

TENNESSEE BOARD OF PHARMACY
665 Mainstream Drive, Iris Room
Nashville, TN
July 29-30, 2015

BOARD MEMBERS PRESENT

Nina Smothers D.Ph., President
Will Bunch, D.Ph., Vice President
Kevin Eidson, D.Ph.
R. Michael Dickenson, D.Ph.
Debra Wilson, D. Ph.
Jason Kizer, D.Ph.
Joyce McDaniel, Consumer Member

STAFF PRESENT

Reginald Dilliard, Executive Director
Stefan Cange, Assistant General Counsel
Devin Wells, Deputy General Counsel
Richard Hadden, Pharmacy Investigator
Scott Denaburg, Pharmacy Investigator
Tommy Chrisp, Pharmacy Investigator
Robert Shutt, Pharmacy Investigator
Andrea Miller, Pharmacy Investigator
Larry Hill, Pharmacy Investigator
Rebecca Moak, Pharmacy Investigator
Sheila Bush, Administrative Manager
Terry Grinder, Pharmacy Investigator

The Tennessee Board of Pharmacy convened on Wednesday, July 29, 2015, in the Iris Room, 665 Mainstream Drive, Nashville, TN. A quorum of the members being present, the meeting was called to order at 9:02 a.m.

Minutes

The minutes from the May 11-12, 2015 board meeting were presented. After discussion, Dr. Eidson made the motion to approve the minutes as amended. Dr. Dickenson seconded the motion. The motion carried.

Presentation

Donna Horn, Senior Associate, for Independent Healthcare Monitors (IHM)/Gates Healthcare Associates, Inc. IHM is an independent monitor who will work with the regulator and/or licensee to address and remedy issues that lead to the infraction or disciplinary actions. IHM performs assessments for a wide variety of healthcare organizations and practice settings including hospitals, health systems, and independent, chain and long term care community/ambulatory pharmacies, mail order pharmacies, wholesale distributors, and all licensed healthcare professionals

OGC Report

Mr. Cange explained to the board that there were 49 cases opened for discipline in the Office of General Counsel and 15 of those cases are set for hearing. Mr. Cange stated that the rules related to drug disposal are still undergoing legal review at the Attorney General's office. The rules

pertaining to the correction of citations, law enforcement access fee for the CSMD, long term care practice, and a few other housekeeping matters are undergoing internal review. Mr. Cange explained that the rulemaking hearing that was scheduled for July 28, 2015 was cancelled due to the length of internal review process and missing the filing date deadline. Dr. Eidson asked Mr. Cange to explain the internal review process. Mr. Cange stated the rules are drafted by him and the Ashley Fine, rules coordinator and then sent to his supervisor for review and then on up to the Jane Young, General Counselor for the Office of General Counsel. Once Ms. Young reviews them and agreed they sent to the Commissioner, the Governor and then filed. Mr. Cange stated the he was late getting them to his supervisor and that caused some of the delay. Ms. McDaniel asked where the rules are now in the internal review process. Mr. Cange stated that are in Andrea Huddleston, Chief Deputy General Counsel's office. Mr. Cange stated that because of the delay they have added some additional rules and have a new packet that is being reviewed. Mr. Wells apologized to the board as well stating that he is Mr. Cange's supervisors and takes responsibility for not following up as he should. Ms. McDaniel asked if the rulemaking hearing could take place at the September meeting. Mr. Cange stated that there is not enough time because once he files the rules he would have to wait 45 business days plus 5 days before a rulemaking hearing could be set and the September meeting is within 30 days. Dr. Eidson stated that the board has already approved the rules and authorized a rulemaking hearing at the March board meeting. Mr. Wells stated that they could probably have a rulemaking hearing in October. Ms. McDaniel asked if a date could be set today for October to have a rulemaking hearing. Mr. Wells stated that he doesn't think that will work. Mr. Wells stated that the collaborative practice rules are still in the early process but if they could get them wrapped up soon maybe they could have a rulemaking hearing November with the other rules. Dr. Eidson asked if the collaborative practice rules could be added to the rules. Mr. Wells stated that the collaborative practice rules are still in the early process but if they could get them wrapped up soon maybe they could have a rulemaking hearing November. Dr. Eidson stated that since they haven't had the chance to review the collaborative practice rules and don't feel comfortable scheduling those with the ones in process now. Dr. Eidson stated that the board could give OGC a timeframe for when the rules need to be completed the internal review and contact Dr. Smother's to review the rules and maybe contact the board for an emergency meeting to authorize a rulemaking hearing. Mr. Wells stated that they couldn't commit to that timeframe because he doesn't know everyone's scheduled. Mr. Wells asked the board for their indulgence and they will try to have a rulemaking hearing scheduled for the November meeting. Dr. Bunch asked if Dr. Kizer could still participate in the rulemaking hearing since he will be rolling off the board. Dr. Dilliard stated Dr. Kizer could participate since he was on the taskforce for the collaborative practice rules and that his input will be valuable. Dr. Dilliard stated that he has scheduled a meeting with Assistant Commissioner Michele Long and General Counsel Jane Young concerning the issues that the board is having with the Office of General Counsel and will make sure that the board's concerns are heard. Dr. Eidson asked if Dr. Smothers would need to attend the meeting. Dr. Dilliard stated that if she is available and willing Dr. Smothers can attend the meeting as well. Dr. Smothers stated that she doesn't want the board to be seen as disrespectful by setting dates that no one honors or considers. Dr. Kizer stated that it would help if they could get a general idea of when the board can authorize a rulemaking hearing. Mr. Wells stated that he would like to use the time to add the collaborative practice rules in the packet of rules. Dr. Eidson asked that they reach out to the Tennessee Medical Association and the Tennessee Pharmacist Association and allow them

to review the collaborative practice rules. Dr. Dilliard stated that they will reach out to the different associations and that when the rulemaking hearing take place the public can voice their opinions at that time. Mr. Cange stated that draft copies of the rules have been sent to the committee members and that Dr. Eidson is the only one who responded. Mr. Cange stated that he sent the copies about three weeks ago. Dr. Smothers asked the board if they can move forward with those rules. Mr. Cange stated that he will look into it and he will get back with the board with information concerning the rules. Dr. Eidson stated that he will be extremely unhappy if there isn't a rulemaking hearing at the November meeting and that the rules are needed to protect promote and improve the health and prosperity of people in Tennessee.

Mr. Cange informed the board that they could add an additional fee to the licensure fee for impaired practitioners. Mr. Cange stated that the board can establish a grant to dispense payments. The grant process is a bidding process that vendors would need to apply. Mr. Cange stated that the Board of Medical Examiners issues a grant for impaired practitioners and the Board of Nursing has a contract with an agency for impaired practitioners. The board voted for a \$10.00 increase for this purpose at the last board meeting.

Complaint Summary

1.

Pharmacy management alleged that Respondent pharmacist stole controlled substances from the pharmacy. Respondent entered a rehab facility and has offered to voluntarily surrender license.

Prior Discipline: None

Recommend: Accept voluntary surrender of pharmacist's license.

Dr. Bunch made the motion to **authorize a formal hearing with revocation**. Dr. Eidson seconded the motion. The motion carried.

2.

Complainant patient alleged that being a Buprenorphine patient led to embarrassment and discrimination when Respondent pharmacist yelled from about 15 feet away that he did not have the patient's medication in stock. Patient also alleged that when the prescription was filled, it was not billed to insurance correctly.

Respondent pharmacist provided a sworn statement that he did not recall this particular incident or patient but that normal practice is to offer to order medication for the next day.

Prior Discipline: None

Recommend: Dismiss

Dr. Kizer made the motion to **accept counsel's recommendation**. Dr. Wilson seconded the motion. The motion carried.

3.

Complainant caregiver alleged respondent pharmacist refused to fill patient's Hydrocodone prescription because the pharmacist did not know the meaning of "TID."

Respondent pharmacist provided a sworn statement that the total daily dose prescribed was the question since the prescription stated:

***"Lortab Tablet 5-325 MG Orally
Disp: ***90*** (NINETY)
Sig: as directed tid 30 days"***

Respondent pharmacist stated that the directions were incomplete because they did not indicate how much to take "TID" and that corporate policy requires a C2 prescription to be complete or it must be returned to the prescriber. Board investigator educated pharmacist that verification could have been accomplished by telephone, however, the pharmacy's corporate policy does not allow the pharmacist to make any changes to a C2 prescription.

Prior Discipline: None

Recommend: Dismiss

Dr. Kizer made the motion to **accept counsel's recommendation**. Dr. Dickenson seconded the motion. The motion carried.

4.

Pharmacy management discovered missing doses of Carisoprodol and Tramadol so drugs screens were conducted on all employees. Respondent technician tested positive for both drugs, admitted to stealing the drugs, admitted having a problem and checked into rehab.

Prior Discipline: None

Recommend: Revoke

Dr. Dickenson made the motion to **authorize a formal hearing for revocation**. Dr. Kizer seconded the motion. The motion carried.

5.

Complaint generated from CSMD report for high volume dispensing of controlled substances. Board investigators visited Respondent pharmacy, interviewed staff, reviewed policies and

prescription records regarding DEA “red flags” and observed the dispensing process. A previous inspection by the Board resulted in some minor educational points which the pharmacy had implemented by the time of this visit. Investigators found no problems and no evidence of any unprofessional conduct regarding the dispensing of controlled substances.

Prior Discipline: None

Recommend: Dismiss

Dr. Kizer made the motion to **accept counsel’s recommendation**. Dr. Dickenson seconded the motion. The motion carried.

6.

Respondent is PIC on companion case 201500005 above.

Prior Discipline: None

Recommend: Dismiss

Dr. Kizer made the motion to **accept counsel’s recommendation**. Dr. Bunch seconded the motion. The motion carried

7.

Complaint generated from CSMD report for high volume dispensing of controlled substances. BOP investigators visited the pharmacy, interviewed staff, reviewed policies and prescription records regarding DEA “red flags” and observed the dispensing process. Staff exhibited good knowledge of potential red flags and a desire to do things correctly and were receptive to education. Investigators found no evidence of any unprofessional conduct regarding the dispensing of controlled substances.

Prior Discipline: None

Recommend: Dismiss

Dr. Dickenson made the motion to **accept counsel’s recommendation**. Dr. Kizer seconded the motion. The motion carried

8.

Loss prevention notified BOP of technician diversion of controlled substances. A signed admission statement was obtained. Tech did not admit a quantity but DEA 106 form indicates 2,028 Hydrocodone APAP 10/325 were missing.

Prior Discipline: None

Recommend: Revoke

Dr. Wilson made the motion to **authorize a formal hearing for revocation**. Dr. Bunch seconded the motion. The motion carried.

9

Loss prevention notified BOP of technician diversion of controlled substances. Technician submitted a written apology but did not specify drugs or quantities taken. Tech admitted to loss prevention to taking 7 Hydrocodone APAP 10/325 but would not admit to anything else. Video was obtained showing tech taking medication from shelves. Police were contacted. Tech admitted to police officers to taking 19 Hydrocodone 10/325, 4 Hydrocodone 7.5/325, and 4 Cyclobenzaprine. An audit provided by loss prevention showed 73 Hydrocodone APAP 10/325 and 16 Hydrocodone APAP 7.5/325 were missing.

Prior Discipline: None

Recommend: Revoke

Dr. Eidson made the motion to **authorize a formal hearing for revocation**. Ms. McDaniel seconded the motion. The motion carried.

10.

Loss prevention notified BOP of technician diversion of controlled substances. Technician submitted a written statement admitting to stealing pills and selling them for \$6.00 per pill to people in another business' parking lot. Tech verbally admitted to loss prevention to stealing around 3,000 pills. DEA 106 indicates 4,824 Hydrocodone APAP 10/325 were missing. Police were notified.

Prior Discipline: None

Recommend: Revoke

Dr. Dickenson made the motion to **authorize formal hearing for revocation**. Dr. Kizer seconded the motion. The motion carried.

11.

Respondent pharmacist self-reported chemical dependency, voluntarily entered treatment at Cornerstone and wishes to surrender his pharmacist's license.

Prior Discipline: \$2,000 civil penalty paid for working on an expired license in 2013.

Recommend: Accept voluntary surrender

Dr. Bunch made the motion to **accept counsel's recommendation**. Ms. McDaniel seconded the motion. The motion carried.

12..

Respondent pharmacist was terminated after an inquiry into multiple narcotic discrepancies. Respondent voluntarily entered treatment at Cornerstone and wishes to surrender her pharmacist's license.

Prior Discipline: None

Recommend: Accept voluntary surrender

Dr. Wilson made the motion to **accept counsel's recommendation**. Dr. Dickenson seconded the motion. The motion carried.

13.

Complainant physician notified BOP about incorrect prescriber name entries in CSMD. Prescriber stated the pharmacy was notified in February but did not correct the information.

Board investigator visited the pharmacy and interviewed PIC. PIC was aware of the issue and admitted the errors had occurred but stated he had notified the software vendor in February and thought the mistakes had been corrected. While Board investigator was present, PIC contacted CSMD software vendor and corrected the entries. BOP investigator provided education on the importance of correct information being entered into CSMD.

Prior Discipline: None

Recommend: Dismiss

Dr. Dickenson made the motion to **accept counsel's recommendation**. Dr. Wilson seconded the motion. The motion carried.

14.

Complaint alleges a misfill on pain medication. When the medication was returned to the pharmacy, it was discovered that there were actually 6 different types of pills within 1 bottle. Patient and family members denied that anyone else could have gained access to the medication and believed there must be a tech or pharmacist at the pharmacy that is switching the medication.

Investigator conducted a thorough investigation and visited the pharmacy several times to review documentation and interview staff members. Perpetual inventory, double counting (first by a tech, then by a pharmacist), computer perpetual inventory, dispensing logs, pharmacist verification screens (including visual verifications), video, etc. all indicate the pharmacy dispensed correctly. Nothing suspicious or questionable was discovered about the pharmacy. Some of those medications in the returned bottle were brands or private label brands of products which respondent pharmacy does not carry (some which were OTC products such as aspirin and acetaminophen and a generic form of Excedrin.) Investigation did not reveal anything to substantiate the allegations.

Prior Discipline: None

Recommend: Dismiss

Dr. Dickenson made the motion to **accept counsel's recommendation**. Ms. McDaniel seconded the motion. The motion carried.

15.

Complainant (caregiver and mother of child patient) alleged a misfill by placing medications in the wrong bottles, also refused to transfer prescriptions to other pharmacies, and that the pharmacist claimed to no longer have patient's refills in the pharmacy system. PIC responded to Board investigator verbally and via sworn statement that the caregiver alleged 2 medications were in the wrong bottles but the caregiver stated she had corrected them herself and refused to bring in the bottles for the pharmacist to look at. PIC stated the caregiver claimed to have been shorted some Lisinopril, so, for customer satisfaction, some were given at no charge. PIC denied refusing to transfer prescriptions. PIC did state that dosages were changed frequently by the prescriber so it was recommended the new pharmacy contact the prescriber for the latest dosages. PIC stated the caregiver alleged having similar issues at other pharmacies so PIC recommended and offered to do medication synchronization, copy physician order sheets and provide medication administration forms. PIC stated the caregiver declined the services.

Prior Discipline: None

Recommend: Dismiss

Dr. Bunch made the motion to **accept counsel's recommendation**. Ms. McDaniel seconded the motion. The motion carried.

16.

Pennsylvania Board of Pharmacy issued an order of temporary suspension on 6/4/15 and provided information alleging respondent pharmacist was indicted on 5 federal counts involving misbranded drugs and mail fraud. Respondent pharmacist did hold a Tennessee license in the past. However, according to records, pharmacist voluntarily retired their Tennessee license and it expired 1/31/15.

Prior Discipline: None

Recommend: Close complaint and flag license and D. Ph.'s SSN

Dr. Wilson made the motion to **accept counsel's recommendation**. Dr. Kizer seconded the motion. The motion carried.

17.

Complainant patient alleged a misfill that Naproxen 500 was dispensed instead of Oxycodone/APAP 10-325, causing pain and suffering for several days before the mistake was discovered. Patient returned to the pharmacy and the pharmacist verified the pills in the vial were Naproxen. PIC and district manager both provided statements to Board investigator that all policies had been followed, all counts were correct and video showed the correct medication was counted by a tech, counted and back-counted by a pharmacist, visually verified by another pharmacist, bagged and hung for pick-up where it remained undisturbed until picked up by a family member. Nothing was discovered to indicate an error occurred at the pharmacy.

Prior Discipline: None

Recommend: Dismiss

Dr. Bunch made the motion to **accept counsel's recommendation**. Dr. Wilson seconded the motion. The motion carried.

18.

Anonymous complainant alleged the unlicensed practice of pharmacy and provided links to the webpage of a Tennessee company that provides prescription assistance programs and specifically "works with clients to find the most affordable price on their medications-whether through patient assistance programs, discount medications sources or local purchases" and "works with insurance agents to find the best product for their individual clients." Board investigator contacted business owner who immediately changed the wording on the webpage so as not to be confusing. The company assists clients with selecting insurance plans, and filing paperwork for patient assistance programs. The owner denied ever selling insurance products or offering any medication advice. Investigator verified the webpage was changed to more clearly describe the services offered.

Prior Discipline: None

Recommend: Dismiss

Dr. Bunch made the motion to **accept counsel's recommendation**. Dr. Eidson seconded the motion. The motion carried.

19.

Cases 19, 20, and 21 are 3 pharmacies from 2 different chains, each named in the patient's complaint. Complainant alleged unprofessional service, overcharging, a misfill on Synthroid, and an incorrect prescriber name on one of the medications.

Patient dropped off prescriptions at Pharmacy A but was upset with wait time. Patient asked Pharmacy A to mail her original prescriptions back to her so she could get them filled elsewhere. Pharmacy A mailed a printout of the prescriptions to the patient and instructed patient to take that to a pharmacy and have them call for transfers.

Pharmacy B called Pharmacy A for transfers but on one of the prescriptions, the receiving pharmacist scribbled the prescriber's name in such a way that it was entered incorrectly into Pharmacy B's computer. Patient did not pick up the prescriptions at Pharmacy B due to price. Pharmacy B told patient to have any pharmacy call them and they would transfer her prescriptions.

Patient went to Pharmacy C and had prescriptions transferred. Pharmacy B told Pharmacy C the wrong prescriber name on one of the prescriptions resulting in the patient becoming upset with Pharmacy C. Pharmacy C also had a prescription for Synthroid for the patient but was unaware the prescriber had changed the dose. This led to the patient alleging a misfill.

Prior Discipline: \$1,000 civil penalty paid for 2012 counseling violation.

Recommend: Dismiss Pharmacy A and Pharmacy C. LOW to Pharmacy B for incorrect prescriber name.

Dr. Wilson made the motion to **accept counsel's recommendation** for Pharmacy A and Pharmacy C and to issue a Letter of Instruction to Pharmacy B for the incorrect prescriber's name. Dr. Eidson seconded the motion. The motion carried.

20.

This is Pharmacy B from previous case.

Prior Discipline: None

Recommend: Dismiss Pharmacy A and Pharmacy C. LOW to Pharmacy B for incorrect prescriber name.

Dr. Wilson made the motion to **accept counsel's recommendation** for Pharmacy A and Pharmacy C and to issue a Letter of Instruction to Pharmacy B for the incorrect prescriber's name. Dr. Eidson seconded the motion. The motion carried.

21.

This is Pharmacy C from previous case.

Prior Discipline: None

Recommend: Dismiss Pharmacy A and Pharmacy C. LOW to Pharmacy B for incorrect prescriber name.

Dr. Wilson made the motion to **accept counsel's recommendation** for Pharmacy A and Pharmacy C and to issue a Letter of Instruction to Pharmacy B for the incorrect prescriber's name. Dr. Eidson seconded the motion. The motion carried.

22.

Complainant prescriber alleged a misfill by patient receiving Duloxetine 60mg instead of the prescribed Dexilant 60mg. Patient allegedly suffered reflux, nausea and vomiting until the correct medicine was received.

BOP investigator interviewed PIC who believes a misfill probably did occur, even though the prescriber took the medication from the patient and would not return it to the pharmacist for verification. PIC did reverse all charges and spoke to the patient when he was notified of the error. PIC re-educated staff on dispensing and verifying prescriptions. The pharmacy has since been sold.

Prior Discipline: None

Recommend: LOW to dispensing D. Ph. (who was also PIC)

Refer to the **Board of Medical Examiners** for physician practice.

Director's Report

Dr. Dilliard passed out a copy of the comments that was submitted to the Federal Drug Administration (FDA) concerning the Memorandum of Understanding Addressing Certain Distributions of Compounded Human Drug Products between states and the U. S. Food and Drug Administration.

Dr. Dilliard presented to the board a draft copy of a lapse license policy for licensees working on an expired license. The policy will issue a \$100.00 civil penalty if the licensees has worked 30 day pass the expiration. After review, the board decided to defer the discussion until the September 1-2, 2015 board meeting.

Dr. Dilliard explained to the board that the Memorandum of Understanding did not regulate sterile compounding in a physician's office. Dr. Eidson suggested that we may need legislation

with the Board of Medical Examiners and the Board of Pharmacy concerning this issue. The Board of Pharmacy cannot regulate a physician's office. Dr. Eidson asked who regulates physician offices that do sterile compounding. Dr. Dilliard stated that the physicians are regulated by the Board of Medical Examiners. Dr. Eidson asked if the physician offices are USP 797 compliant. Dr. Dilliard stated that he has mentioned this issued to the Board of Medical Examiners Dr. Eidson asked what is the percentage of physician offices that are dispensing regulated by the board of pharmacy. Dr. Dilliard stated that he is aware of some states that do regulate this practice. Dr. Eidson asked that the board work with the Board of Medical Examiners to address this issue

Dr. Dilliard asked the board to nominate someone to replace Dr. Kizer on the CSMD committee. After discussion, Dr. Eidson made the motion to nominate Dr. Wilson to serve on the committee. Dr. Bunch seconded the motion. The motion carried.

Dr. Dilliard informed the board that he will be making several presentations in the next month including at the National Association of Drug Diversion Investigations sponsored by Walgreens, and the Symposium on Chronic Pain Guidelines.

Appearance Hannah Knox, RT

Ms. Knox answered yes to the question that asked "Have you ever been charged or convicted (including a nolo contendere plea or guilty plea) of a felony or misdemeanor (other than a minor traffic offenses) whether or not sentence was imposed, suspended, expunged, or whether you were pardoned from any such offense?" Ms. Knox stated on the application that she was charged with theft in 2013 and the charged was dismissed. She was charged with theft January 2015 and this charge will be dismissed January 27, 2016 if she doesn't get into any more trouble. After discussion, Dr. Kizer made the motion to approve Ms. Knox's application for registration as a pharmacy technician with a 1 year probation. Ms. McDaniel seconded the motion. The motion carried. Dr. Eidson abstained.

Consent Orders

Dr. Wilson made the motion to accept the consent orders as presented. Dr. Bunch seconded the motion. The motion carried.

REVOCAATION

Brian L. Cole, D.Ph.
Thomashia D. Ford, RT
Tiffany Patterson, RT
Cristen Buchanan, RT
Wanda Binkley, RT
Jessica Millsaps, RT
Matthew Zeleznak (voluntarily surrendered)

Tennessee Board of Pharmacy
Board Meeting
July 29-30, 2015

AGREED ORDER

Ok Compounding (voluntarily surrendered)
P & S Pharmacy

VIOLATED BOARD RULE 1140-9-01(2)
RT Medical, LLC

VIOLATED BOARD RULE 1140-03-.01 (a) & (f)
CVS Pharmacy #7630
Christie Carlill, D.Ph.

PROBATION

Lee's Total Health at Middle Creek

VIOLATED BOARD RULE 1140-03-.11
Del-Mar Medical
Parsons Pharmacy, Inc.

VIOLATED BOARD RULE 1140-01-.13(3)(g)(1)
Food City Pharmacy, #673

ORDER MODIFICATION

Matthew Hobbs
Robert McLean

REINSTATEMENT

Kimberly H. Hawkins, D.Ph.

Appearance

Rachel Lawson, RT

Ms. Lawson answered yes to the question that asked "Have you ever been charged or convicted (including a nolo contendere plea or guilty plea) of a felony or misdemeanor (other than a minor traffic offenses) whether or not sentence was imposed, suspended, expunged, or whether you were pardoned from any such offense?" and "Are there any criminal charges pending against you in this state or other state?" Ms. Lawson states that she has two felony convictions on her record but have been given judicial diversion. Documentation submitted shows the following: 5/15/2013 public intoxication; 3/22/2013 failure to appear; 12/19/2012 criminal trespass; 9/1/2012 aggravated assault with a vehicle; 8/30/2012 felony evading, aiding and abetting, failure to yield to blue lights; 8/8/12 disorderly conduct; 7/30/2012 domestic assault; 7/28/2012 possession scheduled VI and aggravated burglary. After discussion, Ms. McDaniel made the motion to approve Ms. Lawson application for registration as a pharmacy technician with a 8 year probation. The motion died for a lack of second. Dr. Dickenson made the motion to deny Ms. Lawson application for registration as a pharmacy technician. Dr. Eidson seconded the motion. The motion carried. Ms. McDaniel abstained.

Order Modification

Richard Maynard, D.Ph.

Dr. Maynard appeared before the board to request that to have the probationary status removed from his license 2 months early. Dr. Maynard signed a consent order on 10/1/2014 placing his pharmacist license on 1 year probation and he would have to complete 10 hours of continuing pharmaceutical education hours in pharmacy law and ethics. After discussion, Dr. Kizer made the motion to amend Dr. Maynard's consent order to release his license from probationary status 2 months early. Ms. McDaniel seconded the motion. The motion carried

Waivers

Board rule 1140-03-.14 (12)

Dr. Eidson made the motion to approve the request from **Brantley Wescott, D.Ph.** to be the pharmacist in charge at Rarx and Fertility Pharmacy of America Nashville, TN. Dr. Dickenson seconded the motion. The motion carried. Dr. Wescott must contact the board if the business model changes.

Dr. Wilson made the motion to approve the request from **John White, D.Ph.** to be the pharmacist in charge of the automated dispensing machine located at The Bridge of Ripley, Ripley, TN and the pharmacy at Pharmerica, Memphis, TN. Ms. McDaniel seconded the motion. The motion carried.

Board rule 1140-01-.13(d)

Dr. Wilson made the motion to approve the request from **The Bridge of Ripley** for the automated dispensing machine that the pharmacy to be 180 square feet. Ms. McDaniel seconded the motion. The motion carried.

Dr. Dickenson made the motion to approve the request from **First Pharmacy Services of Country Village** for the automated dispensing machine that the pharmacy to be 180 square feet. Dr. Wilson seconded the motion. The motion carried.

Board rule 1140-01-.13(e)

Dr. Eidson made the motion to approve the request from **Sullivan County Health Department** for the requirement that requires refrigeration. Dr. Dickenson seconded the motion. The motion carried.

Board rule 1140-01-.05 (3)

Dr. Eidson made the motion to approve the request from **Wafik Marzouk, D.Ph.** to be required to successfully complete the requirements for the FPGEC certification as a foreign graduate for

licensure in Tennessee. Dr. Marzouk has been licensed as a pharmacist in Florida since 2007. Dr. Bunch seconded the motion. The motion carried. Dr. Dickenson voted no.

Dr. Eidson made the motion to approve the request from **Millad Ayyad, D.Ph.** to be required to successfully complete the requirements for the FPGEC certification as a foreign graduate for licensure in Tennessee. Dr. Ayyad has been licensed as a pharmacist in Florida since 2007. Ms. McDaniel seconded the motion. The motion carried. Dr. Dickenson voted no.

Board rule 1140-05-.01(1)

Dr. Dickenson made the motion to deny the request from **Cynthia Summers, D.Ph.** request to accept the continuing education hours that are not ACPE approved or had prior approval by the board. Dr. Eidson seconded the motion. The motion carried. \

Board rule 1140-01-.07 (3)(b) 5 (i)

Dr. Dickenson made the motion to approve the request from **Lawrence H. Kessler, D.Ph.**, to waive the one hundred and sixty (160) internship hours but he must successfully take and pass the MPJE. Dr. Bunch seconded the motion. The motion carried.

Dr. Wilson made the motion to approve the request from **Courtney Young, D.Ph.**, to waive the one hundred and sixty (160) internship hours and the MPJE. Ms. McDaniel seconded the motion. The motion carried.

Dr. Bunch made the motion to approve the request from **Whitney Clements, D.Ph.**, to waive the three hundred and twenty (320) internship hours but she must successfully take and pass the MPJE. Ms. Mc Daniel seconded the motion. The motion carried.

Request to Reapply Kendria Johnson, RT

Ms. Johnson appeared before the board to request that she be allowed to reapply for registration as a pharmacy technician. Ms. Johnson registration was revoked on May 29, 2014. After discussion, Dr. Eidson made the motion to deny Ms. Johnson's request to reapply for registration as a pharmacy technician. Dr. Dickenson seconded the motion. The motion failed. Ms. McDaniel made the motion to approve Ms. Johnson's request to reapply for registration as a pharmacy technician. Dr. Kizer seconded the motion. The motion carried. Dr. Eidson and Dr. Dickenson voted no.

Reinstatements Jeremy Bowles, D. Ph.

Dr. Bowles requested to have his license reinstated. Dr. Bowles's license was revoked on 11/15/2012. After discussion, Dr. Bunch made the motion to reinstate Dr. Bowles's license. Dr. Bowles's license will be on five (5) year probation once he has completed all the necessary

requirements for reinstatement with the following conditions. Ms. McDaniel seconded the motion. The motion carried.

- (a) The Respondent shall completely abstain from the consumption of alcohol or any other drugs, except as specified in (b);
- (b) The Respondent shall be able to consume legend drugs or controlled substances prescribed by the Respondent's primary physician, except in the case of an emergency or upon proper referral from the Respondent's primary physician. Upon ratification of this order, the Respondent shall immediately notify the Board office in writing of the name of the Respondent's primary care 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 Pharmacist 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 she entered into with the 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 from the start date of probation; however, after a period of two (2) years' probation the respondent may petition the Board for a modification of this Consent Order to remove the restrictions upon show of good causes. 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 permission of the Board;

(i) Respondent shall complete all provisions required for the reinstatement of her license listed in Board Rule 1140-01-.07 (3)(a):

1. Provide written notice to the board requesting an active license;
2. Satisfy all past due continuing pharmaceutical education as required by the board;
3. Pay all cumulative license renewal fees and any applicable penalty fees for the period during which the license was inactive, delinquent, suspended or revoked;
4. Complete one hundred and sixty hours (160) of pharmaceutical internship hours within ninety (90) consecutive days
5. Successfully take and pass the MPJE

Nancy Kemp, D.Ph.

Dr. Kemp's requested to have her license reinstated. Dr. Kemp's license was indefinitely suspended on 07/15/2008. After discussion, Dr. Eidson made the motion to reinstate Dr. Kemp's license. Dr. Kemp's license will be on five (5) year probation once she has completed all the necessary requirements for reinstatement with the following conditions. Dr. Bunch seconded the motion. The motion carried.

(a) The Respondent shall completely abstain from the consumption of alcohol or any other drugs, except as specified in (b);

(b) The Respondent shall be able to consume legend drugs or controlled substances prescribed by the Respondent's primary physician, except in the case of an emergency or upon proper referral from the Respondent's primary physician. Upon ratification of this order, the Respondent shall immediately notify the Board office in writing of the name of the Respondent's primary care 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 Pharmacist 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 she entered into with the 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 from the start date of probation; however, after a period of two (2) years' probation the respondent may petition the Board for a modification of this Consent Order to remove the restrictions upon show of good causes. 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 permission of the Board;

(i) Respondent shall complete all provisions required for the reinstatement of her license listed in Board Rule 1140-01-.07 (3)(a):

1. Provide written notice to the board requesting an active license;
2. Satisfy all past due continuing pharmaceutical education as required by the board;
3. Pay all cumulative license renewal fees and any applicable penalty fees for the period during which the license was inactive, delinquent, suspended or revoked;
4. Complete three hundred and twenty (320) pharmaceutical internship hours within one hundred and eighty (180) consecutive days
5. Successfully take and pass the NAPLEX and MPJE

Raquelle Woodard, D.Ph.

Dr. Woodard requested to have her licensed reinstated. Dr. Woodard's license was indefinitely suspended on 11/14/2013. After discussion, Dr. Kizer made the motion to reinstate Dr. Woodard's license. Dr. Woodard's license will be on five (5) year probation once she has completed all the necessary requirements for reinstatement with the following conditions. Ms. McDaniel seconded the motion. The motion carried.

(a) The Respondent shall completely abstain from the consumption of alcohol or any other drugs, except as specified in (b);

(b) The Respondent shall be able to consume legend drugs or controlled substances prescribed by the Respondent's primary physician, except in the case of an emergency or upon proper referral from the Respondent's primary physician. Upon ratification of this order, the Respondent shall immediately notify the Board office in writing of the name of the Respondent's primary care 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 Pharmacist 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 she entered into with the 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 from the start date of probation; however, after a period of two (2) years' probation the respondent may petition the Board for a modification of this Consent Order to remove the restrictions upon show of good causes. 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 permission of the Board;

(i) Respondent shall complete all provisions required for the reinstatement of her license listed in Board Rule 1140-01-.07 (3)(a):

1. Provide written notice to the board requesting an active license;
2. Satisfy all past due continuing pharmaceutical education as required by the board;
3. Pay all cumulative license renewal fees and any applicable penalty fees for the period during which the license was inactive, delinquent, suspended or revoked;
4. Complete one hundred and sixty (160) hours of pharmaceutical internship hours within ninety (90) consecutive days
5. Successfully take and pass the MPJE

The meeting adjourned at 5:20 p.m.

July 30, 2015

The Tennessee Board of Pharmacy reconvened on Thursday, July 30, 2015 in the Iris Room, 665 Mainstream Drive, Nashville, TN. A quorum of the members were present, the meeting was called to order at 8:07 a.m. by Dr. Smothers, president.

Appearance

Board rule 1140-02-.02 (7)

Mike Wilhoit, D.Ph., owner of **Mac's Pharmacy #2, LLC dba Mac's Long Term Care Solutions**, appeared before the board to request an increase in the pharmacist to technician ratio from 4:1 to 5:1. After discussion, Dr. Bunch made the motion to approve the request to increase the pharmacist to technician ration to 5:1 as long as the additional technicians are certified pharmacy technicians. Dr. Kizer seconded the motion. The motion carried. The board also requested that the pharmacist in charge submit a statement stating that they understand the responsibility and to notify the board if there are any changes.

Cardinal Health Nuclear Pharmacy

Michael Monae, D.Ph., Attorney, and Richard Green, D.Ph. pharmacist in charge for Cardinal Health Nuclear Pharmacy appeared before the board to ask the board to accept their company's quality assurance form as the gap analysis instead of the form created and approved by the board. Cardinal Health Nuclear Pharmacy completes their quality assurance form once a month. Board rule 1140-07-.09 (4) does not state how often the gap analysis must be used. After discussion, Dr. Eidson made the motion for staff to review Cardinal Health Nuclear Pharmacy quality assurance form and compare it to the board's gap analysis and bring the results before the board. Dr. Wilson seconded the motion. The motion carried.

Agreed Order

Mr. Cange presented an agreed order to the board in the name of Antonio Marchetti, D.Ph. Dr. Marchetti pharmacist license will be placed on 5 year probation with terms and conditions. Dr. Dickenson made the motion to accept the agreed order as presented. Ms. McDaniel seconded the motion. The motion carried. Dr. Eidson was recused.

Mr. Cange presented an agreed order to the board in the name of OK Compounding. OK Compounding voluntarily surrendered (same as revocation) their Tennessee pharmacy license. Dr. Wilson made the motion to accept the agreed order as presented. Dr. Eidson seconded the motion. The motion carried.

Mr. Cange presented an agreed order to the board in the name of James Casey, RT. Mr. Casey voluntarily surrendered (same as revocation) his pharmacy technician registration. Dr. Dickenson made the motion to accept the agreed order as presented. Dr. Kizer seconded the motion. The motion carried.

Mr. Cange presented an agreed order to the board in the name of Brittany Jones, RT. Ms. Jones pharmacy technician registration will be revoked and case cost Dr. Wilson made the motion to accept the agreed order as presented. Dr. Dickenson seconded the motion. The motion carried.

Mr. Cange presented an agreed order to the board in the name of Richard Schumaker, D.Ph. Dr. Schumaker pharmacist license will be placed on 2 year probation with terms and conditions. Dr. Wilson made the motion to accept the agreed order as presented. Ms. McDaniel seconded the motion. The motion carried.

Mr. Cange presented an agreed order to the board in the name of Neyle Gray, RT. Ms. Gray voluntarily surrendered (same as revocation) her pharmacy technician registration. Dr. Bunch made the motion to accept the agreed order as presented. Ms. McDaniel seconded the motion. The motion carried

Mr. Cange presented an agreed order to the board in the name of P & S Pharmacy Inc. P & S Pharmacy, Inc. was assessed a \$1000.00 civil penalty, must submit a corrective plan of action on patient counseling and assess case costs. Dr. Eidson made the motion to accept the agreed order as presented. Dr. Bunch seconded the motion. The motion carried.

Contested Cases

Terry Golden, RT

Mr. Golden was not present nor represented by an attorney. Mr. Cange represented the State. Mr. Anthony Adgent was the Administrative Law Judge. Mr Cange asked to proceed in default. The board granted the motion to proceed in default. Mr. Cange passed out the Notice of Charges. Mr. Golden is charged with violating T. C. A. §53-10-104(a) and (b). After discussion, Dr. Eidson made the motion to revoke Mr. Golden's registration as a pharmacy technician and to assess case costs. Dr. Bunch seconded the motion. The motion carried. Dr. Kizer made the motion that the action taken was to protect, promote and improve the health and prosperity of people in Tennessee. Dr. Wilson seconded the motion. The motion carried.

Amy Rhinehart, RT

Ms. Rhinehart was present but not represented by an attorney. Mr. Cange represented the State. Mr. Anthony Adgent was the Administrative Law Judge. Ms. Rhinehart is charged with violating T.C.A. 53-10-104 (a) and (b). After discussion, Dr. Dickenson made the motion to revoke Ms. Rhinehart's registration as a pharmacy technician and to assess case costs. Dr. Eidson seconded the motion. The motion carried. Dr. Dickenson made the motion that the action taken was to protect, promote and improve the health and prosperity of people in Tennessee. Dr. Wilson seconded the motion. The motion carried. Ms. McDaniel abstained.

Dr. Bunch made the motion to adjourn at 10:23 a.m. Dr. Wilson seconded the motion. The motion carried.

The minutes were approved and ratified at the September 1-2, 2015 board meeting.