

MINUTES
KENTUCKY BOARD OF PHARMACY
University of Kentucky Campus
Lexington, Kentucky

September 9, 2009

CALL TO ORDER: A regular meeting of the Kentucky Board of Pharmacy was held at the University of Kentucky Student Center, Worsham Theatre, 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; 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: Pete Orzali and Scott Greenwell, Humana; Chris Killmeier, Walgreens; Brad Hall, Kentucky Pharmacists Association; Jan Gould, Kentucky Retail Federation; Ralph Bouvette and Sam Lyons, APSC; Sarah Freytag and Ashley Clark, CVS; Mike Wyant, Cardinal Health; Chris Maloy and Jeff Mills, Norton Healthcare; Jeffrey Osman; Lisa Nelson, Derek McDaniel, Alistair Harris, Candice Leavell, Cassandra Beyerle, Micah Beford, and Joanne Jansen, Pharmacy Students; and University of Kentucky College of Pharmacy Professional Year 3 students. Melody Curtis, Court Reporter, recorded the meeting. Steve Hart, Pharmacy Inspections and Investigations Coordinator, was not present.

MINUTES: On motion by Mr. Thornbury, seconded by Dr. Policastri and passed unanimously, the Minutes of July 8, 2009 Board Meeting were approved as amended.

APPEARANCE: . **Kevin Bereda, Agent with the FDA Office of Criminal Investigations.** Agent Bereda presented Dr. Jeffrey Osman, retired Pharmacy Inspections and Investigations Coordinator with the Kentucky Board of Pharmacy, a plaque recognizing his significant contributions and cooperation with the FDA.

Jeff Mills. Dr. Mills is the Kentucky Board of Pharmacy representative to the Advanced Registered Nurse Practitioner (ARNP) Controlled Substance Formulary Development Committee. A motion was presented at the ARNP Controlled Substance Formulary Development Committee meeting to allow ARNP's in a mental health facility setting as defined by statute, to prescribe up to a 30 day supply of benzodiazepines instead of being limited to the current regulation allowing ARNP's to prescribe up to a 14 day supply with no refills of the benzodiazepines alprazolam, diazepam, lorazepam and clonazepam. Dr. Mills presented some statistics regarding the prescribing of phentermine by ARNP's. At the Committee meeting, he had broached the subject that ARNP's should be held to the same standard regarding phentermine as physicians were per the Kentucky Board of Medical Licensure (KBML) regulation. Ms. Lalonde, Board Counsel, explained that if the Kentucky Board of Nursing did not have a parallel regulation, the KBML regulation may not apply, depending on the broadness of the KBML regulation. The ARNP's on

the Committee expressed the opinion that pharmacists benefit economically by limiting the prescriptive authority of ARNP's, resulting in patients visiting pharmacies more frequently. Mr. Burleson informed the Board that the Board office had never received a consumer complaint regarding patients having to go to the pharmacy more frequently if the prescriber was an ARNP instead of a physician. Dr. Mills was seeking the Board's opinion of these matters. Mr. Thornbury moved that the Board's position be to leave the regulation regarding the prescribing of the benzodiazepines alprazolam, diazepam, lorazepam and clonazepam by ARNP's in mental health facilities as defined by statute, as is, limiting the prescribing to up to a 14 day supply with no refills. Mr. Leake seconded, and the motion passed unanimously.

BOARD REPORTS:

Board President. Dr. Shely stated that the NABP/AACP District III meeting went well and thanked Dr. Policastri and Board staff for their hard work. The topic currently being discussed by the Advisory Committee is the role of technology in the practice of pharmacy, however, the July meeting was cancelled. The Advisory Council would like to have a speaker address the Council regarding this topic. There will be a follow-up meeting of the Emergency Preparedness Committee.

Board Members. Dr. Policastri. Dr. Policastri has finished compiling a summary of the breakout sessions of the NABP/AACP District III meeting. She attended the University of Utah School on Alcoholism and other Drug Dependencies in June and found it to be a learning experience. She will be making information available to the University of Kentucky College of Pharmacy students by presenting to student groups the value of the Utah School. Dr. Policastri will be attending the NABP Task Force meeting on Law Enforcement/ Legislation in January 2010.

Board Executive Director. 1) EMars monthly reports for fiscal year end, August and September 2009 were presented to the Board. 2) There is still no definite word on being asked to move out of the current office space at Spindletop Administration Building, but Mr. Burleson will keep the Board updated on the situation. 3) After discussion of the Board of Pharmacy Retreat, it was decided to start the Retreat topics at the end of the Board Meeting on Friday, November 13, 2009 if time allows. The main topics will be discussed early Saturday, November 14, 2009, with the lighter topics discussed Saturday afternoon. If all topics have been discussed thoroughly on Friday evening and Saturday, the Retreat will end. However, the Retreat will carry over to Sunday morning if need be. Topics in order of priority were determined as follows: Mandatory Counseling, Medication Errors if the Quality Assurance statute passes, Potential Controlling of Pseudoephedrine, and Technician Checking Technician in the Community Setting. If time allows, other topics are: Drug Take Back Programs and E-prescribing Software. Mr. Burleson and Advisory Council Chair, Tim Armstrong, will discuss the speaker requested by the Advisory Council regarding the role of technology in the practice of pharmacy. Mr. Thornbury moved to allow the Advisory Council to bring in a speaker on the role of technology in the practice of pharmacy at an expense of up to \$5,000. Mr. Hadley

seconded, and the motion passed unanimously. 4) Mr. Thornbury moved to allow Mr. Hadley to attend the NABP Task Force meeting on E-prescribing in September 2010 at no expense to the Board. Dr. Policastri seconded, and the motion passed unanimously. Mr. Thornbury moved to allow Dr. Policastri to attend ASHP in December 2009 at the expense of the Board, and the NABP Task Force meeting on Law Enforcement/Legislation in January 2010 at no expense to the Board. Mr. Hadley seconded, and the motion passed unanimously. Dr. Policastri moved to allow Mr. Burlson to attend the NABP Task Force meeting on Pharmacy Education and Training Programs on October 5-6, 2009, the NABP Budget Committee meeting on October 12-13, 2009, and the NABP Executive Committee meeting on November 3-4, 2009 at no expense to the Board. Mr. Hadley seconded, and the motion passed unanimously. Mr. Hadley moved to allow any Board Member and staff to attend MALTA-GON on October 18-21, 2009. Mr. Leake seconded, and the motion passed unanimously. Dr. Policastri moved to allow Mr. Burlson, at no expense to the Board, and 2 Board Members, at the expense of the Board, to attend the NABP Symposium on December 2-4, 2009. Mr. Leake seconded, and the motion passed unanimously. 5) Mr. Thornbury moved to approve the Board Meeting date of January 13, 2010, and table the rest of the 2010 Board Meeting calendar until the November 13, 2009 or December 16, 2009 Board Meeting. Mr. Leake seconded, and the motion passed unanimously. 6) Mr. Burlson has offered to have a Board Meeting at the Sullivan University College of Pharmacy in March 2010 or May 2010 but has not yet received a commitment from Sullivan.

Board Staff. Katie Busroe reported on the Legislative and Regulatory Committee of the Task Force of Kentucky for Responsible Prescribing. She asked the Board to support open dialogue with the chain pharmacies in Kentucky to allow their employee pharmacists internet access to the KASPER system. Mr. Thornbury moved to support open dialogue with the chain pharmacies in Kentucky to allow their employee pharmacists internet access to the KASPER system. Dr. Policastri seconded, and the motion passed unanimously.

PRN Committee. Mr. Fingerson informed the Board that he and Jared Combs will be speaking at the National Association of State Controlled Substance Authorities (NASCSA) in San Diego in October 2009. Mr. Fingerson will be presenting two programs at the South Eastern PRN in November 2009.

CURRENT/PENDING CASES:

OAG/Cheryl Lalonde. Ms. Lalonde informed the Board that during the case reports they would be voting on the terms of the Agreed Order for Case No. 09-0078 in order for President Shely to immediately sign the Agreed Order. Ms. Lalonde informed the Board that Case Review Committee had taken the position that once a pharmacy technician has been found to have diverted controlled substances, the technician's registration will be surrendered as revoked and there will be no second chances.

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

Case No. 06-0109A&B. REVISIT. Pharmacy permit holder and pharmacist allegedly engaged in fraudulent billing to Medicaid and Medicare by billing for prescriptions that were never picked up and selling physician's samples that were purchased from local physicians and a local pharmaceutical representative. **New Information:** Conviction Agreements. Alleged violations of law: KRS 217.055, KRS 217.065, KRS 315.121(1)(c)(1), and KRS 315.121(2)(d)(e) and (f). **CRC Recommendation:** There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 06-0109C. REVISIT. Pharmacist allegedly engaged in fraudulent billing to Medicaid and Medicare by billing for prescriptions that were never picked up and selling physician's samples that were purchased from local physicians and a local pharmaceutical representative. **New Information:** Conviction Agreements. Alleged violations of law: KRS 217.055, KRS 217.065, KRS 315.121(1)(c)(1), and KRS 315.121(2)(d)(e) and (f). **CRC Recommendation:** There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 06-0109D. REVISIT. Pharmacist allegedly engaged in fraudulent billing to Medicaid and Medicare by billing for prescriptions that were never picked up and selling physician's samples that were purchased from local physicians and a local pharmaceutical representative. **New Information:** Conviction Agreements. Alleged violations of law: KRS 217.055, KRS 217.065, KRS 315.121(1)(c)(1), and KRS 315.121(2)(d)(e) and (f). **CRC Recommendation:** There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 06-0109E. REVISIT. Pharmacist allegedly engaged in fraudulent billing to Medicaid and Medicare by billing for prescriptions that were never picked up and selling physician's samples that were purchased from local physicians and a local pharmaceutical representative. **New Information:** Conviction Agreements. Alleged violations of law: KRS 217.055, KRS 217.065, KRS 315.121(1)(c)(1), and KRS 315.121(2)(d)(e) and (f). **CRC Recommendation:** There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 06-0109F. REVISIT. Pharmacist (also a physician) allegedly sold physician's samples to a local pharmacy. **New Information:** Conviction

Agreements. Alleged violations of law: KRS 217.055, KRS 217.065, KRS 315.121(1)(c)(1), and KRS 315.121(2)(d)(e) and (f). CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 07-0030A. REVISIT. Pharmacy permit holder allegedly engaged in unprofessional and unethical conduct by failing to conduct a prospective drug utilization review and dispensing large quantities of alprazolam for one patient. Alleged violations of law: KRS 315.121(1)(a) and 201 KAR 2:210 Section 4. CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 07-0030B. REVISIT. Pharmacist allegedly engaged in unprofessional and unethical conduct by failing to conduct a prospective drug utilization review and dispensing large quantities of alprazolam for one patient. Alleged violations of law: KRS 315.121(1)(a) and 201 KAR 2:210 Section 4. CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 07-0030C. REVISIT. Pharmacist allegedly engaged in unprofessional and unethical conduct by failing to conduct a prospective drug utilization review and dispensing large quantities of alprazolam for one patient. Alleged violations of law: KRS 315.121(1)(a) and 201 KAR 2:210 Section 4. CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 08-0106. Pharmacy permit holder allegedly refilled prescriptions continuously without proper authorization. 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. 09-0030A. Pharmacy permit holder allegedly allowed a medication error by filling a metronidazole prescription with ciprofloxin. 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. 09-0030B. Pharmacist allegedly committed a medication error by filling a metronidazole prescription with ciprofloxin. 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. 09-0033A. Pharmacy permit holder allegedly allowed a compounded amitriptyline ear gel that caused a possible toxic exposure to feline that resulted in feline's death. Alleged violations of law: KRS 217.065(1) and 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. 09-0033B. Pharmacist allegedly compounded an amitriptyline ear gel that caused a possible toxic exposure to feline that resulted in feline's death. Alleged violations of law: KRS 217.065(1) and 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. 09-0041A. Pharmacy permit holder allegedly allowed a medication error by dispensing ropinirole instead of risperidone. 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. 09-0041B. Pharmacist allegedly committed a medication error by dispensing ropinirole instead of risperidone. 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. 09-0045A. Pharmacy permit holder allegedly allowed a medication error by not dispensing the correct quantity. 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. 09-0045B. Pharmacist allegedly committed a medication error by not dispensing the correct quantity. 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. 09-0054. Pharmacist is accused of alleged unprofessional conduct involving alcohol, drug abuse and drug trafficking of narcotics. Alleged violation of law: 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. 09-0055. Pharmacy technician allegedly admitted to taking 300 hydrocodone/APAP tablets. Technician was arrested on a felony charge of theft and was convicted on a lesser charge of possession. Alleged violations of law:

KRS 315.121(1)(c)(3) and KRS 315.121(2)(f) and (g). CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 09-0056A. Pharmacy permit holder allegedly allowed a medication error by refilling a prescription for pravachol 20 mg with paroxetine 20 mg. 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. 09-0056B. Pharmacist allegedly committed a medication error by refilling a prescription for pravachol 20 mg with paroxetine 20 mg. 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. 09-0057A. Pharmacy permit holder allegedly engaged in unprofessional conduct by refusing to fill four prescriptions for a 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. 09-0057B. Pharmacist allegedly engaged in unprofessional conduct by refusing to fill four prescriptions for a 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. 09-0058. Pharmacy technician allegedly diverted hydrocodone/APAP tablets from the pharmacy. Alleged violations of law: KRS 218A.1418(1) and KRS 218A.1418(2)(a). CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 09-0059. Pharmacist allegedly engaged in unprofessional conduct by refusing to fill a 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. 09-0062A. Pharmacy permit holder allegedly sold a misbranded product. Prescription was written for Endocet 10/325 mg tablets quantity of 180. The prescription was filled with 180 tablets but the label reflected 120 tablets. Alleged violations of law: KRS 217.065(1) and 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. 09-0062B. Pharmacist allegedly engaged in unprofessional conduct by committing a medication error. Prescription was written for Endocet 10/325 mg tablets quantity of 180. The prescription was filled with 180 tablets but the label reflected 120 tablets. Alleged violations of law: KRS 217.065(1) and KRS 315.121(2)(d). CRC Recommendation: There is sufficient evidence of a violation; however, the penalty shall be the issuance of a Letter of Reprimand.

Case No. 09-0063. Pharmacist allegedly failed to complete the required 15 hours of continuing education for 2008. Pharmacist reported completing all continuing education requirements on 2009 renewal, however, could only produce 14 of 15 required hours. Alleged violations of law: KRS 315.065 and 201 KAR 2:015 Section 5(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. 09-0064. Pharmacist allegedly allowed pharmacy to be open to the public without a pharmacist present. Alleged violation of law: 201 KAR 2:100 Section 1. CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 09-0065. Pharmacy technician allegedly diverted controlled substances from the pharmacy, technician was arrested and sentenced, and terminated from his position. Alleged violations of law: KRS 315.121(1)(c)(3) and KRS 315.121(2)(c). CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 09-0067A. Pharmacy permit holder allegedly sold a misbranded prescription. The prescription label stated it contained 180 tablets of oxycodone/APAP 10/325 mg, but the vial allegedly only contained 135 tablets. Alleged violations of law: KRS 217.065(1) and 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. 09-0067B. Pharmacist allegedly committed a medication error by filling a prescription for oxycodone/APAP 10/325 mg, quantity 180 with oxycodone/APAP 10/325 mg, quantity 135 tablets. Alleged violations of law: KRS 217.065(1) and 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. 09-0069A. Pharmacy permit holder allegedly allowed a medication error by filling a prescription for bupropion XL 150 mg, 3 tablets taken 3 times a day with bupropion XL 300 mg, 1 tablet taken 1 time a day. Alleged violations of law: KRS 315.121(2)d) and 201 KAR 2:210 Section 4(1). CRC

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

Case No. 09-0069B. Pharmacist allegedly committed a medication error by filling a prescription for bupropion XL 150 mg, 3 tablets taken 3 times a day with bupropion XL 300 mg, 1 tablet taken 1 time a day. Alleged violations of law: KRS 315.121(2)d) and 201 KAR 2:210 Section 4(1). CRC

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

Case No. 09-0070. Pharmacy technician allegedly diverted controlled substances, was arrested and charged with two counts of trafficking in a controlled substance, 1st degree, 1st offense. Alleged violation of law: KRS 315.121(2)(f). CRC

Recommendation: There is sufficient evidence developed and the investigator is directed to conduct further investigation.

Case No. 09-0071. Pharmacy permit holder allegedly failed to report pharmacist-in-charge change within the require 14 days. Alleged violation of law: 201 KAR 2:205 Section 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. 09-0072A. Pharmacy permit holder allegedly allowed entry into the pharmacy without the presence of a pharmacist. Alleged violations of law: 201 KAR 2:100 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. 09-0072B. Pharmacist-in-charge allegedly allowed entry into the pharmacy without the presence of a pharmacist. Alleged violations of law: 201 KAR 2:100 and 201 KAR 2:205. CRC **Recommendation:** Case is dismissed.

Case No. 09-0073. Pharmacy permit holder allegedly failed to report pharmacist-in-charge change within the require 14 days. Alleged violation of law: 201 KAR 2:205 Section 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. 09-0074A. Pharmacy permit holder allegedly consistently failed to maintain complete computer records identifying the dispensing pharmacist and dispensed a compounded Bellergal-S prescription instead of Donnatal for 11 months. Alleged violations of law: KRS 315.121(2)(d) and 201 KAR 2:170 Section 1(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, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 09-0074B. Pharmacist allegedly committed a medication error by dispensing compounded Bellergal-S instead of Donnatal for 11 months. Alleged violations of law: KRS 315.121(2)(d) and 201 KAR 2:170 Section 1(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, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 09-0075A. Pharmacy permit holder allegedly allowed a medication error by giving the wrong medication to the patient. The drug information provided was for the correct patient and was about the correct medication, however, the actual vial and medication in the bag was a different medication for another person. Alleged 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. 09-0075B. Pharmacist allegedly committed a medication error by giving the wrong medication to the patient. The drug information provided was for the correct patient and was about the correct medication, however, the actual vial and medication in the bag was a different medication for another person. Alleged violations of law: KRS 315.121(2)(b) and (d). CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 09-0076A. Pharmacy permit holder allegedly allowed a family member to pick up medication for another family member and it had been requested that

only the patient pick up the medication. Alleged violation of law: KRS 315.121(d). CRC Recommendation: Case is dismissed.

Case No. 09-0076B. Pharmacist allegedly allowed a family member to pick up medication for another family member and it had been requested that only the patient pick up the medication. Alleged violation of law: KRS 315.121(d). CRC Recommendation: Case is dismissed.

Case No. 09-0077. Pharmacist allegedly diverted controlled substances from the pharmacy. Pharmacist emailed the board of guilt and surrendered pharmacist's license. Alleged violations of law: KRS 315.121(1)(b), (2)(d) and (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. 09-0078. Pharmacy technician allegedly stole money from employer, therefore, engaging in unprofessional or unethical conduct. 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 including a 30 day suspension 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. 09-0081. Pharmacy technician allegedly diverted controlled substances was arrested, charged with theft of a controlled substance and plead guilty to attempted theft of a controlled substance. Alleged violations of law: KRS 315.121(1)(b), (2)(d) and (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. 09-0082. Pharmacy technician allegedly diverted controlled substances, was arrested and charged with theft of a controlled substance. Alleged violation of law: KRS 315.121(2)(f). CRC Recommendation: There is sufficient evidence developed and the investigator is directed to conduct further investigation.

Case No. 09-0083. Pharmacy technician allegedly diverted controlled substances and was charged with theft of a controlled substance. Alleged violation of law: KRS 315.121(2)(f). CRC Recommendation: There is sufficient evidence developed and the investigator is directed to conduct further investigation.

Case No. 09-0084A&B. Pharmacy permit holder and pharmacist allegedly failed to provide adequate security and control of controlled substances resulting in a

family member diverting controlled substances. Alleged violations of law: 201 KAR 2:100 Section 1 and 201 KAR 2:205 Section 2(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. 09-0085A. Pharmacy permit holder allegedly failed to provide adequate security and control of controlled substances resulting in a family member diverting controlled substances. Alleged violations of law: 201 KAR 2:100 Section 1 and 201 KAR 2:205 Section 2(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. 09-0085B. Pharmacist-in-charge allegedly failed to provide adequate security and control of controlled substances resulting in a family member diverting controlled substances. Alleged violations of law: 201 KAR 2:100 Section 1 and 201 KAR 2:205 Section 2(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. 09-0086. Special limited medical gas permit holder allegedly failed to renew permit in a timely manner and continued to operate as a special limited medical gas pharmacy. Alleged violations of law: KRS 315.035(1) and (4) and 201 KAR 2:225. 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. 09-0087. Pharmacist allegedly has a mental or physical incapacity that prevents pharmacist from engaging in the practice of pharmacy with reasonable skill, competence and safety to the public. Alleged violation of law: KRS 315.121(1)(b). CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 09-0088. Pharmacy permit holder allegedly failed to report pharmacist-in-charge change within the require 14 days. Alleged violation of law: 201 KAR 2:205 Section 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. 09-0089. Pharmacy technician allegedly failed to pay for a returned check for his technician registration and was arrested and plead guilty to shoplifting. 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.

RECIPROCITY/RELICENSURE/INTERNSHIP:

William Hamilton requested the Board again review his request for reinstatement of his Kentucky pharmacist's license. Mr. Leake moved to table William Hamilton's request for reinstatement of his Kentucky pharmacist's license until more information is gathered. Dr. Policastri seconded, and the motion passed unanimously.

Mr. Thornbury moved to approve the application for Pharmacy Technician Registrant LR with no restrictions. Mr. Hadley seconded, and the motion passed unanimously.

Mr. Thornbury moved to approve the application for Pharmacy Technician Registrant KLR with no restrictions. Ms. Simpson seconded, and the motion passed unanimously.

Mr. Thornbury moved to approve the application for Pharmacy Technician Registrant DD, provided he signs an Agreed Order that includes an assessment by Brian Fingerson, probation for two years, and a PRN Agreement with terms and conditions as to be determined by Mr. Fingerson. Dr. Policastri seconded, and the motion passed unanimously.

CORRESPONDENCE/COMMUNICATIONS:

PICC Lines Plus/Neil Colby. Mr. Colby, pharmacy manager for PICC Lines Plus, requested a waiver to the out of state pharmacy permit requirement, allowing PICC Lines Plus to dispense a limited number of specialized home infusion drugs into Kentucky without having to obtain an out of state pharmacy permit. Mr. Hadley moved to deny the request by Neil Colby of PICC Lines Plus to be exempt from having to obtain an out of state pharmacy permit. Mr. Thornbury seconded, and the motion passed unanimously.

LEGISLATION/REGULATION:

The Administrative Review Subcommittee met September 8, 2009, regarding the manufacturer regulation. At the November 13, 2009 Board Meeting, Mr. Burleson will bring forward the legislative initiatives for 2010.

CONTINUING EDUCATION:

Mr. Thornbury moved to accept the continuing education programs 09-29 through 09-45 as recommended. Ms. Simpson seconded, and the motion passed unanimously.

ADJOURNMENT: On motion by Mr. Thornbury, seconded by Ms. Simpson and passed unanimously, President Shely adjourned the meeting at 12:05 p.m. The next regularly scheduled Board Meeting is scheduled to begin at 9:00 a.m. on November 13, 2009 at the Cincinnati/Covington Marriott, Covington, Kentucky.

Michael Burleson, R.Ph.
Executive Director