

**KENTUCKY BOARD OF PHARMACY  
SPINDLETOP ADMINISTRATION BUILDING SUITE 302  
2624 RESEARCH PARK DRIVE  
LEXINGTON KY 40511  
MAY 10, 2006 9:00a.m.**

**Agenda**

- I. CALL TO ORDER**
- II. MINUTES**
- III. \*A. March 8, 2006**
- IV. INTERAGENCY**
- V. APPEARANCES**
  - A. Attorney General Greg Stumbo: Out of State Pharmacies-10:00a.m.**
  - B. Josh Bolin, NABP-Model Wholesaler/VAWD**
- VI. BOARD REPORTS**
  - A. Board President**
    - 1. ARNP Appointment**
    - 2. Board Exams-July 8-9**
  - B. Board Members**
  - C. Board Executive Director**
    - 1. Mars Report March**
    - 2. Board Retreat: November 3-4, 2006**
    - 3. Thank you**
  - D. Board Staff**
  - E. PRN Chairman**
- VII. CURRENT/PENDING CASES**
  - A. OAG-C. Lalonde**
    - \*1. Proposed Agreed Order**
  - B. Case Update**
  - C. Case Review Committee**
- VIII. APPEARANCES**
  - \*A Gerald Weigel-1:30p.m.**
  - \*B Joseph Hamm-2:00p.m.**
- IX. RECIPROCITY/RELICENSURE/INTERNSHIP**

- X. CORRESPONDENCE/COMMUNICATIONS**
  - \*A. Expungement: EX0601**
  - \*B. Rite Aid Corporation: Electronic Daily Log**
  - \*C. Steve P'Pool: Dual PIC**
  
- XI. NABP**
  
- XII. LEGISLATION/REGULATIONS**
  - \*A. Hospice Residential Care Facility-Regulations**
  
- XIII. CONTINUING EDUCATION**
  - A. Program Review**
  - B. PSMA and Board Meeting:CE approval**
  
- XIV. FINES**
  - A. Fines Report**
  
- XV. OLD BUSINESS**
  - A. Omnicare**
  
- XVI. NEW BUSINESS**

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

**MINUTES**  
**KENTUCKY BOARD OF PHARMACY**  
Spindletop Administration Building, Suite 302  
2624 Research Park Dr.  
Lexington, Kentucky  
May 10, 2006

**CALL TO ORDER:** A regular meeting of the Kentucky Board of Pharmacy was held at the Board Office at Spindletop Administration Building, Suite 302, 2624 Research Park Dr., Lexington, Kentucky. President Naseman called the meeting to order at 9:05 a.m.

Members present: Greg Naseman, Peter Orzali, Catherine Shely, Sandy Simpson and Patricia Thornbury. Staff: Michael Burleson, 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; JD Hammond, APSC; Paula York, Drug Enforcement and Professional Practices Branch of the Cabinet for Health and Family Services; Sue Gage, Target; Jack Carver; Mike Wyant, Cardinal Health; Richard Ross; Joseph Hamm; Chris Killmeier, Walgreens; Brad Hall and Leon Claywell, KPhA; Charles Brien; Thomas Hoffman; Cheryl Geren, Jack Nicholson, Jennifer Johnson, O'Shea Hudspeth, Stephanie Taylor, Carrie Jewell and Heather Batie, University of Kentucky College of Pharmacy PY4 students. Melanie Curtis, Court Reporter, recorded the meeting. Mike Leake was absent.

**MINUTES:** On motion by Dr. Shely, seconded by Mr. Orzali and passed unanimously, the Minutes of March 8, 2006 were adopted.

**APPEARANCES:** **Attorney General Greg Stumbo.** Attorney General Stumbo was sworn in by Ms. Curtis, Court Reporter. He introduced David James, Director of the Kentucky Bureau of Investigations. Staff members of the Kentucky Board of Pharmacy and the Office of Attorney General worked together to develop a more complete application for non-resident pharmacies. The revised non-resident pharmacy permit application would provide more information that will be available to other law enforcement agencies. This application will not be available for completion on-line, and must be completed the paper format. Ms. Thornbury moved to approve the revised "Application for Non-Resident Pharmacy Permit." Mr. Orzali seconded and the motion passed unanimously.

**Josh Bolin, Board Liaison for the National Association of Boards of Pharmacy (NABP).** Mr. Bolin was sworn in by Ms. Curtis, Court Reporter. Currently, Kentucky has very broad statutes governing wholesale distributors. Mr. Bolin appeared before the Board to provide general information and answer questions regarding NABP's Verified-Accredited Wholesale Distributors (VAWD) program. After much discussion, President Naseman directed Mr. Burleson, Ms. Lalonde, and Mr. Bolin to work together on

proposed legislative changes regarding wholesale distribution of drugs and present the draft to the Board for in depth discussion beginning at the July 12, 2006 Board Meeting.

**Gerard Weigel.** Mr. Weigel was sworn in by Ms. Curtis, Court Reporter. Mr. Weigel appeared before the Board to ask for reinstatement of his Kentucky pharmacist's license. Mr. Weigel gave a brief overview of the events that led to the loss of his Kentucky pharmacist's license and his progress over the last year. Ms. Thornbury moved to reinstate with an Order of Reinstatement including stipulations as follows: Lifetime probation; maximum hours of work: 40 hrs/wk or 80 hrs/2wk, with exceptions to be approved by PRN Committee chairperson or Board President and notification provided to the Board; shall not serve as pharmacist-in-charge, but may petition the Board to serve as pharmacist-in-charge 10 years from the date of the Agreed Order if all the conditions of the Agreed Order have been satisfied; may not have power of attorney during terms of probation; shall not be a preceptor, but may petition the Board to be a preceptor 5 years from the date of the Agreed Order if all conditions of the Agreed Order have been satisfied; must provide copy of Agreed Order to all employers; must enter into an aftercare contract with PRN Committee, to include drug counselor if indicated; must submit signed release for Board access to all medical records; must attend NA/AA meetings no less than 4 times per week, but may petition for a reduction after 5 years; must submit to the Board written monthly reports of all NA/AA meetings; must submit to random observed urine/blood drug screens; shall be subject to quarterly inspections by the Board at all places of employment, with audits to be conducted if necessary, the cost of each inspection not to exceed \$500, may petition the Board to reduce the number of inspections two years from the date of the Agreed Order if all the conditions of the Agreed Order have been satisfied; perpetual inventory of Scheduled II, III, and IV drugs to be required at each place of employment; cannot own a pharmacy or be employed at a pharmacy owned by a family member, but may petition the Board for a change 10 years from the date of the Agreed Order if all conditions of the Agreed Order have been satisfied; shall not ingest any mood altering substances whether legend or nonlegend medications including alcohol; notification to the Board within 10 days of all legend and nonlegend drugs prescribed/ingested; Board or Board President to approve all pharmacies/worksites prior to employment; shall not dispense any drugs for himself or his family members; shall obtain all prescriptions and those of family members at pharmacy designated in writing to the Board; attendance at the University of Utah School on Alcoholism and Other Drug Dependencies, the South Eastern PRN meeting, or the CAPTASA conference within one year; provide the Board and PRN Committee with a written self-performance evaluation monthly; any violation of state and/or federal pharmacy or drug laws constitutes violation of Agreed Order and may result in an emergency suspension of pharmacist's license with terms that he may petition the Board for reinstatement no sooner than 5 years and 1 day pursuant to KRS 315. The Agreed Order shall be reported to NABP. Order of Reinstatement to be drafted and forwarded to Mr. Weigel for his signature and upon its return to be signed by President Naseman. Dr. Shely seconded, and the motion passed unanimously.

**Joseph Hamm.** Mr. Hamm was sworn in by Ms. Curtis, Court Reporter. Mr. Hamm appeared before the Board to ask for reinstatement of his Kentucky pharmacist's license.

Mr. Hamm gave a brief overview of the events that led to the loss of his Kentucky pharmacist's license. Ms. Thornbury moved to reinstate with an Order of Reinstatement including stipulations as follows: 5 years probation; maximum hours of work: 40 hrs/wk or 80 hrs/2wk, with exceptions to be approved by PRN Committee chairperson or Board President and notification provided to the Board; shall not serve as pharmacist-in-charge or have power of attorney during terms of probation; shall not be a preceptor; must provide copy of Agreed Order to all employers; must enter into an aftercare contract with PRN Committee, to include drug counselor if indicated; must submit signed release for Board access to all medical records; must attend NA/AA meetings no less than 4 times per week; must submit to the Board written monthly reports of all NA/AA meetings; must submit to random observed urine/blood drug screens; shall be subject to quarterly inspections by the Board at all places of employment, with audits to be conducted if necessary, the cost of each inspection not to exceed \$500, may petition the Board to reduce the number of inspections two years from the date of the Agreed Order if all the conditions of the Agreed Order have been satisfied; perpetual inventory of Scheduled II drugs to be required at each place of employment; shall not ingest any mood altering substances whether legend or nonlegend medications including alcohol; notification to the Board within 10 days of all legend and nonlegend drugs prescribed/ingested; Board or Board President to approve all pharmacies/worksites and schedule prior to employment; shall not dispense any drugs for herself or her family members; shall obtain all prescriptions and those of family members at pharmacy designated in writing to the Board; attendance at the University of Utah School on Alcoholism and Other Drug Dependencies, the South Eastern PRN meeting, or the CAPTASA conference within one year; provide Board and PRN Committee with a written self-performance evaluation monthly; any violation of state and/or federal pharmacy or drug laws constitutes violation of Agreed Order and may result in an emergency suspension of pharmacist's license pursuant to KRS 315. The Agreed Order shall be reported to NABP. Order of Reinstatement to be drafted and forwarded to Mr. Hamm for his signature and upon its return to be signed by President Naseman. Mr. Orzali seconded, and the motion passed unanimously.

**BOARD REPORTS:** **President. 1.** President Naseman recommended Jeffrey Mills to serve as the pharmacist on the Advanced Registered Nurse Practitioner (ARNP) Controlled Substances Formulary Development Committee. The Committee's purpose is to make recommendations to the Kentucky Board of Nursing for any regulations that could limit ARNP prescribing of specific scheduled drugs. Ms. Thornbury moved to appoint Dr. Mills to the ARNP Controlled Substances Formulary Development Committee. Dr. Shely seconded and the motion passed unanimously.

**2.** 201 KAR 2:020, regarding pharmacist's licensure examination to consist of NAPLEX and MPJE went into affect May 5, 2006. Ms. Thornbury moved to cancel the Board examination scheduled for July 8-9, 2006. Mr. Orzali seconded and the motion passed unanimously.

**3.** Mr. Orzali suggested increasing the per diem for Board members from \$100 per day to \$200 per day. This would require a statutory change.

**4.** President Naseman established an Ad Hoc committee to work with Brian Fingerson and the Pharmacist Recovery Network (PRN) committee to increase communication and

provide clarity by establishing a systematic process on how the PRN committee works and relates to the Case Review Committee. The committee will be President Naseman, Katie Busroe, Pete Orzali and Cheryl Lalonde. The meetings will be scheduled for the Tuesday evening before the Board meetings.

**Board Members. Mr. Orzali.** Mr. Orzali opened discussion regarding reimbursement for meals of Board members. Pursuant to KRS 315.171 (1), Board members shall receive traveling expenses and all necessary expenses incurred in the performance of official duties. Historically, because of the large number of Board members and staff that attend out of state meetings, the Board policy has been that Board members are reimbursed the standard amount for meals as Commonwealth employees. Ms. Thornbury moved to change the policy so that Board members receive full reimbursement for necessary and actual expenses. Mr. Orzali seconded the motion. After discussion, Dr. Shely suggested an amendment to the motion to impose a \$75.00 per day cap on meals. Ms. Thornbury restated the motion to make meal per diem expenses for Board members a maximum of \$75.00 per day. Mr. Orzali seconded and the motion passed unanimously.

**Ms. Thornbury.** Ms. Thornbury gave her apologies that no one attended the ARNP advisory meeting. She thanked the Board members for submitting biographical information to be included in the New Board Member Manual. Ms. Thornbury requested that she serve on the evaluation committee; her requested was granted by President Naseman.

**Ms. Simpson.** Ms. Simpson stated she was honored to serve on the Board as the consumer member and asked the Board to be patient with her while she is learning. She was sworn in by Dr. Osman.

**Board Executive Director.** 1. MARS reports included for April 2006.  
2. Board Retreat. Mr. Orzali moved to have the retreat at the Marriott in Louisville on October 21-22, 2006. Ms. Thornbury seconded and the motion passed unanimously. Mr. Orzali moved to eliminate the October 11, 2006 Board meeting and have a Board meeting on October 20, 2006 at the Marriott in Louisville beginning at 10:00 a.m. Ms. Thornbury seconded and the motion passed unanimously. The Case Review Committee meeting and the Pharmacist Recovery Network meeting will be held October 10, 2006 at the Board office in Lexington.

**PRN Chairperson.** President Naseman directed Brian Fingerson to attend the Case Review Committee meetings to be available to answer questions regarding impairment issues.

#### **CURRENT/PENDING CASES:**

Ms. Lalonde was presented with an Agreed Order offered by an attorney of a pharmacist that would replace the original Agreed Order sent to the pharmacist by the Board. After review of the attorney's proposed Agreed Order, Mr. Orzali moved to support the Agreed Order sent by the Board and reject the attorney proposed Agreed Order. Dr. Shely seconded and the motion passed unanimously.

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

**Case No. 04-0085C; 04-0086A; 04-0105B; 05-0018B**

**CASE REVIEW COMMITTEE:**

Mr. Orzali moved for acceptance of the Case Review Committee recommendations for the following case reports. Ms. Thornbury seconded, and the motion passed unanimously.

**Case No. 05-0104 (Revisit).** Pharmacist Intern allegedly overdosed on a Scheduled II drug and alcohol. Alleged violation of law: KRS 315.121(1)(b) and (2)(f). **New Information:** During appearance at Pharmacy Recovery Network Committee (PRNC) in November 2005, the intern was not truthful about his employment status. Pharmacist intern was readmitted to the University of Kentucky College of Pharmacy. CRC Recommendation: There is sufficient evidence developed and the investigator is directed to conduct further investigation.

**Case No. 05-0062A.** Pharmacy permit holder allegedly had non pharmacist personnel in pharmacy with no pharmacist present. When the inspector arrived at the pharmacy in question, it was found the pharmacy owner; a non pharmacist and the office manager were both in the pharmacy with no pharmacist present. A letter of cease and desist was sent from the Executive Director, the pharmacy hours were changed and upon 2 other visits, the pharmacy has been closed when no pharmacist was there. Alleged violation of law: KRS 315.035; 201 KAR 2:100. CRC Recommendation: There is sufficient evidence of a violation; however, the penalty shall be the issuance of a Letter of Reprimand.

**Case No. 05-0062B** Pharmacist in charge allegedly had non pharmacist personnel in pharmacy with no pharmacist present. When the inspector arrived at the pharmacy in question, it was found the pharmacy owner; a non pharmacist and the office manager were both in the pharmacy with no pharmacist present. A letter of cease and desist was sent from the executive director, the pharmacy hours were changed and upon 2 other visits, the pharmacy has been closed when no pharmacist was there. Alleged violation of law: KRS 315.035; 201 KAR 2:100. CRC Recommendation: There is sufficient evidence of a violation; however, the penalty shall be the issuance of a Letter of Reprimand.

**Case No. 05-0063.** Pharmacist was arrested on three counts of each “theft of a controlled substance under \$300 first offense, theft of identity of another without consent and obtaining controlled substances by fraud/false statement/forgery”. Pharmacist pled guilty to the charges based on a plea agreement. Alleged violation of law: KRS 315.121 (1) (b)(c)(f) and (2)(f). 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. (Revisit).** 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). **New information:** Response received from UK Office of Legal Counsel proposes that the proposed discipline is not appropriate and request that you reconsider. CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

**Case No. 05-0086C. (Revisit)** 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). **New information:** Response received from UK Office of Legal Counsel proposes that the proposed discipline is not appropriate and request that you reconsider. 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. 05-0091.** Special limited medical gas pharmacy permit holder allegedly was found guilty of committing health care fraud. Owners were tried in U.S. District Court for Medicare fraud. They were both found guilty. Alleged violations of Law: KRS 315.121(1)(a),(c)1, (f), (2)(h) and (3) and KRS 315.035(5). CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

**Case No. 06-0015A.** Pharmacy permit holder alleged engaged in unprofessional conduct by selling a misbranded product as a result of a medication error. Stock bottle was bagged with correct prescription. Alleged violation of law: KRS 217.065 and 315.121(2)(d). CRC Recommendation: There is sufficient evidence developed and the investigator is directed to conduct further investigation.

**Case No. 06-0015B.** Pharmacist alleged engaged in unprofessional conduct by committing a medication error. The stock bottle of medication was bagged with the correct prescriptions. Alleged violation of law: KRS 217.065 and 315.121 (2)(d). CRC Recommendation: There is sufficient evidence developed and the investigator is directed to conduct further investigation.

**Case No. 06-0013.** Pharmacy permit holder alleged that a technician divulged professional, confidential information to an unauthorized person. Alleged violation of law: KRS 315.121 (2)(b). CRC Recommendation: Case is dismissed.

**Case No. 06-0020A.** Pharmacy permit holder allegedly engaged in unprofessional conduct by selling a misbranded product as a result of a medication error. The patient received Lexapro 10mg instead of Temazepam 30mg. 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. 06-0020B.** Pharmacist allegedly engaged in unprofessional conduct by committing a medication error. The patient received Lexapro 10mg instead of Temazepam 30mg. 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. 06-0021A.** Pharmacy permit holder allegedly committed a medication error by dispensing two broken generic MS Contin tablets. Alleged violation of law: KRS 315.121(2)(d) and KRS 217.055(1)(b). CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

**Case No. 06-0021B.** Pharmacist allegedly committed a medication error by dispensing two broken generic MS Contin tablets. Alleged violation of law: KRS 315.121(2)(d) and KRS 217.055(1)(b). 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. 06-0022A.** Pharmacy permit holder committed a medication error by dispensing Augmentin 875 instead of amoxicillin 400mg chewable for a six year old pediatric patient. Alleged violation of law: KRS 315.121(2)(d) and KRS 217.065(2)(b). 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. 06-0022B.** Pharmacy permit holder committed a medication error by dispensing Augmentin 875 instead of amoxicillin 400mg chewable for a six year old pediatric patient. Alleged violation of law: KRS 315.121(2)(d) and KRS 217.065(2)(b). 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. 06-0025.** Wholesale permit holder relocated prior to notification and inspection by the Board. Alleged violation of law: KRS 315.036 and 201 KAR 2:050 Section 1, (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. 06-0026A.** Pharmacy permit holder allegedly provided patient information to someone that was not authorized to obtain that information. Pharmacy personnel would not provide a copy of specific medical information requested. Patient was administered the wrong IV bag and the IV bag was relabeled inappropriately. 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. 06-0026B.** Pharmacist allegedly provided patient information to someone that was not authorized to obtain that information. Pharmacy personnel would not provide a copy of specific medical information requested. Patient was administered the wrong IV bag and the IV bag was relabeled inappropriately. 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. 06-0026C.** Pharmacist allegedly provided patient information to someone that was not authorized to obtain that information. Pharmacy personnel would not provide a copy of specific medical information requested. Patient was administered the wrong IV bag and the IV bag was relabeled inappropriately. 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. 06-0027.** Pharmacist allegedly failed to complete 1.5 units of pharmacy continuing education in 2005. 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. 06-0028A.** Pharmacy permit holder allegedly engaged in unprofessional conduct by committing a medication error. Alleged violation of law: KRS 315.121(1)(a), (2)(d), (2)(b) and 201 KAR 2:210 Section 3(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. 06-0028B.** Pharmacist allegedly engaged in unprofessional conduct by committing a medication error. Also allegedly violated the Health Insurance Portability and Accountability Act by releasing patient confidential information. Alleged violation of law: KRS 315.121(1)(a), (2)(d), (2)(b) and 201 KAR 2:210 Section 3(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. 06-0029A.** Pharmacy permit holder allegedly committed a medication error. 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. 06-0029B.** Pharmacist allegedly engaged in unprofessional conduct by committing a medication error. 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. 06-0034.** Pharmacy permit holder allegedly failed to notify the Board office of a change of pharmacist-in-charge within 14 calendar days. Alleged violation of law: KRS 315.020(1) and 201 KAR 2:205 Section 2 (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. 06-0035.** Pharmacist allegedly failed to complete 1.5 units of pharmacy continuing education in 2004. Pharmacist did complete 2.55 CE units in 2005. Alleged violations of law: 201 KAR 2:105 section 5(1)(a). 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. 06-0036.** Pharmacy permit holder allegedly failed to report PIC change within 14 days. Alleged violation of law: 201 KAR 2:205 Sec. 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. 06-0037.** Pharmacist allegedly failed to complete 1.5 continuing education units in 2005. Pharmacist only completed 14.6 hours. Alleged violation of law: KRS 315.065 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. 06-0038.** Pharmacist allegedly failed to complete 1.5 continuing education units in 2005. Pharmacist could not produce any hours for 2005. Alleged violation of law: KRS 315.065 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. 06-0039.** Pharmacist allegedly failed to complete 1.5 continuing education units in 2005. Pharmacist only completed 10.5 hours. Alleged violation of law: KRS 315.065 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.

### **CORRESPONDENCE/COMMUNICATIONS:**

**Expungement: EX0601.** A pharmacist requested expungement under 201 KAR 2:270. Ms. Thornbury moved to expunge the record for EX0601. Dr. Shely seconded and the motion passed 3 to 1 with Ms. Thornbury, Dr. Shely, and Ms. Simpson voting yes and Mr. Orzali voting no.

**Rite Aid Corporation/Electronic Daily Log.** Rite Aid corporation requested that the Board accept an electronic alternative to the process in which a pharmacist manually reviews and signs a hard-copy prescription daily log for non controlled substances. The request was tabled until further explanation could be provided.

**Steve P'Pool.** Steve P'Pool requested to be pharmacist-in-charge at two separate pharmacy permit holders located in the same physical facility, Corner Homecare/Option Care and Pharmacy Corner. Ms. Thornbury moved to allow Mr. P'Pool to be pharmacist-in-charge at Corner Homecare/Option Care and Pharmacy Corner. Dr. Shely seconded and the motion passed unanimously.

**NABP:** Ms. Thornbury moved to allow Mr. Burlson to attend the NABP law conference November 3-4, 2006. Mr. Orzali seconded and the motion passed unanimously.

### **LEGISLATION / REGULATIONS:**

**Hospice Residential care Facility-Regulations.** The passage of Senate Bill 166 requires the Board of Pharmacy to promulgate regulations for residential hospice facilities. Ms. Thornbury moved to direct Mr. Burlson to assemble a committee to work on the regulations and present the proposed regulations to the Board. Dr. Shely seconded and the motion passed unanimously. The invitation to participate in the committee will be extended to Board members and staff, Drug Enforcement and Professional Practices Branch of the Office of Attorney General, KSHP, KPhA, APSC, Hospice pharmacists, and Jan Gould.

**CONTINUING EDUCATION: A. Program Review.** Ms. Thornbury moved to accept the continuing education programs 06-11 through 06-29 as recommended. Ms. Simpson seconded, and the motion passed unanimously.

**B. Pharmacist Self-Assessment Mechanism (PSAM) and Board Meeting – Continuing Education Approval.** The request to accept PSAM as continuing education was tabled until more detailed information regarding the program is obtained. The request to allow continuing education credit for attending a Kentucky Board of Pharmacy meeting died due to lack of a motion.

**OLD BUSINESS: A. Omnicare.** On December 3, 2003, an Omnicare representative made a presentation to the Board regarding the barcode technology utilized in the Omnicare long term care facility pharmacies. The Minutes of December 3, 2003 state the Board approved of the process of, “a technician, under direct supervision of a pharmacist, perform the barcode scan function, in place of a pharmacist in pharmacies that utilize OASIS as their dispensing systems.” Omnicare requested the Board review the presentation and the Minutes of December 3, 2003. It was not the intent of the presentation to receive approval of a specific dispensing system, OASIS. After discussion, Dr. Shely moved to approve the principle of allowing technicians to perform the barcode scan function as long as it is performed under the immediate supervision of a pharmacist. Mr. Orzali seconded and the motion passed unanimously. The letter of clarification will be sent to all Omnicare pharmacies and it will be emphasized that the technician must perform the barcode scan under immediate supervision of a pharmacist.

**B. Evaluation Committee.** The Evaluation Committee is working to meet within the proposed time frame of having the evaluations done by October.

**NEW BUSINESS: Central Fill Pharmacy.** Mr. Burleson, Mr. Losch, and Mr. Hart have proposed regulatory changes to allow for the central fill pharmacy scenario in Kentucky. The written proposal was presented to the Board members for review and discussion at a later date.

Dr. Shely was recognized as the University of Kentucky College of Pharmacy Preceptor of the Year.

**ADJOURNMENT:** On motion by Ms. Thornbury, seconded by Dr. Shely, and passed unanimously, President Naseman adjourned the meeting at 3:45 p.m. The next regularly scheduled Board meeting is scheduled to begin at 9:00 a.m. on June 7, 2006 at the Board Office.

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Michael Burleson, Executive Director

MB:lha