

Tennessee Board of Pharmacy
Board Meeting
March 12, 2019

TENNESSEE BOARD OF PHARMACY
665 Mainstream Dr.
Nashville, TN 37243

BOARD MEMBER PRESENT

Debra Wilson, D.Ph., President
Rissa Pryse, D.Ph., Vice President
Katy Wright, D. Ph.
Adam Rodgers, D.Ph.
R. Michael Dickenson, D.Ph.
Melissa McCall, D.Ph.
Lisa Tittle, Consumer Member

STAFF PRESENT

Reginald Dilliard, Executive Director
Matthew Gibbs, Associate General Counsel
Larry Hill, Pharmacy Investigator
Rebecca Moak, Pharmacy Investigator
Robert Shutt, Pharmacy Investigator
Terry Grinder, Pharmacy Investigator
Andrea Miller, Pharmacy Investigator
Derek Johnston, Pharmacy Investigator
Scott Denaburg, Pharmacy Investigator
Rita Golden, Pharmacy Investigator
Patricia Beckham, Pharmacy Investigator
Sheila Bush, Administrator Director

STAFF ABSENT

Richard Hadden, Pharmacy Investigator

The Tennessee Board of Pharmacy convened on Tuesday, March 12, 2019, in the Iris Room, 665 Mainstream Drive, Nashville, TN. A quorum of the members being present, the meeting was called to order at 8:02 a.m.

Minutes

Dr. Pryse made the motion to accept the minutes from the January 8-9, 2019 board meeting as presented. Dr. Dickenson seconded the motion carried.

Presentations

Pain Clinics

Dr. Mitchell Mutter, Director of Special Projects, presented to the board the 3rd Edition of the Chronic Pain Guidelines.

Community Pharmacy Transformation (CPhT) Pilot Program

Aaron Garst, Pharm. D., Tennessee Pharmacist Association, presented to the board an update of the Tech check Tech pilot program.

Cardinal Health

Jessica Adams, Pharm. D., Cardinal Health, appeared before the board to inform them of a growing need for tele-pharmacy in the rural areas where access to pharmacy care may be limited.

Order Modification
Christian Onuh, D.Ph.

Dr. Onuh appeared before the board to request that the probation status be lifted from his pharmacist license. Dr. Onuh signed a consent order on 07/29/2016 placing his pharmacist license on 5 year probation. After discussion, Dr. Dickenson made the motion to confirm Dr. Onuh's consent order and to deny Dr. Oahu's request for order modification. Dr. Pryse seconded the motion. The motion carried.

Waiver
AnovoRx

Dr. Dickenson made the motion to deny Mr. Rodger Bryant, Distribution Services of AnovoRx, for unlicensed practice. Dr. Pryse seconded the motion. The motion carried.

Financial Report

Noranda French, Administrative Service Assistant 4, gave the financial report.

Waivers

Board rule 1140-01-.13 (3) (d) & (e)

Dr. Wright made the motion to approve the request from **Tennova Rehab Center** to waive the requirement for the pharmacy to be 180 square feet and to have hot and cold running water. Dr. Rodgers seconded the motion. The motion carried.

Dr. Wright made the motion to approve the request from **North Knoxville Ambulatory Surgery Center** for a conditional waiver for the space to be license and to have hot and cold running water. The conditional waiver is contingent on approval from the Drug Enforcement Agency (DEA) issuing a campus license. Dr. Dickenson seconded the motion. The motion carried.

Board rule 1140-02-.02 (7)

Dr. Dickenson made the motion to approve the request from **ProCompounding Pharmacy** to increase the pharmacy technician ratio from 4:1 to 6:1. Dr. Pryse seconded the motion. The motion carried. Dr. Wilson was recused.

Board rule 1140-03-.14 (12)

Dr. Wright made the motion to approve the request from **Elizabeth Lovelace, D.Ph.** to be PIC at Tennova Rehab Center and North Knoxville Ambulatory Surgery Center. Dr. Rodgers seconded the motion. The motion carried.

Board rule 1140-05-.01

Dr. Wright made the motion to deny the request from **Karen E. Bruestle-Wallace, D.Ph.** to waive the live hours needed to reinstate her pharmacist license. Dr. Dickenson seconded the

motion. The motion carried. The board granted Dr. Bruestle-Wallace a six (6) months extension to obtain the live hours needed to reinstate and to reinstate her license.

Board rule 1140-01-.07

Dr. Rodgers made the motion to approve the request from **Cynthia Pipkin, D.Ph.** to waive the one hundred and sixty (160) internship hours but must successfully take and pass the MPJE. Dr. McCall seconded the motion. The motion carried.

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

Dr. Wright made the motion to approve the request from **Courtney Griffin (Mase), D.Ph.** to waive the three hundred and twenty (320) internship hours and NAPLEX but must successfully take and pass the MPJE. Dr. Pryse seconded the motion. The motion carried.

Dr. Rodgers made the motion to deny the request from **Preston Fisher, D.Ph.** to waive the late fees accumulated for reinstatement. Dr. Dickenson seconded the motion. The motion carried.

Appearance

Kirkland Cancer Center Infusion Pharmacy

Dr. Wright made the motion to approve the request from Kirkland Cancer Center Infusion Pharmacy to use Biological Safety Cabinets (BSC) and move to a temporary space during a remodel from May 2019 thru October 2019. The temporary space is unclassified under USP 797 and the beyond use date does not exceed 12 hours or less room temperature or 24 hours refrigeration of hazard drugs. Dr. Dickenson seconded the motion. The motion carried. Kirkland Cancer Center Infusion Pharmacy must inform the board if they will not meet the approval deadline.

Genoa Healthcare

Lakeside Behavioral Health

Robin James, D.Ph., Site Manager, Susan Delmonico, Attorney and Latonya Porter, Director of Operations, appeared before the board to ask for approval of Bedside Delivery with the use of Nurses to deliver the medication to patients if they are discharged after the pharmacy has closed. The pharmacist will still counsel the patient and the medication delivered by a pharmacy technician and left at the nursing station until the patient has physically discharged. After discussion, Dr. Dickenson made the motion to approve the request from Lakeside Behavioral Health to allow Nurses to give the patients their medication if they are discharged after the pharmacy has closed. The Pharmacist is still required to counsel the patient and the medication must be delivered to the patient by a pharmacy technician or left at the nursing station until discharged. Dr. Rodgers seconded the motion. The motion carried.

Consent Orders

Dr. Dickenson made the motion to accept the following consent orders as presented. Dr. Pryse seconded the motion. The motion carried.

VOLUNTARY SURRENDER (same as revocation)

Dionne Mitchell, RT
Gregory Goodine, RT

REPRIMAND

McFarland Pharmacy
McFarland Apothecary
Brittany Kirby, D.Ph
Kristen Grigsby, D.Ph.

Office of General Counsel Report

Mr. Gibbs stated that there are currently 55 cases open for discipline within the Office of General Counsel. Of those 55 cases, 8 are eligible for a contested hearing.

Mr. Gibbs informed the board that Tennessee Board of Pharmacy along with the Tennessee Department of Health has been named as two of the defendants contained in the master docket for the National Prescription Opiate Litigation. The Office of the Attorney General is aware of this litigation.

Mr. Gibbs informed the board that the Board's pharmacy intern and pharmacy technician rules are currently in internal review. Executive Order #5, signed by Governor Lee on February 1, 2019, places a 90-day freeze on executive branch rulemaking. No department shall file a rule with the Secretary of State; however, the Governor may grant an exception for the protection of health, safety, and welfare of Tennesseans.

Mr. Gibbs asked the board for approval of the Preventative Care Policy with the following addition: [t]his policy does not supersede or replace any requirement or obligation listed in statutes or rules pertaining to collaborative pharmacy practice. This policy defines preventative care as excluding the requirement for a patient-specific diagnosis. All other requirements of collaborative pharmacy practice remain in place. After discussion, Dr. Dickenson made the motion to approve the Preventative Care Policy as presented. Dr. Wright seconded the motion. The motion carried. The Board's Administrative Office will to inform the Board of Medical Examiners and the Board of Osteopathic Examiners of this policy.

Legislative update:

Mr. Gibbs informed the board of the following bills that are concern the board presently being presented at the Legislator.

SB0202 and SB0475 – Lockable vials

If passed, these bills would have required any opioid or stimulant listed in Schedule II or any benzodiazepine listed in Schedule IV to be dispensed in a lockable vial so long as the medication is in solid oral dosage form and prescribed or dispensed with more than three days of medication. According to the bills, manufacturers would be bear the costs of lockable vials.

SB0202 has been withdrawn and SB0475 has been taken off notice for calendar in the House’s subcommittee for Mental Health and Substance Abuse.

HB0703

HB0703 excludes the federal Drug Enforcement Agency requirements for the storage of gabapentin, as a Schedule V controlled substance, for a state-licensed wholesale drug distributor who is licensed by this Board and registered with the DEA.

This bill is currently in committees of both chambers.

HB0796

HB0769 doubles the licensure fees for pharmacy benefit managers. Currently, the licensure fee is \$100 for the initial license and \$50 for the renewal of the license. This bill would increase the fees to \$200 and \$100 respectively.

This bill is currently in committees of both chambers.

SB0810

Section 1 -2

Currently quality improvement committee (“QIC”) can, on its own, access Controlled Substance Monitoring Database (“CSMD”) data when it knows or suspects a practitioner is self-prescribing. This bill would eliminate that pathway for QICs to use CSMD data. However, it would allow QICs to use CSMD data when that data is provided to the QIC by the healthcare practitioner.

Section 3

A separate prescription will no longer be necessary for a Schedule II controlled substance because, according to the bill, the controlled substance would be electronically prescribed.

Section 4

Currently, by January 1, 2020, any prescription for a Schedule II controlled substance shall be issued as an electronic prescription.

The proposed bill amends the date and substances – by January 1, 2021 any prescription for any controlled substance shall be issued as an electronic prescription.

Sections 5-7

The purposed bill removes references to “controlled substance” throughout T.C.A. § 63-1-163 (i.e. current partial fill statute) and replaces it with “Schedule II controlled

substance.” This change would make the State of Tennessee’s partial filling law mirror federal law.

Section 8

Section 8 of the proposed bill adds a new subsection to T.C.A. § 63-1-163. The new subsection requires all pharmacy dispensing software vendors (operating in the State of Tennessee) to update their dispensing software systems by January 1, 2020* to allow for the partial filling of controlled substances. The Tennessee Board of Pharmacy is the body to review compliance and is given authorization to take action against the vendors for non-compliance.

The Board does not currently license or regulate pharmacy dispensing software vendors.

* = A recently filed amendment to this section changes the implantation date to January 1, 2021.

Section 9

Section 9 adds two new “definition[s]” to TnTogether (2018 Tenn. Pub. Acts 1039) – palliative care and serious illness.

Section 10

A healthcare practitioner shall not be required to include an ICD-10 code on any prescription for an opioid of a three-day supply or less and an opioid dosage of less than 180 morphine milligram equivalent.

Section 11

Section 11 of the proposed bill deletes the partial fill requirement contained in TnTogether but allows the prescriber to indicate whether the prescription should be partially filled by placing “partial fill” or “PF” on the prescription.

Section 12

Currently, TnTogether allows a twenty-day supply with a dosage that does not exceed 850 morphine milligram equivalent for conditions requiring more than a minimally invasive procedure and the risk of adverse effects from the pain exceeds the risk of substance abuse disorder or overdose.

The proposed bill deletes this language. Section 14 of the proposed bill, discussed below, adds “major surgery” to the list of exceptions for TnTogether.

Section 13

The proposed bill rearranges the wording of the exceptions regarding days’ supply and morphine milligram equivalent. The bill provides an exception for patients who are undergoing cancer treatment, palliative care treatment, or receiving hospice care.

Section 14

The current language of TnTogether allows a patient to receive up to a twenty-day supply

(and 850 morphine milligram equivalents) for procedures which are more than minimally invasive. Section 12 of the proposed bill deletes this exception.

Section 14 of the proposed bill adds “major surgery” to the list of exceptions in TnTogether which effectively allows a prescriber to prescribe up to a thirty-day supply of an opioid with an unlimited number of morphine milligram equivalents for patients who underwent “major surgery.”

Section 15

Opioids approved by the federal Food and Drug Administration to treat upper respiratory symptoms or cough are not subject to TnTogether.

Section 16

Currently, T.C.A. § 63-1-401 *et. seq.* contains the treatment guidelines for prescribing opioids, continuing education requirements for prescribers with authority to prescribe controlled substances, and the nonresidential buprenorphine treatment guidelines.

The proposed bill deletes the treatment guidelines.

This bill is currently in committees of both chambers.

HB0884

2018 Tenn. Pub. Acts ch. 1015, § 4, codified at T.C.A. § 56-7-3114, gives a pharmacist and pharmacy the right to provide information to an insured about the insured's cost share for a prescription drug. Furthermore, the statute prohibits a pharmacy benefits manager ("PBM") from penalizing a pharmacist and / or pharmacy for discussing or selling a lower priced drug to the insured, if one is available.

The proposed bill adds a new subsection to T.C.A. § 56-7-3114. The new subsection forbids a PBM from prohibiting a pharmacy or pharmacist from informing a patient of all relevant options of a prescription medication, including a more affordable alternative. Moreover, a PBM shall not prohibit a pharmacist or pharmacy from accepting cash payments if the cash payments for the same drug are less than an insurance copayment or deductible payment amount.

This bill is currently in committees of both chambers.

SB0987

This bill would no longer require TennCare to contract with a pharmacy benefit managers.

This bill is currently in committees of both chambers.

SB1215

Existing law prohibits health insurers from excluding coverage for off-label drug prescriptions provided the off-label use is recognized by "medical literature" or 1 of 6 listed "standard reference

compendia". The bill would amend 56-7-2352(c)(1) to eliminate the requirement of recognized use by "medical literature" or "standard reference compendia." The result would be that health insurers would be prohibited from excluding coverage for any off-label prescriptions, whether a recognized off-label use or not.

This bill is currently in committees of both chambers

Complaint Summary

1.

Complainant alleged pilferage by respondent pharmacist resulting in pharmacist's employment being terminated.

Respondent admitted to having legitimate prescriptions for amphetamine and admitted to sometimes taking tablets from a filled order before paying for them. Respondent stated this has happened twice and admitted during the exit interview to having tablets for which no payment had been made. Respondent also admitted in writing to taking OTC medications without paying and specifically mentioned Ibuprofen, Chlorpheniramine, and Gas-X.

BOP Investigator obtained a separate sworn statement from the respondent stating there was no intention to steal and that payment was planned to be made two days after taking the amphetamine tablets, but never had that opportunity because of the quick action of the employer.

No prior discipline.

Recommend: LOW

Dr. Dickenson made the motion to issue a Letter of Warning with 30 hours of continuing pharmaceutical education hours within 6 months. The continuing pharmaceutical education hours must be in pharmacy law, ethics, prescribing, dispensing and controlled substances. Dr. Wright seconded the motion. The motion carried.

2.

During an investigation at a pharmacy, BOP investigators found a memo from the respondent, a wholesale distributor, indicating that in order to obtain CS from the respondent, a pharmacy must order a 50/50 split of controls vs. non-controls. The pharmacy had large quantities of unneeded and unnecessary non-controlled drugs and indicated they had to be bought in order to be able to obtain enough CS to service legitimate patients.

TBOP and DEA Investigators visited and questioned Respondent's staff regarding the memo. The memo was acknowledged, however Investigators were told the memo was an internal document that should not have been shared with the customer.

Respondent staff told Investigators that revisions have already been made and they now have a compliance manager. The revised policy does not include the 50/50 split, but instead now has an algorithm which allows the company to do due diligence investigations if the ratio exceeds 35% CS to non-CS and to set a limit of total units of Hydrocodone and Oxycodone.

No prior discipline.

Recommend:

Dr. Dickenson made the motion to issue a Letter of Warning to the wholesaler/distributor. Dr. Rodgers seconded the motion. The motion carried.

3.

Joint TBOP/DEA inspection found several compliance issues including audit discrepancies on 4 of 8 randomly selected drugs. Discrepancies ranged from 1% to 7%, however the biennial inventory was not performed correctly causing the audit to not be exact.

Other violations:

DEA 222 forms not completed correctly; prescriptions not filed correctly and not separated properly; verbal orders not initialed; non-sterile compounding supplies, excipients and stock solutions were expired and unsanitary; compounding records were incomplete; single entity buprenorphine prescriptions did not have required documentation; high MME's for Opioids did not have any explanatory documentation; some prescriptions were incomplete or had incorrect dates written; some prescriptions had Sig and prescriber information incorrectly entered at computer input; counseling was not being offered on every patient and there was a lack of understanding of a refill vs a new prescription.

Respondent provided a detailed plan of correction including the following:

Will now conduct spot audits of CS; removal of all expired compounds; cleaning of supplies; updated compounding records; retraining on all record keeping and DEA reporting; counseling new vs. refill is now understood and will be practiced; verbal prescriptions will be initialed; all employees have been trained on the importance of correct computer input.

No prior discipline.

Recommend:

Dr. Wright made the motion to authorize a formal hearing with a \$1000.00 civil penalty per counseling violation, with all but \$1000.00 stayed with an acceptable plan of correction, complete a an acceptable controlled substance inventory at 6 months and cost. Dr. Dickenson seconded the motion. The motion carried.

4.

Respondent is PIC for Case 6 above.

No prior discipline.

Recommend:

Dr. Dickenson made the motion to issue a Letter of Instruction to the PIC with 15 hours of continuing education hours. Dr. Pryse seconded the motion. The motion carried.

5.

Complainant physician alleged misconduct by the respondent specialty pharmacy because of unnecessary delays to obtain additional information or clarification for three separate patients. It is also alleged the delays were due to errors on the part of the pharmacy and caused the complainant to spend time on multiple phone calls trying to communicate with the pharmacy.

Respondent stated (1) an insurance issue existed regarding whether a 30 day or 90 day supply could be filled. Patient (2) and (3) had prescriptions written for somatropin instead of Norditropin so the pharmacy had to wait on clarification from the prescriber. At certain points in the processing of the prescriptions, the prescriptions were not visible to the customer service representatives speaking to the prescriber and this may have contributed to the confusion.

Unable to determine if prior discipline exists.

Recommend: Dismiss

Dr. Rodgers made the motion to accept counsel's recommendation. Dr. Wright seconded the motion. The motion carried.

6.

Complainant alleged a misfill that resulted in a visit to the E.R.

BOP Investigators confirmed a misfill occurred. The patient should have received Naproxen phoned in by her prescriber but instead received Triamterene 37.5 mg/HCTZ 25 mg which was e-scribed from a different prescriber for a different patient with the same name. It was discovered there were two patients in the pharmacy system with the same name but different addresses. The prescription was e-scribed correctly but input at the pharmacy under the complainant's record. The different addresses were not noticed. Investigators were able to determine the dispensing pharmacist but were not able to confirm from the pharmacist or the patient whether counseling actually occurred.

No prior discipline.

Recommend: LOW and request CAP to prevent future occurrences

Dr. Dickenson made the motion to issue a Letter of Warning and to request CAP to prevent future occurrences. Dr. McCall seconded the motion. The motion carried.

7.

Respondent is the dispensing pharmacist for Case 6 above.

No prior discipline.

Recommend: LOW for misfill

Dr. Wright made the motion to issue a Letter of Warning to the dispensing pharmacist for the misfill. Dr. Pryse seconded the motion. The motion carried.

8.

Respondent is PIC for Case 6 above.

No prior discipline.

Recommend: LOI

Dr. Pryse made the motion to issue a Letter of Instruction to the PIC. Dr. Dickenson seconded the motion. The motion carried.

9.

Complaint alleged misconduct by respondent specialty pharmacy because the pharmacy honored a request to have the medication delivered to the patient's local pharmacy for pick up but refused to do so on the next refill. Complainant felt misled by the pharmacy and inconvenienced to have to rearrange schedules to be home when the medication is delivered. Complaint also alleged 31 ga. needles were sent to the patient on two occasions even though the patient had requested 32 ga.

Respondent admitted the special sized needle request was missed by the pharmacist. The medication comes with 31 ga. needles but the patient requested 32 ga. The pharmacist has been coached and procedures have been put in place to avoid this error happening again.

Respondent admitted the patient's first shipment was sent to the patient's local pharmacy in violation of pharmacy law and the respondent's own policy. The patient travels frequently and the medication must be refrigerated so it was requested the pharmacy send the medication to a local pharmacy to be stored until the patient picked it up. The representative that authorized the delivery to another pharmacy has been terminated and staff counseling has been conducted. The patient has been advised that law and policy prevent the pharmacy from shipping the patient's medication to another pharmacy to be stored.

Unable to determine if prior discipline exists.

Recommend: LOW

Dr. Dickenson made the motion to issue a Letter of Warning to the Pharmacy. Ms. Tittle seconded the motion. The motion carried.

10.

Respondent technician admitted in writing to theft of controlled substances.

No prior discipline.

Recommend: Revoke tech registration

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

11.

TBOP Investigator observed a pharmacy technician performing counseling on an antibiotic prescription. The tech did not summon the pharmacist and had no explanation when the Investigator asked why the tech ignored counseling requirements. Investigator also observed at least one opioid prescription being dispensed with only an offer for pharmacist counseling. Investigator was told by the technician that counseling was not required on new prescriptions if the patient had been prescribed the medication before.

Investigator reminded the PIC and staff of proper counseling requirements and recommended the PIC conduct an in-service.

Appears to be a counseling violation from 2012.

Recommend: Pharmacy-CP \$2,000 with all but \$1,000 stayed with approved plan of correction.

Dr. Dickenson made the motion to issue a Letter of Warning. Ms. Tittle seconded the motion. The motion carried.

12.

Respondent is the dispensing pharmacist and PIC for Case 11 above.

Prior discipline (2012) – Failed to have a technician properly registered with the Board.

Recommend: CP \$1,000 for counseling violations, including LOI regarding educating staff of requirements.

Dr. Pryse made the motion to authorize a formal hearing for with a \$1000.00 civil penalty for counseling violations and a Letter of Instruction regarding educating staff of counseling requirements. Dr. Wright seconded the motion. The motion carried.

13.

Respondent is the technician that failed to notify the pharmacist for counseling and performed counseling on an antibiotic prescription.

No prior discipline.

Recommend: Reprimand

Dr. Dickenson made the motion to issue a Reprimand to the technician for failure to notify the pharmacist for counseling and performing counseling on an antibiotic prescription. Dr. Rodgers seconded the motion. The motion carried.

14.

TBOP Investigator confirmed a lapse of PIC occurred from 9/23/18 until 10/18/18. Respondent is a pharmacy.

Prior discipline (2015) – Failed to perform counseling for five patients.

Recommend: \$50 CP to the pharmacy

Dr. Dickenson made the motion to authorize a formal hearing with a \$50.00 civil penalty for lapse of PIC from 9/23/18 to 11/18/18. Dr. Pryse seconded the motion. The motion carried.

15.

During a periodic inspection on 1/2/19, BOP Investigator discovered respondent pharmacy's license expired 9/30/18. The license was renewed 1/7/19 at the Board office. The license was lapsed for three months and six days.

Prior discipline – Based upon an FDA 483, which the Respondent disputes, Respondent agreed to a monitoring contract for a period of two years which began in 2018.

Recommend:

Dr. Wright made the motion to authorize a formal hearing with a \$1000.00 civil penalty per month for unlicensed practice all stayed except \$1000.00 with an acceptable plan of correction. Dr. Dickenson seconded the motion. The motion carried.

16.

Respondent is PIC for Case 15 above.

No prior discipline.

Recommend:

Dr. Dickenson made the motion to issue a Letter of Instruction to the PIC for unlicensed practice. Dr. Rodgers seconded the motion. The motion carried.

17.

Complaint alleged multiple examples of rude and unprofessional conduct by the respondent pharmacist.

Interviews were conducted and written statements collected. None of the witnesses could substantiate any of the allegations.

No prior discipline.

Recommend: Dismiss

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

18.

Complaint alleged misconduct by way of the respondent pharmacy refusing to bill insurance for a particular medication.

BOP Investigator ascertained the respondent pharmacy does refuse to accept insurance reimbursement for the drug because it is below the pharmacy's actual cost for the drug. Investigator was told that the pharmacy has been contacted by the insurer but the pharmacy has taken a stance that if insurance does not cover the cost of the medication, the insurer is violating the contract, not the pharmacy.

Prior discipline – Inappropriate dispensing, which the Respondent denies. Respondent agreed to extensive monitoring.

Recommend: Dismiss with potential to reopen if contract arguments result in misconduct allegations.

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

19.

Complaint alleged misconduct by the respondent pharmacy by dispensing a narcotic prescription to the wrong patient without obtaining identification and without providing counseling. It was also alleged the pharmacist was very rude when the complainant made the allegation. According to the complaint, video was reviewed and a police report was filed. Complainant also alleged the video appears to show the clerk signing for the person that received the medication. Complainant stated she has taken this medication for approximately six years and that staff always asks for identification but never counsels her about the medication.

BOP Investigator interviewed staff and obtained sworn statements. According to the statements, a patient with poor hearing answered to the wrong name when the cashier called out the name. According to verbal statements, the pharmacist did not counsel because the person picking up the prescription was not the patient, however, later, in a sworn written statement, the pharmacist stated he counseled the patient, even though it was the wrong patient and the medication was taken from the premises. When the correct patient showed up, staff was able to review video and realized the wrong patient had obtained the medication. Police did respond and a police report was filed. Respondent has now implemented a policy of requiring identification of all individuals picking up controlled substances as well as requiring patients to provide names of anyone authorized to pick up their prescriptions.

Appears to be a counseling violation from 2012.

Recommend: Civil penalty for violation of 53-11-310 (a), LOW for misfill, POC to prevent reoccurrence.

Dr. Dickenson made the motion to authorize a formal hearing with a \$1000.00 civil penalty for violating T.C.A. 53-11-310 (a), \$1000.00 civil penalty for counseling violation with an acceptable plan of correction and a Letter of Warning for the misfill. Ms. Tittle seconded the motion. The motion carried.

20.

Respondent is the dispensing pharmacist for Case 19 above.

No prior discipline.

Recommend: Civil penalty for violation of 53-11-310 (a), LOW for misfill.

Dr. Wright made the motion to authorize a formal hearing with a \$1000.00 civil penalty for the counseling violation, \$1000.00 civil penalty for violating T.C.A. 53-11-310 (a), 15 hours of continuing education and a Letter of Warning for the misfill. Dr. Pryse seconded the motion. The motion carried.

Dr. Pryse made the motion to adjourn. Dr. Wright seconded the motion. The motion carried. The meeting adjourned at 2:53 p.m.

The minutes were approved and ratified as amended at the May 8, 2019 board meeting.