

KENTUCKY BOARD OF PHARMACY
23 Millcreek Park, Bldg. 2
Frankfort, KY 40601-9230
December 4, 2002- 9:00 a.m.

AGENDA

- I. CALL TO ORDER**
- II. APPEARANCES**
 - A. Rebecca Cecil - Dept of Mental Health and Mental Retardation Services
- III. MINUTES**
 - A. October 9, 2002
- IV. INTERAGENCY**
 - A. Drug Control
- V. BOARD REPORTS**
 - A. Board President
 - B. Board Members
 - C. Board Executive Director
 - 1. Memorandum of Understanding - House Bill 296
 - 2. Case No. 02-0119
 - D. Board Staff
- VI. CURRENT/PENDING CASES**
 - A. OAG Case Updates - C. Lalonde-Mooney
3:30 P.M.
 - Case No. 02-0123B
 - Case No. 02-0123C
 - B. KBP Case Updates
 - Case No. 01-0138
 - Case No. 01-0088
 - Case No. 02-0077A&B
 - Case No. 02-0083C
 - Case No. 02-0083D
 - Case No. 02-0102
 - Case No. 02-0109Y
 - Case No. 02-0109MM
 - Case No. 02-0109NN
 - Case No. 02-0109PP
 - Case No. 02-0109TT
 - Case No. 02-0115
 - Case No. 02-0122
 - Case No. 02-0124
 - Case No. 02-0128
 - Case No. 02-0133
 - Case No. 02-0147
 - Case No. 02-0156
 - C. Case Review Committee
- VII. RECIPROCITY/RELICENSURE/INTERNSHIP**
 - A. George Harlan Day
- VIII. CORRESPONDENCE/COMMUNICATIONS**
 - A. Jeff VanArsdale
 - B. Warren Fletcher - Home Pharmacy Solutions
 - C. Somerset Pharmacy - John Simkins
 - D. Michael Whitaker

E. Jared Combs

IX. NABP

A.FGEE ADMINISTRATION- SECURITY BREACH

X. LEGISLATION/REGULATIONS

XI. CONTINUING EDUCATION

A. Program Review

XII. FINES

XIII. OLD BUSINESS

XIV. NEW BUSINESS

*Information enclosed with this agenda

**Information previously provided

***Old material with response

MINUTES
KENTUCKY BOARD OF PHARMACY
Frankfort, Kentucky
December 4, 2002

CALL TO ORDER: A regular meeting of the Kentucky Board of Pharmacy was held at the Board office, 23 Millcreek Park, in Frankfort, Kentucky. President Foster called the meeting to order at 9:05 a.m.

Members present: Thomas S. Foster, Tim Armstrong, Becky M. Cooper, Patricia Thornbury, Georgina Kindall-Jones, and Joe Carr. Staff present: Michael A. Moné, Executive Director; Jeffrey L. Osman, Pharmacy Inspections and Investigations Coordinator; Katie Busroe, Maxine Snively and Philip C. Losch, Pharmacy and Drug Inspectors; Cheryl Lalonde-Mooney, Assistant Attorney General and Board Counsel; and Shannon Settles, Executive Secretary. Guests: Mike Mayes, KPhA; Brian Fingerson, Pharmacist Recovery Network; Nancy Horn, UK/APSC Post-Doc Fellow; Jan Gould, Kentucky Retail Federation; Mark Edwards; Molly Armstrong; and Bill Thornbury; Vivian Lewis, Court Reporter, recorded the meeting.

APPEARANCES: **Dept. of Mental Health and Mental Retardation Services/Rebecca Cecil.** Ms. Cecil appeared before the Board and gave a brief overview of issues relating to bioterrorism, and the need to appeal to pharmacists to establish a volunteer workforce in the event of a terrorist attack.

MINUTES: On motion by Ms. Jones, seconded by Ms. Thornbury and passed unanimously, the Minutes of October 9, 2002 were adopted as amended.

BOARD REPORTS: **President.** President Foster gave an update of the July 2002 Board exam statistics. President Foster informed the Board of Cathy Quarles appointment to the Impaired Pharmacists Committee. Ms. Jones moved to accept the appointment. Mr. Armstrong seconded and the motion passed unanimously.

The Board presented President Foster with a gift in honor of his service. President Foster thanked the Board and staff.

Mr. Carr. Mr. Carr gave a brief overview of the Southeastern Pharmacist Recovery Network Program he attended in Atlanta, Georgia in November.

Ms. Thornbury. Ms. Thornbury gave a brief overview of the bioterrorism seminar she attended in November. Ms. Thornbury also stated that she would like to have a list of the names of new licensees from each Board exam to be provided to the Board.

Executive Director. Mr. Moné updated members on the Memorandum of Understanding - House Bill 296. After a brief discussion, Mr. Carr moved to accept the Memorandum of Understanding as amended. Ms. Jones seconded and the motion passed unanimously.

Mr. Moné provided the Board with more information regarding Case No. 02-0119. After a brief discussion, Ms. Thornbury moved to dismiss the case. Ms. Jones seconded and the motion passed unanimously.

CURRENT/PENDING CASES: Ms. Jones moved for acceptance and entry of the proposed Agreed Orders as written. Mr. Armstrong seconded and the motion passed unanimously.

Case No. 01-0138; Case No.01-0088; Case No.02-0077A; Case No. 02-0077B; Case No. 02-0083C; Case No. 02-0083D; Case No. 02-0102; Case No. 02-0109Y; Case No. 02-0109MM; Case No. 02-0109NN; Case No. 02-0109PP; Case No. 02-0109TT; Case No. 02-0115; Case No. 02-0122; Case No. 02-0124; Case No. 02-0128; Case No. 02-0133; Case No. 02-0147; Case No. 02-0156.

CASE REVIEW COMMITTEE

Ms. Jones moved for acceptance of the Committee recommendation for the following case reports, Mr. Armstrong seconded. Ms. Thornbury moved to amend the motion to separate the Med Error cases from the recommendations contained in the report. The motion to amend died for lack of a second. Ms. Thornbury voted in opposition to the main motion.

Case No. 02-0167. Pharmacist allegedly violated previous Agreed Order. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 01-0025 Revisit. Pharmacy permit holder allegedly failed to have in place controls and policies in which patients are offered and receive counseling. CRC recommendation: There is sufficient evidence of a violation, however, the penalty shall be the issuance of a Letter of Reprimand. Mr. Armstrong seconded and the motion passed.

Case No. 02-0068A. Pharmacy permit holder allegedly sells misbranded and adulterated drug product in the form of professional samples in a retail setting. CRC recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice. Mr. Armstrong seconded and the motion passed.

Case No. 02-0068B. Pharmacist allegedly sells professional samples in a retail setting. CRC recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice. Mr. Armstrong seconded and the motion passed.

Case No. 02-0091A Revisit. Pharmacy permit holder allegedly failed to report prescription data to the Kentucky All Scheduled Prescription Electronic Reporting system. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 02-0091B Revisit. Pharmacist allegedly failed to report prescription data to the Kentucky All Scheduled Prescription Electronic Reporting system. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 02-0098. Pharmacist allegedly engaged in unprofessional conduct by refusing to share a patient's medical information with another health care professional. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 02-0101A Revisit. Pharmacy permit holder allegedly failed to have in place a system for pharmacists to provide prospective drug use review by reviewing rationale for use of drugs or clinical misuse or abuse of drugs. CRC recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice. Mr. Armstrong seconded and the motion passed.

Case No. 02-0101B Revisit. Pharmacist allegedly failed to provide prospective drug use review by not reviewing rationale for use of drugs or clinical misuse or abuse of drugs. CRC recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice. Mr. Armstrong seconded and the motion passed.

Case No. 02-0109SS Revisit. Pharmacy permit holder allegedly failed to renew permit in a timely manner and opened for business on an expired permit. CRC recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice. Mr. Armstrong seconded and the motion passed.

Case No. 02-0109VV. Special medical gas permit holder allegedly failed to renew permit in a timely manner and opened for business on an expired permit. CRC recommendation: There is sufficient evidence of a violation, however, the penalty shall be the issuance of a Letter of Reprimand. Mr. Armstrong seconded and the motion passed.

Case No. 02-0109WW. Special medical gas permit holder allegedly failed to renew permit in a timely manner and opened for business on an expired permit. CRC recommendation: There is sufficient evidence of a violation, however,

the penalty shall be the issuance of a Letter of Reprimand. Mr. Armstrong seconded and the motion passed.

Case No. 02-0114A. Pharmacy permit holder allegedly sold a misbranded product as the result of an alleged medication error and allegedly failed to maintain a computerized record keeping system that allowed a pharmacist to accurately dispense a prescription. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 02-0114B. Pharmacist engaged in unprofessional conduct by allegedly refusing to fill a prescription and allegedly committing a medication error. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 02-0120A. Pharmacy permit holder allegedly sold a misbranded product as the result of an alleged medication error. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 02-0120B. Pharmacist allegedly engaged in unprofessional conduct by committing a medication error. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 02-0125. Pharmacy permit holder allegedly sold a misbranded product as the result of an alleged medication error. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 02-0127. Pharmacist allegedly engaged in negligent and unprofessional conduct by having a prescription delivered to an Alzheimer's patient when a request not to do so had been made by family. CRC recommendation: There is insufficient evidence developed and the investigator is directed to conduct further investigation. Mr. Armstrong seconded and the motion passed.

Case No. 02-0130. Pharmacist allegedly engaged in unprofessional conduct by refusing to transfer prescription information. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 02-0134A. Pharmacy permit holder allegedly committed insurance fraud. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 02-0134B. Pharmacist allegedly engaged in unprofessional conduct by committing insurance fraud. CRC recommendation: There is insufficient evidence developed and the investigator is directed to conduct further investigation. Mr. Armstrong seconded and the motion passed.

Case No. 02-0137A. Special medical gas permit holder allegedly failed to renew permit in a timely manner and opened for business on an expired permit. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 02-0137B. Pharmacist-in-charge of a special medical gas permit holder allegedly failed to renew permit in a timely manner and opened for business on an expired permit. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 02-0138. Pharmacist allegedly failed to keep proper records of controlled substances as the result of an allegedly incorrectly counted prescription. CRC recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice. Mr. Armstrong seconded and the motion passed.

Case No. 02-0139A. Pharmacy permit holder allegedly sold a misbranded product as the result of an alleged medication error. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 02-0139B. Pharmacist allegedly engaged in unprofessional conduct by committing a medication error. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 02-0140. Pharmacist allegedly self-prescribed and dispensed antihypertensive, antidiabetic, and antihypersecretory legend drugs for himself for several years without authorization from a physician. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 02-0141A. Pharmacy permit holder allegedly sold a misbranded product as the result of an alleged medication error. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 02-0141B. Pharmacist allegedly engaged in unprofessional conduct by committing a medication error. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 02-0141C. Pharmacist allegedly engaged in unprofessional conduct by lying to the patient and inspector. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 02-0142. Pharmacist allegedly diverted non-controlled, legend drugs and engaged in unprofessional conduct by improperly filling a controlled substance prescription. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 02-0143A. Pharmacy permit holder allegedly attempted to conduct business in a state in which it was not licensed. CRC recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice. Mr. Armstrong seconded and the motion passed.

Case No. 02-0143B. Pharmacist allegedly engaged in unprofessional conduct by requesting authorization to fill a prescription in a state in which the pharmacy was not licenced. CRC recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice. Mr. Armstrong seconded and the motion passed.

Case No. 02-0144A. Pharmacy permit holder allegedly sold a misbranded product as the result of an alleged medication error. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 02-0144B. Pharmacist allegedly engaged in unprofessional conduct by committing a medication error. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 02-0145. Wholesaler permit holder allegedly distributed near expired stock. CRC recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice. Mr. Armstrong seconded and the motion passed.

Case No. 02-0146A. Pharmacy permit holder allegedly sold a misbranded product as the result of an alleged medication error. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 02-0146B. Pharmacist allegedly engaged in unprofessional conduct by committing a medication error. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 02-0148A. Pharmacy permit holder allegedly sold a misbranded product as the result of an incorrect prescriber being identified on the prescription label. CRC recommendation: There is sufficient evidence of a violation, however, the penalty shall be the issuance of a Letter of Reprimand. Mr. Armstrong seconded and the motion passed.

Case No. 02-0148B. Pharmacist allegedly failed to maintain proper record keeping as the result of identifying the incorrect prescriber on a prescription. CRC recommendation: There is sufficient evidence of a violation, however, the penalty shall be the issuance of a Letter of Reprimand. Mr. Armstrong seconded and the motion passed.

Case No. 02-0149A. Pharmacy permit holder allegedly failed to have in place quality controls, as a result a patient was shorted medication. CRC recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice. Mr. Armstrong seconded and the motion passed.

Case No. 02-0149B. Pharmacist allegedly failed to keep proper records of controlled substances as the result of an allegedly incorrectly counted prescription. CRC recommendation: There is insufficient evidence of a violation to warrant

disciplinary action and the case is closed without prejudice. Mr. Armstrong seconded and the motion passed.

Case No. 02-0151A. Pharmacy permit holder allegedly sold a misbranded product as the result of an alleged medication error. CRC recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice. Mr. Armstrong seconded and the motion passed.

Case No. 02-0151B. Pharmacist allegedly engaged in unprofessional conduct by committing a medication error. CRC recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice. Mr. Armstrong seconded and the motion passed.

Case No. 02-0154A. Wholesaler permit holder allegedly failed to renew permit in a timely manner. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 02-0154B. Wholesaler permit holder allegedly failed to renew permit in a timely manner. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 02-0154C. Wholesaler permit holder allegedly failed to renew permit in a timely manner. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 02-0154D. Wholesaler permit holder allegedly failed to renew permit in a timely manner. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 02-0154E. Wholesaler permit holder allegedly failed to renew permit in a timely manner. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 02-0154F. Wholesaler permit holder allegedly failed to renew permit in a timely manner. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 02-0154G. Wholesaler permit holder allegedly failed to renew permit in a timely manner. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 02-0154H. Wholesaler permit holder allegedly failed to renew permit in a timely manner. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 02-0154I. Wholesaler permit holder allegedly failed to renew permit in a timely manner. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 02-0154J. Wholesaler permit holder allegedly failed to renew permit in a timely manner. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 02-0155. Pharmacist is allegedly impaired. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 02-0157A. Pharmacy permit holder allegedly failed to have in place a system for pharmacists to provide prospective drug use review by reviewing rationale for use of drugs or clinical misuse or abuse of drugs. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 02-0157B. Pharmacist allegedly failed to provide prospective drug use review by not reviewing rationale for use of drugs or clinical misuse or abuse of drugs. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 02-0158A. Pharmacy permit holder allegedly sold a misbranded product as the result of an alleged medication error. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 02-0158B. Pharmacist allegedly engaged in unprofessional conduct by committing a medication error. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 02-0160. Wholesaler permit holder allegedly failed to renew permit in a timely manner. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 02-0161A. Special limited medical gas permit holder allegedly relocated without a prior inspection from the Board office. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 02-0161B. Wholesaler permit holder allegedly relocated without a prior inspection from the Board office.

CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 02-0163A. Wholesaler permit holder allegedly failed to verify legitimacy of a Kentucky special limited medical gas permit holder. CRC recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed. Mr. Armstrong seconded and the motion passed.

Case No. 02-0163B. Out of state special limited medical gas permit holder allegedly failed to verify legitimacy of a Kentucky special limited medical gas permit holder. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 02-0164A. Special limited medical gas permit holder refilled oxygen prescriptions past the one year expiration date. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

Case No. 02-0164B. Pharmacist-in-charge of a special limited medical gas permit holder allegedly engaged in unprofessional conduct by refilling oxygen prescriptions past the one year expiration date. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Armstrong seconded and the motion passed.

RECIPROCITY/RELICENSURE/INTERNSHIP: George Day. The Board reviewed a request from George Day for licensure by reciprocity. After discussion Ms. Thornbury moved to approve. Ms. Jones seconded and the motion passed unanimously.

CORRESPONDENCE: Jeff VanArsdale. The Board reviewed correspondence requesting a reduction in the frequency of urine drug screens. After discussion, Ms. Jones moved to approve the request. Ms. Cooper seconded and the motion passed unanimously.

Home Pharmacy Solutions/Warren Fletcher. The Board reviewed correspondence requesting an equipment waiver and to request to share reference materials for Somerset Pharmacy and Home Pharmacy Solutions. After discussion, Mr. Armstrong moved to approve the request. Mr. Carr seconded and the motion passed unanimously.

Somerset Pharmacy/ John Simkins. The Board reviewed correspondence requesting Ronald Wright be pharmacist-in-charge for Somerset Pharmacy, Healthline Pharmacy, and Pulaski Drug. After discussion, Mr. Armstrong moved to approve the request. Mr. Carr seconded and the motion passed unanimously.

Michael Whitaker. Mr. Moné informed the Board that he had received a letter from Michael Whitaker requesting approval of relocating within CVS. Dr. Foster temporarily approved the request. After discussion, Mr. Carr moved to approve the request. Mr. Armstrong seconded and the motion passed unanimously.

Jared Combs. The Board reviewed correspondence requesting a reduction in the frequency of urine drug screens. After discussion, Ms. Jones moved to approve the request. Mr. Carr seconded and the motion passed unanimously.

CONTINUING EDUCATION: Ms. Thornbury moved to accept the continuing education programs 02-77 through 02-90 as amended. Mr. Carr seconded and the motion passed unanimously.

NEW BUSINESS: Dr. Osman swore in the newly appointed Board Member; Mr. Mark S. Edwards. Dr. Osman swore in the reappointed Board Members; Ms. Becky Cooper and Ms. Georgina Kindall-Jones.

Board President. The Board officially installed Ms. Georgina Kindall-Jones as President for 2003.

EXECUTIVE SESSION: Mr. Carr moved to go into Executive Session under authority of KRS 61.810(1)(f) to discuss Case No. 02-0123B&C. Ms. Cooper seconded and the motion passed unanimously. The Board entered into Executive Session.

OPEN SESSION: Mr. Armstrong moved to go out of Executive Session into open session. Ms. Thornbury

seconded and the motion passed unanimously.

Mr. Carr moved to accept the Agreed Orders 02-0123B&C. Mr. Armstrong seconded and the motion passed unanimously. Ms. Cooper strongly stated that the actions of the Respondents seriously affected the safety and welfare of the public.

ADJOURNMENT: On motion by Mr. Carr, seconded by Ms. Cooper and passed unanimously, President Jones adjourned the meeting at 4:30 p.m. The next Board meeting is scheduled to begin at 9:00 a.m. on January 8, 2003, at the Board office in Frankfort.

Michael A. Moné, Executive Director

MAM:sms

MINUTES APPROVED January 8, 2003.