VIRGINIA BOARD OF PHARMACY
MINUTES OF SPECIAL CONFERENCE COMMITTEE
INFORMAL CONFERENCE COMMITTEE

Thursday, February 21, 2008
Second Floor
Board Room 3

Department of Health Professions
Perimeter Center
9960 Mayland Drive, Suite 300
Richmond, Virginia 23233

CALL TO ORDER:	A meeting of a Special Conference Committee of the Board of Pharmacy was called to order at 9:15 a.m.
PRESIDING:	David C. Kozera, Committee Chairman
MEMBERS PRESENT:	Brandon K. Yi
STAFF PRESENT:	Cathy M. Reiniers-Day, Deputy Executive Director Mykl D. Egan, DHP Adjudication Specialist
JACKSON T. WARD License #0202-003899	Jackson T. Ward appeared to discuss allegations that he may have violated certain laws and regulations governing the practice of pharmacy as stated in the January 22, 2008 Notice.
Closed Meeting:	Mr. Yi moved, and the Committee voted 2-0 in favor of the motion, to convene a closed meeting pursuant to § 2.2-3711.A.28 of the Code of Virginia for the purpose of deliberation to reach a decision in the matter of Jackson T. Ward. Additionally, he moved that Cathy Reiniers-Day and Mykl Egan attend the closed meeting because their presence in the closed meeting was deemed necessary and their presence would aid the Committee in its deliberations.
Reconvene:	Mr. Yi moved, and the Committee voted 2-0 in favor of the motion, that only public business matters lawfully exempted from open meeting requirements and only such public business matters as were identified in the motion for closed meeting were heard, discussed or considered during the closed meeting.
Decision:	After consideration of the evidence and statements concerning the allegations, Mr. Yi moved, and the Committee voted 2-0 in favor of the motion, to close this case as undetermined.

WILLIAM L. GERRARD, JR. License #0202-004205	William L. Gerrard, Jr., appeared with Bonnie Gerrard, his spouse; to discuss allegations that he may have violated certain laws and regulations governing the practice of pharmacy as stated in the January 23, 2008 Notice.
Closed Meeting:	Mr. Yi moved, and the Committee voted 2-0 in favor of the motion, to convene a closed meeting pursuant to § 2.2-3711.A.28 of the Code of Virginia for the purpose of deliberation to reach a decision in the matter of William L. Gerrard, Jr. Additionally, he moved that Cathy Reiniers-Day and Mykl Egan attend the closed meeting because their presence in the closed meeting was deemed necessary and their presence would aid the Committee in its deliberations.
Reconvene:	Mr. Yi moved, and the Committee voted 2-0 in favor of the motion, that only public business matters lawfully exempted from open meeting requirements and only such public business matters as were identified in the motion for closed meeting were heard, discussed or considered during the closed meeting.
Decision:	After consideration of the evidence and statements concerning the allegations, Mr. Yi moved, and the Committee voted 2-0 in favor of the motion, that the Committee make the findings of fact, conclusions of law and sanctions as stated in Attachment 1. As provided by law, this decision shall become a final Order thirty days after service of such Order on Mr. Gerrard unless a written request to the Board for a formal hearing on the allegations made against him is received from Mr. Gerrard within such time. If service of the Order is made by mail, three additional days shall be added to that period. Upon such timely request for a formal hearing, the decision of this Special Conference Committee shall be vacated.
MICHAEL S. MILLER License # 0202-010416	Michael S. Miller appeared to discuss allegations that he may have violated certain laws and regulations governing the practice of pharmacy as stated in the January 25, 2008 Notice.
Closed Meeting:	Mr. Yi moved, and the Committee voted 2-0 in favor of the motion, to convene a closed meeting pursuant to

§ 2.2-3711.A.28 of the Code of Virginia for the purpose of deliberation to reach a decision in the matter of Michael S. Miller. Additionally, he moved that Cathy Reiniers-Day and Mykl Egan attend the closed meeting because their presence in the closed meeting was deemed necessary and their presence would aid the Committee in its deliberations.

Reconvene:

Mr. Yi moved, and the Committee voted 2-0 in favor of the motion, that only public business matters lawfully exempted from open meeting requirements and only such public business matters as were identified in the motion for closed meeting were heard, discussed or considered during the closed meeting.

Decision:

After consideration of the evidence and statements concerning the allegations, Mr. Yi moved, and the Committee voted 2-0 in favor of the motion, that the Committee make the findings of fact, conclusions of law and sanctions as stated in Attachment 2.

As provided by law, this decision shall become a final Order thirty days after service of such Order on Mr. Miller unless a written request to the Board for a formal hearing on the allegations made against him is received from Mr. Miller within such time. If service of the Order is made by mail, three additional days shall be added to that period. Upon such timely request for a formal hearing, the decision of this Special Conference Committee shall be vacated.

GARY COOK
License #0202-006279

Gary Cook appeared with James Mitchell, his attorney; and Cathy Cook, his spouse; to discuss allegations that he may have violated certain laws and regulations governing the practice of pharmacy as stated in the January 17, 2008 Notice.

Closed Meeting:

Mr. Yi moved, and the Committee voted 2-0 in favor of the motion, to convene a closed meeting pursuant to § 2.2-3711.A.28 of the Code of Virginia for the purpose of deliberation to reach a decision in the matter of Gary Cook. Additionally, he moved that Cathy Reiniers-Day and Mykl Egan attend the closed meeting because their presence in the closed meeting was deemed necessary and their presence would aid the Committee in its deliberations.

Reconvene:	Mr. Yi moved, and the Committee voted 2-0 in favor of the motion, that only public business matters lawfully exempted from open meeting requirements and only such public business matters as were identified in the motion for closed meeting were heard, discussed or considered during the closed meeting.
Decision:	After consideration of the evidence and statements concerning the allegations, Mr. Yi moved, and the Committee voted 2-0 in favor of the motion, that the Committee make the findings of fact, conclusions of law and sanctions as stated in Attachment 3. As provided by law, this decision shall become a final Order thirty days after service of such Order on Mr. Cook unless a written request to the Board for a formal hearing on the allegations made against him is received from Mr. Cook within such time. If service of the Order is made by mail, three additional days shall be added to that period. Upon such timely request for a formal hearing, the decision of this Special Conference Committee shall be vacated.
IAN COOPER License #0202-010798	Ian Cooper appeared with Troy Henshaw, HPIP Case Manager; to discuss his compliance with the terms and conditions of his April 29, 2005 Order as stated in the August 27, 2007 Notice.
Closed Meeting:	Mr. Yi moved, and the Committee voted 2-0 in favor of the motion, to convene a closed meeting pursuant to § 2.2-3711.A.28 of the Code of Virginia for the purpose of deliberation to reach a decision in the matter of Ian Cooper. Additionally, he moved that Cathy Reiniers-Day and Mykl Egan attend the closed meeting because their presence in the closed meeting was deemed necessary and their presence would aid the Committee in its deliberations.
Reconvene:	Mr. Yi moved, and the Committee voted 2-0 in favor of the motion, that only public business matters lawfully exempted from open meeting requirements and only such public business matters as were identified in the motion for closed meeting were heard, discussed or considered during the closed meeting.

Decision: After consideration of the evidence and statements concerning the allegations, Mr. Yi moved, and the Committee voted 2-0 in favor of the motion, that the Committee make the findings of fact, conclusions of law and sanctions as stated in Attachment 4.

As provided by law, this decision shall become a final Order thirty days after service of such Order on Mr. Cooper unless a written request to the Board for a formal hearing on the allegations made against him is received from Mr. Cooper within such time. If service of the Order is made by mail, three additional days shall be added to that period. Upon such timely request for a formal hearing, the decision of this Special Conference Committee shall be vacated.

ADJOURN: With all business concluded, the meeting adjourned at 7:10 p.m.

Cathy M. Reniers-Day
Cathy M. Reniers-Day
Deputy Executive Director

David C. Kozera, Chair

5/28/08
Date

William L. Gerrard, Jr.

Findings of Fact and Conclusions of Law:

- William L. Gerrard, Jr. holds license number 0202-004205 issued by the Board to practice pharmacy in the Commonwealth of Virginia.
- During the course of Mr. Gerrard's employment as a pharmacist at Rite Aid Pharmacy #11231 (formerly Eckerd Drugs #8414), Fredericksburg, Virginia:
    - Mr. Gerrard violated § 54.1-3316(5), (7) and (9) of the Code in that by his own admission, the Price Transaction Report provided by the pharmacy indicates that, between April 11, 2006 and/or February 19, 2007, he failed to pay for 49 prescriptions he dispensed to himself and/or his family members.
    - Mr. Gerrard violated § 54.1-3316(5), (6) and (7) and § 54.1-3303(A) and (B) of the Code in that on February 19, 2007, by his own admission, he forged a prescription for Retin-A (tretinoin, Schedule VI) for a family member. Mr. Gerrard recorded the prescription as generic being dispensed and paid the generic co-payment; however, he dispensed the brand drug.
    - As a result of those actions, his employment was terminated.
- On February 21, 2007, Mr. Gerrard was arrested and charged with a felony, to wit, from January 5, 2006 to February 19, 2007, he wrongfully and fraudulently used, disposed of, concealed or embezzled prescription drugs. On June 12, 2007, in the Circuit Court of Spotsylvania County, Virginia, the charge was amended to Felonious Prescription Fraud, wherein he entered a guilty plea with the Court finding the facts to be sufficient for a finding of guilty, but withholding this finding and continuing the case for one year of good behavior and terms and conditions. At that time, if Mr. Gerrard complies with all conditions, the Court shall reduce the charge to a misdemeanor violation.

Sanction

- William L. Gerrard, Jr. be given a REPRIMAND and will be subject to the following terms and conditions:
- Mr. Gerrard shall have an evaluation by a mental health specialist satisfactory to the Board and shall have a written report of the evaluation, including a diagnosis, a recommended course of therapy, and a prognosis sent to the Board within forty-five (45) days from the date this Order is entered. Mr. Gerrard shall comply with any recommendations of the specialist. If therapy is recommended, written quarterly progress reports by the therapist shall be sent to the Board by the last day of the months of March, June, September and December until Mr. Gerrard is discharged from therapy. Mr. Gerrard shall direct the therapist to notify the Board if he withdraws from the treatment program before being officially discharged by the therapist.

Mr. Gerard shall be assessed a monetary penalty of One Thousand Dollars ($1000.00) to be paid to the Board within ninety (90) days from the date this Order is final.

Michael S. Miller

Findings of Fact and Conclusions of Law:

- After consideration of the evidence and statements concerning the allegations, the Committee makes the following findings of fact and conclusions of law:
- Michael S. Miller holds license number 0202-010416 issued by the Board to practice pharmacy in the Commonwealth of Virginia.
- During the course of Mr. Miller's employment as a pharmacist at Food City Pharmacy #820, North Weber City, Virginia:
    - Mr. Miller violated § 54.1-3316(7) and (13), § 54.1-3410(B)(1) and § 54.1-3411(2) of the Code and 18 VAC 110-20-320(A) of the Board of Pharmacy Regulations ("Regulations") in that on April 29, 2006, he refilled an expired prescription for hydrocodone/APAP 10/500 (Schedule III).
    - Mr. Miller violated § 54.1-3316(7) and (13), § 54.1-3410(C) and § 54.1-3411(4) of the Code and 18 VAC 110-20-320(B) of the Regulations in that on April 22, 2006, he refilled three expired prescriptions for Lopressor (metoprolol tartrate), colchicine and Imdur (isosorbide mononitrate) (all Schedule VI) each with a 30-day supply.
    - Mr. Miller violated § 54.1-3316(7) and (13) and § 54.1-3410(D) of the Code in that between April 18, 2006, and May 1, 2006, he received oral prescriptions without making a written record of the full name of the agent of the prescriber transmitting the prescription.
    - Mr. Miller violated § 54.1-3316(7) and § 54.1-3410 of the Code and 18 VAC 110-20-360(B) of the Regulations in that between April 17, 2006, and May 3, 2006, he failed to properly record the required information on prescriptions when he transferred nine prescriptions from other pharmacies to Food City.

Sanction

- WHEREFORE, on the basis of the foregoing Findings of Fact and Conclusions of Law, it is hereby ORDERED that Michael S. Miller be issued a REPRIMAND. Further, the Board ORDERS that Mr. Miller shall be assessed a monetary penalty of Five Hundred Dollars ($500.00) to be paid to the Board within ninety (90) days from the date this Order is final.

Gary Cook

Findings of Fact and Conclusions of Law:

- After consideration of the evidence and statements concerning the allegations, the Committee makes the following findings of fact and conclusions of law:
- Gary V. Cook holds license number 0202-006279 issued by the Board to practice pharmacy in the Commonwealth of Virginia.
- During the course of Mr. Cook's employment as pharmacist-in-charge of Kroger Pharmacy #335, Bristol, Virginia, he violated § 54.1-3316(6) and (7) of the Code and 18 VAC 110-20-270(C) of the Board of Pharmacy Regulations, in that between November 2005, and September 2006, he altered legitimate written prescriptions for Cipro, Imitrex, Zocor and Allegra for family members. As a result of these actions, his employment was terminated.

Sanction

- Gary V. Cook be issued a REPRIMAND. Further, the Board ORDERS that Mr. Cook shall be assessed a monetary penalty of One Thousand Dollars ($1000.00) to be paid to the Board within ninety (90) days from the date this Order is final.

Ian Cooper

Findings of Fact and Conclusions of Law:

- After consideration of the evidence and statements concerning the allegations, the Committee makes the following findings of fact and conclusions of law:
- Ian S. Cooper held license number 0202-010798 issued by the Board to practice pharmacy in the Commonwealth of Virginia. Said license expired on December 31, 2007.
- Mr. Cooper violated Term 5 of the Order of the Board of Pharmacy entered April 29, 2005, that required he remain in compliance with the terms and conditions placed upon him by the Health Practitioners' Intervention Program ("HPIP") for the period specified by HPIP, in that, on August 30, 2006, Mr. Cooper received a notice of noncompliance from HPIP and was placed on pre-dismissal status. Mr. Cooper stated to the Committee that he entered a Fairfax County, Virginia, Community Services Board detoxification program and was in a halfway house, however, he could not financially afford to enter into residential treatment.
- Troy Henshaw, Case Manager with HPIP, stated that HPIP realized Mr. Cooper was doing all he could by being in the halfway house, therefore, it was not required that Mr. Cooper obtain residential treatment. Mr. Henshaw also stated that he verified Mr. Cooper's entry into the halfway house.
- Mr. Cooper stated to the Committee that he must complete his continuing education requirements but expects to have his license renewed on or about February 25, 2008.

Sanction

- WHEREFORE, on the basis of the foregoing Findings of Fact and Conclusions of Law, it is hereby ORDERED that upon the renewal of his license to practice pharmacy, Ian S. Cooper is CONTINUED on PROBATION under the following terms and conditions:
- The period of probation shall begin on the date that this Order becomes final. Mr. Cooper shall extend the HPIP Recovery Monitoring Contract date to three (3) years after he begins working a minimum of twenty (20) hours per week as a pharmacist. At the time of completion of his HPIP Recovery Monitoring Contract, his probation will end and the terms and conditions imposed by this Order upon the license of Ian S. Cooper to practice pharmacy shall be removed without any further administrative proceedings by the Board unless there is any pending investigation or unresolved allegation of a violation of law or regulation affecting the practice of pharmacy. In the event there is any pending investigation or unresolved allegation, the period of probation shall be continued indefinitely or until such time as the Board makes a determination in any such matter in accordance with the Administrative Process Act, § 2.2-4024 et seq. of the Code of Virginia.

- Mr. Cooper shall not be Pharmacist-in-Charge ("PIC") during the probationary period.
- Mr. Cooper shall provide written notification to the pharmacist-in-charge (PIC) of each location that he works, that his pharmacy license is on probation and provide the PIC with a copy of this Order in its entirety. Within 10 days of notifying the PIC of his probation, he shall forward to the Board a copy of the written notification he gave the PIC.
- Mr. Cooper shall inform the Board in writing within ten (10) days of the date he resumes pharmacy practice and he shall provide the Board with the name and address of the employer. He shall inform the Board in writing within ten (10) days of any change of employment or any interruption in pharmacy practice.
- Mr. Cooper shall continue participation with HPIP and shall comply with the terms and conditions for the period specified by HPIP. Any violation of the terms and conditions of HPIP shall be reason for revoking the license of Mr. Cooper, and an administrative proceeding shall be held to decide whether Mr. Cooper's license shall be revoked. Mr. Cooper shall be noticed to appear at an administrative hearing at such time as the Board is notified that he is not in compliance with the terms and conditions specified by HPIP or has been unfavorably discharged from participation in HPIP.