

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

July 8, 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 9:05 a.m.

Members present: Catherine Shely, Larry Hadley, Mike Leake, Anne Policastri, Joel Thornbury and Sandy Simpson. Staff: Michael Burleson, Executive Director; Katie Busroe 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: Kim Morgan, Target; Pete Orzali and Scott Greenwell, Humana; Chris Killmeier, Walgreens; Mike Wyant, Cardinal Health; Chad Peter, CVS; Brad Hall, Kentucky Pharmacists Association; Jan Gould, Kentucky Retail Federation; Alan C. Boyd; Georgia Boyd; and Jessica Klump, Korey Manning, Jason Ernstberger, Rachel Adkins, Jordan Caldwell, Kristian Ray, Kenix Lai, Molly Carr, Olivia Browning, Karla Nix, Whitney Welch, Carrie Ward, Anne Strohmeier, Dionne Beatty, Kathryn Berger, Katherine Danos, and Sara Parli, College of Pharmacy Students. Melody Curtis, Court Reporter, recorded the meeting. Steve Hart, Pharmacy and Drug Inspections Coordinator, was not present.

**MINUTES:** On motion by Dr. Policastri, seconded by Mr. Leake and passed unanimously, the Minutes of May 13, 2009 Board Meeting were approved as amended.

**APPEARANCE:** **Alan Boyd.** Mr. Boyd was sworn in by Melody Curtis, Court Reporter. Mr. Boyd appeared before the Board asking for permission to take the Kentucky Board of Pharmacy licensure examinations and for reinstatement of his Kentucky pharmacist's license. Mr. Boyd gave a brief overview of the events that lead to the loss of his license. After discussion, Mr. Leake moved to allow Mr. Boyd to sit for the Kentucky Board of Pharmacy licensure examinations and upon successful completion, reinstate Mr. Boyd's Kentucky pharmacist's license with the stipulations as follows: he continues with his current Pharmacist Recovery Network (PRN) contract and drug screens until the Kentucky Board of Pharmacy licensure examinations are successfully completed and he signs an Agreed Order of Reinstatement and new PRN contract; 5 years probation; shall maintain a perpetual inventory at all places of employment for Schedule II drugs, with electronic tracking of Schedule III-V drugs and expired controlled substances, perpetual inventory shall be made available to the Board upon request and audits may be conducted; shall attend AA/NA meetings no less than 6 times per 2 week period or 12 meetings per calendar month, which shall include a minimum of 2 meetings per week; Board shall conduct semi-annual inspections at all locations of employment or practice as a pharmacist, the cost of which not to exceed

\$500 per inspection, shall be paid to the Board within 30 days of invoicing; agrees that a violation of the Agreed Order of Reinstatement shall cause him to automatically lose his license to practice pharmacy for not less than five years and one day and shall require individual to petition the Board for reinstatement only after he has taken and successfully passed the entire Kentucky Board of Pharmacy licensure examinations; 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; committing any act that results in violation of federal or state pharmacy or drug statute or regulation, may

result in an emergency suspension of pharmacist's license, require an appearance before the Board, or result in a complaint against pharmacist's license with the Board imposing any applicable penalties; and shall not seek to amend or modify this Agreed Order. Above information shall be reported to NABP and is subject to disclosure under the Kentucky Open Records Act. Ms. Simpson seconded, and the motion passed four to one, with Mr. Hadley, Mr. Leake, Dr. Policastri and Ms. Simpson voting for the motion and Mr. Thornbury voting against the motion.

### **BOARD REPORTS:**

**Board President.** Dr. Shely reported that the Pharmacy Leadership Council will meet the week of July 13, 2009 and the Advisory Council will meet at the end of July 2009. There will be a follow-up meeting of the Emergency Preparedness Committee.

**Board Members. Dr. Policastri.** Dr. Policastri thanked the Board for allowing her to attend the University of Utah School on Alcoholism and Other Drug Dependencies. She complimented Brian Fingerson for excellent presentations.

**Mr. Thornbury.** Mr. Thornbury congratulated Larry Hadley for receiving the Distinguished Service Award and Patricia Thornbury for receiving the Bowl of Hygeia at the annual Kentucky Pharmacists Association meeting.

Mr. Thornbury left the meeting at 10:30 a.m.

**Board Executive Director.** 1) EMars monthly reports for June and July 2009 were presented to the Board. Mr. Burleson noted where the state had taken the \$300,000 from the Board's funds. Mr. Leake moved to direct Mr. Burleson to work with other boards that are similarly affected by the confiscation of funds by the Legislature and draft a letter to all legislators to be signed by all Board members explaining the situation. Mr. Burleson is directed to coordinate with KPhA and KSHP on a public relations campaign to educate pharmacists on this issue, explaining the need for a self-funded, free standing Board of Pharmacy and the consequences a "super" board would have on the pharmacy practice settings in Kentucky including a fee increase and delayed response to inquiries. When Mr. Burleson has drafted the letter, he is to send it to President Shely for approval. Dr. Policastri seconded, and the motion passed unanimously. 2) The September Board Meeting will be held on the University of Kentucky campus. 3) Mr. Burleson informed the Board that there is a group wanting to take possession of the Spindletop Administration building within 9 months, if renovations to the building are feasible. He has filed a space request with Real Properties for some possible sites in Frankfort and Lexington. He will keep the Board informed of any update. 4) Agenda items for the Board Retreat in November will be finalized at the September 9, 2009 Board Meeting. Possible topics include: mandatory counseling and handling medication errors if the quality assurance legislation passes. 5) Mr. Burleson informed the Board that the hiring of two new inspectors should be finalized in the next week. 6) The process of hiring a hearing officer is finalized.

**Board Staff.** Katie Busroe thanked the Board for allowing her to attend the DEA conference in June.

**PRN Committee.** Mr. Fingerson stated that University of Kentucky and Sullivan Colleges of Pharmacy are doing background checks on students being accepted in pharmacy school, therefore, he will begin doing proactive PRN contracts with students. Dr. Policastri moved to hold interns to the same standard as a pharmacy graduates taking the Kentucky Board of Pharmacy licensure examinations: if the intern applicant has one misdemeanor conviction with no extenuating circumstances and is under a PRN contract, an intern card may be issued without the applicant appearing before the Board and if no further violations occur, the intern will not have to appear before the Board at the time of licensure, however, the Board requires any application from an intern that has a felony conviction, a Driving Under the Influence conviction within 2 years, or 2 or more misdemeanor convictions within 10 years to appear before the Board. Mr. Hadley seconded, and the motion passed unanimously.

**CURRENT/PENDING CASES:**

**Case Updates:** Mr. Hadley moved for acceptance and entry of the proposed Agreed Orders as written. Ms. Simpson seconded, and the motion passed unanimously. Case No. 08-0044; Case No. 08-0093; Case No.09-0001; Case No.09-0008B; Case No.09-0010B; Case No.09-0023A; Case No.09-0031B; Case No.09-0034B; Case No.09-0039; Case No.09-0043A; Case No. 09-0043B; Case No.09-0048; Case No.09-0049; Case No.09-0051; Case No.09-0052; and Case No.09-0053.

**CORRESPONDENCE/COMMUNICATIONS:**

**Johnson Mathers Health Care Pharmacy/Rachel Harney.** Dr. Harney withdrew the request regarding critical access hospitals with low census.

**Faith Community Pharmacy/Rosana Ayd.** Ms. Ayd, pharmacist-in-charge of Faith Community Pharmacy, requested charitable pharmacies be exempt from paying the \$25 fee for registering technicians. Mr. Leake moved to deny the request that charitable pharmacies be exempt from paying the \$25 fee to register technicians, explaining that the fee is set by statute and the Kentucky Board of Pharmacy does not have authority to waive a statute. Mr. Hadley seconded, and the motion passed unanimously.

**Pasadena Pharmacy/Gary Harris.** Daren White requested permission for Gary Harris to be dual pharmacist-in-charge (PIC) of Tricare Pharmacy Network and Pasadena Pharmacy. This is a temporary situation because the PIC at Pasadena Pharmacy will be off for a period of at least six weeks. Mr. Hadley moved to allow Gary Harris to be pharmacist-in-charge for both Tricare Pharmacy Network and Pasadena Pharmacy. Dr. Policastri seconded, and the motion passed unanimously.

**CSI Infusion Services/Randall Hyde.** Mr. Hyde, Director of Pharmacy Operations for CSI Infusion Services, requested a waiver from the Kentucky Board of Pharmacy to retain their out of state pharmacy permit without a Kentucky licensed pharmacist-in-charge and to continue service to 3 patients in Kentucky. Mr. Leake moved to deny the request that CSI Infusion Services be allowed to have an out of state pharmacy permit without a Kentucky licensed pharmacist-in-charge based KRS 315.0351. Mr. Hadley seconded, and the motion passed unanimously.

**LEGISLATION/REGULATION: 201 KAR 2:045 – Pharmacy Technicians.** Mr. Burleson presented changes to 201 KAR 2:045 relating to pharmacy technicians. Mr. Hadley moved to change 201 KAR 2:045 by adding ExCPT as an acceptable examination for certifying pharmacy technicians in Kentucky but leave Section 1 (2) as “He has successfully completed the Nuclear Pharmacy Technician Training Program at the University of Tennessee.” Mr. Leake seconded, and the motion passed unanimously.

**201 KAR 2:320 Written Comments/Statement of Consideration.** Genetech and Pharmaceutical Research and Manufacturers of America (PhRMA) presented written comments to 201 KAR 2:320 permit for manufacturers. Mr. Hadley moved to adopt the wording of first expiration inventory is distributed first in Section 4 (7)(b); to deny the request of a manufacturer not having to designate a pharmacist-in-charge as outlined in Section 5; to deny the request of a manufacturer not having to report social security numbers of owners and operators as outlined in Section 3 (e)(1) per Federal and State statutes; and deny the request that a manufacturer not have a written procedure regarding returned, damaged and outdated prescription drugs as addressed in Section 4(5). Dr. Policastri seconded, and the motion passed unanimously. Mr. Burleson will file 201 KAR 2:320 by August 15, 2009.

**CONTINUING EDUCATION:**

Mr. Leake moved to accept the continuing education programs 09-22 through 09-28 as recommended. Dr. Policastri seconded, and the motion passed unanimously.

**NEW BUSINESS:** Dr. Trish Freeman was sworn in by Melody Curtis, Court Reporter. Dr. Freeman and Dr. Jeffery Talbert, Director of UK College of Pharmacy Research and Data Management Center conducted an independent focus group survey of the Kentucky Board of Pharmacy members and staff regarding perceptions of the Kentucky All Schedule Prescription Electronic Reporting (KASPER) program.

**ADJOURNMENT:** On motion by Dr. PolICASTRI, seconded by Mr. Hadley and passed unanimously, President Shely adjourned the meeting at 3:10 p.m. The next regularly scheduled Board Meeting is scheduled to begin at 9:00 a.m. on September 9, 2009 on the University of Kentucky Campus in Lexington, Kentucky.

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Michael Burleson, R.Ph.  
Executive Director