

KENTUCKY BOARD OF PHARMACY
via teleconference

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Case Review Panel

June 10, 2021

9:00 a.m.

Agenda

- I. Call to Order
- II. Minutes
- III. Review cases
 - (a) Katie Busroe
 - (b) Amanda Harding
 - (c) Paul Daniels
 - (d) Jessica Williams
 - (e) John Romines
- IV. Adjourn

ATTENTION: A portion of the meeting may be held in closed/executive session for the purpose of discussing and deliberating upon open investigations, which are preliminary matters that may result in litigation being filed on behalf of the Board and include the review of information required to be conducted in privacy according to federal and state law (under Agenda Items III). The specific statutory sections providing exemptions are: KRS 61.810(1)(c) KRS 61.878(1)(a) KRS 61.810(1)(j) KRS 61.878(1)(h) KRS 61.810(1)(k). Following discussion and deliberation, any and all action will be taken in open/public session.

KENTUCKY BOARD OF PHARMACY
via Zoom teleconference

CASE REVIEW PANEL
MINUTES

June 10, 2021

Jill Rhodes, President of the Board, called the meeting to order at 9:01 a.m. Present were: Jill Rhodes, President of the Board; Larry Hadley, Executive Director; Eden Davis, General Counsel; Katie Busroe, Pharmacy Inspections and Investigations Supervisor; Amanda Harding, Pharmacy and Drug Inspector; Paul Daniels, Pharmacy and Drug Inspector; Jessica Williams, Pharmacy and Drug Inspector; John Romines, Pharmacy and Drug Inspector; Darla Sayre, Executive Staff Advisor; Kaci Christopher, Law Clerk and Amanda Montgomery, Law Clerk Intern.

Jill Rhodes moved to approve the minutes of the May 18, 2021 meeting. Larry Hadley seconded, and the motion passed unanimously.

Jill Rhodes moved for the Case Review Panel to go into closed session to include investigating inspectors, Eden Davis, Darla Sayre, Kaci Christopher and Amanda Montgomery for the purpose of reviewing, discussing and deliberating upon open investigations[21-0007, 21-0008, 21-0055, 21-0079, 21-0088, 21-0107, 21-0112, 21-0115, 21-0117 and 21-0118] all of which are matters that may result in litigation being filed on behalf of the Board and/or require the review of information deemed confidential in accordance with state and federal law. The deliberations require the panel members to review and discuss information compiled in the course of the Board's work to detect and investigate statutory and regulatory violations (the premature release of which may harm the Board's ability to carry out its administrative adjudication or prospective law enforcement functions, if an investigation remains open and final action is not taken in this meeting) and to determine whether to initiate litigation on behalf of the Board against individual licensees, permit holders or registrants. The statutory sections providing authorizing executive session are: KRS 61.810(c)(j) and (k) and KRS 61.878(1)(a) and (1)(h). Larry Hadley seconded, and the motion passed unanimously. Jill Rhodes moved to come out of closed session. Larry Hadley seconded, and the motion passed unanimously.

Katie Busroe cases – Voting members: Jill Rhodes, Larry Hadley and Katie Busroe

CASE 21-0079

SUMMARY:

- In July 2017, intern accepted to college of pharmacy with 2 previous Driving Under the Influence (DUI) convictions.
- Due to the most recent DUI being 7 years prior, after meeting with Kentucky Pharmacist Recovery Network (KYPRN) Chair, it was determined no KYPRN Agreement was needed.
- February 7, 2020, intern referred to KYPRN due to being dismissed from his rotation for attendance issues and unusual behavior. This lead to the college of pharmacy urine drug screening intern. Intern tested positive for cocaine.

- February 11, 2020, KYPRN Chair met with intern. Intern signed a KYPRN Agreement and a Comprehensive Professional Evaluation (CPE) was recommended due to intern stating he had tried to quit cocaine and could not.
- February 13, 2020, college of pharmacy notified Kentucky Board of Pharmacy of intern testing positive for cocaine while on rotation.
- February 24, 2020, intern admitted for a 5 day CPE, which resulted in the recommendation of residential treatment.
- March 26, 2020, intern started monthly outpatient one on one counseling instead of residential treatment.
- March 1 – 20, 2020, intern missed 5 telephone calls for daily check in for urine drug screens.
- March 1 – 20, 2020, intern did not show for 2 of 7 urine drug screens for which he was selected.
- March 23, 2020, intern's lack of compliance with the KYPRN Agreement reported at the KYPRN meeting.
- May 1 – May 31, 2020, intern missed 8 telephone calls for daily check in for urine drug screens.
- May 2020, intern did not show for 3 urine drug screens for which he was selected.
- May 20, 2020, intern had a negative hair drug screen.
- May 26 and 28, 2020, intern had negative urine drug screens.
- June 1 through mid-July, 2020, intern missed 16 telephone calls for daily check in for urine drug screens.
- September 14 and 16, 2020, intern tested positive for alcohol.
- September 20, 2020, intern stopped checking in for drug screens.
- September 27, 2020, intern graduated.
- KYPRN Agreement ended with graduation.

Case 21-0079. Pharmacist intern allegedly:

- Has a mental or physical incapacity that prevents him from assisting in the practice of pharmacy with reasonable skill, competence and safety to the public.

Alleged Violation of Law:

- KRS 315.121(1)(b) – mental or physical incapacity that prevents certificate holder from assisting in the practice of pharmacy with reasonable skill, competence and safety to the public.

CRP Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to issue a Formal Complaint and Notice of Hearing. Simultaneous filing of an emergency suspension of pharmacist intern registration. Simultaneously attempt resolution through an Agreed Order and/or, if unsuccessful, to proceed with either an Administrative Conference, if requested. Terms of Agreed Order include suspension of intern license until one year of documented compliance with KYPRN

agreement, prohibition from registering as a pharmacy technician. Jill Rhodes moved to submit the recommendation to the Board for approval. Larry Hadley seconded and the motion passed unanimously with the investigator abstaining from the vote to limit their role to that of a factfinder.

CASE 21-0107.

SUMMARY:

- Reported to KYPRN February 2019 by spouse for ingesting alprazolam that had been diverted from pharmacy of employment.
- Residential treatment facility with partial hospitalization level of care from May 23, 2019 through August 30, 2019.
- Signed KYPRN and Memorandum of Understanding October 1, 2019.
- Started with a counselor on October 30, 2019.
- November 25, 2019, informed KYPRN he was having wisdom tooth pain and took a tramadol that was left over from a prior prescription for dental pain.
- Scheduled to have wisdom tooth removed November 29, 2019.
- Requested permission to take tramadol after wisdom tooth removal.
- KYPRN denied approval of tramadol, recommended acetaminophen and ibuprofen.
- KYPRN requested documentation of tramadol prescription that pharmacist had taken on November 25, 2019.
- Documentation could not be provided by pharmacist
 - Pharmacist could not produce prescription vial
 - Pharmacist stated pharmacy did not have record of prescription
 - Dentist wrote a note that he prescribed a quantity of 18 tramadol on April 30, 2018
- KYPRN informed pharmacist that was a reportable event to the Board of Pharmacy but did not report due to pharmacist not testing positive on any drug screens.
- From September 2019 through April 2021, pharmacist missed two check-in's for being selected for drug screen.
- April 24, 2021, pharmacist tested positive for tramadol with no permission from KYPRN to take.
- Pharmacist stated took tramadol once or twice due to back pain between shoulder pain.
- Tramadol was from a previously dispensed prescription for dental pain.

Case 21-0107. Pharmacist allegedly:

- Failed to comply with his Kentucky Pharmacist Recovery Network (KYPRN) Agreement by testing positive for unauthorized tramadol use; and
- Has a mental or physical incapacity that prevents the licensee from engaging in the practice of pharmacy with reasonable skill, competence, and safety to the public.

Alleged Violations of Law:

- 201 KAR 2:250 Section 3(2) - If in the opinion of the consultant, an impaired pharmacist has not progressed satisfactorily in a treatment or recovery program, all information regarding the issue of a pharmacist's impairment and participation in a treatment or recovery program in the consultant's possession shall be disclosed to the board. That disclosure shall constitute a complaint.
- KRS 315.121(1)(b) - Has a mental or physical incapacity that prevents the licensee from engaging in the practice of pharmacy with reasonable skill, competence, and safety to the public.

CRP Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to issue a Formal Complaint and Notice of Hearing for violation of KRS 315.121(1)(b). Simultaneously, file an emergency suspension of pharmacist license. Simultaneously attempt resolution through an Agreed Order and/or, if unsuccessful, to proceed with either an Administrative Conference, if requested. For the Agreed Order, standard terms (without requiring in-patient treatment) and suspension of pharmacist license for one year with strict adherence to KYPRN agreement for that time. If pharmacist violates KYPRN agreement terms, the period of strict compliance will begin again. Completion of substance abuse evaluation at signing of Agreed Order and to follow recommendations regarding if inpatient or IOP treatment is needed. A second substance abuse evaluation to be completed by qualified healthcare provider before pharmacist seeks reinstatement of his license to ensure pharmacist is fit for practice. Larry Hadley moved to submit the recommendation to the Board for approval. Jill Rhodes seconded and the motion passed unanimously with the investigator abstaining from the vote to limit their role to that of a factfinder.

CASE 21-0112 A, B, and C.

SUMMARY:

- A non-resident Kentucky permitted veterinary pharmacy is providing websites for veterinarians.
- The websites allow pet owners to request prescriptions from the non-resident pharmacy providing the website.
- The pet owner has three options to obtain the prescription:
 - Request a written prescription for the pet owner to take to the pharmacy of choice;
 - Request the prescription be dispensed by the veterinarian; or
 - Request the prescription through the veterinarian's website which is linked to the non-resident pharmacy.
- A non-permitted entity is providing inventory management for veterinarians.
- Part of the inventory management is support that targets pet owners to use the veterinarians to dispense the prescriptions instead of pharmacies.

- It is alleged by a competitor veterinary pharmacy that:
 - The website provided by the non-resident pharmacy permit holder does not sufficiently allow the pet owner to choose another pharmacy;
 - The support provided by the non-permitted entity constitutes the unlicensed practice of pharmacy;
 - The information provided by both the non-resident pharmacy permit holder and non-permitted entity is false and misleading because there is a statement that prescription drugs provided by another pharmacy cannot be guaranteed as safe or effective;
 - The non-resident pharmacy permit holder and non-permitted entity are engaging in fraud by not allowing pet owners to choose another pharmacy to dispense the prescriptions;
 - The non-resident pharmacy permit holder, non-permitted entity, and veterinarians are obtaining financial gain by fraud by not allowing pet owners to choose another pharmacy; and
 - The non-resident pharmacy permit holder, non-permitted entity, and veterinarians are committing fraud by not disclosing their financial relationships to the pet owners.

Case 21-0112 A. Non-resident pharmacy permit holder allegedly engaged in unprofessional or unethical conduct by:

- Intercepting and diverting prescriptions from a competitor pharmacy;
- Publishing or circulating false, misleading, or deceptive statements concerning a competitor pharmacy by stating in an email, “We cannot guarantee the efficacy or authenticity of products purchased from a third party pharmacy;” and
- Obtaining remuneration by fraud, misrepresentation, or deception by obtaining payment for prescriptions that were intercepted and diverted from a competitor pharmacy.

Alleged Violation of Law:

- KRS 315.121 (1)(a) – unprofessional or unethical conduct

CRP Recommendation: Further investigation needed. The case will be submitted to the Attorney General’s Consumer Affairs Division to conduct further investigation. Jill Rhodes moved to submit the recommendation to the Board for approval. Larry Hadley seconded and the motion passed unanimously with the investigator abstaining from the vote to limit their role to that of a factfinder.

Case 21-0112 B. Pharmacist-in-charge of a non-resident pharmacy permit holder allegedly engaged in unprofessional or unethical conduct by:

- Intercepting and diverting prescriptions from a competitor pharmacy;

- Publishing or circulating false, misleading, or deceptive statements concerning a competitor pharmacy by stating in an email, “We cannot guarantee the efficacy or authenticity of products purchased from a third party pharmacy;” and
- Obtaining remuneration by fraud, misrepresentation, or deception by obtaining payment for prescriptions that were intercepted and diverted from a competitor pharmacy.

Alleged Violations of Law:

- KRS 315.121 (1)(a) – unprofessional or unethical conduct;
- KRS 315.121 (2)(a) – publication of false, misleading, or deceptive statements concerning the practice of pharmacy;
- KRS 315.121 (2)(d) – engaging in conduct likely to deceive, defraud, or harm the public; and
- KRS 315.121 (2)(h) – obtaining any remuneration by fraud, misrepresentation, or deception

CRP Recommendation: Further investigation needed. The case will be submitted to the Attorney General’s Consumer Affairs Division to conduct further investigation. Jill Rhodes moved to submit the recommendation to the Board for approval. Larry Hadley seconded and the motion passed unanimously with the investigator abstaining from the vote to limit their role to that of a factfinder.

Case 21-0112 C. Non-permitted entity allegedly:

- Engaged in the practice of pharmacy without a pharmacy permit by providing a software system that:
 - Denies previously approved prescriptions; and
 - Communicates with patients regarding which pharmacy or medication can best help the patient.

Alleged Violation of Law:

- KRS 315.0351 (1)(a) – any pharmacy located outside the Commonwealth which does business within the Commonwealth within the meaning of KRS Chapter 315, shall hold a current pharmacy permit.

CRP Recommendation: Further investigation needed. The case will be submitted to the Attorney General’s Consumer Affairs Division to conduct further investigation. Jill Rhodes moved to submit the recommendation to the Board for approval. Larry Hadley seconded and the motion passed unanimously with the investigator abstaining from the vote to limit their role to that of a factfinder.

Amanda Harding cases – Voting members: Jill Rhodes, Larry Hadley and Amanda Harding

CASE 21-0055 A and B.

SUMMARY:

- Consumer complaint that pharmacy sold four prescriptions including a narcotic to an unauthorized individual in February 2021.
- Patient profile had notations limiting who was authorized to pick up medications. Individual provided non-picture identification for one of the authorized individuals.
- Pharmacy refilled non-controlled substance prescriptions and contacted prescriber office for replacement for narcotic.
- Notation added to patient profile limiting it to patient to pick up prescriptions.

Case 21-0055 A. Pharmacy permit holder allegedly:

- Engaged in unprofessional or unethical conduct by selling a prescription to an unauthorized individual.

Alleged Violation of Law:

- KRS 315.121 (1)(a) – general unprofessional or unethical conduct

CRP Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice. Jill Rhodes moved to submit the recommendation to the Board for approval. Larry Hadley seconded and the motion passed unanimously with the investigator abstaining from the vote to limit their role to that of a factfinder.

Case 21-0055 B. Pharmacist in charge (PIC) allegedly:

- Failed in the provision of pharmacy services by selling a prescription to an unauthorized individual.

Alleged Violation of Law:

- 201 KAR 2:205 Section 2 (3)(b) – PIC responsibility for provision of pharmacy services

CRP Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice. Jill Rhodes moved to submit the recommendation to the Board for approval. Larry Hadley seconded and the motion passed unanimously with the investigator abstaining from the vote to limit their role to that of a factfinder.

CASE 21-0117 A, B, and C.

SUMMARY:

- Consumer complaint that pharmacy changed generic manufacturers of behavioral medications causing adverse effects on grandson. Consumer complaint that pharmacy dispensed two different generic methylphenidate tablets in the same prescription vial.
- Pharmacy dispensed four different methylphenidate ER generic manufacturers' product to patient in the last year.

- Pharmacy changed wholesale distributor and have instructed wholesaler to distribute least expensive version in stock of generic drug products.
- Pharmacy records do not indicate that two different manufacturers of methylphenidate were dispensed on same day.
- Prescription was written for brand name Concerta and a non-therapeutically equivalent drug product was substituted and dispensed by pharmacist.

Case 21-0117 A. Pharmacy permit holder allegedly:

- Sold a misbranded drug. Patient allegedly received two different methylphenidate ER 36 mg tablets in a single prescription vial.
- Engaged in unprofessional or unethical conduct by selling a prescription in which a nonequivalent drug product was substituted for the prescribed brand name medication.

Alleged Violations of Law:

- KRS 217.065 (1) – drug misbranded if labeling false or misleading in any particular; and
- KRS 315.121 (1)(a) – general unprofessional or unethical conduct

CRP Recommendation: There is sufficient evidence developed and the investigator is directed to conduct further investigation. Larry Hadley moved to submit the recommendation to the Board for approval. Jill Rhodes seconded and the motion passed unanimously with the investigator abstaining from the vote to limit their role to that of a factfinder.

Case 21-0117 B. Pharmacist in charge (PIC) allegedly:

- Failed in the proper provision of pharmacy services including procurement of drugs.

Alleged Violation of Law:

- 201 KAR 2:205 Section 2 (3)(b) – PIC responsible for procurement of drugs and provision of pharmacy services

CRP Recommendation: There is sufficient evidence developed and the investigator is directed to conduct further investigation. Larry Hadley moved to submit the recommendation to the Board for approval. Jill Rhodes seconded and the motion passed unanimously with the investigator abstaining from the vote to limit their role to that of a factfinder.

Case 21-0117 C. Pharmacist allegedly:

- Engaged in unprofessional or unethical conduct by engaging in conduct likely to deceive, defraud, or harm the public or engaging in conduct which substantially departs from accepted standards of pharmacy practice ordinarily exercised by a pharmacist, with or without established proof of actual injury.
- Improperly selected a generic drug for substitution of a prescribed brand name medication. Patient was dispensed a generic drug coded as therapeutically inequivalent by the FDA.

Alleged Violations of Law:

- KRS 315.121 (2)(d) - unprofessional or unethical conduct by engaging in conduct likely to deceive, defraud, or harm the public or engaging in conduct which substantially departs

from accepted standards of pharmacy practice ordinarily exercised by a pharmacist, with or without established proof of actual injury;

- KRS 217.822 (1) – pharmacist shall select lower-priced therapeutically equivalent drug when receiving a prescription for a brand name drug; and
- 201 KAR 2:116 Section 1 (1) – Board determines that drugs listed as therapeutically equivalent in the FDA Orange Book are interchangeable

CRP Recommendation: There is sufficient evidence developed and the investigator is directed to conduct further investigation. Larry Hadley moved to submit the recommendation to the Board for approval. Jill Rhodes seconded and the motion passed unanimously with the investigator abstaining from the vote to limit their role to that of a factfinder.

CASE 21-0118 A and B.

SUMMARY:

- Consumer complaints that pharmacist discriminated against patients by refusing to administer COVID-19 vaccine to patients with Mexican passports.
- Pharmacist said she followed pharmacy procedures that require Kentucky government issued identification.
- Pharmacy permit holder procedures require valid government identification of residency in Kentucky or proof that patient is a healthcare worker in Kentucky.

Case 21-0118 A. Pharmacy permit holder allegedly:

- Engaged in unprofessional or unethical conduct for not providing a COVID-19 vaccination to a couple with Mexican passports.

Alleged Violation of Law:

- KRS 315.121 (1)(a) – general unprofessional or unethical conduct

CRP Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice. Jill Rhodes moved to submit the recommendation to the Board for approval. Larry Hadley seconded and the motion passed unanimously with the investigator abstaining from the vote to limit their role to that of a factfinder.

Case 21-0118 B. Pharmacist allegedly:

- Engaged in unprofessional or unethical conduct by refusing to administer COVID-19 vaccinations to a couple with Mexican passports.

Alleged Violation of Law:

- KRS 315.121 (1)(a) – general unprofessional or unethical conduct

CRP Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice. Jill Rhodes moved to submit the recommendation to the Board for approval. Larry Hadley seconded and the motion passed

unanimously with the investigator abstaining from the vote to limit their role to that of a factfinder.

Paul Daniels cases – Voting members: Jill Rhodes, Larry Hadley and Paul Daniels

CASE 21-0088 A, B, and C.

SUMMARY:

- Board office received an anonymous complaint that alleged widespread drug use among pharmacy staff and that the pharmacy hired a registered sex offender.
- A technician disclosed Florida charged him with Obscene Communication- Use Computer Service to Seduce. Florida listed the technician on their sexual offender/predator website.
- Technician provided Florida court records of his plea of nolo contendere for the charge.
- Technician's attorney advised him, he is not consider a convicted felon by the state of Florida. Technician answered "No" on his technician application to the felony conviction question.
- PIC provided a statement that she does not have any current concerns or suspicions that any employee has been under the influence of alcohol or drugs while employed at the pharmacy.
- PIC provided pharmacy policy and procedures concerning illegal drug use and drug diversion.

Case 21-0088 A. Pharmacy permit holder allegedly:

- Engaged in unprofessional or unethical conduct by hiring a technician that made false statements on their technician application.
- Engaged in unprofessional or unethical conducts by allowing employees to use drugs during work hours.

Alleged Violation of Law:

- KRS 315.121 (1)(a) – allegedly engaged in unprofessional or unethical conduct

CRP Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice. Larry Hadley moved to submit the recommendation to the Board for approval. Jill Rhodes seconded and the motion passed unanimously with the investigator abstaining from the vote to limit their role to that of a factfinder.

Case 21-0088 B. Pharmacist in charge (PIC) allegedly:

- Engaged in unprofessional or unethical conduct by hiring a technician that made false statements on their technician application.
- Engaged in unprofessional or unethical conduct by allowing employees to use drugs during work hours.

Alleged Violation of Law:

- KRS 315.121 (1)(a) – allegedly engaged in unprofessional or unethical conduct

CRP Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice. Larry Hadley moved to submit the recommendation to the Board for approval. Jill Rhodes seconded and the motion passed unanimously with the investigator abstaining from the vote to limit their role to that of a factfinder.

Case 21-0088 C. Registered Pharmacy Technician allegedly:

- Engaged in unprofessional or unethical conduct by making false statements on their technician application.

Alleged Violation of Law:

- KRS 315.121 (1)(e) – allegedly knowingly making or causing to be made any false, fraudulent, or forged statement or misrepresentation of a material fact in securing issuance or renewal of a certificate

CRP Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice. Larry Hadley moved to submit the recommendation to the Board for approval. Jill Rhodes seconded and the motion passed unanimously with the investigator abstaining from the vote to limit their role to that of a factfinder.

CASE 20-0115 A, B, and C.

SUMMARY:

- Consumer alleged pharmacy dispensed an incorrect medication for her daughter.
- Consumer provided cough syrup photographs showing the liquid did not match the label description.
- PIC conducted an investigation into the alleged medication error.
- A technician placed the correct product with a prescription filled with incorrect medication.
- PIC educated pharmacy staff on proper prescription filling process.

Case 21-0115 A. Pharmacy permit holder allegedly:

- Sold a misbranded drug by dispensing a syrup that did not match the pharmacy label description.

Alleged Violation of Law:

- KRS 315.121 (1)(a) – unprofessional or unethical conduct

CRP 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, completion of ISMP Self-evaluation for medication errors within 6

months of signed Agreed Order and approved corrective action plan to prevent future occurrences. Inspector will review and evaluate the results from the ISMP self-evaluation and corrective action plan. Jill Rhodes moved to submit the recommendation to the Board for approval. Larry Hadley seconded and the motion passed unanimously with the investigator abstaining from the vote to limit their role to that of a factfinder.

Case 21-0115 B. Pharmacist in charge (PIC) allegedly:

- Failed in the proper disposition of drugs and the provision of pharmacy services.

Alleged Violation of Law:

- 201 KAR 2:205 Section 2 (3)(b)- The procurement, storage, security, and disposition of drugs and the provision of pharmacy services

CRP Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice. Jill Rhodes moved to submit the recommendation to the Board for approval. Larry Hadley seconded and the motion passed unanimously with the investigator abstaining from the vote to limit their role to that of a factfinder.

Case 21-0115 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 committing a medication error. Patient allegedly was dispensed a cough syrup of different color than that listed on the label.

Alleged Violation of Law:

- KRS 315.121 (2)(d) - 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, with or without established proof of actual injury

CRP Recommendation: There is sufficient evidence of a violation, however, the penalty shall be the issuance of a Letter of Reprimand. Jill Rhodes moved to submit the recommendation to the Board for approval. Larry Hadley seconded and the motion passed unanimously with the investigator abstaining from the vote to limit their role to that of a factfinder.

Jessica Williams cases – Voting members: Jill Rhodes, Larry Hadley and Jessica Williams

CASE 21-0007 A, B, C, and D REVISIT.

SUMMARY:

- Co-owner of pharmacy viewed security video and observed inappropriate dispensing by technician.

- Technician appears to reprocess, relabel, and add tablets to a prescription vial and releases it to patient without being verified by the pharmacist.
- PIC was informed 15 days after the incident and questioned the technician.
- Technician said the prescription was initially filled for a partial quantity because of cost.
- Patient then decided to get the full quantity prescribed.
- Technician generated a new label, updated the price, added additional tablets to the vial, and released the prescription.
- Technician said the dispensing system did not generate a hard stop that required pharmacist to verify and release the prescription after it was updated so technician proceeded to complete the sale.
- Technician said pharmacist had already verified the partial fill before patient requested the full quantity.
- Technician said pharmacist was outside taking a break during the time the prescription was reprocessed.
- Pharmacist had no knowledge of the incident involving the technician until after she resigned to take a position at another pharmacy.
- PIC met with staff to discuss policies and procedures, quality controls, technician and pharmacist responsibilities, and corrective actions to mitigate system limitations.

Case 21-0007 A Revisit. Pharmacy permit holder allegedly:

- Aided and abetted an individual to engage in the practice of pharmacy without a license.
- Allowed pharmacy technician to change the label and contents of the prescription vial dispensed to patient without it being verified by a pharmacist.

Alleged Violations of Law:

- KRS 315.121(1)(a) – unprofessional or unethical conduct
- KRS 315.121(1)(g) – aiding and abetting an individual to engage in the practice of pharmacy without a license

CRP Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice. Issuance of a letter of concern. Larry Hadley moved to submit the recommendation to the Board for approval. Jill Rhodes seconded and the motion passed unanimously with the investigator abstaining from the vote to limit their role to that of a factfinder.

Case 21-0007 B Revisit. Pharmacist-in-charge (PIC) allegedly:

- Aided and abetted an individual to engage in the practice of pharmacy without a license.
- Allowed pharmacy technician to change the label and contents of the prescription vial dispensed to patient without it being verified by a pharmacist.

Alleged Violations of Law:

- KRS 315.121(1)(a) – unprofessional or unethical conduct

- 201 KAR 2:205 Section 2 (3)(a) - PIC shall be responsible for quality assurance programs for pharmacy services

CRP Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice. Larry Hadley moved to submit the recommendation to the Board for approval. Jill Rhodes seconded and the motion passed unanimously with the investigator abstaining from the vote to limit their role to that of a factfinder.

Case 21-0007 C Revisit. Pharmacist allegedly:

- Engaged in unprofessional or unethical conduct by failing to appropriately supervise pharmacy technician.

Alleged Violation of Law:

- KRS 315.121(1)(d) – unprofessional or unethical conduct likely to deceive, defraud, or harm the public, or engaging in conduct which substantially departs from accepted standards of pharmacy practice ordinarily exercised by a pharmacist, with or without established proof of actual injury

CRP Recommendation: There is sufficient evidence of a violation, however, the penalty shall be the issuance of a Letter of Reprimand. Larry Hadley moved to submit the recommendation to the Board for approval. Jill Rhodes seconded and the motion passed unanimously with the investigator abstaining from the vote to limit their role to that of a factfinder.

Case 21-0007 D Revisit. Pharmacy technician allegedly:

- Engaged in the practice of pharmacy without a license.
- Changed the label and contents of the prescription vial dispensed to patient without it being verified by a pharmacist.

Alleged Violation of Law:

- KRS 315.121(1)(g) – engaging in the practice of pharmacy without a license

CRP Recommendation: There is sufficient evidence of a violation, however, the penalty shall be the issuance of a Letter of Reprimand. Larry Hadley moved to submit the recommendation to the Board for approval. Jill Rhodes seconded and the motion passed unanimously with the investigator abstaining from the vote to limit their role to that of a factfinder.

John Romines cases – Voting members: Jill Rhodes, Larry Hadley and John Romines

CASE 21-0008 A, B, and C.

SUMMARY:

- On January 12, 2021, Pharmacist in Charge and Owner reported Pharmacy Technician’s employment was terminated on January 11, 2021 for diversion of controlled substances that occurred on January 9, 2021. Pharmacy issued DEA 106.
- Pharmacy Technician did not admit to diverting control substances when confronted by PIC.

- Losses on DEA 106 included 1 strength of Hydrocodone/APAP and 2 strengths of Oxycodone. Technician also diverted gabapentin.

Case 21-0008 A. Pharmacy permit holder allegedly:

- Failed to provide adequate security and control of drugs. Pharmacy reported a loss of 127 Hydrocodone/APAP 10/325mg tablets, 45 Oxycodone/APAP 10/325mg mg tablets, 12 Oxycodone 5 mg tablets, and approximately 810 gabapentin for a total of approximately 994 dosage units over an audit period of 1 Month from December 6, 2020 to January 11, 2021 due to employee pilferage.

Alleged Violations of Law:

- 201 KAR 2:100 Section 1 – a pharmacy shall provide adequate security of its controlled substances and prescription legend drugs; and
- KRS 218A.200(4) – there shall be a record of all controlled substances received, sold, dispensed, administered or otherwise disposed of

CRP Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice. Issuance of a letter of concern and recommendation to consider more routine monitoring of controlled substances III, IV, V. Jill Rhodes moved to submit the recommendation to the Board for approval. Larry Hadley seconded and the motion passed unanimously with the investigator abstaining from the vote to limit their role to that of a factfinder.

Case 21-0008 B. Pharmacist in charge allegedly:

- Failed to provide adequate security and control of drugs. Pharmacy reported a loss of 127 Hydrocodone/APAP 10/325mg tablets, 45 Oxycodone/APAP 10/325mg mg tablets, 12 Oxycodone 5 mg tablets, and approximately 810 gabapentin for a total of approximately 994 dosage units over an audit period of 1 Month from December 6, 2020 to January 11, 2021 due to employee pilferage.

Alleged Violation of Law:

- 201 KAR 2:205 Section 2(3)(b) – the pharmacist-in-charge shall be responsible for the procurement, storage, security, and disposition of drugs

CRP Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice. Jill Rhodes moved to submit the recommendation to the Board for approval. Larry Hadley seconded and the motion passed unanimously with the investigator abstaining from the vote to limit their role to that of a factfinder.

Case 21-0008 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) - Except as provided in KRS 315.500, selling, transferring, dispensing, ingesting, or administering a drug for which a prescription drug order is required, without having first received a prescription drug order for the drug

CRP Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is to issue a Formal Complaint and Notice of Hearing for violation of KRS 315.121(2)(f). Simultaneously file an emergency suspension of pharmacy technician registration. Simultaneously send an Agreed Order for revocation of her technician registration. Jill Rhodes moved to submit the recommendation to the Board for approval. Larry Hadley seconded and the motion passed unanimously with the investigator abstaining from the vote to limit their role to that of a factfinder.

Larry Hadley moved to adjourn. Jill Rhodes seconded, and the motion passed unanimously. Jill Rhodes adjourned the meeting at 12:34 p.m.