without an offer to counsel. Also, investigator determined that the technician who failed to make the offer to counsel was also not registered with the Board. In response, PIC states that the technician was not aware she had to offer counseling because she is the office manager at another pharmacy in the same chain. PIC also states that technician indicated that she had submitted registration paperwork to the Board. PIC said that he assumed that the pharmacy manager would ensure that the persons who are working as technicians at the pharmacy are registered.

*Prior complaints:*

*Pharmacy: 2004, Medication error, Letter of Warning*

*PIC: None*

**Recommendation: Letter of Instruction to the PIC; Authorize formal hearing (\$500.00 civil penalty authority to the pharmacy and \$100.00 civil penalty to the dispensing DPh). Authorize formal hearing (\$250.00 civil penalty to PIC)**

Mrs. Monica Franklin motioned to **accept counsel's recommendations for complaints #2 - #9**; seconded by Dr. Todd Bess. All were in favor and the motion carried.

**9. Case No.: 200708068**

November 2, 2007 compliance inspection revealed that two (2) patients picked up prescriptions without even an offer to counsel. Investigator also observed another patient pick up a new prescription without performing patient counseling as required. PIC responded to the complaint admitting the violation and stating that there was a lack of education among the entire pharmacy staff about what was required for patient counseling. PIC states that to remedy the situation, he has already spoken to the staff on duty and will speak to the rest of the staff about proper practices. PIC also states that he will have all of the staff members sign an acknowledgement stating that they understand the BOP laws and rules and their responsibilities under the BOP laws and rules.

*Prior complaints:*

*Pharmacy: 2002, Medication given to another patient, Letter of Instruction*

**Recommendation: Letter of Instruction to the PIC; Authorize formal hearing (\$500.00 civil penalty authority to the pharmacy and \$100.00 civil penalty to the dispensing DPh).**

Mrs. Monica Franklin motioned to **accept counsel's recommendations for complaints #2 - #9**; seconded by Dr. Todd Bess. All were in favor and the motion carried.

**10. Case No.: 200706450**

Complainant alleges that he received only twenty-eight (28) tablets of Hydrocodone instead of the thirty (30) tablets that were prescribed. Complainant also states that on a previous

occasion, he only received twenty-eight (28) tablets of Omeprazole instead of the thirty (30) tablets prescribed.

In response, the PIC provides that it is the pharmacy policy to perform the following before dispensing controlled substances from the pharmacy: double count by hand; circle the quantity label; and initial all controlled substances dispensed from the pharmacy. PIC indicates that they require proper identification to purchase a prescription for a controlled substance and before releasing it to the patient. PIC also denies the allegations because he cannot substantiate the Complainant's claim of a shorted prescription; Complainant did not bring the bottle back to the pharmacy after he allegedly received the incorrect amount of tablets. Also, none of the pharmacy staff recalls speaking to the Complainant about the number of tablets that he received.

*Prior complaints:*

*Pharmacy: 2003, refused to fill script, script requested before 30 day period, dismissed*

*PIC: 2003, refused to fill script, script requested before 30 day period, dismissed*

**Recommendation: Dismiss**

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

**11. Case No.: 200706504**

Complainant alleges that the pharmacist refused to fill the patient's prescription for Focalin 5mg, four (4) times a days and that the pharmacy mailed the patient's prescription to the patient's former address. As a result, the patient, a child, went without his medicine making the child hyper.

PIC responded to the complaint stating that the patient had a prescription for Focalin 5mg, 120 tablets filled at the pharmacy; however, the pharmacy only had 105 tablets in stock and indicated that they owed the patient fifteen (15) tablets. Patient's caregiver was told that the remainder of the prescription would be available for pick up in two (2) days. The family did not pick up the medication and the pharmacy staff could not get an answer by phone. The phone number was a working number, but there was no answer and no answering machine. Pharmacy mailed the remainder of the prescription to the family and did not realize that this was not a current address until a member of the family came into the pharmacy and indicated that they did not receive the medication. Pharmacist asked family member to check with his wife to see if he got the package and pharmacist offered to call the post office the following morning to see if it could be forwarded to his new address. Pharmacist told the family member to call in the pharmacy in the morning and they would relay what information the post office told them. Family member never contacted the pharmacy and pharmacist assumed the family subsequently received the package.

*Prior complaints:*

*Pharmacy: None*

*PIC: None*

**Recommendation: Dismiss**

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

**12. Case No.: 2007065566**

Complainant alleges that the dispensing pharmacist was rude to him and made a rude comment about his wife. Complainant indicates that pharmacist said to the Complainant that he did not like any complaints being made by patients and indicated that a mistake can happen with as many prescriptions as the Complainant takes; Complainant construed this as a threat. Complainant indicates that his wife was subsequently met with a hostile attitude in the drive thru forcing them to take their business elsewhere.

PIC responded to the complaint stating that the Complainant's wife was upset because her prescription that was phoned-in around 2PM was not filled by 4:30PM-5PM. PIC apologized for the delay. Complainant's wife then complained to the store manager. Complainant was also upset when the PIC would not fill his prescription for Diazepam two (2) weeks early. PIC denies that he was ever rude and believes that there was a misunderstanding when the Complainant overheard the PIC talking to staff at the juvenile detention center trying to identify pills. PIC stated to the individual from the juvenile detention center that they may have to call poison control. The PIC was not referencing poison control relative to the Complainant.

*Prior complaints:*

*Pharmacy: 1999, medication error, dismissed; 2001 medication error, LOW;*

*PIC: 1999, chemical dependency, closed*

*DPh: None*

**Recommendation: Dismiss**

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

**13. Case No.: 200706430**

Complainant alleges that the Respondent pharmacist made two (2) errors in filling his prescriptions as follows: Pharmacist gave the Complainant two (2) prescriptions for Restoril when he was prescribed Restoril 15mg and Zoloft 100mg; and Pharmacist placed the incorrect instructions on the Complainant's Restoril prescription – prescription label read “take two (2) tablets daily”, instead of take one (1) tablet daily as prescribed by the physician. On the first occasion, the Complainant took a double dose of Restoril and no Zoloft. In the second instance, the Complainant did not consume the incorrect dosage. Complainant caught the error for the pharmacist to correct.

Pharmacist who is also the PIC indicated that both mistakes were made when he was on duty. While he is not exactly sure who made the mistakes, he realizes that he is ultimately responsible for the functioning of the pharmacy. PIC also indicates that he is reviewing his operating procedures for filling prescriptions and will make changes that will prevent these types of errors from happening in the future.

*Prior complaints:*

*Pharmacy: None*

*PIC: None*

**Recommendation:** Further inquiry to determine which DPh made the error(s), what caused the error(s) and whether counseling occurred. If human error, then issue a Letter of Warning about the misfills to the dispensing pharmacist/pharmacists. If systemic failure, then issue a Letter of Warning to the PIC as well. If a failure to abide by patient counseling rules is indicated then usual discipline. (LOI, \$100 CP to PIC; \$500 CP to Pharmacy)

Dr. Todd Bess motioned to **give counsel latitude to obtain additional information and proceed forward**; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

#### **14. Case No.: 200701450**

Complainant alleges that the Respondent, pharmacy failed to deliver his order for Procrit used to treat his wife's anemia. Complainant indicates that the only reason for the failure to deliver the order was that Complainant/patient's insurance coverage was transferred from one provider to another.

Pharmacy responds that the Tennessee location of this pharmacy was performing data entry functions for the Ohio branch of the pharmacy that would have dispensed the medication. The refill order was submitted on December 25, 2006. Although orders are typically processed within forty-eight (48) hours of receipt, this did not occur in this instance. The lag in processing time was due in part to the high volume of refill orders placed at holiday time and the fact that the Complainant's insurance coverage with the pharmacy ended on December 31, 2006. Complainant was encouraged to submit the prescription to the new pharmacy provider. Pharmacy indicates that corrective steps have been taken and processes have been revised to ensure that a delay in processing prescriptions does not happen in the future.

*Prior complaints:*

*Pharmacy: 2006, dispensing an out-of-date drug; \$250.00 civil penalty*

**Recommendation: Dismiss**

Dr. Bettie Wilson motioned to **accept counsel's recommendation**; seconded by Mrs. Monica Franklin. Dr. Brenda Warren recused from voting. The motion carried.

#### **15. Case No.: 200706649**

Complainant alleges that the pharmacist at the Respondent pharmacy refused to fill his prescription for Lortab because he had just received a prescription for Hydrocodone earlier that same day. Complainant indicates that he was prescribed the Hydrocodone for a back problem and the Lortab for a dental problem. Complainant also indicates that the dentist did not ask if he was prescribed Hydrocodone by another physician and that this is none of the pharmacist's business.

DPh states that he did in fact refuse to fill the prescription because the Complainant is known under three (3) different names, has been caught numerous times in forgery situations, has been known as an abuser and received Hydrocodone 120 tablets at another pharmacy earlier that day. Complainant called the pharmacist a thief and pharmacist again refused to fill the script and told her that it was his job to monitor the use of her medications.

*Prior complaints:*

*Pharmacy: 1997, tech forging prescriptions, no information about resolution;  
2006, drug substitution, dismissed;  
2007, unprofessional conduct, dismissed*

**Recommendation: Dismiss**

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

**16. Case No.: 200706259**

Complainant, daughter of the patient, alleges that the pharmacist at the Respondent pharmacy violated HIPAA and defamed her name. Complainant alleges that the pharmacist contacted her mother's doctor and inquired about the Complainant's involvement in handling the patient's prescription refills.

DPh responded to the complaint. Pharmacy receives a pain medicine prescription call-in from the patient's primary care doctor. At the same time that the DPh noticed the patient's recent rapid weight loss, patient's other daughter (a pharmacy technician at the pharmacy) approached the pharmacist with questions about her mother's health, including lethargy, drowsiness, and weight loss. When the phoned-in prescription was being processed, the pharmacist called the patient's doctor's office, received the nurse on the line and discussed their mutual concerns (pharmacist and the nurse) about the patient's health status. Nurse indicated that the doctor shared these same concerns. During the conversation the nurse volunteered that the Complainant was initiating the pain medication requests. Nurse indicated that she would consult with the doctor and call the pharmacist back. Upon returning the call, the nurse indicated that the doctor wished for the patient only to initiate the requests for the pain medication. To the best of the DPh's knowledge, subsequent to his phone call, the patient has progressed well and not suffered any negative consequences.

*Prior complaints:*

*Pharmacy: 2005, medication error, LOW to dispensing DPh  
PIC: 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.

**17. Case No.: 200701829**

Respondent pharmacist was found to have engaged in the practice of medicine without a license by the Board of Medical Examiners by conducting physical examinations, prescribing treatments and follow-up evaluations on patients through the use of herbal remedies instead of conventional medical treatments. This complaint was previously considered by the Board and the Board determined that the Respondent may be engaging in the practice of medicine and referred it to the Board of Medical Examiners. The complaint is coming back before you to consider discipline against the Respondent's license to engage in the practice of pharmacy.

**Recommendation: Formal Hearing**

Mrs. Monica Franklin motioned to **accept counsel's recommendation**; seconded by Dr. Bettie Wilson. Dr. Larry Hill recused from voting. The motion carried.

**18. Case No.: 200708044**

Pharmacy technician plead guilty to a charge of Possession of a Controlled Substance with the intent to sell, manufacture, or distribute Hydrocodone and received diversion. Respondent's employment was terminated.

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

Mrs. Monica Franklin motioned to **accept counsel's recommendation**; seconded by Dr. Bettie Wilson. Dr. Brenda Warren recused from voting. The motion carried.

**19. Case No.: 200708045**

Complainant alleges that Respondent pharmacy technician was terminated for theft and diversion of controlled substances from the pharmacy.

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

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

**20. Case No.: 200708050**

Complainant alleges that the Respondent pharmacy technician was terminated for theft and diversion of Hydrocodone from the pharmacy. Respondent admitted that she took the Hydrocodone and gave it to a friend.

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

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

**21. Case No.: 200701830**

Compliance inspection revealed that there were two (2) individuals operating as pharmacy technicians when they were not registered with the Board. PIC admits the violations and indicates that significant staff turnover with the pharmacy contributed to the error. As a result of the compliance inspection, both technicians has completed and submitted technician paperwork.

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

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

**22. Case No. : 200705352**

An investigation revealed a pharmacy technician taking controlled substances from the pharmacy to another location.

**Recommendation: Authorize to proceed with a formal hearing.**

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

**TAMARA C. BELL**  
**2609 Beltline Cove**  
**Memphis, TN 38111**

Mrs. Alison Cleaves, chief legal counsel, advised Ms. Tamara Bell's pharmacy registration was revoked in January, 2005 for theft and diversion of controlled substances. Ms. Bell has submitted an additional pharmacy technician application. Mrs. Monica Franklin motioned to **deny**; seconded by Dr. Larry Hill. All were in favor and the motion carried.

**CRISTEN E. CROSS**  
**773 Johnson Avenue, NW**  
**Cleveland, TN 37311**

Chief legal counsel, Mrs. Alison Cleaves, noted in April, 2007, Ms. Cristen Cross had submitted a pharmacy technician registration in which she stated "no" to the questions in the "Violations" section. On August 2, 2007, the Board received a second application, in which Ms. Cross indicated she had been convicted of a DUI in Norfolk, Virginia in December, 2006. Ms. Cross' driver's license was suspended for a period of twelve (12) months and was ordered to attend a alcohol safety action program. Mrs. Monica Franklin motioned to **deny** the application; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

**JAMES CATRON, DPH**  
**3441 Spring Creek Drive**  
**Morristown, TN 37814**

Dr. James Catron is petitioning the Board for a Modification to the Consent Order he entered into on May 16 - 17, 2006, to allow him to be the pharmacist in charge after a period of two (2) years. Dr. Catron withdrew his petition request.

**AIRGAS SOUTH, INC.**

Tennessee Board of Pharmacy  
November 8 - 9, 2007

**1514 Highway 20 West  
Decatur, AL 35601**

**AIRGAS SOUTH, INC.  
1300 7<sup>th</sup> Avenue North  
Birmingham, AL 35203**

Mrs. Alison Cleaves, chief legal counsel, advised the members that the Florida Board of Pharmacy had taken disciplinary action on March 29, 2005, against Airgas South, Inc., for distributing prescription drugs oxygen, USP and nitrous oxide to a person who was not authorized to purchase and possess the prescription drugs and was fined \$250. After discussion, Dr. Bettie Wilson motioned to **approve** the manufacturer, wholesale, distributor applications; seconded by Dr. Larry Hill. All were in favor and the motion carried.

#### **ROBERT'S RULES OF ORDER**

Dr. Todd Bess motioned to **adopt** the Robert's Rules of Order as the official parliamentary procedures for the taking of the minutes at board meetings; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

**KELLY CLEARY, ATTORNEY  
AKIN GUMP STRAUSS HAUER & FELD, LLC  
1333 New Hampshire Avenue, NW  
Washington, DC 20086**

Mrs. Alison Cleaves, chief legal counsel, noted Ms. Kelly Cleary with Akin Gump Strauss Hauer & Feld, represents a pharmaceutical manufacturer who is considering entering into arrangements with third parties, including retail pharmacies, through which the manufacturer would pay the third parties/pharmacies to perform certain "adherence services" for patients who have been prescribed the manufacturer's drugs and is inquiring whether this program would implicate the provisions of Rule 1140-2-.01. After discussion, and upon review of legal counsel, the Board noted Rule 1140-2-.01 (5) does not apply to this situation. Dr. Larry Hill motioned to

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

**DARLA ALMY**  
**903 Central Avenue**  
**Athens, TN 37303**

Chief legal counsel, Mrs. Alison Cleaves, presented a pharmacy technician registration on behalf of Ms. Darla Almy who indicated "yes" to a misdemeanor conviction. On August 16, 1993, Ms. Almy entered into a plea of *nolo contendere* to the crime of criminal mischief; paid a fine of \$200; was placed on a three (3) year term of probation and has met all the requirements imposed by the Circuit Court in Pinellas County, Florida. Dr. Todd Bess motioned to **approve** the technician registration; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

**PETER COULTER**  
**490 Fortress Blvd. #6-A**  
**Murfreesboro, TN 37128**

Mrs. Alison Cleaves, chief legal counsel, presented a pharmacy technician registration for Mr. Peter Coulter who checked "yes" to a misdemeanor for DUI (2<sup>nd</sup> offense) in August, 2002. The charge was amended to a DUI – 1<sup>st</sup> offense. Mr. Coulter was placed on probation for 11 months 29 days; paid a \$750 fine + court costs. Mrs. Monica Franklin motioned to **grant** the registration; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

**JOEY L. DAVIS**  
**9069 Cinderhill Cove West**  
**Cordova, TN 38016**

Chief legal counsel, Mrs. Alison Cleaves, stated Mr. Joey Davis submitted a pharmacy technician registration application and had checked "yes" to a misdemeanor offense for DUI in November, 2002. Mr. Davis paid a \$400 fine and court costs. Dr. Todd Bess motioned to **approve** the pharmacy technician registration; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

**DIANA J. GIFFEN**  
**824 Smith-Hale Road**  
**Lafayette, TN 37083**

Mrs. Alison Cleaves, chief legal counsel, stated Ms. Diana Giffen submitted a pharmacy technician registration and had indicated “yes” to a misdemeanor conviction for writing a worthless check on September 28, 2001. Ms. Giffen was fined \$4 by the Macon County General Sessions Court and had to make restitution for the bad check. Dr. Bettie Wilson motioned to **approve** the registration; seconded by Dr. Larry Hill. All were in favor and the motion carried.

**TERRY J. HOFFMANN**  
**705 Cambridgeshire Court**  
**Johnson City, TN 37615**

Chief legal counsel, Mrs. Alison Cleaves, advised Mr. Terry Hoffman was convicted of a misdemeanor offense on November 7, 1996 for minor consumption of alcohol at a house party. Mr. Hoffman was fined \$85 and has met the obligations imposed by the Court. Dr. Larry Hill motioned to **approve** the pharmacy technician registration; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

**MASON B. MANSHIP**  
**665 Chimney Top Loop**  
**Fall Branch, TN 37656**

Mrs. Alison Cleaves, chief legal counsel, presented a pharmacy technician registration on Mr. Mason Manship who had marked “yes” to the misdemeanor violations. On December 20, 1995, Mr. Manship’s records revealed a DWI; November 7, 1996 – no operators license; and November 8, 1996 – possession of marijuana and drug paraphernalia. In November, 2001, Mr. Manship attended an alcohol and drug program as a requirement for the reinstatement of his driver’s license. Dr. Bettie Wilson motioned to **approve** the registration; seconded by Dr. Larry Hill. All were in favor and the motion carried.

**LEO W. MCCORMICK**  
**23 Pine Lake Road**  
**Humboldt, TN 38343**

Chief legal counsel, Mrs. Alison Cleaves, advised Mr. Leo McCormick had indicated on his pharmacy technician registration that he had a misdemeanor conviction when he was eighteen (18) years of age for unlawful drug paraphernalia uses in September, 2002. Mr. McCormick noted he is aspiring to be a pharmacist. Dr. Todd Bess motioned to **approve** the registration; seconded by Dr. Larry Hill. All were in favor and the motion carried.

**NICOLE SAMANTHA WILLIAMS, DPH**  
**6200 Hixson Pike #217**  
**Hixson, TN 37343**

Chief legal counsel, Mrs. Alison Cleaves, advised Dr. Nicole Williams had indicates on her NAPLEX application that her license had been suspended or revoked in another state. On June 20, 2007, Dr. Williams entered in a Consent Agreement with the South Carolina Board of Pharmacy for violations of called in medications to various pharmacies due to the limited status of her inventory and the doctor's offices could not substantiate the authorization to dispense the substances dispensed by Dr. Williams; Dr. Williams substituted medications without proper authorization from a medical practitioner and provided improper directions for use; transferred medications without transferring the prescription to another pharmacist. Dr. Williams transferred prescriptions from Bi-Lo Pharmacy to her privately owned pharmacy and from her pharmacy to Bi-Lo without any other pharmacist involved in the transaction. Dr. Williams failed to properly maintain logs containing controlled substances dispensed; and dispensed medications without obtaining the co-payment from the patient and on some occasions gave medications away free of cost. The Consent Agreement Dr. Williams entered into with the South Carolina Board of Pharmacy had the following terms/conditions:

1. Must sit for and pass the MPJE
2. Shall take and pass the NAPLEX
3. Shall enroll in and complete a Board Approved Course in Medication Errors
4. Shall submit and cooperate with reasonable random inspections to be directed

toward her continued compliance with the Consent Agreement and the laws governing pharmacy in South Carolina.

5. Cannot act as the Permit Holder or Pharmacist in Charge of a pharmacy or drug out let permitted by the State of South Carolina until further Order of the Board.

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

**LEWIS J. BLACKWELL, DPH**  
**305 Valley Street, NW**  
**Abingdon, VA 24210**

Mrs. Alison Cleaves, chief legal counsel, advised Dr. Lewis Blackwell is seeking licensure as a reciprocal candidate and he indicated on his application that his pharmacist license had been subject to disciplinary action by another state board of pharmacy and had been charged with a felony offense. Dr. Blackwell stated between July, 1992 and September, 1993, he diverted scheduled drugs for his personal and unauthorized use and for the use of other individuals. In January, 1996 Dr. Blackwell pled guilty to one (1) count of possession with intent to distribute controlled substances in the United States District Court, Western District of Virginia. In February, 1996, The Commonwealth of Virginia, Department of Health Professions reinstated his pharmacist with terms and conditions and completed the term of probation in 1999. Mrs. Monica Franklin motioned to **deny** reciprocity; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

#### **CRIMINAL BACKGROUND CHECKS**

Mrs. Sandra Sturgis, Interim Director for Health Related Boards, announced that a statute was passed last year by the Legislature that required all Health Related Boards to conduct criminal background checks on applicants.

**KENNETH HIRSH, DPH**  
**9530 NW Arborview Drive**  
**Portland, OR 97229**

Chief legal counsel, Mrs. Alison Cleaves, noted Dr. Kenneth Hirsh answered “yes” on his reciprocity application to having voluntarily surrendered his pharmacist license and was subject to disciplinary action by another state board of pharmacy. Dr. Hirsh stated he voluntarily inactivated his New Jersey license in 2005 since he did not practice in that state; and was reprimanded by the Oregon Board of Pharmacy in 1999 for misfilling a prescription. Dr. Larry Hill motioned to **grant** reciprocity; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

**CHERYL LYNN RODRIGUEZ, DPH**  
**6012 Timberly Road North**  
**Mobile, AL 36609**

Mrs. Alison Cleaves, chief legal counsel, stated Dr. Cheryl Rodriguez was disciplined by the Alabama Board of Pharmacy in 2006 for failing to renew her controlled substance license. Dr. Rodriguez’s employer did not stock nor dispense controlled substances and the pharmacy was not required to have a controlled substance license and she did not think she needed to have one either. Dr. Rodriguez was fined \$500 by the Alabama Board of Pharmacy. Dr. Larry Hill motioned to **approve** the reciprocal application; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

**CHARLES R. WALL, DPH**  
**6441 Mont Richer Avenue**  
**Knoxville, TN 37918**

Chief legal counsel, Mrs. Alison Cleaves, advised Dr. Charles Wall marked “yes” on his reciprocal application as being subject to disciplinary action and plead no contest to having one technician on staff that did not renew her license on time in April, 2004. Dr. Wall stated he self-reported the incident and was penalized \$250. Dr. Todd Bess motioned to **approve** the reciprocity application; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

**HERMAN E. WATFORD, JR., DPH**  
**P. O. Box 335**  
**Canton, GA 30169**

Mrs. Alison Cleaves, chief legal counsel, stated Dr. Herman Watford answered “yes” to the questions relevant to the voluntarily surrender of his pharmacist license and being subject to disciplinary action. Dr. Watford voluntarily surrendered his California license for diversion of controlled substances. On January 24, 1989, Dr. Watford entered into a Consent Order with the Georgia Board of Pharmacy with a probationary period of five (5) years with terms and conditions. Dr. Todd Bess motioned to **approve** the application; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

**VAN HAROLD WHITE, JR, DPH**  
**17712 Puckett Road**  
**Alexander, AR 72002**

Chief legal counsel, Mrs. Alison Cleaves, stated Dr. Van White answered “yes” on his reciprocal application as having being subject to disciplinary actions and a misdemeanor offense by the Arkansas Board of Pharmacy. In February 2004, Dr. White’s license was suspended for a period of two years; paid a \$1,000 civil penalty along with terms and conditions for dispensing controlled substances without a prescription. Upon the reinstatement of his pharmacist license, the Arkansas Board placed Dr. White’s license on probation for a three year term. Dr. Todd Bess motioned to **deny** reciprocity; seconded by Dr. Bettie Wilson. All were in favor and the motion carried.

**ANDREW EHASZ, DPH**  
**8 Turkey Toe Lane**  
**Arden, NC 28704**

Mrs. Alison Cleaves, chief legal counsel, stated Dr. Andrew Ehasz answered “yes” on his reciprocity application to being convicted of a misdemeanor for a DWI in November, 2003, and he has had no action taken against his license by the North Carolina Board of Pharmacy. Dr. Ehasz has taken and passed the MPJE. Dr. Todd Bess motioned to **accept**; seconded by Dr. Larry Hill. All were in favor and the motion carried.

**DIRECTOR’S REPORT**

**APPOINTMENT OF CONTROLLED SUBSTANCE MONITORING DATABASE COMMITTEE MEMBER**

Dr. Kevin Eidson, Executive Director, advised the Board that the Controlled Substance Monitoring Database Committee is comprised of two (2) pharmacy board members. Dr. Julie Frazier's term with the Board expired in July, 2007 and a pharmacy member needs to be appointment. Dr. Todd Bess expressed an interest in serving on the Committee. Dr. Bettie Wilson motioned to **appoint Dr. Todd Bess to replace Dr. Frazier**; seconded by Dr. Brenda Warren. All were in favor and the motion carried.

**NATIONAL ASSOCIATION OF BOARDS OF PHARMACY  
REVIEW OF MJPE  
Ft. Lauderdale, Florida  
January 10 - 13, 2008**

President Sheila Mitchell entertained for a motion to allow Dr. Kevin Eidson and Dr. Richard Hadden to attend NABP's Law Review for the MPJE Examination on January 10 – 13, 2008 in Ft. Lauderdale, Florida. Dr. Brenda Warren motioned to **accept** Dr. Mitchell's request; seconded by Dr. Todd Bess. All were in favor and the motion carried.

**ELECTION OF OFFICERS FOR 2008**

President Sheila Mitchell asked for nominations for the President position with the Board of Pharmacy for 2008. Dr. Larry Hill nominated **Dr. Robert Mitchell as President of the Board**; seconded by Dr. Todd Bess. All were in favor and the motion carried.

President Sheila Mitchell asked for nominations for the Vice President position with the Board of Pharmacy. Dr. Bettie Wilson nominated **Dr. Todd Bess as Vice President**; seconded by Dr. Larry Hill. All were in favor and the motion carried.

**ACCREDITO HEALTH, INC.  
1640 Century Center Parkway, #101  
Memphis, TN 38134**

Dr. Brenda Warren is requesting clarification of the November 7 - 8, 2006 minutes in regards to the Return of Inventory of Prescription Drugs and is reflected as follows:

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. (November 7 - 8, 2006).

Accredo is requesting the following proposed changes be made to the minutes:

While the Board did advise that Accredo inspect physician offices, they realized the impracticality of that recommendation when reminded that Accredo is a national company. We do not believe that Accredo was to be held to that recommendation.

The Board did request a change be made to Accredo's current process when the package was left on the wrong porch – these drugs should not be returned to the inventory. Accredo requests that this be clarified in the minutes as without that clarification, it appears that Accredo was asked to change their entire process and not return any drugs to stock.

The Board did request that Accredo use some form of tamper evidence such as tamper-evident tape in the Styrofoam box (which is the inner part of the shipping container). Accredo asked the Board if the tamper-evidence method had to be tape on the Styrofoam box and they responded it did not have to be that specific, but some form of tamper-evidence must be used. I believe some tamper-evident tape is red, but request the proposed changes because Accredo believes the Board clarified their intent was the shipping container should be tamper evident.

Dr. Larry Hill motioned to **accept** the clarification; seconded by Dr. Bettie Wilson. Dr. Brenda Warren recused from voting. The motion carried.

**and**

the portion of the May 15 - 16, 2007 minutes relevant to Attorney, Nora Liggett, which states,

**NORA L. LIGGETT  
WALLER LANSDEN DORTCH & DAVIS, LLP  
Nashville City Center  
511 Union Street #2700  
Nashville, TN 37219**

Dr. Terry Grinder, interim executive director, received a request from Ms. Nora Liggett with Waller Lansden Dortch & Davis for a clarification of the standards of practice for their client, Specialty Care Pharmacy to deliver patient medications to a dialysis clinic rather than to the patient's home or business. This practice would be in violation of Board Rules 1140-3-.05 Areas of Receipt and Dispensing. Mrs. Monica Franklin motioned to **deny** the request as there is no pharmacist present at the dispensing site and it is not a licensed pharmacy; seconded by Dr. Larry Hill. All were in favor and the motion carried. (May 15 - 16, 2007)

**2008 BOARD OF PHARMACY CALENDAR**

<b>January</b>	8th 21 <b>29 - 30</b>	<b>105<sup>th</sup> Tennessee General Assembly Convenes</b> Martin Luther King, Jr. (Holiday) <b><u>Board Meeting</u></b>
<b>February</b>	2 - 3 9 - 10 16 - 17 18 24 - 26	<b>Nashville</b> Update Seminar <b>Memphis</b> Update Seminar <b>Jackson</b> Update Seminar President's Day (Holiday) TPA Midyear Meeting
<b>March</b>	1 - 2 8 - 9 <b>12 - 13</b> 21 29 - 30	<b>Knoxville</b> Update Seminar <b>Johnson City</b> Update Seminar <b><u>Board Meeting</u></b> Good Friday (Holiday) <b>Cookeville</b> Update Seminar
<b>April</b>	5 - 6 12 - 13	<b>Chattanooga</b> Update Seminar <b>Murfreesboro</b> Update Seminar
<b>May</b>	<b>6 - 7</b> 17 - 20 26	<b><u>Board Meeting</u></b> NABP's 104th Annual Meeting Memorial Day (Holiday)
<b>July</b>	4 <b>15 - 16</b> 21 - 24	Independence Day (Holiday) <b><u>Board Meeting</u></b> TPA 121st Annual Convention – Marriott, Chattanooga, TN
<b>August</b>	(     )	<b>District III - (     will host)</b>
<b>September</b>	1 (     ) <b>9 - 10</b>	Labor Day (Holiday) <b>MALTAGON –</b> <b><u>Board Meeting</u></b>
<b>October</b>	2 - 3	Tripartite – Franklin, TN
<b>November</b>	11 <b>20 - 21</b> 27 - 28	Veteran's Day (Holiday) <b><u>Board Meeting</u></b> Thanksgiving (Holiday)
<b>December</b>	25	Christmas (Happy Holidays!!)

**NABP REINSTATES NAPLEX EXAMINATION**

The National Association of Boards of Pharmacy (NABP®) is pleased to announce that as of October 5, 2007, the North American Pharmacist Licensure Examination (NAPLEX®) has been reinstated in all Prometric testing centers.

**JOHN JONES, DPH  
VICE PRESIDENT  
PRESCRIPTION SOLUTIONS**

Chief legal counsel, Mrs. Alison Cleaves, noted Prescription Solutions is basically a central fill pharmacy that processing thousands of prescriptions on a daily basis and are inquiring if any of the job duties require registration as a pharmacy technician.

Document Preparer:	No
Scanner Operator:	No
Order Creator:	Yes
Packers:	No
Shippers:	No

The Board is requesting for Dr. John Jones **to appear** before the Board to discuss the mail service worker job duties.

**RUDYEA WOODBERRY, DPH  
SPECIALTY CARE PHARMACY  
220 Athens Way, Suite 150  
Nashville, TN 37228**

Dr. Kevin Eidson, Executive Director, stated the Board has received a second inquiry from Dr. Rudyea Woodberry with Specialty Care Pharmacy and the delivering of prescriptions to dialysis clinics. Dr. Kevin Eidson, stated at the May 15 - 16, 2007 meeting, the board discussed the practice of Specialty Care Pharmacy and determined Specialty Care was in violation of Rule 1140-3-.05 Areas of Receipt and Dispensing and discussed the definition of "dispense" as defined in T.C.A. §63-10-203 (11) to mean "preparing, packaging, compounding or labeling for delivery and actual delivery of, a prescription drug, non-prescription drug or device .... to a patient or the patient's agent by or pursuant to the lawful order of a prescriber"; and whether the dialysis clinic is the patient's agent. President Sheila Mitchell stated many patients are on many

different types of drugs and a counseling issue may be of concern. Dr. Bettie Wilson motioned to **accept Dr. Mitchell's statement**; seconded by Dr. Larry Hill. All were in favor and the motion carried.

#### **ADJOURNMENT**

Dr. Sheila Mitchell adjourned the Board of Pharmacy meeting on Thursday, November 8, 2007 at 4:30 p.m. CST. All were in favor and the motion carried.

#### **RECONVENED**

The Board of Pharmacy reconvened on Friday, November 9, 2007 at 9:00 a.m. CST in the Iris Room, 227 French Landing, Nashville, Tennessee. A quorum of the members being present, President Sheila Mitchell called the meeting to order. For the record, Dr. Robert Mitchell is not present due to illness.

#### **HOWARD ROGERS, JR., DPH RECIPROCAL CANDIDATE**

Executive Director, Dr. Kevin Eidson, advised the Board at the September 11 - 12, 2007 meeting, Dr. Howard Rogers reciprocal application was denied by the board. The North Carolina Board of Pharmacy took disciplinary action against Dr. Rogers for dispensing Hydrocodone at a greater frequency than what was prescribed to multiple patients. Dr. Rogers entered into a Consent Order with the North Carolina Board acknowledging his pharmacist license is hereby "warned"; must complete two (2) hours of continuing education relating to North Carolina pharmacy law within twelve months; shall not violate laws governing the practice of pharmacy or the distribution of drugs; and shall not violate no rules and regulations of the Board. Dr. Rogers stated on one individual patient that the doctor had Ok'd several of these refills for Necon and he assumed it was OK on this particular instance. After board discussion, Dr. Todd Bess motioned to **approve** Dr. Rogers' reciprocity application; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

#### **CHRISTINE HUSBAND, DPH**

### **SCORE TRANSFER ELIGIBILITY LICENSURE**

Dr. Christine Husband appeared before the Board to request consideration relevant to licensure in the State of Tennessee. Dr. Husband made application as a Score Transfer candidate pursuant to Rule 1140-1-.03. Dr. Husband stated she sat for the NAPLEX on July 7, 2006 and subsequently became licensed in the State of Florida on July 21, 2006. Dr. Husband stated she was knowledgeable of the twelve (12) months limitation for the NAPLEX exam. Dr. Husband submitted the score transfer fees to Tennessee and on July 7, 2007, received confirmation of successfully completed the MPJE for Tennessee. Dr. Husband stated she was not made aware of the two-year licensing fee of \$136 to complete the process. Since Florida does not allow reciprocity to Tennessee, she is requesting the Board's consideration in allowing her to pay the two-year licensing fee to become licensed. Dr. Todd Bess stated there was no waiver authority under the Rule. Dr. Bettie Wilson motioned to **allow Dr. Husband to pay the \$136 fee**; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

### **FAREWELL**

President Sheila Mitchell expressed her thanks to the Board, office staff and especially the investigators, acknowledging the value of having their presence in assisting the Board in making decisions. Dr. Mitchell also expressed gratitude to the board's new executive director, Dr. Kevin Eidson and the return of the Board's legal counsel, Mrs. Alison Cleaves. Vice President elect, Dr. Todd Bess congratulated Dr. Mitchell on her service with the Board.

### **ADJOURNMENT**

Dr. Larry Hill motioned to adjourn the Board of Pharmacy meeting on Friday, November 9, 2007 at 10:35 a.m. CST; seconded by Mrs. Monica Franklin. All were in favor and the motion carried.

*The Board of Pharmacy approved the November 8 - 9, 2007 minutes at the January 29 - 30, 2008 board meeting.*

