

**KENTUCKY BOARD OF PHARMACY  
SPINDLETOP ADMINISTRATION BUILDING SUITE 302  
2624 RESEARCH PARK DRIVE  
LEXINGTON KY 40511  
May 9, 2007**

**Agenda**

- I. CALL TO ORDER**
- II. MINUTES**
  - \*A. MARCH 14, 2007**
- III. APPEARANCES**
  - \*A. Cheryl Ledbetter-9:15a.m.**
- IV. INTERAGENCY**
- V. BOARD REPORTS**
  - A. Board President**
  - B. Board Members**
    - 1. Anne Policastri-New Licensee Reception**
  - C. Board Executive Director**
    - \*1. March E-MARS**
    - \*2. April E-MARS**
    - \*3. KPhA/KSHP Meeting**
    - \*4. NABP District III Meeting**
  - D. Board Staff**
  - E. PRN Chair**
- VI. CURRENT/PENDING CASES**
  - A. OAG-Cheryl Lalonde**
  - \*B. Case Update**
    - Case 07-0005; Case 06-0044; Case 05-0078A;**
    - Case 05-0085C**
  - \*C. Case Review**
- VII. RECIPROCITY/RELICENSURE/INTERNSHIP**
- VIII. CORRESPONDENCE/COMMUNICATIONS**
  - \*A. Expungement-07-02**
  - \*B. Labeling of medication**
  - \*C. Tim Robinson-licensure application**
- IX. NABP**
  - A. NABP Annual Meeting-Portland**
  - \*B. NABP Committee Volunteers**

**X. LEGISLATION/REGULATIONS**

**\*A. 201 KAR 2:250-Amendment (Impaired Pharmacists Committee)**

**XI. CONTINUING EDUCATION**

**XII. FINES**

**XIII. OLD BUSINESS**

**A. Background check**

**\*B. Wholesaler Application**

**XIV. NEW BUSINESS**

**XV. FYI**

**\*Information on NABP candidates**

**\*Information on NABP proposed by-law change**

**\*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  
May 9, 2007 9:00a.m.**

**Agenda  
Addendum**

- VII. CURRENT/PENDING CASES**  
Case 04-0027B; Case 06-0114A; Case 07-0011
- VIII. CORRESPONDENCE/COMMUNICATIONS**  
**\*D. Dual PIC – Hazelwood Center Pharmacy/Gilbert Smith**
- XII. CONTINUING EDUCATION**  
**\*07-18 thru 07-24**
- XVI. FYI**

**\*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 9, 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; Ralph Bouvette, APSC; Chris Killmeier, Walgreens; Jan Gould, Kentucky Retail Federation; Michael Wyant, Cardinal Health; Brad Hall, Kentucky Pharmacists Association; Sue Gage, Target; Cheryl Ledbetter; Daniel Inboden, Purdue pharmacy student; Patrick Clark, Justin Mills, Bryan Travis, Brandon Stiff, Billy Nettling, Lavanya Wijeratne, Alice Huddleston, Trish Ruckriegel, and Ashley Adams, University of Kentucky College of Pharmacy students. Melanie Curtis, Court Reporter, recorded the meeting.

**MINUTES:** On motion by Dr. Policastri, seconded by Mr. Leake and passed unanimously, the Minutes of March 14, 2007 were adopted.

**APPEARANCES:** Cheryl Ledbetter was sworn in by Melanie Curtis, Court Reporter. Ms. Ledbetter appeared before the Board asking for reinstatement of her Kentucky pharmacist's license. Ms. Ledbetter gave an overview of the events that lead to the loss of her license. After discussion, Ms. Thornbury moved to allow Ms. Ledbetter'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; 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 and Fioricet and its generics and PI 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 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 PRN 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 8 times per 2 week period or 16 meetings per calendar month, which shall include a minimum of 3 per week for 2 years, after which she shall be allowed to petition the Board for a decrease in the number of meetings if supported by her healthcare professionals; 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 PRN 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 PRN 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 PRN Chair; shall notify PRN Chair in advance if any mood-altering and/or potentially addictive medications are required or recommended by pharmacist's physician; shall provide documentation to PRN Chair of the need for the medication within 3 days; shall renew verification with PRN 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 and all pharmacies owned, 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 or at any family owned pharmacy 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 PRN 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 the motion. Mr. Leake suggested striking the maintaining of a perpetual inventory at all places of employment for CII, CIII, CIV, CV, and Fioricet and its generics. Ms. Thornbury agreed. The motion did not pass with Mr. Leake and Dr. Policastri voting for the motion

and Dr. Shely voting against the motion and Ms. Simpson and Ms. Thornbury not voting in the first vote and Mr. Leake and Dr. Policastri voting for the motion and Dr. Shely, Ms. Simpson, and Ms. Thornbury voting against the motion in the second vote. The original motion without striking the maintenance of a perpetual inventory was then considered. The motion made by Ms. Thornbury seconded by Ms. Simpson was passed unanimously.

**INTERAGENCY:** Brad Hall, Executive Director of Kentucky Pharmacist Association (KPhA), explained to the Board that KPhA had been approached by the Cabinet for Health and Family Services to assist in the storage and distribution of state owned antivirals and antibiotics to be used in case of emergency disaster relief. The state is divided into 14 regions and KPhA has identified approximately 40 pharmacies statewide that are willing to assist in this endeavor. Mr. Hall requested a waiver from the Board from KRS 315.036(4)(c)3. Per this statute, pharmacies are exempted from obtaining a wholesaler permit if the pharmacy distributes prescription drugs to practitioners or pharmacies for the purpose of supplying or replenishing reasonable quantities utilized by practitioners or pharmacies in the normal course of professional practice, if, the total number of units transferred during a twelve month period shall not exceed five percent of the total number of all units dispensed by the pharmacy during the immediate twelve month period. According to Mr. Hall, these pharmacies would be storing and distributing very large amounts of antivirals and antibiotics and would thus exceed the five percent rule in the event of a disaster. Ms. Thornbury moved to allow for a waiver for pharmacies to store and distribute, if necessary, the state owned antivirals and antibiotics without having to be licensed as a wholesaler even though this storage and distribution would exceed five percent of the total number of all units dispensed in the previous twelve month period. Ms. Simpson seconded the motion. After discussion, Ms. Thornbury amended the motion granting the wholesaler permitted facility at KPhA to allow for off-site storage of the state owned antivirals and antibiotics at various pharmacies across Kentucky. After further discussion, Ms. Thornbury withdrew the motion. There is no need of a waiver. KPhA needs to identify the premises upon which the state owned antivirals and antibiotics will be stored and the Board will license that location upon inspection and if all requirements are met. President Orzali directed Mr. Burlison to assist Mr. Hall.

**BOARD REPORTS:** **President.** Mr. Orzali would like the Board to pursue making all tramadol and butalbital/acetaminophen/caffeine products controlled substances. He suggested that Mr. Burlison send a letter to Drug Enforcement and Professional Practices Branch of the Office of Inspector General listing the Board's concerns and asking them to pursue controlling of these drugs. Ms. Lalonde suggested making this a Retreat topic. Dr. Shely moved to have the Executive Director open discussion with Drug Enforcement and Professional Practices Branch of the Office of Inspector General concerning the scheduling of tramadol and butalbital/acetaminophen/caffeine products and invite a representative from this office to the next Board meeting. Mr. Leake seconded and the motion passed unanimously.

**Board Members. Dr. Policastri** presented the New Licensee Reception Committee's discussion. The reception will be modeled after professional associations in that the Board and Board staff will be introduced, a certificate will be presented to the new licensees and they will recite an Oath. The reception will be from 4:30 pm to 6:30 pm, Wednesday, September 12, 2007, after the Board meeting, in the foyer of the Spindletop Administration Building. Live music will be provided with a roving photographer and heavy hors d'oeuvres. The expected turn out is 50 people which would amount to \$2000 for the catering. Ms. Lalonde suggested asking the professional organizations to supply drinks. Mr. Leake moved to approve the committee to spend up to \$2000 for the New Licensee Reception. Ms. Thornbury seconded. After discussion, it was decided to let the new licensees invite one guest, thus increasing the turn out to 100 people. Mr. Leake amended the motion to authorize the committee to spend up to \$4000. Ms. Thornbury seconded and the motion passed unanimously.

**Ms. Thornbury** reiterated that every Board is different and every Board works together and that is what this Board is doing. Once Ms. Thornbury brings her concerns about the Board and staff forward it is no longer on her conscience.

**Ms. Simpson** commented that it was good to see so many students.

**Board Executive Director.** 1) EMARS reports included for March and April, 2007. 2) Mr. Burleson is in the beginning stage of preparing the 2009-2010 budget. 3) The joint meeting of KPhA and KSHP is June 14-16 in Louisville. A Board Forum is not on the agenda but everyone is welcome to attend. 4) NABP District III meeting is in Orlando, August 5-7, 2007. 5) The Board made a donation in memory of Rose Orzali's mother. 6) At the July 11, 2007 Board meeting, Mr. Burleson will be asking for approval to attend the NABP Fall Legislative Conference September 16-18, 2007. 7) Some issues came up regarding the centralized processing regulation that Mr. Burleson is trying to rework before taking the regulation through the legislative process. 8) Ms. Thornbury asked for clarification on what the Federal seizure money the Board received for helping with a federal case can be spent on. Mr. Burleson explained the federal guidelines were very strict limiting the use of that money for training, equipment, and salaries for an extra person but not to supplement state salaries. The staff is exploring options.

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

#### **CASE UPDATES:**

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

Case No. 04-0027B; Case No.05-0078A; Case No.05-0085C; Case No. 06-0044; Case No. 06-0114A; Case No. 07-0005; Case No. 07-0011.

**CASE REVIEW COMMITTEE:**

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

**Case No. 06-0122.** Wholesale permit holder allegedly delivered pharmaceuticals that may have been compromised to pharmacies. Alleged violations of law: KRS 217.015 (24), KRS 217.055 & 201, KAR 2:105 Section 5(4)(a)(5). CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

**Case No. 07-0001.** Pharmacist allegedly provided spouse with legend drugs without proper prescriptions written by a physician. Pharmacist has passed away. Alleged violation of law: KRS 315.121(2). CRC Recommendation: Case is dismissed.

**Case No. 07-0003.** (Revisit). Pharmacist allegedly failed to complete 15 hours of continuing education for 2006. Alleged violations of law: KRS 315.065 (2) and 201 KAR 2:015. NEW INFORMATION: Pharmacist passed away April 6, 2007. CRC Recommendation: Case is dismissed.

**Case No. 07-0018 A.** Pharmacy permit holder allegedly sold a misbranded product as the result of a medication error. Patient was prescribed Micronor but received microgestin FE 1/20 for approximately two months. The patient was breast feeding and as a result of receiving incorrect medication, had low breast milk supply resulting in multiple trips to the physician regarding her newborn infant's weight loss. Alleged violations of law: KRS 217.065 and 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. 07-0018 B.** Pharmacist allegedly engaged in unprofessional conduct by committing a medication error. Patient was prescribed Micronor but received microgestin FE 1/20 for approximately two months. The patient was breast feeding and as a result of receiving incorrect medication, had low breast milk supply resulting in multiple trips to the physician regarding her newborn infant's weight loss. Alleged violations of law: KRS 217.065 and 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. 07-0021.** Pharmacist allegedly failed to renew Kentucky pharmacist's license in a timely manner and continued to practice pharmacy. Alleged violations of law: KRS 315.020(3) and KRS 315.030(2). 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. 07-0023.** Pharmacist was arrested and charged with five counts of trafficking and five counts of possession of controlled substances. Alleged violations of law: KRS 315.121(1) and (2). CRC Recommendation: There is sufficient evidence developed and the investigator is directed to conduct further investigation.

**Case No. 07-0024 A.** Pharmacy permit holder allegedly engaged in unprofessional and unethical conduct by having reason to know that a pharmacist was incapable of engaging in the practice of pharmacy with reasonable skill, competence and safety to the public and failing to report any relevant information to the Board. Alleged violations of law: KRS 315.121(2)(f) and (1)(b) and KRS 315.121(1)(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. 07-0024 B.** Pharmacist allegedly engaged in unprofessional and unethical conduct by ingesting a drug for which a prescription drug order is required, without first having received a prescription drug order for the drug and having a mental or physical incapacity that prevents the pharmacist from engaging in the practice of pharmacy with reasonable skill, competence and safety to the public. Pharmacist was allegedly diverting controlled and noncontrolled drugs for personal use, forging noncontrolled drug prescriptions, and was observed in the pharmacy sleeping, having slurred speech, and an unsteady gait. Alleged violations of law: KRS 315.121(2)(f) and (1)(b) and KRS 315.121(1)(d). CRC Recommendation: There is sufficient evidence developed and the investigator is directed to conduct further investigation.

**Case No. 07-0024 C.** Pharmacy District Manager, who is a pharmacist, allegedly engaged in unprofessional and unethical conduct by having reason to know that a pharmacist was incapable of engaging in the practice of pharmacy with reasonable skill, competence and safety to the public and failing to report any relevant information to the Board. Concerns were expressed to the pharmacy district manager for several months and passed on to others in the corporation with allegedly no follow up until the Board office was notified of the issues. Alleged violations of law: KRS 315.121(2)(f) and (1)(b) and KRS 315.121(1)(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. 07-0025.** Pharmacist allegedly engaged in unprofessional and unethical conduct by selling, dispensing, and/or ingesting a drug for which a prescription drug order is required, without having first received a prescription drug order for the drug. Pharmacist allegedly dispensed butalbital 50mg/acetaminophen 325 mg/caffeine 40mg tablets to self on at least five occasions and spouse on at least 18 occasions without authorization from a prescriber. It is further alleged that on at least six occasions the pharmacist dispensed diazepam 5mg to spouse without authorization from a prescriber. One of the pharmacies at which the pharmacist worked was missing 2200 tablets of

butalbital 50mg/acetaminophen 325 mg/caffeine 40mg tablets over a 12 month period. Another pharmacy at which the pharmacist worked was missing 1698 tablets of butalbital 50mg/acetaminophen 325 mg/caffeine 40mg and 971 tablets of diazepam 5mg over a 12 month period. 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. 07-0026 A.** Pharmacy permit holder allegedly allows pharmacy technician to dispense medications to employees and their families, and technician enters the pharmacy when there is no pharmacist on the premises. Alleged violations of law: 201 KAR 2:074 Section 2 (3)(b), 201 KAR 2:100 section 1, and 201 KAR 2:205 section 2(3)(b). CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.

**Case No. 07-0026 B.** Pharmacist-in-charge of small rural hospital allegedly allows pharmacy technician to dispense medications to employees and their families, and technician enters the pharmacy when there is no pharmacist on the premises. Alleged violations of law: 201 KAR 2:074 Section 2 (3)(b), 201 KAR 2:100 section 1, and 201 KAR 2:205 section 2(3)(b). CRC Recommendation: Case is dismissed.

**Case No. 07-0027.** Wholesale permit holder allegedly failed to comply with the U.S. Drug Enforcement Administration (DEA) regulations that have resulted in the immediate suspension of their DEA registration. Alleged violation of law: 201 KAR 2:105 Section 2(4)(d). CRC Recommendation: There is sufficient evidence developed and the investigator is directed to conduct further investigation.

**Case No. 07-0029 A.** Pharmacy permit holder allegedly engaged in unprofessional and unethical conduct by demonstrating a careless disregard for the health of a patient. After a discussion and/or altercation regarding payment by an insurance company, the pharmacist refused to fill the prescription but offered to transfer it to another pharmacy. The patient declined the offer, left the pharmacy, but received the prescription from this pharmacy four days later. 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. 07-0029 B.** Pharmacist allegedly engaged in unprofessional and unethical conduct by demonstrating a careless disregard for the health of a patient. After a discussion and/or altercation regarding payment by an insurance company, the pharmacist refused to fill the prescription but offered to transfer it to another pharmacy. The patient declined the offer, left the pharmacy, but received the prescription from this pharmacy four days later. 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. 07-0032.** Pharmacy permit holder closed without proper notification. Alleged violation of law: 201 KAR 2:106 Sec (2). 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. 07-0033.** Pharmacist allegedly failed to complete 15 hours of continuing education for 2006. Pharmacist only completed 9 of 15 required hours for 2006. Alleged violations of law: KRS 315.065 (2) and 201 KAR 2:015. CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

**Case No. 07-0035.** Pharmacist allegedly failed to complete 15 hours of continuing education for 2006. Pharmacist reported only completing 3 of 15 required hours. Alleged violations of law: KRS 315.065 (2) and 201 KAR 2:015. CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

**Case No. 07-0036.** Pharmacist allegedly failed to complete 15 hours of continuing education for 2006. Alleged violations of law: KRS 315.065 (2) and 201 KAR 2:015. CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

**Case No. 07-0037.** Pharmacist allegedly failed to complete 15 hours of continuing education for 2006. Pharmacist reported only completing 3 of 15 required hours. Alleged violations of law: KRS 315.065 (2) and 201 KAR 2:015. CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

**Case No. 07-0038.** Special limited medical gas pharmacy permit holder allegedly failed to have their consultant pharmacist conduct quarterly inspections for 2006. Alleged violation of law: 201 KAR 2:225 Section 2 (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. 07-0039.** Special limited medical gas pharmacy permit holder allegedly failed to maintain current oxygen prescriptions with the required information. Alleged violations of law: KRS 315-121(2)(f)(g) and 201 KAR 2:185 section 2 (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. 07-0040.** Pharmacist allegedly violated previous Agreed Order by relapsing. Pharmacist surrendered his pharmacist license for the first time July 1, 2003, it was reinstated October 6, 2004. In January 2005 pharmacist relapsed. License was reinstated again May 10, 2006. March 10, 2007 pharmacist had drug urine screen test positive for meprobamate. 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.

**Case No. 07-0042.** 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. 07-0043.** 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. 07-0044.** 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. 07-0045.** Special limited medical gas 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. 07-0046.** Pharmacist allegedly failed to complete 15 hours of continuing education for 2006. Pharmacist only completed 9 of 15 required hours. Alleged violations of law: KRS 315.065 (2) and 201 KAR 2:015. CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing.

**CORRESPONDENCE/COMMUNICATIONS:**

**Expungement.** Mr. Leake moved to expunge EX 07-02. Dr. Shely seconded, and the motion passed unanimously.

**Anne Policastri/Labeling of medication.** In many pharmacy profile versions of automated dispensing systems (ADS) manufacturer pre-mixed antibiotics are able to be stored in the system. When it is time for the antibiotic, the nursing staff is able to retrieve it from the ADS, but the antibiotic is not labeled. Dr. Policastri asked if the antibiotic needed to be labeled, and if so, did the pharmacy need to label the antibiotic or could the nursing staff hand write a label. After discussion, Dr. Policastri was instructed to inform the facility that there is nothing in Kentucky Pharmacy law that requires the antibiotic to be labeled as patient specific, however, the facility may have policies and procedures and Joint Commission may have recommendations in place on how to handle this situation.

**Tim Robinson.** Mr. Robinson submitted an application for initial licensure. His application came before the board because he had a Driving Under the Influence charge in June 2004. Mr. Leake moved that applicant be allowed to proceed with the licensure process. Dr. Policastri seconded and the motion passed unanimously.

**Hazelwood Center Pharmacy.** Outgoing pharmacist-in-charge (PIC), Bryan Strobl, requested that Gilbert Smith be allowed to be PIC at both Hazelwood Center Pharmacy servicing long term care facilities (P05011) and Hazelwood Center Pharmacy, a retail pharmacy (P06603). Both pharmacies are at the same address. Dr. Shely moved to allow dual PIC for Gilbert Smith at Hazelwood Center Pharmacy, long term care and Hazelwood Center Pharmacy, retail. Ms. Simpson seconded the motion and it passed unanimously.

**NABP:** A) The annual NABP meeting will be held in Portland, Oregon, May 19-22, 2007. B) NABP is seeking individuals from active member boards of pharmacy to serve on the Association's committees and task forces in 2007-2008.

**LEGISLATION/REGULATIONS:**

**201 KAR 2:250 Pharmacist Recovery Network.** Mr. Leake moved to accept 201 KAR 2:250 as presented and move forward with the legislative process, instructing Mr. Burluson to file the regulation on or before May 15, 2007, with the deadline for comments being June 19, 2007, and the hearing date set for June 26, 2007 at 10:00am. Dr. Shely seconded and the motion passed unanimously.

**CONTINUING EDUCATION:**

Ms. Thornbury moved to accept the continuing education programs 07-18 through 07-24 as recommended. Ms. Simpson seconded, and the motion passed unanimously.

**OLD BUSINESS:**

**Background checks:** Executive Director will continue to gather information on requiring background checks for those applying for Kentucky pharmacist's licenses. Background checks will be added to the Retreat agenda.

**Wholesaler/Manufacturer Application.** Dr. Shely moved to approve the Wholesaler/Manufacturer Application as presented. Mr. Leake seconded, and the motion passed unanimously.

**Investigative Process.** Ms. Thornbury requested that the investigative process be reviewed by the Board. President Orzali ask that Ms. Thornbury put her concerns about the investigative process in writing to Mr. Burleson so that all Board members can have a clear understanding of these concerns, then these concerns can be appropriately addressed. After much discussion, President Orzali recessed for lunch. Reconvened and the discussion continued, President Orzali requested a motion. After more discussion, Ms. Thornbury moved to examine the investigative process either as a Board or as a subcommittee of the Board. The motion died for lack of a second.

**ADJOURNMENT:** On motion by Mr. Leake, seconded by Dr. Shely, and passed unanimously, President Orzali adjourned the meeting at 1:18 p.m. The next regularly scheduled Board meeting is scheduled to begin at 9:00 a.m. on July 11, 2007 at the Board Office.

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Michael Burleson, Executive Director