

**KENTUCKY BOARD OF PHARMACY**  
**Board Meeting and Board Retreat**  
**Courtyard Cincinnati Covington**  
**500 West 3<sup>rd</sup> Street**  
**Covington, Kentucky 41011**  
**November 13, 2009**  
**9:00 a.m.**

**Agenda**

**I. CALL TO ORDER**

**II. MINUTES**

- \*A. September 9, 2009

**III. APPEARANCES**

- \*A. Alesia Bernardo: Reinstatement-9:15 a.m.
- \*B. William Hamilton: Reinstatement-9:45 a.m.
- \*C. Dan Daffron: Reinstatement-10:15 a.m.
- \*D. Gary McPherson: Reinstatement-10:45 a.m.
- \*E. David Walters: Reinstatement-11:30 a.m.
- \*F. Gregory Dodds: Reinstatement-1:00 p.m.

**IV. INTERAGENCY**

**V. BOARD REPORTS**

- A. Board President
  - 1. Emergency/Disaster Committee
- B. Board Members
- C. Board Executive Director
  - \*1. eMARS (September FY 10)
  - 2. Building/Move Update
  - \*3. 2010 Board Calendar DRAFT
  - 4. Board Meeting 2010 Sullivan University College of Pharmacy-March
- D. Board Staff
- E. PRN Chair

**VI. CURRENT/PENDING CASES**

- A. OAG-Cheryl Lalonde
- \*B. Case Update
- \*C. Case Review

**VII. RECIPROCITY/RELICENSURE/INTERNSHIP**

**VIII. CORRESPONDENCE/COMMUNICATION**

- \*A. Expungement 09-01

**IX. NABP**

**X. LEGISLATION/REGULATION**

**XI. CONTINUING EDUCATION**

**XII. FINES**

**XIII. OLD BUSINESS**

**XIV. NEW BUSINESS**

**XV. FYI**

**XVI. RETREAT: TIME PERMITTING RETREAT WILL COMMENCE ON FRIDAY  
(SEE ATTACHED FOR AGENDA ITEMS)**

**\*Information enclosed with this agenda**

**\*\*Information previously provided**

**\*\*\*Old material with response**

## **KENTUCKY BOARD OF PHARMACY**

Board Meeting and Board Retreat  
Courtyard Cincinnati Covington  
500 West 3<sup>rd</sup> Street  
Covington, Kentucky 41011

November 13-14, 2009

**CALL TO ORDER:** A regular Meeting and Retreat of the Kentucky Board of Pharmacy was held at the Courtyard Cincinnati Covington, Covington, Kentucky. President Shely called the meeting to order at 9:05 a.m.

Members present: Catherine Shely, Larry Hadley, Mike Leake, Anne Policastri and Sandy Simpson. Staff: Mike Burleson, Executive Director; Steve Hart, Pharmacy Inspections and Investigations Coordinator; Shannon Allen, Katie Busroe, Chris Frasure and Phil Losch, Pharmacy and Drug Inspectors; Lisa Atha, Executive Secretary; and Cheryl Lalonde, Assistant Attorney General and Board Counsel. Guests: Ralph Bouvette and Sam Lyons, APSC; Brad Hall, Kentucky Pharmacists Association; Melissa Groover, CVS/Caremark; Chris Killmeier and Debbie Harris, Walgreens; Pete Orzali, Humana; Kim Morgan, Target Pharmacy; Brent Wallace, Meijer Pharmacy; Sam Wornall, resident, St. Claire Regional Medical Center; Deborah Brewer and Scott Greenwell, Board members-elect; Ernie Coscia; Alesia Bernardo; William Hamilton; Gary McPherson; David Walters; and Chad Early, Annie Nguyen, Bhau Patel and Amy Agee, College of Pharmacy Students. Melody Curtis, Court Reporter, recorded the meeting. Joel Thornbury, Board Member, was not present on Friday, November 13, 2009. Brian Fingerson, Pharmacist Recovery Network Committee, was not present on Friday, November 13 and Saturday, November 14, 2009.

**MINUTES:** On motion by Dr. Policastri, seconded by Mr. Hadley and passed unanimously, the Minutes of September 9, 2009 Board Meeting were approved.

**APPEARANCES:** **Alesia Bernardo.** Ms. Bernardo was sworn in by Melody Curtis, Court Reporter. Ms. Bernardo appeared before the Board asking for reinstatement of her Kentucky pharmacist's license. Ms. Bernardo gave a brief overview of the events that lead to the loss of her license. After discussion, Mr. Hadley moved to reinstate Alesia Bernardo's Kentucky pharmacist's license with stipulations as follows: probation for as long as she is a Kentucky licensed pharmacist; shall maintain a perpetual inventory at all places of employment for Schedule II drugs, with electronic tracking of Schedule III-V drugs and expired controlled substances, perpetual inventory shall be made available to the Board upon request and audits may be conducted; shall attend AA/NA meetings no less than 6 times per 2 week period or 12 meetings per calendar month, which shall include a minimum of 2 meetings per week; Board shall conduct quarterly inspections at all locations of employment or practice as a pharmacist for the first two years of probation, then semi-annually thereafter, the cost of which not to exceed \$500 per inspection, shall be paid to the Board within 30 days of invoicing; agrees that a violation of the Agreed Order of Reinstatement shall cause her to automatically lose her license

to practice pharmacy for not less than five years and one day and shall require individual to petition the Board for reinstatement only after she has taken and successfully passed the entire Kentucky Board of Pharmacy licensure examination; continuing education requirements must be satisfied, renewal fees and any penalties must be paid, and a complete renewal application must be submitted; maximum hours of work: 45 hours/week or 90 hours/2 weeks, with a maximum of 50 hours in any 7 consecutive days and no overtime; shall provide a copy of this Agreed Order to all employers and pharmacists-in-charge; shall sign an aftercare contract, to include drug counselor if indicated, with the Pharmacist Recovery Network Committee (PRNC) for the length of the Agreed Order; any violation of this Agreed Order or PRN contract shall be reported to the Board and PRNC Chair within 24 hours of violation; shall notify Board of change of home address, telephone number, and/or email within 7 days of change; shall provide to the Board and PRNC a signed release granting the Board and PRNC access to all written medical records and conversations regarding medical care; shall provide the Board and PRNC with written monthly reports of all AA/NA meetings; shall agree to provide observed urine, other body fluid, or hair samples for drug/alcohol screens at the direction of PRNC, the Board or any other monitoring body; provide copies of any results of any screens ordered to the Board and PRNC; provide notification to PRNC Chair, Board and testing company of anything that may affect pharmacist's availability for screens prior to event, a missed screen shall be cause for reporting such to the Board, any positive screen that is a violation of the Agreed Order or PRN contract shall be communicated to the Board by the PRNC Chair within 24 hours, a report indicating a presumptive presence shall constitute a conclusive basis, without the necessity of a hearing, for a determination that pharmacist is not in compliance with the terms of this Agreed Order of Reinstatement; shall agree to abstain from any and all mood-altering chemicals, except as prescribed by pharmacist's physician and only after consultation with PRNC Chair; shall notify PRNC Chair in advance if any mood-altering and/or potentially addictive medications are required or recommended by pharmacist's physician; shall provide documentation to PRNC Chair of the need for the medication within 3 days; shall renew verification with PRNC Chair every 90 days if need for medication is ongoing; shall give up the right to self medicate with the exception of single entity OTC NSAIDS and acetaminophen; shall be excluded from accepting a position of pharmacist-in-charge, power of attorney, or preceptor; shall advise Board at all times of place of employment and shall only practice at a location with a work schedule that has received prior approval of the Board or its President; shall obtain all prescriptions and those of family at a pharmacy designated in writing to the Board; prescriptions shall not be filled by a family member or at any family owned pharmacy and shall not dispense any drugs for self or family; shall attend within 1 year of entry of this Agreed Order either the University of Utah School on Alcoholism and other Drug Dependencies, CAPTASA, or SE PRN meeting and shall provide a certificate of completion; shall provide monthly written self performance evaluations to the Board and PRNC Chair and shall make all appearances before the PRNC as requested, including an annual appearance closest to the anniversary date of reinstatement; shall not work at a pharmacy owned, in whole or in part, by her or another member of her family and shall not possess a key to a pharmacy owned, in whole or in part, by her or another member of her family; shall not be on the premises of any pharmacy owned, in whole or in part, by her or another member of her family; during probation shall have prior approval to own a new pharmacy, in whole or in part, by the Board or Board President; committing any act that results in violation of federal or state pharmacy or drug statute or regulation, may result in an emergency suspension of

pharmacist's license, require an appearance before the Board, or result in a complaint against pharmacist's license with the Board imposing any applicable penalties; and shall not seek to amend or modify this Agreed Order. Above information shall be reported to NABP and is subject to disclosure under the Kentucky Open Records Act. Mr. Leake seconded, and the motion passed unanimously.

**William Hamilton.** Mr. Hamilton was sworn-in by Melody Curtis, Court Reporter. Mr. Hamilton appeared before the Board requesting permission to take the Kentucky Board of Pharmacy licensure examination and for reinstatement of his Kentucky pharmacist's license. Mr. Hamilton had last appeared before the Board at the March 12, 2008 Board Meeting. Mr. Hamilton gave a brief overview of what he has done since his last appearance. After discussion, Mr. Leake moved to allow William Hamilton to sit for the Kentucky Board of Pharmacy licensure examination and upon successful completion within a two year time period, reinstate his Kentucky pharmacist's license with stipulations. If Mr. Hamilton does not successfully complete the Kentucky Board of Pharmacy licensure examination within two years, he must reappear before the Board. The stipulations are as follows: probation for 5 years; continuing education requirements must be satisfied, licensure fees and any penalties must be paid, and a complete licensure application must be submitted; shall provide a copy of this Agreed Order to all employers and pharmacists-in-charge; shall provide notice of Office of Inspector General exclusion list to all employers and pharmacists-in-charge; shall notify the Board of change of home address, telephone number, and/or email within 7 days of change; shall be excluded from accepting a position of pharmacist-in-charge, power of attorney, or preceptor; shall advise Board at all times of place of employment and shall only practice at a location that has received prior approval of the Board or its President; shall not work at a pharmacy owned, in whole or in part, by him or another member or his family and shall not possess a key to a pharmacy owned, in whole or in part, by him or another member of his family; committing any act that results in violation of federal or state pharmacy or drug statute or regulation, may result in an emergency suspension of pharmacist's license, require an appearance before the Board, or result in a complaint against pharmacist's license with the Board imposing any applicable penalties; and shall not seek to amend or modify this Agreed Order. Above information shall be reported to NABP and is subject to disclosure under the Kentucky Open Records Act. Ms. Simpson seconded, and the motion passed unanimously.

**Dan Daffron.** Mr. Daffron will appear at the December 16, 2009 Board Meeting.

**Gary McPherson.** Mr. McPherson was sworn-in by Melody Curtis, Court Reporter. Mr. McPherson appeared before the Board asking for reinstatement of his Kentucky pharmacist's license. Mr. McPherson gave a brief overview of the events that lead to the loss of his license. After discussion, Dr. Policastri moved to reinstate Gary McPherson's Kentucky pharmacist's license with the stipulations as follows: 5 years probation; shall maintain a perpetual inventory at all places of employment for Schedule II drugs, with electronic tracking of Schedule III-V drugs and expired controlled substances, perpetual inventory shall be made available to the Board upon request and audits may be conducted; shall attend AA/NA meetings no less than 6 times per 2 week period or 12 meetings per calendar month, which shall include a minimum of 2 meetings per week; Board shall conduct quarterly inspections at all locations of employment or practice as a pharmacist for the first two years of probation, then semi-annually thereafter, the cost of which not to exceed \$500 per

inspection, shall be paid to the Board within 30 days of invoicing; continuing education requirements must be satisfied, renewal fees and any penalties must be paid, and a complete renewal application must be submitted; maximum hours of work: 45 hours/week or 90 hours/2 weeks, with a maximum of 50 hours in any 7 consecutive days and no overtime; shall provide a copy of this Agreed Order to all employers and pharmacists-in-charge; shall sign an aftercare contract, to include drug counselor if indicated, with the Pharmacist Recovery Network Committee (PRNC) for the length of the Agreed Order; any violation of this Agreed Order or PRN contract shall be reported to the Board and PRNC Chair within 24 hours of violation; shall notify Board of change of home address, telephone number, and/or email within 7 days of change; shall provide to the Board and PRNC a signed release granting the Board and PRNC access to all written medical records and conversations regarding medical care; shall provide the Board and PRNC with written monthly reports of all AA/NA meetings; shall agree to provide observed urine, other body fluid, or hair samples for drug/alcohol screens at the direction of PRNC, the Board or any other monitoring body; provide copies of any results of any screens ordered to the Board and PRNC; provide notification to PRNC Chair, Board and testing company of anything that may affect pharmacist's availability for screens prior to event, a missed screen shall be cause for reporting such to the Board, any positive screen that is a violation of the Agreed Order or PRN contract shall be communicated to the Board by the PRNC Chair within 24 hours, a report indicating a presumptive presence shall constitute a conclusive basis, without the necessity of a hearing, for a determination that pharmacist is not in compliance with the terms of this Agreed Order of Reinstatement; shall agree to abstain from any and all mood-altering chemicals, except as prescribed by pharmacist's physician and only after consultation with PRNC Chair; shall notify PRNC Chair in advance if any mood-altering and/or potentially addictive medications are required or recommended by pharmacist's physician; shall provide documentation to PRNC Chair of the need for the medication within 3 days; shall renew verification with PRNC Chair every 90 days if need for medication is ongoing; shall give up the right to self medicate with the exception of single entity OTC NSAIDS and acetaminophen; shall be excluded from accepting a position of pharmacist-in-charge, power of attorney, or preceptor; shall advise Board at all times of place of employment and shall only practice at a location with a work schedule that has received prior approval of the Board or its President; shall obtain all prescriptions and those of family at a pharmacy designated in writing to the Board; prescriptions shall not be filled by a family member or at any family owned pharmacy and shall not dispense any drugs for self or family; shall attend within 1 year of entry of this Agreed Order either the University of Utah School on Alcoholism and other Drug Dependencies, CAPTASA, or SE PRN meeting and shall provide a certificate of completion; shall provide monthly written self performance evaluations to the Board and PRNC Chair and shall make all appearances before the PRNC as requested, including an annual appearance closest to the anniversary date of reinstatement; shall not work at a pharmacy owned, in whole or in part, by him or another member of his family; shall not be on the premises of any pharmacy owned, in whole or in part, by him or another member of his family; during probation shall have prior approval to own a new pharmacy, in whole or in part, by the Board or Board President; committing any act that results in violation of federal or state pharmacy or drug statute or regulation, may result in an emergency suspension of pharmacist's license, require an appearance before the Board, or result in a complaint against pharmacist's license with the Board imposing any applicable penalties; and shall not seek to amend or modify this Agreed Order. Above information shall be reported to NABP and is subject to disclosure under the Kentucky Open Records Act. Mr. Hadley seconded, and the motion passed unanimously.

**David Walters.** Mr. Walters was sworn-in by Melody Curtis, Court Reporter. Mr. Walters appeared before the Board asking for reinstatement of his Kentucky pharmacist's license. Mr. Walters gave a brief overview of the events that lead to the loss of his license. After discussion, Mr. Hadley moved to reinstate David Walters' Kentucky pharmacist's license with the stipulations as follows: 5 years probation; shall maintain a perpetual inventory at all places of employment for Schedule II drugs, with electronic tracking of Schedule III-V drugs and expired controlled substances, perpetual inventory shall be made available to the Board upon request and audits may be conducted; shall attend AA/NA meetings no less than 6 times per 2 week period or 12 meetings per calendar month, which shall include a minimum of 2 meetings per week; Board shall conduct quarterly inspections at all locations of employment or practice as a pharmacist for the first two years of probation, then semi-annually thereafter, the cost of which not to exceed \$500 per inspection, shall be paid to the Board within 30 days of invoicing; continuing education requirements must be satisfied, renewal fees and any penalties must be paid, and a complete renewal application must be submitted; maximum hours of work: 45 hours/week or 90 hours/2 weeks, with a maximum of 50 hours in any 7 consecutive days and no overtime; shall provide a copy of this Agreed Order to all employers and pharmacists-in-charge; shall sign an aftercare contract, to include drug counselor if indicated, with the Pharmacist Recovery Network Committee (PRNC) for the length of the Agreed Order; any violation of this Agreed Order or PRN contract shall be reported to the Board and PRNC Chair within 24 hours of violation; shall notify Board of change of home address, telephone number, and/or email within 7 days of change; shall provide to the Board and PRNC a signed release granting the Board and PRNC access to all written medical records and conversations regarding medical care; shall provide the Board and PRNC with written monthly reports of all AA/NA meetings; shall agree to provide observed urine, other body fluid, or hair samples for drug/alcohol screens at the direction of PRNC, the Board or any other monitoring body; provide copies of any results of any screens ordered to the Board and PRNC; provide notification to PRNC Chair, Board and testing company of anything that may affect pharmacist's availability for screens prior to event, a missed screen shall be cause for reporting such to the Board, any positive screen that is a violation of the Agreed Order or PRN contract shall be communicated to the Board by the PRNC Chair within 24 hours, a report indicating a presumptive presence shall constitute a conclusive basis, without the necessity of a hearing, for a determination that pharmacist is not in compliance with the terms of this Agreed Order of Reinstatement; shall agree to abstain from any and all mood-altering chemicals, except as prescribed by pharmacist's physician and only after consultation with PRNC Chair; shall notify PRNC Chair in advance if any mood-altering and/or potentially addictive medications are required or recommended by pharmacist's physician; shall provide documentation to PRNC Chair of the need for the medication within 3 days; shall renew verification with PRNC Chair every 90 days if need for medication is ongoing; shall give up the right to self medicate with the exception of single entity OTC NSAIDS and acetaminophen; shall be excluded from accepting a position of pharmacist-in-charge, power of attorney, or preceptor; shall advise Board at all times of place of employment and shall only practice at a location with a work schedule that has received prior approval of the Board or its President; shall obtain all prescriptions and those of family at a pharmacy designated in writing to the Board; prescriptions shall not be filled by a family member or at any family owned pharmacy and shall not dispense any drugs for self or family; shall attend within 1 year of entry of this Agreed Order either the University of Utah School on Alcoholism and other Drug Dependencies, CAPTASA, or SE PRN meeting and shall provide a certificate of completion; shall provide monthly written self performance evaluations to the Board and PRNC Chair and shall make all appearances before the PRNC as requested, including an annual appearance closest to the anniversary date of reinstatement; shall not work at a pharmacy owned, in whole or in part, by him or another member of

his family; shall not be on the premises of any pharmacy owned, in whole or in part, by him or another member of his family; during probation shall have prior approval to own a new pharmacy, in whole or in part, by the Board or Board President; committing any act that results in violation of federal or state pharmacy or drug statute or regulation, may result in an emergency suspension of pharmacist's license, require an appearance before the Board, or result in a complaint against pharmacist's license with the Board imposing any applicable penalties; and shall not seek to amend or modify this Agreed Order. Above information shall be reported to NABP and is subject to disclosure under the Kentucky Open Records Act. Dr. Policastri seconded, and the motion passed unanimously.

**Gregory Dodds.** Mr. Dodds will appear at the December 16, 2009 Board Meeting.

### **BOARD REPORTS:**

**Board President.** Dr. Shely reported that the Emergency /Disaster Committee had met several times and at the last meeting it was discovered that the Governor of Kentucky does not have broad authority to relax statutes in the event of an emergency or disaster. Jan Gould, Kentucky Retail Federation, is working with other agencies and legislative staffers to draft a bill for the 2010 Kentucky Legislative Session allowing for relaxation of certain statutes in the event of an emergency or disaster. The draft will be presented at the December 16, 2009 Board Meeting.

The Advisory Council will be hosting a speaker on the impact of technology on the profession of pharmacy on December 11, 2009 at 9:00 a.m. at APSC in Frankfort, Kentucky. This is a public meeting open to everyone. Please notify Mr. Burleson if planning to attend.

**Board Members. Larry Hadley.** Mr. Hadley chaired the NABP E-prescribing Task Force which met on October 15-16, 2009 in Chicago. The recommendations will be presented to the NABP Executive Committee and if accepted, made public in February 2010.

**Anne Policastri.** Dr. Policastri congratulated Dr. Shely on being named KSHP's 2009 Pharmacist of the Year.

**Board Executive Director.** 1) EMars monthly reports for September and October 2009 were presented to the Board. Mr. Burleson did testify in front of the Subcommittee on Budget regarding the confiscating of Board funds. He was well received by the Subcommittee but instructed to speak directly to the legislators. The profession is urged to contact legislators regarding this practice. 2) Mr. Burleson provided the floor plan of the new Board office located at 125 Holmes Street, Frankfort, Kentucky. The office will be moving after the first of the year. The December 16, 2009 Board Meeting will take place at Spindletop Administration Building in Lexington, Kentucky. 3) Dr. Policastri moved to approve the 2010 Board Calendar as presented with Board Meetings scheduled for January 13, March 10 (Sullivan Campus), May 12, July 14, September 8 (UK Campus), November 12, and December 15, and the Retreat scheduled for November 13 and 14, with further discussion regarding the Board Retreat to take place later. Mr. Hadley seconded, and the motion passed unanimously. 4) Dean. Tran is excited about Sullivan College of Pharmacy hosting the March 10, 2010 Board Meeting.

**Board Staff.** Steve Hart thanked the Board for allowing him to attend the Institute for Safe Medication Practices (ISMP) workshop. Mr. Hart gave a brief summary of the MALTA-GON conference in October 2009. Mr. Hart will be presenting "The Top 10 Questions the Board Receives about Pain Medications," to about 100 physicians on Saturday, November 14.

**PRN Chair.** Brian Fingerson and Jared Combs presented at the National Association of State Controlled Substances Authorities in October 2009.

**CURRENT/PENDING CASES:**

**Case Updates:** Mr. Leake moved for acceptance and entry of the proposed Agreed Orders as written. Ms. Simpson seconded, and the motion passed unanimously. Case No. 06-0109D; Case No. 09-0008A; Case No. 09-0030B; Case No. 09-0041B; Case No. 09-0056B; Case No. 09-0063; Case No. 09-0064; Case No. 09-0065; Case No. 09-0071; Case No. 09-0072A; Case No. 09-0073; Case No. 09-0074A; Case No. 09-0074B; Case No. 09-0075A; Case No. 09-0075B; Case No. 09-0077; Case No. 09-0081; Case No. 09-0085A & B; Case No. 09-0086; Case No. 09-0088; and Case No. 09-0089.

**Case Review:** Mr. Leake moved for acceptance of the Case Review Committee recommendations for the following case reports. Mr. Hadley seconded, and the motion passed unanimously.

**Case No. 07-0086 Revisit.** Pharmacist allegedly violated a previous Agreed Order and is impaired. Alleged violations of law: KRS 315.121(1)(a)(b) and (i). CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

**Case No. 08-0104.** Medicinal gas permit holder allegedly billed Medicare for services not rendered. Alleged violation of law: KRS 315.121(1)(a). CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

**Case No. 08-0115B Revisit.** Pharmacist allegedly pled guilty to a misdemeanor in federal court regarding the misbranding of drugs found in the pharmacy during an FDA audit. Alleged violations of law: KRS 217.065 and KRS 315.121(1)(c)1 and (2)(d). CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

**Case No. 09-0019 Revisit.** Pharmacist allegedly engaged in unprofessional and unethical conduct by ingesting a drug for which a prescription drug order is required, without having first received a prescription drug order for the drug. Alleged violation of law: KRS 315.121(2)(f). CRC Recommendation: There is sufficient evidence of a violation to warrant

disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

**Case No. 09-0032.** Pharmacist allegedly sold a misbranded product 8 times. The prescriptions were labeled Protonix but filled with generic pantoprazole and substitution was not noted on the label. Alleged violations of law: KRS 315.121(1)(a) and KRS 217.065(1). CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

**Case No. 09-0042A & B.** Pharmacy permit holder and pharmacist allegedly engaged in unprofessional and unethical conduct, dispensed adulterated and misbranded medication and did not provide adequate security and control of controlled substances. Alleged violations of law: KRS 315.121(1)(a), KRS 217.055(1)(a), KRS 217.065(1), KRS 217.065(9)(a)(b) and (c), 201 KAR 2:080(1), 201 KAR 2:205, and 201 KAR 2:100. CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

**Case No. 09-0050A.** Pharmacy permit holder allegedly has used fraudulent billing practices involving inappropriate NPI numbers, diagnosis codes and location codes; allegedly has misrepresented itself as a long term care facility pharmacy; allegedly has inappropriately utilized the prior authorization process; and allegedly has inappropriately shipped prescription medications for the purpose of establishing a generic drug company. Alleged violations of law: KRS 315.121 (1)(f) and (j) and (2)(g) and (h). CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

**Case No. 09-0050B.** Pharmacist-in-charge has allegedly allowed the pharmacy to use fraudulent billing practices involving inappropriate NPI numbers, diagnosis codes and location codes; allegedly allowed the pharmacy to misrepresent itself as a long term care facility pharmacy; allegedly has inappropriately utilized the prior authorization process; and allegedly has inappropriately shipped prescription medications for the purpose of establishing a generic drug company. Alleged violations of law: KRS 315.121 (1)(f) and (j) and (2)(g) and (h). CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

**Case No. 09-0060.** Pharmacy technician allegedly engaged in unprofessional behavior by testing positive for benzodiazepines and marijuana on an employer requested drug screen. Alleged violation of law: KRS 315.121(1)(a). CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

**Case No. 09-0066A.** Pharmacy permit holder allegedly failed to fill most recent prescription for patient. Patient's Risperdal prescription was increased from 3 mg to 6 mg at bedtime, the new 6 mg prescription was written on 5/8/09 and the patient received a refill of the 3 mg prescription on 5/27/09. Alleged violation of law: KRS 315.121(2)(d). CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

**Case No. 09-0066B.** Pharmacist allegedly failed to fill most recent prescription for patient. Patient's Risperdal prescription was increased from 3 mg to 6 mg at bedtime, the new 6 mg prescription was written on 5/8/09 and the patient received a refill of the 3 mg prescription on 5/27/09. Alleged violation of law: KRS 315.121(2)(d). CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

**Case No. 09-0068.** Pharmacist allegedly admitted to taking several doses of five non-controlled prescription medications and four over the counter medications without appropriately dispensing them to himself. Alleged violations of law: KRS 315.121(2)(f) and (g). CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

**Case No. 09-0069A.** Pharmacy permit holder allegedly misfilled a bupropion prescription by dispensing an older prescription for the bupropion instead of the more recent bupropion prescription. Alleged violations of law: KRS 315.121(2)(d) and 201 KAR 2:210 Section 4(1). CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

**Case No. 09-0069B.** Pharmacist allegedly misfilled a bupropion prescription by dispensing an older prescription for the bupropion instead of the more recent bupropion prescription. Alleged violations of law: KRS 315.121(2)(d) and 201 KAR 2:210 Section 4(1). CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

**Case No. 09-0070 Revisit.** Pharmacy technician allegedly diverted controlled substances, was arrested and charged with two counts of trafficking in a controlled substance, 1<sup>st</sup> degree, 1<sup>st</sup> offense. Pharmacy technician plead guilty to both counts on September 19, 2009. Alleged violation of law: KRS 315.121(1)(c). CRC Recommendation: There is sufficient evidence

of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

**Case No. 09-0079A.** Pharmacy permit holder allegedly sold a misbranded prescription. Prescription was improperly labeled and resulted in the consumer taking fluoxetine 80 mg instead of the prescribed 40 mg dose for three weeks. Alleged violation of law: KRS 217.065(1). CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

**Case No. 09-0079B.** Pharmacist allegedly committed a medication error by selling a misbranded prescription. Prescription was improperly labeled and resulted in the consumer taking fluoxetine 80 mg instead of the prescribed 40 mg dose for three weeks. Alleged violation of law: KRS 217.065(1). CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

**Case No. 09-0080.** Pharmacist allegedly diverted a controlled substance, was arrested and charged with theft of a controlled substance. Alleged violation of law: KRS 315.121(2)(f). CRC Recommendation: There is sufficient evidence developed and the investigator is directed to conduct further investigation.

**Case No. 09-0087 Revisit.** Pharmacist allegedly has a mental or physical incapacity that prevents pharmacist from engaging in the practice of pharmacy with reasonable skill, competence and safety to the public. **New Information:** Results of mental and physical evaluation have been received. Alleged violation of law: KRS 315.121(1)(b). CRC Recommendation: There is sufficient evidence developed and the investigator is directed to conduct further investigation.

**Case No. 09-0090A.** Pharmacy permit holder allegedly dispensed a generic equivalent drug when the practitioner indicated "no generic." Alleged violation of law: KRS 217.822(3). CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

**Case No. 09-0090B.** Pharmacist allegedly dispensed a generic equivalent drug when the practitioner indicated "no generic." Alleged violation of law: KRS 217.822(3). CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

**Case No. 09-0091A.** Pharmacy permit holder allegedly engaged in unprofessional and unethical conduct by failing to perform prospective drug utilization reviews resulting in a patient taking clomiphene tablets inappropriately. Alleged violations of law: KRS 315.121(1)(a) and (2)(d) and 201 KAR 2:210 Section 4. CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

**Case No. 09-0091B.** Pharmacist allegedly engaged in unprofessional and unethical conduct by failing to perform prospective drug utilization reviews resulting in a patient taking clomiphene tablets inappropriately. Alleged violations of law: KRS 315.121(1)(a) and (2)(d) and 201 KAR 2:210 Section 4. CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

**Case No. 09-0091C.** Pharmacist allegedly engaged in unprofessional and unethical conduct by failing to perform prospective drug utilization reviews resulting in a patient taking clomiphene tablets inappropriately. Alleged violations of law: KRS 315.121(1)(a) and (2)(d) and 201 KAR 2:210 Section 4. CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

**Case No. 09-0091D.** Pharmacist allegedly engaged in unprofessional and unethical conduct by failing to perform prospective drug utilization reviews resulting in a patient taking clomiphene tablets inappropriately. Alleged violations of law: KRS 315.121(1)(a) and (2)(d) and 201 KAR 2:210 Section 4. CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

**Case No. 09-0091E.** Pharmacist allegedly engaged in unprofessional and unethical conduct by failing to perform prospective drug utilization reviews resulting in a patient taking clomiphene tablets inappropriately. Alleged violations of law: KRS 315.121(1)(a) and (2)(d) and 201 KAR 2:210 Section 4. CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

**Case No. 09-0092.** Pharmacy technician allegedly diverted controlled substances from the pharmacy of employment. Alleged violation of law: KRS 315.121(1)(a). CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

**Case No. 09-0093.** Pharmacy technician allegedly admitted to taking at least one dose of Topamax and amoxicillin without having a legal prescription for these drugs. Alleged violations of law: KRS 315.121(1)(c)(3) and KRS 315.121(2)(f) and (g). CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action

and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

**Case No. 09-0094A.** Pharmacy permit holder allegedly relocated a pharmacy and opened without proper inspection of the new location. Alleged violations of law: KRS 315.035(1) and 201 KAR 2:205 Section 1. CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

**Case No. 09-0094B.** Pharmacist-in-charge allegedly allowed a pharmacy to relocate and open without proper inspection of the new location. Alleged violations of law: KRS 315.035(1) and 201 KAR 2:205 Section 1. CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

**Case No. 09-0095.** Wholesaler allegedly moved locations without properly notifying the Board of the new location. Alleged violation of law: 201 KAR 2:105 Section 2(1). CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

**Case No. 09-0096.** Pharmacist allegedly ingested hydrocodone/APAP 7.5 mg/500 mg per 15 ml elixir while on duty working at the pharmacy. Alleged violations of law: KRS 315.121(1)(a), KRS 315.121(2)(e),(f), and (g), KRS 218A.1418, and KRS 218A.200. CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

**Case No. 09-0097A.** Pharmacy permit holder allegedly allowed a medication error by giving the wrong medication to the patient. The drug information provided was for the correct patient and was about the correct medication, however, the actual vial and medication in the bag was a different medication for another person. Alleged violations of law: KRS 315.121(1)(a) and (2)(d). CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

**Case No. 09-0097B.** Pharmacist allegedly allowed a medication error by giving the wrong medication to the patient. The drug information provided was for the correct patient and was about the correct medication, however, the actual vial and medication in the bag was a different medication for another person. Alleged violations of law: KRS 315.121(1)(a) and (2)(d). CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an

Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

**Case No. 09-0098A & B.** Pharmacy permit holder and pharmacist-in-charge allegedly opened to the public without a pharmacist present. Alleged violation of law: 201 KAR 2:100 Section 1. CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

**Case No. 09-0100.** Pharmacy technician was allegedly convicted of health care fraud and purchasing drug samples with intent to defraud. Plea agreement was accepted by US District Court on September 3, 2009. Alleged violations of law: KRS 217.055, KRS 217.065, KRS 315.121(1)(c)(1), and (2)(d)(e) and (f). CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

**Case No. 09-0101A.** Pharmacy permit holder allegedly divulged to unauthorized person patient's health information without the patient's express consent or without order or direction of a court. Alleged violation of law: KRS 315.121(2)(b). CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

**Case No. 09-0101B.** Pharmacist allegedly divulged to unauthorized person patient's health information without the patient's express consent or without order or direction of a court. Alleged violation of law: KRS 315.121(2)(b). CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

**Case No. 09-0102A.** Pharmacy permit holder allegedly committed unprofessional and unethical conduct by engaging in conduct likely to defraud the public. Alleged violation of law: KRS 315.121(2)(d). CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

**Case No. 09-0102B.** Pharmacist allegedly committed unprofessional and unethical conduct by engaging in conduct likely to defraud the public. Alleged violation of law: KRS 315.121(2)(d). CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

**Case No. 09-0103.** Pharmacist is allegedly unable to engage in the practice of pharmacy with reasonable skill, competence and safety to the public due to impairment. Alleged violations of law: KRS 315.121(1)(a) and (b). CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt

resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

**RECIPROCITY/RELICENSURE/INTERNSHIP:**

**Pharmacy Technician Registrant WU.** Dr. Policastri moved to approve the application for Pharmacy Technician Registrant WU provided he signs an Agreed Order that includes an assessment by Brian Fingerson, Chair of the Pharmacist Recovery Network Committee, 2 years probation and a PRN Agreement requiring AA/NA meetings, monthly progress reports and drug screens. Mr. Leake seconded, and the motion passed unanimously.

**Pharmacy Technician Registrant BC Revisit.** BC requested that the Board reconsider the terms of the Agreed Order requiring probation for 5 years and attendance at 8 AA/NA meetings per month due to the cost of the \$50 initial consult with Brian Fingerson and \$10 fee to Pharmacist Recovery Network for each month of probation and the difficulty of attending AA/NA meetings twice a week. Dr. Policastri moved to not negotiate the Agreed Order of BC, requiring probation for 5 years and a PRN Agreement that includes attendance at 8 AA/NA meetings per month. Mr. Hadley seconded, and the motion passed unanimously.

**Pharmacy Technician Registrant LE.** Mr. Hadley moved to approve the application for Pharmacy Technician Registrant LE provided he signs an Agreed Order that includes an assessment by Brian Fingerson, Chair of the Pharmacist Recovery Network Committee, 2 years probation and a PRN Agreement requiring AA/NA meetings, monthly progress reports and drug screens. Mr. Leake seconded, and the motion passed unanimously.

**CORRESPONDENCE/COMMUNICATION:**

**Expungement.** Mr. Leake moved to expunge EX 09-01. Dr. Policastri seconded, and the motion passed unanimously.

**NABP:**

Mr. Burleson reported that he attended the NABP Pharmacy Technician Task Force Meeting regarding training standards. The recommendations will be presented to the NABP Executive Committee and, if accepted, will be made public in February 2010.

**LEGISLATION/REGULATION:**

**Pharmacy Technician Exemption.** The Board reviewed the bill that will be introduced in the 2010 Kentucky Legislative Session regarding KRS 315.136 allowing pharmacy technicians working at charitable pharmacies to be exempt from paying the \$25 technician registration fee. Mr. Hadley moved to state that the Kentucky Board of Pharmacy is not opposed to the bill changing KRS 315.136(2) if the bill is reworded to read, "All applicants for registration as a pharmacy technician who **only** serve on a voluntary basis as a pharmacy technician with a pharmacy operated **as a charitable pharmacy as defined by 201 KAR 2:240** shall not be required to pay the application fee." Ms. Simpson seconded, and the motion passed unanimously.

**Emergency Preparedness.** Proposed statutory changes allowing relaxation of certain statutes in the event of an emergency or disaster will be presented at the December 16, 2009 Board Meeting.

**HIV/AIDS Continuing Education.** Mr. Burleson is working with about 10 other Boards to try to repeal the HIV/AIDS continuing education requirements in the 2010 Kentucky Legislative Session.

**Quality Assurance.** The bill regarding Quality Assurance will be presented to the Board at the December 16, 2009 Board Meeting.

**Manufacturer Exemptions.** The bill creating exemptions to permit requirements for manufacturers in KRS 315.400 was not heard in the 2009 Kentucky Legislative Session. Dr. Policastri moved to support the 2009 version of the bill creating exemptions to permit requirements for manufacturers in KRS 315.400 in the 2010 Kentucky Legislative Session. Mr. Leake seconded, and the motion passed unanimously.

**CONTINUING EDUCATION:**

Mr. Hadley moved to accept the continuing education programs 09-46 through 09-58 as recommended. Ms. Simpson seconded, and the motion passed unanimously.

**NEW BUSINESS:**

Mr. Leake moved to allow Mr. Burleson, Ms. Lalonde and Dr. Policastri, Board President for 2010, to attend the Federation of Associations of Regulatory Boards forum January 29 – 30, 2010 in Las Vegas at the Board's expense. Mr. Hadley seconded, and the motion passed unanimously.

The Board took a brief recess before starting the Board Retreat.

**BOARD RETREAT:**

At 2:40 p.m., Dr. Shely reconvened the Board Meeting, starting on the Board Retreat Agenda.

Members present: Catherine Shely, Larry Hadley, Mike Leake, Anne Policastri and Sandy Simpson. Staff: Mike Burleson, Executive Director; Steve Hart, Pharmacy Inspections and Investigations Coordinator; Shannon Allen, Katie Busroe, Chris Frasure and Phil Losch, Pharmacy and Drug Inspectors; Lisa Atha, Executive Secretary; and Cheryl Lalonde, Assistant Attorney General and Board Counsel. Guests: Ralph Bouvette and Sam Lyons, APSC; Brad Hall, Kentucky Pharmacists Association; Chris Killmeier and Debbie Harris, Walgreens; Pete Orzali, Humana; Sam Wornall, resident, St. Claire Regional Medical Center; and Deborah Brewer and Scott Greenwell, Board members-elect. Joel Thornbury, Board Member, was not present on Friday, November 13, 2009. Brian Fingerson, Pharmacist Recovery Network Committee, was not present on Friday, November 13 and Saturday, November 14, 2009.

**PSEUDOEPHEDRINE AS A CONTROLLED SUBSTANCE:**

It is possible that a bill will be introduced in the 2010 Kentucky Legislative Session moving pseudoephedrine to a controlled substance. Background information was presented regarding other states' handling of pseudoephedrine. Oregon has pseudoephedrine as a Schedule IV controlled substance and West Virginia has pseudoephedrine as an exempt Schedule V controlled substance. The Office of Drug Control Policy has concerns about the effectiveness of making pseudoephedrine

a controlled substance including but not limited to, people will find other sources of pseudoephedrine from other states or countries and the funding for MethCheck may be exhausted in about one year. There is concern about increasing the cost of health care if pseudoephedrine is no longer available over the counter. Also, pharmacy should not have to support the cost of any decision made regarding pseudoephedrine. The Board does not want pharmacists put at physical risk regarding the sale of pseudoephedrine. Mr. Burleson will watch for any bills filed in the 2010 Kentucky Legislative Session regarding pseudoephedrine and keep the Board informed of any developments. Mr. Burleson will also contact Oregon and West Virginia regarding the impact on the health care system and effectiveness on the decrease of meth labs since the implementation of scheduling of pseudoephedrine. Mr. Burleson will present the findings at the December 16, 2009 Board Meeting.

The meeting recessed at 3:30 p.m.

#### **BOARD RETREAT – November 14, 2009**

Dr. Shely reconvened the Board Retreat at 8:15 a.m.

Members present: Catherine Shely, Larry Hadley, Mike Leake, Anne Policastri, Sandy Simpson and Joel Thornbury. Staff: Mike Burleson, Executive Director; Shannon Allen, Katie Busroe, Chris Frasure and Phil Losch, Pharmacy and Drug Inspectors; Lisa Atha, Executive Secretary; and Cheryl Lalonde, Assistant Attorney General and Board Counsel. Guests: Ralph Bouvette, APSC; Brad Hall, Kentucky Pharmacists Association; Chris Killmeier and Debbie Harris, Walgreens; Pete Orzali, Humana; Sam Wornall, resident, St. Claire Regional Medical Center; and Deborah Brewer and Scott Greenwell, Board members-elect. Brian Fingerson, Pharmacist Recovery Network Committee, was not present. Steve Hart, Pharmacy Inspections and Investigations Coordinator, joined the Retreat at 11:30 a.m.

#### **TECHNICIAN CHECKING TECHNICIAN IN THE COMMUNITY PHARMACY:**

Mr. Burleson was unable to find any state that allowed a technician to check another technician's work in the community setting. After discussion, it was the consensus that a technician checking another technician's work in the community setting is not in the best interest of the public health and safety. However, out of this discussion, came the idea of allowing pharmacists to try pilot projects. Currently the Pharmacy Practice Act does not allow pilot projects. This may be a way to advance the practice of pharmacy by allowing flexibility to explore new ideas. However, many times pilot projects are self serving and there would need to be parameters in place so that the Board is not inundated with pilot project requests. If there is still interest, this may be a topic for the 2010 Kentucky Board of Pharmacy Retreat.

#### **E-PRESCRIBING SOFTWARE:**

There are approximately 150 e-prescribing software vendors. There are currently no standards in e-prescribing which has resulted in a twofold problem, inadequate software and inadequate training of the prescriber users. Mr. Hadley chaired the NABP Task Force on E-prescribing, which will be releasing recommendations in February 2010, if approved by the NABP Executive Committee. The

recommendation was to wait until NABP releases the recommendations of the E-prescribing Task Force in February 2010 and tailor these recommendations for Kentucky. In the mean time, Mr. Burleson will research other states' approach to e-prescribing. This information will be brought to the Board at the March 10 or May 12, 2010 Board Meeting, depending on when NABP releases the e-prescribing recommendations.

**MANDATORY COUNSELING:**

Background information on patient counseling from other states was presented. There was much discussion regarding the practicality of mandatory counseling and mandating pharmacists offer the patient counseling instead of a designee. It was noted that the Board's language on patient counseling was similar to other states, and perhaps the issue is not changing the language of the regulation but changing the interpretation of the regulation. Brad Hall, Executive Director of the Kentucky Pharmacists Association, offered to write a grant to the Kentucky Pharmacy Education Research Foundation (KPERF) to fund a survey to pharmacists and consumers regarding this topic. It was decided that the Board staff would review the medication errors that have been reported to the Board and develop statistics on how counseling would prevent the errors. Mr. Hall is to approach KPERF to develop a survey, with the Board's input, for pharmacists and consumers on patient counseling. Once the statistics are developed, the Board needs to do a public relations blitz on the benefit of patient counseling to try to change the standard of practice in Kentucky.

**HANDLING OF MEDICATION ERRORS IF NEW QUALITY ASSURANCE LANGUAGE PASSES THE 2010 KENTUCKY LEGISLATURE:**

After discussion, it was decided that there is a concern that pharmacists may get a "free pass" on committing medication errors when the policy and procedure was not followed. The Board does not want this to happen but, also, there needs to be parameters in place that do not shield the participation of pharmacists in quality assurance programs. These concerns are going to be taken back to the Advisory Council so that the pharmacists on the Council that have experience in Quality Assurance programs can adequately address them.

**ADJOURNMENT:** On motion by Mr. Thornbury, seconded by Ms. Simpson, and passed unanimously, President Shely adjourned the Board Meeting and Retreat at 4:20 p.m. The next regularly scheduled Board Meeting is scheduled to begin at 9:00 a.m. on December 16, 2009 at the Board office in Lexington, Kentucky.

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Michael Burleson, R.Ph.  
Executive Director