

**KENTUCKY BOARD OF PHARMACY
SPINDLETOP ADMINISTRATION BUILDING SUITE 302
2624 RESEARCH PARK DRIVE
LEXINGTON KY 40511
DECEMBER 14, 2005 9:00a.m.**

Agenda

- I. CALL TO ORDER**

- II. MINUTES**
 - *A. October 5, 2005**
 - *B. November 12th and 13th, 2005**

- III. APPEARANCES**

- IV. INTERAGENCY**
 - *A. Clarification of Signatures-Paula York**

- V. BOARD REPORTS**
 - A. Board President**
 - *1. Changes in Statute/Regulation concerning Board Exam
201 KAR 2:020; 201 KAR 2:030; 201 KAR 2:050**
 - B. Board Members**
 - C. Board Executive Director**
 - *1. MARS-September and October**
 - *2. Budget 2006-2008**
 - 3. 2006 Calendar**
 - 4. 2006 Trip approvals**
 - D. Board Staff**
 - E. PRN Chairman**
 - 1. CAPTASA**

- VI. CURRENT/PENDING CASES**
 - A. OAG – C. Lalonde**
 - B. Case Update**
 - Case No. 04-0075A-B-C; Case No. 05-0055B; Case No. 05-0057A-B;**
 - Case No. 05-0060A; Case No. 05-0071; Case No. 05-0075; Case No. 05-**
 - 0076A-B; Case No. 05-0077A; Case No. 05-0079; Case No. 05-0084;**
 - Case No. 05-0085B; Case No. 05-0073; Case No. 05-0060C; Case No.**
 - 05-0085A**
 - C. Case Review Committee**

- RECIPROCITY/RELICENSURE/INTERNSHIP**
- VII. *A. Philip Rushing-Relicensure**

- *B. Kunal J. Patel-Internship hours request**
- *C. Yashraj D. Rege-Internship hours request**

VIII. CORRESPONDENCE/COMMUNICATIONS

- *A. Community Health Systems-Remote entry of orders**
- *B. Kendall Kilbourne-Dual PIC**
- *C. Kevin Emberton-Dual PIC**
- *D. Rebecca Girdler-Exemption of equipment**

IX. NABP

X. LEGISLATION/REGULATIONS

XI. CONTINUING EDUCATION

- A. Program Review**

XII. FINES

- A. Fines Report**

XIII. OLD BUSINESS

XIV. NEW BUSINESS

- A. Election of Officers for 2006**

***Information enclosed with this agenda**

****Information previously provided**

*****Old material with response**

MINUTES

KENTUCKY BOARD OF PHARMACY

Lexington, Kentucky

December 14, 2005

CALL TO ORDER: A regular meeting of the Kentucky Board of Pharmacy was held at the Board Office at Spindletop Administration Building, 2624 Research Park Dr., Lexington, Kentucky. President Edwards called the meeting to order at 9:14 a.m.

Members present: Mark Edwards, Becky Cooper, Georgina Jones, Greg Naseman, and Peter Orzali. Staff: Michael Burlison, Executive Director; Jeffrey L. Osman, Pharmacy Inspections and Investigations Coordinator; Steve Hart, Katie Busroe and Phil Losch, Pharmacy and Drug Inspectors; Lisa Atha, Executive Secretary; and Cheryl Lalonde, Assistant Attorney General and Board Counsel. Guests: Brian Fingerson, Pharmacist Recovery Network Committee; Ralph Bouvette, APSC; Paula York, Drug Enforcement and Professional Practices Branch of the Cabinet for Health and Family Services; John Hawks and Susan Getsinger, Kentucky Pharmacists Association; Chris Killmeier and Peter Cohron, Walgreens; Doug Camp, Community Health Systems; Tony Taqoui, University of Kentucky College of Pharmacy PY4 student; Mike Leake and Catherine Shely, new Board appointees; and Tim Armstrong. Melanie Curtis, Court Reporter, recorded the meeting. Patricia Thornbury was absent.

MINUTES: On motion by Mr. Orzali, seconded by Mr. Naseman and passed unanimously, the Minutes of October 5, 2005 were adopted. On motion by Mr. Naseman, seconded by Ms. Jones and passed unanimously, the Minutes of November 12-13, 2005 Board Retreat Meeting were adopted.

INTERAGENCY: Paula York, Office of Inspector General, Drug Enforcement and Professional Practices Branch of the Cabinet for Health and Family Services opened discussion of a letter from Dave Sallengs, Branch Manager, Office of Inspector General, Drug Enforcement and Professional Practices Branch of the Cabinet for Health and Family Services concerning the validity of non-controlled substance prescriptions being issued with a stamped signature or office personnel signing the prescriptions with the prescriber's name followed by the initials of the office personnel. After much discussion and review of KRS 217.015(36), Mr. Naseman moved that Executive Director, Mr. Burlison, confer with the Kentucky Board of Medical Licensure for their opinion; and directed Mr. Burlison and Mr. Naseman to write a statement that the Kentucky Board of Pharmacy discourages stamped signatures and office personnel signing prescriptions with the prescriber's name followed by the initials of the office personnel, however, there is nothing in the statute prohibiting these actions, but the Board cautions pharmacists to use due diligence to establish the validity of the prescription. The statement is to be sent to

the Kentucky Board of Medical Licensure and published in the Kentucky Board of Pharmacy Newsletter. Mr. Orzali seconded, and the motion passed unanimously.

BOARD REPORTS: **President. 1.** Mr. Orzali moved to accept the Amended Administrative Regulations 201 KAR 2:020, 201 KAR 2:030 and 201 KAR 2:050 as amended and to move forward with the legislative process as necessary. Ms. Jones seconded, and the motion passed unanimously.

2. Mr. Naseman moved, as of January 1, 2006, to proceed as if 201 KAR 2:020 was already in place and not have an operative exam on January 14, 2006. Motion died for lack of a second.

Mr. Naseman moved to accept a correctly and accurately completed Application for Pharmacist Examination as constituting the operative exam on January 14, 2006. Mr. Orzali seconded, and motion passed 3 to 1 with Ms. Jones, Mr. Naseman, and Mr. Orzali voting yes and Ms. Cooper voting no.

Board Members. Mr. Naseman stated that the Legislative committee, Mr. Naseman, Ms. Lalonde, and Mr. Burleson, were reviewing all regulations for needed changes. As incoming president Mr. Naseman moved for the Pharmacists Recovery Network Committee to meet at 10 a.m. and Case Review Committee to meet at 1 p.m. on the day prior to the Board meetings in 2006. Ms. Jones seconded, and the motion passed unanimously.

Board Executive Director. 1. Mr. Orzali moved to accept the 2006-2008 budget as filed. Mr. Naseman seconded, and the motion passed unanimously.

2. Mr. Naseman moved to submit out of state travel for approval to the Comptroller for the following meetings:
 - a. APhA annual meeting in San Francisco, March 17-21, 2006: 2 people, the Executive Director and the Board President.
 - b. NABP annual meeting in San Francisco, April 8-11, 2006: all Board members and staff including Board Counsel.
 - c. University of Utah School on Alcoholism and Substance Abuse in Salt Lake City, June 18-23, 2006: 7 people, including 4 Board Members, 2 staff, and 1 PRN committee member.
 - d. NABP District III meeting in Charleston, SC, August 7-9, 2006: all Board Members and staff including Board Counsel.
 - e. National Community Pharmacists Association annual meeting, October 7-11, 2006: 1 Board member.
 - f. American Society of Health-System Pharmacists meeting in Anaheim, December 3-7, 2006: 1 staff.

Ms. Cooper seconded, and the motion passed unanimously.

PRN Chairperson. Brian Fingerson reported that Dwaine Green will be going off of the PRN committee as of December 31, 2005. UK will be making a recommendation as to his replacement. Mr. Fingerson encouraged everyone to attend CAPTASA.

CURRENT/PENDING CASES:

Ms. Lalonde, Board counsel, stated that the hearing was cancelled because the case was settled by Agreed Order.

Mr. Naseman moved for acceptance and entry of the proposed Agreed Orders as written. Mr. Orzali seconded, and the motion passed unanimously.

Case 03-0141B; Case No. 04-0040; Case No. 04-0075A-B-C; Case No. 05-0055B; Case No. 05-0057A-B; Case No. 05-0060A; Case No. 05-0071; Case No. 05-0075; Case No. 05-0076A-B; Case No. 05-0077A; Case No. 05-0079; Case No. 05-0084; Case No. 05-0085B; Case No. 05-0073; Case No. 05-0060C; and Case No. 05-0085A.

Mr. Orzali moved for acceptance of the Case Review Committee recommendations for the following case reports. Ms. Jones seconded, and the motion passed unanimously, with Mr. Naseman recusing because he attended the Case Review Committee Meeting.

Case No. 03-0120 (Revisit). Pharmacist allegedly engaged in unprofessional conduct by obtaining legend drugs including controlled substances without valid authorizations from a licensed practitioner. At the October 8, 2003, Kentucky Board of Pharmacy meeting, the Board decided to attempt to resolve this case through an Agreed Order. **New Information:** Pharmacist underwent a psychiatric evaluation. The psychiatrist recommended that the pharmacist be followed for one year with random drug screens. The pharmacist signed an agreement with the Impaired Pharmacist Committee (now the Pharmacist Recovery Network) for one year, November 3, 2004 through November 3, 2005, agreeing to random urine drug screens. If, after this period all the drug screens were clean, the original case would be dismissed. Pharmacist was clean for the one year time period. Alleged violation of law: KRS 315.121(1). CRC Recommendation – There is sufficient evidence developed and the investigator is directed to conduct further investigation.

Case No. 03-0128A (Revisit). Pharmacy permit holder allegedly sold misbranded products as a result of medication errors. Medications for chemical peels were compounded incorrectly and were dispensed to three patients in the original case, at the time all had lawsuits against the permit holder. One case was settled and two were still pending. **New Information:** The two pending cases have now been settled. Alleged violation of law: KRS 217.065 (1). CRC recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 03-0128B (Revisit). Pharmacist allegedly engaged in unprofessional conduct by committing medication errors. Medications for chemical peels were compounded incorrectly and were dispensed to three patients in the original case, at the time all had lawsuits against the permit holder. One case was settled and two were still pending. **New Information:** The two pending cases have now been settled. Alleged violation of law: KRS 315.121 (1)(a) and (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. 04-0098A (Revisit) Permit holder allegedly dispensed sample drugs during the years 2002-2004. Case was put on hold pending FDA settlement with pharmacist. **New Information:** FDA settled with pharmacist with a Plea Agreement. Pharmacist admitted selling an estimated \$45,000 drug samples during 2002-2004. Pharmacist agreed to pay 45K restitution and 30K fine. Pharmacist can no longer participate in any pharmacy businesses, he sold his pharmacy. Pharmacist voluntarily surrendered his pharmacist license. Alleged violation of law: KRS 217.065. 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. 04-0098B (Revisit) Pharmacist allegedly dispensed sample drugs during the years 2002-2004. Case was put on hold pending FDA settlement with pharmacist. **New Information:** FDA settled with pharmacist with a Plea Agreement. Pharmacist admitted selling an estimated \$45,000 drug samples during 2002-2004. Pharmacist agreed to pay 45K restitution and 30K fine. Pharmacist can no longer participate in any pharmacy businesses, he sold his pharmacy. Pharmacist voluntarily surrendered his pharmacist license. Alleged violation of law: KRS 217.065. 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. 05-0044. Pharmacist was allegedly convicted of a class B felony – wanton endangerment. The conviction stems from a vehicle accident in which the pharmacist was driving under the influence. Pharmacist plead guilty and served a six month home incarceration sentence that began on May 3, 2005. Alleged violation of Law: KRS 315.121(1)(c) 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. 05-0049 (Revisit). Pharmacist allegedly practiced pharmacy under the influence of alcohol or a mind altering substance. At the September 14, 2005 Kentucky Board of Pharmacy meeting, the Board decided that there was sufficient evidence developed and the investigator was directed to conduct further investigation. **New Evidence:** On October 21, 2005 the Pharmacist underwent a psychiatric evaluation. The psychiatrist concluded that he did not feel that a treatment program is necessarily in order, but he would be a strong supporter of random urine drug screens. 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. 05-0064A. Pharmacy permit holder allegedly sold drugs that were outdated and allegedly received returned prescriptions from long term care facilities and reissued the drugs without giving credit. Alleged violations of law: KRS 217.055 and KRS 315.121. **CRC recommendation:** There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 05-0064B. Pharmacist allegedly engaged in unprofessional conduct by selling drugs that were outdated and allegedly receiving returned prescriptions from long term care facilities and reissuing the drugs without giving credit. Alleged violations of law: KRS 217.055 and KRS 315.121. **CRC recommendation:** There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 05-0065A. Pharmacy permit holder allegedly sold misbranded products as the result of medication errors. A patient presented two prescriptions, lisinopril 5 mg and metoprolol 50 mg. The lisinopril 5 mg was labeled as metoprolol 50 mg and the metoprolol 50 mg was labeled as lisinopril 5 mg. The patient was instructed by his physician to increase his lisinopril. As a result of the mislabeled prescriptions, the patient increased the metoprolol and not the lisinopril. Alleged violation of law: KRS 217.065 (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. 05-0065B. Pharmacist allegedly engaged in unprofessional conduct by committing medication errors. A patient presented two prescriptions, lisinopril 5 mg and metoprolol 50 mg. The lisinopril 5 mg was labeled as metoprolol 50 mg

and the metoprolol 50 mg was labeled as lisinopril 5 mg. The patient was instructed by his physician to increase his lisinopril. As a result of the mislabeled prescriptions, the patient increased the metoprolol and not the lisinopril. 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. 05-0067A. Pharmacy permit holder allegedly dispensed a misbranded drug as the result of a medication error. The patient received the wrong medication on a refill, it should have been Toprol XL 50mg but instead she received tramadol 50mg. The patient recognized the error and did not take the medication, but as a result did without her blood pressure medication for over twenty four hours. Alleged violation of law: KRS 217.065 (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. 05-0067B. Pharmacist allegedly engaged in unprofessional conduct by committing a medication error. The patient received the wrong medication on a refill, it should have been Toprol XL 50mg but instead she received tramadol 50mg. The patient recognized the error and did not take the medication, but as a result did without her blood pressure medication for over twenty four hours. 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. 05-0068. Pharmacist allegedly diverted controlled substances. The Board office received information about the arrest of Pharmacist. After approximately 3 months of trying to contact Pharmacist, Pharmacist did surrender pharmacist's license. On or about November 7, 2005, Pharmacist contacted Kentucky Pharmacist Recovery Network chairperson indicating that the KYPRN agreement had been signed and forwarded to the chairperson. As of November 16, 2005 the agreement has not been received. Alleged violations of law: KRS 218A.1415, KRS 218A.1417, and KRS 218A.1418.). CRC Recommendation: There is sufficient evidence developed and the investigator is directed to conduct further investigation.

Case No. 05-0072. Pharmacist allegedly violated previous Agreed Order by not completing six hours of continuing education on Kentucky pharmacy law. Further, Pharmacist allegedly failed to complete the required 15 hours of

continuing education for 2004. Alleged violations of law: KRS 315.121(1)(i), KRS 315.065 and 201 KAR 2:105. 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. 05-0086A. Pharmacy permit holder allegedly dispensed a misbranded drug as the result of a medication error. A prescription for Valium 10mg was dispensed with incorrect directions, causing the patient to miss one week of work. Alleged violation of law: KRS 217.065 (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. 05-0086B. Pharmacist allegedly engaged in unprofessional conduct by committing a medication error. A prescription for Valium 10mg was dispensed with incorrect directions, causing the patient to miss one week of work. 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. 05-0086C. Pharmacist allegedly engaged in unprofessional conduct by committing a medication error. A prescription for Valium 10mg was dispensed with incorrect directions, typed by this pharmacist, causing the patient to miss one week of work. 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. 05-0087A. Pharmacy permit holder allegedly engaged in unprofessional conduct by committing a medication error. The prescription was written for Neoral with the directions to dispense brand name. The prescription was filled with the generic, cyclosporine. 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. 05-0087B. Pharmacist allegedly engaged in unprofessional conduct by committing a medication error. The prescription was written Neoral with the directions to dispense brand name. The prescription was filled with the generic, cyclosporine. 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. 05-0089A. Pharmacy permit holder allegedly sold drugs that were obtained from illegal sources and allegedly inappropriately substituted Prilosec for Prevacid. Patient presented a prescription for Prevacid. The prescription was filled with Prilosec OTC. The words, "Not For Sale" were on the box of Prilosec OTC received by the patient. Alleged violations of law: KRS 315.121 (2)(d), 201 KAR 2:080 Section 1, and Title 21 USC Section 353(c)(1). CRC Recommendation: Case is dismissed.

Case No. 05-0089B. Pharmacist allegedly sold drugs that were obtained from illegal sources and allegedly inappropriately substituted Prilosec for Prevacid. Patient presented a prescription for Prevacid. The prescription was filled with Prilosec OTC. The words, "Not For Sale" were on the box of Prilosec OTC received by the patient. Alleged violations of law: KRS 315.121 (2)(d), 201 KAR 2:080 Section 1, and Title 21 USC Section 353(c)(1). CRC Recommendation: Case is dismissed.

Case No. 05-0092A. Pharmacy permit holder allegedly sold a misbranded product as the result of a medication error. The patient received a vial of medication that had been returned to stock with the top half of the label removed rather than a correctly labeled vial. Alleged violation of law: KRS 217.065 (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. 05-0092B. Pharmacist allegedly engaged in unprofessional conduct by committing a medication error. The patient received a vial of medication that had been returned to stock with the top half of the label removed rather than a correctly labeled vial. 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. 05-0095A Permit holder allegedly committed a compounding medication error that resulted in a \$55,000 liability settlement. Clonidine 0.03mg/ml liquid for a pediatric patient was compounded using powder instead of

tablets which resulted in a 100 fold increase in strength. 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. 05-0095B Pharmacist allegedly committed a compounding medication error that resulted in a \$55,000 liability settlement. Clonidine 0.03mg/ml liquid for a pediatric patient was compounded using powder instead of tablets which resulted in a 100 fold increase in strength. 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. 05-0096. Pharmacist allegedly failed to complete 1.5 units of pharmacy continuing education in 2004. Alleged violations of law: KRS 315.065 (2) and 201 KAR 2:105. 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. 05-0097. Pharmacist allegedly violated previous Agreed Order on Reinstatement. Pharmacist was arrested for a DUI. Alleged violation of law: KRS 315.121 (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. 05-0098A. Permit holder allegedly failed to maintain proper security of controlled substances. A DEA 106 report found that since the last inventory on May 1, 2005 over 33,000 dosage units were missing including 11,410 Schedule II drugs. Alleged violations of law: 201 KAR 2:100, KRS 218A.200, 201 KAR 2:205, KRS 315.121 (1)(d)(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. 05-0098B. Pharmacist-in-charge allegedly failed to maintain proper security of controlled substances. A DEA 106 report found that since the last inventory on May 1, 2005 over 33,000 dosage units were missing, including 11,410 Schedule II drugs. Alleged violations of law: 201 KAR 2:100, KRS 218A.200, 201 KAR 2:205, KRS 315.121 (1)(d)(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. 05-0101. Pharmacist allegedly engaged in unprofessional and unethical conduct by trafficking in a controlled substance, a Class D felony. Pharmacist is awaiting trial in federal court. Alleged violations of law: KRS 315.121 (1)(c) 1 and (2)(f) and KRS 218A.1413. CRC Recommendation – There is sufficient evidence developed and the investigator is directed to conduct further investigation.

Case No. 05-0102A. Special limited medical gas permit holder allegedly dispensed medicinal oxygen to patients after the one year expiration of the prescription. Alleged violation of law: 201 KAR 2:185. 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. 05-0102B. Special limited medical gas consultant pharmacist allegedly dispensed medicinal oxygen to patients after the one year expiration of the prescription. Alleged violation of law: 201 KAR 2:185. 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. 05-0104 Pharmacist Intern allegedly overdosed on a Scheduled II drug and alcohol. Alleged violation of law: KRS 315.121(1)(b) and (2)(f). CRC Recommendation – There is sufficient evidence developed and the investigator is directed to conduct further investigation.

RECIPROCITY/RELICENSURE/INTERNSHIP:

Philip Rushing. Mr. Rushing had allowed his Kentucky pharmacist's license to lapse in 1996 and was requesting reinstatement. He had submitted all applicable paperwork and fees. Mr. Naseman moved to allow Mr. Rushing's Kentucky pharmacist's license to be reinstated after he successfully passes the MPJE. Ms. Cooper seconded, and the motion passed unanimously.

Kunal J. Patel. Mr. Patel requested that he be credited 400 internship hours for experience as a research and teaching assistant performed in Missouri from January 2002 to September 2005. Mr. Naseman moved to deny the request based on 201 KAR 2:040 Section 3(4)(a)3, which states that the intern must receive prior approval for research related internship credit. Mr. Orzali seconded, and the motion passed unanimously.

Yashraj D. Rege. Mr. Rege requested that he be credited internship hours which were previously denied by the Board office staff because Mr. Rege had not submitted the Preceptor form in a timely manner. Mr. Naseman recused himself and left the room. Ms. Cooper moved to deny the internship hours based on 201 KAR 2:040 Section 7(1). Motion died for lack of a second. After more discussion, Mr. Orzali moved to uphold the Board office staff's denial of internship hours based on 201 KAR 2:040 Section 7(1), which states that the intern shall submit the "Pharmacist Preceptor's Affidavit" within 10 days of beginning an internship. Ms. Jones seconded, and the motion passed unanimously.

James Liebetrau. Mr. Liebetrau was applying for reciprocity from Ohio. In 1999, Mr. Liebetrau's Ohio pharmacist's license was reinstated and placed on probation for 5 years for impairment issues. He has been clean for over 13 years, was under contract with the Ohio Board of Pharmacy and the Ohio Pharmacists Recovery Network for 7 years, is very involved in the Ohio Pharmacists Recovery Network, and currently has an unrestricted Ohio pharmacist's license. Ms. Cooper moved to allow Mr. Liebetrau to apply for reciprocity. Ms. Jones seconded, and the motion passed unanimously.

CORRESPONDENCE/COMMUNICATIONS:

Community Health Systems(CHS)/Doug Camp. CHS owns and operates three hospital pharmacies in Kentucky. CHS would like to use Southside Regional Medical Center in Petersburg, Virginia, as the out of state pharmacy providing remote order entry after hours for the pharmacies in Kentucky. At a previous Board Meeting, the Board issued the policy that all pharmacists at an out of state pharmacy providing remote order entry must be Kentucky licensed pharmacists. Mr. Orzali moved to accept the CHS model as presented with only the pharmacist-in-charge being a Kentucky licensed pharmacist based on KRS 315.0351. Mr. Naseman seconded, and the motion passed unanimously.

Kendal Kilbourne. Mr. Kilbourne requested an exemption from the 10 hours per week requirement for the pharmacist-in-charge to be present at Your Home Pharmacy. He would be on call Monday through Friday from 9 a.m. to 5 p.m. and would work as needed, typically only 5 hours per week. Mr. Naseman moved to deny the request; Mr. Kilbourne must be present in the pharmacy a minimum of 10 hours per week. Mr. Orzali seconded, and the motion passed unanimously.

Kevin Emberton. Mr. Emberton requested to be pharmacist-in-charge for Nunn Drug Store and Emberton Veterinary Pharmacy and to allow Emberton Veterinary Pharmacy to share equipment with Nunn Drug Store. Both pharmacies are located in the same building. Mr. Orzali moved to approve Mr. Emberton for dual PIC and to allow Nunn Drug Store and Emberton Veterinary Pharmacy to share equipment. Ms. Jones seconded, and the motion passed unanimously.

Rebecca Girdler. Ms. Girdler requested an exemption of the required equipment, the generic drug sign, and the generic pamphlets for Your Home Pharmacy. Mr. Orzali

moved to allow the exemption of equipment as requested, but deny the exemption of the generic drug sign and the generic pamphlets. Ms. Jones seconded, and the motion passed unanimously.

Steven P'Poole. Mr. P'Poole requested to be pharmacist-in-charge for Pharmacy Corner (P06824) and Corner Homecare (P02402), both located at the same address. Mr. Orzali moved to allow dual PIC. Mr. Naseman seconded, and the motion passed unanimously.

Mike Traylor. Mr. Traylor requested to be pharmacist-in-charge for Pharmacy Corner of Owensboro (P06818) and Corner Homecare of Owensboro (P06159), both located at the same address. Mr. Naseman moved to allow dual PIC. Mr. Orzali seconded, and the motion passed unanimously.

LEGISLATION / REGULATIONS: Pharmacy Technician Legislation. After discussion, Mr. Burleson was directed to take the legislation to some of the Advisory Council members for clarifications.

CONTINUING EDUCATION: Mr. Naseman moved to accept the continuing education programs 05-44 through 05-48 as recommended. Ms. Jones seconded, and the motion passed unanimously.

NEW BUSINESS: Mr. Naseman moved to elect officers for 2006. Ms. Cooper seconded, and the motion passed unanimously. Mr. Naseman nominated Mr. Orzali for President Elect. Mr. Naseman moved to close nominations. Ms. Jones seconded, and the motion passed unanimously. Mr. Orzali was elected President Elect by acclamation.

Mr. Naseman was sworn in as President of the Kentucky Board of Pharmacy for 2006. Mr. Orzali was sworn in as President elect. Mr. Leake and Dr. Shely were sworn in as new board members.

ADJOURNMENT: On motion by Ms. Jones, seconded by Mr. Orzali, and passed unanimously, President Edwards adjourned the meeting at 3:55 p.m. The next regularly scheduled Board meeting is scheduled to begin at 9:00 a.m. on January 11, 2006 at the Board Office at Spindletop Administration Building, Suite 302; 2624 Research Park Dr., Lexington, KY 40511.

Michael Burleson, Executive Director

MB:lha