

**KENTUCKY BOARD OF PHARMACY
23 MILLCREEK PARK
FRANKFORT KY 40601-9230
JUNE 8, 2005 9:00a.m.**

Agenda

- I. CALL TO ORDER**
- II. MINUTES**
 - *A. APRIL 13, 2005**
- III. APPEARANCES**
 - *A. William Ringle-9:15a.m.**
 - *B. Annette Owen-9:45a.m.**
 - *C. Bill Moore – 10:15a.m.**
- IV. INTERAGENCY**
- V. BOARD REPORTS**
 - A. Board President**
 - 1. Technician**
 - 2. Medication Errors**
 - 3. Schedule II Prescription Changes**
 - B. Board Members**
 - C. Board Executive Director**
 - D. Board Staff**
 - E. IPC Chairman**
- VI. CURRENT/PENDING CASES**
 - A. OAG – C. Lalonde-Mooney**
 - 1. Case update**
 - 02-0147**
 - 04-0053B**
 - 04-0095A**
 - 04-0095B**
 - 04-0108A**
 - 04-0114B**
 - 05-002A**
 - 05-0019B**
 - 05-0022**
 - 05-0023**

- B. KBP CASE UPDATES**
- C. Case Review Committee**

VII. RECIPROCITY/RELICENSURE/INTERNSHIP

VIII. CORRESPONDENCE/COMMUNICATIONS

- *A. Jeff VanArsdale-PIC Request**
- *B. James Swencki-PIC Request**

IX. NABP

X. LEGISLATION/REGULATIONS

- *A. Telehealth Regulations**

XI. CONTINUING EDUCATION

- A. Program Review**

XII. FINES

- A. Fines Report**

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 8, 2005

CALL TO ORDER: A regular meeting of the Kentucky Board of Pharmacy was held at the Board Office at 23 Millcreek Park, Frankfort, Kentucky. President Edwards called the meeting to order at 9:13 a.m.

Members present: Mark Edwards, Becky Cooper, Patricia Thornbury, Greg Naseman and Georgina Jones. Member absent: Peter Orzali. Staff: Michael Burlison, Executive Director; Jeff Osman, Inspections and Investigations Coordinator; Katie Busroe, Steve Hart and Phil Losch, Pharmacy and Drug Inspectors; and Cheryl Lalonde-Mooney, Assistant Attorney General and Board Counsel. Guests: Brian Fingerson, Pharmacy Recovery Network, Chair; Jan Gould, KRF; Ralph Bouvette, APSC; Paula York, Drug Enforcement and Professional Practices Branch of the Cabinet for Health and Family Services; Peter Cohron, Walgreens; Sue Gage, Target; Kevin Lamping, Ed Prater, Rite Aid; Todd Downing, CVS; Anthony Tagavi, Abby Volz and Julie Baumann, Alissa Boyne, University of Kentucky College of Pharmacy Intern students; Annette Owens; Sean Collett; William Ringle; and Juanita Toole, Court Reporter, recorded the meeting.

MINUTES: On motion by Ms Thornbury and seconded by Mr. Naseman, the Minutes of April 13, 2005 were approved as amended unanimously.

APPEARANCES:

William Ringle was sworn in by Juanita Toole, Court Reporter. Mr. Ringle asked for permission to take the Kentucky Operative Pharmacy Examination. He explained his circumstances in Ohio; the Board had permanently taken his license and would not reverse their decision. He had proof of his continued success in overcoming his addiction. Ms Thornbury made the motion to allow him to take the examination and upon successful completion he will be under the following conditions of an Agreed Order: 10 years probation, maximum hours of work: 40hrs/wk or 80 hrs/2wk, cannot be pharmacist-in-charge during terms of probation, cannot have power of attorney during terms of probation, must provide copy of Agreed Order to all employers, must have aftercare contract with Pharmacy Recovery Network (PRN) – to include drug counseling if indicated, must sign a release for Board to have access to all medical records, must attend NA/AA meetings no less than 3 times per week, must agree to random observed urine/blood screens per PRN contract, Bi-annual inspections by Board, perpetual inventory required for C-II, C-III, C-IV, audits be conducted under extreme circumstances 2 times per year, shall not ingest any mood altering substances including alcohol, notify Board through PRN within 10 days of any Rx/OTC med prescribed/ingested, PRN Chair and President and/or Board to approve all pharmacies/worksites prior to employment, cannot fill any Rx's for self or immediate family, and must identify to the Board one pharmacy for these Rx's, has already attended SE-PRN, provide PRN with a written self-performance evaluation monthly for 10 years, shall make yearly appearance before the PRN as requested, any violation of state/federal pharmacy or drug laws constitutes violation of AO and may result in an emergency suspension of

pharmacist license pursuant to KRS 315, cannot act as a preceptor, can appear before the Board to amend AO after 3 years. All of the above is reported to NABP. Seconded by Mr. Naseman and the motion passed unanimously.

Annette Owen was sworn in by Juanita Toole, Court Reporter. Ms. Owen asked for reinstatement of her license. After discussion, Ms Thornbury made the motion to reinstate her license pending the signing of the court documentation with the following conditions of an Agreed Order: 5 years probation, maximum hours of work: 40hrs/wk or 80 hrs/2wk, cannot be pharmacist-in-charge during terms of probation, provide 100 hours of community service in the first year, must provide copy of Agreed Order to all employers, must provide Board with written biannual reports from psychologist, biannual inspections by Board – expense paid by Ms Owen (max \$500.00 each inspection), Board or President to approve all worksites prior to employment, any violation of state or federal pharmacy or drug laws constitutes violation of AO and may result in an emergency suspension of pharmacist license, all of the above is reported to NABP, continue counseling for 5 years during terms of probation, cannot be preceptor during probation, follow court agreement. Ms Owen cannot amend this Agreed Order. Mr. Naseman rescued himself. Ms Jones seconded and the motion passed unanimously.

Bill Moore was sworn in by Juanita Toole, Court Reporter. Mr. Moore asked that he be allowed to take the Kentucky Pharmacist License Examination in order to get his Kentucky License back. After discussion, Ms Cooper made the motion not to act on this request without more information from mental health professionals regarding his treatment and evaluation. Ms Jones seconded and the motion passed unanimously.

INTERAGENCY: Paula York provided an update on the availability of e-KASPER. Pharmacists and prescribers may access the program from the website:
<https://ekasper.chfs.ky.gov/accessrequest>.

BOARD REPORTS: 1) Mr. Edwards gave the floor to Advisory Council members Ralph Bouvette, Jan Gould, and Todd Downing to present the Pharmacy Technician Registration proposal. They stated that the proposal was a composite product of the entire group and not a representation of the personal opinions of individual members. After some discussion, Mr. Naseman made the motion to accept the document as presented and begin to get legislative support. Ms Cooper seconded the motion that passed unanimously. Mr. Burleson was asked to write a position statement about technician registration to be presented to professional groups such as Kentucky Pharmacist Association, Kentucky Society of Health System Pharmacists, American Pharmacy Services Corporation and others as needed. 2) President Edwards suggested that the next task of the Advisory Council should be evaluation of the handling of medication errors by the Board. Ms Thornbury made the motion that medication errors be the next issue for the Advisory Council. The motion was seconded by Mr. Naseman and passed unanimously. Mr. Naseman asked that Mr. Burleson request information from other states about how they handle medication errors and provide that information to the Advisory Council. 3) Schedule II Prescription Changes – Mr. Burleson was asked to contact Drug Control to get their position on prescription changes and provide that information at the July meeting. 4) Board Retreat – the Board would like to have its retreat in Northern Kentucky at the Marriott and use Embassy Suites as a back up. Mr. Burleson will bring

information on location to the Board at its July meeting. 5) National Association of Board of Pharmacy Annual Meeting was good and covered a variety of issues.

Board Members: Ms Cooper said NABP was enjoyable and suggested that we put the ISMP website in our Newsletter as she finds it very useful. Ms Thornbury agreed about ISMP and NABP; she said she would be glad to serve on the Nursing Advisory Council for a second term. Mr. Naseman echoed Ms Cooper's and Ms Thornbury's comments about NABP and the ISMP. He would like to revisit the Board Exam issue. He gave examples of what other states are doing. After much discussion, Mr. Naseman made a motion to pursue law changes to require only the NAPLEX and MPJE exams. Ms Jones seconded the motion. The motion passed with Mr. Naseman, Ms Cooper, and Ms Jones in favor and Ms Thornbury opposed. Since the Board is obligated to offer a practical/operative exam before the law can be changed, Ms Thornbury made a motion to give only the oral examination for the July 2005 exam. Ms Jones seconded and the motion passed unanimously. Mr. Burleson was asked to see if we could give the exam at the Hilton Green on Saturday, July 9th. If that location is not available, the Board will hold the exam on Sunday, July 10th at the College of Pharmacy in Lexington.

Board Executive Director: 1) Kentucky Board of Nursing Advisory Council is asking for the Board's appointment for the next term. Ms Thornbury offered to serve a second term. Mr. Naseman made the motion to reappoint Ms Thornbury. Ms Cooper seconded, and the motion passed unanimously. The term will be until June 30, 2009. 2) Mr. Burleson reminded the Board members that the Board Forum at the KPhA convention will begin at 5:30 p.m. on Saturday June 25th, 2005 at the Hyatt Regency in Lexington, Kentucky. 3) The April and May MARS report was enclosed in the addendum packet for the Board's review. 4) Our budget allotment for the coming year will be \$896,700. 5) Registration for the District III meeting in August was enclosed in the addendum packet. Ms Thornbury made a motion to send Board members and staff to the District III meeting in Knoxville. Mr. Naseman seconded and the motion passed unanimously. 6) Wholesale and Manufacturers will be able to renew online this year. 7) A calendar for next year was included in the addendum packet. Board members were asked to review their calendars so that the Board can set its meeting dates at the July meeting. 8) Mr. Burleson asked for authority to purchase some furnishings and equipment for the new office. Ms Thornbury made a motion to allow the Executive Director to expend up to \$50,000 for the new office. Mr. Naseman seconded and the motion passed unanimously.

Board Staff.

Board staff did not have any reports.

PRN Chairman.

Brian Fingerson stated he was excited that Mike Burleson, Steve Hart and Katie Busroe are attending the Utah School on Alcohol and Substance Abuse. Ms Thornbury asked Mr. Fingerson if he could present a report to the Board on how the IPC program is doing. This is done in the PRN Committee Meetings so Mr. Fingerson said he could easily provide the Board with statistical information.

CURRENT/PENDING CASES: KBP Case Updates: Mr. Naseman moved for acceptance and entry of the proposed Agreed Orders as written. The motion was seconded by Ms Cooper and passed unanimously.

Case No. 02-0148; Case No. 04-0053b; Case No. 04-0095A; Case No. 04-0095B; Case No. 04-0108A; Case No. 04-0114B; Case No. 05-0002A; Case No. 05-0019B; Case No. 05-0022; Case No. 05-0023, Case No. 04-0093A; Case No. 04-0093B; Case No. 05-0021; Case No. 05-0028; Case No. 05-0039

CASE REVIEW COMMITTEE: Ms Thornbury moved for acceptance of the Committee recommendations for the following case report; the motion was seconded by Mr. Naseman and passed unanimously:

Case No. 04-0105A. (Revisit) Pharmacy permit holder allegedly engaged in unprofessional conduct by failing to perform prospective drug utilization reviews; failing to have quality assurance monitors in place; failing to maintain hard copy prescriptions for a period of approximately 3 months; failing to be licensed as an out-of-state pharmacy in the 40 states into which medication is shipped; failing to have pharmacist print, review, and sign daily prescription logs; inability to print requested patient profiles and prescriptions; failing to have required pharmacy equipment and no exemption has been granted by the Board; having over 500 unlabeled vials of medications on the pharmacy shelves; and failing to comply with the generic substitution law by inappropriately dispensing trade name products. The Board office received a verbal, followed by a written complaint, in November 2004, from the Iowa Board of Pharmacy that this pharmacy had dispensed Cialis to a 17 year old, 198 pound, female that stated her medical condition to be erectile dysfunction. Two Kentucky Board of Pharmacy inspectors investigated the complaint and made further discoveries. The pharmacist stated that she was too busy to print the hard copy prescriptions since approximately September 15, 2004. The prescription is e-mailed to her from the physician and she enters the prescription from this e-mail. The pharmacist was also too busy to print the daily prescription logs. On this particular date, one pharmacist filled over 600 prescriptions. Further review of prescriptions revealed two additional female patients that received Cialis for erectile dysfunction on the same day as the Iowa complaint. When confronted with these 3 scenarios, the pharmacist stated that she “tries to catch these patients.” There are not any hard halts in the computer software or any type of computer quality assurance to alert the pharmacist to such errors. The pharmacist was unable to print a copy of the patient’s profile. The prescription serial numbers are not identifiable on the patient invoice or profile. It was observed during the inspection that there were over 500 unlabeled vials of pre-counted medications throughout the pharmacy. The pharmacist had been educated as to the legality of this practice on July 7, 2004. There was none of the required prescription equipment, nor had an exemption granted. The pharmacy stocks both Ultram and Tramadol. Ultram was being dispensed without any notation on the prescription that would prohibit the generic (Tramadol) from being dispensed. The pharmacist indicated that the patient would request brand on the questionnaire that is review by the physician. However, the physician does not indicate any type of notation on the prescription that would prevent the pharmacist from dispensing the generic nor does the patient indicate to the pharmacy that brand name is requested yet brand

was being dispensed. On July 7, 2004, the pharmacist was informed that out of state permits were needed for the states (approximately 40) into which medications are shipped. The pharmacy has failed to obtain these permits. Alleged violations of law: 201 KAR 2:210 Section 1 (1)(d)(1); 201 KAR 2:210 Section 1(2)(f); 201 KAR 2:090 Section 2 (1)(a)(b)(c)(d)(e)(f)(g)(i); KRS 216.065(2)(a); KRS 315.121 (1)(d) and (j); KRS 315.121 (2)(d), (e), and (g); and KRS 217.822 (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. **New Information:** Permit holder closed business. **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. 04-0121 (Revisit). Wholesale permit holder allegedly did not renew permit in a timely manner and continued to operate, resulting in operating as a wholesaler without an active permit. The permit expired at the close of business on September 30, 2004. The Board office received the renewal application on October 19, 2004. The wholesaler did continue to operate during this time period. Alleged violation of law: KRS 315.036(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. **New Information:** Wholesaler permit holder closed without proper notification to the Board office. **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. 05-0004 (Revisit) Pharmacist allegedly violated Agreed Order. Case No. 03-0013. Pharmacist entered into an Agreed Order on December 3, 2003 with the Board. The order required that the pharmacist complete and have certified six hours of CE regarding medication errors and their prevention to the Board office by December 4, 2004. The CE was not received. The above referenced AO requires 12 hours of CE within a year. Alleged Violation of Law: KRS 315.121 (1) (i). **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. **New Information:** A letter was received from the Pharmacist stating that he is no longer practicing pharmacy in the state of Kentucky and has not since July 14, 2001. He stated that he did complete C.E. hours but did not submit them because he was dropping his KY license. He gave a list of his CE hours for the last year. **CRC Recommendation:** There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 05-0005 (Revisit) Pharmacist allegedly violated Agreed Order. Case No. 03-0122. Pharmacist entered into an Agreed Order on March 10, 2004 with the Board. The order required pharmacist to complete and have certified six hours of CE on KY Pharmacy Law by September 10, 2004. The continuing education was not received. A letter dated January 11, 2005 was sent to the pharmacist requesting proof of completion. Alleged Violation of Law: KRS 315.121 (1) (i). **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. **New Information:** A letter was received from pharmacist's family stating that the pharmacist no longer has the mental capacity of make any decisions. He has been diagnosed with Alzheimer's and is currently being treated. They ask that the case be dismissed. **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. 05-0013A (Revisit) Pharmacy permit holder allegedly sold a misbranded product as the result of a medication error, by dispensing generic Fioricet #3 instead of generic Robaxin. Patient telephoned in 7 refills on an automated system, 2 of the prescriptions Fioricet #3 Robaxin did not have refills, the physician was contacted and the refills were authorized on 2 separate days. Patient became upset because her prescription was not ready when she came to pick it up even though the automated system said it would be ready. Alleged violation of Law: KRS 315.121(2)(d). **CRC Recommendation:** There is sufficient evidence developed and the investigator is directed to conduct further investigation. **New information:** Attempted to contact complainant by phone and letter dated April 7, 2005 to schedule interview no response to contact. **CRC Recommendation:** There is sufficient evidence developed and the investigator is directed to conduct further investigation.

Case No. 05-0013B (Revisit) Pharmacist allegedly engaged in unprofessional conduct by committing a medication error by dispensing generic Fioricet #3 instead of generic Robaxin. Patient telephoned in 7 refills on an automated system, 2 of the prescriptions Fioricet # 3 Robaxin did not have refills, the physician was contacted and the refills were authorized on 2 separate days. Patient became upset because her prescription was not ready when she came to pick it up even though the automated system said it would be ready. Alleged violation of Law: KRS 315.121(2)(d). **CRC Recommendation:** There is sufficient evidence developed and the investigator is directed to conduct further investigation. **New information:** Attempted to contact complainant by phone and letter dated April 7, 2005 to schedule interview. There was no response to contact. **CRC Recommendation:** There is sufficient evidence developed and the investigator is directed to conduct further investigation.

Case No. 05-0016A Pharmacy permit holder allegedly engaged in unprofessional conduct by dispensing an excessive amount of a medication which resulted in the patient's death. The Board office received information from the Kentucky Board of Nursing stating that while in the hospital the patient was allegedly given an overdose of Meperidine and died. The patient

was a 23 year old female with an allergy to penicillin. Alleged violation of law: KRS 315.121(2)(d)(e). **CRC Recommendation:** Case is dismissed.

Case No. 05-0016B Pharmacist allegedly engaged in unprofessional conduct by dispensing an excessive amount of a medication which resulted in the patient's death. The Board office received information from the Kentucky Board of Nursing stating that while in the hospital the patient was allegedly given an overdose of Meperidine and died. The patient was a 23 year old female with an allergy to penicillin. Alleged violation of law: KRS 315.121(d)(e). **CRC Recommendation:** Case is dismissed.

Case No. 05-0024A (Revisit) Pharmacy permit holder allegedly failed to maintain the pharmacy as a clean environment and free of clutter, failed to display pharmacist license, failed to maintain daily computer printouts with responsible pharmacist's signature, failed to timely notify the Board office of a pharmacist-in-charge (PIC) change, failed to maintain Baker Cells with current lot numbers and expiration dates, and failed to maintain a patient refusal log. During the inspection it was noted that the pharmacy floor had numerous bottles of medications lying around in the pharmacy isles and pharmacy counters were cluttered. Daily computer printouts were not being signed by each responsible pharmacist. It appeared patient counseling was being offered by the technician, but no refusal log was being maintained. The alleged PIC was not listed on the pharmacy license as PIC. The Pharmacy utilizes Baker Cells for filling prescriptions on certain medications and there was no record of documenting lot numbers and expiration dates when the Cells were being replenished. Alleged violation of Law: KRS 217.055,201 KAR02:180, KRS 315.110,201 KAR 2:170 Section 1 (8), and 201 KAR 2:210 Section 5. **CRC Recommendation:** There is sufficient evidence developed and the investigator is directed to conduct further investigation. **New Information:** Pharmacist became PIC on Feb. 20, 2005; there was not a PIC for 3 months. According to the Regional Pharmacy Supervisor a log had been maintained for the Baker Cells, but he did not know why it had stopped. **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. 05-0024B(Revisit) Pharmacist allegedly failed to maintain the pharmacy as a clean environment and free of clutter, failed to display pharmacist license, failed to maintain daily computer printouts with responsible pharmacist's signature, failed to timely notify the Board office of a pharmacist-in-charge (PIC) change, failed to maintain Baker Cells with current lot numbers and expiration dates, and failed to maintain a patient refusal log. During the inspection it was noted that the pharmacy floor had numerous bottles of medications lying around in the pharmacy isles and pharmacy counters were cluttered. Daily computer printouts were not being signed by each responsible pharmacist. It appeared patient counseling was being offered by the technician, but no refusal log was being maintained. The alleged PIC was not listed on the pharmacy license as PIC. The Pharmacy utilizes Baker Cells for filling prescriptions on certain medications and there was no record of documenting lot numbers and expiration dates when the Cells were being replenished. Alleged violation of Law: KRS 217.055,201 KAR02:180, KRS 315.110,201 KAR 2:170 Section 1 (8), and 201 KAR 2:210

Section 5. **New Information:** Pharmacist became PIC on Feb. 20, 2005; there was not a PIC for 3 months. According to the Regional Pharmacy Supervisor a log had been maintained for the Baker Cells, but he did not know why it had stopped. **CRC Recommendation:** There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 05-0025 (Revisit) Pharmacist was arrested for diverting a controlled substance in Schedule III. The Board office received information that pharmacist diverted De-Chlor HC (Hydrocodone combination product) to provide to one of his patients without a prescription. Pharmacist was arrested and charged with a felony, upon police investigation it was discovered the 443 mls of De-Chlor HC was unaccounted for. Alleged violation of Law: KRS 315.121(1)(c)(1). **CRC Recommendation:** There is sufficient evidence developed and the investigator is directed to conduct further investigation. **New information:** "There are no additional information/charges regarding this case. Pharmacist is being represented by legal counsel and was requested to provide name of legal counsel to this office which he has not done as of this date. **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. 05-0026A(Revisit) Pharmacy permit holder allegedly engaged in unprofessional conduct as the result of a medication error. The Board office received a written complaint that the pharmacy dispensed Trazodone tablets to her on a refill, instead of the medication prescribed Tramadol. Pharmacist expressed that the tablets brought back by the patient were Trazodone, but they had not stocked this generic brand in the pharmacy since March 2004. She expressed that Trazodone is a fast mover in the pharmacy and they dispensed several thousand each month. The pharmacist stated that a miss-fill could have occurred, but in her opinion with the scanning accuracy of the stock bottle NDC numbers for verification prior to filling a prescription it was unlikely. Alleged violation of law: KRS315.121 (2)(d). **CRC Recommendation:** There is sufficient evidence developed and the investigator is directed to conduct further investigation. **New Information:** Due to prescription volume and length of time since the change in generic manufacturer, it is highly unlikely that the pharmacy would have had this particular generic brand in stock at the time this prescription was dispensed. **CRC Recommendation:** There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 05-0026B(Revisit) Pharmacist allegedly engaged in unprofessional conduct as the result of a medication error. The Board office received a written complaint that the pharmacy dispensed Trazodone tablets to her on a refill, instead of the medication prescribed Tramadol. Pharmacist expressed that the tablets brought back by the patient were Trazodone, but they had not stocked this generic brand in the pharmacy since March 2004. She expressed that Trazodone is a fast mover in the pharmacy and they dispensed several thousand each month. The pharmacist stated that a miss-fill could have occurred, but in her opinion with the scanning accuracy of the stock bottle NDC numbers for verification prior to filling a prescription it was unlikely. Alleged violation of law: KRS315.121(2)(d). **CRC Recommendation:** There is sufficient evidence developed and the investigator is directed to

conduct further investigation. **New Information:** Due to prescription volume and length of time since the change in generic manufacturer, it is highly unlikely that the pharmacy would have had this particular generic brand in stock at the time this prescription was dispensed. **CRC Recommendation:** There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 05-0032A Pharmacy permit holder allegedly engaged in unprofessional conduct by committing a medication error by dispensing medication that was not properly authorized. The pharmacy allegedly dispensed a prednisone 1 mg prescription to a doctor's patient without his authorization. The prednisone was allegedly phoned in by another physician's office. The other physician's office does not remember phoning in a prescription for the patient. 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. 05-0032B Pharmacist allegedly engaged in unprofessional conduct by committing a medication error by dispensing medication that was not properly authorized. A complaint was received from the patient's doctor. The pharmacist allegedly dispensed a prednisone 1 mg prescription to a doctor's patient without his authorization. The prednisone was allegedly phoned in by another physician's office. The other physician's office does not remember phoning in a prescription for the patient. 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. 05-0037(revisit) Pharmacist allegedly failed to complete 1.5 units of pharmacy continuing education in 2004. **New Information:** Pharmacist deceased. **CRC Recommendation:** Case is dismissed.

Case No. 05-0042 Pharmacist is allegedly impaired. Pharmacist had a previous Agreed Order for impairment and on March 21, 2005 tested positive for Temazepam and Phentermine. Pharmacist has surrendered license. Alleged Violation of Law: KRS 315.121(1)(b) & (i). **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 convicted of one class B felony – wanton endangerment. The Board received a complaint stating that the pharmacist had pleaded guilty to a DUI he received in January 2004, which involved an accident. There were 3 passengers in the other car, the pharmacist was charged with 3 counts of second degree assault. Another complaint had been received on 2/27/05 with the scheduled charges against the Pharmacist. They were: 3 counts for second degree assault, second degree possession of a controlled substance unspecified, possession of controlled substance third degree, prescription in improper container, aggravated DUI. The Pharmacist pleaded guilty to the DUI at the time. A plea agreement was made on the remainder. The controlled substance violation was dropped. And the assault charges were changed to wanton endangerment, which he pleaded guilty to. The

Pharmacist is currently serving in-home incarceration for six months, which began May 3, 2005. Alleged Violation of Law: KRS 315-121 (1) (c) 1. **CRC Recommendation:** There is sufficient evidence developed and the investigator is directed to conduct further investigation.

RECIPROCITY/RELICENSURE/INTERNSHIP:

William E. Entrekin. Mr. Entrekin allowed his Kentucky license to lapse. He asked that his Kentucky license be reinstated. Mr. Naseman made the motion to allow Mr. Entrekin to have his license reinstated if he meets all the criteria. Ms Cooper seconded and the motion passed unanimously.

Mahdi Cezar. Mr. Cezar allowed his Kentucky license to lapse. He asked that his Kentucky license be reinstated. Mr. Naseman made the motion to allow Mr. Cezar to have his Kentucky license back upon successful completion of the MPJE. Ms Thornbury seconded and the motion passed unanimously.

CORRESPONDENCE/COMMUNICATIONS:

Jeff VanArsdale asked that he be allowed to become PIC. Mr. Naseman rescued himself. Ms Jones made the motion to allow Mr VanArsdale to become the PIC. Ms Thornbury seconded, and the motion passed unanimously.

James Swencki asked to be granted dual PIC. Mr. Naseman made the motion to allow dual PIC. Ms Cooper seconded, and the motion passed unanimously.

Larry Abplanalp asked to be granted dual PIC. Ms Jones made the motion to allow dual PIC. Ms Cooper seconded, and the motion passed unanimously.

Sean Collett requested to take the Kentucky Pharmacist License Examination. Mr. Naseman made the motion to grant permission to Mr. Collett. Ms Jones seconded, and the motion passed unanimously.

Paul Richard Patrick requested to take the Kentucky Pharmacist Licensure Examination. Ms Thornbury made the motion to allow him to take the exam. Ms Jones seconded, and the motion passed unanimously.

Georgina Jones excused herself for the remainder of the meeting at 5:35p.m.

CONTINUING EDUCATION: Mr. Naseman moved to accept the continuing education programs 05-16, 05-17, 05-18, 05-20, 05-21, 05-22, 05-23, 05-24 and not to accept program 05-19. Ms Cooper seconded, and the motion passed unanimously.

FINES: The fines report was enclosed for the Board's information.

OLD BUSINESS: Mr. Naseman made the motion to give Cheryl Mooney authority to move forward with Telehealth Regulations as amended. Ms Cooper seconded, and the motion passed unanimously.

NEW BUSINESS: There was no new business.

ADJOURNMENT: On motion by Ms Thornbury, Mr. Cooper seconded, and the motion passed unanimously, President Edwards adjourned the meeting at 6:30 p.m. The next

regularly scheduled Board meeting is scheduled to begin at 9:00 a.m. on July 6, 2005 at the Board of Pharmacy Office in Frankfort.

Michael Burleson, Executive Director

MB:lha