

Tennessee Board of Pharmacy
Board Meeting
May 1-2, 2018

TENNESSEE BOARD OF PHARMACY
665 Mainstream Drive, Iris Room
Nashville, TN
May 1-2, 2018

BOARD MEMBER PRESENT

R. Michael Dickenson, D.Ph., President
Debra Wilson, D.Ph., Vice President
Kevin Eidson, D. Ph.
Katy Wright, D. Ph.
Adam Rodgers, D.Ph.
Rissa Pryse, D.Ph.

BOARD MEMBER ABSENT

Lisa Tittle, Consumer Member

STAFF PRESENT

Reginald Dilliard, Executive Director
Matthew Gibbs, Associate General Counsel
Richard Hadden, Pharmacy Investigator
Rebecca Moak, Pharmacy Investigator
Robert Shutt, Pharmacy Investigator
Andrea Miller, Pharmacy Investigator
Albert Hill, Pharmacy Investigator
Derek Johnston, Pharmacy Investigator
Terry Grinder, Pharmacy Investigator
Sheila Bush, Administrative Director

STAFF ABSENT

Scott Denaburg, Pharmacy Investigator

The Tennessee Board of Pharmacy convened on Tuesday, May 1, 2018, in the Iris Room, 665 Mainstream Drive, Nashville, TN. A quorum of the members being present, the meeting was called to order at 8:08 a.m.

Minutes

The minutes from the March 13-14, 2018 board meeting were presented. After discussion, Dr. Pryse made the motion to accept the minutes as amended. Dr. Eidson seconded the motion. The motion carried.

Office of General Counsel Report

Mr. Gibbs informed the board that there are 61 cases open for discipline in OGC and 18 are eligible for a contested hearing.

Mr. Gibbs reminded the board of the Sunshine Law and advised the board not to discuss active board business among themselves or with the public. This violates the Sunshine Law.

Litigation:

There are currently 61 cases open for discipline within the Office of General Counsel. Of those 61 cases, 18 are eligible for a contested hearing.

Rules:

3PL – The rule packet is currently in the Governor’s office as part of internal review. It is anticipated that a rulemaking hearing will occur on July 17, 2018, which is the next board meeting.

Hormonal contraceptives – The rule packet has been posted to the Secretary of State’s website (as a pending rule) and will take effect on July 18, 2018.

Attorney General suggested corrections:

- (1) Changing from “practical” to “practicable” as found in statute.
- (2) Using language from statute regarding the total cost provision to indicate that patients who are insured or covered and receive a pharmacy benefit that covers the cost of hormonal contraceptives shall not be required to pay an administrative fee; instead, these patients shall be required to pay co-payments pursuant to the terms and conditions of their coverage

Drug repository – This rule packet is in the final stages of signature collection. Once signed, the rule packet will be posted to the Secretary of State’s web site.

Attorney General suggested corrections:

- (1) Adding statutory language to the definition of “prescription drug” to indicate donated drugs shall not include controlled substances.
- (2) “Under the control of a health care professional” – adding language to indicate a health care professional is any person licensed in accordance with the provisions of Title 63 by any health related board of the Tennessee Department of Health to perform any profession of the healing arts.
- (3) An eligible person must have an income *below* 200% of the FPL. The original rule packet allowed for persons to be eligible whose incomes were *at or below*. Statutory language indicates income must be below 200%.
- (4) The intake collection form will be available on the TDH web site.
- (5) The identification card (for recipients) will be given to the recipient at the repository.

Legislation

SB1520/HB1614 (Senator Bell and Reps. Faison and Ragan) - As introduced, extends the board of pharmacy for five years to June 30, 2023.

Final – This bill was signed into law by the Governor on March 8, 2018.

SB1915/HB1883 (Sen. Niceley and Rep. Kane) - As introduced, clarifies that the present law that exempts certain oils containing cannabidiol and used for research or treatment of seizures or epilepsy will not be repealed on June 30, 2018; and retains DEA certification as an eligibility condition for the research exemption. Extends provisions related to the definition of marijuana that are set to expire on June 30, 2018.

Update – This bill has been placed on the Senate Regular Calendar for April 24, 2018. The bill, as amended, passed the House.

SB1659 (Sen. Dickerson) - As introduced, specifically makes the use of generic drugs pursuant to the Tennessee Affordable Drug Act of 2005 applicable to the TennCare program as a cost-saving measure.

No change - This bill has been placed on committee calendars in both houses for March 14, 2018.

SB1670/HB1695 (Sen. Green and Rep. Pitts) - As introduced, permits a pharmacist to honor a valid prescription written by a physician in another state or territory for a person displaced by a disaster who is present in this state.

Final – This bill has been amended to indicate a pharmacist may dispense up to a 20-day supply of a maintenance medication to a person displaced by a disaster, even if a proper authorization or valid prescription is not presented by the patient. Prescription information can be obtained from the label of a prior prescription, verbal prescription order, or other means to determine legitimacy.

This bill was signed by the Governor on April 2, 2018, and will take effect on July 1, 2018.

SJR0528 (Sen. Kelsey) - General Assembly, Statement of Intent or Position - Recognizes the challenges faced by medical professionals and facilities.

Update – Dr. Dilliard, the legislative lesions, and I worked with the sponsor of this bill, through constituents, to craft amended language. The amended language narrowed the scope of this resolution to reflect the actual realities of medications set to expire, which are in short supply.

This bill is still within the Senate Health and Welfare committee as of January 31, 2018.

SB1774/HB1874 (Sen. Crowe and Rep. Kumar) - As introduced, specifies that a medication therapy management program involves pharmacist-provided services.

Update – This bill was taken off notice of the House Finance, Ways & Means Subcommittee on April 18, 2018. The bill was assigned to the Senate General Subcommittee of Senate Finance, Ways, and Means Committee on April 23, 2018.

SB1710/HB1749 (Sen. Dickerson and Rep. Faison) - As introduced, enacts the "Medical Cannabis Act"; establishes medical cannabis commission for regulation of cannabis-related health care.

Update – This bill was taken off notice of the House Criminal Justice committee on March 7, 2018. The bill was added back to calendars, based upon amendments, but ultimately taken off notice in the House Health Committee.

SB2038 (Sen. Gresham) / HB1992 (Rep. Gant) - As introduced, requires health care prescribers to issue all prescriptions for Schedule II controlled substances electronically by July 1, 2020, with some exceptions.

There has been no further action on this bill in either house since February 5, 2018.

SB2191 (Sen. Lundberg) / HB1993 (Rep. Gant) - As introduced, requires the commissioner of health to study the issues related to requiring the use of electronic prescriptions for controlled substances by all authorized prescribers in this state to the full extent permitted by federal law; requires the commissioner to report on or before January 15, 2019, any recommendations and findings to the health committee of the house of representatives and the health and welfare committee of the senate.

On March 7, 2018, the Senate Health and Welfare committee passed an amended version of this bill. The amendment, which is extensive to the original language of this bill, would require that all Schedule-II controlled substances be prescribed electronically by January 1, 2020. The bill enumerates nine exceptions to the electronic prescription requirement. The bill amends the practice acts of all healthcare providers with prescriptive authority to indicate the electronic prescription requirement. The bill does not require a pharmacist to verify the reason why a prescription for a Schedule-II controlled substance was not issued electronically. Valid written, oral, or fax prescriptions may still be dispensed, so long as other applicable legal provisions are met.

Final – Bill was presented to the Governor for signature on April 26, 2018.

SB2147 (Sen. Briggs) / HB2172 (Rep. Kane) - As introduced, directs the Department of Health to establish and enforce a medical supply donation program.

The language of this bill regarding a supply repository is substantially similar to the language that establishes the drug donation repository. It is unclear, at this time, what impact, if any, this bill would have on the Board of Pharmacy.

This bill is still in committees of both houses as of March 21, 2018.

SB2224 (Sen. Southerland) / HB2512 (Rep. Akbari) - As introduced, specifies that industrial hemp and products derived from industrial hemp, other than isolated THC, are not subject to scheduling as a controlled substance and are not subject to forfeiture based solely on their composition.

This bill was assigned to the General Subcommittee of Senate Judiciary Committee on March 20, 2018. The bill was taken off notice of the Criminal Justice Subcommittee of the House Criminal Justice Committee also on March 20, 2018.

SB2142 (Sen. Haile) / HB2173 (Rep. Goins) - As introduced, requires that certain controlled substances be dispensed by a pharmacy in a lockable container.

No change - This bill would require that all Schedule-II controlled substances be dispensed in a lockable vial by July 1, 2018. The costs of a lockable vial (up to \$1.99) would be borne by the manufacturer who produced the drug which requires the lockable vial, as established in a Board of Pharmacy rule

This bill was removed from the calendar of the House of Representatives Subcommittee of Health on March 7, 2018.

SB2027 (Sen. Greene) / HB2102 (Rep. Terry) - As introduced, requires annual reporting to the department of health of the number of oral prescriptions for schedule II controlled substances filled under the existing emergency situation exception to the general written prescription requirement.

No change - This bill was still in committees of both houses as of February 5, 2018.

SB2025 (Sen. Haile) / HB 2440 (Rep. Terry) - As introduced, authorizes a partial fill of a prescription of an opioid.

Final - This bill codifies into state law the existing, applicable portions of federal law regarding partial fills of controlled substances.

This bill passed both houses and is awaiting signature for the Governor.

Complaint Summary

1.

Complaint alleged the respondent pharmacist violated the Health Care Consumer Right to Know Act of 1998 by failing to update the Mandatory Practitioner Profile and also violated BOP rules by failing to notify BOP about being appointed PIC in May, 2016.

BOP Investigator met with and provided education to the respondent pharmacist. Respondent agreed to update any missing or incorrect information on the MPP, and Investigator verified this has been done. Respondent also provided to the Investigator a copy of the change of PIC dated 5/24/16.

Recommend: Dismissal

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

2.

Complaint alleged the respondent pharmacist violated the Health Care Consumer Right to Know Act of 1998 by failing to update the Mandatory Practitioner Profile.

BOP Investigator met with the respondent pharmacist but respondent had already notified BOP and updated the profile prior to the complaint being filed.

Recommend: Dismissal

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

3.

Complaint alleged the respondent pharmacist violated the Health Care Consumer Right to Know Act of 1998 by failing to update the Mandatory Practitioner Profile.

BOP Investigator met with the respondent pharmacist who admitted failing to update the MPP but agreed to do so immediately.

Recommend: Dismissal

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

4.

Complaint alleged the respondent pharmacist violated the Health Care Consumer Right to Know Act of 1998 by failing to update the Mandatory Practitioner Profile.

BOP Investigator met with the respondent pharmacist, however, the MPP had been updated prior to the complaint being filed.

Recommend: Dismissal

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

5.

Complaint alleged the respondent pharmacist violated the Health Care Consumer Right to Know Act of 1998 by failing to update the Mandatory Practitioner Profile.

BOP Investigator met with the respondent pharmacist who admitted failing to update the MPP but agreed to do so immediately.

Recommend: Dismissal

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

6.

Complaint alleged rude treatment and possible discrimination by a pharmacy employee. Complaint alleged a lack of respect and courtesy and that the employee argued with the patient about drug coverage, made a facial gesture then turned his back to the patient.

BOP Investigator discovered that the employee is a pharmacist instead of a pharmacy technician as the complainant believed. Investigator spoke with the PIC as well as the pharmacist who believes he maintained a professional and courteous demeanor even though the patient got upset and started yelling because a medication required a P/A to cover the cost of between \$500 and \$600.

Investigator spoke to the complainant but could not substantiate the allegations.

Recommend: Dismissal

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

7.

Complaint alleged inappropriate prescribing and dispensing resulted in a patient being admitted to a hospital ER with hypothermia and an opiate overdose. ER staff became concerned with the patient's MME shown on CSMD report as 435. CSMD report showed the patient was taking a combination of 1 long acting opioid, 2 short acting opioids, Alprazolam, and Carisoprodol. ER attempts to contact the prescriber went unanswered.

BOP Investigator obtained a written statement from the respondent pharmacy's PIC detailing their policy for dealing with high MME and red flags. PIC provided proof that on at least 2 occasions the prescriber had been contacted about eliminating or reducing dosages and combinations of drugs, however, the prescriber had provided satisfactory responses that he believed the patient should continue as prescribed because the patient had been stable on the current treatment for a number of years. PIC stated her only options were to dismiss the patient and risk the patient not being able to obtain medications anywhere else, or to continue to fill the prescriptions. She chose the latter.

Recommend: Dismiss and refer to BME/BIV

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

8.

Complaint alleged the patient's prescription for Oxycodone 5/325 incorrectly contained some plain Acetaminophen tablets.

BOP Investigator met with the respondent pharmacist who was familiar with the allegations and had researched to determine that the unknown tablets were a competitor's private label of Acetaminophen. Respondent also had audited his Oxycodone 5/325 and the count was correct. Another pharmacist and a shift supervisor reviewed video of the respondent filling that particular prescription and both provided written statements to the Investigator that the respondent did nothing wrong.

Recommend: Dismissal

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

9.

Complaint against the respondent pharmacy alleged a misfill but did not identify any names. BOP Investigator met with the PIC who was on vacation at the time of the alleged misfill but did not have the information needed by the Investigator. A companion case was opened against the pharmacist that performed the product verification.

Recommend: Dismiss against the pharmacy

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

10.

This is the companion case to Case 9 above. BOP Investigator determined a misfill did occur when Doxycycline was accidentally dispensed to the complainant instead of her usual Esomeprazole. Two pharmacists were on duty the day the error occurred. One pharmacist verified the data and another pharmacist performed product verification. Since both products are a blue capsule, the difference was not noticed. It is believed that a technician was working on another patient's Doxycycline prescription and at the same time was working on the complainant's Esomeprazole and perhaps was interrupted during the filling process. The tech scanned the Esomeprazole but counted Doxycycline. According to the PIC, the new plan of action is to fill only one individual's prescriptions at a time, Esomeprazole has been placed in the Parata, and there is now additional emphasis on careful product identification due to similarities of product size, color and markings.

Recommend: LOW to respondent pharmacist

Dr. Eidson made the motion to issue a **Letter of Warning** to the respondent pharmacist. Dr. Wright seconded the motion. After further discussion, Dr. Eidson made the motion to issue a Letter of Warning to the respondent pharmacist and the pharmacy technician. Dr. Wright seconded the amended motion. The motion carried.

11.

Complaint alleged a misfill by receiving another patient's medication.

BOP Investigator met with the respondent pharmacist who admitted the mistake happened at the verification station when the incorrect patient's medication was bagged in the complainant's bag. Respondent speculated that he may have become distracted due to being a busy day, or answering questions, phone ringing, normal daily functions, etc. A plan of correction has been implemented including staff coaching not to engage pharmacists at the verification stage until the pharmacist has completed the verification task and for pharmacists to concentrate on the task and not get distracted by technician or customer questions.

Recommend: LOW to respondent pharmacist

Dr. Wilson made the motion to issue a **Letter of Warning** to the respondent pharmacist. Dr. Pryse seconded the motion. The motion carried.

12.

Respondent pharmacy was included in the complaint for Case 11 above.

Recommend: Dismiss against the pharmacy.

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

13.

Complaint alleged the following:

Patient ordered a specialty drug from the respondent pharmacy, had to call the pharmacy numerous times per week over a two month period to receive the injections and each time had to wait on hold for long periods of time.

Patient was told "someone dropped the ball" and her prescription fill was delayed.

Patient was charged \$ 388 on her credit card even though she was told it would only be a \$ 5 copay.

Patient was told the pharmacy would contact her each month for refill authorization but she was never contacted.

Respondent provided the following details:

A prescription was transferred from another pharmacy. A P/A was needed. The P/A was denied six days later. The P/A was approved sixteen days later. A patient care advocate delayed forwarding the P/A approval. When the approval was released the drug was ready to schedule for delivery twenty three days later. Attempts to contact the patient were unsuccessful for four days. When contact was made, the shipment was sent overnight and delivered the next day. The pharmacy had message logs indicating they were trying to reach the patient to schedule the next delivery but the patient did not immediately return the calls. The patient's assistance plan had reached its maximum so the copay was \$ 388 instead of \$ 5. Due to the confusion, the pharmacy decided to refund the \$ 388.

Although there appeared to be a breakdown in communication and customer service, no actual violation could be found.

Recommend: Dismissal

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

14.

Complaint was generated by BOP staff when a PIC change form was submitted indicating that the respondent pharmacy did not have a PIC for a period of 26 days between the time the former PIC departed and the new PIC started. The form also indicated that a controlled substance inventory was not completed until 32 days after the new PIC started. Management refused to give a statement to BOP Investigator.

Recommend: \$ 100 (2 months) civil penalty for failure to notify of PIC change; LOW for failure to conduct CS inventory upon change in PIC.

Dr. Eidson made the motion to **authorize a formal hearing** with a \$100.00 civil penalty for failure to notify the board of the PIC change and a Letter of Warning for failure to conduct a controlled substance inventory upon the change in PIC to the pharmacy. Dr. Pryse seconded the motion. The motion carried.

15.

Complaint filed by a physician alleged the respondent pharmacy/pharmacists refuse to dispense opioids unless those patients also get non-controlled medications such as muscle relaxers and NSAIDs. Complainant believes this policy is a danger and a hardship on the patient and that a pharmacist's job is dispensing, not prescribing.

BOP Investigator met with the PIC who provided copies of correspondence with the complainant as well as providing a sworn statement regarding the pharmacy's policies for documentation for CS prescriptions. According to the PIC, the complainant came to the pharmacy and asked for a private conversation regarding the pharmacy's policies and relayed that, as a prescriber, he was very frustrated and feels that pharmacists are over stepping their bounds. According to the PIC, he stated he was tempted to contact the pharmacy board and is even considering filing a lawsuit. He also asked that they cease and desist immediately in making recommendations to his patients and stated he understands pharmacists' rights to refuse based off wrong doses or incorrect combinations but believes pharmacists are trying to step in the realm of prescribing.

In a sworn statement, the PIC stated each prescription is considered on a case-by-case basis. Each prescription is evaluated for validity, appropriateness, and diagnosis codes. It is recommended that all medications that are prescribed are picked up and that patients don't just pick up narcotics. If a prescriber only wants a narcotic, a call is made to verify what therapies have been tried and failed and those are documented on the patient profile. They also document any drug allergies or therapies that are not indicated due to health conditions.

Recommend: Dismissal

Dr. Eidson made the motion to **accept counsel's recommendation**. Dr. Pryse seconded the motion. The motion carried. The board referred the complaint to the Board of Medical Examiners and the DEA.

16.

Complaint was filed by a prescriber's office alleging that a prescription for Humira was filled in error. According to the complaint, the prescriber electronically prescribed the drug for a patient and transmitted it to the pharmacy. In the comments section there was note "DO NOT DISPENSE. this is for prior auth purposes." According to the complaint, the prescriber needed either the denial paperwork to begin working on the P/A or needed to know if a P/A was not needed so the clinic can proceed with placing an order for dispensing after all pre-screening is completed. According to the complaint, by the pharmacy filling the medication, it created a problem with the clinical implementation of the doctor's plan of care.

BOP Investigator obtained a sworn statement from the PIC acknowledging the notation on the prescription however when the prescription was processed to see if it needed a P/A, it was allowed without needing a P/A. The pharmacist instructed the patient to call the doctor's office to tell them that the medication did not need a P/A and see if they wanted her to get it filled. The patient returned the following Monday, and a floater pharmacist counseled the patient and confirmed the patient was aware how to use the medication. A short while after dispensing the medication, the pharmacy received a phone call from the prescriber's nurse stating the pharmacy should have never dispensed the medication because the prescription was just to see if it needed a P/A.

This seemed to be a case of poor communication between the prescriber and pharmacist and between the patient and prescriber.

Recommend: Dismissal

Dr. Eidson made the motion to **accept counsel's recommendation**. Dr. Pryse seconded the motion. The motion carried. The board referred the complaint to the Board of Medical Examiners.

17.

Complaint alleged a misfill when the respondent pharmacy dispensed a prescription for Methotrexate 2.5mg labeled with directions to take 1 tablet daily for 30 days. Complaint admits the patient told the pharmacist that the patient already knew about possible side effects and did not have any questions. Patient took the medication as directed for at least a week before receiving a phone call from the pharmacy asking about the MTX dosage. The pharmacist wanted to call the prescriber to clarify the dosage but told the patient to continue the dosage until they reached the prescriber. The prescriber is only in the office one day a week, so it was six days later before the pharmacy received a reply. The prescriber meant to prescribe 1 tablet per week for 4 weeks and called to inform the patient that the dosage was going to be changed. Patient became fearful of the medication so she did not continue it after speaking with the prescriber. Patient is aware that the prescriber prescribed the once daily dose, however, feels that the pharmacy and pharmacists were negligent in dispensing it as written.

BOP Investigator obtained a sworn statement from the PIC stating the patient was counseled and also had a discussion about rheumatoid arthritis. An email from the pharmacy's Quality Team alerted staff to review the prescription because the directions were not normal. Staff found that the prescription was filled exactly as written but called the prescriber, who was out of the office. The prescriber's office staff verified the directions in the patient's chart. The pharmacist explained this was not a typical dose and asked what the diagnosis was, and the answer was arthritis. The pharmacist asked to have the prescriber contact the pharmacy as soon as possible. The pharmacist did tell the patient that the prescription had been verified by the prescriber's staff so continue once daily until the prescriber could call back to verify it. When the prescriber contacted the pharmacy to correct the prescription, a new prescription was sent with the correct directions. The patient declined to return the medication and stated she would use up her supply by taking it correctly. About a week later, the PIC spoke to the patient at the counseling window. The patient was very upset because Poison Control told her she had received a toxic dose and

should get blood work done. She felt let down by the prescriber and the pharmacy but stated she did not feel safe getting her prescriptions filled there anymore.

Recommend: Dismiss against the pharmacy and refer to BIV

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

18.

Complainant alleged that respondent pharmacist acted unprofessionally by refusing to fill a patient's prescription then refusing to give the patient the pharmacist's license number. Complainant also alleged that respondent pharmacist violated the patient's privacy rights by saying the name of the patient's medication when providing a copy of the patient's profile to the patient in the presence of a police officer that the patient had requested accompany her to the pharmacy. According to the complainant, the officer was standing about 3 feet behind her when he heard the medication name.

Respondent confirmed that the complainant asked for her license number and that she declined because she did not feel comfortable giving it. Respondent confirmed that the complainant came to the pharmacy accompanied by a police officer to obtain a medication history printout but she did not recall stating the medication name when giving the printout to the complainant.

The store manager told the Investigator that the respondent acted professionally at all times and did not say the name of the medication aloud. However, an email from the police officer stated that the pharmacist did not act unprofessional in his opinion but he did hear the respondent say the name of the medication during the transaction. According to the officer, he was not standing right at the counter, but instead was standing back and to the left of the complainant when he heard the respondent say the drug name.

Investigator reviewed the fill history of the drug in question and found that the refill was early whether counting by fill date or by dispensing date. Investigator believes the respondent was within her rights as a pharmacist to refuse to fill the prescription early.

Recommend:

Dr. Rodgers made the motion to **dismiss the complaint**. Dr. Pryse seconded the motion. The motion carried.

19.

Complainant made multiple bogus and outlandish allegations against the respondent pharmacy when the complainant went to pick up his mother's prescriptions.

BOP Investigator interviewed respondent pharmacy staff. All denied that any of the allegations occurred and stated that when the patient became aware of the complainant's behavior, she apologized profusely several times and said her son was suffering from mental disturbances. The patient continues to use this pharmacy and the son continues to pick up the medications. There have been no further incidents with the complainant.

Recommend: Dismissal

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

20.

Complainant alleged that the respondent pharmacy's pharmacists informed the patient that although he had been on a maintenance dose of 3 tablets of Suboxone 8/2 per day for a long period of time, the pharmacy would now only fill for a maximum of 2 tablets per day and that he would have to decrease his maintenance dose.

BOP Investigator interviewed the patient for more detail. The patient has been on the medication for 15 years and stated that he had been titrated off the medication on more than 1 occasion and ended up relapsing. The patient stated that in order to maintain sobriety and not abuse opioids he requires a 3 tablet per day dosage.

Investigator interviewed pharmacy staff who stated the pharmacy owner told them they would no longer fill Buprenorphine or Buprenorphine/Naloxone products for more than 2 tablets per day. The following reasons were provided:

Recent change in pharmacy ownership which affected the amount of drugs the pharmacy can order from the wholesaler; pharmacists were told by wholesaler management that changes were needed in order to continue doing business with the wholesaler; the pharmacy is trying to service as many patients as possible by maintaining a balancing act.

The pharmacists failed to contact the provider for documentation to support the dosage required for the patient. The pharmacists failed to talk to the patient about his medication history. The pharmacists did not tell the patient to contact the prescriber for supporting documentation for the dosage.

A sworn statement was obtained from the pharmacist that serves as president of the company. It states that all patients are treated on a case-by-case basis using the pharmacist on duty's professional judgment and considers the prescription, diagnosis, and other relevant information at the time each prescription is filled.

Recommend: Dismissal

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

21.

Complaint alleged a misfill resulted in significant harm when the respondent pharmacy dispensed a few days' worth of incorrect medication to last until the prescriber could renew the prescription.

BOP Investigator confirmed the misfill occurred. During the investigation the complainant suddenly advised the investigator that the patient was no longer at liberty to speak to him, possibly due to a settlement.

Serious harm cannot be proven, however there was an admitted misfill.

Recommend: Dismiss against the pharmacy

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

22.

Respondent pharmacist is the dispensing pharmacist for Case 21 above.

Recommend: LOW

Dr. Eidson made the motion to issue a **Letter of Warning** to the dispensing pharmacist. Dr. Rodgers seconded the motion. The motion carried.

Application Review

DeShuandria Russell, RT

Ms. Russell answered "no" to the question that asked "Have you ever been convicted (including nolo contendere plea or guilty plea) of a felony or misdemeanor (other than a minor traffic offense) whether or not sentenced was imposed or suspended? Documentation submitted indicates that Ms. Russell pled guilty to violation of hot check law on 5/10/2006; no seatbelt, no proof of insurance on 2/1/2008; pled nolo contendere for failure to vacate after written notice on 5/21/2008; pled guilty to domestic battery 2nd degree (felony) on 6/10/2009 access 1 year in jail suspended if attends domestic violence class and fines. After discussion, Dr. Wright made the motion to approve Ms. Russell's application for registration as a pharmacy technician. Dr. Rodgers seconded the motion. The motion carried.

Dr. Eidson left the meeting at 11:15 a.m.

Jessica Thompson, RT

Ms. Thompson answered "yes" to the question that asked "At any time within the past two years, have you engaged in the illegal use of illicit or controlled substances?"; "Have you ever had staff privileges at any hospital or health care facility that were ever revoked, suspended, curtailed, restricted, limited, otherwise disciplined, or voluntarily surrendered under threat of restriction or disciplinary action?" and "Have you ever held a license, registration, privilege, or certificate in any profession that has ever been reprimanded, suspended, restricted, revoked, otherwise disciplined, curtailed or voluntarily surrendered under threat of investigation or disciplinary action in any jurisdiction?" Ms. Thompson stated that she was terminated from her job as a registered nurse for testing positive for marijuana during a random drug screen. Her TN nursing license are in good standing. After discussion, Dr. Eidson made the motion to deny Ms.

Thompson's request for registration as a pharmacy technician. Dr. Wilson seconded the motion. The motion carried. The board recommended that Ms. Thompson get in contact with the Tennessee Pharmacist Recovery Network (TPRN).

Maegen Echols

Ms. Echols answered "no" to the question that asked "Have you ever applied for or held a state or federal controlled substance certificate that was ever denied, revoked, suspended, restricted, voluntarily surrendered or otherwise disciplined or surrendered under threat of restriction or disciplinary action?" Documentation submitted indicates that Ms. Echols pled guilty of 2 counts of harassment on 4/2/2018 and sentence 11 months and 29 days, supervised. After discussion, Dr. Rodgers made the motion to approve Ms. Echols' application for registration as a pharmacy technician with one (1) year probation. Dr. Wright seconded the motion. The motion carried.

Jared Riddle

Mr. Riddle answered yes to the question that asked "Have you ever held or applied for a license, privilege, registration or certificate to practice as a pharmacy technician in any state, country, or province, that has been or was ever denied, reprimanded, suspended, restricted, revoked, otherwise disciplined, curtailed, or voluntarily surrendered under threat of investigation or disciplinary action?" and "Have you ever applied for or held a state or federal controlled substance certificate that was ever denied, revoked, suspended, restricted, voluntarily surrendered or otherwise disciplined or surrendered under threat of restriction or disciplinary action?" Documentation submitted indicates that Mr. Riddle pled guilty of simple possession and possession drug paraphernalia, on 4/1/2005 and was sentenced to 11 months and 29 days; vehicular assault on 4/1/2005 and was sentenced to 2 years and 1 day. After discussion, Dr. Eidson made the motion to deny Mr. Riddle's request for registration as a pharmacy technician. Dr. Rodger's seconded the motion. The motion carried.

Erica Minha Lee, D.Ph.

Dr. Lee answered "yes" to the questions that asked "Have you ever been convicted (including nolo contendere plea or guilty plea) of a felony or misdemeanor (other than a minor traffic offense) whether or not sentenced was imposed or suspended? "Are you currently participating in a supervised rehabilitation program or professional assistance program that monitors you to assure that you do not consume alcohol and/or do no engage in the illegal use of illicit or controlled substances?"; "In relation to the performance of your professional services in any profession: Have you ever had final judgment rendered against you?"; Have you ever held a license, registration, privilege or certificate in any profession that has ever been reprimanded, suspended, restricted, revoked, otherwise disciplined, curtailed or voluntarily surrendered under threat of investigation or disciplinary action in any jurisdiction?" Dr. Lee's Ohio Intern license was revoked for impairment. She is currently being monitored by the OH BoP Recovery Program and TPRN. She also has a F5 felony in Ohio for Attempted Deception to Obtain Dangerous Drugs. After discussion, Dr. Wright made the motion approve Dr. Lee's application once all the requirements have been met with the license being placed on probation for five (5)

years from the date that the license is issued. Dr. Wilson seconded the motion. The motion carried.

Order Modification

Alexandria Barnette, Pharm.D.

Dr. Barnette appeared before the board to request that she be allowed to work as PRN for Genoa. Dr. Barnette's license was placed on probation on 03/29/17. After discussion, Dr. Wilson made the motion to approve Dr. Barnette's request to work as PRN for Genoa. Dr. Wright seconded the motion. The motion carried. Dr. Barnette also asked to be PIC at PharMerica Knoxville. After discussion, Dr. Wilson made the motion to approve Dr. Barnette's request to be PIC at PharMerica Knoxville. Dr. Pryse seconded the motion. The motion carried.

Dr. Eidson returned to the meeting at 1:00 p.m.

Reinstatement

Robert McNeese, D.Ph.

Dr. McNeese requested to have his license reinstated. Dr. McNeese's license was suspended on 01/12/2012. After discussion, Dr. Eidson made the motion to deny Dr. McNeese's request to reinstate his pharmacist license. Dr. Rodgers seconded the motion. The motion carried.

Waiver

Board rule 1140-01-.05 (4)

Dr. Pryse made the motion to approve **Zaid Abd-Alhakeem, D.Ph.** request to the MPJE. Dr. Wilson seconded the motion. The motion carried. Dr. Eidson recommended that Dr. Abd-Alhakeem attend a law review course at Lipscomb University.

Board rule 1140-03-.14 (12)

Dr. Wright made the motion to delay **Tritia Thompson, Pharm.D.** request to be the pharmacist in charge at Crestwyn Behavioral Health and SarJo Pharmacy in Memphis, TN. Dr. Wilson seconded the motion. The motion carried.

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

Dr. Eidson made the motion to approve the request from **Jo Ann Campbell, Pharm.D.** to waive the three hundred and twenty (320) internship hours. Dr. Campbell must successfully take and pass the MPJE. Dr. Rodgers seconded the motion. The motion carried.

Consent Orders

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

Tennessee Board of Pharmacy
Board Meeting
May 1-2, 2018

SUSPENSION

Chad Musick, D.Ph.

REPRIMAND

Apothecary
Traci Poole, D.Ph.

General Discussion

Dr. Micha Cost, Executive Director for the Tennessee of Pharmacy Association, informed the board that the Tech Check Tech Pilot Program is in fourteen (14) pharmacies and have trained roughly 80 pharmacy technicians. There have been seven hundred and fifty (750) audit verified by pharmacist. Dr. Cost asked the board to approve a virtual learning recorded program and to increase the pilot program to 30 pharmacies. After discussion, Dr. Pryse made the motion to approve the virtual training program for the Tech Check Tech Pilot Program and to increase the number of pharmacies able to participate to thirty (30). Dr. Wright seconded the motion. The motion carried.

Dr. Baeteena Black, Director for the Tennessee Pharmacist Recovery Network (TPRN), gave a brief report concerning the contract that was awarded by the board to provide peer assistance in rehabilitation of impaired pharmacy professionals, to include pharmacist, pharmacy technicians and student pharmacists.

The meeting adjourned at 4:20 p.m.

May 2, 2018

The Tennessee Board of Pharmacy reconvened on Wednesday, May 2, 2018 in the Iris Room, 665 Mainstream Drive, Nashville, TN. A quorum of the members were present, the meeting was called to order at 8:11 a.m., by Dr. Dickenson, president.

Contested Case

Meagan Wall, RT

Ms. Wall was not present nor represented by legal counsel. Mr. Gibbs represented the State. Mr. Leonard Polk was the Administrative Law Judge. Mr. Gibbs asked to proceed in default. Dr. Wilson made the motion to proceed in default. Dr. Rodgers seconded the motion. The motion carried. Mr. Gibbs passed out the Notice of Charges. Ms. Wall is charged with violating T.C.A. § 53-10-104(a), T.C.A. § 53-10-104 (b), T.C. A § 53-10-105 (a) and T.C.A. § 53-11-402 (a) (3) Dr. Rodgers made the motion to revoke Ms. Wall's registration as a pharmacy technician and

assess case cost. Dr. Eidson seconded the motion. A roll call vote was taken. The motion carried. Dr. Eidson 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.

Director's Report

Dr. Dilliard informed the board that he has received request to waive the requirement that a foreign graduate must have a FPEGC certificate to apply for licensure in Tennessee whether by examination or reciprocity. After discussion, Dr. Eidson made the motion to affirm board rule 1140-01-.05(3) requiring a pharmacy foreign graduate shall successfully complete the foreign pharmacy equivalency examination, the Test of Spoken English (TSE®) examination and any other requirements established by the NABP. Dr. Wilson seconded the motion. The motion carried.

Dr. Dilliard asked the board about out of state pharmacy call centers and whether we will require the pharmacy technicians who assist Tennessee patients to be registered in Tennessee.

Dr. Dilliard asked the board to authorize travel for board members, the executive director and pharmacy investigators to attend the Tennessee Pharmacy Association (TPA) 2018 Summer Meeting in Hilton Head, SC on July 13-15, 2018. After discussion, Dr. Wilson made the motion to approve the request for travel authorization for board members, the executive director and pharmacy investigators to attend the Tennessee Pharmacy Association (TPA) 2018 Summer Meeting in Hilton Head, SC on July 13-15, 2018. Dr. Wright seconded the motion. The motion carried.

The minutes were approved and ratified as amended at the July 17-18, 2018 board meeting.