

**TENNESSEE BOARD OF PHARMACY**

665 Mainstream Drive, Iris Room

Nashville, TN

March 11-12, 2014

**BOARD MEMBERS PRESENT**

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

**STAFF PRESENT**

Reginald Dilliard, Executive Director  
Stefan Cange, Assistant General Counsel  
Jane Young, Chief General Counsel  
Terry Grinder, Pharmacy Investigator  
Richard Hadden, Pharmacy Investigator  
Scott Denaburg, Pharmacy Investigator  
Rebecca Moak, Pharmacy Investigator  
Tommy Chrisp, Pharmacy Investigator  
Robert Shutt, Pharmacy Investigator  
Andrea Miller, Pharmacy Investigator  
Larry Hill, Pharmacy Investigator  
Lakita Taylor, Administrative Assistant

**BOARD MEMBER ABSENT**

Charles Stephens, D.Ph.

The Tennessee Board of Pharmacy convened on Wednesday, March 11, 2014 in the Iris Room, 665 Mainstream Drive, Nashville, TN. A quorum of the members being present, the meeting was called to order at 9:04 a.m.

**Minutes**

Dr. Eidson made the motion to approve the minutes from the January 22-23, 2014 board meeting as amended. Dr. Smothers seconded the motion. The motion carried.

**Complaint Summary**

**1. Case No.: L13-PHR-RBS-201300278, 201300249, 201400019, 201400011, 201300109, 201300206**

The above companion cases concern a single Respondent and in one instance, a subsidiary (201300278). Cases 201300278, 201300249, 201400011, 201300109, and 201300206 are highly similar to one another. Case 201400019 is related to the others, but contains some distinct factual and legal issues. These complaints were all received separately from different Complainants.

201400011, 201300109, and 201300206

Complainants in these cases experienced multiple delays in the processing and shipment of medication, but did not go without medication for any period of time. In all three cases, Complainants alleged that denials of refills or other delays in the dispensation of medication placed Patients at risk. Complainants also alleged unprofessional conduct and poor customer service. Respondent asserts that billing issues (e.g., requests for prior authorization from insurers), miscommunication (e.g., unable to get in touch with patient or prescriber), and organizational challenges resulting from mergers/acquisitions/consolidation and subsequent transfers of prescriptions led to delays in processing and dispensation of medication.

Prescriptions Allegedly Delayed: Epzicom, Reyataz (201400011); Humira (201300109), Forteo (201300206)

Dr. Bunch made the motion to **dismiss** the above complaints. Ms. McDaniel seconded the motion. The motion carried.

201300278 and 201300249

In Case 201300249, Complainant alleged that Respondent's failure to fix a billing error caused a delay in shipment of Makena. Complainant did not miss an injection, but was in the middle of treatment and medication was not shipped until 2 days before the scheduled dose (under normal circumstances it would have been shipped a week before the scheduled dose). Respondent PIC acknowledged that miscommunication between billing department and pharmacy led to delay of Complainant's prescription.

Ms. McDaniel made the motion to **dismiss** the complaint. Dr. Bunch seconded the motion. The motion carried.

In Case 201300278, Complainant Administrator alleged that Patient missed 3 days of medication (Epzicom, Reyataz, Norvir). Patient ran out of medication on 11/1. Respondent alleged that benefits dispute outside its control was the cause of the delay. Respondent asserts that it resolved benefits dispute on 11/4 and offered to ship prescription to Patient, but Patient refused as they had obtained a 30-day supply from a local pharmacy. Respondent received and processed another round of prescriptions for Patient on or around 11/18, but could not get in touch with Patient to schedule delivery until 11/23. Respondent indicates that 1 prescription shipped 11/27, the other 2 shipped on 12/3.

The board decided to **defer** this compliant until additional information is received from the respondent.

201400019

Complainant, who lives in Arizona, alleges that they received two shipments of Enbrel from Respondent that were improperly packed and arrived damaged/spoiled by heat. On August 30, 2013 Complainant received an allegedly spoiled package from Respondent containing 6 boxes of Enbrel sitting on top of 4 ice packs. On January 25, 2014 Complainant received an allegedly

spoiled package from Respondent containing 6 boxes of Enbrel sitting on top of 2 ice packs. Complainant alleges that they recorded the temperature of both the styrofoam box the medication and ice packs were in (75F, 70F) and the temperature inside the individual boxes of medication (68F).

Complainant further alleges that when they contacted Respondent seeking replacement medication on August 30, 2013, they were transferred to a pharmacist in Respondent's employ who assured Complainant that the Enbrel was safe to re-refrigerate and inject. Complainant alleges that the medication was eventually replaced (and that the replacements were shipped correctly). When Complainant contacted Respondent seeking replacement of the January 25, 2014 spoiled medication, Complainant alleges that they were transferred to a pharmacy intern who also assured them that the Enbrel was safe to re-refrigerate and inject. Complainant's spoiled medication from the January 25, 2014 shipment was also allegedly replaced.

Respondent has not issued a formal response to these allegations, but Board investigators have been in contact with Respondent.

**Prior discipline:** 2006, out-of-date drugs, \$250 civil penalty paid

**Recommendation:** Discuss. Does the Board wish to treat these cases independently or respond to all of them? Consider interpretation of Board Rule 1140-02-.01(11) (a): "*A pharmacist shall provide pharmaceutical service...which is as complete as the public may reasonably expect;*"

The board decided to **defer** this complaint until additional information is received from the respondent.

## 2.

Investigators visited Respondent pharmacy after receiving a complaint that Respondent and two other pharmacies were habitually filling prescriptions beyond their expiration dates. The visit and audit of prescription records substantiated this allegation, and Investigators observed several other violations.

Investigators observed that 7 new prescriptions were dispensed without any counseling. In addition, technicians were not offering counseling on refill pick-ups. A technician told an Investigator that they thought that the counseling requirement was satisfied if a patient signed their name to a log and indicated that they declined counseling by checking a box.

Investigators observed more than 500 expired medications on the pharmacy shelves. Investigators asked the PIC why the expired medication was still on the shelves, the PIC responded that the wholesaler had always removed expired drugs from the shelves in the past, but that they had not been to the pharmacy in some time.

Investigators discovered that 2 pharmacy technicians were on duty without being registered with the Board. Technician 1 had been performing technician duties without registration for 8 months. Technician 2 had been performing technician duties without registration for 29 months. Investigators also discovered that the PIC and the pharmacist on duty (the PIC was not on duty that day, but came in to answer questions during the investigation) had practiced, for a time, on expired licenses. Both pharmacists' licenses expired 5/31/13. The PIC paid the renewal fee on 6/10/13 and the late fee on 7/2/13. The other pharmacist submitted a renewal payment on 7/17/13.

Investigators confirmed that Respondent pharmacy had filled 98 expired prescriptions for both controlled and non-controlled substances. Respondents were not aware of the unauthorized filling and Respondent PIC stated in an affidavit that the filling of expired prescriptions was due to a software error. Investigators state they saw Respondents rectify the issue while they were on-site.

*All of the pharmacies identified in the original complaint use the same software and reported similar, though not identical, errors.*

Prior discipline: No prior discipline. Respondent was cited in 2 earlier inspections for expired products (2008 and 2005).

**Recommendation:** \$100 per month (less the 90 day grace period) to PIC for each unregistered technician for a total of \$3100.

\$1000 per counseling violation to Pharmacist on Duty for a total of \$7000;  
\$1000 per violation to Pharmacy for a total of \$7000, reduced to \$1000 with an acceptable plan of correction.

LOI on filling expired prescriptions.

Discuss discipline with regards to expired drugs, unlicensed D.Ph. practice.

Dr. Eidson made the motion to **authorize a formal hearing** with a \$100.00 civil penalty per month to the PIC for each unregistered technician for a total of \$3100.00, a \$1000.00 civil penalty per counseling violation to the pharmacist on duty for a total of \$7000.00 reduced to \$1000.00 with an acceptable plan of correction, a \$1000.00 civil penalty per counseling violation of the Pharmacy for a total of \$7000.00 reduced to \$1000.00 with an acceptable plan of correction, a Letter of Warning for the expired prescriptions and a \$10.00 civil penalty per expired drugs for a total of \$5000.00. Dr. Bunch seconded the motion. Dr. Eidson amended the motion to authorize a formal hearing with a \$1000.00 civil penalty per month to the each pharmacist for working on an expired license. Dr. Bunch seconded the amended motion. The motion carried. Dr. Dickenson made the motion to include a Letter of Warning to the owner of the pharmacy. Dr. Eidson seconded the motion. The motion carried. The original motion with amendments carried.

**3.**

Investigators visited Respondent pharmacy after receiving a complaint that Respondent and two other pharmacies were habitually filling prescriptions beyond their expiration dates. The visit and audit of prescription records substantiated this allegation. During this time, Investigators observed the pharmacist-on-duty fail to counsel 3 patients on new prescriptions. Investigators confirmed that Respondent pharmacy had filled 29 expired prescriptions (12 controlled, 17 non-controlled). Respondents cooperated fully with Investigators and assisted them in retrieving records, including original prescriptions and patient dispensing records. Respondent pharmacy uses the same software as the pharmacy in the previous case. Investigators and Respondents discovered an error in the pharmacy during the investigation.

Prior discipline: none

**Recommendation:** \$1000 per counseling violation to DPh on Duty for a total of \$3000; \$1000 per violation to Pharmacy for a total of \$3000, reduced to \$1000 with an acceptable plan of correction.

LOI on filling expired prescriptions.

Dr. Bunch made the motion to **authorize a formal hearing** with a \$1000.00 civil penalty per counseling violation to the pharmacist on duty for a total of \$3000.00 reduced to a \$1000.00 with an acceptable plan of correction, a \$1000.00 civil penalty per violation to the pharmacy for a total of \$3000.00 reduced to a \$1000.00 with an acceptable plan of correction. Ms. McDaniel seconded the motion. Dr. Eidson amended the motion to include a Letter of Warning on filling expired prescriptions. Ms. McDaniel seconded the amended motion. The motion carried. The original motion carried.

**4.**

Investigators visited Respondent pharmacy in after receiving a complaint that Respondent and two other pharmacies were habitually filling prescriptions beyond their expiration dates. The visit and audit of prescription records substantiated this allegation. During this time, Investigators observed that 2 technicians on duty had expired registrations. Technician 1 had been working on an expired registration for a total of 29 months. Technician 2 had been working on an expired registration for a total of 22 months. During this time, Respondent pharmacy changed PIC. Recommended civil penalties will be divided between each PIC (“PIC A” and “PIC B”). PIC A was PIC from July 2010 through April 2013. PIC B became PIC on May 2013 and continues in that role today.

Investigators confirmed that Respondent pharmacy had filled 49 expired prescriptions (1 controlled 48 non-controlled). Respondents were audited by a MCO prior to the Investigators’ visit; the software error was identified and corrected at that time.

Prior discipline: none

**Recommendation:** \$100 per month, per expired technician, to each PIC  
PIC A: total of \$3700 (Technician 1, 22 months; Technician 2, 15 months)  
PIC B: total of \$1400 (Technician 1, 7 months; Technician 2, 7 months)

LOI on filling expired prescriptions.

Dr. Eidson made the motion to **authorize a formal hearing** with a \$100.00 per month to each pharmacist for allowing two technicians to work on expired registrations and a Letter of Warning for filling expired prescriptions. Dr. Bunch seconded the motion. The motion carried.

**5.**

Respondent pharmacist admitted to leaving the pharmacy unattended for 15-20 minutes while they went back to hotel to change clothes after becoming ill. Technician on duty told Investigator that one prescription was dispensed while Respondent was out.

Prior discipline: none

**Recommendation:** \$1000 to pharmacist and pharmacy (each) for counseling violation, LOW to pharmacist for leaving the pharmacy

Dr. Bunch made the motion to **authorize a formal hearing** with a \$1000.00 civil penalty to the pharmacist and the pharmacy for the counseling violation and a Letter of Warning to the pharmacist for leaving the pharmacy unattended. Dr. Smothers seconded the motion. The motion carried. Dr. Eidson recused himself.

**6.**

Respondent technician was terminated for removing controlled substances from the pharmacy without proper authorization or a prescription. Respondent technician admitted to diverting controlled substances on multiple occasions between June and November 2013. Video surveillance shows Respondent removing a stock bottle of medication from the pharmacy, and Respondent admitted in a statement to Loss Prevention that they removed stock bottles from the pharmacy, rather than individual tablets. Law enforcement is involved with this case. Pharmacy where Respondent worked recently filed an amended Form 106 alleging larger losses than were admitted to by Respondent.

Amount and Type of Controlled Substances:

Hydrocodone/APAP 10/325mg- approx. 1600 tablets (admitted by Respondent)  
Hydrocodone/APAP 10/500mg- approx. 6500 tablets (admitted by Respondent)

Prior discipline: none

**Recommendation:** Revoke technician. Consider requesting that PIC or Pharmacy submit a plan of correction for CS inventory control.

Dr. Bunch made the motion to **authorize a formal hearing** for revocation of the pharmacy technician registration and a Letter of Instruction pertaining to the controlled substance inventory control. Dr. Smothers seconded the motion. The motion carried.

**7.**

Respondent pharmacist voluntarily surrendered their license in another state in June, 2012. In November, 2013 the Board received notification from federal authorities that the Respondent was being excluded from participation in federal health programs based on the 2012 discipline. Respondent's license expired February 28, 2014.

Prior discipline: none

**Recommendation:** Close and flag, or voluntary surrender.

Dr. Edison made the motion to **close the complaint** and flag the pharmacist file. Dr. Bunch seconded the motion. The motion carried.

**8.**

Complaint alleged unauthorized refills at Respondent pharmacy. Investigation of the pharmacy, including an audit of prescription records and verification of information with prescribers, confirmed allegations of unauthorized refills. Pharmacy investigation yielded evidence of 46 unauthorized prescriptions for controlled (diazepam) and non-controlled substances (e.g., Xopenex, Albuterol, Bactrim, Augmentin).

Prescriptions were generated for three juvenile patients, one of whom suffers from seizures (all diazepam prescriptions were designated for this patient). The juvenile patients are the children of an employee who works at a non-pharmacy business owned by Respondent PIC.

Review of records by Investigators indicated that PIC was responsible for most of the unauthorized refills, although another pharmacist is listed as filling or refilling several of the prescriptions. While collecting affidavits from prescribers and their staff, Investigators found 33 additional unauthorized prescriptions filled at Respondent pharmacy (for the same 3 patients) by comparing Respondent pharmacy's prescription records with the prescribers' offices. Some of the prescribers in this case had never seen any of the juvenile patients. Some had seen one or two of the patients in the past, but at the time of investigation hadn't seen the patients in a long time.

Respondent PIC admitted that unauthorized refills had occurred, but did not take responsibility for them. Respondent Pharmacist did not admit to knowingly filling any unauthorized prescriptions.

Prior discipline: none

**Recommendation:** Discuss. Total of 79 unauthorized prescriptions found by investigators. All of these prescriptions were either confirmed by the prescriber as being unauthorized, or could not be validated in any way.

Dr. Dickenson made the motion to issue a **Letter of Warning** to both pharmacist's and that the investigators conduct a follow up inspections. Ms. McDaniel seconded the motion. Dr. Smothers amended the motion authorize a formal hearing with a \$6000.00 civil penalty to the pharmacy for dispensing controlled substances without a prescription and 10 hours of continuing pharmaceutical education hours in law and ethics within 6 months for both pharmacists. Dr. Eidson seconded the amended motion. The motion carried as amended. The original motion carried. Dr. Bunch recused himself.

## 9.

Complaint alleged that Respondent pharmacies ("Pharmacy 1" and "Pharmacy 2") were involved in an improper transfer of a controlled substance prescription, creating the appearance that Patient had 2 active prescriptions for clonazepam. Pharmacy 1 faxed Patient's profile to Pharmacy 2, which was accepted the profile as a transfer, but did not document it as such. At the same time, Pharmacy 1 did not complete the transfer in its own computer system.

Prescriptions were picked up at Pharmacy 1 in June, 2013 and December, 2013. Records indicate that Patient picked up the June prescription at Pharmacy 1, while an unidentified party picked up the December prescription.

Prescriptions were picked up at Pharmacy 2 in July, August, September, and December of 2013. Records indicate the Patient picked up the prescriptions at Pharmacy 2 in July, August, and September. An unidentified party picked up the December prescription.

There was no communication between Respondent pharmacies regarding the transfer, and interviews with staff at each facility did not indicate who was responsible on either end. Investigators found several anomalies in each facility's records.

During site visits, Investigators observed that a technician working on an expired registration at each Respondent pharmacy. Technician 1, an employee of Pharmacy 1, had previously let their registration expire for 6 months between 2008 and 2009. Technician 1 received a new license in 2009, which expired August 31, 2011. One staff member told Investigator that Technician 1 had been a regular of employee of the pharmacy during the periods their license was expired.

Technician 2, an employee of Pharmacy 2, worked without registration for 17 months.

Prior discipline: none

**Recommendation:** Discuss as to CS transfer and record-keeping.

LOI to each PIC on tech registration.

\$100 to Technician 1.

\$100 per month of work on expired/unregistered license to each PIC.

PIC of Pharmacy 1: Either 35 months (counting the 2008-2009 period), or 29 months (not counting 2008-2009) for respective totals of \$3500 or \$2900.

PIC of Pharmacy 2: 17 months (less the 90 day grace period) for a total of \$1400.

Dr. Eidson made the motion to issue a **Letter of Instruction** to each PIC on technician registration, a Letter of Warning to both pharmacies explaining the transfer and record keeping of controlled substances, authorize a formal hearing with \$100.00 civil penalty to technician 1 or working on an expired registration, a \$100.00 civil penalty per month to each PIC that allowed a technician to work on an expired registration and/or unregistered for a total of \$3500.00 to the PIC of pharmacy 1 and \$1400.00 to the PIC of pharmacy 2. Dr. Bunch seconded the motion. The motion carried.

## 10.

Complaint generated pursuant to periodic inspection conducted in February, 2014. Investigator observed that Respondent pharmacist's license had expired July 31, 2013. However, date of periodic inspection was Respondent pharmacist's first day back on the job after being retired for 13 years. Respondent Pharmacist told investigator they did not realize their license had expired, and renewed the day after inspection occurred.

Prior discipline: none

**Recommendation:** Discuss. Respondent's license was expired for 7 months, but only worked a single day while it was expired.

Dr. Dickenson made the motion to **dismiss** the complaint. The motion died for a lack of second. Dr. Smothers made the motion to authorize a formal hearing with a \$100.00 civil penalty for working on an expired license. Dr. Bunch seconded the motion. The motion carried.

## 11.

Respondent pharmacist was terminated from employment for diversion of controlled substances. Respondent self-reported diversion to Board staff. In statements to the Board and to Loss Prevention, Respondent asserted that they were self-medicating for a cold, admitting to taking a

total of “30-45mL” of Hydrocodone-Chlorpheniram syrup in “at least 4 separate doses” during a period of “5-6 days.” DEA Form 106 submitted by Respondent’s former employer cites a loss of approximately 1,300mL of Hydrocodone-Chlorpheniram syrup. Respondent did not admit impairment, but is undergoing evaluation by TPRN.

Prior discipline: none

**Recommendation:** Discuss.

Dr. Smothers made the motion to **defer** the compliant until the recommendation from the Tennessee Pharmacy Recovery Network (TPRN) has been received. The motion died for lack of second. Dr. Bunch made the motion to allow legal counsel and the executive director to decide the outcome based on the results received from the TPRN. Dr. Smothers seconded the motion. The motion carried.

## 12.

Complaint generated during periodic inspection in December, 2013. Respondent pharmacy and PIC were found to be in violation of numerous sterile compounding regulations (old rules). Respondent pharmacy, prior to inspection, was compounding high-risk sterile products. Respondent has suspended compounding operations at Investigator’s request. Violations observed:

1140-07-.02(1) (c), 1140-07-.02(1) (d), 1140-07-.02(e), *relating to personnel:*

There was no documentation of competency in aseptic technique for any employee (including PIC) of Respondent pharmacy.

There was no documentation of media fill tests for high risk compounding or testing of 0.22 micron filter by performing a bubble test. There was minimal documentation for cleaning of the hood, or mopping the floor.

No P&P manual was on-site, Respondent pharmacist told Investigator they were in the process of purchasing a new one and that they had left their previous manual at their old store when they sold it. With no manual on-site, it cannot be reviewed and updated annually pursuant to the rules.

1140-07-.03(1) (a) (6), 1140-07-.03(1) (c), 1140-07-.03(1) (d), 1140-07-.03(1) (f), 1140-07-.03(1) (i), *relating to physical requirements:*

There were tears in the solid flooring, revealing the material underneath. There was visible dirt and dust in the room.

There was no thermometer in the refrigerator. Respondent PIC indicated that it had broken some time ago.

Investigator observed 6 cardboard boxes in the sterile compounding area. 4 were on top of the hood, 1 was on the refrigerator, and 1 was on the floor under the cabinet.

Investigator observed that the hood had a certification label on it showing a date of August 17, 2013. When asked to produce the inspection form, Respondent PIC admitted to investigator that the hood had not been inspected since it was purchased in February, 2011. The hood was not inspected after being moved. Respondent PIC told Investigator that they were not aware of the bi-annual certification requirement for hoods. Respondent PIC also told Investigator that they did not know who had written the date on the hood's certification label. Respondent PIC asserted that although they had purchased the hood in February, 2011, they did not begin compounding any sterile products until June, 2012. Review of records by Investigator supports this.

There was no record or documentation of changing the prefilters on the hood.

1140-07-.04, *relating to the policy and procedure manual*

No P&P manual was on-site, Respondent pharmacist told Investigator they were in the process of purchasing a new one and that they had left their previous manual at their old store when they sold it.

1140-07-.07(1) (a), *relating to attire*

Respondent PIC told Investigator that they typically just wore a lab coat when compounding sterile products. The only lab coat available was visibly dirty and crumpled up on top of the refrigerator. Respondent PIC indicated to Investigator that they used non-sterile nitrile gloves for compounding.

1140-07-.08(1), *relating to quality assurance*

The number and type of violations observed by Investigator indicates there is no ongoing quality assurance program at Respondent pharmacy. There were no records of any sort of testing, whether filters, environmental, or of finished products. Investigator reported that Respondent PIC was using an oven to sterilize vials for injection, but there was no calibration or testing documentation for the oven or use of biological indicators.

Prior discipline: Suspended 12/1/1990 (License Suspended or Revoked by Another State);  
\$1000 civil penalty and 5 years of probation 7/15/2008 for dispensing  
controlled substance prescriptions not authorized by licensed prescriber

**Recommendation:** Discuss. During case review, counsel and executive director discussed requiring Respondent to enter into a consent order whereby they agree to compliance monitoring of their practice by a third-party. This monitoring agreement would be in addition to any other discipline imposed by the Board.

Dr. Eidson made the motion to send a **cease and desist** letter regarding sterile compounding and to appear before the Board if/when chose to resume. Dr. Dickenson seconded the motion. The motion carried.

**13.**

Complainant prescriber alleged that Patient was given pain cream formula which had been changed without prescriber's authorization. Complainant alleges that neither the patients or prescriber (or prescriber's office) were notified of the change. Complaint alleges that Patient had an adverse reaction (dizziness) to the medication. Substitution also caused tramadol to appear on Patient's CSMD profile, which almost resulted in Patient's wrongful dismissal from pain management contract. Allegedly, Patient was not counseled on the changes in their medication at the time of dispensing.

Respondents admitted to the unauthorized changes, asserting a disclaimer on their prescription order form allowed them to do so. The disclaimer, which is in tiny print, reads as follows:

"I have indicated by number (#) below, in order of preference the medication(s) I am prescribing. The pharmacy shall dispense my first preference, unless not covered by the patient's insurance, in which case the pharmacy shall proceed in similar manner based on my order of preference. The pharmacy may dispense any drug selected below, regardless of order of preference, based on the patient's choice."

However, investigation of prescription records held by physician revealed that faxed prescriptions for Patient (where unauthorized substitution occurred) were on a different preprinted order form that did not contain the above disclaimer. Respondent pharmacy did not have any of the original faxed prescriptions. Respondents told Investigator that unauthorized changes were done to ensure Medicare coverage of the prescriptions, and that they assumed prescribers at Complainant's practice setting were okay with such actions.

Prior discipline: none

**Recommendation:** Letter of Warning for unauthorized changes. LOI to PIC on documentation and improvement of counseling.

Dr. Bunch made the motion to issue a **Letter of Warning** for unauthorized changes and a Letter of Instruction to the PIC on documentation and improvement of counseling. Dr. Smothers seconded the motion. The motion carried.

**14.**

Complainant prescriber alleged fraudulent billing by Respondent. On 8/30/13, Patient presented prescription for #120 oxymorphone IR 5mg. Respondent pharmacy was only able to dispense 20/120 tablets, and ordered the remainder to filled as an "owe" to Patient.

Respondent asserted that they complied with applicable federal regulations on partial filling of controlled substances and were able to fill the remainder of Patient's prescription within 72 hours. Investigator noted that the prescription could not have been filled until 9/3/13 (>72 hours from the 8/30/13 partial fill) due to the Labor Day holiday. However, Patient never picked up the remainder of the prescription.

Patient was seen by Complainant prescriber on 9/17/13. At this time, Patient brought the medication in for a pill count and requested a different medication as the oxymorphone IR 5mg did not work. When Complainant prescriber queried Patient's CSMD profile, the database showed that Patient had been dispensed the full amount of 120 tablets called for by the original prescription and had billed Patient accordingly. Complainant prescriber contacted Respondent pharmacy to correct the CSMD error. Respondent reversed the prescription and billed Patient for the 20 tablets dispensed that same day. Complainant further alleges that Patient had contacted Respondent to notify them that they did not want the remainder of the prescription.

In a statement given to Investigator, Respondent claimed that action was taken so that Patient, who is a TennCare beneficiary, did not have to use another "punch" by picking up a second prescription issued for the remaining tablets. Patient told Investigator that they did not contact Respondent to inform them that they did not need the remainder of the prescription.

Prior discipline: 2009, unregistered technicians, paid civil penalty of \$4800; 2011, medication error, paid civil penalty of \$500

**Recommendation:** Letter of Instruction to PIC on proper follow-up with patients and CSMD reporting.

Dr. Bunch made the motion to issue a **Letter of Instruction** to the PIC on proper follow-up with patients and CSMD reporting. Ms. McDaniel seconded the motion. The motion carried.

## 15.

Complaint generated while Investigator was conducting inspection of another facility. Respondent M/W/D, an oxygen supplier, has been operating on an expired license since 9/30/13. Employees at Respondent facility told Investigator that licensing was handled by another office. Investigator has contacted employees of Respondent twice since the date original complaint was generated. The license is still expired.

Prior discipline: none

**Recommendation:** Discuss.

Dr. Smothers made the motion to **authorize formal hearing** with at \$100.00 civil penalty per month for unlicensed activity for a total of \$500.00 and a cease to desist letter. Dr. Eidson seconded the motion. The motion carried.

**16.**

Periodic inspection conducted 12/13/13 revealed that two technicians had been working on an expired registration for a period totaling 11 months. Technician 1's registration expired 9/30/13. Technician 2's registration expired 4/30/13. Technician 1's registration was renewed 12/19/13. Technician 2's registration was renewed this year, with an expiration date of 2/28/16.

In a statement given to Investigator, PIC indicated that they did not realize Technician 2's registration was expired until October 2013, when Technician 1's expired. PIC went on to state that both technicians sent their renewal fees to the Board office at the same time. PIC alleged that Technician 1's renewal check cleared on 10/7/13. Board staff indicated that Technician 1's application was not processed at that time because they had an outstanding late fee. Board staff indicated that Technician 2's renewal check was not processed because their registration had expired 6 months ago (meaning that Technician 2 would have to file a new application).

Prior discipline: none

**Recommendation:** Discuss.

Dr. Eidson made the motion to issue a **Letter of Instruction** to the pharmacist concerning technician registration, authorize a formal hearing with a \$100.00 civil penalty to each technician for working on an expired registration, a \$100.00 civil penalty per month to the pharmacist for allowing the technicians to work on an expired registration. Dr. Dickenson seconded the motion. The motion carried.

**17.**

Complaint generated pursuant to periodic inspection. Investigator observed 3 separate counseling violations while inspecting Respondent pharmacy. In 2 instances, Investigator observed counseling on new prescriptions being done by technicians. Investigator also witnessed a refill prescription being picked up without an offer of counseling. Investigator also witnessed technicians selling pseudoephedrine without notifying the pharmacist-on-duty. Investigator interviewed technicians about this practice, who stated that they would ask the patients for symptoms and then make a sale accordingly. Technician told Investigator that the pharmacist would handle such sales "if they had time."

Prior discipline: none

**Recommendation:** \$1000 per counseling violation to Pharmacist on Duty for a total of \$3000; \$1000 per violation to Pharmacy for a total of \$3000, reduced to \$1000 with an acceptable plan of correction.

Discuss as to PSE sales.

Letter of Instruction to PIC on appropriate technician roles

Dr. Edison made the motion to **authorize a formal hearing** with a \$1000.00 civil penalty per counseling violation to the pharmacist on duty for a total of \$3000.00 reduced to \$1000.00 with an acceptable plan of correction, a \$1000.00 civil penalty per violation to the pharmacy for a total of \$3000.00 reduced to \$1000.00 with an acceptable plan of correction, a \$100.00 civil penalty to the PIC for not counseling selling pseudoephedrine without notifying the pharmacist on duty and a Letter of Instruction to the PIC on appropriate technician roles. Dr. Bunch seconded the motion. The motion carried.

**18.**

Complaint generated pursuant to periodic inspection. Investigator observed 5 separate counseling violations while inspecting Respondent pharmacy. Investigator witnessed 5 prescriptions being picked up without an offer to counsel. Investigator also witnessed technician selling pseudoephedrine without notifying the pharmacist-on-duty. Investigator interviewed pharmacist on duty about this practice, who stated that it was not a usual occurrence and that they understood the pharmacist's role in pseudoephedrine sales.

Prior discipline: none

**Recommendation:** \$1000 per counseling violation to Pharmacist on Duty for a total of \$5000; \$1000 per violation to Pharmacy for a total of \$5000, reduced to \$1000 with an acceptable plan of correction.

Discuss as to PSE sales.

Dr. Bunch made the motion to **authorize a formal hearing** with a \$1000.00 civil penalty per counseling violation to the pharmacist on duty for a total of \$5000.00 reduced to \$1000.00 with an acceptable plan of correction, a \$1000.00 civil penalty per violation to the pharmacy for a total of \$5000.00 reduced to \$1000.00 with an acceptable plan of correction, a \$100.00 civil penalty to the PIC for not counseling selling pseudoephedrine without notifying the pharmacist on duty and a Letter of Instruction to the PIC on appropriate technician roles. Ms. McDaniel seconded the motion. The motion carried.

**19.**

Complainant alleges two separate misfills of their prescriptions at Respondent pharmacies. Each misfilled prescription was dispensed by a different pharmacist. Respondent Pharmacist 1 admitted misfill 1. Prescription for hydrocodone dropped off by Complainant was accidentally dispensed by technician to another customer (who actually returned the medication upon discovery of the error). Respondent Pharmacist 2 admitted misfill 2. Prescription for Cymbalta #14 was dispensed in a mislabeled stock bottle which contained #16 caplets.

Prior discipline: none

**Recommendation:** Letter of Warning to each dispensing pharmacist. Consider requiring plan of correction from PIC or Pharmacy.

Ms. McDaniel made the motion to **dismiss** the complaint. Dr. Bunch seconded the motion. The motion carried.

**20.**

Respondent technician was convicted of Assault- Threat of Bodily Harm, a Class A misdemeanor and sentenced to 11 months and 29 days of supervised probation. Complaint alleges that Respondent was a caregiver at an adult group home and assaulted a resident. Complaint further alleges that Respondent was placed on the abuse registry by the Department of Intellectual and Developmental Disabilities when the incident in question occurred (September, 2012). Respondent is still on the abuse registry and does not have any pharmacy employment listed on RBS.

Prior discipline: none

**Recommendation:** Revoke.

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

**21.**

Respondent technician was terminated for removing non-controlled substances from the pharmacy without proper authorization or a prescription. Video surveillance shows Respondent technician diverting medication and Respondent admitted to diversion.

Amount and Type of Non-Controlled Substances:

Skelaxin (dosage and amount not determined)

Prior discipline: none

**Recommendation:** Revoke.

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

**22.**

Periodic inspection revealed that technician had been working on an expired registration for a period of 2 months. Inspection conducted 12/6/13, technician renewed 12/7/13.

Prior discipline: none

**Recommendation:** \$100 to Technician.

\$100 per month to PIC for expired technician, for a total of \$200.

Dr. Smothers made the motion to **authorize a formal hearing** with a \$100.00 civil penalty to the technician for working on an expired registration and \$100.00 civil penalty per month to the PIC for allowing a technician to work on an expired registration for a total of \$200.00. The motion carried.

**23.**

Complaint generated pursuant to periodic inspection. Investigator observed 7 separate counseling violations while inspecting Respondent pharmacy. Investigator also discovered that a technician, who had current PTCB certification, had been working without state registration for a total of 17 months (20 months, less the 90 day grace period). Investigator also noted unsanitary conditions (visible layers of dust, dirt; pharmacy very cluttered).

Prior discipline: none

**Recommendation:** \$1000 per counseling violation to Pharmacist on Duty for a total of \$7000; \$1000 per violation to Pharmacy for a total of \$7000, reduced to \$1000 with an acceptable plan of correction.

\$100 per month (less the 90 day grace period) to PIC for unregistered technician for a total of \$1700.

Letter of Warning on sanitary conditions at pharmacy.

Dr. Eidson made the motion to **authorize a formal hearing** with a \$1000.00 civil penalty per counseling violation to the pharmacist on duty for a total of \$7000.00 reduce to \$1000.00 with an acceptable plan of correction, a \$1000.00 civil penalty per violation to the pharmacy for a total of \$7000.00 reduced to \$1000.00 with an acceptable plan of correction, a \$100.00 civil penalty to per month to the PIC for the unregistered technician and a Letter of Warning concerning the unsanitary conditions at the pharmacy to the PIC. Dr. Bunch seconded the motion. The motion carried

**24.**

Respondent technician was terminated for removing controlled substances from the pharmacy without proper authorization or a prescription. Respondent admitted in a statement to Loss Prevention that they removed 5 stock bottles from the pharmacy between June and September 2013. DEA Form 106 alleges larger losses than were admitted to by Respondent.

Amount and Type of Controlled Substances:

Hydrocodone/APAP 10/500mg- approx. 500 tablets (admitted by Respondent)

Prior discipline: none

**Recommendation:** Revoke.

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

**25.**

Periodic inspection revealed that Respondent pharmacy was operating with a technician to pharmacist ratio of 6:1 without Board authorization. Investigator also discovered that 2 technicians on duty had expired registrations. Both technicians' registrations expired on October 31, 2010 (37 months). Technicians updated their registration that same day.

Prior discipline: none

**Recommendation:** \$100 to each Technician.

\$100 per month to PIC for each expired technician, for a total of \$7,400.

Dr. Smothers made the motion to **authorize a formal hearing** with \$100.00 civil penalty to the two technician working on expired registrations, a \$100.00 civil penalty per month to the PIC for allowing the two technicians to work on expired registrations for a total of \$7400.00, and a Letter of Instruction to the PIC explaining the process on requesting a waiver of the pharmacist to technician ratio. Dr. Eidson seconded the motion. The motion carried.

**26.**

Complaint generated after Investigators noticed advertisement for location while en route to conduct an unrelated inspection during the month of October, 2013. Respondent M/W/D was acquired by a new owner in December, 2009, who had been operating the business without a license until Investigators visited the site. Respondent M/W/D is an oxygen supplier.

Prior discipline: none

**Recommendation:** \$50/month for each month of unlicensed activity between 12/9 and 10/13, total of \$2,350.

Dr. Smothers made the motion to **authorize a formal hearing** with a \$50.00 civil penalty per

month for unlicensed activity for a total of \$2350.00. Ms. McDaniel seconded the motion. Dr. Eidson made the amended the motion to authorize a formal hearing with the \$100.00 civil penalty per month for unlicensed activity of a total of \$4700.00. Ms. McDaniel seconded the motion. The amended motion carried.

**27.**

Complaint alleged misfill; Augmentin filled for Amoxicillin. Amoxicillin was prescribed to juvenile patient. Complainant alleges that patient went for 5 days without medication while sick with strep throat. PIC at Respondent pharmacy admitted discovering the error when filling a second Amoxicillin prescription for Complainant. PIC gave Complainant a refund for misfill, acknowledged mistake and apologized. Dispensing Pharmacist told investigators that they could not recall any specific information about the misfill, but acknowledged that they were on duty that day.

Prior discipline: none

**Recommendation:** Letter of Warning to Dispensing Pharmacist.

Dr. Bunch made the motion to issue a **Letter of Warning** to the dispensing pharmacist. Ms. McDaniel seconded the motion. The motion carried.

**28.**

Periodic inspection revealed that technician had been working without registration for a period of 14 months.

Prior discipline: none

**Recommendation:** \$100 per month (less the 90 day grace period) to PIC for unregistered technician for a total of \$1100.

Ms. McDaniel made the motion to **authorize a formal hearing** with a \$100.00 civil penalty per month to the PIC for allowing unlicensed activity for a total \$1100.00. Dr. Eidson seconded the motion. The motion carried.

**29.**

Complaint generated during opening inspection. Investigator discovered that Respondent M/W/D, a wholesaler of medical devices, had been in operation at the site since September 2006.

Prior discipline: none

**Recommendation:** \$100/month for each month of unlicensed activity. 87 months of unlicensed activity for a total penalty of \$8,700.

Dr. Smothers made the motion to **authorize a formal hearing** with a \$100.00 civil penalty per month for unlicensed activity for a total \$8700.00. Ms. McDaniel seconded the motion. The motion carried.

**30.**

Complaint generated pursuant to relocation inspection. Respondent M/W/D, an oxygen supplier, had been operating at its new location for 2 months prior to relocation inspection.

Prior discipline: none

**Recommendation:** \$50 per month for each month of unlicensed activity, total \$100.

Dr. Eidson made the motion to **authorize a formal hearing** with a \$100.00 civil penalty per month for unlicensed activity for a \$200.00. Dr. Dickenson seconded the motion. The motion carried.

**31.**

Periodic inspection revealed that technician had been working on an expired registration for a period of 2 months. Inspection conducted 1/2/14, technician renewed 1/9/14.

Prior discipline: none

**Recommendation:** \$100 to Technician.

\$100 per month to PIC for expired technician, for a total of \$200.

Dr. Smothers made the motion to **authorize a formal hearing** with a \$100.00 civil penalty to the technician for working on an expired registration and a \$100.00 civil penalty per month to the PIC for allowing a technician to work on an expired registration for a total \$200.00. Ms. McDaniel seconded the motion. The motion carried.

**32.**

Periodic inspection conducted 12/13/13 revealed that technician had been working on an expired registration for a period of 23 months. Technician's registration expired 1/31/11, but technician was not hired by pharmacy until 2/1/12. Investigator was informed that technician would be retiring at the end of December 2013.

Prior discipline: none

**Recommendation:** \$100 to Technician.

\$100 per month to PIC for expired technician, for a total of \$2300.

Dr. Smothers made the motion to **authorize a formal hearing** with a \$100.00 civil penalty to the technician for working on an expired registration and a \$100.00 civil penalty per month to the PIC for allowing a technician to work on an expired registration for a total \$2300.00. Dr. Eidson seconded the motion. The motion carried.

**33.**

Periodic inspection revealed that two technicians had been working on an expired registration for a period totaling 70 months. Technician 1's registration expired 7/31/10. Technician 2's registration expired 9/30/11. Inspection conducted 1/14/14, both technicians renewed 1/31/14.

Prior discipline: none

**Recommendation:** \$100 to Technician 1.

\$100 to Technician 2.

\$100 per month to PIC for each expired technician, for a total of \$7,000.

Dr. Smothers made the motion to **authorize a formal hearing** with a \$100.00 civil penalty to each technician for working on an expired registration and a \$100.00 civil penalty per month to the PIC for allowing a technician to work on an expired registration for a total \$7000.00. Ms. McDaniel seconded the motion. The motion carried.

**34.**

Complaint generated pursuant to inspection. Respondent M/W/D initially contacted Investigator to request a "new licensee" inspection. Respondent is an oxygen supplier. Upon arrival at the site, Investigator found out that Respondent had actually relocated from a previous location, not opened a new one. Respondent had been operating at its new location for 5 months prior to relocation inspection.

Prior discipline: none

**Recommendation:** \$50 per month for each month of unlicensed activity, total \$250.

Dr. Eidson made the motion to **authorize a formal hearing** with a \$100.00 civil penalty for each month of unlicensed activity for a total of \$500.00. Dr. Smothers seconded the motion. The motion carried.

**35.**

Periodic inspection conducted 12/2/13 revealed that technician had been working on an expired registration for a period of 25 months. Technician's registration expired 11/30/11. Technician's registration was renewed on 12/16/13.

Prior discipline: none

**Recommendation:** \$100 to Technician.

\$100 per month to PIC for expired technician, for a total of \$2500.

Dr. Smothers made the motion to **authorize a formal hearing** with a \$100.00 civil penalty to the technician for working on an expired registration and a \$100.00 civil penalty per month to the PIC for allowing the technician to work on an expired registration for a total of \$2500.00. Dr. Edison seconded the motion. The motion carried.

**36.**

Complaint generated pursuant to relocation inspection. Respondent M/W/D, an oxygen supplier, had been operating at its new location for 3 months prior to relocation inspection.

Prior discipline: none

**Recommendation:** \$50 per month for each month of unlicensed activity, total \$150.

Dr. Eidson made the motion to **authorize a formal hearing** with a \$100.00 civil penalty per month for unlicensed activity for a total of \$300.00. Dr. Dickenson seconded the motion. The motion carried.

**37.**

Periodic inspection conducted 12/4/13 revealed that technician had been working on an expired registration for a period of 3 months. Technician's registration expired 9/30/13. Technician's registration was renewed on 12/5/13.

Prior discipline: none

**Recommendation:** \$100 to Technician.

\$100 per month to PIC for expired technician, for a total of \$300.

Dr. Smothers made the motion to **authorize a formal hearing** with a \$100.00 civil penalty to the technician for working on an expired registration and a \$100.00 civil penalty per month to the PIC for allowing the technician to work on an expired registration for a total of \$300.00. Dr.

Edison seconded the motion. The motion carried.

**38.**

Complaint generated while Investigator was conducting an inspection of another licensee. Investigator entered Respondent M/W/D, an oxygen supplier, and inquired about the status of their licensure. Investigator was able to determine that Respondent had been operating at its new location for 3 months without notifying the Board or requesting a relocation inspection.

Prior discipline: none

**Recommendation:** \$50 per month for each month of unlicensed activity, total \$150.

Dr. Dickenson made the motion to **authorize a formal hearing** with a \$100.00 civil penalty per month for unlicensed activity for a total of \$300.00. Dr. Eidson seconded the motion. The motion carried.

**39.**

Complaint alleged that Respondent was shipping prescription drugs to physicians and clinics in Tennessee without any licensure. Respondent, which is licensed in Alabama as a M/W/D, admitted to Board investigators that it had shipped products into Tennessee since November 2012. At the time complaint was received, Respondent had started, but not finished, an application for licensure in Tennessee. As the investigation progressed, Respondent agreed to halt all shipments of drug products into Tennessee until it obtained a license.

Products sold and shipped into Tennessee by Respondent between November 2012 and November 2013:

Syringes (1.5 inch 25 gauge 3ml)

B-Combo Injection

B12 Injection

Lipovite Injection

Lipovicine Injection

Lipovimino Injection

Lipovialline Injection

MIC B12 Injection

HCG

Respondent now holds a Tennessee license.

Prior discipline: none

**Recommendation:** \$100 per month for each month of unlicensed activity, total \$1,200.

Dr. Smothers made the motion **authorize a formal hearing** with \$100.00 civil penalty for each

month of unlicensed activity for a total of \$1200.00. Dr. Dickenson seconded the motion. The motion carried.

**40.**

Complaint alleged misfill. Patient was prescribed 100mg morphine sulfate ER, 1 tablet every 8 hours. Respondent pharmacist dispensed 200mg morphine sulfate ER tablets to Patient with label instructions to take ½ tablet every 8 hours. Respondent pharmacist admitted misfill, citing shortages of the 100mg tablets. Respondent pharmacist told Investigator they could not locate the medication in stock, or at another pharmacy. Respondent pharmacist alleged that they were unable to get in touch with the prescriber as well. Respondent pharmacist filled a prescription with 200mg tablets, printed off the label that was called for by the prescription, and then manually modified it to contain the aforementioned dosage instructions. Respondent pharmacist counseled patient on this change before dispensing prescription. Complaint arose when Patient brought medication into prescriber's office.

Prior discipline: none

**Recommendation:** Letter of Warning to Dispensing Pharmacist.

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

**41.**

Complaint generated during periodic inspection in December, 2013. Respondent was found to be in violation of several sterile compounding regulations (old rules). Prior to inspection, Respondent was compounding high-risk sterile products. Respondent has suspended compounding operations at Investigator's request.

*Violations observed:*

1140-07-.02(1) (c), 1140-07-.02(2) (c), 1140-07-.02(6), *relating to personnel:*

There was no documentation of competency in aseptic technique for any employee (including PIC) of Respondent pharmacy.

There was no documentation of annual CE. Respondent PIC told investigator that they had completed CE in April 2013, but had not bothered to print the certificate because it wasn't ACPE accredited. Investigator provided education to Respondent on this subject.

1140-07-.03(1) (a) (6), 1140-07-.03(1) (i), *relating to physical requirements:*

The laminar flow hood was located in an area behind a plastic curtain in an area where non-sterile compounded products were also being stored. Cabinets adjacent to the hood were

varnished wood. Wall behind the hood was painted concrete block, and floor was not a seamless sealed floor.

The pre-filters for the hood had not been changed and there was no documentation. Respondent told Investigated that they had only recently found out from the hood certifier that they (Respondent) were responsible for maintaining pre-filters.

At the time of inspection, Respondent PIC told Investigator that they were currently building a new pharmacy with a clean room that will meet standards. Investigator noted that Respondent did have documentation of sterile product testing by an outside laboratory for its high-risk products.

Prior discipline: none

**Recommendation:** Letter of Warning to PIC.

Dr. Eidson made the motion to issue a **Letter of Warning** to the PIC and a cease and desist letter. Ms. McDaniel seconded the motion. The motion carried.

**42.**

Complaint concerns Respondent PIC that worked at Pharmacy 1 and Pharmacy 2. Periodic inspection conducted 3/3/12 revealed that technician had been working on an expired registration for a period of 7 months. Technician 1's registration expired 8/31/11. Technician 1's registration was renewed on 3/31/12.

During the inspection, Investigator learned that Respondent PIC had been moved to another location a week prior and that Pharmacy 1 had operated without a PIC during that time. PIC on duty had only accepted the position that day.

Routine periodic inspection conducted 8/17/12 revealed that technician had been working on an expired registration for a period of 3 months. Technician 2's registration expired 5/31/12. Technician 2's registration was renewed on 8/18/12.

Prior discipline: Pharmacy 1: 2008, counseling, D.Ph paid civil penalty of \$500, pharmacy paid civil penalty of \$1000

**Recommendation:** Letter of Warning to Pharmacy 1 for operation without PIC.

\$100 to Technician 1.

\$100 to Technician 2.

\$100 per month to PIC for each expired technician, for a total of \$1100.

Dr. Dickenson made the motion to **authorize a formal hearing** with a \$100.00 civil penalty to both technicians for working on an expired registration, a \$100.00 civil penalty to the PIC per month that each technician worked on an expired registration for a total of \$1100.00 and to issue a Letter of Warning to Pharmacy 1 for operating without a PIC. Dr. Bunch seconded the motion. the motion carried.

**43.**

Complaint generated when Respondent M/W/D applied for license renewal on or about 1/24/12. Respondent had been in operation since its license expired on 4/30/11. Respondent is a distributor of AEDs.

Prior discipline: none

**Recommendation:** \$100/month for each month of unlicensed activity. 9 months of unlicensed activity for a total penalty of \$900.

Dr. Smothers made the motion to **authorize a formal hearing** with a \$100.00 civil penalty per month for unlicensed activity for a total of \$900.00. Ms. McDaniel seconded the motion. The motion carried.

**44.**

This case was continued by the Board at the previous meeting. Complaint forwarded from another state board of pharmacy. Complaint alleged Respondent M/W/D was purchasing “gray market” drugs from Company 1. Company 1 holds a M/W/D license in Tennessee, but is licensed in many states as either a M/W/D or a pharmacy. The complaint alleged that Company 1 acted as a middleman and engaged in “drug speculation,” by paying other pharmacies and wholesalers to ship manufactured products that were in short supply to other such entities. Products shipped in this way were marked with Company 1’s return address, so the product appeared to come from Company 1, rather than the pharmacy or wholesaler who had actually filled the order and shipped the item.

Respondent M/W/D was alleged to have purchased products from Company 1. Investigators interviewed employees of Respondent M/W/D, who asserted that they performed pedigree checks on all purchases and the drugs in question were all from legitimate wholesalers.

Both Respondent M/W/D and Company 1 were not subject to any formal discipline by the Board who forwarded the complaint.

Prior discipline: none

**Recommendation:** Dismiss.

Ms. McDaniel made the motion to **accept counsel’s recommendation**. Dr. Dickenson seconded

the motion. The motion carried.

**45.**

Complaint filed based on issuance of Form 483 by FDA in February, 2013. Investigator did not observe any violations of Board rules or Tennessee laws during site-visit. FDA has not taken any action against Respondent since issuing the 483.

Prior discipline: 2009, paid \$5500 civil penalty for violation of Board Rule 1140-09-.05(4)  
(b)

**Recommendation:** Dismiss.

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

**46.**

Anonymous complaint alleged Respondent pharmacist had been arrested for a 3rd DUI. Investigation did not substantiate complaint.

Prior discipline: none

**Recommendation:** Dismiss.

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

**47.**

Complaint did not contain express allegations against a licensee of the Board, but concerned an alleged situation of attempted diversion. An unknown person attempted to phone in prescriptions to Respondent pharmacy, who then called Complainant to verify the validity of the prescriptions. Complainant confirmed they were unauthorized and invalid, and Respondent pharmacy did not fill them.

Prior discipline: 2008, counseling, D.Ph paid civil penalty of \$500, pharmacy paid civil penalty of \$1000

**Recommendation:** Dismiss.

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

**48.**

Complaint generated pursuant to inspection conducted in January, 2013. Prior to investigator's visit, Respondent pharmacy had been compounding medication for office use. Investigator did not indicate any other issues during the inspection, only non-patient specific dispensing. Respondent PIC stated that they were not aware that office-use compounding was illegal (at that time), and would refrain from doing so.

Prior discipline: none

**Recommendation:** Dismiss.

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

**49.**

Complaint opened due to belief that Respondent M/W/D had been operating before applying for licensure. Review of files indicated that was not the case.

Prior discipline: none

**Recommendation:** Dismiss.

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

**50.**

Complaint alleged misfill which occurred in 2004 caused patient severe bodily injury to patient, who was allegedly dispensed Cytosan instead of Cytomel.

Prior discipline: none

**Recommendation:** Dismiss. The incident is too remote for a letter of warning to be effective.

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

**51.**

Complaint reported termination of pharmacy technician for diversion. Respondent technician was a new hire, and had not even submitted an application to the Board when they were terminated.

Prior discipline: none

**Recommendation:** Close and flag.

Dr. Smothers made the motion to **dismiss** the complaint. Ms. McDaniel seconded the motion. The motion carried.

**52.**

Anonymous complaint alleged Respondent technician was diverting medication. Investigator went to the address on file for Respondent, but could not locate them. Investigator visited Respondent's listed place of employment, but found that Respondent had quit after refusing to cooperate with the disciplinary process at their former workplace. Respondent had been suspended for 3 days after patients and a physician's office complained that Respondent was rude to them.

Investigator was later contacted by Respondent, and arranged to meet them the next day. Respondent did not show up to the meeting, and Investigator was unable to locate Respondent afterwards.

Prior discipline: none

**Recommendation:** Dismiss.

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

**53.**

Complaint alleged that employees of Respondent pharmacy were rude and unprofessional. Complaint further alleged that Respondent pharmacy improperly transferred a prescription. Investigation did not substantiate allegations in complaint.

Prior discipline: none

**Recommendation:** Dismiss.

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

**54.**

Complaint alleged that Respondent pharmacist was purposefully employing unregistered individuals to perform technician duties. Respondent allegedly hired "technicians" as cashiers, then had them perform technician duties, and then either firing them or driving them to quit

before the 90 day grace period was up. Investigation did not substantiate allegations in complaint.

Prior discipline: none

**Recommendation:** Dismiss.

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

**55.**

Complaint alleged that certified technician at Respondent pharmacy overcharged Complainant and Complainant's insurance for a prescription. Investigation indicated that certified technician did not handle a billing issue correctly. Respondent technician and pharmacist-on-duty apologized to Complainant for the mistake and gave Complainant a refund. Respondent PIC indicated that they have begun a training program for all employees on billing issues.

Prior discipline: none

**Recommendation:** Dismiss.

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

**56.**

Complaint alleged that Respondent PIC refused to transfer controlled substance prescription to another pharmacy. In a statement to Investigators, Respondent indicated that Complainant's 30 day prescription had been dispensed only 23 days ago and they felt it was too early to transfer the prescription.

Prior discipline: 2010, expired tech., \$100 to technician and \$1900 to PIC

**Recommendation:** Dismiss.

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

**57.**

Complaint was filed after staff at Respondent pharmacy refused to fill prescription for controlled substances from a particular prescriber. Prescriber in question has been disciplined by the Board of Medical Examiners for inappropriate prescribing.

Prior discipline: none

**Recommendation:** Dismiss.

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

**58.**

Complaint alleged that Respondent pharmacy discriminated against them by refusing to fill controlled substance prescription. Investigators spoke with a pharmacist at Respondent pharmacy, who told them that the refusal to fill was based on a mandate from their wholesaler to reduce the quantity of controlled substances dispensed; Complainant met criteria they had established in order to comply with wholesaler request.

Prior discipline: none

**Recommendation:** Dismiss.

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

**59.**

Complainant alleged that Respondent pharmacy failed to provide adequate counseling on a prescription. Respondents allege that Complainant interrupted the pick-up transaction numerous times, berated them, and alleged they were violating the law. Investigator observed location, witnessed counseling occurring, and feels that counseling is occurring at Respondent pharmacy on a regular basis.

Prior discipline: 2010, violation of T.C.A. 53-10-310(a) (maintain electronic access to CSMD), \$1050 civil penalty

**Recommendation:** Dismiss.

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

**60.**

Complaint alleged that Respondent pharmacy shorted a patient 15 oxycodone 15mg. Statements provided to investigators indicate that a double check system was in place and was used. Investigation did not substantiate the complaint.

Prior discipline: none

**Recommendation:** Dismiss.

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

**61.**

Complainant alleged that Respondent pharmacies replaced some of the tablets in their Percocet prescription with other drugs. Investigation did not substantiate the complaint.

Prior discipline: none ; 2010, unregistered tech, \$100 civil penalty

**Recommendation:** Dismiss.

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

**62.**

Complaint alleged that Respondent pharmacy canceled a prescription without notifying them. Investigation revealed that Complainant's prescriber had changed their therapy to a different, but similar medication (from glipizide to glyburide). Respondents told Investigator that stop code on old glipizide prescriptions was put in place to prevent confusion with the new medication. It was not clear, based on the investigation, if the patient was notified of this change. Investigation did not indicate that any interruption in therapy occurred.

Prior discipline: None

**Recommendation:** Dismiss.

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

**63.**

Complaint alleged Respondent, which operates both pharmacies and infusion clinics, was compounding from an unlicensed location. Investigation did not substantiate the allegations in the complaint.

Prior discipline: none

**Recommendation:** Dismiss.

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

**64.**

Complaint alleged that Respondent pharmacy refusal to fill prescription for controlled substance unless non-controlled prescription was filled at the same time constituted unprofessional conduct. Complainant alleged that Respondent's refusal to fill prescription caused them to visit ER in order to prevent withdrawal. Investigation did not substantiate allegation in complaint.

Prior discipline: none

**Recommendation:** Dismiss.

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

**65.**

Complaint alleged that Respondent pharmacy shorted a patient 10 Percocet. Investigation, including inventory verification, did not substantiate the complaint.

Prior discipline: none

**Recommendation:** Dismiss.

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

**Financial Report**

Lisa Tittle informed the board concerning the increase in licensing fees and what type of revenue it will produce and the additional cost that adding the new investigators will cost the board. Ms. Tittle explained to the board that these are just projections and that she will try to have a full projection report available for the May meeting. Dr. Kizer asked if there will be a difference in projections, due to the license renewal is for even and odd years. Ms. Tittle stated that there will be a difference. Ms. Tittle stated that there will be an increase in salary and benefits but believed that the board will be in the black for the fiscal year 2014. Ms. Tittle stated that there have been discussions to issue and administrative policy on when to discuss a fee reduction. The policy agreed upon states that if board's annual expenditures averages over a period of three years and your cumulative surplus is not double that for two year it does not trigger the conversation. Dr. Eidson asked about the new legislation that requiring that the board's having online applications. Ms. Tittle stated that she is unaware of what the cost would be. Dr. Eidson stated that the board voted against the upgrade and wanted to know if it has been noted. Dr. Dilliard stated that the Department of Health is aware of the board's decision.

**Order Modification**  
**Heather Atkinson, D.Ph.**

Dr. Atkinson appeared before the board to request that she be allowed to be PIC. Dr. Atkinson signed a consent order on 1/12/2012 placing her pharmacist license on 5 year probation and she would not be allowed to be PIC for 3 years of probation. After discussion, Dr. Eidson made the motion to amend Dr. Atkinson's consent order and allow her to be PIC at Munsey Pharmacy, Loudon, TN. Dr. Smothers seconded the motion. The motion carried.

**Jeffery Street, D.Ph.**

Dr. Street appeared before the board to requesting that he be allowed to dispense controlled substances. Dr. Street signed a consent order to surrender his pharmacy DEA registration on 6/9/2009. Dr. Street stated that he has an opportunity to work as a pharmacist at Gray Pharmacy, Gray TN. Dr. Glen Hall, owner of Gray Pharmacy, sent the DEA request that will allow Dr. Street to work in the pharmacy and allow him to dispense controlled substance. Dr. Street stated that the response from the DEA is that he must have an unrestricted license to obtain a DEA registration. Dr. Street stated that Dr. Hall has submitted a waiver request to the DEA to work only at Gray Pharmacy. Mr. Hall stated that he spoke to a Mr. Graham with the DEA and that he was sending the request to the DEA office in Washington, DC. After discussion, Ms. McDaniel made the motion to lift the restriction from Dr. Street's pharmacist license. The motion failed for lack of second. Dr. Eidson made the motion to modify the consent order to allow Dr. Street to apply for the opportunity to work only at Gray Pharmacy and if there are any modifications or request to work at another pharmacy he must come back before the board. Dr. Bunch seconded the motion. Dr. Eidson withdrew his motion and deferred the decision until further clarification can be obtained by Mr. Cange. This matter will be presented at 8:00 a.m. on March 12, 2014.

**Appearance**  
**Board rule 1140-02-.02(7)**

Clayton Dick, PIC for NuScript Rx is requesting modification of the pharmacist to technician ratio. NuScript Rx current ratio is 4:1 and they would like to change it 6:1. NuScript Rx is a long-term care pharmacy that serves nursing facilities throughout the state. After discussion, Dr. Eidson made the motion to grant the waiver request to allow the 6:1 pharmacist to technician ratio based on the business model presented. If there are any changes to the business model that they must inform the board. Dr. Dickenson seconded the motion. The motion carried.

James Dunham, PIC for Americare Pharmacy Services, is requesting modification of the pharmacist to technician ratio. Americare Pharmacy Services would like to change the ratio from 4:1 to 7:1. Americare Pharmacy Services is a long-term care pharmacy that serves nursing facilities in state and out of state. After discussion, Ms. McDaniel made the motion to grant the waiver for 6:1 based on the business model presented. If there are any changes to the business model they must inform the board. Dr. Bunch seconded the motion. The motion carried. Dr. Eidson and Dr. Dickenson voted no.

## **General Discussion**

Dr. Eidson asked that staff revisit the issue of technicians working on expired registration or unlicensed and to offer recommendations to the board with a more prudent discipline action as it relates to this issue. He suggested that the staff poll other states to see what their policies are in reference to technician working on expired registrations or unlicensed to see if the board is consistent. Ms. McDaniel stated that now that we have more investigators to do more inspections. Dr. Eidson asked that Richard Palombo, R.Ph. board member with the New Jersey Board of Pharmacy. Mr. Palombo stated that they do not fine the technician but will fine the PIC and the pharmacy for allowing the technician to work on an expired registration or for unlicensed practice. Mr. Palombo stated that all the technicians are registered that the pharmacist to technician ratio is 2:1 and to increase that ratio, the technician must be certified through the Pharmacy Technician Certification Board (PTCB) or board approved training that matches PTCB training. Dr. Dilliard stated that he will send out an email blast to the different states on requesting information and bring it before the board.

## **March 12, 2014**

The Tennessee Board of Pharmacy reconvened on Wednesday, March 12, 2014 in the Iris Room, 665 Mainstream Drive, Nashville, TN. A quorum of the members were present, the meeting was called to order at 8:04 a.m., by Dr. Kizer, president.

### **Order Modification (continuation) Jeffrey Street, D.Ph.**

The board continued their discussion regarding the order modification request for Dr. Jeffrey Street. Mr. Cange stated that the board does have the ability to condition the place of employment on a license. Mr. Cange also stated that he has research waiver request submitted to the DEA and that there were several appeals. In some of the appeal cases the DEA looked at the consent orders issued by the individual state boards. After discussion, Dr. Eidson made the motion to modify the consent order to allow Dr. Street the opportunity to work only at Gray Pharmacy and if there are any modifications or request to work at another pharmacy he must come back before the board. The board also feels as though Dr. Street is capable of working with controlled substances. Dr. Bunch seconded the motion. Dr. Dickenson voted no.

### **Appearance**

#### **Board rule 1140-4-.09 (presented at the January 22-23, 2014 meeting)**

Scott Gentry, D.Ph. from Precision Infusion appeared before the board to request using mini IV bags with controlled substance locked in an office as emergency kits at Methodist Hospice. Precision Infusion serves the hospice care patients at Methodist Hospice. After discussion, Dr. Smothers made a motion to approve. After further discussion, Dr. Smothers withdrew her motion. Dr. Stephens made the motion that Precision Infusion submits to the board a copy of their policy and procedures, the definition of hospice to limit the type of environment it can be used in and unit dose. Ms. McDaniel seconded the motion. The motion carried.

Dr. Gentry is appearing today to answer the questions that stated that the hospice residence is where people who are terminal ill go when they are interested in physical and emotional comfort rather than potential heroic efforts to cure. It is designated to resemble a home and the staff provides the caregiver task that allow patient, family and friends more time to spend together. Dr. Gentry stated that they are asking for the permission to store the controlled substance emergency kits at the facility that is similar to a hospital setting that has a closed door pharmacy where medication is stored. He also stated that several hospice setting use Pyxis machines for their medication. The system that he would like to use at Methodist Hospice in Memphis has a double lock mechanism. What is a definition of a unit dose? Dr. Gentry stated that he is using as a reference the policy that the board adopted for long-term care guidelines for emergency kits. The definition of unit dose for hospice facility is the content of the emergency kit is specifically limited to the following;

Up to 40 total units of medications in schedules II-V  
A maximum of 20 units of medications in schedule II.  
Each unit shall not exceed 10 milligrams per milliliter and one unit is 100 milliliters of parenteral formulation.

Dr. Gentry also stated that the kits will have hydromorphone and morphine in the emergency kits with two different strengths 5mg/ml and 10mg/ml both in 100ml bags and no more than 2 bags each in the emergency kit. There will also be a narcotic sign out sheet for the nurses to use and it will offer checks and balances for the pharmacy to keep track of the medication and who signed for it. After discussion, Dr. Smothers made the motion to approve Precision Infusion business model as presented. Dr. Dickenson seconded the motion. Dr. Julie Frazier stated that the DEA requires you to have a prescription before anything can be pulled from an emergency kit and she didn't see anything in the proposal. Also, she doesn't know how this method would apply to USP 797 when they are using the infusion bags that are not patient specific. Dr. Gentry stated that hospice patients have a little leeway in that a doctor can call in a CII for that patient in an emergency situation followed up with a written prescription within 7 days. Dr. Gentry stated that they will also put a "beyond use" sticker on the bag. After further discussion, the motion carried.

Dr. Dilliard stated that he thinks that the definition of unit dose should be listed in the long-term care rules. The business model approved today does not fit with the rules as it is defined. Dr. Dilliard stated that the long term care rules are still in process and if the board wants to clarify what a unit dose is they can add it to the rules.

### **Director's Report**

Dr. Dilliard informed the board about a letter sent anonymously by a Tennessee pharmacist to each board member that addresses problems in the work place which include work flow and staffing. Dr. Dilliard stated that the reason he brought this to the board's attention is because at the last board meeting he informed the board of a survey done by the Oregon Board of Pharmacy that address concerns that the pharmacist had in their workplace. The survey was conducted in

2011 with a follow-up survey in 2013. Dr. Dilliard stated that he would like for the board to consider doing a survey in Tennessee and find out how the pharmacists feel about the practice of pharmacy site.

Dr. Dilliard reminded the board about the upcoming NABP meeting scheduled for May 16-20, 2014. The Maltagon meeting will be held in October in St. Petersburg, FL.

Dr. Dilliard stated that the update seminars went really well and they received good responses and attendance at the meetings. The board is experiencing a staffing shortage with one of the staff members being out on medical leave.

Dr. Dilliard presented to the board the Gap Analysis and asked for their approval to post it on the website. After discussion, the Gap Analysis will be posted on the website.

**Order Modification**  
**James Barnhill, D.Ph.**

Dr. Barnhill is appeared before the board to request that he be allowed to be PIC. Dr. Barnhill signed a consent order on 9/12/2012 placing his pharmacist license on probation for 42 months and he would not be allowed to be PIC for 3 years of probation. After discussion, Dr. Smothers made the motion to amend Dr. Barnhill's consent order and allow him to be PIC at CVS Pharmacy, 346 Crosby Hwy, Newport, TN. Ms. McDaniel seconded the motion. The motion carried.

**Consent Orders**

Dr. Eidson made the motion to accept the consent order as amended. Dr. Smothers seconded the motion. The motion carried.

VIOLATED T.C.A 63-10-305(1)  
Kanning Wu-\$2000.00 civil penalty

Dr. Bunch made the motion to accept the consent order as presented. Dr. Eidson seconded the motion. The motion carried.

VOLUNATARILY SURRENDER  
Neil Cameron-\$2000.00 civil penalty

Dr. Eidson made the motion to accept the consent order as presented. Dr. Bunch seconded the motion. The motion carried.

REINSTATEMENTS  
Jonathan Barnett, D.Ph.  
R. Renee Hammons, D.Ph.

Dr. Dickenson made the motion to accept the consent order as presented. Dr. Eidson seconded the motion. The motion carried.

**PROBATION**

Sharonda Bass, D.Ph.

Ms. McDaniel made the motion to accept the consent order as presented. Dr. Smother seconded the motion. The motion carried.

**PROBATION**

John Lochridge, D.Ph.

Dr. Smothers made the motion to accept the consent order as presented. Dr. Eidson seconded the motion. The motion carried.

**VOLUNTARILY SURRENDER**

Robert B. Kilpatrick, D.Ph.

Dr. Smothers made the motion to accept the consent order as presented. Dr. Eidson seconded the motion. The motion carried.

**VIOLATED BOARD RULE 1140-2-.02(1)**

Angela Lee, RT-\$100.00 civil penalty

**VIOLATED BOARD RULE 1140-2-.02(1) & (2)**

Kenneth D. Harr, D.Ph.-\$1700.00 civil penalty

Dr. Eidson made the motion to accept the consent order as presented. Dr. Smother seconded the motion. The motion carried.

**VIOLATED BOARD RULE 1140-03-.14(8)**

Blessing Ogundele, D.Ph.-\$250.00 civil penalty paid

**Waivers**

**USP 797 Compliance**

Dr. Smothers made the motion to approve the request from **Pharmacy Network Services, Smyrna, TN** to grant a 180 day waiver to become compliant with UPS 797. Ms. McDaniel seconded the motion. The motion carried.

Ms. McDaniel made the motion to approve the request from **The Jones Clinic, Germantown, TN** to grant a 180 day waiver to become compliant with UPS 797. Dr. Dickenson seconded the motion. The motion carried.

Ms. McDaniel made the motion to approve the request from **Southern Hills, Nashville, TN** to grant a 180 day waiver to become compliant with UPS 797. Dr. Smothers seconded the motion. The motion carried.

Dr. Smothers made the motion to approve the request from **Bedcovet Pharmacy, Shelbyville, TN** to grant a 180 day waiver to become compliant with UPS 797. Ms. McDaniel seconded the motion. The motion carried.

Dr. Smothers made the motion to approve the request from **Pioneer Community Hospital, Oneida, TN** to grant a 180 day waiver to become compliant with UPS 797. Dr. Bunch seconded the motion. The motion carried.

Dr. Eidson made the motion to approve the request from **Jellico Community Hospital, Jellico, TN** to grant a 180 day waiver to become compliant with UPS 797. Dr. Bunch seconded the motion. The motion carried.

Dr. Smothers made the motion to approve the request from **Horizon Medical Center, Dickson, TN** to grant a 180 day waiver to become compliant with UPS 797. Ms. McDaniel seconded the motion. The motion carried.

Dr. Smothers made the motion to approve the request from **John Hollis Pharmacy, Nashville, TN** to grant a 180 day waiver to become compliant with UPS 797. Ms. McDaniel seconded the motion. The motion carried.

Dr. Eidson made the motion to approve the request from **University Health Systems, Inc. dba University Cancer Specialist, Knoxville, TN** to grant a 180 day waiver to become compliant with UPS 797. Dr. Bunch seconded the motion. The motion carried.

Dr. Eidson made the motion to approve the request from **University Health Systems, Knoxville, TN** to grant a 180 day waiver to become compliant with UPS 797. Dr. Bunch seconded the motion. The motion carried.

Dr. Smothers made the motion to approve the request from **Reams Drug Store, Sevierville, TN** to grant a 120 day waiver to become compliant with UPS 797. Ms. McDaniel seconded the motion. The motion carried.

Dr. Smothers made the motion to approve the request from **The Medicine Shoppe, Memphis, TN** to grant a 180 day waiver to become compliant with UPS 797. Dr. Bunch seconded the motion. The motion carried.

Dr. Bunch made the motion to approve the request from **Cumberland Vital Care, Crossville, TN** to grant a 180 day waiver to become compliant with UPS 797. Ms. McDaniel seconded the motion. The motion carried.

Dr. Smothers made the motion to approve the request from **Lakeway Regional Hospital, Morristown TN** to grant a 180 day waiver to become compliant with UPS 797. Dr. Dickenson seconded the motion. The motion carried.

Dr. Bunch made the motion to approve the request from **East TN Children's Hospital, Knoxville, TN** to grant a 180 day waiver to become compliant with UPS 797. Ms. McDaniel seconded the motion. The motion carried.

Dr. Bunch made the motion to approve the request from **United Regional Medical Center, Manchester, TN** to grant a 180 day waiver to become compliant with UPS 797. Dr. Dickenson seconded the motion. The motion carried.

Dr. Smothers made the motion to approve the request from **Riverview Regional Medical Center, Carthage, TN** to grant a 180 day waiver to become compliant with UPS 797. Dr. Bunch seconded the motion. The motion carried.

Dr. Dickenson made the motion to approve the request from **Saint Thomas West Hospital, Nashville, TN** to grant a 180 day waiver to become compliant with UPS 797. Ms. McDaniel seconded the motion. The motion carried.

Dr. Bunch made the motion to approve the request from **Jamestown Regional Medical Center, Jamestown, TN** to grant a 180 day waiver to become compliant with UPS 797. Dr. Eidson seconded the motion. The motion carried.

Dr. Eidson made the motion to approve the request from **Saint Thomas Hickman Hospital, Centerville, TN** to grant a 180 day waiver to become compliant with UPS 797. Dr. Dickenson seconded the motion. The motion carried.

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

Dr. Eidson made the motion to approve the request from **Nimesh Patel, 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. Eidson made the motion to approve the request from **Richard Naquin, D.Ph.**, to waive the one hundred and sixty (160) internship hours but he must successfully take and pass the MPJE. Dr. Smothers seconded the motion. The motion carried.

Dr. Eidson made the motion to approve the request from **Lisa B. Marsella, D.Ph.**, to waive the three hundred and twenty (320) internship hours and the NAPLEX but she must successfully take and pass the MPJE. Dr. Bunch seconded the motion. The motion carried.

**Board rule 1140-3-.14(12)**

Ms. McDaniel made the motion to approve the request from **Kerry Cholka, D.Ph.** to be pharmacist in charge at Tennova Healthcare Associate Pharmacy and The University of Tennessee Athletic Department Pharmacy. Dr. Smothers seconded the motion. The motion carried.

Dr. Smothers made the motion to approve the request from **Terry M. Brimer, D.Ph.** to be pharmacist in charge at Doctor's Hospital Pharmacy and Midtown Drug contingent on the inspection of Midtown Drug Company. Dr. Smothers seconded the motion. The motion carried.

Dr. Eidson made the motion to approve the request from **Marshall Faust, D.Ph.** to be pharmacist in charge of the automated dispensing machines at Primacy Healthcare and Rehab(2), and Poplar Point Healthcare and Rehab (2). Dr. Smothers seconded the motion. The motion carried.

**Board rule 1140-01-.13(3) (e)**

Ms. McDaniel made the motion to approve the request from **Wellmont Hancock County Hospital** to waive the requirement that the pharmacy to be one hundred and eighty (180) square feet. The pharmacy will be one hundred and five (105) square feet and the use of hot and cold running water. Dr. Smothers seconded the motion. The motion carried.

**Appearance**  
**Angie Brown, RT**

Ms. Brown answered no to the question that asked "Have you been convicted of a misdemeanor (except minor traffic offenses) including alcohol or drug related offenses (including marijuana or hallucinogens)? Documentation submitted shows that Ms. Brown has entered into an Agreement for Pretrial Diversion for 18 months for embezzlement on February 21, 2013. She is required to make restitution in the amount of \$46,080.69 within the first 15 months of her supervised period. After discussion, Dr. Dickenson made the motion to deny Ms. Brown registration as a pharmacy technician. Dr. Eidson seconded the motion. The motion carried. Ms. McDaniel voted no.

Ms. McDaniel made the motion to adjourn at 12:00 p.m. Dr. Eidson seconded the motion. The motion carried.

**The minutes were approved and ratified by the board as amended at the May 28-29, 2014 board meeting.**

Tennessee Board of Pharmacy  
Board Meeting  
March 11-12, 2014