

KENTUCKY BOARD OF PHARMACY

23 Millcreek Park

Frankfort Ky

May 5, 2004 - 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. Cindy Adams/ American Cancer Society
- *B. Michael Kellihan
- *C. Adetunji Olayemi
- *D. April Coleman

III. MINUTES

- *A. April 18, 2004

IV. INTERAGENCY

- A. Drug Control

V. BOARD REPORTS

- A. Board President
- B. Board Members
- C. Board Interim Executive Director
 - 1. Out of State Examinees
- D. Board Staff

VI. CURRENT/PENDING CASES

- A. OAG Case Updates - C. Lalonde-Mooney
- B. KBP Case Updates
 - Case No. 03-0037
 - Case No. 03-0043
 - Case No. 03-0087A
 - Case No. 03-0121
 - Case No. 03-0132A
 - Case No. 03-0132B
 - Case No. 03-0137
 - Case No. 03-0143
 - Case No. 03-0145B
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 - Case No. 03-0149B
 - Case No. 03-0151
 - Case No. 03-0155
 - Case No. 03-0158
 - Case No. 03-0159
 - Case No. 04-0003
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 - Case No. 04-0014
 - Case No. 04-0015
 - Case No. 04-0016
 - Case No. 04-0017B
 - Case No. 04-0022A

Case No. 04-0022B

Case No. 04-0024

Case No. 04-0026

Case No. 04-0027

C. Case Review Committee

VII. RECIPROCITY/RELICENSURE/INTERNSHIP

*A. John Eklund

*B. Willard Alls

*C. Melanie Mabins

VIII. CORRESPONDENCE/COMMUNICATIONS

IX. NABP

X. LEGISLATION/REGULATIONS

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
23 Millcreek Park
Frankfort, Kentucky
May 5, 2004

CALL TO ORDER:

A regular meeting of the Kentucky Board of Pharmacy was held at the Board office, 23 Millcreek Park, Frankfort, Kentucky. President Armstrong called the meeting to order at 9:17 a.m.

Members present: Tim Armstrong, Becky Cooper, Mark Edwards, Georgina Kindall-Jones, Greg Naseman, and Patricia Thornbury. Staff present: Jeffrey L. Osman, Interim Executive Director; Katie Busroe and Phil Losch, Pharmacy and Drug Inspectors; and Cheryl Lalonde-Mooney, Assistant Attorney General and Board Counsel. Guests: Brian Fingerson, Pharmacist Recovery Network; Ralph E. Bouvette and Nancy Horn, American Pharmacy Services Corporation; Mike Wyant, Syncore; Pete Cohron, CVS and the University of Kentucky College of Pharmacy; Matt Miles, Karen Mankowski, Steve Hart, Kevin Lamping, Brian Pavur, and Randy Robinson, Rite Aid Corporation; Cindy Adams, American Cancer Society; Michael Kellihan; David Wren, PCA Pharmacy; Adetunji Olayemi; John Knoop, Rite Aid Corporation; Tom Weisert; April Coleman; Larry Hawkins; and Tim Tatchell, Chris Kupper, Ashley Cook, and Amy Billimoria, University of Kentucky College of Pharmacy intern students. Juanita Toole, Court Reporter, recorded the meeting.

APPEARANCES:

Cindy Adams/American Cancer Society. Ms. Adams asked the Board to revisit her request from October 2003 regarding forming a task force to revise 201 KAR 2:240, Special limited pharmacy – charitable pharmacy, to allow those entities to accept unused, unopened drugs from health facilities where the drugs have been under the supervision of a health care provider. Interim Executive Director Dr. Osman asked Ms. Adams if she had consulted with the Drug Enforcement Agency and the Drug Enforcement and Professional Practices Branch of the Cabinet for Health and Family Services regarding the legality of returning controlled substances. Ms. Adams indicated that she had not. President Armstrong indicated that Ms. Adams' request would be possible and he did not foresee anyone standing in the way of this worthy cause. President Armstrong asked Ms. Adams to write a proposal, including information from other states on how the situation was handled, and submit it to the Board. The Board will then consider the proposal and address any issues.

Michael Kellihan. Mr. Kellihan was placed under oath by Ms. Toole, Court Reporter. Mr. Kellihan appeared to petition for reinstatement of his Kentucky pharmacist's license. He gave a brief overview of the situation that led to the loss of his Kentucky pharmacist's license. Mr. Kellihan brought David Wren, R.Ph., president of PCA Pharmacy, as a character witness. Mr. Wren was placed under oath by Ms. Toole, Court Reporter. Mr. Wren gave a brief statement attesting to the character of Mr. Kellihan. After a brief discussion, Mr. Edwards moved to reinstate Mr. Kellihan's Kentucky pharmacist's license with the following conditions: Mr. Kellihan must successfully pass the NABPLEX, MPJE, and the Kentucky practical exams, and upon licensure shall be on probation for 3 years; shall not work more than 40 hours a week or 80 hours in a two week period; shall provide a copy of his Agreed Order to all employers; shall have prior approval of all practice sites by the Board or Board President; and shall not serve as Pharmacist-in-charge or have Power of Attorney. Past President Kindall-Jones seconded and the motion passed unanimously.

Adetunji Olayemi. Mr. Olayemi was placed under oath by Ms. Toole, Court Reporter. Mr. Olayemi requested the Board grant him an exemption to completing 1500 hours internship prior to the May 21, 2004 application deadline for the June 19 and 20, 2004 Board exams. Mr. Olayemi is on schedule to complete the 1500 hours internship requirement by June 15, 2004. The application deadline of 30 days prior to the exam is Board office policy in order to give the staff time to process all information for all applicants. John Knoop, Mr. Olayemi's preceptor from Louisville, Kentucky, was placed under oath by Ms. Toole, Court Reporter. He stated that Mr. Olayemi was an intern who continued to learn and he would like to see the exemption granted. After a brief discussion, Ms. Thornbury moved to grant Adetunji Olayemi an extension of time, until June 15, 2004, to accumulate his internship hours only. He must present certification of 1500 hours of internship in the Board office on the morning of June 16, 2004. All other forms must be filed by the deadline of May 21, 2004. Past President Kindall-Jones seconded and the motion passed. Mr. Edwards was opposed.

April Coleman. Dr. Coleman was placed under oath by Ms. Toole, Court Reporter. Dr. Coleman appeared before the Board to answer any questions regarding her reciprocity. Mr. Fingerson informed the Board that the Impaired Pharmacist Committee unanimously supported Dr. Coleman's reciprocity. After a brief discussion, Mr. Edwards moved to allow Dr. Coleman to continue with the reciprocity process and upon successful completion of the reciprocity process, to have an Agreed Order that stated that Dr. Coleman had no conditions or restrictions on her Kentucky pharmacist's license since she had successfully fulfilled the terms and conditions placed on her by the Tennessee Board of Pharmacy. Past President Kindall-Jones seconded and the motion passed unanimously.

Larry Hawkins. Mr. Hawkins was placed under oath by Ms. Toole, Court Reporter. Mr. Hawkins appeared to petition for reinstatement of his Kentucky pharmacist's license. Mr. Hawkins gave a brief overview of the cause leading to the loss of his pharmacist's license. Mr. Fingerson reviewed the recommendation of the Impaired Pharmacist Committee (IPC) for reinstatement of license. After a brief discussion, Mr. Naseman moved to reinstate with an Order of Reinstatement with stipulations as follows: Probation for as long as Kentucky licensed; employment of no more than 40 hours per week or no more than 80 hours in a two week period; provide a copy of Agreed Order to all employers; enter into a HELP contract; submission of a signed release for medical records; AA or NA no less than four (4) times per week; no more than 36 urine screens per year, the frequency to be determined by Mr. Fingerson and the IPC; not ingest any mood altering substance whether legend or nonlegend medication; not ingest alcoholic beverages; notification to the Board of all legend and nonlegend drugs taken within 10 days; shall keep Board informed of place of employment; Board or Board President's approval of all employers; obtain all prescriptions and those of family members at pharmacy designated in writing to the Board; shall not dispense any drugs for himself or his family members; employ the services of a CDC; and attendance at a Kentucky program on Alcoholism and other Drug Dependencies, the Southeast PRN, or the Utah School on Alcoholism and other Drug Dependencies within one year. Any violation of this Agreed Order will result in suspension of Kentucky pharmacist's license for five (5) years and one day. Mr. Edwards seconded and the motion passed unanimously.

MINUTES: On motion by Mr. Naseman, seconded by Past President Kindall-Jones and passed unanimously, the Minutes of April 18, 2004, Special Meeting, were adopted.

BOARD REPORTS: **President.** President Armstrong gave a brief statement summarizing the 100th Annual Meeting of the National Associations of Boards of Pharmacy (NABP), held April 24-27, 2004 in Chicago, Illinois. Two highlights were (1) Florida and California were recognized as full members of NABP, and (2) Donna Shalala and Rudy Giuliani were speakers.

Board Members. Ms. Thornbury gave the report from the committee established to introduce training to new Board members. The committee consists of Ms. Thornbury and Assistant Attorney General/ Board Counsel Cheryl Lalonde-Mooney. Ms. Thornbury gave the Board members an outline of the areas that she would like to see addressed and the purpose of the committee. The committee is in the process of making revisions in the current material and will bring the revisions to the Board for approval. Ms. Thornbury asked for input from other Board members, and will address the input at a formal committee meeting.

Ms. Thornbury reported that Mrs. Gloria Doughty had contacted her with an update on the Kentucky Pharmacy Museum. Sims Drug Store in Wilmore, Kentucky, is no longer in consideration for the site of the museum. Mrs. Doughty is working tirelessly to secure endowments so that the home of the museum can be at the renovated Fayette County Courthouse.

Each of the board members commented on the NABP meeting.

Ms. Thornbury reported on her attendance at the Advanced Registered Nurse Practitioner (ARNP) Board meeting. She was accompanied by Paula York, Drug Enforcement and Professional Practices Branch of the Cabinet for Health and Family Services.

Interim Executive Director. Dr. Osman raised the issue of the dates for the 2005 Board Exams, and the possibility of moving the June exam to July. President Armstrong instructed Dr. Osman to get input from Dean Roberts of the University of Kentucky College of Pharmacy and the deans of pharmacy schools in surrounding states and revisit this subject at the June 9, 2004 Board meeting. Dr. Osman informed the Board that questions about the date of the January 2005 Board exam were already being fielded in the office. The Board decided to schedule a board meeting for January 5, 2005 and the January exam for January 22, 2005. Dr. Osman needs all Board examination material from staff and Board members by the June 9, 2004 meeting. The June Board examination will be held on the University of Kentucky campus at the Colleges of Nursing and Pharmacy.

The Board was informed that there are approximately 31 out of state students who intend to take the Kentucky Board examination in June; however, their graduation date is not until after the deadline for all application materials to be submitted. Dr. Osman requested the Board to allow these out of state students an extension of time to file their certificate of graduation portion of their application only. All other forms must be filed by the deadline date of May 21, 2004. Ms. Thornbury moved to approve the request. Mr. Naseman seconded and the motion passed unanimously.

Board Staff. Assistant Attorney General/Board Counsel Lalonde-Mooney discussed the difference between recusing and abstaining. A Board member should recuse if knowledge or relationship divests the Board member of impartiality or there is such a strong appearance of conflict that the Board member cannot reasonably be viewed as being impartial (e.g., a matter regarding a family member or a business relationship that could result in pecuniary gain to an individual board member). If a Board member recuses, that member cannot have input on the discussion because that may unduly influence other Board members. Ideally, the Board member should state his/her intent to recuse before discussion on the matter and leave the room until the discussion is finished and the vote is taken. There must still be a quorum present after the Board member recuses to conduct business.

The law does not favor abstention. A Board member may abstain in a situation where the Board member can vote but chooses not to. If a Board member abstains, his/her vote is cast with the majority.

Assistant Attorney General and Board Counsel Lalonde-Mooney also discussed the difference between a Letter of Reprimand and a Reprimand. Ms. Thornbury moved to keep the disciplinary process as is, and to continue using a Letter of Reprimand. The motion died due to the lack of a second. President Armstrong directed the Case Review Committee to make a formal recommendation to the Board at the June 9, 2004 Board Meeting.

President. President Armstrong reminded Board members that a Kentucky Board of Pharmacy forum has been scheduled at the Kentucky Pharmacists Meeting on May 22, 2004 from 4 p.m. to 5:30 p.m. President Armstrong will make a few introductory comments and then allow the audience to ask questions.

CURRENT/PENDING CASES: Mr. Edwards moved for acceptance and entry of the proposed Agreed Orders as written. Ms. Thornbury seconded and the motion passed. Mr. Naseman was opposed. **Case No. 03-0037, Case No. 03-0043; Case No. 03-0087A; Case No. 03-0121; Case No. 03-0132A; Case No. 03-0132B; Case No. 03-135B; Case No. 03-0137; Case No. 03-0143; Case No. 03-0145B; Case No. 03-0149A; Case No. 03-0149B; Case No. 03-0151; Case No. 03-0155; Case No. 03-0158; Case No. 03-0159; Case No. 04-0003; Case No. 04-0005; Case No. 04-0007; Case No. 04-0010C; Case No. 04-0012; Case No. 04-0014; Case No. 04-0015; Case No. 04-0016; Case No. 04-0017A; Case No. 04-0017B; Case No. 04-0022A; Case No. 04-0022B; Case No. 04-0024; Case No. 04-0026; Case No. 04-0027.**

Case Review Committee

Mr. Edwards moved for acceptance of the Committee recommendation for the following case reports. Ms. Thornbury seconded the motion that passed unanimously:

Case No. 99-0071C Revisit. Pharmacist was allegedly serving as pharmacist-in-charge of two pharmacies without Board approval, allegedly failed to have current license displayed at either location and failed to have pocket license in his possession, allegedly failed to review and sign end of day printouts at one location, was allegedly using the same log for syringes/needles and for exempt CV narcotics at one location, allegedly failed to document intended use on syringe/needle log at one location, allegedly did not have power of attorney but was signing DEA 222 forms at both locations, allegedly failed to sign oral CIII-V prescriptions at one location, and allegedly failed to document complete street address on CIII-V prescriptions at one location. Alleged violations of law: 201 KAR 2:205, Section 2(2); KRS 315.110; 201 KAR 2:170, Section 1(8); KRS 217.177; KRS 218A.190; CFR 1305.07; and KRS 218A.180(2) and (3). CRC recommendation: Case is dismissed.

Case No. 01-0116. An out-of-state pharmacy allegedly filled a prescription that was prescribed by an out-of-state veterinarian for a pet in Kentucky. On September 24, 2001, the Board office received a written complaint from a Kentucky licensed veterinarian concerning an out-of-state pharmacy. The pharmacy told their client that if the Kentucky veterinarian would not authorize the prescription, a staff veterinarian for the pharmacy would authorize the prescription. Alleged violation of law: no violation of Kentucky pharmacy law identified. CRC recommendation: Case is dismissed.

Case No. 01-0136. Pharmacist allegedly made a patient wait for several days for a prescription then cursed the patient and told her not to return to the pharmacy. This written complaint was received in the Board office on November 26, 2001, and was never investigated. CRC recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 02-0167. Pharmacist allegedly failed to comply with previous Agreed Order 99-0213. Pharmacist allegedly failed to comply with the recommendations made in a chemical dependency evaluation in that he allegedly failed to maintain contact with Brian Fingerson and that there were questions concerning the validity of his urine screens. On February 17, 2003, an Agreed Order was sent to the pharmacist, that he is suspended until such time as he completes a residential chemical dependence evaluation and has demonstrated not less than six months sobriety. There was no response from the pharmacist. The inspector attempted to deliver the Agreed Order on two occasions and the pharmacist was not home. The inspector left the Agreed Order in his mailbox. The pharmacist currently has an active license. Alleged violation of law: KRS 315.121(1)(i). CRC recommendation: Case is dismissed

Case No. 03-0001. Pharmacy permit holder is allegedly shipping prescriptions into California without having an out-of-state California pharmacy license. On December 20, 2002, the Board office received a complaint from the Kentucky Board of Veterinary Examiners. The original complaint came to the Veterinary Board from a California licensed veterinarian on March 9, 2002. The pharmacist-in-charge of this pharmacy has documentation that the pharmacy applied for an out-of-state pharmacy license in California prior to July 22, 2002. The application was returned due to improper fingerprinting requirements. The pharmacy has a current California pharmacy license that expires in April 2005. Alleged violation of law: KRS 315.121(2)(g). CRC recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 03-0026A Revisit. Pharmacy permit holder allegedly ordered, stocked, and dispensed legend medications obtained from illegal sources. The Board office received a written complaint alleging that this pharmacy was obtaining prescription drugs from an illegal source because the prices on certain medications were extremely low. Alleged violation of law: KRS 217.065. CRC recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 03-0026B Revisit. Pharmacist-in-charge allegedly ordered, stocked, and dispensed legend medications obtained from illegal sources. The Board office received a written complaint alleging that this pharmacy was obtaining prescription drugs from an illegal source because the prices on certain medications were extremely low. Alleged violation of law: KRS 315.121(2)(d) and (e). CRC recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 03-0047B Revisit. Pharmacist-in-charge allegedly failed to provide proper security of controlled substances, allegedly failed to maintain proper record keeping and documentation, allegedly failed to perform rational drug therapy review, allegedly failed to properly control and

review drug distribution, and allegedly issued controlled substances without a physician's order. It appears that a nurse in a hospital was diverting Demerol by forging physician's orders for a period of two years. The pharmacist was adamant that he always had an order for the controlled substances, however, during the investigation, not all the orders could be located. Although the pharmacist was very precise in making sure that the pharmacy records were correct, he did little to ensure that the orders were legitimate. Alleged violations of law: 201 KAR 2:100, Section 1; 201 KAR 2:205, Section 2(a) and (b); 201 KAR 2:074; and KRS 315.035. CRC recommendation: No change in the original decision to attempt to resolve through an Agreed Order.

Case No. 03-0071 Revisit. Pharmacist was allegedly in possession of a controlled substance in the third degree by knowingly and unlawfully possessing a controlled substance classified in Schedule IV. Pharmacist was being interviewed regarding a complaint and was asked if he was taking any medication. He answered that he was taking phentermine. When asked if he had a prescription for phentermine he stated that he got the prescription from an internet pharmacy. The pharmacist did not know the name of the internet pharmacy or prescribing physician. Alleged violation of law: KRS 218A.1417. CRC recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 03-0156A Revisit. Pharmacy corporation allegedly failed to provide proper security of controlled substances at four pharmacies. A DEA 106 Theft/Loss report showed substantial losses of controlled substances. A pharmacy technician was stopped for a traffic violation and the vehicle searched. Several stock bottles of controlled substances were found. An investigation revealed that the technician had been diverting controlled substances from four pharmacies for several years. Alleged violation of law: 201 KAR 2:100. CRC recommendation: There is sufficient evidence developed and the investigator is directed to conduct further investigation.

Case No. 03-0156B Revisit. Pharmacist-in-charge allegedly failed to provide proper security of controlled substances. A DEA 106 Theft/Loss report showed substantial losses of controlled substances. A pharmacy technician was stopped for a traffic violation and the vehicle searched. Several stock bottles of controlled substances were found. An investigation revealed that the technician had been diverting controlled substances from four pharmacies for several years. Alleged violations of law: 201 KAR 2:100 and 201 KAR 2:205 Section 2 (3)(b). CRC recommendation: There is sufficient evidence developed and the investigator is directed to conduct further investigation.

Case No. 03-0156C Revisit. Pharmacist-in-charge allegedly failed to provide proper security of controlled substances. A DEA 106 Theft/Loss report showed substantial losses of controlled substances. A pharmacy technician was stopped for a traffic violation and the vehicle searched. Several stock bottles of controlled substances were found. An investigation revealed that the technician had been diverting controlled substances from four pharmacies for several years. Alleged violations of law: 201 KAR 2:100 and 201 KAR 2:205 Section 2 (3)(b). CRC recommendation: There is sufficient evidence developed and the investigator is directed to conduct further investigation.

Case No. 03-0156D Revisit. Pharmacist-in-charge allegedly failed to provide proper security of controlled substances. A DEA 106 Theft/Loss report showed substantial losses of controlled substances. A pharmacy technician was stopped for a traffic violation and the vehicle searched. Several stock bottles of controlled substances were found. An investigation revealed that the technician had been diverting controlled substances from four pharmacies for several years. Alleged violations of law: 201 KAR 2:100 and 201 KAR 2:205 Section 2 (3)(b). CRC recommendation: There is sufficient evidence developed and the investigator is directed to conduct further investigation.

Case No. 03-0156E Revisit. Pharmacist-in-charge allegedly failed to provide proper security of controlled substances. A DEA 106 Theft/Loss report showed substantial losses of controlled substances. A pharmacy technician was stopped for a traffic violation and the vehicle searched. Several stock bottles of controlled substances were found. An investigation revealed that the technician had been diverting controlled substances from four pharmacies for several years. Alleged violations of law: 201 KAR 2:100 and 201 KAR 2:205 Section 2 (3)(b). CRC recommendation: There is sufficient evidence developed and the investigator is directed to conduct further investigation.

Case No. 04-0019A. Pharmacy permit holder allegedly employed a pharmacist who refused to fill a prescription that was telephoned to him by a physician's office. The Board office received a written complaint from the physician. A pharmacist had refused to fill a prescription telephoned to him by the physician's office because it was out of his scope of practice. The physician, an obstetrician/gynecologist, was attempting to telephone in a prescription for Robitussin AC for the Chief Financial Officer of the local hospital, who is a male. The pharmacist explained to the male that he was uncomfortable filling the prescription but that he could sell the cough syrup through the exempt CV narcotics log. 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. 04-0019B. Pharmacist allegedly employed a pharmacist who refused to fill a prescription that was telephoned to him by a physician's office. The Board office received a written complaint from the physician. A pharmacist had refused to fill a prescription telephoned to him by the physician's office because it was out of his scope of practice. The physician, an obstetrician/gynecologist, was attempting to telephone in a prescription for Robitussin AC for the Chief Financial Officer of the local hospital, who is a male. The pharmacist explained to the male that he was uncomfortable filling the prescription but that he could sell the cough syrup through the exempt CV narcotics log. 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. 04-0020A. Pharmacy permit holder allegedly sold a misbranded product as the result of a medication error. The Board office received a written complaint from a physician that prescriptions had been filled with the incorrect prescriber designated. When the prescriptions were entered, the correct prescriber was entered and the correct prescriber was printed on the label and is on the patient's profile. However, in the prescriber database, the incorrect license number was entered on this physician. The license number for physician A was entered under

physician B's name. It is not possible to determine who or when this data was entered. Alleged violation of law: KRS 217.065(1). CRC recommendation: There is sufficient evidence of a violation, however, the penalty shall be the issuance of a Letter of Reprimand.

Case No. 04-0020B. Pharmacist allegedly failed to keep accurate patient records by labeling a prescription with the incorrect prescriber. The Board office received a written complaint from a physician that prescriptions had been filled with the incorrect prescriber designated. When the prescriptions were entered, the correct prescriber was entered and the correct prescriber was printed on the label and is on the patient's profile. However, in the prescriber database, the incorrect license number was entered on this physician. The license number for physician A was entered under physician B's name. It is not possible to determine who or when this data was entered. Alleged violation of law: 201 KAR 2:210 Section 1(2)(e)5. CRC recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 04-0028. Pharmacist allegedly failed to complete 1.5 units of continuing education in 2003. Pharmacist self reported on pharmacist's license renewal application that he completed 1.3 units of continuing education in 2003. Alleged violations of law: KRS 315.065(2) and 201 KAR 2:015. 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. 04-0031. Pharmacy permit holder allegedly failed to provide proper training in regards to the HIPAA regulation for protected health information and did not provide protection of a patient's confidential information. The Board office received an anonymous complaint about a technician at a pharmacy that allegedly disclosed confidential patient information to some of her family members. Alleged violation of law: KRS 315.121(2)(b). CRC recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 04-0032. Pharmacist allegedly failed to renew pharmacist's license in a timely manner. The Board office received the pharmacist's license renewal on April 7, 2004. The pharmacist did practice pharmacy in the Commonwealth of Kentucky without an active license. Alleged violation of law: KRS 315.110(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. 04-0036. Pharmacist allegedly failed to renew pharmacist's license in a timely manner. The Board office received the pharmacist's license renewal on March 15, 2004. The pharmacist did practice pharmacy in the Commonwealth of Kentucky without an active license. Alleged violation of law: KRS 315.110(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. 04-0037. Out-of-state pharmacy permit holder allegedly engaged in unprofessional conduct by committing a medication error. A patient was prescribed lisinopril 10 mg, but received lisinopril 5 mg. According to pharmacy records, a prescription for lisinopril 5 mg, a 90 day supply, was filled on February 9, 2004, and a prescription for lisinopril 10 mg, a 90 day supply, was filled on February 17, 2004, for the same patient. The patient and patient's family had trouble receiving their medications in a timely manner. Alleged violations of law: KRS 315.121(2)(d)(f)(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. 04-0038. Pharmacist allegedly failed to renew pharmacist's license in a timely manner. The Board office received the pharmacist's license renewal on March 25, 2004. The pharmacist did practice pharmacy in the Commonwealth of Kentucky without an active license. Alleged violation of law: KRS 315.110(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. 04-0039A. Special medical gas permit holder allegedly relocated without notifying the Board office and without a prior inspection. During a routine inspection on March 30, 2004, it was discovered that the special medical gas permit holder had moved in October 2003. The permit holder did not notify the Board office of the change in location. Alleged violations of law: KRS 315.035(5) and 201 KAR 2:050(12). 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. 04-0039B. Pharmacist-in-charge of a special medical gas permit allegedly failed to notify the Board office of a change of location. During a routine inspection on March 30, 2004, it was discovered that the special medical gas permit holder had moved in October 2003. The permit holder did not notify the Board office of the change in location. Alleged violations of law: KRS 315.035(5) and 201 KAR 2:050(12). 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:

John Eklund. The Board reviewed Mr. Eklund's request for reinstatement of his Kentucky pharmacist's license. After a brief discussion, Mr. Naseman moved for Interim Executive Director Dr. Osman to respond to Mr. Eklund and his attorney with the process to begin reinstatement. Ms. Thornbury seconded and the motion passed unanimously.

Willard Alls. The Board reviewed Mr. Alls' request to reinstate his Kentucky pharmacist's license. After a brief discussion, Mr. Edwards moved to reinstate Mr. Alls' license if all requirements of his Agreed Order have been met. Past President Kindall-Jones seconded and the motion passed unanimously.

Melanie Mabins. The Board reviewed Ms. Mabins' request for an alternative testing date to Sunday, June 20, 2004 for the Kentucky Practical Exam. After a brief discussion, Interim Executive Director Dr. Osman was instructed to request further information from Ms. Mabins. If being given her oral portion of the exam at a certain time of day could accommodate Ms. Mabins, Dr. Osman was instructed to accommodate the request. If Ms. Mabins is requesting the entire day off, the issue will be revisited at the June 9, 2004 Board meeting.

CORRESPONDENCE:

National Association of Chain Drug Stores/Mary Ann Wagner. The Board reviewed the correspondence requesting clarification as to whether the Board will continue to require the use of the DEA 222 paper forms to meet the requirements as outlined in 201 KAR 2:106, once DEA has published their final regulations on the electronic controlled substances ordering system. The Board instructed Interim Executive Director Dr. Osman to respond citing 218A.170(4). A draft is to be sent to President Armstrong for his approval before the letter is sent.

Charles Adams. The Board reviewed the request from Mr. Adams to be dual pharmacist-in-charge of Healthcare Plus, PLLC D.B.A MailRx and A/R Medical and Pharmacy, Inc. D.B.A. RxNorthUSA. After a brief discussion, Mr. Edwards moved to approve based on current conditions at both permit locations, however, should there be any significant change the matter would need to come back before the Board. Past President Kindall-Jones seconded and the motion passed unanimously.

LEGISLATION/REGULATIONS:

Dr. Nancy Horn gave a brief update of the 2004 General Assembly. President Armstrong thanked Nancy Horn, Ralph Bouvette, Jan Gould, and Mike Mayes for their help during this legislative session.


President Armstrong appointed a task force committee to include various members of the pharmacy community to submit a protocol to the Board so that a regulation corresponding to House Bill 341, Adult Immunizations, may be promulgated. The committee is to consist of Mark Edwards as Chair, Jeff Osman and Phil Losch representing the Board office staff, representatives from APSC, various chains (Kroger, Rite Aid, CVS, and others interested), the University of Kentucky College of Pharmacy, and the Associations as well as any other

interested parties. The meeting of the task force committee regarding adult immunization is scheduled for Tuesday, May 25, 2004 at the APSC office at 10 a.m. It is hoped the committee will have a proposal for the Board to consider at its next meeting, so that a regulation (if one is recommended) can be filed by July 15, 2004.

CONTINUING EDUCATION: Ms. Thornbury moved to accept the continuing education programs 04-05 through 04-12 as recommended. Ms. Cooper seconded and the motion passed unanimously.

NEW BUSINESS: Past President Kindall-Jones moved to include in the Order of Reinstatement for impaired pharmacists as standard language that exemptions to the Agreed Order, such as working more than 40 hours a week or 80 hours in a two week period, shall be approved by the chair of the Impaired Pharmacists Committee and that the chair would report the exemptions to the Board at the next scheduled meeting. Mr. Naseman seconded and the motion passed unanimously.

ADJOURNMENT: On motion by Past President Kindall-Jones and seconded by Ms. Cooper and passed unanimously, President Armstrong adjourned the meeting at 3:10 p.m. The next regularly scheduled Board meeting is scheduled to begin at 9:00 a.m. on June 9, 2004 at the Board office.



Tim Armstrong, President
Kentucky Board of Pharmacy