

KENTUCKY BOARD OF PHARMACY

Board Meeting

125 Holmes Street, Suite 300

Frankfort, KY 40601

May 9, 2012

9:00 a.m.

Agenda

I. CALL TO ORDER

II. MINUTES

- *A. March 7, 2012

III. APPEARANCES

IV. INTERAGENCY

V. BOARD REPORTS

- A. Board Executive Director
 - *1. eMARS (February, March, and April 2012 FY 2012) and Financial Reports (including Budget Reduction 2012)
 - 2. July Board Meeting: Move date of meeting
 - 3. MALTAGON meeting (September 9-12, 2012)
 - *4. Brian Fingerson: Increase in salary

VI. CURRENT/PENDING CASES

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

VII. RECIPROCITY/RELICENSURE/INTERNSHIP/PHARMACY TECHNICIANS

- *A. Charles Peckerman: Reciprocity Request
- *B. Pharmacy Technician Summary
- *C. Frederick Barton: Initial Application (additional information coming)

VIII. CORRESPONDENCE/COMMUNICATION

IX. NABP

- *A. Newsletter contract

X. LEGISLATION/REGULATION

- A. Legislative update
- *B. MTM Regulation
- *C. HME (Home Medical Equipment) Regulation

XI. CONTINUING EDUCATION

- *A. CE Programs: 12-06 to 12-12

XII. FINES

XIII. OLD BUSINESS

- *A. Pharmacist Recovery Network Appointments-2012
- B. Compounds for Controlled Substances in Office/Institutional

XIV. NEW BUSINESS

*A. New Software System

XV. FYI

A. Expungement of Continuing Education Case

*Information enclosed with this agenda

MINUTES
KENTUCKY BOARD OF PHARMACY

State Office Building Annex
125 Holmes Street
Frankfort, KY 40601

May 9, 2012

CALL TO ORDER: A regular meeting of the Kentucky Board of Pharmacy was held at the Board Office at State Office Building Annex, 125 Holmes Street, Frankfort, Kentucky. President Thornbury called the meeting to order at 9:04 a.m.

Members present: Joel Thornbury, Brian DeWire, Deborah Brewer, Scott Greenwell, Larry Hadley and Cathy Hanna. Staff: Mike Burleson, Executive Director; Steve Hart, Pharmacy Investigations and Inspections Coordinator; Shannon Allen, Katie Busroe, Chris Frasure and Phil Losch, Pharmacy and Drug Inspectors; Cheryl Lalonde, Assistant Attorney General and Board Counsel; Lisa Atha, Executive Secretary; and Brian Fingerson, Pharmacist Recovery Network Committee. Guests: Chris Killmeier, Debra Harris and Lauren Bradley, Walgreens; Cassidy Harmon and Matt Worthy, KPhA; Jan Gould, Kentucky Retail Federation; Jill Rhodes, University of Louisville Hospital; Shawn Ethington; Bryan Ethington; Abbey Breit; and Fred Barton, Matt Blackburn and Whitney Steelman, College of Pharmacy students. Melanie Curtis, Court Reporter, recorded the meeting.

MINUTES: On motion by Dr. DeWire, seconded by Dr. Hanna and passed unanimously, the Minutes of March 7, 2012 Board Meeting were approved as amended.

INTERAGENCY: There are plans to have a “Meet the Board of Pharmacy” session at the annual Kentucky Pharmacists Association Meeting, tentatively scheduled for the morning of June 14. When the date and time is finalized, Mr. Burleson will notify the Board members.

BOARD REPORTS:

Board Executive Director. 1) EMars monthly report for February, March and April FY 2012 and a Financial Report Summary were presented to the Board. 2) Ms. Lalonde requested the date of the July Board Meeting be moved because she will be unable to attend on July 11, 2012. After discussion, it was decided to leave the Board Meeting on July 11, 2012. 3) Dr. Greenwell moved to allow staff and up to 2 Board Members to attend MALTAGON in Tulsa, OK, September 9 -12, 2012. Dr. DeWire seconded, and the motion passed unanimously. 4) Dr. Greenwell moved to increase the salary of Brian Fingerson, Chair of the Kentucky Pharmacist Recovery Network, from \$44.61 per hour to \$52.00 per hour. Dr. Hanna seconded, and the motion passed unanimously. 5) The Attorney General (AG) is requesting various state agencies sign a Memorandum of Understanding (MOU) to share information responsibly in reference to HB 1. The MOU has not been distributed to the agencies for review, however, the AG would

like the MOU signed by mid to late June. The Board does not have a meeting scheduled until July 11, 2012. Dr. Greenwell moved for Mr. Burluson to send the Attorney General's Memorandum of Understanding (MOU) in reference to HB 1 to the Board members for review. If Board members are in agreement with the MOU, the Board President or Mr. Burluson is directed to sign the MOU; however if there are questions, a Special Called Board Meeting will be held for discussion of the MOU. Dr. Hanna seconded, and the motion passed unanimously.

CURRENT/PENDING CASES:

President Thornbury must recuse from Cases 11-0235 and 12-0040 that will be presented in the future. Normally, the Vice President, Dr. DeWire, would oversee the cases if the President recuses. However, Mr. Hadley was President when Case 11-0235 was started and would have to recuse on this case. If Dr. DeWire oversees the cases, with Mr. Thornbury and Mr. Hadley recusing, there will not be a quorum. Ms. Brewer moved to authorize Mr. Hadley to oversee Cases 11-0235 and 12-0040. Dr. Hanna seconded, and the motion passed unanimously.

Case Updates: Mr. Hadley moved to accept Case Updates for Case Numbers: 10-0252A, 11-0027C, 11-0073, 11-0130A, 11-0153A, 11-0153B, 11-0209B, 11-0210, 11-0222A, 11-0222C, 11-0238, 11-0242A, 11-0243B, 11-0253B, 11-0254B, 11-0255A, 11-0255B, 11-0257C, 11-0260B, 11-0261A, 11-0262A, 11-264C, 11-0266A, 11-0266B, 11-0268A, 11-0268B, 11-0269A, 11-0270A, 11-0271A, 11-0271B, 11-0272A, 11-0272B, 11-0273A, 11-0273B, 11-0274A, 12-0007, 12-0008, 12-0013, 12-0014, 12-0018, 12-0022, 12-0023, 12-0024, 12-0026, 12-0028, 12-0030B, 12-0032, 12-0035B, 12-0035C, 12-0041B, 12-0044 and 12-0045 as written. Dr. Hanna seconded, and the motion passed unanimously.

Case Review: Dr. Hanna moved to accept Case Review as presented. Mr. Hadley seconded, and the motion passed unanimously.

Case No. 08-0057B. REVISIT. Pharmacist allegedly received and dispensed physician drug samples and committed insurance fraud. New Information: The Board office received information from pharmacist's attorney asking Case Review Committee to review information regarding this case and brought attention to a case against another pharmacist dealing with drug samples. Alleged violations of law: KRS 315.121(1)(a) and (f) and (2)(d)(e)(f) and (g), KRS 271.055(1)(b) and KRS 217.065. 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. 10-0135A. REVISIT. Pharmacy permit holder allegedly dispensed controlled substances without a valid prescription, and was allegedly committing other controlled substances violations. Pharmacy was allegedly operating without a collaborative care agreement. Alleged violations of law: KRS 315.121(1)(h) and (2)(g), 201 KAR 2:220 and 201 KAR 2:205. CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 10-0135B. REVISIT. Pharmacist was allegedly working while intoxicated, and allegedly was dispensing controlled substances without a valid prescription. Pharmacy was allegedly operating without a collaborative care agreement. Alleged violations of law: KRS 315.121(1)(h) and (2)(g), 201 KAR 2:220 and 201 KAR 2:205. 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. 11-0142A. Pharmacy permit holder allegedly engaged in unprofessional or unethical conduct by allowing a pharmacy technician to divert controlled substances. 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. 11-0142B. Pharmacist-in-charge allegedly engaged in unprofessional or unethical conduct by allowing a pharmacy technician to divert controlled substances. 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. 11-0142C. Pharmacy permit holder allegedly engaged in unprofessional or unethical conduct by allowing a pharmacy technician to divert controlled substances. 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. 11-0142D. Pharmacist-in-charge allegedly engaged in unprofessional or unethical conduct by allowing a pharmacy technician to divert controlled substances. 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 Nos. 11-0142E and 11-0187E. Pharmacy technician allegedly diverted controlled substances from the pharmacies 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/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. 11-0187A. Pharmacy permit holder allegedly engaged in unprofessional or unethical conduct by allowing a pharmacy technician to divert controlled substances. 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. 11-0187B. Pharmacist-in-charge allegedly engaged in unprofessional or unethical conduct by allowing a pharmacy technician to divert controlled substances. 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. 11-0187C. Pharmacy permit holder allegedly engaged in unprofessional or unethical conduct by allowing a pharmacy technician to divert controlled substances. 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. 11-0187D. Pharmacist-in-charge allegedly engaged in unprofessional or unethical conduct by allowing a pharmacy technician to divert controlled substances. 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. 11-0233A. Pharmacy permit holder allegedly sold a prescription medication to a patient for which the patient had a documented allergy. Alleged violation of law: 201 KAR 2:210 Section 1(2)(f). CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 11-0233B. Pharmacist allegedly failed to perform prospective drug use review for known allergies. Pharmacist allegedly dispensed a prescription medication to a patient for which the patient had a documented allergy. Alleged violation of law: 201 KAR 2:210 Section 4(3)(a). CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 11-0233C. Pharmacist allegedly failed to perform prospective drug use review for known allergies. Pharmacist allegedly dispensed a prescription medication to a patient for which the patient had a documented allergy. Alleged violation of law: 201 KAR 2:210 Section 4(3)(a). CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 11-0240. REVIST. Pharmacist allegedly engaged in unprofessional or unethical conduct and has mental or physical incapacity that prevents the licensee from engaging or assisting in the practice of pharmacy due to failing a drug test. Pharmacist allegedly engaged in unprofessional or unethical conduct by selling, dispensing and ingesting a drug for which a prescription drug order is required, without having first received a prescription drug order for the drug. Alleged violations of law: KRS 315.121(1)(a) and (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/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. 11-0246A. Pharmacy permit holder allegedly aided or abetted an employee to assist in the practice of pharmacy without having a current pharmacy technician registration. 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. 11-0246B. Pharmacy technician allegedly assisted in the practice of pharmacy without a current pharmacy technician registration from 3/31/11 to 8/18/11. Alleged violation of law: KRS 315.138(1). CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 11-0250. Non-resident pharmacy allegedly failed to appoint a pharmacist-in-charge within 14 days. The position of pharmacist-in-charge has been vacant since May 3, 2011. Alleged violation of law: KRS 315.0351(7). 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. 11-0276A. Pharmacy permit holder allegedly allowed a pharmacy technician to issue an incorrect prescription through the drive thru window. Technician allegedly failed to properly scan and verify patient information resulting in the patient receiving the incorrect prescription. 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/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. 11-0276B. Pharmacist allegedly allowed a pharmacy technician to issue an incorrect prescription through the drive thru window. Technician allegedly failed to properly scan and verify patient information resulting in the patient receiving the incorrect prescription. Alleged violations of law: KRS 315.121(1)(a) and (b). CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 11-0276C. Pharmacist allegedly allowed a pharmacy technician to issue an incorrect prescription through the drive thru window. Technician allegedly failed to properly scan and verify patient information resulting in the patient receiving the incorrect prescription. Alleged violations of law: KRS 315.121(1)(a) and (b). CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 11-0276D. Pharmacy technician allegedly issued an incorrect prescription through the drive thru window. Technician allegedly failed to properly scan and verify patient information resulting in the patient receiving the incorrect prescription. 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/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. 12-0001A. Pharmacy permit holder allegedly sold a misbranded product as the result of a medication error. Patient allegedly received 25 of the 30 tablets of hydrocodone/acetaminophen 7.5mg/500mg prescribed by the physician. Alleged violation of law: KRS 217.065(2)(b). CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 12-0001B. Pharmacist allegedly dispensed a misbranded product as the result of a medication error. Patient allegedly received 25 of the 30 tablets of hydrocodone/acetaminophen 7.5mg/500mg prescribed by the physician. Alleged violation of law: KRS 217.065(2)(b). CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 12-0006. REVISIT. Pharmacist self-reported failure to allegedly complete the required 15 hours of continuing education for license renewal. Pharmacist allegedly successfully completed 14 hours before January 1, 2012. NEW INFORMATION: The Board office received a letter of apology from the pharmacist stating she found that she had completed the 15 hours of CE, she provided copies of her CE certificates. Alleged violation of law: 201 KAR 2:015 Section 5(1)(a). CRC Recommendation: Case is dismissed and previous Agreed Order is rescinded.

Case No. 12-0015. Pharmacy permit holder allegedly relocated without properly notifying the Board office. Pharmacy permit holder remodeled the pharmacy area, moving an exterior wall and was not inspected prior to the pharmacy opening in the new space. Alleged violation of law: KRS 315.035(1). CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 12-0016. Pharmacist renewal application indicated action taken in another jurisdiction against his pharmacist's license. His license is on probation for three years in another state because of recordkeeping violations concerning several compounded products. Also charged with misbranding of compounded prescription and the sale of drugs past the beyond use date. Alleged violation of law: KRS 315.121(1)(c)3. 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. 12-0020A. Pharmacy permit holder allegedly allowed a medication error by allowing a prescription to be sold to the incorrect patient. 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/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. 12-0020B. Pharmacy technician allegedly sold a prescription to the incorrect patient. 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. 12-0027A. Pharmacy permit holder allegedly sold a misbranded product as the result of a medication error. A prescription written for Lamical 25mg was allegedly dispensed as belladonna-phenobarbital tablets. 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. 12-0027B. Pharmacist allegedly engaged in unprofessional and unethical conduct by allegedly committing a medication error. A prescription written for Lamical 25mg was allegedly dispensed as belladonna-phenobarbital tablets. Alleged violations of law: KRS 315.121(2)(d) 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/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. 12-0029A. Pharmacy permit holder allegedly did not provide adequate oversight, security and control. Alleged violations of law: KRS 315.121(1) and 201 KAR 2:100. CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 12-0029B. Pharmacist allegedly dispensed a CII prescription that was written over 60 days ago; committed a medication error by dispensing amphetamine 30mg tablets for a prescription that was written for amphetamine-dextroamphetamine 30mg extended release capsules; dispensed a prescription to self for Kenalog 40 injection that is alleged not to have been authorized by a physician; filled a controlled substance prescription without proper authorization from the prescribing physician; dispensed a prescription for Cialis without receiving authorization from the practitioner; sold Cheratussin AC (C-V) without properly documenting the sales in a C-V log book or having a prescription; gave small quantities of CII drugs to customers in advance of them obtaining a prescription for these drugs; had an unexplained Suboxone shortage of 106 film tabs; engaged in questionable activity involving possession of physician samples in the pharmacy; and filled a prescription for prednisone for a dog that was not issued by the practitioner of record. Alleged violations of law: 902 KAR 55:095 Section 3(2)(e), KRS 315.121(2)(d) and (f), KRS 218A.180(2), 902 KAR 55:035 Section 2(9), KRS 218A.180(1), 201 KAR 2:205 Section 2(3)(b) and KRS 315.121(2)(g) and (h). 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. 12-0042A. Pharmacy permit holder allegedly committed a medication error by dispensing pravastatin 80mg tablets for a prescription that was written for metformin ER 500mg tablets. There were both pravastatin 80mg tablets and metformin ER 500mg in the prescription bottle she received. 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. 12-0042B. Pharmacist allegedly committed a medication error by dispensing pravastatin 80mg tablets for a prescription that was written for metformin ER 500mg tablets. There were both pravastatin 80mg tablets and metformin ER 500mg in the prescription bottle she received. 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/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. 12-0046A. Pharmacy permit holder allegedly sold a misbranded product as the result of a medication error. 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/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. 12-0046B. Pharmacist allegedly engaged in unprofessional or unethical conduct by committing medication errors. Patient presented two prescriptions, one for ciprofloxacin 500mg and one for hydrocodone/acetaminophen 5/500mg. Prescriptions were labeled with patient's daughter as the patient and the ciprofloxacin 500mg vial contained hydrocodone/acetaminophen 5/500mg. 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/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. 12-0047A. Pharmacy permit holder allegedly failed to provide information that an incomplete quantity was dispensed on the initial prescription filled of an antibiotic, cefprozil. The prescription was written for #28, but the pharmacy originally dispensed #7 without verbally notifying the patient at the time she picked the prescription up. Therefore, it is alleged that an offer to counsel was not appropriately provided to the patient. 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. 12-0047B. Pharmacist allegedly failed to provide information that an incomplete quantity was dispensed on the initial prescription filled of an antibiotic, cefprozil. The prescription was written for #28, but the pharmacy originally dispensed #7 without verbally

notifying the patient at the time she picked the prescription up. Therefore, it is alleged that an offer to counsel was not appropriately provided to the patient. Alleged violations of law: KRS 315.121(2)(d), 201 KAR 2:210 Section 2(2)(a) and Section 1(2)(e)(3) and 201 KAR 2:170 Section 1(2)(g). CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 12-0050. Pharmacist reported on license renewal application that action has been taken against his pharmacist's license in another jurisdiction. License in that jurisdiction has been revoked for a felony conviction. Alleged violation of law: KRS 315.121 (1)(c)1 and 3. 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. 12-0052. Pharmacist self-reported failure to allegedly complete the required 15 hours of continuing education for license renewal. Pharmacist allegedly successfully completed 1.5 hours before January 1, 2012. Alleged violation of law: 201 KAR 2:015 Section 5 (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/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. 12-0053. Pharmacist self-reported failure to allegedly complete the required 15 hours of continuing education for license renewal. Pharmacist allegedly successfully completed 0 hours before January 1, 2012. Alleged violation of law: 201 KAR 2:015 Section 5 (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/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. 12-0054. Pharmacist self-reported failure to allegedly complete the required 15 hours of continuing education for license renewal. Pharmacist allegedly successfully completed 5 hours before January 1, 2012. Alleged violation of law: 201 KAR 2:015 Section 5 (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/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. 12-0055. Pharmacist self-reported failure to allegedly complete the required 15 hours of continuing education for license renewal. Pharmacist allegedly successfully completed 13 hours before January 1, 2012. Alleged violation of law: 201 KAR 2:015

Section 5 (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/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. 12-0056. Pharmacist self-reported failure to allegedly complete the required 15 hours of continuing education for license renewal. Pharmacist allegedly successfully completed no (0) hours before January 1, 2012. Alleged violation of law: 201 KAR 2:015 Section 5 (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/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. 12-0057A. Pharmacy permit holder allegedly aided or abetted an employee to assist in the practice of pharmacy without having a current pharmacy technician registration. 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. 12-0057B. Pharmacy technician allegedly assisted in the practice of pharmacy without a current pharmacy technician registration from 3/31/11 to 10/20/11. Alleged violation of law: KRS 315.138(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. 12-0058A. Pharmacy permit holder allegedly aided or abetted an employee to assist in the practice of pharmacy without having a current pharmacy technician registration. 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. 12-0058B. Pharmacy technician allegedly assisted in the practice of pharmacy without a current pharmacy technician registration from 3/31/11 to 11/11/11. Alleged violation of law: KRS 315.138(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. 12-0059A. Pharmacy permit holder allegedly aided or abetted an employee to assist in the practice of pharmacy without having a current pharmacy technician registration. 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. 12-0059B. Pharmacy technician allegedly assisted in the practice of pharmacy without a current pharmacy technician registration from 3/31/11 to 2/3/12. Alleged violation of law: KRS 315.138(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. 12-0060A. Pharmacy permit holder allegedly aided or abetted an employee to assist in the practice of pharmacy without having a current pharmacy technician registration. 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. 12-0060B. Pharmacy technician allegedly assisted in the practice of pharmacy without a current pharmacy technician registration from 10/01/11 to 11/22/11. Alleged violation of law: KRS 315.138(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. 12-0066A. Pharmacy permit holder allegedly engaged in unprofessional or unethical conduct by allowing a pharmacy technician to divert a controlled substance. Alleged violations of law: KRS 315.121(1)(c)2 and 3. CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 12-0066B. Pharmacist-in-charge allegedly engaged in unprofessional or unethical conduct by allowing a pharmacy technician to divert a controlled substance. Alleged violations of law: KRS 315.121(1)(c)2 and 3. CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 12-0066C. Pharmacy technician allegedly diverted a controlled substance from the pharmacy of employment. Alleged violations of law: KRS 315.121(1)(c)2 and 3. 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. 12-0073. During an inspection it was discovered that pharmacist allegedly failed to complete the required 15 hours of continuing education for license renewal. Pharmacist successfully completed no (0) hours before January 1, 2012. Alleged violation of law: 201 KAR 2:015 Section 5 (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/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. 12-0074A. Special medicinal gas pharmacy permit holder allegedly did not notify the Board of Pharmacy prior to closure. Alleged violation of law: 201 KAR 2:106 Section 2 (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/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. 12-0074B. Pharmacist allegedly did not notify the Board of Pharmacy of the closure or discontinuing services as pharmacist-in-charge to this special medicinal gas location. Alleged violation of law: 201 KAR 2:205 Section 1, 2(3)(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. 12-0076A. Pharmacy permit holder allegedly was selling legend drugs to a wholesaler for resale. Pharmacy made over 170 purchases from August 24, 2011 until April 3, 2012 involving agents on the FDA drug shortage list. Alleged violations of law: KRS 315.400(17)(j) and 201 KAR 2:205 Section 2(3)(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/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. 12-0076B. Pharmacist-in-charge allegedly allowed improper disposition of drug. Pharmacy made over 170 purchases from August 24, 2011 until April 3, 2012 involving agents on the FDA drug shortage list. Alleged violation of law: KRS 315.400(17)(j). 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. 12-0079. The North Carolina Board of Pharmacy notified the Board office that an out of state pharmacy permit holder had voluntarily surrendered their pharmacy permit in NC. Alleged violation of law: KRS 315.0351(3). 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. 12-0081. Pharmacist allegedly tested positive for alcohol after using disinfecting mouthwash containing 70% alcohol violating terms of Agreed Order. Alleged violation of law: KRS 315.121(1)(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/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. 12-0082A. Pharmacy permit holder allegedly aided or abetted an employee to assist in the practice of pharmacy without having a current pharmacy technician registration. 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. 12-0082B. Pharmacy technician allegedly assisted in the practice of pharmacy without a current pharmacy technician registration from 10/01/11 to 2/3/12. Alleged violation of law: KRS 315.138(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. 12-0084. Non-resident pharmacy permit holder allegedly failed to appoint a pharmacist-in-charge within 14 days. The position of pharmacist-in-charge was vacant from April 5, 2011 until April 2, 2012. Alleged violation of law: KRS 315.0351(7). 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. 12-0085. Pharmacist allegedly failed to complete the required 15 hours of continuing education for license renewal for 2011. Pharmacist only completed 1.5 hours. Alleged violations of law: 201 KAR 2:015 and KRS 315.065. 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.

RECIPROCITY/RELICENSE/INTERNSHIP/PHARMACY TECHNICANS

Charles Peckerman. Charles Peckerman submitted a pharmacist's application for reciprocity. Mr. Peckerman had disciplinary action from other State Boards of Pharmacy and had been denied reciprocity from several more states. Mr. Hadley moved to deny Charles Peckerman's pharmacist's application to reciprocate to Kentucky. Dr. Hanna seconded, and the motion passed unanimously.

Pharmacy Technician Registrants KB, HB, AF, RN, CO, HR. Dr. Greenwell moved to approve the new pharmacy technician applications for KB, HB, AF, RN, CO and HR provided each signs Agreed Orders with standard language that includes probation for 1 year and up to 3 drug screens per year with a PRN agreement. Ms. Brewer seconded, and the motion passed unanimously.

Pharmacy Technician Registrant CA. Dr. Greenwell moved to deny the new pharmacy technician application for CA due to lack of information; however the Board will reconsider the denial if additional information is provided. Dr. Hanna seconded, and the motion passed unanimously.

Pharmacy Technician Registrant CC. Dr. Greenwell moved to deny the new pharmacy technician application for CC. Dr. DeWire seconded, and the motion passed unanimously.

Pharmacy Technician Registrant SE. Dr. Greenwell moved to approve the new pharmacy technician application for SE provided he signs an Agreed Order with standard language that includes probation for 5 year and up to 12 drug screens per year and 12 AA/NA meetings per month with a PRN agreement. Dr. Hanna seconded, and the motion passed unanimously.

Pharmacy Technician Registrant SW. Dr. Greenwell moved to deny the new pharmacy technician application for SW. Ms. Brewer seconded, and the motion passed unanimously.

Pharmacy Technician Renewal Registrants EC, CG, HG, EL, JS, JW. Dr. Greenwell moved to approve the pharmacy technician renewal applications for EC, CG, HG, EL, JS and JW provided each signs Agreed Orders with standard language that includes probation for 1 year and up to 3 drug screens per year with a PRN agreement. Dr. Hanna seconded, and the motion passed unanimously.

Pharmacy Technician Registrant TM. Dr. Greenwell moved to deny the pharmacy technician renewal application for TM. Mr. Hadley seconded, and the motion passed unanimously.

Frederick Barton. Frederick Barton requested permission to sit for initial Kentucky pharmacist's licensure examinations. Mr. Barton has a recent alcohol arrest. Dr. Greenwell moved to allow Frederick Barton to sit for the Kentucky pharmacist's licensure examinations without restrictions. Dr. Hanna seconded, and the motion passed unanimously.

NABP:

The Board mails the Newsletter to approximately 50 pharmacists. The contract with NABP to produce these Newsletters is \$1272.12 per year. Mr. Burluson is directed to review the situation for alternative solutions and bring back information to the Board.

Dr. DeWire nominated Dr. Greenwell as the alternate delegate for the 2012 NABP Annual Meeting. Ms. Brewer seconded, and the motion passed unanimously.

LEGISLATION/REGULATION:

Mr. Burluson gave an overview of the 3 bills passed by the 2012 Kentucky Legislature that would affect the Board of Pharmacy: HB 282, regarding Home Medical Equipment; HB 1, regarding controlled substances; and SB 3, regarding pseudoephedrine sales.

President Thornbury thanked Jill Rhodes for chairing the MTM committee and all the work done on the MTM regulation. President Thornbury sent the regulation to the Regulation Committee to finalize the wording.

President Thornbury sent the draft of the Home Medical Equipment (HME) regulation back to the stake holders with suggestions for changes. The stake holders include Board staff and HME providers.

CONTINUING EDUCATION: Dr. Hanna moved to approve continuing education programs 12-06 through 12-12 as recommended. Dr. DeWire seconded, and the motion passed unanimously.

OLD BUSINESS: Pharmacist Recovery Network Appointments – 2012. Notice for Applications for Pharmacist Recovery Network Appointments for 2012 has been disseminated to Kentucky pharmacists. Deadline for applications will be May 31, 2012.

Compounds for Controlled Substances in Office/Institution. Since DEA does not allow non-patient specific compounding of controlled substances for office and/or institution use, the pharmacist requesting allowance of this practice does not want it pursued.

NEW BUSINESS: Steve Hart presented new software options. Dr. Greenwell moved to move forward with making Accela the Board's new software provider. Dr. Hanna seconded, and the motion passed unanimously.

FYI: There was one Agreed Order for a continuing education violation that met criteria for expungement.

ADJOURNMENT: On motion by Dr. DeWire, seconded by Dr. Hanna and passed unanimously, President Thornbury adjourned the Board Meeting at 11:30 a.m. The next regularly scheduled Board Meeting is scheduled to begin at 9:00 a.m. on July 11, 2012 at the Board Office in Frankfort, Kentucky.

Michael Burleson, R.Ph.
Executive Director