

KENTUCKY BOARD OF PHARMACY
Board Meeting
University of Kentucky College of Pharmacy
789 South Limestone
Lexington KY 40506
September 6, 2017
9:00 a.m.

Agenda

I. CALL TO ORDER

II. MINUTES

- *A. July 12, 2017
- *B. August 30, 2017

III. APPEARANCE

- *A. Cardinal Health
- *B. MedAvail
- *C. Steve Mitchell

IV. INTERAGENCY

- *A. CHFS-Office of the Inspector General letter

V. BOARD REPORTS

- A. Board Executive Director
 - *1. Board Calendar 2018
 - *2. eMARS July & August 2017 (FY 2018) Financial Report
 - *3. eMARS FY 2017 Year End Report

VI. CURRENT/PENDING CASES

- *A. Case Review
- *B. Final Orders - 17-0043B
- *C. Fine Report

VII. RECIPROCITY/RELICENSURE/INTERNSHIP/PHARMACY TECHNICIANS

- *A. Jennifer Tucker Reciprocity
- *B. Pharmacy Technician Summary

VIII. CORRESPONDENCE/COMMUNICATION

- *A. George Miller CE Deferral Request
- *B. Matthew Fulton Dual PIC
- *C. Paula York/Bluegrass Pharmacist Appeal/CE Denial
- *D. Dan Deem/RxCrossroads Waiver Request
- *E. NIH StrokeNet Central Pharmacy Waiver Request
- *F. Eric Gettler Inter Hour Request

IX. NABP

- A. District III
- *B. NABP Internet Drug Outlet Report August 2017

X. LEGISLATION/REGULATION

- *A. 201 KAR 2:076 Compounding update HWC 9/20/2017
- *B. Written Comments: 201 KAR 2:380 Board Authorized Protocols

1. Kentucky Medical Association
2. Sullivan College of Pharmacy
3. American Pharmacy Services Corporation
4. Kentucky Pharmacist Association
5. Kentucky Society of Health-System Pharmacists
6. KYBOP Inspection Staff
7. Kentucky Academy of Family Physicians
8. Foundation for Healthy Kentucky

XI. CONTINUING EDUCATION

- *A. CE Programs: 17- 42 through 17-47

XII. OLD BUSINESS

- *A. RX Now
- *B. Automation in Long Term Care
 1. Draft Regulations
 - a. 201 KAR 2:370
 - b. 201 KAR 2:074

XIII. NEW BUSINESS

- A. October Board meeting date change

XIV. FYI.

- A. Expungement
 - 14-0130
 - 14-0055

ADJOURNMENT

*Information enclosed with this agenda

**KENTUCKY BOARD OF PHARMACY
BOARD MEETING
UK COLLEGE OF PHARMACY
LEXINGTON, KY**

September 6, 2017

CALL TO ORDER: President Greenwell called the meeting to order at 9:00 a.m. He welcomed the 2018 class of the University of Kentucky College of Pharmacy students and explained the makeup and function of the Board. Introductions were given of the Board Members, Executive Director and Board Staff.

Members present: Deborah Brewer, Scott Greenwell, Craig Martin, Cathy Hanna and Ron Poole. Absent was Brian Dewire.

Staff present: Steve Hart, Executive Director; Katie Busroe, Pharmacy Inspections and Investigations Supervisor; Rhonda Hamilton, Paul Daniels, Jessica Williams and Amanda Harding, Pharmacy and Drug Inspectors; Cheryl Lalonde, General Counsel; Melissa Hall, Administrative Specialist and Darla Sayre, Executive Staff Advisor. Court Reporter Jolinda Todd recorded the meeting.

MINUTES: On motion by Mr. Poole, seconded, by Dr. Hanna and passed unanimously, the Minutes of July 12, 2017 were approved. On motion by Mr. Poole, seconded by Ms. Brewer and passed unanimously, the Minutes of August 30, 2017 were approved.

APPEARANCE: Dr. Michael Mone`, Cardinal Health, made a presentation on telepharmacy to the Board. At the completion of the presentation, he offered his services to the Board in developing and implementing legislation regarding telepharmacy in Kentucky. He assured the Board that no solicitation of potential customers had been done by Cardinal Health. Mr. Poole expressed a concern regarding the potential for abuse by investors. Ms. Lalonde stated that there is a statute in place for telehealth but no healthcare Board has submitted any regulations as of yet.

Seema Siddiqui, MedAvail, made a presentation on their MedAvail MedCenter, an automated dispensing system currently allowed in five states with another two states with pending regulations. This system dispenses unit of use or specific count pharmaceuticals. Maintenance includes a 10 minute battery in case of power failure and maintenance personnel onsite within hours. The system is partnered with a home pharmacy which is local for stocking and record keeping. Mr. Poole moved to send this to the Advisory Council for further action. Ms. Brewer seconded, and the motion passed unanimously.

Steve Mitchell – Mr. Mitchell was sworn in by the court reporter, Jolinda Todd. Mr. Mitchell appeared before the Board to request reinstatement of his Kentucky pharmacist’s license. Mr. Mitchell gave a brief overview of his impairment and recovery process. He has two years of sobriety. Upon reinstatement of licensure, he intends to begin his career with retail pharmacy and hopes to obtain a possible fellowship for research. Brian Fingerson, chairman of the Kentucky Pharmacy Recovery Network, informed the Board that the committee voted 8-0 in favor of reinstatement. Mr. Poole moved to reinstate Mr. Mitchell’s pharmacist’s license with stipulations as follows: five years of probation; perpetual inventory at all places of employment for Schedule II drugs; electronic tracking of Schedule III-V drugs and expired controlled substances; perpetual inventory available; audits; 12 monthly AA/NA meetings; inspections; maximum work hours with no overtime; copy of Agreed Order to all employers and pharmacists-in-charge; KYPRN; signed release of medical records; monthly report of AA/NA meetings; observed urine, other body fluid, or hair samples for drug/alcohol screens; prohibited from accepting position as pharmacist-in-charge, power of attorney, or preceptor; attendance within 1 year of entry of this Agreed Order at Utah School or CAPTASA; monthly written self-performance evaluations. The specifics of this agreement will be detailed for Mr. Mitchell at a later date by Mr. Fingerson. Mr. Mitchell stated he understood that any violation of the Agreed Order of Reinstatement shall cause him to automatically lose his license to practice pharmacy for not less than five years and one day and shall require him to petition the Board for reinstatement only after he has taken and successfully passed the entire Kentucky Board of Pharmacy licensure examination. Mr. Mitchell 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. President Greenwell cautioned Mr. Mitchell that the Board requires strict compliance with all stipulations. Dr. Martin seconded, and the motion passed unanimously.

INTERAGENCY Mr. Hart presented a letter received from Office of Inspector General informing the Board of their intent to repeal KRS 218A.150, 218A.160 and 218A.170 during the 2018 legislative session. These statutes require the Cabinet to license manufacturers and wholesalers of controlled substances. This will not increase the workload or responsibilities of the Board inspectors as these facilities are currently being inspected by the inspectors on an annual basis.

BOARD REPORTS: Board Executive Director, Steve Hart

1. Board Calendar 2018: On motion by Dr. Martin, seconded, by Dr. Hanna and passed unanimously.
2. Financial reports and eMARS were presented for July 2017, August 2017 and Fiscal Year 2017.

CURRENT/PENDING CASES

Dr. Martin moved to accept the Case Review Committee's recommendations:

Case No. 12-0173 Pharmacist allegedly engaged in unethical or unprofessional conduct by being convicted of a felony; Selling, transferring, or dispensing a drug for which a prescription drug order is required, without having first received a prescription drug order for the drug; Selling, transferring, or otherwise disposing of accessories, chemicals, drugs, or devices found in illegal traffic when the pharmacist, pharmacy intern, or pharmacy technician knows or should have known of their intended use in illegal activities; Engaging in conduct likely to deceive, defraud, or harm the public, demonstrating a willful or careless disregard for the health, welfare, or safety of a patient, or engaging in conduct which substantially departs from accepted standards of pharmacy practice ordinarily exercised by a pharmacist or pharmacy intern, with or without established proof of actual injury; Failing to exercise appropriate professional judgment in determining whether a prescription drug order is lawful; Using equipment in the dispensing of medicines that was not kept in a clean and sanitary manner. Alleged Violation of Law: KRS 315.121 (1) (c), KRS 315.121(2)(c), (d), (f) and (j); 201 KAR 2:180 Sec. 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/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing. Standard terms and permanent revocation.**

Case No. 16-0091 Pharmacist surrendered Alabama pharmacist's license due to the inability to practice the profession of pharmacy with care, skill and competency due to a substance abuse disorder. Pharmacist allegedly diverted controlled substances and forged 27 prescriptions for controlled and non-controlled substances for herself and family members. Alleged Violations of Law: KRS 315.121(1)(b), (c)2 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/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing. Standard terms and six month suspension from last missed call.**

Case No. 16-0494 Pharmacist allegedly has a mental or physical incapacity that prevents the pharmacist from engaging in the practice of pharmacy with reasonable skill, competency, and safety to the public. Alleged Violation of Law: KRS 315.121(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/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing. Standard terms and six month KYPRN or revocation with agreement of non-renewal.**

Case No. 17-0239 A. Pharmacy permit holder allegedly failed to provide adequate security and control of drugs. The pharmacy reported the loss of 12 hydrocodone/apap 5/325mg tablets over approximately 8 months due to employee pilferage. 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. 17-0239 B. Pharmacist-in-charge allegedly failed to provide adequate security and control of drugs. The pharmacy reported the loss of 12 hydrocodone/apap 5/325mg tablets over approximately 8 months due to employee pilferage. Alleged Violation of Law: 201 KAR 2:205. Section 2. (3) (b). **CRC Recommendation: There is sufficient evidence developed and the investigator is directed to conduct further investigation.**

Case No. 17-0239 C. Pharmacy technician allegedly engaged in unprofessional or unethical conduct by selling, transferring, dispensing, ingesting, or administering a drug for which a prescription drug order is required, without first receiving a prescription drug order for the drug. 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/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing. Standard terms and revocation.**

Case No. 17-0240 A. Pharmacy permit holder allegedly failed to provide adequate security and control of drugs. The pharmacy reported the loss of 70 Norco 10m/325mg tablets over approximately 3 months due to employee pilferage. 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. 17-0240 B. Pharmacist-in-charge allegedly failed to provide adequate security and control of drugs. The pharmacy reported the loss of 70 Norco 10/325mg tablets over approximately 3 months due to employee pilferage. Alleged Violation of Law: 201 KAR 2:205. Section 2. (3) (b). **CRC Recommendation: There is sufficient evidence developed and the investigator is directed to conduct further investigation.**

Case No. 17-0240 C. Pharmacy technician allegedly engaged in unprofessional or unethical conduct by selling, transferring, dispensing, ingesting, or administering a drug for which a prescription drug order is required, without first receiving a prescription drug order for the drug. Alleged Violation of Law: 201 KAR 2:205. Section 2. (3) (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/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing. Standard terms and revocation.**

Case No. 17-0297 A. Pharmacy permit holder allegedly allowed prescription information for a non-controlled substance prescription to be transferred for the purpose of refill dispensing and the oral communication was not directly between two (2) pharmacists. Pharmacy permit holder allegedly engaged in unprofessional or unethical conduct by selling and dispensing a drug for which a prescription drug order is required, without having first received a prescription drug order for the drug; Alleged Violation of Law: 201 KAR 2:165; KRS 315.121 (1) (a). **CRC Recommendation: There is sufficient evidence developed and the investigator is directed to conduct further investigation.**

Case No. 17-0297 B. Pharmacist allegedly allowed a transfer of prescription information for a non-controlled substance prescription for the purpose of refill dispensing and the oral communication was not directly between two (2) pharmacists. Pharmacist allegedly engaged in unprofessional or unethical conduct by selling and dispensing, a drug for which a prescription drug order is required, without having first received a prescription drug order for the drug; Alleged Violation of Law: 201 KAR 2:165;.KRS 315.121 (2) (f). **CRC Recommendation: There is sufficient evidence developed and the investigator is directed to conduct further investigation.**

Case No. 17-0297 C. Registered Technician allegedly engaged in unprofessional or unethical conduct by transferring prescription information for a non-controlled substance prescription for the purpose of refill dispensing when the oral communication was to be directly between two (2) pharmacists. Alleged Violation of Law: KRS 315.121 (1) (a). **CRC Recommendation: There is sufficient evidence developed and the investigator is directed to conduct further investigation.**

Case No. 17-0343 Pharmacist allegedly has a mental or physical incapacity that prevents him from engaging in the practice of pharmacy with reasonable skill, competence, and safety to the public. Alleged Violation of Law: KRS 315.121 (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/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing. Standard terms and one year probation, quarterly inspections and approved single location of employment.**

Case No. 17-0419 Pharmacy technician allegedly engaged in unprofessional or unethical conduct, with or without established proof of actual injury, by demonstrating a willful or careless disregard for the health, welfare, or safety of a patient. Pharmacy technician allegedly refuses to sell Plan B, which is available over the counter, without a prescription. Alleged Violations 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. 17-0421 A. Pharmacy permit holder allegedly failed to provide adequate security and control of drugs. Pharmacy reported a loss of 310 alprazolam and clonazepam tablets in an audit period of four months due to employee pilferage. 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/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing. Standard terms and \$1000 administrative fine, approved corrective action plan to prevent future occurrences.**

Case No. 17-0421 B. Pharmacist in charge allegedly failed to provide adequate security and control of drugs. Pharmacy reported a loss of 310 alprazolam and clonazepam tablets in an audit period of four months due to employee pilferage. Alleged Violation of Law: 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. 17-0421 C. Registered Pharmacy Technician allegedly engaged in unprofessional or unethical conduct by selling, transferring, dispensing, ingesting, or administering a drug for which a prescription drug order is required, without first receiving a prescription drug order for the drug. 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/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing. Standard terms and revocation.**

Case No. 17-0442 A. Pharmacy permit holder allegedly sold a misbranded drug due to a medication error. Patient was allegedly dispensed gabapentin 800 mg instead of the prescribed 300 mg. Alleged Violation of Law: KRS 217.065 (1). **CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing. Standard terms and root cause analysis involving PIC.**

Case No. 17-0442 B. Pharmacist allegedly engaged in unprofessional or unethical conduct by engaging in conduct likely to harm the public with or without established proof of actual injury by committing a medication error. Patient was allegedly dispensed gabapentin 800 mg instead of the prescribed 300 mg. 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/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal**

Complaint and Notice of Hearing. Standard terms and \$500 administrative fine, additional 6 hours of continuing education on medication errors and their prevention.

Case No. 17-0443 A. Pharmacy permit holder allegedly failed to provide adequate security and control of drugs. The pharmacy reported the loss of 184 alprazolam 2mg tablets and 74 methadone 10mg tablets occurring over the course of approximately 4 months. Alleged Violation of Law: 201 KAR 2:100 Section 1. **CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.**

Case No. 17-0443 B. Pharmacist-in-charge allegedly failed to provide adequate security and control of drugs. The pharmacy reported the loss of 184 alprazolam 2mg tablets and 74 methadone 10mg tablets occurring over the course of approximately 4 months. Alleged Violation of Law: 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. 17-0443 C. Pharmacy technician allegedly engaged in unprofessional or unethical conduct by selling, transferring, dispensing, ingesting, or administering a drug for which a prescription drug order is required, without first receiving a prescription drug order for the drug. 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/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing. Standard terms and revocation.**

Case No. 17-0443 D. Pharmacy technician allegedly engaged in unprofessional or unethical conduct by selling, transferring, dispensing, ingesting, or administering a drug for which a prescription drug order is required, without first receiving a prescription drug order for the drug. 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/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing. Standard terms and revocation.**

Case No. 17-0444 A. Permit holder allegedly failed to provide written notification to the Kentucky Board of Pharmacy 15 days prior to permanent closure. Alleged Violation of Law: KAR 2:106 Sec. 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/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing. Standard terms and \$500 administrative fine.**

Case No. 17-0444 B. Pharmacist-in-charge allegedly did not notify the Kentucky Board of Pharmacy of a closure of the medical gas facility. Alleged Violation of Law: 201 KAR 2:205 SEC 2 (3) (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/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing. Standard terms and \$500 administrative fine, additional 6 hours of continuing education on pharmacy law.**

Case No. 17-0445 A. Pharmacy permit holder allegedly failed to provide adequate security and control of drugs. Pharmacy reported a loss of 14,787 tablets of hydrocodone-acetaminophen 10mg-325mg, 1,285 tablets of oxycodone 15 mg, 16,611 tablets of oxycodone 30 mg, 1,432 tablets of phentermine 37.5 mg, 619 tablets of oxycodone 10 mg, 2,468 tablets of oxycodone 20 mg, 14,355 tablets of oxycodone-acetaminophen 10mg-325mg, 896 tablets of oxycodone-acetaminophen 7.5mg-325 mg, 170 tablets of alprazolam 0.25 mg, 218 tablets of alprazolam 1 mg, and 313 tablets of alprazolam 2 mg over a period of 323 days due to employee pilferage. Alleged Violations 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. 17-0445 B. Pharmacist in charge allegedly failed to provide adequate security and control of drugs. Pharmacy reported a loss of 14,787 tablets of hydrocodone-acetaminophen 10mg-325mg, 1,285 tablets of oxycodone 15 mg, 16,611 tablets of oxycodone 30 mg, 1,432 tablets of phentermine 37.5 mg, 619 tablets of oxycodone 10 mg, 2,468 tablets of oxycodone 20 mg, 14,355 tablets of oxycodone-acetaminophen 10mg-325mg, 896 tablets of oxycodone-acetaminophen 7.5mg-325 mg, 170 tablets of alprazolam 0.25 mg, 218 tablets of alprazolam 1 mg, and 313 tablets of alprazolam 2 mg over a period of 323 days. Alleged Violations of Law: 201 KAR 2:205. Section 2. (3) (b). **CRC Recommendation: There is sufficient evidence developed and the investigator is directed to conduct further investigation.**

Case No. 17-0445 C. Registered Pharmacy Technician allegedly engaged in unprofessional or unethical conduct by selling, transferring, dispensing, ingesting, or administering a drug for which a prescription drug order is required, without first receiving a prescription drug order for the drug. Alleged Violations 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/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing. Standard terms and revocation.**

Case No. 17-0448 A. Pharmacy permit holder allegedly failed to provide adequate security and control of drugs. Pharmacy reported a loss of 58 ml of Dyanavel XR 2.5mg/ml suspension, and 584 ml Guaiaatussin AC Liquid over a period of 14 days. Alleged Violations 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. 17-0448 B. Pharmacist in charge knew that a pharmacist had engaged in the unlawful distribution of legend medications, and failed to report any relevant information to the board. Pharmacist in charge allegedly failed to provide adequate security and control of drugs. Pharmacy reported a loss of 58 ml of Dyanavel XR 2.5mg/ml suspension, and 584 ml Guaiaatussin AC Liquid over a period of 14 days. Alleged Violations of Law: KS 315.121 (1)(j), 201 KAR 2:205. Section 2. (3) (b). **CRC Recommendation: There is sufficient evidence developed and the investigator is directed to conduct further investigation.**

Case No. 17-0448 C. Pharmacist allegedly engaged in unprofessional or unethical conduct by ingesting a drug for which a prescription drug order is required, without having first received a prescription drug order for the drug. Alleged Violations of Law: KRS 315.121 (2) (f) **CRC Recommendation: There is sufficient evidence developed and the investigator is directed to conduct further investigation.**

Case No. 17-0457 A. Pharmacy permit holder allegedly failed to provide adequate security and control of drugs. The pharmacy reported the loss of #366 phentermine 37.5mg tablets over approximately 1 day due to employee pilferage. 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/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing. Standard terms and \$5000 administrative fine, approved corrective action plan to prevent future occurrences with a new audit conducted January 2018.**

Case No. 17-0457 B. Pharmacist-in-charge allegedly failed to provide adequate security and control of drugs. The pharmacy reported the loss of #366 phentermine 37.5mg tablets over approximately 1 day due to employee pilferage. Alleged Violation of Law: 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. 17-0457 C. Pharmacy technician allegedly engaged in unprofessional or unethical conduct by selling, transferring, dispensing, ingesting, or administering a drug for which a prescription drug order is required, without first receiving a prescription drug order for the drug. 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/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing. Standard terms and revocation.**

Case No. 17-0458 A. Pharmacy permit holder allegedly engaged in unprofessional or unethical conduct. An alleged medication error occurred due to the incorrect transfer of a medication. Alleged violation of law: KRS 315.121 (1)(a). **CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.**

Case No. 17-0458 B. Pharmacist allegedly engaged in unprofessional or unethical conduct for allegedly discriminating against a patient and by engaging in conduct likely to harm the public with or without established proof of actual injury by transferring a medication incorrectly causing a medication error. Alleged violation of law: KRS 315.121 (1)(a) and (2)(d). **CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.**

Case No. 17-0458 C. Pharmacist allegedly engaged in unprofessional or unethical conduct by engaging in conduct likely to harm the public with or without established proof of actual injury by transferring a medication incorrectly causing 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. 17-0458 D. Pharmacy permit holder allegedly engaged in unprofessional or unethical conduct. An alleged medication error occurred due to the incorrect transfer of a medication. Alleged violation of law: KRS 315.121 (1)(a). **CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.**

Case No. 17-0458 E. Pharmacist allegedly engaged in unprofessional or unethical conduct by engaging in conduct likely to harm the public with or without established proof of actual injury by transferring a medication incorrectly causing 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. 17-0459 Permit holder allegedly engaged in unprofessional or unethical conduct by packaging a drug under insanitary conditions whereby it may have been contaminated with filth or whereby it may have been rendered injurious to health due to the drug packing containing metal shavings. Alleged Violation of Law: KRS 315.121 (1) (a); KRS 217.055 (1) (a) (b). **CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.**

Case No. 17-0472 A. Pharmacy permit holder allegedly aided and abetted an individual to engage in the practice of pharmacy without a license. Alleged Violation of Law: KRS 315.121 (1)(g). **CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice.**

Case No. 17-0472 B. Pharmacist-in-charge allegedly aided and abetted an individual to engage in the practice of pharmacy without a license. Alleged Violations of Law: KRS 315.121 (1)(g) and

201 KAR 2:205 Section 2 (3)(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/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing. Standard terms and \$1500 administrative fine, additional 6 hours of continuing education on pharmacy law.**

Case No. 17-0474 Pharmacy permit holder allegedly failed to place a pharmacist in charge of the pharmacy from April 10, 2017 to May 22, 2017. Permit holder allegedly engaged in unprofessional or unethical conduct by listing a former employee as pharmacist in charge when securing the renewal of the permit. Alleged Violation of Law: KRS 315.035 (1) and KRS 315.121 (1)(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/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing. Standard terms and \$2000 administrative fine.**

Case No. 17-0475 A. Pharmacy permit holder allegedly failed to provide adequate security and control of drugs. The pharmacy reported a loss of 548 dosage units of controlled substances. Alleged Violations 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. 17-0475 B. Pharmacist-in-charge allegedly failed to provide adequate security and control of drugs. The pharmacy reported a loss of 548 dosage units of controlled substances. Alleged Violations of Law: 201 KAR 2:205 Section 2 (3)(b). **CRC Recommendation: There is sufficient evidence developed and the investigator is directed to conduct further investigation.**

Case No. 17-0475 C. Pharmacy technician allegedly engaged in unprofessional or unethical conduct by selling, transferring, dispensing, ingesting, or administering a drug for which a prescription drug order is required, without first receiving a prescription drug order for the drug. Alleged Violations 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/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing. Standard terms and revocation.**

Case No. 17-0482 A. Pharmacy permit holder allegedly sold a misbranded drug due to a medication error. Patient was prescribed leflunomide and was allegedly dispensed a prescription labeled as leflunomide containing warfarin tablets. Alleged Violation of Law: KRS 217.065 (1). **CRC Recommendation: There is sufficient evidence of a violation to warrant**

disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing. Standard terms and root cause analysis.

Case No. 17-0482 B. Pharmacist allegedly engaged in unprofessional or unethical conduct by engaging in conduct likely to harm the public with or without established proof of actual injury by committing a medication error. Patient was prescribed leflunomide and was allegedly dispensed a prescription labeled as leflunomide containing warfarin tablets. 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/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing. Standard terms and \$500 administrative fine, additional 6 hours of continuing education on medication errors and their prevention.**

Case No. 17-0483 A. Pharmacy permit holder utilized a computer system that allegedly permitted unauthorized prescriptions refills after one year from the date prescribed. Alleged Violation of Law: 201 KAR 2:170 (6), 201 KAR 2:185 (2) (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/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing. Standard terms and \$5000 administrative fine.**

Case No. 17-0483 B. Pharmacist-in-charge allegedly engaged in unprofessional or unethical conduct by refilling prescriptions continuously without proper authorization. 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/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing. Standard terms and \$1000 administrative fine, additional 6 hours of continuing education on pharmacy law.**

Case No. 17-0483 C. Pharmacist allegedly engaged in unprofessional or unethical conduct by refilling prescriptions continuously without proper authorization. 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/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing. Standard terms and \$1000 administrative fine, additional 6 hours of continuing education on pharmacy law.**

Case No. 17-0486 A. Pharmacy permit holder allegedly failed to place a pharmacist in charge of the pharmacy from March 28, 2017 to June 9, 2017. Permit holder allegedly engaged in unprofessional or unethical conduct by listing a former employee as pharmacist in charge when securing the renewal of the permit. Alleged Violation of Law: KRS 315.035 (1) and KRS 315.121 (1)(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/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing. Standard terms and \$3000 administrative fine.**

Case No. 17-0486 B. Pharmacist in charge allegedly failed to provide written notification to the Board of Pharmacy within fourteen calendar days of any change in the employment of the pharmacist-in-charge. Alleged Violation of Law: 201 KAR 2:205 Section 2 (d)(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/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing. Standard terms and \$500 administrative fine, additional 6 hours of continuing education on pharmacy law.**

Case No. 17-0506 Pharmacist allegedly violated his Agreed Order of Suspension by violating the Monitoring Agreement with the Kentucky Pharmacist Recover Network (KYPRN) by testing positive for diphenhydramine. Alleged Violations of Law: KRS 315:121(1)(i) and 201 KAR 2:250 Section 3(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/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing. Standard terms and \$500 administrative fine agreement of start over control sobriety or not to seek licensure.**

Case No. 17-0507 Pharmacy technician allegedly violated her Agreed Order of Pharmacy Technician Registration with Restrictions by testing positive for marijuana and amphetamine. 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/or, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing. Standard terms and revocation.**

Mr. Poole seconded, and the motion passed unanimously.

FINAL ORDER Dr. Martin moved to accept the Hearing Officer's Motion for Default Judgment for Case 17-0043B as presented. Dr. Hanna seconded, and the motion passed unanimously. Mr. Poole moved to accept the Hearing Officer's Recommended Order and issue the Final Order for Case 17-0043B as presented. Mr. Martin seconded, and the motion passed unanimously.

RECIPROCITY/RELICENSURE/INTERNSHIP/PHARMACY TECHNICIANS

Jennifer Tucker – Reciprocal Request Mr. Poole moved to approve the reciprocal application for Ms. Tucker with stipulations as follows: probation to duplicate Mississippi and Tennessee with an end date of January 23, 2023; perpetual inventory at all places of employment for Schedule II drugs; electronic tracking of Schedule III-V drugs and expired controlled substances; perpetual inventory available; audits; 12 monthly AA/NA meetings; inspections; maximum work hours with no overtime; copy of Agreed Order to all employers and pharmacists-in-charge; KYPRN; signed release of medical records; monthly report of AA/NA meetings; observed urine, other body fluid, or hair samples for drug/alcohol screens; prohibited from accepting position as pharmacist-in-charge, power of attorney, or preceptor; attendance within 1 year of entry of this Agreed Order at Utah School or CAPTASA; monthly written self-performance evaluations. Ms. Tucker currently resides in Tennessee with no place of employment. KYPRN Committee Chairman Brian Fingerson will monitor and work with Tennessee to ensure strict compliance with Agreed Order. If Ms. Tucker obtains employment within Kentucky, the Board will assume the monitoring of her compliance with the Agreed Order. Mr. Martin seconded, and the motion passed unanimously.

Pharmacy Technician Registrant, Case 17-0440 Mr. Poole moved to take no further action regarding this active pharmacy technician. Dr. Hanna seconded, and the motion passed unanimously.

CORRESPONDENCE/COMMUNICATION

George Miller – CE Deferral Request Dr. Martin moved to allow Mr. Miller an extension to provide evidence of the fire which destroyed his proof of CE or actual proof of completion of his CE obtained during the calendar year of 2016 until the next scheduled Board meeting, November 8th, 2017. Dr. Hanna seconded, and the motion passed unanimously.

Matthew Fulton – Dual PIC Request Matthew Fulton requested Eric Ho to be interim pharmacist in charge of Paragon Infusion Care, TX1615. Mr. Ho is currently pharmacist in charge of Paragon Healthcare Specialty, TX1958. They are currently working to obtain a Kentucky licensed pharmacist to fulfill the PIC role. Dr. Hanna moved to approve this request providing that a permanent PIC is obtained by the end of this calendar year. Ms. Brewer seconded, and the motion passed unanimously.

Paula York, Bluegrass Pharmacist Association – Appeal CE Denial Ms. York appeared before the Board appealing a previous denial of the CE program, 17-27. Dr. Hanna recused. Dr. Martin moved to deny this appeal. The motion failed for lack of a second. Mr. Poole moved to approve this request. Ms. Brewer seconded, and the motion passed with Dr. Martin opposing. Mr. Poole

requested the Board to develop and implement a more detailed continuing education approval process.

Dan Deem, RX Crossroads – Waiver Request Mr. Deem requested the Board to waive the floor to ceiling requirement for a pharmacy. Ms. Lalonde informed the Board that this requirement was mandated by regulation and not subject to the Board’s discretion. Ms. Brewer moved to deny this request. Dr. Hanna seconded, and the motion passed unanimously.

NIH StrokeNet Central Pharmacy – Waiver Request NIH StrokeNet Central Pharmacy requested a waiver of the wholesale distributor license fee. Dr. Hanna moved to deny this request. Mr. Poole seconded, and the motion passed unanimously.

Eric Gettler – Intern Hour Request Eric Gettler requested approval to obtain intern hours through a drug discovery internship. Mr. Poole moved to approve this request up to 300 hours provided the hours are documented by a preceptor on file with the Board. Dr. Martin seconded, and the motion passed unanimously.

NABP Mr. Hart informed the Board of the many accolades received from various attendees of the NABP District III meeting hosted by the Board in August. Mr. Hart presented the NABP Internet Drug Outlet Report August 2017.

LEGISLATION/REGULATION

201 KAR 2:076 Compounding Mr. Hart informed the Board that this regulation is working its way through the legislative process. It is up for review with the Health and Welfare Committee on September 20, 2017.

201 KAR 2:0380 Board Authorized Protocols The Board received written comments on 201 KAR 2:0380 from the following: Kentucky Medical Association, Sullivan College of Pharmacy, American Pharmacy Services Corporation, Kentucky Pharmacist Association, Kentucky Society of Health-System Pharmacists, Kentucky Board of Pharmacy staff, Kentucky Academy of Family Physicians and the Foundation for Healthy Kentucky. Mr. Poole suggested amending the regulation to include notification of primary care providers of treatment under Board authorized protocols. Dr. Martin suggested a need for a register of collaborative care providers and Board authorized protocols. Trish Freeman, KPhA, suggested a stipulation for those patients who do not have a primary care provider. Dr. Martin indicated that after all the testimony and comments received he was still in favor of the current regulation. Dr. Hanna voiced her opinion that Kentucky has went above and beyond other states with more safeguards in place for patient safety. Mr. Poole moved to accept the regulation as is with following changes: change wording of physician to prescriber and specifically exclude controlled substances/include non-controlled substances and OTC products in Sec. 2 C 1. Dr. Martin

seconded. The previously made motion by Mr. Poole, seconded by Dr. Martin was withdrawn. Dr. Martin made the motion to amend the regulation with the following changes;

- change wording of physician to prescriber, and
- amend wording to specifically exclude controlled substances, and
- amend wording to specifically include non-controlled substances and OTC products, and
- change wording of protocols to Board authorized protocols, and
- require notification to the primary care provider [if any] within 30 days of care received under Board authorized protocol.

Mr. Poole seconded, and the motion passed unanimously.

President Greenwell recessed for lunch at 11:45 a.m.

President Greenwell reconvened at 12:33 p.m. Ms. Brewer was absent for the remainder of the meeting.

The amended regulation was provided for the Board's review. Mr. Poole made the motion to amend the regulation with the following changes;

- change wording of physician to prescriber, and
- amend wording to specifically exclude controlled substances, and
- amend wording to specifically include non-controlled substances and OTC products, and
- change wording of protocols to Board authorized protocols, and
- include the requirement of pharmacists to provide notification to the primary care provider within thirty days of receiving care under the Board authorized protocol with the consent of the patient. Pharmacist shall request primary care provider information from the patient prior to providing care under the Board authorized protocol.

Dr. Hanna seconded, and the motion passed unanimously. President Greenwell requested all Board members and interested parties to attend the Committee Review for this regulation.

Continuing Education Mr. Poole moved to approve continuing education programs 17-42, 17-43, 17-44, 17-45 and 17-46. Dr. Martin seconded, and the motion passed unanimously. Dr. Martin moved to deny the continuing education program 17-47. Mr. Poole seconded, and the motion passed unanimously.

OLD BUSINESS

Automation in Long Term Care, 201 KAR 2:370 and 201 KAR 2:074 Mr. Poole moved to table this discussion until the work session after the next regularly scheduled Board meeting. Dr. Hanna seconded, and the motion passed unanimously.

NEW BUSINESS Mr. Poole moved to move the Board meeting scheduled for October 25, 2017 to November 8, 2017. President Greenwell and Mr. Hart are unable to attend on October 25th. Dr. Hanna seconded, and the motion passed unanimously. Due to the change, the KYPRN Committee and Case Review Committee meetings will be moved from October 18th to November 1st.

FYI - Expungement Mr. Hart informed the Board that two requests were received to expunge prior disciplinary actions. These actions meet the requirements of 201 KAR 2:270.

ADJOURNMENT: On motion by Mr. Poole, seconded by Dr. Martin, and passed unanimously, President Greenwell adjourned the meeting at 1:08 p.m. The next regularly scheduled meeting begins at 9 a.m. on November 8, 2017 in Frankfort, Kentucky.

B. Steven Hart, R.Ph.
Executive Director