

**MINUTES**  
**KENTUCKY BOARD OF PHARMACY**  
Spindletop Administration Building, Suite 302  
2624 Research Park Drive  
Lexington, Kentucky

December 16, 2009

**CALL TO ORDER:** A regular meeting of the Kentucky Board of Pharmacy was held at the Board Office at Spindletop Administration Building, 2624 Research Park Drive, Lexington, Kentucky. President Shely called the meeting to order at 9:12 a.m.

Members present: Catherine Shely, Larry Hadley, Mike Leake, Anne Policastri, Sandy Simpson and Joel Thornbury. Staff: Mike Burlison, 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; Cheryl Lalonde, Assistant Attorney General and Board Counsel; and Brian Fingerson, Pharmacist Recovery Network Committee. Guests: Ralph Bouvette, Cathy Hanna, Molly Carr and Sam Lyons, APSC; Brad Hall, Autumn Higgins and Ann Albrecht, Kentucky Pharmacists Association; Melissa Groover, CVS/Caremark; Chris Killmeier, Walgreens; Pete Orzali, Humana; Jan Gould, Kentucky Retail Federation; Mike Wyant, Cardinal Health; Deborah Brewer, Brian Dewire and Scott Greenwell, Board members-elect; Dean Mason, Hiep Dinh, Shital Patel, Vanessa Taylor and Valerie Early, College of Pharmacy students. Sandy Harding, Court Reporter, recorded the meeting.

**MINUTES:** On motion by Mr. Thornbury, seconded by Dr. Policastri and passed unanimously, the Minutes of November 13-14, 2009 Board Meeting and Retreat were approved.

**APPEARANCES:** **Dan Daffron.** Mr. Daffron was sworn in by Sandy Harding, Court Reporter. Mr. Daffron appeared before the Board asking for reinstatement of his Kentucky pharmacist's license. Mr. Daffron gave a brief overview of the events that lead to the loss of his license. After discussion, Mr. Thornbury moved to reinstate Dan Daffron's Kentucky pharmacist's license with stipulations as follows: probation for 5 years; 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 for three years, 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: 30 hours/week for the first six months, then 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 and shall not possess a key to 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.

**Gregory Dobbs.** Mr. Dobbs was sworn-in by, Sandy Harding, Court Reporter. Mr. Dobbs appeared before the Board asking for reinstatement of his Kentucky pharmacist's license. Mr. Dobbs gave a brief overview of the events that lead to the loss of his license. After discussion, Mr. Hadley moved to reinstate Gregory Dobbs's Kentucky pharmacist's license with the stipulations as follows: pharmacist must abide with Agreed Order from the Indiana Board of Pharmacy; probation to coincide with probation set by the Indiana Board of Pharmacy; 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; shall abide by all the terms and agreements with the Indiana Board of Pharmacy. Mr. Thornbury seconded, and the motion passed unanimously.

**Brad Hall, Executive Director of Kentucky Pharmacists Association (KPhA).** Mr. Hall presented President Shely with a token of appreciation for her service to the Kentucky Board of Pharmacy and as its President. Mr. Hall presented slides of the mobile pharmacy. Mr. Hall also presented a follow-up to the proposal made at the Board Retreat for the Kentucky Pharmacy Education Research Foundation to develop a survey for pharmacists and consumers regarding mandatory counseling. Mr. Hall requested \$15000 from the Kentucky Board of Pharmacy to fund the survey. Ms. Lalonde stated the law does not allow for the Board of Pharmacy to give grants to professional organizations.

### **BOARD REPORTS:**

**Board President.** Dr. Shely stated that Brent Fox's presentation to the Advisory Council on December 11, 2009, on the impact of technology on the profession of pharmacy stimulated much discussion which will be continued at the next Advisory Council meeting. She also thanked everyone for the support over the past 4 years.

**Board Members. Larry Hadley.** Mr. Hadley thanked President Shely, Mike Burleson, and the staff for their kindness and patience with him in his first year as a Board member. Mr. Hadley thanked the Board for allowing him to attend the NABP Symposium on medical marijuana, which he found very enlightening.

**Anne Policastri.** Dr. Policastri thanked the Board for allowing her to attend the American Society of Health System Pharmacists (ASHP) Mid-year meeting. She presented a written report of the section meeting for Board of Pharmacy members and staff. The issues being seen across the country are the same as those being dealt with in Kentucky. The issues discussed included: pharmacy technician registration, education and standardization; medication error reporting; prescription monitoring programs and the scheduling of pseudoephedrine; health information technology including e-prescribing; pharmacy interns's scope of practice which varies widely from state to state; emergency protocols; and take back programs.

**Joel Thornbury.** Mr. Thornbury was unable to attend the November 13, 2009 Board Meeting because of his participation in Leadership Kentucky. Mr. Thornbury thanked the Board for allowing him to attend the NABP Symposium on medical marijuana.

**Sandy Simpson.** Ms. Simpson expressed gratitude for the opportunity to serve on the Board of Pharmacy.

**Mike Leake.** Mr. Leake expressed gratitude for the opportunity to serve on the Board of Pharmacy.

**Board Executive Director.** 1) EMars monthly report for November 2009 was presented to the Board. 2) The new Board office at 125 Holmes Street, Frankfort, Kentucky, is still in the planning stages. The January Board Meeting will be held in Lexington at the current Board Office. 3) Mr. Burleson provided an informational bulletin regarding issues confronting the 2010 General Assembly including the issue of combining independent occupational boards and commissions under a common agency. Mr. Burleson will keep the Board informed as more information becomes available.

**Board Staff.**

**Steve Hart.** Mr. Hart thanked the Board for the support to bring technology to the Board office.

**Chris Frasure.** Mr. Frasure thanked the Board for allowing him to attend the ASHP meeting.

**Shannon Allen.** Ms. Allen thanked the Board for allowing her to attend the NABP Symposium on medical marijuana.

**Phil Losch.** Mr. Losch thanked the Board for allowing him to attend the ASHP meeting.

**PRN Chair.** Brian Fingerson thanked President Shely and Past President Leake for their service to the PRN Committee. CAPTSA is January 29-30, 2010 in Lexington, Kentucky.

**CURRENT/PENDING CASES:**

**Case Review:** Mr. Hadley recused himself from Case 09-0007A & B. Dr. Policastri moved for acceptance of the Case Review Committee recommendation for Case 09-0007A & B. Ms. Simpson seconded, and the motion passed unanimously.

**Case No. 09-0007A.** Pharmacy permit holder was part of corporate settlement with DEA in violation of federal law regarding record keeping and control of controlled substances. This location was also charged with unlawful distribution of controlled substances for filling prescriptions for a physician not on location. 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, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

**Case No. 09-0007B.** Pharmacist was part of corporate settlement with DEA in violation of federal law regarding record keeping and control of controlled substances. The pharmacy was also charged with unlawful distribution of controlled substances for filling prescriptions for a physician not on location. Alleged violation of law: KRS 315.121(1)(c)3. CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Dr. Policastri moved to set a precedent to treat a medication error as a first time offense for a pharmacist who had previously been disciplined for a medication error if the disciplinary action occurred at least 5 years earlier. Mr. Leake seconded, and the motion passed unanimously.

Ms. Simpson moved for acceptance of the remaining Case Review Committee recommendations for the following case reports. Dr. Policastri seconded, and the motion passed unanimously.

**Case No. 09-0080 Revisit.** 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 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. 09-0104.** 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. 09-0105A.** Pharmacy permit holder allegedly dispensed a stock bottle of topiramate 100 mg labeled as torsemide 100 mg. Alleged violations of law: KRS 315.121(1)(a) and 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. 09-0105B.** Pharmacist allegedly filled a prescription for torsemide 100 mg with topiramate 100 mg. 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. 09-0106A.** Pharmacy permit holder allegedly improperly filled a prescription for Lexapro 10 mg with Lipitor 10 mg. Alleged violations of law: KRS 315.121(2)(d) and 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. 09-0106B.** Pharmacist allegedly committed a medication error by filling a prescription for Lexapro 10 mg with Lipitor 10 mg. 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, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

**Case No. 09-0107A.** Pharmacy permit holder allegedly sold a misbranded drug as the result of a medication error. A refill for Lamictal 100 mg tablets was filled with labetalol 100 mg tablets. Alleged violations of law: KRS 217.065(1) and KRS 315.121(2)(e). CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

**Case No. 09-0107B.** Pharmacist allegedly committed a medication error by refilling a prescription for Lamictal 100 mg tablets with labetalol 100 mg tablets. Alleged violations of law: KRS 217.065(1) and KRS 315.121(2)(e). 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. 09-0108.** Pharmacy technician allegedly diverted hydrocodone/APAP 10/500 mg tablets on 5 separate occasions taking approximately 6 to 8 tablets each time from the Accudose machine. Alleged violations of law: KRS 315.121(2)(f) and KRS 218.1418. 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. 09-0109.** Pharmacist allegedly committed a medication error by filling a prescription written for Librium 5 mg with generic Librax. 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. 09-0110A.** Pharmacy permit holder allegedly engaged in unprofessional and unethical conduct by losing a patient's prescription. 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. 09-0110B.** Pharmacist allegedly engaged in unprofessional and unethical conduct by losing a patient's prescription. 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. 09-0111.** Pharmacy technician allegedly diverted controlled substances from a pharmacy. 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. 09-0112A.** Pharmacy permit holder allegedly allowed a dispensing error. Prescription for diltiazem 360 mg was incorrectly inputted in computer as diltiazem 300 mg. The 300 mg prescription was dispensed for 3 months. 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. 09-0112B.** Pharmacist allegedly committed a dispensing error by incorrectly inputting in the computer a prescription for diltiazem 360 mg as diltiazem 300 mg. The 300 mg prescription was dispensed for 3 months. 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. 09-0113.** Pharmacy technician allegedly tested positive for alcohol while on duty. Technician resigned. 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. 09-0114A.** Pharmacy permit holder allegedly refused to use an advanced registered nurse practitioner's DEA number to fill a prescription for Adipex P. Alleged violations of law: KRS 315.121 and KRS 217.064(1). CRC Recommendation: Case is dismissed.

**Case No. 09-0114B.** Pharmacist allegedly refused to use an advanced registered nurse practitioner's DEA number to fill a prescription for Adipex P. Alleged violations of law: KRS 315.121 and KRS 217.064(1). CRC Recommendation: Case is dismissed.

**Case No. 09-0115A.** Pharmacy permit holder allegedly sold a misbranded product as the result of a medication error. A refill for Dehistine syrup was allegedly filled with either C Phen DM syrup or Re-Drylex syrup. Alleged violations of law: KRS 217.065(1) and KRS 315.121(2)(e). CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

**Case No. 09-0115B.** Pharmacist allegedly committed a medication error by refilling a Dehistine syrup prescription with either C Phen DM syrup or Re-Drylex syrup. Alleged violations of law: KRS 217.065(1) and KRS 315.121(2)(e). 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. 09-0116.** Pharmacy permit holder allegedly engaged in unprofessional and unethical conduct by selling 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. 09-0117A.** Pharmacy permit holder allegedly allowed a medication error to occur by filling a prescription for generic Cortisporin ophthalmic drops with generic Cortisporin otic drops. Patient applied the otic drops in the eyes. 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. 09-0117B.** Pharmacist allegedly committed a medication error by filling a prescription for generic Cortisporin ophthalmic drops with generic Cortisporin otic drops. Patient applied the otic drops in the eyes. 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. 09-0118.** Pharmacy technician allegedly diverted up to 3500 doses of hydrocodone/APAP 10/500 mg while working PRN and as a technician student. Alleged violations of law: KRS 315.121(1)(a), KRS 315.121(2)(f) and KRS 218A.1418. CRC Recommendation: There is sufficient evidence developed and the investigator is directed to conduct further investigation.

**Case No. 09-0120.** Pharmacy permit holder allegedly failed to provide adequate security of controlled substances. Alleged violation of law: 201 KAR 2:100 Section 1. CRC Recommendation: There is sufficient evidence developed and the investigator is directed to conduct further investigation.

**Case No. 09-0123.** Pharmacy permit holder allegedly closed for approximately 30 days and allegedly failed to have a pharmacist-in-charge for approximately 3 months. Alleged violations of law: 201 KAR 2:106, KRS 315.020 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, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

**Case No. 09-0127.** Pharmacist allegedly engaged in unprofessional and unethical conduct by diverting controlled substances. Alleged violation of law: KRS 315.121(2)(f). CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

### **CORRESPONDENCE/COMMUNICATION:**

**Expungement.** Mr. Leake moved to expunge EX 09-02. Dr. Policastri seconded, and the motion passed unanimously.

**Sullivan University College of Pharmacy/ David Nash.** Sullivan University College of Pharmacy requested to have David Nash be pharmacist-in-charge of both Sullivan University College of Pharmacy and the InterNational Center for Advanced Pharmacy Services (INCAP). Dr. Policastri moved to allow David Hash to be dual pharmacist-in-charge for Sullivan University College of Pharmacy and the InterNational Center for Advanced Pharmacy Services (INCAP). Mr. Thornbury seconded, and the motion passed unanimously.

### **LEGISLATION/REGULATION:**

Jan Gould, Kentucky Retail Federation, gave an overview of the Emergency/Disaster Bill that Representative Mike Cherry has agreed to take to committee. The bill includes allowing pharmacists to dispense a 30 day supply of medication in an emergency; allowing pharmacists to

immunize children age 14 to 17; allow pharmacists to dispense prophylactic medications under a physician protocol; and allowing operation of pharmacies at temporary locations.

Mr. Burleson is working on repealing the HIV/AIDS continuing education requirement.

Information regarding the reduction of methamphetamine labs in Oregon since moving pseudoephedrine to a scheduled prescription drug was presented by Mr. Burleson. There has not been a bill prefiled to move pseudoephedrine to a controlled substance in Kentucky.

Lieutenant Governor Daniel Mongiardo and Dan Wormly from the University of Kentucky College of Pharmacy are supporting a bill on Opioid Drug Overdose. After discussion, Mr. Gould and Dr. Bouvette indicated that they were not opposed to the concept of the bill but are opposed to some of the particulars of the bill.

A letter was submitted to the Board asking for the Board's opinion on restricting the sale of dextromethorphan due to abuse by teenagers. The Board instructed Mr. Burleson to respond that the Board supported education of the public and pharmacists on this issue but would like to see more data regarding the abuse of dextromethorphan. The Board is not necessarily in favor of legislating the sale of dextromethorphan.

#### **CONTINUING EDUCATION:**

Mr. Thornbury moved to accept the continuing education program 09-59 as recommended. Mr. Hadley seconded, and the motion passed unanimously.

#### **NEW BUSINESS:**

Mr. Thornbury moved to table the election of President until the first Board Meeting of 2010 and for Dr. Policastri to serve as interim Board President from January 1, 2010 until the first Board Meeting. Mr. Hadley seconded, and the motion was defeated with Mr. Hadley and Mr. Thornbury voting for the motion and Mr. Leake, Dr. Policastri and Ms. Simpson voting against the motion. President Shely declined to make a tie.

Mr. Leake moved to proceed with elections and nominated Mr. Thornbury as President-elect. Mr. Hadley seconded the motion. Dr. Policastri nominated Mr. Hadley as President-elect. Mr. Thornbury seconded the nomination. Mr. Hadley declined the nomination. Mr. Leake moved that nominations cease. There was no second. After discussion, Mr. Thornbury declined the nomination.

Mr. Hadley moved to table the election of President until the first Board Meeting of 2010 and for Dr. Policastri to serve as interim President from January 1, 2010 until the first Board Meeting. Mr. Thornbury seconded, and the motion was defeated with Mr. Hadley and Mr. Thornbury voting for the motion and Mr. Leake, Dr. Policastri and Ms. Simpson voting against the motion. President Shely declined to make a tie.

Mr. Leake moved to nominate Dr. Policastri as President of the Board of Pharmacy to serve a term from January 1, 2010 through December 31, 2010. Ms. Simpson seconded, and the motion

passed with Mr. Leake, Dr. Policastri and Ms. Simpson voting for the motion and Mr. Hadley and Mr. Thornbury voting against the motion. President Shely declined to make a tie.

Ms. Simpson moved that any additional officers be elected at the next Board Meeting. Mr. Leake seconded, and the motion passed unanimously.

Bryan Proctor swore in each of the new Board Members: Deborah Brewer, Brian Dewire and Scott Greenwell.

**ADJOURNMENT:** On motion by Mr. Leake, seconded by Ms. Simpson, and passed unanimously, President Shely adjourned the Board Meeting at 1:05 p.m. The next regularly scheduled Board Meeting is scheduled to begin at 9:00 a.m. on January 13, 2010 at the Board Office in Lexington, Kentucky.

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Michael Burleson, R.Ph.  
Executive Director