

KENTUCKY BOARD OF PHARMACY

**Board Meeting
East Kentucky Expo Center
126 Main Street
Pikeville, Kentucky 41502
November 5, 2010
9:00 a.m.**

Agenda

I. CALL TO ORDER

II. MINUTES

*A. October 14, 2010

III. APPEARANCES

IV. INTERAGENCY

V. BOARD REPORTS

A. Board Executive Director

*1.eMARS (August FY 2011, September FY 2011)

VI. CURRENT/PENDING CASES

A. OAG-Cheryl Lalonde

1. Board of Nursing-Update

2. Pharmacy Technician-Diversion for self

a. Current Pharmacy Technician

b. Pharmacy Technician before Registration

*B. Case Update

*C. Case Review

**VII. RECIPROCITY/RELICENSURE/INTERNSHIP/PHARMACY
TECHNICIANS**

VIII. CORRESPONDENCE/COMMUNICATION

*A. Expungement: 10-04

*B. Expungement: 10-05

IX. NABP

X. LEGISLATION/REGULATION

XI. CONTINUING EDUCATION

*A. Programs 10-38 thru 10-42

XII. FINES

XIII. OLD BUSINESS

A. Pharmacist Recovery Network Appointment

XIV. NEW BUSINESS

*A. Advisory Council Appointments

XV. FYI

*A. PRN Overtime Report-August

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**

MINUTES
KENTUCKY BOARD OF PHARMACY

Board Meeting and Board Retreat

East Kentucky Expo Center

126 Main Street

Pikeville, KY 41502

November 5 and 6, 2010

CALL TO ORDER: A regular meeting of the Kentucky Board of Pharmacy was held at the East Kentucky Expo Center in Pikeville, Kentucky. President Thornbury called the meeting to order at 9:42 a.m.

Members present: Joel Thornbury, Larry Hadley, Debra Brewer, Brian DeWire, Scott Greenwell and Anne Policastri. Staff: Mike Burluson, Executive Director; Steve Hart, Pharmacy Inspections and Investigations Coordinator; Shannon Allen, Katie Busroe, and Chris Frasure, Pharmacy and Drug Inspectors; Lisa Atha, Executive Secretary; Cheryl Lalonde, Assistant Attorney General and Board Counsel. Guests: Chris Killmeier, Walgreens; Ralph Bouvette, APSC; Jan Gould, Kentucky Retail Federation; Catherine Shely, St. Claire Regional Medical Center; Bill Shely; and Cathy Hanna, incoming Board Member. Melanie Curtis, Court Reporter, recorded the meeting.

MINUTES: On motion by Dr. Policastri, seconded by Ms. Brewer and passed unanimously, the Minutes of October 14, 2010 Special Called Board Meeting were approved.

BOARD REPORTS:

Board Executive Director. 1) eMARS monthly reports for August 2010 and September 2010 were presented to the Board. 2) The Board office has been archiving old documents. Ms. Lalonde is to open discussion with Library and Archives regarding the historical value of the Board of Pharmacy documents. It may be possible to donate historical documents to the Pharmacy Museum. 3) The Advisory Council is meeting on November 23, 2010 with the Drug Enforcement and Professional Practices Branch of the Office of Inspector General regarding e-prescribing of controlled substances and KRS 218A and recording keeping. Information from that meeting will be presented at either the December 2010 or January 2011 Board Meeting. 4) Cathy Hanna was introduced as the incoming Board Member for 2011. Dr. Policastri was thanked for her service to the Board of Pharmacy.

Dr. Policastri. Dr. Policastri attended MALTAGON in October 2010. She stated it was an excellent meeting with timely topics and open exchanges and would like to see the Board continue to send representatives to this worthwhile meeting.

CURRENT/PENDING CASES

- 1) Ms. Lalonde stated that she and Nathan Goldman, attorney for the Kentucky Board of Nursing, discussed the Board of Nursing's Advisory Opinion Statement that was

reviewed at the September 8, 2010 Board of Pharmacy meeting. Ms. Lalonde informed Mr. Goldman that the Board of Pharmacy did not agree with the opinion in that it enlarged the statute by allowing nurses to dispense. The opinion goes beyond the established boundaries by allowing physicians to delegate dispensing to Advanced Registered Nurse Practitioners, registered nurses, and/or licensed practical nurses. Mr. Goldman agreed to redraft the opinion. If this is not done, Ms. Lalonde will draft the Board opinion, present it to the Board for review, and then send the opinion to the Board of Nursing.

- 2) Ms. Lalonde initiated a discussion of how the Board wants to discipline technicians that are caught diverting drugs for personal use versus diverting drugs for selling to others. After discussion, Dr. Greenwell moved to permanently revoke technician registration for diversion of pharmaceuticals for any reason and to refuse initial technician registration if the person has a previous history of diversion for any reason, resulting in a zero tolerance of technician diversion by the Board. Mr. Hadley seconded, and the motion passed unanimously. President Thornbury directed Mr. Burleson to send a letter to all registered technicians regarding the zero tolerance of technician diversion.
- 3) After discussion, it was determined that per KRS 315.135, a person has 30 days to get the technician registration application to the Board office, not that the person must apply for technician registration on the first day of employment and then the Board has 30 days to act on the application.

Case Updates: Dr. PolICASTRI moved to accept Case Updates as written. Dr. Greenwell seconded, and the motion passed unanimously.

Case No. 06-0109B; Case No. 07-0086; Case No. 10-0024; Case No. 10-0045C; Case No. 10-0096A; Case No. 10-0096B; Case No. 10-0107A; Case No. 10-0107B; Case No. 10-0108B; Case No. 10-0112B; Case No. 10-0115B; Case No. 10-0120;

Case Review: Dr. DeWire moved to accept the Case Review Committee recommendations with corrections. Dr. Greenwell seconded, and the motion passed unanimously.

Case No. 10-0052 Revisit. Pharmacy technician allegedly engaged in unprofessional or unethical conduct by failing a drug test. Alleged violation of law: KRS 315.121(1)(a). CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 10-0054A. Pharmacy permit holder engaged in unprofessional or unethical conduct due to a patient receiving the wrong medication. Alleged violation of law: KRS 315.121(1)(a). CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 10-0054B. Pharmacist allegedly engaged in unprofessional or unethical conduct by divulging or revealing to unauthorized persons patient information without patient's express consent or without order or direction of a court and allegedly engaged in conduct likely to deceive or harm the public by dispensing medication to the wrong

person. Alleged violations of law: KRS 315.121 (2)(b) and (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/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 10-0067. Pharmacist allegedly failed to complete 1.5 CEU's for 2009. Alleged violations of law: KRS 315.065(2) and 201 KAR 2:015. 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/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 10-0102A. Pharmacy permit holder allegedly aided or abetted an individual to assist in the practice of pharmacy without person being registered as a pharmacy technician. Alleged violation of law: KRS 315.121(1)(g). CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 10-0102B. Pharmacy technician allegedly assisted in the practice of pharmacy without being registered as a pharmacy technician because registration lapsed on March 31, 2010. Alleged violation of law: KRS 315.135(1). CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 10-0111A Revisit. Pharmacy permit holder allegedly allowed employees to assist in the practice of pharmacy without being registered as pharmacy technicians. Alleged violation of law: KRS 315.121(1)(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/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 10-0111B Revisit. Pharmacy employee allegedly assisted in the practice of pharmacy without being registered as a pharmacy technician. Alleged violation of law: KRS 315.135(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/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 10-0111C Revisit. Pharmacy employee allegedly assisted in the practice of pharmacy without being registered as a pharmacy technician. Alleged violation of law: KRS 315.135(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/or, if

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

Case No. 10-0111D Revisit. Pharmacy employee allegedly assisted in the practice of pharmacy without being registered as a pharmacy technician. Alleged violation of law: KRS 315.135(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/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing..

Case No. 10-0111E Revisit. Pharmacy employee allegedly assisted in the practice of pharmacy without being registered as a pharmacy technician. Alleged violation of law: KRS 315.135(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/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 10-0111F Revisit. Pharmacy employee allegedly assisted in the practice of pharmacy without being registered as a pharmacy technician. Alleged violation of law: KRS 315.135(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/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 10-0111G Revisit. Pharmacy employee allegedly assisted in the practice of pharmacy without being registered as a pharmacy technician. Alleged violation of law: KRS 315.135(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/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 10-0111H Revisit. Pharmacy employee allegedly assisted in the practice of pharmacy without being registered as a pharmacy technician. Alleged violation of law: KRS 315.135(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/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing..

Case No. 10-0111I Revisit. Pharmacy employee allegedly assisted in the practice of pharmacy without being registered as a pharmacy technician. Alleged violation of law: KRS 315.135(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/or, if

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

Case No. 10-0111J Revisit. Pharmacy employee allegedly assisted in the practice of pharmacy without being registered as a pharmacy technician. Alleged violation of law: KRS 315.135(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/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing..

Case No. 10-0111K Revisit. Pharmacy employee allegedly assisted in the practice of pharmacy without being registered as a pharmacy technician. Alleged violation of law: KRS 315.135(1). CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 10-0111L Revisit. Pharmacy employee allegedly assisted in the practice of pharmacy without being registered as a pharmacy technician. Alleged violation of law: KRS 315.135(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/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 10-0111M Revisit. Pharmacy employee allegedly assisted in the practice of pharmacy without being registered as a pharmacy technician. Alleged violation of law: KRS 315.135(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/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 10-0111N Revisit. Pharmacy employee allegedly assisted in the practice of pharmacy without being registered as a pharmacy technician. Alleged violation of law: KRS 315.135(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/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 10-0111O Revisit. Pharmacy employee allegedly assisted in the practice of pharmacy without being registered as a pharmacy technician. Alleged violation of law: KRS 315.135(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/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 10-0111P Revisit. Pharmacy employee allegedly assisted in the practice of pharmacy without being registered as a pharmacy technician. Alleged violation of law: KRS 315.135(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/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 10-0111Q Revisit. Pharmacy employee allegedly assisted in the practice of pharmacy without being registered as a pharmacy technician. Alleged violation of law: KRS 315.135(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/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 10-0111R Revisit. Pharmacy employee allegedly assisted in the practice of pharmacy without being registered as a pharmacy technician. Alleged violation of law: KRS 315.135(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/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 10-0111S Revisit. Pharmacy employee allegedly assisted in the practice of pharmacy without being registered as a pharmacy technician. Alleged violation of law: KRS 315.135(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/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 10-0111T Revisit. Pharmacy employee allegedly assisted in the practice of pharmacy without being registered as a pharmacy technician. Alleged violation of law: KRS 315.135(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/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 10-0111U Revisit. Pharmacy employee allegedly assisted in the practice of pharmacy without being registered as a pharmacy technician. Alleged violation of law: KRS 315.135(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/or, if

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

Case No. 10-0118A. Pharmacy permit holder allegedly engaged in unprofessional and unethical conduct by divulging or revealing to unauthorized person patient information without the patient's consent. Alleged violation of law: KRS 315.121(1)(a). CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 10-0118B. Pharmacist allegedly engaged in unprofessional and unethical conduct by divulging or revealing to unauthorized person patient information without the patient's consent. 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. 10-0118C. Pharmacy technician allegedly engaged in unprofessional and unethical conduct by divulging or revealing to unauthorized person patient information without the patient's consent. 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. 10-0121A. Pharmacy permit holder allegedly aided an individual to assist in the practice of pharmacy without being registered as a pharmacy technician. Alleged violation of law: KRS 315.121(1)(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/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 10-0121B. Pharmacy technician allegedly assisted in the practice of pharmacy without registering as a pharmacy technician. Alleged violation of law: KRS 315.135(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/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 10-0122A. Pharmacy permit holder allegedly aided an individual to assist in the practice of pharmacy without being registered as a pharmacy technician. Alleged violation of law: KRS 315.121(1)(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/or, if unsuccessful, to

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

Case No. 10-0122B. Pharmacy technician allegedly assisted in the practice of pharmacy without being registered as a pharmacy technician because registration lapsed on March 31, 2010. Alleged violation of law: KRS 315.135(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/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 10-0124A. Pharmacy permit holder allegedly aided an individual to assist in the practice of pharmacy without being registered as a pharmacy technician. Alleged violation of law: KRS 315.121(1)(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/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 10-0124B. Pharmacy technician allegedly assisted in the practice of pharmacy without registering as a pharmacy technician. Alleged violation of law: KRS 315.135(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/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 10-0126A. Pharmacy permit holder allegedly aided an individual to assist in the practice of pharmacy without being registered as a pharmacy technician. Alleged violation of law: KRS 315.121(1)(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/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 10-0126B. Pharmacy technician allegedly assisted in the practice of pharmacy without being registered as a pharmacy technician because registration lapsed on March 31, 2010. Alleged violation of law: KRS 315.135(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/or, if

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

Case No. 10-0127A. Pharmacy permit holder allegedly aided an individual to assist in the practice of pharmacy without person being registered as a pharmacy technician. Alleged violation of law: KRS 315.121(1)(g). CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 10-0127B. Pharmacy technician allegedly assisted in the practice of pharmacy without being registered as a pharmacy technician because registration lapsed on March 31, 2010. Alleged violation of law: KRS 315.135(1). CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 10-0132. Wholesale distributor allegedly engaged in wholesale distribution from an unlicensed location. The Wholesaler allegedly did not have separate license that is required for each wholesale distributor's facility due to moving without notification to the Board. Alleged violations of law: 201 KAR 2:105 Section 2(1) and (2). 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/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 10-0133A. Pharmacy permit holder allegedly did not assure adequate security and control of drugs due to technician diversion. Alleged violation of law: 201 KAR 2:200. CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 10-0133B. Pharmacist allegedly did not assure adequate security and control of drugs due to a technician diversion. Alleged violation of law: 201 KAR 2:200. CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 10-0133C. Registered pharmacy technician allegedly engaged in unprofessional or unethical conduct by selling, transferring or otherwise disposing of drugs when the pharmacy technician knew or should have known of their intended use in illegal activities. Alleged violation of law: KRS 315.121(2)(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/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 10-0138A. Pharmacy permit holder allegedly aided an individual to assist in the practice of pharmacy without being registered as a pharmacy technician. Alleged violation of law: KRS 315.121(1)(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/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 10-0138B. Pharmacy technician allegedly assisted in the practice of pharmacy without being registered as a pharmacy technician because registration lapsed on March 31, 2010. Alleged violation of law: KRS 315.135(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/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 10-0141. Pharmacy permit holder allegedly allowed an individual to assist with the practice of pharmacy without being registered as a technician and failed to provide proper security of pharmacy. Person diverted non-controlled and controlled substances by forging prescriptions. Alleged violations of law: KRS 315.121(1)(g) 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/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 10-0143A. Pharmacy permit holder allegedly aided an individual to assist in the practice of pharmacy without being registered as a pharmacy technician. Alleged violation of law: KRS 315.121(1)(g). CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 10-0143B. Pharmacy permit holder allegedly aided an individual to assist in the practice of pharmacy without being registered as a pharmacy technician. Alleged violation of law: KRS 315.121(1)(g). CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 10-0143C. Pharmacy technician allegedly assisted in the practice of pharmacy without being registered as a pharmacy technician because registration lapsed on March 31, 2010. Alleged violation of law: KRS 315.135(1). CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 10-0145A. Pharmacy permit holder allegedly aided an individual to assist in the practice of pharmacy without being registered as a pharmacy technician. Alleged violation of law: KRS 315.121(1)(g). CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 10-0145B. Pharmacy technician allegedly assisted in the practice of pharmacy without being registered as a pharmacy technician because registration lapsed on March 31, 2010. Alleged violation of law: KRS 315.135(1). CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 10-0146. Pharmacist allegedly failed to complete 1.5 CEU's for 2009, completed only 1 of 15 required hours. Alleged violations of law: KRS 315.065(2) and 201 KAR 2:015. 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/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 10-0150A. Pharmacy permit holder allegedly aided an individual to assist in the practice of pharmacy without being registered as a pharmacy technician. Alleged violation of law: KRS 315.121(1)(g). CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 10-0150B. Pharmacy technician allegedly assisted in the practice of pharmacy without being registered as a pharmacy technician because registration lapsed on March 31, 2010. Alleged violation of law: KRS 315.135(1). CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

RECIPROCITY/RELICENSURE/INTERNSHIP/PHARMACY TECHNICIANS:

Pharmacy Technician Registrant TF. Dr. Greenwell moved to approve the application for Pharmacy Technician Registrant TF provided he signs an Agreed Order with standard language that includes probation for two years with a PRN Agreement, with 3 drug screens per year. Dr. Policastri seconded, and the motion passed unanimously. Mr. Hadley was out of the room at the time of the vote.

Pharmacy Technician Registrant TA. Dr. Greenwell moved to approve the application for Pharmacy Technician Registrant TA provided he signs an Agreed Order with standard language

that includes probation for one year with a PRN Agreement. Dr. DeWire seconded, and the motion passed unanimously. Mr. Hadley was out of the room at the time of the vote.

Pharmacy Technician Registrant SB. Dr. Greenwell moved to approve the application for Pharmacy Technician registrant SB with no restrictions. Dr. Policastri seconded, and the motion passed unanimously.

Dr. Greenwell moved to rescind previous pharmacy registrant approvals for TF and TA until a letter is received with an explanation, and going forward no application will be considered complete without a letter of explanation and additional information. Ms. Brewer seconded, and the motion passed unanimously. After discussion, it was decided that staff would send a letter asking for a letter of explanation from any technician registrant that answers “yes” to any of the qualifying questions and fails to provide additional information.

CORRESPONDENCE/COMMUNICATION:

EXPUNGEMENT 10-4 and 10-5. Ms. Brewer moved to expunge records 10-04 and 10-5. Mr. Hadley seconded, and the motion passed unanimously. After discussion, the motion was rescinded.

Dr. Greenwell moved to allow staff to expunge records meeting the statutory requirements and the Board be notified of the expungements in the FYI section of the Agenda. Ms. Brewer seconded, and the motion passed unanimously.

Fleming County Hospital/Jerry Judd. Mr. Judd requested to be pharmacist-in-charge of Fleming County Hospital inpatient and Fleming County Hospital outpatient pharmacies. Dr. Policastri moved to approve the dual pharmacist-in-charge request for Jerry Judd at Fleming County Hospital inpatient and outpatient pharmacies. Dr. DeWire seconded, and the motion passed unanimously.

CONTINUING EDUCATION:

Dr. Greenwell moved to accept the continuing education programs 10-38, 10-39 and 10-42 as recommended. Dr. DeWire seconded, and the motion passed unanimously. Dr. Greenwell moved to grant no continuing education credit for programs 10-40 and 10-41 unless more detailed information is provided on the amount of time each program spends on pharmacy issues. Mr. Hadley seconded, and the motion passed unanimously.

OLD BUSINESS:

PRN Appointment. There were no new applicants for the consumer position on the Pharmacist Recovery Network Committee (PRNC). Mr. Burleson was directed to send letters to other colleges at the University of Kentucky soliciting applications for the consumer position on PRNC.

NEW BUSINESS:

Advisory Council Appointments. The Advisory Council is made up of 10 members. The terms for Trish Freeman, Brad Hall and Dean Tran expire December 31, 2010. Mr. Burleson

was directed to send letters to the Associations, Colleges, and other pharmacy entities soliciting applicants to submit a Curriculum Vita and any past disciplinary action to the Board office. An application will also be posted on the Board's website.

Software Enhancements. Dr. PolICASTRI moved to approve the \$5,800 from federal funds for enhancement of the Board's software to prohibit duplicate records from being entered into the database. Ms. Brewer seconded, and the motion passed unanimously.

Dr. PolICASTRI moved to approve the \$23,200 from federal funds for enhancement of the Board's software to track employee history for various employees in the database. Mr. Hadley seconded, and the motion passed unanimously.

Continuing Education for Pharmacists. KRS 315.065 states that an HIV/AIDS continuing education (CE) program must be done "at least one (1) time every ten (10) years." The statute went into effect in 2002. The Board determined that if a pharmacist has done at least one hour of approved HIV/AIDS CE in the ten year time period of 2002 through 2012, and the CE certificate can be produced, the pharmacist shall be compliant. The pharmacist must complete at least one hour of HIV/AIDS CE in every 10 year time frame. For example, if the HIV/AIDS CE was obtained in 2005, the pharmacist must obtain at least one hour no later than 2015.

After discussion the Board determined that pharmacists that have a Kentucky pharmacist's license but do not practice in Kentucky must meet Kentucky continuing education requirements including obtaining at least one hour of approved HIV/AIDS CE in the ten year time frame of 2002 through 2012. Mr. Burleson was directed to send a letter to all Kentucky licensed pharmacists and all out of state permit holders explaining the Board's decision regarding HIV/AIDS CE and CE requirements for Kentucky licensed pharmacists not practicing in Kentucky.

Ms. Lalonde requested the Board consider a change in the procedure for disciplinary action involving continuing education. Ms. Lalonde suggested that the Board office not renew the Kentucky pharmacist license for a pharmacist who admits on the renewal application that he/she has not completed the CE requirements. The office staff will handle the violation internally, sending the pharmacist an Agreed Order which must be signed by the pharmacist and approved by the Board before the license will be renewed. Dr. PolICASTRI moved to leave the CE process as is with the pharmacist's license being renewed upon application, and a case developed in the usual course. Dr. Greenwell seconded, and the motion passed unanimously.

EXECUTIVE SESSION:

Mr. Hadley moved that the Board go into Executive Session pursuant to KRS 61.810(1)(c)(j). Ms. Brewer seconded, and the motion passed unanimously. The Board went into Executive Session. Ms. Brewer moved to come out of Executive Session. Mr. Hadley seconded, and the motion passed unanimously.

RETREAT:

After a brief recess, President Thornbury reconvened the Board Retreat at 3:02 pm on November 5, 2010. Dr. Policastri was not present for the Board Retreat. Dean Tran, Sullivan College of Pharmacy, was present at the Board Retreat.

There was open discussion regarding how to proceed with quality assurance and prescriptive authority for pharmacists.

The Retreat recessed at 4:20 p.m.

RETREAT – November 6, 2010

From 8 a.m. until 10:30 a.m., David Stratton, defense attorney, mediator and 8 year member of the Board of Governors of the Kentucky Bar Association and Ed Adkins, United States Magistrate Judge for the Eastern District, held a discussion with Board members and the audience regarding serving on the Board of Pharmacy.

President Thornbury reconvened the Retreat at 10:30 a.m. on November 6, 2010. Catherine Shely and Bill Shely were not present.

There was open discussion regarding healthcare reform, drug diversion, scheduling of pseudoephedrine and medical marijuana.

ADJOURNMENT: On motion by Ms. Brewer, seconded by Dr. Greenwell and passed unanimously, President Thornbury adjourned the Board Meeting and Retreat on Saturday, November 6 at 2:20 p.m. The next regularly scheduled Board Meeting is scheduled to begin at 9:00 a.m. on December 15, 2010 at the Board office in Frankfort, Kentucky.

Michael Burleson, R.Ph.
Executive Director