

KENTUCKY BOARD OF PHARMACY

23 Millcreek Park

Frankfort KY 40601-9230

June 12, 2002 - 9:00 a.m.

AGENDA

- I. CALL TO ORDER**
- II. APPEARANCES**
 - *A. Amye Bensenhaver - 9:10 a.m.
 - *B. Terrance Ocheltree - 9:45 a.m.
 - *C. Garry Jenkins - 10:20 a.m.
 - *D. Daniel Thies - 10:50 a.m.
- III. MINUTES**
 - A. April 10, 2002
- IV. INTERAGENCY**
 - A. Drug Control
- V. BOARD REPORTS**
 - A. Board President
 - B. Board Members
 - A. Performance Evaluation
 - B. Board Manual
 - C. ARNP meeting
 - C. Board Executive Director
 - A. Board Examinations
 - B. Correspondence Updates
 - C. Custom Compounding Center
 - D. Board Staff
- VI. CURRENT/PENDING CASES**
 - A. OAG Case Updates - C. Lalonde-Mooney
 - B. KBP Case Updates
 - Case No. 99-0174A
 - Case No. 99-0174B
 - Case No. 99-0185A
 - Case No. 00-0134B
 - Case No. 00-0134C
 - Case No. 00-0170
 - Case No. 01-0140A
 - Case No. 02-001A
 - Case No. 02-001B
 - Case No. 02-0002A
 - Case No. 02-0005
 - Case No. 02-0006A
 - Case No. 02-0006B
 - Case No. 02-0008
 - Case No. 02-0010
 - Case No. 02-0014
 - Case No. 02-0015
 - Case No. 02-0016
 - Case No. 02-0021
 - Case No. 02-0022
 - Case No. 02-0024
 - Case No. 02-0027
 - Case No. 02-0030
 - Case No. 02-0033
 - Case No. 02-0035
 - Case No. 02-0038
 - Case No. 02-0041

Case No. 02-0042
Case No. 02-0043
Case No. 02-0044
Case No. 02-0046
Case No. 02-0047
Case No. 02-0048
Case No. 02-0049
Case No. 02-0050
Case No. 02-0051
Case No. 02-0052
Case No. 02-0053
Case No. 02-0055
Case No. 02-0056
Case No. 02-0057
Case No. 02-0058
Case No. 02-0059
Case No. 02-0061
Case No. 02-0062B

C. Case Review Committee

VII. RECIPROCITY/RELICENSURE/INTERNSHIP

- A. Samuel E May, Jr
- B. David R Ringel, M.D.
- C. Harry Frederick Mangus
- D. Valerie Akers
- E. John Bell

VIII. CORRESPONDENCE/COMMUNICATIONS

- *A. John L. Eklund
- *B. David Gresham
- *C. Appalachian Regional Healthcare
- *D. Jared Combs

IX. NABP

- A. District III - August 2002, Louisville KY

X. LEGISLATION/REGULATIONS

XI. CONTINUING EDUCATION

- A. Program Review

XII. FINES

XIII. OLD BUSINESS

XIV. NEW BUSINESS

*Information enclosed with this agenda
**Information previously provided
***Old material with response

MINUTES
KENTUCKY BOARD OF PHARMACY
Frankfort, Kentucky
June 12, 2002

CALL TO ORDER: A regular meeting of the Kentucky Board of Pharmacy was held at the Board office, 23 Millcreek Park, in Frankfort, Kentucky. President Foster called the meeting to order at 9:10 a.m.

Members present: Thomas S. Foster, Tim Armstrong, Becky Cooper, Georgina Kindall-Jones, Joe Carr, and Patricia Thornbury. Staff present: Michael A. Moné, Executive Director; Jeffrey L. Osman, Pharmacy Inspections and Investigations Coordinator; Katie Busroe and Philip C. Losch, Pharmacy and Drug Inspectors; Cheryl Lalonde-Mooney, Assistant Attorney General and Board Counsel; and Shannon Settles, Executive Secretary. Guests: Danna Droz, Drug Control, Cabinet for Health Services; Mike Mayes, KPhA; Jan Gould, Kentucky Retail Federation; Brian Lance, Meijer's; Brian Fingerson, Pharmacist Recovery Network; Trish Freeman, APSC; Amy Bensenhaver, Attorney General's Office; Terrance Ochletree, Gary Jenkins, Daniel Theis; Sandra Foster, Brad Brown, and Christina Craft University of Kentucky College of Pharmacy Student Interns. Melody Curtis, Court Reporter, recorded the meeting.

APPEARANCES: **Amy Bensenhaver.** Ms. Bensenhaver gave the Board an overview of the Kentucky Open Records and Open Meetings Act.

Terrance Ochletree. Mr. Ochletree appeared to petition the Board to allow him to serve as Pharmacist-in-Charge at a pharmaceutical manufacturing facility. Mr. Ochletree was placed under oath by Ms. Curtis, Court Reporter. Mr. Ochletree gave a brief summary of his most recent job duties of researching scientist developing new drug delivery systems. After brief discussion, Mr. Carr moved to grant Mr. Ochletree a license upon the successful completion of the MPJE. Ms. Jones seconded and the motion passed unanimously.

Gary Jenkins. Mr. Jenkins appeared to petition the Board for reinstatement of his pharmacist's license. Mr. Jenkins was placed under oath by Ms. Curtis, Court Reporter. Mr. Jenkins gave a brief overview of the cause leading to the loss of his pharmacist's license. After brief discussion, Mr. Armstrong moved to deny the reinstatement request. Mr. Carr seconded and the motion passed unanimously.

Daniel Theis. Dr. Theis appeared to petition the Board to approve his application for licensure. Dr. Theis was placed under oath by Ms. Curtis, Court Reporter. Dr. Theis gave a brief overview of his two Driving Under the Influence charges on his record. After a brief discussion, Ms. Jones moved to approve his application with the condition that he prepare and deliver 15 community service presentations to the youth of the Commonwealth regarding drug abuse. Mr. Carr seconded and the motion passed unanimously.

MINUTES: On motion by Mr. Carr, seconded by Ms. Cooper and passed unanimously, the Minutes of April 10, 2002 were adopted.

INTERAGENCY: **Drug Control.** Danna Droz informed the Board that the medical license of Dr. Santos' of South Shore, Kentucky has been suspended. Ms. Droz also informed the Board that there are still some problems with companies not reporting to KASPER.

BOARD REPORTS: **President.** President Foster congratulated Mr. Moné on being elected to the Executive Committee at the NABP Annual Conference. President Foster reviewed the sequence of events for the District III meeting in August. President Foster informed the Board of Patricia Thornbury's appointment to the Kentucky Board of Nursing. President Foster requested Mr. Armstrong to work with Board staff in preparing errors and omissions for the July Board exam.

Executive Director. Mr. Moné informed the Board of a dual Pharmacist-in-Charge request from Custom Compounding that was approved.

Members. Mr. Carr distributed a draft performance evaluation regarding Mr. Moné for the Board members to

review and if acceptable approve the document at the July 10th meeting.

After a brief discussion, Ms. Thornbury moved to authorize Mr. Moné to approve licensure applications with one misdemeanor offense. The Board requires applicants with 2 or more convictions within 10 years and applicants with Driving Under the Influence convictions within 2 years to appear on the agenda. Ms. Jones seconded and the motion passed unanimously.

ARNP Meeting. Ms. Thornbury gave an overview of the ARNP meeting that she and Mr. Moné attended.

Board Manual. After a brief discussion, Mr. Carr moved to approve the orientation manual in principle without the financial section. Ms. Jones seconded and the motion passed unanimously.

CURRENT/PENDING CASES: Mr. Carr moved for acceptance and entry of the proposed Agreed Orders as written. Ms. Jones seconded and the motion passed unanimously.

Case No. 99-0174A; Case No.99-0174B; Case No. 99-0185A; Case No. 00-0134B; Case No. 00-0134C; Case No. 00-0170; Case No. 01-0140A; Case No. 02-0001A; Case No. 02-0001B; Case No. 02-0002A; Case No. 02-0005; Case No. 02-0006A; Case No. 02-0006B; Case No. 02-0008; Case No. 02-0010; Case No. 02-0014; Case No. 02-0015; Case No. 02-0016; Case 02-0021; Case No. 02-0022; Case No. 02-0024; Case No. 02-0027; Case No. 02-0030; Case No. 02-0033; Case No. 02-0035; Case No. 02-0038; Case No. 02-0041; Case No. 02-0042; Case No. 02-0043; Case No. 02-0044; Case No. 02-0046; Case No. 02-0047; Case No. 02-0048; Case No. 02-0049; Case No. 02-0050; Case No. 02-0051; Case No. 02-0052; Case No. 02-0053; Case No. 02-0055; Case No. 02-0056; Case No. 02-0057; Case No. 02-0058; Case No. 02-0059; Case No. 02-0061; Case No. 02-0062A; Case No. 02-0062B.

CASE REVIEW COMMITTEE

Ms. Thornbury moved for acceptance of the following case reports:

Case No. 01-0025A. Pharmacy permit holder allegedly failed to have policies and procedures in place to allow pharmacist or pharmacist's designee to provide the offer of counseling to patients. CRC recommendation for Complaint with attempt to resolve through AO. Ms. Cooper seconded and the motion passed unanimously.

Case No. 01-0025B. Pharmacist allegedly did not offer counseling on a new prescription. CRC recommendation for Complaint with issuance of a Letter of Reprimand. Ms. Cooper seconded and the motion passed unanimously.

Case No. 02-0013. Pharmacist allegedly failed to maintain proper records as the result of a miscounted controlled substance prescription. CRC recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed. Ms. Cooper seconded and the motion passed unanimously.

Case No. 02-0026A. Pharmacy permit holder allegedly failed to have technology in place to allow a pharmacist to split fill a prescription at a patients request. CRC recommendation for Complaint with attempt to resolve through AO. Ms. Cooper seconded and the motion passed unanimously.

Case No. 02-0026B. Pharmacist allegedly engaged in unprofessional and unethical conduct by refusing to fill a prescription. CRC recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed. Ms. Cooper seconded and the motion passed unanimously.

Case No. 02-0032A. Pharmacy permit holder allegedly sold a misbranded product as the result of an alleged medication error. CRC recommendation for Complaint with attempt to resolve through AO. Ms. Cooper seconded and the motion passed unanimously.

Case No. 02-0032B. Pharmacist allegedly engaged in unprofessional conduct by committing a medication error. CRC recommendation for Complaint with attempt to resolve through AO. Ms. Cooper seconded and the motion passed unanimously.

Case No. 02-0036. Pharmacy permit holder allegedly failed to properly secure the pharmacy. CRC recommendation:

There is insufficient evidence of a violation to warrant disciplinary action and the case is closed. Ms. Cooper seconded and the motion passed unanimously.

Case No. 02-0045A. Pharmacy permit holder allegedly sold a misbranded product as the result of an alleged medication error. CRC recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed. Ms. Cooper seconded and the motion passed unanimously.

Case No. 02-0045B. Pharmacist allegedly engaged in unprofessional conduct by committing a medication error. CRC recommendation for Complaint with issuance of a Letter of Reprimand. Ms. Cooper seconded and the motion passed unanimously.

Case No. 02-0064A. Pharmacy permit holder allegedly sold a misbranded product as the result of an alleged medication error. CRC recommendation for Complaint with attempt to resolve through AO. Ms. Cooper seconded and the motion passed unanimously.

Case No. 02-0064B. Pharmacist allegedly engaged in unprofessional conduct by committing a medication error. CRC recommendation for Complaint with attempt to resolve through AO. Ms. Cooper seconded and the motion passed unanimously.

Case No. 02-0065. Pharmacist allegedly failed to renew pharmacist's license in a timely manner and continued to practice pharmacy. CRC recommendation for Complaint with attempt to resolve through AO. Ms. Cooper seconded and the motion passed unanimously.

Case No. 02-0066. Pharmacist allegedly failed to renew pharmacist's license in a timely manner and continued to practice pharmacy. CRC recommendation for Complaint with attempt to resolve through AO. Ms. Cooper seconded and the motion passed unanimously.

Case No. 02-0067A. Pharmacy permit holder is allegedly dispensing prescriptions for which their equipment is insufficient. CRC recommendation: There is insufficient evidence developed and the investigator is directed to conduct further investigation.

Case No. 02-0067B. Pharmacy permit holder is allegedly dispensing prescriptions for which their equipment is insufficient. CRC recommendation: There is insufficient evidence developed and the investigator is directed to conduct further investigation.

Case No. 02-0069. Out of state pharmacy permit holder allegedly refused to transfer prescription information to a Kentucky pharmacist upon request. CRC recommendation for Complaint with attempt to resolve through AO. Ms. Cooper seconded and the motion passed unanimously.

Case No. 02-0070. Out of state pharmacy permit holder allegedly failed to provide proper security of a prescription that was delivered to a patient in Kentucky. CRC recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed. Ms. Cooper seconded and the motion passed unanimously.

Case No. 02-0071A. Special medical gas pharmacy permit holder allegedly relocated without prior inspection from the Board. CRC recommendation for Complaint with issuance of a Letter of Reprimand. Ms. Cooper seconded and the motion passed unanimously.

Case No. 02-0071B. Pharmacist-in-charge of a special medical gas pharmacy allegedly relocated permit holder without prior inspection from the Board. CRC recommendation for Complaint with issuance of a Letter of Reprimand. Ms. Cooper seconded and the motion passed unanimously.

Case No. 02-0072A. Pharmacy permit holder allegedly sold a misbranded product as the result of an alleged medication error. CRC recommendation for Complaint with attempt to resolve through AO. Ms. Cooper seconded and the motion passed unanimously.

Case No. 02-0072B. Pharmacist allegedly engaged in unprofessional conduct by committing a medication error and

failing to offer counseling. CRC recommendation for Complaint with attempt to resolve through AO. Ms. Cooper seconded and the motion passed unanimously.

Case No. 02-0073. Pharmacist allegedly failed to renew pharmacist's license in a timely manner and continued to practice pharmacy. CRC recommendation for Complaint with attempt to resolve through AO. Ms. Cooper seconded and the motion passed unanimously.

Case No. 02-0074. Pharmacist allegedly failed to renew pharmacist's license in a timely manner and continued to practice pharmacy. CRC recommendation for Complaint with attempt to resolve through AO. Ms. Cooper seconded and the motion passed unanimously.

Case No. 02-0075. Pharmacy permit holder allegedly failed to identify a pharmacist-in-charge in a timely manner. CRC recommendation for Complaint with attempt to resolve through AO. Ms. Cooper seconded and the motion passed unanimously.

Case No. 02-0076A. Special medical gas pharmacy permit holder allegedly relocated without prior inspection from the Board. CRC recommendation for Complaint with attempt to resolve through AO. Ms. Cooper seconded and the motion passed unanimously.

Case No. 02-0076B. Pharmacist-in-Charge of a special medical gas pharmacy allegedly relocated permit holder without prior inspection from the Board. CRC recommendation for Complaint with attempt to resolve through AO. Ms. Cooper seconded and the motion passed unanimously.

Case No. 02-0077A. Pharmacy permit holder allegedly failed to have in place a licensed pharmacist to provide prospective drug use reviews and review filled prescriptions before dispensation to the patient. CRC recommendation for Complaint with attempt to resolve through AO. Ms. Cooper seconded and the motion passed unanimously.

Case No. 02-0077B. Pharmacist allegedly engaged in unprofessional conduct by failing to provide prospective drug use reviews and review filled prescriptions prepared by interns before dispensation to patients. CRC recommendation for Complaint with attempt to resolve through AO. Ms. Cooper seconded and the motion passed unanimously.

Case No. 02-0078. Pharmacist allegedly failed to renew pharmacist's license in a timely manner and continued to practice pharmacy. CRC recommendation for Complaint with attempt to resolve through AO. Ms. Cooper seconded and the motion passed unanimously.

Case No. 02-0079. Manufacturer permit holder allegedly failed to renew license on a timely basis and failed to have a consultant pharmacist conduct quarterly inspections of facility. CRC recommendation for Complaint with attempt to resolve through AO. Ms. Cooper seconded and the motion passed unanimously.

Case No. 02-0080A. Pharmacy permit holder allegedly sold a misbranded product as the result of an alleged medication error. CRC recommendation for Complaint with attempt to resolve through AO. Ms. Cooper seconded and the motion passed unanimously.

Case No. 02-0080B. Pharmacist allegedly engaged in unprofessional conduct by committing a medication error. CRC recommendation for Complaint with attempt to resolve through AO. Ms. Cooper seconded and the motion passed unanimously.

Case No. 02-0082. Pharmacist allegedly failed to renew pharmacist's license in a timely manner and continued to practice pharmacy. CRC recommendation for Complaint with attempt to resolve through AO. Ms. Cooper seconded and the motion passed unanimously.

Case No. 02-0084. Special medical gas pharmacy permit holder allegedly failed to have a consultant pharmacist perform quarterly inspections. CRC recommendation for Complaint with issuance of a Letter of Reprimand. Ms. Cooper seconded and the motion passed unanimously.

Case No. 02-0086. Pharmacist allegedly failed to renew pharmacist's license in a timely manner and continued to practice pharmacy. CRC recommendation for Complaint with attempt to resolve through AO. Ms. Cooper seconded and the motion passed unanimously.

Case No. 02-0087. Pharmacy permit holder allegedly failed to notify the Board office of a change in pharmacist-in-charge in a timely manner. CRC recommendation for Complaint with attempt to resolve through AO. Ms. Cooper seconded and the motion passed unanimously.

Case No. 02-0089A. Pharmacy permit holder allegedly relocated without prior notification and inspection from the Board. CRC recommendation for Complaint with attempt to resolve through AO. Ms. Cooper seconded and the motion passed unanimously.

Case No. 02-0089B. Pharmacist-in-Charge allegedly relocated without prior notification and inspection from the Board. CRC recommendation for Complaint with attempt to resolve through AO. Ms. Cooper seconded and the motion passed unanimously.

Case No. 02-0091A. Pharmacy permit holder allegedly failed to report required prescription data to the Kentucky All Scheduled Prescription Electronic Reporting system. CRC recommendation: There is insufficient evidence developed and the investigator is directed to conduct further investigation.

Case No. 02-0091B. Pharmacist-in-charge allegedly failed to report required prescription data to the Kentucky All Scheduled Prescription Electronic Reporting system. CRC recommendation: There is insufficient evidence developed and the investigator is directed to conduct further investigation.

Case No. 02-0092. Pharmacy permit holder allegedly closed a pharmacy without proper notification to the public. CRC recommendation for Complaint with attempt to resolve through AO. Ms. Cooper seconded and the motion passed unanimously.

Case No. 02-0093. Pharmacist allegedly failed to renew pharmacist's license in a timely manner and continued to practice pharmacy. CRC recommendation for Complaint with attempt to resolve through AO. Ms. Cooper seconded and the motion passed unanimously.

Case No. 02-0094. Pharmacist allegedly failed to renew pharmacist's license in a timely manner and continued to practice pharmacy. CRC recommendation for Complaint with attempt to resolve through AO. Ms. Cooper seconded and the motion passed unanimously.

Case No. 02-0095. Pharmacist allegedly failed to renew pharmacist's license in a timely manner and continued to practice pharmacy. CRC recommendation for Complaint with attempt to resolve through AO. Ms. Cooper seconded and the motion passed unanimously.

Case No. 02-0096. Pharmacy permit holder allegedly failed to notify the Board office of a change in pharmacist-in-charge in a timely manner. CRC recommendation for Complaint with attempt to resolve through AO. Ms. Cooper seconded and the motion passed unanimously.

Case No. 02-0097. Pharmacist is allegedly impaired. CRC recommendation for Complaint with attempt to resolve through AO. Ms. Cooper seconded and the motion passed unanimously.

RECIPROCITY/RELICENSURE/INTERNSHIP: **Samuel E. May Jr.** The Board reviewed Mr. May's correspondence. After a brief discussion, Ms. Thornbury moved to reinstate Mr. May's license provided he successfully completes the MPJE. Mr. Carr seconded and the motion passed unanimously.

David R Ringel, M.D. The Board reviewed Dr. Ringel's correspondence. After a brief discussion and considering the discipline by Kentucky Board of Medicine and the circumstances surrounding that discipline, Ms. Jones moved to deny Dr. Ringel's request for reinstatement. Mr. Carr seconded and the motion passed unanimously.

Harry Frederick Mangus. The Board reviewed Mr. Mangus' correspondence. After a brief discussion, Ms. Cooper moved to table the application for License Transfer until Mr. Mangus provides more information on the events that formed the basis of the licensure discipline in West Virginia, more specifically what Mr. Mangus has done since 1997 to address his anger management issues and to provide a letter from his current employer concerning this issue. Ms. Thornbury seconded and the motion passed unanimously.

Valerie Akers. The Board reviewed Dr. Akers' application for licensure. After a brief discussion, Mr. Carr moved to accept Dr. Akers' application for licensure. Ms. Thornbury seconded and the motion passed unanimously.

John Bell. The Board reviewed Mr. Bell's correspondence for licensure through license transfer. After a brief discussion, Mr. Carr moved to table the application for licensure transfer until after Mr. Bell has appeared before the Impaired Pharmacist Committee.

CORRESPONDENCE: **John L Eklund.** The Board reviewed correspondence from J. Bart McMahon, Mr. Eklund's attorney surrendering Mr. Eklund's Kentucky pharmacist's license. Mr. Carr moved to accept the surrenderance of Mr. Eklund's license. Ms. Jones seconded and the motion passed unanimously.

David Gresham. The Board reviewed Mr. Gresham's request to extend his time to obtain 6 hours of Law CE. Ms. Thornbury moved to grant an extension of time. Mr. Carr seconded and the motion passed unanimously.

Jeff Akers/Appalachian Regional Healthcare. The Board reviewed correspondence from Dr. Akers requesting the ARH Project Plan for the Night Shift, System Pharmacy to be located in Beckley, West Virginia. Mr. Carr moved to approve the request on the condition that the pharmacists be licensed in Kentucky. Ms. Thornbury seconded and the motion passed unanimously.

Jared Combs. The Board reviewed Mr. Combs' correspondence requesting a reduction in AA/NA meetings per week from 4 meetings to 3 meetings per week and a request to obtain prescription medication at the same pharmacy as his family. Ms. Jones moved to approve the reduction of time and the request to obtain prescription at the same pharmacy as his family. Mr. Carr seconded and the motion passed unanimously.

CONTINUING EDUCATION: **Program Approval.** Ms. Thornbury moved to accept the continuing education programs 02-29 through 02-45 as amended. Ms. Jones seconded and the motion passed. Mr. Armstrong opposed the motion, instead supporting the staff recommendation.

NEW BUSINESS: **Trish Freeman/ APSC.** Dr. Freeman gave a brief update on medication error survey. After a brief discussion, Ms. Thornbury moved to allow Dr. Freeman to share information with the University of Kentucky College of Pharmacy with condition that there is no identifiable information released and no publications without the Board's approval. Mr. Carr seconded and the motion passed unanimously.

Ms. Jones moved to allow Cheryl LaLonde-Mooney to attend the Board exam on July 27th and 28th. Ms. Thornbury seconded and the motion passed unanimously.

ADJOURNMENT: On motion by Mr. Carr, seconded by Ms. Cooper and passed unanimously,
President Foster adjourned the meeting at 2:15 p.m. The next Board meeting is
scheduled to begin at 9:00 a.m. on July 10, 2002.

Michael A. Moné, Executive Director

MINUTES APPROVED July 10, 2002.