

KENTUCKY BOARD OF PHARMACY

W.T. Young Library

Lexington KY

March 5, 2003 - 9:00 a.m.

The Kentucky Board of Pharmacy serves the Commonwealth to promote, preserve, and protect the public health, safety, and welfare through effective regulation of the practice of pharmacy. The Kentucky Board of Pharmacy accomplishes this mission through the examination, testing, and credentialing of prospective pharmacists; regulation, discipline of all licensed pharmacists; and through appropriate communication of information and laws pertaining to the practice of pharmacy in Kentucky.

AGENDA

- I. CALL TO ORDER**
- II. APPEARANCES**
 - *A. Dr. Melinda Joyce/Medication Errors Task Force - 9:15 a.m.
 - *B. Susan Hunt/ Community Hospice - 9:45 a.m.
 - *C. Wayne Farris - 10:05 a.m.
 - *D. Jane Johnson - 10:20 a.m.
- III. MINUTES**
 - *A. February 14, 2003
- IV. INTERAGENCY**
 - A. Drug Control
- V. BOARD REPORTS**
 - A. Board President
 - B. Board Members
 - C. Board Executive Director
 - *1. MARS Financial Report
 - *2. FYI
 - D. Board Staff
- VI. CURRENT/PENDING CASES**
 - A. OAG Case Updates - C. Lalonde-Mooney
 - B. KBP Case Updates
 - Case No. 02-0140
 - Case No. 02-0141B
 - Case No. 02-0154D
 - Case No. 02-0154I
 - Case No. 02-0158B
 - C. Case Review Committee
- VII. RECIPROCITY/RELICENSURE/INTERNSHIP**
 - *A. Sandra A.B. Thomas
- VIII. CORRESPONDENCE/COMMUNICATIONS**
 - *A. James D. Tucker
 - *B. Healix Alternate Site Therapeutic Services
 - *C. Clinical Supplies Management Inc
 - *D. Matthew Fisher
 - *E. Corner Home Care Inc/Optioncare
- IX. NABP**
- X. LEGISLATION/REGULATIONS**

- A. 201 KAR 2:210 - Discussion
- B. 201 KAR 2:025
- C. 201 KAR 2:074
- D. 201 KAR 2:270
- E. 201 KAR 2:280
- *F. House Bill 125

XI. CONTINUING EDUCATION

- A. Program Review

XII. FINES

- *A. Report

XIII. OLD BUSINESS

XIV. NEW BUSINESS

*Information enclosed with this agenda

**Information previously provided

***Old material with response

MINUTES
KENTUCKY BOARD OF PHARMACY
W.T. Young Library
University of Kentucky
Lexington, Kentucky
March 5, 2003

CALL TO ORDER: A regular meeting of the Kentucky Board of Pharmacy was held at the W.T. Young Library, University of Kentucky, in Lexington, Kentucky. President Jones called the meeting to order at 9:10 a.m.

Members present: Georgina Kindall-Jones, Tim Armstrong, Becky Cooper, Joe Carr, Mark S. Edwards, and Patricia Thornbury. Staff present: Michael A. Moné, Executive Director; Jeffrey L. Osman, Pharmacy Inspections and Investigations Coordinator; Maxine Snively, Katie Busroe, and Phil Losch, Pharmacy and Drug Inspectors; Cheryl Lalonde-Mooney, Assistant Attorney General and Board Counsel; and Shannon Settles, Executive Secretary. Guests: Brian Fingerson, Pharmacist Recovery Network; Danna Droz, Drug Control; Greg Naseman, CVS; Todd Downing, CVS; Brian Lance, Meijer; Jan Gould, Kentucky Retail Federation; Mike Mayes, KPhA; and the third-year class of the University of Kentucky College of Pharmacy were also in attendance. Florence Kissick, Court Reporter, recorded the meeting.

APPEARANCES: **Medication Errors Task Force/Melinda Joyce.** Dr. Joyce appeared before the Board and gave a brief overview of the Medication Errors Task Force and a proposal for categorization and prioritization of counseling by pharmacists in the Commonwealth.

Community Hospice/ Susan Hunt. Ms. Hunt appeared before the Board to discuss: (1) transfer of medications from patient's homes to Hospice facility; (2) pharmaceutical items that can be floor stocked in facility; (3) under what conditions can Hospice stock controlled drugs; and (4) Board of Pharmacy's policy regarding the first dose of medication. After discussion, Mr. Carr moved to refer these questions to the Cabinet for Health Services. Ms. Cooper seconded and the motion passed unanimously.

Wayne Farris. Mr. Farris appeared before the Board to request exemption from the full Board exam for reinstatement of his pharmacist license. After a brief discussion, Mr. Carr moved to reaffirm the 1996 decision for Mr. Farris to take the full Board exam. Ms. Thornbury seconded and the motion passed unanimously.

Jane Johnson. Ms. Johnson appeared before the Board to request to review a hard copy of her graded written portion of the Kentucky Operative Pharmacy Examination. After a brief discussion, Mr. Carr moved to deny the request. Mr. Armstrong seconded and the motion passed unanimously. Ms. Thornbury moved for the full Board to review Ms. Johnson's exam again. Ms. Cooper seconded and the motion passed. Mr. Carr and Mr. Edwards abstained.

MINUTES: On motion by Ms. Cooper, seconded by Mr. Carr and passed unanimously, the Minutes of February 14, 2003 were adopted.

Pharmacist Recovery Network. Brian Fingerson gave a brief overview of the Pharmacist Recovery Network Program.

BOARD REPORTS: **President.** Ms. Jones introduced the Board members to the University of Kentucky third year pharmacy students.

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

Case No. 02-0091A; Case No. 02-091B; Case No. 02-0100A; Case No. 02-0100B; Case No. 02-0108B; Case No. 02-0120; Case No. 02-0120B; Case No. 02-0130; Case No. 02-0130; Case No. 02-0134; Case No. 02-0139B; Case No. 02-0140; Case No. 02-0141B; Case No. 02-0141C; Case No. 02-0154D; Case No. 02-0154F; Case No. 02-0154G; Case No. 02-0154H; Case No. 02-0154I; Case No. 02-0157B; Case No. 02-0158B; Case No. 02-0160; Case No. 02-0163B.

Case Review Committee

Mr. Armstrong moved for acceptance of the Committee recommendation for the following case reports, Mr. Edwards seconded. Ms. Thornbury moved to amend the motion to separate the Med Error cases from the recommendations contained in the report. The motion to amend died for lack of a second. Ms. Thornbury voted in opposition to the main motion. The main motion passed.

Case No. 02-0134A. Pharmacy permit holder allegedly engaged in conduct likely to harm the public; obtained remuneration by fraud; failed to maintain complete and accurate records; and committed grossly negligent professional conduct. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Edwards seconded and the motion passed.

Case No. 02-0134B. Pharmacist allegedly engaged in conduct likely to harm the public; obtained remuneration by fraud; failed to maintain complete and accurate records; and committed grossly negligent professional conduct. CRC recommendation for Complaint with attempt to resolve through an Emergency Suspension Order. Mr. Edwards seconded and the motion passed.

Case No. 02-0153A. Pharmacy permit holder allegedly sold a misbranded product as the result of an alleged medication error. CRC recommendation: There is sufficient evidence of a violation, however, the penalty shall be the issuance of a Letter of Reprimand. Mr. Edwards seconded and the motion passed.

Case No. 02-0153B. Pharmacist allegedly engaged in unprofessional conduct by committing a medication error. CRC recommendation: There is sufficient evidence of a violation, however, the penalty shall be the issuance of a Letter of Reprimand. Mr. Armstrong seconded and the motion passed.

Case No. 02-0159A. Pharmacy permit holder allegedly sold a misbranded product as a result of an alleged medication error. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Edwards seconded and the motion passed.

Case No. 02-0159B. Pharmacist allegedly engaged in unprofessional conduct by committing a medication error. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Edwards seconded and the motion passed.

Case No. 02-0162. Manufacturer permit holder allegedly sold adulterated drugs (medical gases) to the public. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Edwards seconded and the motion passed.

Case No. 02-0165A. Pharmacy permit holder allegedly failed to have in place quality controls, as a result a patient was shorted quantities on multiple prescriptions and almost dispensed a misbranded product as the result of giving another patient's medication to this patient. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Edwards seconded and the motion passed.

Case No. 02-0165B. Pharmacist-in-charge engaged in unprofessional conduct by committing medication shortages and almost dispensing another patient's medication to this patient. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Edwards seconded and the motion passed.

Case No. 02-0168. Pharmacy permit holder allegedly failed to remove pharmacy sign from previous licensed location after several warnings and direction from the Board. CRC recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice. Mr. Edwards seconded and the motion passed.

Case No. 02-0169. Pharmacist allegedly failed to submit continuing education and pay costs of an inspection pursuant to an Agreed Order in a timely manner. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Edwards seconded and the motion passed.

Case No. 02-0170A. Special limited medical gas permit holder allegedly failed to renew permit in a timely manner and moved locations without proper notification to the Board office. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Edwards seconded and the motion passed.

Case No. 02-0170B. Pharmacist-in-charge of a special limited medical gas permit holder allegedly failed to renew permit in a timely manner and moved locations without proper notification to the Board office. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Edwards seconded and the motion passed.

Case No. 02-0171. Wholesaler permit holder allegedly failed to renew permit in a timely manner; continued to purchase medical gases on an expired permit; and continued to sell medical gases to a facility whose licensed had expired. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Edwards seconded and the motion passed.

Case No. 03-0002. Pharmacist allegedly violated previous Agreed Order. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Edwards seconded and the motion passed.

Case No. 03-0003. Pharmacist allegedly violated previous Agreed Order. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Edwards seconded and the motion passed.

Case No. 03-0004. Pharmacist allegedly violated previous Agreed Order. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Edwards seconded and the motion passed.

Case No. 03-0005. Pharmacist allegedly violated previous Agreed Order. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Edwards seconded and the motion passed.

Case No. 03-0006. Pharmacist allegedly violated previous Agreed Order. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Edwards seconded and the motion passed.

Case No. 03-0007. Pharmacist allegedly violated previous Agreed Order. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Edwards seconded and the motion passed.

Case No. 03-0008A. Pharmacy permit holder allegedly failed to have in place quality controls, as a result, pharmacists failed to sign telephoned Schedule III, IV and V prescriptions in a timely manner. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Edwards seconded and the motion passed.

Case No. 03-0008B. Pharmacist allegedly failed to sign telephoned Schedule III, IV and V prescriptions in a timely manner. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Edwards seconded and the motion passed.

Case No. 03-0008C. Pharmacist allegedly failed to sign telephoned Schedule III, IV and V prescriptions in a timely manner. CRC recommendation: There is sufficient evidence of a violation, however, the penalty shall be the issuance of a Letter of Reprimand. Mr. Edwards seconded and the motion passed.

Case No. 03-0008D. Pharmacist allegedly failed to sign telephoned Schedule III, IV and V prescriptions in a timely manner. CRC recommendation: There is sufficient evidence of a violation, however, the penalty shall be the issuance of a Letter of Reprimand. Mr. Edwards seconded and the motion passed.

Case No. 03-0008E. Pharmacist allegedly failed to sign telephoned Schedule III, IV and V prescriptions in a timely manner. CRC recommendation: There is sufficient evidence of a violation, however, the penalty shall be the issuance of a Letter of Reprimand. Mr. Edwards seconded and the motion passed.

Case No. 03-0008F. Pharmacist-in-charge allegedly failed to sign telephoned Schedule III, IV and V prescriptions in a timely manner. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Edwards seconded and the motion passed.

Case No. 03-0014. Pharmacist allegedly failed to complete required pharmacy continuing education in

2002. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Edwards seconded and the motion passed.

Case No. 03-0015. Pharmacy permit holder allegedly failed to designate a pharmacist-in-charge for approximately 140 days. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Edwards seconded and the motion passed.

Case No. 03-0016. Pharmacist allegedly failed to complete required pharmacy continuing education in 2002. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Edwards seconded and the motion passed.

Case No. 03-0017. Pharmacist allegedly failed to complete required pharmacy continuing education in 2002. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Edwards seconded and the motion passed.

Case No. 03-0018. Pharmacist allegedly failed to complete required pharmacy continuing education in 2002. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Edwards seconded and the motion passed.

Case No. 03-0019. Pharmacist allegedly failed to complete required pharmacy continuing education in 2002. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Edwards seconded and the motion passed.

Case No. 03-0020. Pharmacist allegedly failed to complete required pharmacy continuing education in 2002. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Edwards seconded and the motion passed.

Case No. 03-0021. Pharmacist allegedly failed to complete required pharmacy continuing education in 2002. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Edwards seconded and the motion passed.

Case No. 03-0023. Special medical gas permit holder allegedly changed locations without notifying the Board office. CRC recommendation for Complaint with attempt to resolve through AO. Mr. Edwards seconded and the motion passed.

RECIPROCITY:

Sandra A.B. Thomas. The Board reviewed Ms. Thomas' request for reinstatement of her pharmacist license. After brief discussion, Mr. Carr moved to reinstate Ms. Thomas' license provided she completes the MPJE. Mr. Edwards seconded and the motion passed. Ms. Thornbury recused.

CORRESPONDENCE:

Expungement. The Board reviewed correspondence from pharmacist requesting expungement of a minor violation. After a brief discussion, Mr. Armstrong moved to expunge the violation. Mr. Edwards seconded and the motion passed unanimously. Mr. Armstrong moved to authorize Mr. Moné to handle the expungements and report to the Board the number of expungements submitted. Mr. Edwards seconded and the motion passed unanimously.

Healix Alternate Site Therapeutic Services. The Board reviewed correspondence requesting review of legal acceptability of pharmacy glovebox units. The Board authorized Mr. Moné to correspond back stating that they must comply with the law.

Clinical Supplies Management Inc. The Board reviewed correspondence requesting assurance that CSM-Vx is in compliance with the law. After a brief discussion, Mr. Armstrong moved to table the matter for Mr. Moné to obtain more information and other state Boards' opinions. Mr. Carr seconded and the motion passed unanimously.

Matthew Fisher. The Board reviewed correspondence from Mr. Fisher requesting to do relief work for a temporary staffing agency. After a brief discussion, Mr. Edwards moved to approve the request with Mr. Fisher working no more than 50 hours a week or no more than 100 hours in a two week period. Mr. Carr seconded and the motion passed unanimously.

Corner Home Care Inc/Optioncare. The Board reviewed correspondence requesting dual pharmacist-in-charge. After a brief discussion, Ms. Thornbury moved to approve the request. Mr. Armstrong seconded and the motion passed unanimously.

Pharmacy Builders. The Board reviewed correspondence requesting specific waivers. After a brief discussion, Ms. Thornbury moved to approve the request. Mr. Armstrong seconded and the motion passed unanimously.

LEGISLATION/REGULATIONS: Mr. Moné informed the Board that 201 KAR 2:025 has been withdrawn due to lack of statutory authority. 201 KAR 2:074, 201 KAR 2:270, and 201 KAR 2:280 are in the process. House Bill 125 died. Mr. Armstrong moved to table 201 KAR 2:210 until the April meeting. Mr. Edwards seconded and the motion passed unanimously.

Mr. Carr moved for Cheryl Lalonde-Mooney, Assistant Attorney General, to attend the National Association Boards of Pharmacy Annual Meeting in Philadelphia in May. Mr. Armstrong seconded and the motion passed unanimously.

CONTINUING EDUCATION: **Program Approval.** Mr. Carr moved to accept the continuing education programs 03-04 through 03-22 as recommended. Ms. Thornbury seconded and the motion passed unanimously.

ADJOURNMENT: On motion by Mr. Edwards, seconded by Mr. Armstrong and passed unanimously, President Jones adjourned the meeting at 1:25 p.m. The next Board meeting is scheduled to begin at 9:00 a.m. on April 16, 2003, at the Board office in Frankfort.

Michael A. Moné, Executive Director

MINUTES APPROVED APRIL 16, 2003.

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