

**KENTUCKY BOARD OF PHARMACY
SPINDLETOP ADMINISTRATION BUILDING SUITE 302
2624 RESEARCH PARK DRIVE
LEXINGTON KY 40511
July 11, 2007**

Agenda

- I. CALL TO ORDER**
- II. MINUTES**
 - *A. MAY 9, 2007**
- III. APPEARANCES**
 - *A. Stanley Simmons-9:15a.m.**
 - *B. Sarah Shires-9:45a.m.**
 - *C. Rebecca Perraut-10:15a.m.**
- IV. INTERAGENCY**
- V. BOARD REPORTS**
 - A. Board President**
 - B. Board Members**
 - C. Board Executive Director**
 - *1. Board Meeting Dates 2008**
 - 2. NABP District III Meeting**
 - 3. DataBank Regional Meeting Atlanta 2007: 3 days**
 - D. Board Staff**
 - E. PRN Chair**
- VI. CURRENT/PENDING CASES**
 - A. OAG-Cheryl Lalonde**
 - *B. Case Update**
 - *C. Case Review**
- VII. RECIPROCITY/RELICENSURE/INTERNSHIP**
- VIII. CORRESPONDENCE/COMMUNICATIONS**
 - *A. Joseph Scuro-Permission to sit for Board Exams**
 - *B. Expungement: 0703**
 - *C. Julie Potts-Dual PIC**
 - *D. Jeremy T. Bryson-Permission to sit for Board Exams-DUI**
- IX. NABP**
 - *A. NABP/Kentucky Board of Pharmacy Newsletters**
 - *B. NABP Fall Educational Conference-Washington DC Sept 16-20**
- X. LEGISLATION/REGULATIONS**

XI. CONTINUING EDUCATION

XII. FINES

XIII. OLD BUSINESS

XIV. NEW BUSINESS

XV. FYI

***A. Board Orientation Manuel update-Board Member**

***Information enclosed with this agenda**

****Information previously provided**

*****Old material with response**

**KENTUCKY BOARD OF PHARMACY
SPINDLETOP ADMINISTRATION BUILDING SUITE 302
2624 RESEARCH PARK DRIVE
LEXINGTON KY 40511
July 11, 2007 9:00a.m.**

**Agenda
Addendum**

- V. BOARD REPORTS**
 - A. Board Executive Director**

- VII. CURRENT/PENDING CASES**

- VIII. CORRESPONDENCE/COMMUNICATIONS**
 - *E. Emergency Pharmacy**
 - *F. Michael Franklin – permission to sit for Board Exams-DUI**
 - *G. Oakwood Pharmacy-Edgar R. Epperson-Dual PIC**

- XII. CONTINUING EDUCATION**

- XIII. FYI**
 - *A. PRN Overtime Report**

***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

July 11, 2007

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 Orzali called the meeting to order at 9:05 a.m.

Members present: Peter Orzali, Mike Leake, Anne Policastri, 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; Catherine Hanna, APSC; Chris Killmeier, Walgreens; Michael Wyant, Cardinal Health; Brad Hall, Kentucky Pharmacists Association; Elizabeth Yarberry, Target; Don Cashmen, Kristen Martin, Catherine Gordon, Shelley Mooranne, Chris Buckel, Chris Oswald, Jeanne Knechtges, Lara Imai, Sejal Patel, Kirsten Tobbe, Jessica Johnson, Theresa Kellar, Shawn Probst, David Starkey, Rachel Sutherland, Stephanie Taylor, Andrea Sadtler, Melissa Schnur, and Erin Mallory, College of Pharmacy students. Juanita Toole, Court Reporter, recorded the meeting.

MINUTES: President Orzali tabled the Approval of Minutes until later in the meeting.

APPEARANCES: **Stanley Simmons** was sworn in by Juanita Toole, Court Reporter. Mr. Simmons appeared before the Board asking for reinstatement of his Kentucky pharmacist's license. Mr. Simmons gave an overview of the events that lead to the loss of his license. After discussion, Mr. Leake moved to allow Mr. Simmons' license to be reinstated with the stipulations as follows: continuing education requirements must be satisfied, renewal fees and any penalties must be paid, and a complete renewal application must be submitted; 5 years probation; maximum hours of work: 45 hours/week or 90 hours/2 weeks, with a maximum of 50 hours in any 7 consecutive days and no overtime; shall provide a copy of this Agreed Order to all employers and pharmacists-in-charge; shall maintain a perpetual inventory (PI) at all places of employment for CII, CIII, CIV, and CV drugs, shall be made available to the Board upon request and audits may be conducted; shall sign an aftercare contract, to include drug counselor if indicated, with the Pharmacist Recovery Network Committee (PRNC) for the length of the Agreed Order; any violation of this Agreed Order or PRN Contract shall be reported to the Board and PRNC Chair within 24 hours of violation; shall notify Board of change of home address, telephone number, and/or email within 7 days of change;

shall provide to the Board and PRNC a signed release granting the Board and PRNC access to all medical records; shall attend AA/NA meeting no less than 6 times per 2 week period or 12 meetings per calendar month, which shall include a minimum of 2 per week; shall provide the Board and PRNC with written monthly reports of all AA/NA meetings; shall agree to provide observed urine, other body fluid, or hair samples for drug/alcohol screens at the direction of PRNC, the Board or any other monitoring body; provide copies of any results of any screens ordered to the Board and PRNC; provide notification to PRNC Chair, Board and testing company of anything that may affect pharmacist's availability for screens prior to event, a missed screen shall be cause for reporting such to the Board, any positive screen that is a violation of the Agreed Order or PRN Contract shall be communicated to the Board by the PRNC Chair within 24 hours, a report indicating a presumptive presence shall constitute a conclusive basis, without the necessity of a hearing, for a determination that pharmacist is not in compliance with the terms of this Agreed Order of Reinstatement; shall agree to abstain from any and all mood-altering chemicals, except as prescribed by pharmacist's physician and only after consultation with PRNC Chair; shall notify PRNC Chair in advance if any mood-altering and/or potentially addictive medications are required or recommended by pharmacist's physician; shall provide documentation to PRNC Chair of the need for the medication within 3 days; shall renew verification with PRNC Chair every 90 days if need for medication is ongoing; shall give up the right to self medicate with the exception of single entity OTC NSAIDS and acetaminophen; shall be excluded from accepting a position of pharmacist-in-charge, power of attorney, or preceptor; shall advise Board at all times of place of employment and shall only practice at a location with a work schedule that has received prior approval of the Board or its President; Board shall conduct quarterly inspections for 1 year, and semi-annually thereafter, unless there is a need to continue quarterly inspections, at all locations of employment or practice as a pharmacist, the cost of which not to exceed \$500 per inspection, shall be paid to the Board within 30 days of invoicing; shall obtain all prescriptions and those of family at a pharmacy designated in writing to the Board; prescriptions may not be filled by a family member and shall not dispense any drugs for self or family; shall attend within 1 year of entry of this Agreed Order either the University of Utah School on Alcoholism and Other Drug Dependencies, CAPTASA, or SE PRN meeting and shall provide a certificate of completion; shall provide monthly written self performance evaluation to the Board and PRNC Chair and shall make all appearances before the PRN Committee as requested, including an annual appearance closest to the anniversary date of reinstatement; committing any act that results in violation of federal or state pharmacy or drug statute or regulation, may result in an emergency suspension of pharmacist's license, require an appearance before the Board, or result in a complaint against pharmacist's license with the Board imposing any applicable penalties; shall not seek to amend or modify this Agreed Order. Above information shall be reported to NABP and is subject to disclosure under the Kentucky Open Records Act. Ms. Simpson seconded, and the motion passed unanimously.

Sarah Shires was sworn in by Juanita Toole, Court Reporter. Dr. Shires appeared before the Board asking for reinstatement of her Kentucky pharmacist's license. Dr. Shires gave an overview of the events that lead to the loss of her license. After

discussion, Dr. Shely moved to allow Dr. Shires' license to be reinstated with the stipulations as follows: continuing education requirements must be satisfied, renewal fees and any penalties must be paid, and a complete renewal application must be submitted; 10 years probation; maximum hours of work: 45 hours/week or 90 hours/2 weeks, with a maximum of 50 hours in any 7 consecutive days and no overtime; shall provide a copy of this Agreed Order to all employers and pharmacists-in-charge; shall maintain a perpetual inventory (PI) at all places of employment for CII, CIII, CIV, and CV drugs, shall be made available to the Board upon request and audits may be conducted; shall sign an aftercare contract, to include drug counselor or psychological counseling if indicated, with the PRN Committee (PRNC) for the length of the Agreed Order; any violation of this Agreed Order or PRN Contract shall be reported to the Board and PRNC Chair within 24 hours of violation; shall notify Board of change of home address, telephone number, and/or email within 7 days of change; shall provide to the Board and PRNC a signed release granting the Board and PRNC access to all medical records; shall attend AA/NA meeting no less than 6 times per 2 week period or 12 meetings per calendar month, which shall include a minimum of 2 per week; shall provide the Board and PRNC with written monthly reports of all AA/NA meetings; shall agree to provide observed urine, other body fluid, or hair samples for drug/alcohol screens at the direction of PRNC, the Board or any other monitoring body; provide copies of any results of any screens ordered to the Board and PRNC; provide notification to PRNC Chair, Board and testing company of anything that may affect pharmacist's availability for screens prior to event, a missed screen shall be cause for reporting such to the Board, any positive screen that is a violation of the Agreed Order or PRN Contract shall be communicated to the Board by the PRNC Chair within 24 hours, a report indicating a presumptive presence shall constitute a conclusive basis, without the necessity of a hearing, for a determination that pharmacist is not in compliance with the terms of this Agreed Order of Reinstatement; shall agree to abstain from any and all mood-altering chemicals, except as prescribed by pharmacist's physician and only after consultation with PRNC Chair; shall notify PRNC Chair in advance if any mood-altering and/or potentially addictive medications are required or recommended by pharmacist's physician; shall provide documentation to PRNC Chair of the need for the medication within 3 days; shall renew verification with PRNC Chair every 90 days if need for medication is ongoing; shall give up the right to self medicate with the exception of single entity OTC NSAIDS and acetaminophen; shall be excluded from accepting a position of pharmacist-in-charge, power of attorney, or preceptor; shall advise Board at all times of place of employment and shall only practice at a location with a work schedule that has received prior approval of the Board or its President; Board shall conduct quarterly inspections for 3 years, and semi-annually thereafter, unless there is a need to continue quarterly inspections, at all locations of employment or practice as a pharmacist, the cost of which not to exceed \$500 per inspection, shall be paid to the Board within 30 days of invoicing; shall obtain all prescriptions and those of family at a pharmacy designated in writing to the Board; prescriptions may not be filled by a family member and shall not dispense any drugs for self or family; shall attend within 1 year of entry of their Agreed Order either the University of Utah School on Alcoholism and Other Drug Dependencies, CAPTASA, or SE PRN meeting and shall provide a certificate of completion; shall provide monthly written self performance evaluation to the Board

and PRNC Chair and shall make all appearances before the PRN Committee as requested, including an annual appearance closest to the anniversary date of reinstatement; committing any act that results in violation of federal or state pharmacy or drug statute or regulation, may result in an emergency suspension of pharmacist's license with terms that she may petition the Board for reinstatement of pharmacist's license no sooner than 5 years and one day, require an appearance before the Board, or result in a complaint against pharmacist's license with the Board imposing any applicable penalties; shall not seek to amend or modify this Agreed Order. Above information shall be reported to NABP and is subject to disclosure under the Kentucky Open Records Act. Ms. Thornbury seconded, and the motion passed unanimously.

Rebecca LeAnn Perraut was sworn in by Juanita Toole, Court Reporter. Dr. Perraut appeared before the Board asking for reinstatement of her Kentucky pharmacist's license. Dr. Perraut gave an overview of the events that lead to the loss of her license. After discussion, Ms. Simpson moved to allow Dr. Perraut's license to be reinstated with the stipulations as follows: continuing education requirements must be satisfied, renewal fees and any penalties must be paid, and a complete renewal application must be submitted; 10 years probation; maximum hours of work: 45 hours/week or 90 hours/2 weeks, with a maximum of 50 hours in any 7 consecutive days and no overtime; shall provide a copy of this Agreed Order to all employers and pharmacists-in-charge; shall maintain a perpetual inventory (PI) at all places of employment for CII, CIII, CIV, CV drugs, tramadol and butalbital/acetaminophen/caffeine, shall be made available to the Board upon request and audits may be conducted; shall sign an aftercare contract, to include drug counselor and/or mental health counselor if indicated, with the PRN Committee (PRNC) for the length of the Agreed Order; any violation of this Agreed Order or PRN Contract shall be reported to the Board and PRNC Chair within 24 hours of violation; shall notify Board of change of home address, telephone number, and/or email within 7 days of change; shall provide to the Board and PRNC a signed release granting the Board and PRNC access to all medical records; shall attend AA/NA meeting no less than 6 times per 2 week period or 12 meetings per calendar month, which shall include a minimum of 2 per week; shall provide the Board and PRNC with written monthly reports of all AA/NA meetings; shall agree to provide observed urine, other body fluid, or hair samples for drug/alcohol screens at the direction of PRNC, the Board or any other monitoring body; provide copies of any results of any screens ordered to the Board and PRNC; provide notification to PRNC Chair, Board and testing company of anything that may affect pharmacist's availability for screens prior to event, a missed screen shall be cause for reporting such to the Board, any positive screen that is a violation of the Agreed Order or PRN Contract shall be communicated to the Board by the PRNC Chair within 24 hours, a report indicating a presumptive presence shall constitute a conclusive basis, without the necessity of a hearing, for a determination that pharmacist is not in compliance with the terms of this Agreed Order of Reinstatement; shall agree to abstain from any and all mood-altering chemicals, except as prescribed by pharmacist's physician and only after consultation with PRNC Chair; shall notify PRNC Chair in advance if any mood-altering and/or potentially addictive medications are required or recommended by pharmacist's physician; shall provide documentation to PRNC Chair of the need for the medication within 3 days; shall renew verification with

PRNC Chair every 90 days if need for medication is ongoing; shall give up the right to self medicate with the exception of single entity OTC NSAIDS and acetaminophen; shall be excluded from accepting a position of pharmacist-in-charge, power of attorney, or preceptor; shall advise Board at all times of place of employment and shall only practice at a location with a work schedule that has received prior approval of the Board or its President; Board shall conduct quarterly inspections for 3 years, and semi-annually thereafter, unless there is a need to continue quarterly inspections, at all locations of employment or practice as a pharmacist, the cost of which not to exceed \$500 per inspection, shall be paid to the Board within 30 days of invoicing; shall obtain all prescriptions and those of family at a pharmacy designated in writing to the Board; prescriptions may not be filled by a family member and shall not dispense any drugs for self or family; shall attend within 1 year of entry of this Agreed Order either the University of Utah School on Alcoholism and Other Drug Dependencies, CAPTASA, or SE PRN meeting and shall provide a certificate of completion; shall provide monthly written self performance evaluation to the Board and PRNC Chair and shall make all appearances before the PRN Committee as requested, including an annual appearance closest to the anniversary date of reinstatement; committing any act that results in violation of federal or state pharmacy or drug statute or regulation, may result in an emergency suspension of pharmacist's license with terms that she may petition the Board for reinstatement of pharmacist's license no sooner that 5 years and one day, require an appearance before the Board, or result in a complaint against pharmacist's license with the Board imposing any applicable penalties; shall not seek to amend or modify this Agreed Order. Above information shall be reported to NABP and is subject to disclosure under the Kentucky Open Records Act. Ms. Thornbury seconded, and the motion passed unanimously.

INTERAGENCY: Kevin Bereda, Food and Drug Administration (FDA). Mr. Bereda presented Phil Losch with a plaque as a token of appreciation for Mr. Losch's significant contributions and cooperation with the FDA.

BOARD REPORTS: President. Mr. Orzali summarized the June 4, 2007, article in *Drug Topics*, outlining the challenges facing state boards of pharmacy.

Board Members. Dr. Shely presented the evaluation of Executive Director, Michael Burleson with the recommendation that Mr. Burleson receive a 5% raise. Mr. Leake moved to adopt the formal evaluation as presented and give Mr. Burleson a 5% raise. Ms. Thornbury seconded, and the motion passed unanimously.

Mr. Leake had attended the Annual Meeting of International Compounding Pharmacists and voiced concern with the Federal proposal to give the Federal Government authority over pharmacy compounding, usurping state boards of pharmacy authority.

Board Executive Director. 1) The New Licensee Reception is September 12, 2007, from 4:30-6:30 pm in the foyer of the Spindletop Administration Building. 2) Board Meeting Dates for 2008 were presented for informational purposes, to be voted on at the September 12, 2007 Board Meeting. 3) NABP/AACP District III meeting will be held

August 5-7, 2007, in Orlando. 4) Mr. Burleson requested that he be allowed to attend the DataBank Regional Meeting in Atlanta, Georgia, October 18-19, 2007. Dr. Shely moved to allow the Executive Director to attend the DataBank Regional Meeting in Atlanta, Georgia, October 18-19, 2007 to discuss updates and changes to the databank that the Board uses. Ms. Thornbury seconded, and the motion passed unanimously. 5) Jim Guinn from the Legislative Research Commission requested the Board's opinion on the "Whistleblower Act." After some discussion, Dr. Shely moved to respond that the Board does not have enough information at this time to issue an opinion, but the Board will be willing to review any proposed legislation. Ms. Thornbury seconded, and the motion passed unanimously. 6) The Board has been invited to attend the ground breaking ceremony for the Sullivan College of Pharmacy. 7) The North Carolina Board of Pharmacy requested the Kentucky Board of Pharmacy cosponsor a Resolution at NABP/AACP District III meeting suggesting NABP look at implementing an electronic message board whereby state boards of pharmacy can exchange information. Dr. Shely moved to cosponsor the Resolution. Ms. Simpson seconded, and the motion passed unanimously. 8) EMars report included for May 2007. 9) The Centers for Medicare and Medicaid Services will be requiring all Medicaid prescriptions be written on tamper resistant prescription blanks beginning October 1, 2007. The National Association of Chain Drug Stores has asked for a stay on this legislation.

Board Staff. Jeff Osman and Phil Losch expressed thanks for allowing them to attend the Utah School on Alcoholism and Other Drug Dependencies.

Steve Hart expressed thanks for allowing him to attend the Multi-state National Association of Drug Diversion Investigators meeting.

Katie Busroe expressed thanks for allowing her to attend DEA's National Conference on Drug and Chemical Diversion.

PRN Chair. Brian Fingerson informed the Board that a pharmacist under an Agreed Order of Reinstatement was counseled at the PRNC meeting on July 10, 2007, regarding a technical violation of the pharmacist's Agreed Order.

CURRENT/PENDING CASES:

CASE UPDATES:

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

Case No. 06-0036; 06-0085; 06-0112B; 07-0002; 07-0010; 07-0012; 07-0013; 07-0014; 07-0015; 07-0018B; 07-0019; 07-0021; 07-0024A; 07-0024B; 07-0025; 07-0032; 07-0033; 07-0035; 07-0036; 07-0037; 07-0038; 07-0042; 07-0044; and 07-0046.

CASE REVIEW COMMITTEE:

Dr. Shely moved for acceptance of the Case Review Committee recommendations for the following case reports. Mr. Leake seconded, and the motion passed unanimously.

Case No. 06-0115A. Pharmacy permit holder allegedly dispensed misbranded products as the result of medication errors and failed to maintain control of drug distribution and record keeping. Numerous errors during a three month period were reported and confirmed. Duplicate prescription was filled and dispensed to nursing home patient, ophthalmic antibiotic ointment was ordered and antibiotic topical ointment was dispensed with directions to apply in each eye four times daily. Prescriptions were not processed in a timely manner and nursing home patients went without their medications. Patient was given Lasix and Lasix had not been prescribed for patient. Prescription for Lortab 7.5/500 #60 was sent to the patient at the nursing home with a quantity of 42. A prescription for Robitussin was filled and sent to a patient and there was not a valid prescription for the patient, it was actually the wrong patient. Alleged violations of law: KRS 217.065(1), 315.121(1)(a)(2)(d)(g), 201 KAR 2:074 Section 2 (4)(b) and Section 4. 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. 06-0115B. Pharmacist allegedly committed medication error. A faxed prescription was entered into pharmacy system two times and dispensed to the nursing home patient two times. Alleged violations of law: KRS 217.065(1), 315.121(1)(a)(2)(d)(g), 201 KAR 2:074 Section 2 (4)(b) and Section 4. 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. 06-0115C. Pharmacist allegedly committed medication error. Prescription was for Lortab 7.5/500 #60 and was filled and sent to the nursing home patient with a quantity of 42. Alleged violations of law: KRS 217.065(1), 315.121(1)(a)(2)(d)(g), 201 KAR 2:074 Section 2 (4)(b) and Section 4. CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

Case No. 06-0115D. Pharmacist allegedly committed a medication error. An order for Lasix 40mg was filled and sent to the nursing for a patient, and the patient was not on Lasix. Alleged violations of law: KRS 217.065(1), 315.121(1)(a)(2)(d)(g), 201 KAR 2:074 Section 2 (4)(b) and Section 4. 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. 06-0115E. Pharmacist allegedly committed a medication error. Prescription was for ophthalmic antibiotic ointment was filled with antibiotic topical ointment with directions to apply in each eye four times daily. Prescriptions were not filled in a timely manner and nursing home patients had to go without proper medication. Alleged

violations of law: KRS 217.065(1), 315.121(1)(a)(2)(d)(g), 201 KAR 2:074 Section 2 (4)(b) and Section 4. 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. 06-0115F. Pharmacist allegedly committed a medication error. A prescription was filled for Robitussin cough syrup and sent to the nursing home for a patient that did not have a prescription for Robitussin cough syrup. Alleged violations of law: KRS 217.065(1), 315.121(1)(a)(2)(d)(g), 201 KAR 2:074 Section 2 (4)(b) and Section 4. 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. 07-0009A. Pharmacy permit holder allegedly violated patient confidentiality statutes. Patient received a prescription bottle with a label stuck on top of another label with another person's name on it. This is a common practice in this pharmacy. Alleged violation of law: KRS 315.121(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. 07-0009B. Pharmacist-in-charge allegedly allows prescriptions returned to stock to be relabeled with original label still on bottle with the name supposedly marked out. Alleged violation of law: KRS 315-121(2)(b). CRC Recommendation: There is sufficient evidence of a violation; however, the penalty shall be the issuance of a Letter of Reprimand.

Case No. 07-0022A. Pharmacy permit holder allegedly allowed the pharmacist to leave the premises of the pharmacy on at least two occasions during which time a technician diverted controlled substances. Alleged violation of law: 201 KAR 2:100 Section 1. CRC Recommendation: There is sufficient evidence developed and the investigator is directed to conduct further investigation.

Case No. 07-0022B. Pharmacist allegedly left the premises of the pharmacy on at least two occasions during which time a technician diverted controlled substances. Alleged violation of law: 201 KAR 2:100 Section 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. 07-0047. Pharmacist allegedly was caught and terminated by his employer for stealing and ingesting hydrocodone/APAP. Alleged violation of law: KRS 315.121(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. 07-0048. Wholesale permit holder allegedly relocated to a new facility prior to an inspection and had a change of ownership. Alleged violations of law: KRS 315.036, 201 KAR 2:050 Section 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. 07-0051. Pharmacist allegedly failed to complete 1.5 units of pharmacy Continuing Education. Pharmacist completed 12 of 15 hours for 2006. Alleged violations of law: 201 KAR 2:015 section 5(1)(a) and KRS 315.065. 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. 07-0052A. Pharmacy permit holder sold a misbranded prescription thus committing a medication error. A prescription refill for Singulair 4mg chewable tablets was filled with lisinopril. 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 07-0052B. Pharmacist committed a medication error by filling a refill prescription for Singulair 4mg chewable tablets with 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. 07-0053. Pharmacist allegedly relapsed in her recovery and failed to follow her PRN agreement. Pharmacist voluntarily surrendered her pharmacist's license, pharmacist admitted that she diverted brand and generic Oxycontin tablets. Alleged violations of law: KRS 315.121 (1)(d)(i), (2)(d)(f)(g). CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

Case No. 07-0055A. Pharmacy permit holder allegedly failed to notify the Board office in writing of a pharmacy closure within fifteen days of the closure. Alleged violations of law: 201 KAR 2:106 section 2(1)(c) and 201 KAR 2:205 section 2(3)(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. 07-0055B. Pharmacist-in-charge allegedly failed to notify the Board office in writing of a pharmacy closure within fifteen days of the closure. Alleged violations of law: 201 KAR 2:106 section 2(1)(c) and 201 KAR 2:205 section 2(3)(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. 07-0056. Pharmacist allegedly failed to complete 1.5 units of pharmacy Continuing Education. Pharmacist completed 12.5 of 15 hours for 2006. Alleged violations of law: 201 KAR 2:015 section 5(1)(a) and KRS 315.065. 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. 07-0058A. Pharmacy permit holder allegedly relocated to another area within the hospital without applying for a change of location with the Board Office. Alleged violations of law: KRS 315-035(1)(5), 201 KAR 2:050(12), 201 KAR 2:205. 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. 07-0058B. Pharmacist-in-charge allegedly was not aware of the need to have an inspection prior to relocating a pharmacy. The pharmacy relocated to another area within the hospital without applying for a change of location with the Board Office. Alleged violations of law: KRS 315-035(1)(5), 201 KAR 2:050(12), 201 KAR 2:205. 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. 07-0059. Special limited medical gas pharmacy allegedly moved without prior proper notification to the Board Office and an inspection by a pharmacy and drug inspector, resulting in a prescription drug (oxygen) being stored at an unlicensed facility. Alleged violations of law: KRS 315.035(5) and 201 KAR 2:225 Section 2(3). 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. 07-0060. Pharmacy permit holder allegedly changed ownership without prior notification to the Board Office. Alleged violations of law: KRS 315.035 (5) and 201 KAR 2:205 section 2(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. 07-0061. Wholesaler permit holder allegedly closed without proper notification to the Board Office. Alleged violation of law 201 KAR 2:106 Section 2(1)(c). **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. 07-0062. Pharmacist allegedly failed to provide proper security of the pharmacy by allowing technicians in the pharmacy without a pharmacist present. Alleged violation of law: 201 KAR 2:100, Section 1. **CRC Recommendation:** There is sufficient evidence developed and the investigator is directed to conduct further investigation.

CORRESPONDENCE/COMMUNICATIONS:

Joseph Scuro requested he be allowed to take the Kentucky Pharmacist Examinations. He was convicted of a misdemeanor in 2003. Mr. Leake moved to allow Mr. Scuro to take the examinations. Ms. Simpson seconded, and the motion passed unanimously.

Expungement. Ms. Simpson moved to expunge EX 07-03. Ms. Thornbury seconded, and the motion passed unanimously.

Julie Potts requested to be a dual pharmacist-in-charge at two locations, Kroger Pharmacy in Bardstown and Nelson County Community Clinic, a charitable organization. Ms. Thornbury moved to allow Ms. Potts to be dual pharmacist-in-charge at Kroger Pharmacy in Bardstown and Nelson County Community Clinic. Dr. Policastri seconded, and the motion passed unanimously.

Jeremy Bryson requested he be allowed to take the Kentucky Pharmacist Examinations. He was convicted of a DUI in June 2003. Ms. Thornbury moved to allow him to take examinations. Ms. Simpson seconded, and the motion passed unanimously.

Randy Gaither, Kroger Company, requested guidance regarding the licensing of two mobile pharmacy trailers to be used to provide emergency support to disaster victims. After much discussion, Ms. Thornbury moved to permit the mobile pharmacy trailers at their current location and after the mobile pharmacy trailers are moved to the disaster location, have the mobile pharmacy trailers apply for a change of address/location and be issued a new permit reflecting the new address/location. Dr. Policastri seconded, and the motion passed unanimously.

Michael Franklin requested he be allowed to take the Kentucky Pharmacist Examinations. He was convicted of a DUI in February 2003. Ms. Thornbury moved to allow him to take examinations. Dr. Shely seconded, and the motion passed unanimously.

Oakwood Pharmacy requested that Edgar Epperson be allowed to be dual pharmacist-in-charge for Oakwood Pharmacy retail pharmacy permit and Oakwood Pharmacy nursing home permit. Ms. Thornbury moved to allow Edgar Epperson to be pharmacist-in-charge for Oakwood Pharmacy retail pharmacy permit and Oakwood Pharmacy nursing home permit. Dr. Policastri seconded, and the motion passed unanimously.

NABP: **A)** It is much less expensive to email the NABP quarterly newsletter to all licensed Kentucky pharmacists than to mail the newsletter. Mr. Leake moved to stop mailing the NABP newsletter and start emailing the newsletter, making it available on the Board's website and having hard copies of the newsletter available upon request. Dr. Policastri seconded, and the motion passed unanimously. **B)** Dr. Policastri moved to send the Executive Director to the Fall Educational Conference in Washington, D.C., September 16-20, 2007. Ms. Simpson seconded, and the motion passed unanimously. **C)** Reggie Dillard will no longer be the District III representative on the NABP Executive Committee after this year. Dr. Shely moved for the Board to support Mike Burleson for the District III representative on the NABP Executive Committee. Mr. Leake seconded, and the motion passed unanimously. **D)** NABP has withdrawn its support of the Pharmacy Compounding Accreditation Board (PCAB). Mr. Leake would like this topic discussed during the breakout session for boards of pharmacy at the NABP/AACP District III Meeting. PCAB is a board that would establish standards and accreditations for compounding pharmacies, in order to give these pharmacies some credibility. NABP withdrawing its support of PCAB reduces the credibility of PCAB and now NABP will not have any input into the standards and accreditation process. Mr. Leake is to provide Mr. Burleson with background information regarding this topic. Mr. Burleson will provide the information to state boards of pharmacy attending the District III meeting so that the states can be prepared for discussion.

CONTINUING EDUCATION:

Ms. Thornbury moved to accept the continuing education programs 07-25 through 07-28 as recommended. Mr. Leake seconded, and the motion passed unanimously.

OLD BUSINESS:

The approval of the Minutes was tabled earlier in the meeting. On motion by Dr. Shely, seconded by Mr. Leake and passed unanimously, the Minutes of May 9, 2007 were adopted. It is requested that the Minutes are page numbered from now on.

President Orzali requested an update on the discussion with Drug Enforcement and the Professional Practices Branch of the Office of Inspector General regarding the scheduling of tramadol and butalbital/acetaminophen/caffeine products. Mr. Burleson has contacted

Drug Enforcement and Professional Practices with regard to scheduling tramadol and butalbital/acetaminophen/caffeine products, as well as Ms. Busroe.

NEW BUSINESS:

Ms. Lalonde recommended that the Board send a letter to Questhouse requesting information on the policy of bringing items to guests at Questhouse. President Orzali directed Mr. Burleson to communicate the Board's concerns to Questhouse and request the policy.

ADJOURNMENT: On motion by Mr. Leake, seconded by Ms. Thornbury, and passed unanimously, President Orzali adjourned the meeting at 4:00 p.m. The next regularly scheduled Board meeting is scheduled to begin at 9:00 a.m. on September 12, 2007 at the Board Office.

Michael Burleson, R.Ph.
Executive Director