

KENTUCKY BOARD OF PHARMACY
via teleconference

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Case Review Panel

May 18, 2021

9:00 a.m.

Agenda

- I. Call to Order
- II. Minutes
- III. Review cases
 - (a) Eden Davis
 - (b) Katie Busroe
 - (c) Amanda Harding
 - (d) Paul Daniels
 - (e) Jessica Williams
 - (f) Rhonda Hamilton
 - (g) 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**

May 18, 2021

Jill Rhodes, President of the Board, called the meeting to order at 9:06 a.m. Present were: Jill Rhodes, President of the Board; Peter Cohron, Vice 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; Rhonda Hamilton, Pharmacy and Drug Inspector; John Romines, Pharmacy and Drug Inspector; Darla Sayre, Executive Staff Advisor and Amanda Montgomery, Law Clerk Intern.

Larry Hadley moved to approve the minutes of the March 23, 2021 meeting. Jill Rhodes seconded, and the motion passed unanimously. Jill Rhodes recused herself and was placed in the waiting room.

Katie Busroe cases – Voting members: Peter Cohron, Larry Hadley and Katie Busroe

Larry Hadley moved for the Case Review Panel to go into closed session pursuant to KRS 61.810(1)(c) and (j) to discuss proposed or pending litigation and individual adjudications to include Katie Busroe, Paul Daniels, Jessica Williams, Rhonda Hamilton, John Romines, Darla Sayre and Amanda Montgomery. Pete Cohron seconded, and the motion passed unanimously. Larry Hadley moved to come out of closed session. Pete Cohron seconded, and the motion passed unanimously.

CASE 19-0365 Revisit

CASE PRESENTED: MAY 19, 2020

CASE REVISIT: JANUARY, 2021

VIOLATION OF LAW: KRS 315.121(1)(l)-violation of any order issued by the Board to comply with any applicable law or administrative regulation.

CRP Recommendation: There is sufficient evidence of a violation, however, the penalty shall be the issuance of a Letter of Reprimand specifying there was a violation but dismissing respondent from the KYPRN Agreement. Pete Cohron moved to submit the recommendation to the Board for approval. Larry Hadley seconded and the motion passed with the investigator abstaining from the vote to limit their role to that of a factfinder.

Amanda Harding cases – Voting members: Peter Cohron, Larry Hadley and Amanda Harding

Jill Rhodes returned to the meeting. Pete Cohron left the meeting. Larry Hadley moved for the Case Review Panel to go into closed session pursuant to KRS 61.810(1)(c) and (j) to discuss proposed or pending litigation and individual adjudications to include Katie Busroe, Paul Daniels, Jessica Williams, Rhonda Hamilton, John Romines, Darla Sayre and Amanda Montgomery. Jill Rhodes seconded, and the motion passed unanimously. Larry Hadley moved to come out of closed session. Jill Rhodes seconded, and the motion passed unanimously.

19-0122 Revisit

CASE PRESENTED: July, 2019

VIOLATION OF LAW: KRS 315.121(1)(i): (i) Violation of any order issued by the board to comply with any applicable law or administrative regulation;

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 three-year probation backdated to July 2019 when the Board voted for the original recommendation. Jill Rhodes moved to submit the recommendation to the Board for approval. Larry Hadley seconded and the motion passed with the investigator abstaining from the vote to limit their role to that of a factfinder.

CASE 20-0112F Revisit

CASE PRESENTED: October 22, 2020

VIOLATION OF LAW: KRS 315.121 (2)(f) - unprofessional or unethical conduct to dispense drug for which a prescription drug order is required without having first received a prescription drug order for the drug; and

KRS 315.121 (2)(j) – unprofessional or unethical conduct for failing to exercise appropriate professional judgment in determining whether a prescription drug order is lawful.

CRP Recommendation: There is sufficient evidence of a violation, however, the penalty shall be the issuance of a Letter of Reprimand describing the importance of knowing the law and understanding the legal requirements prior to initiating an order and as it relates to a CCA. Jill Rhodes moved to submit the recommendation to the Board for approval. Larry Hadley seconded and the motion passed with the investigator abstaining from the vote to limit their role to that of a factfinder.

CASE 21-0012 A, B, and C.

SUMMARY:

- Pharmacy permit holder identified improper purchase of merchandise by technician. Continual investigation and review of video surveillance led to discovery of diversion of controlled substance and non-controlled substance medications.
- Permit holder reported a loss of 477 controlled substance doses.

- Technician admitted to medication diversion in interview with permit holder personnel. Technician worked a few days (3-4) in the pharmacy.
- Pharmacist in charge conducted additional audits in months after technician termination and did not identify further loss.

Case 21-0012 A. Pharmacy permit holder allegedly:

- Failed to provide adequate security and control of drugs. Pharmacy reported a loss of 477 controlled substance doses including 225 benzodiazepine, 125 oxycodone/APAP, and 46 phentermine doses and loss of non-controlled substances due to employee pilferage.

Alleged Violation of Law:

- 201 KAR 2:100 Section 1 – security and control requirement

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

Case 21-0012 B. Pharmacist in charge allegedly:

- Failed to provide adequate security and control of drugs. Pharmacy reported a loss of 477 controlled substance doses including 225 benzodiazepine, 125 oxycodone/APAP, and 46 phentermine doses and loss of non-controlled substances due to employee pilferage.

Alleged Violation of Law:

- 201 KAR 2:205 Section 2 (3)(b) – security of drugs requirement

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

Case 21-0012 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) – 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.

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 to Attorney General. Change

registration status to 'Do Not Renew'. Jill Rhodes moved to submit the recommendation to the Board for approval. Larry Hadley seconded and the motion passed with the investigator abstaining from the vote to limit their role to that of a factfinder.

CASE 21-0033 A and B.

SUMMARY:

- Consumer complaint that pharmacist behaved unprofessionally when counseling pregnant patient receiving COVID-19 vaccine.
- Pharmacist says that he used clinical and professional judgement in determining appropriateness of COVID-19 vaccine for pregnant patient.

Case 21-0033 A. Pharmacy permit holder allegedly:

- Engaged in unprofessional or unethical conduct by employing a pharmacist who engaged in unprofessional or unethical conduct when counseling a pregnant patient receiving the COVID-19 vaccine.

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

Case 21-0033 B. Pharmacist allegedly:

- Engaged in unprofessional or unethical conduct when counseling a pregnant patient receiving the COVID-19 vaccine.

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. Issuance of Letter of Concern regarding inappropriate comments. Larry Hadley moved to submit the recommendation to the Board for approval. Jill Rhodes seconded and the motion passed with the investigator abstaining from the vote to limit their role to that of a factfinder.

CASE 21-0045 A and B.

SUMMARY:

- Consumer complaint that pharmacist and technicians not properly wearing masks in the pharmacy.
- Governor executive order requiring facial coverings in pharmacies.
- Inspector observed PIC not wearing a mask when at the pharmacist workstation.
- PIC said that employees maintained 6 feet distancing while in the pharmacy and wore masks when approaching customers.
- Permit holder policy that all employees wear face masks while on duty.

Case 21-0045 A. Pharmacy permit holder allegedly:

- Engaged in unprofessional or unethical conduct by failing to ensure employees properly wear facial coverings in pharmacy during state of emergency due to the coronavirus (COVID-19) pandemic.

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

Case 21-0045 B. Pharmacist in charge (PIC) allegedly:

- Engaged in unprofessional or unethical conduct by failing to properly wear a facial covering in the pharmacy during state of emergency due to the coronavirus (COVID-19) pandemic.

Alleged Violations of Law:

- KRS 315.121 (1)(a) – general unprofessional or unethical conduct; and
- 201 KAR 2:205 Section 2 (3)(b) – PIC responsible for the provision of pharmacy services.

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

CASE 21-0054 A and B.

SUMMARY:

- Consumer complaint that pharmacy sold narcotic prescription to an unauthorized individual in October 2020.
- Pharmacy policy allows for someone other than patient to pick up prescriptions if able to answer identifying questions.
- Replacement prescription sent to the pharmacy and dispensed.
- Notation added to patient profile to limit who is authorized to pick up prescriptions.

Case 21-0054 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 with the investigator abstaining from the vote to limit their role to that of a factfinder.

Case 21-0054 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 with the investigator abstaining from the vote to limit their role to that of a factfinder.

CASE 21-0070 A and B.

SUMMARY:

- Consumer complaint that pharmacy staff does not maintain patient confidentiality. Drug names are said at pick up in the pharmacy and drive thru in hearing range of other customers.
- Consumer complaint that notification that prescription is ready sent to patients prior to the prescription being ready.
- Pharmacy has policy and procedure to not state drug names unless asked to by patient and only after confirming patient's information.
- Pharmacy has a notification system that alerts patients to when prescription are ready to be refilled, delayed in filling, ready for pick up or if refill requests are denied by prescriber.

Case 21-0070 A. Pharmacy permit holder allegedly:

- Engaged in unprofessional or unethical conduct by allowing confidential patient information to be released. Consumer alleged that pharmacy staff on different occasions said the name of medications within hearing of other customers.

Alleged Violations of Law:

- KRS 315.121 (1)(a) – general unprofessional or unethical conduct; and
- 201 KAR 2:210 Section 3 – Confidentiality of patient record, communicated only to the patient, as the patient directs or as prudent, professional discretion dictates

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

Case 21-0070 B. Pharmacist in charge allegedly:

- Engaged in unprofessional or unethical conduct by allowing confidential patient information to be released. Consumer alleged that pharmacy staff on different occasions said the name of medications within hearing of other customers.

Alleged Violations of Law:

- KRS 315.121 (2)(b) – unprofessional or unethical conduct to divulge or reveal patient information to unauthorized persons without the patient’s express consent;
- 201 KAR 2:205 Section 2 (3)(b) – pharmacist in charge responsible 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. Larry Hadley moved to submit the recommendation to the Board for approval. Jill Rhodes seconded and the motion passed with the investigator abstaining from the vote to limit their role to that of a factfinder.

CASE 21-0072 A and B.

SUMMARY:

- Consumer complaint that an electronically prescribed controlled substance prescription was deleted from the pharmacy system instead of being placed on the patient’s file for later fill.
- Pharmacy’s information technology team was able to locate the electronic prescription and determined it was deleted from the pharmacy’s system.
- Pharmacist in charge providing continual training on proper procedures for placing prescription on hold.

Case 21-0072 A. Pharmacy permit holder allegedly:

- Engaged in unprofessional or unethical conduct by allowing a received electronic controlled substance prescription to be improperly deleted from the pharmacy system.
- Failed to maintain accurate records of all electronic controlled substance prescriptions received.

Alleged Violations of Law:

- KRS 315.121 (1)(a) – general unprofessional or unethical conduct;
- 21 CFR 1311.205 (b)(1)(i) – pharmacy application receiving electronic controlled substances must have logical access controls to limit access to deletion of prescription information; and
- 21 CFR 1311.305 – pharmacy to maintain an electronic record of all electronic controlled substance prescriptions received

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

Case 21-0072 B. Pharmacist in charge (PIC) allegedly:

- Failed in the provision of pharmacy services. A received electronic controlled substance prescription was improperly deleted from the pharmacy system.

Alleged Violation of Law:

- 201 KAR 2:205 Section 2 (3)(b) – PIC responsible for 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. Larry Hadley moved to submit the recommendation to the Board for approval. Jill Rhodes seconded and the motion passed with the investigator abstaining from the vote to limit their role to that of a factfinder.

CASE 21-0127 A and B.

SUMMARY:

- Consumer complaint because received an epinephrine 0.3 mg auto-injector when prescription and label were for epinephrine 0.15 mg auto-injector.
- Workflow in pharmacy system shows that prescription was dispensed without any pharmacist involvement. No data entry verification, drug use review or labeled product verification by pharmacist.
- Point of sale system alerts employee if prescription not verified by pharmacist but does not stop sale.
- Pharmacy owner has contacted software vendor to update point of sale to include a hard stop instead of an alert.

Case 21-0127 A. Pharmacy permit holder allegedly:

- Sold a misbranded prescription. Prescription and label were for epinephrine 0.15 mg auto-injector and patient was sold epinephrine 0.3 mg auto-injector.
- Allowed a non-pharmacist to practice pharmacy. Prescription was dispensed without pharmacist performing prospective drug use review or labeled product verification.
- Engaged in unprofessional or unethical conduct by allowing a prescription to be sold without pharmacist prospective drug use review or labeled product verification.
- Alleged Violations of Law:
 - KRS 217.065 (1) – drug misbranded if labeling false or misleading in any particular;
- KRS 315.020 (1) – pharmacist to be in charge of and supervise dispensing of prescription drugs; and
- KRS 315.121 (1)(a) – general 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, approved corrective action plan that addresses these system problems of not placing hard stop prior to point of sell if not verified by a pharmacist implemented within 3 months of the Agreed Order being signed. Jill Rhodes moved to submit the

recommendation to the Board for approval. Larry Hadley seconded and the motion passed with the investigator abstaining from the vote to limit their role to that of a factfinder.

Case 21-0127 B. Pharmacist in charge allegedly:

- Engaged in unprofessional or unethical conduct by engaging in conduct likely to harm the public with or without established proof of actual injury. Prescription and label were for epinephrine 0.15 mg auto-injector and patient was sold epinephrine 0.3 mg auto-injector.
- Failed to perform a prospective drug use review prior to dispensing of a prescription. Prescription was dispensed without pharmacist performing drug use review or labeled product verification.

Alleged Violations of Law:

- KRS 315.121 (2)(d) – unprofessional or unethical conduct by engaging in conduct likely to harm the public with or without established proof of actual injury; and
- 201 KAR 2:210 Section 4 (1) – prospective drug use review to be conducted by a pharmacist prior to dispensing

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, additional 6 hours of continuing education on medication errors and their prevention. Must provide oversight in the creation and implementation of the corrective action plan. Jill Rhodes moved to submit the recommendation to the Board for approval. Larry Hadley seconded and the motion passed 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

Larry Hadley moved for the Case Review Panel to go into closed session pursuant to KRS 61.810(1)(c) and (j) to discuss proposed or pending litigation and individual adjudications to include Katie Busroe, Amanda Harding, Jessica Williams, Rhonda Hamilton, John Romines, Darla Sayre and Amanda Montgomery. Jill Rhodes seconded, and the motion passed unanimously. Larry Hadley moved to come out of closed session. Jill Rhodes seconded, and the motion passed unanimously.

CASE 21-0044 A, B, and C.

SUMMARY:

- Consumer requested a refill on his ezopiclone, a schedule IV controlled substance medication.
- Pharmacist reviewed consumer's request and determined refill was five days too soon.
- When consumer claimed their prescription was missing pills, the pharmacist verified ezopiclone inventory count.
- Pharmacist contacted the consumer's physician to authorize an early refill. The physician office denied the request.

Case 21-0044 A. Pharmacy permit holder allegedly:

- Engaged in unprofessional or unethical conduct by employing a pharmacist who refused to dispense a prescription.

Alleged Violation of Law:

- KRS 315.121 (1)(a)- 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 with the investigator abstaining from the vote to limit their role to that of a factfinder.

Case 21-0044 B. Pharmacist in charge (PIC) allegedly:

- Failed in the provision of pharmacy services.

Alleged Violation of Law:

- 201 KAR 2:205 Section 2 (3)(b) – PIC requirements for 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 with the investigator abstaining from the vote to limit their role to that of a factfinder.

Case 21-0044 C. Pharmacist allegedly:

- Engaged in unprofessional or unethical conduct by failing to exercise appropriate professional judgment in determining whether a prescription drug order is lawful.

Alleged Violations of Law:

- KRS 315.121 (2)(j) - failing to exercise appropriate professional judgment in determining whether a prescription drug order is lawful.

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

CASE 21-0064 A, B, and C.

SUMMARY:

- Pharmacy staff received consumer complaints of missing tablets from schedule II prescriptions.
- PIC reviewed prescription processing and asset protection staff reviewed security videos.
- Asset protection conducted an interview with a pharmacy technician.
- Pharmacy technician admitted to taking 15-20 tablets of schedule II controlled substances.

Case 21-0064 A. Pharmacy permit holder allegedly:

- Failed to provide adequate security and control of drugs. The pharmacy reported a loss of 449 dosage units of schedule II controlled substances over 185 days due to employee pilferage.

Alleged Violation of Law:

- 201 KAR 2:100 Section 1 – a pharmacy shall provide adequate security of its controlled substances and prescription legend drugs

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

Case 21-0064 B. Pharmacist in charge allegedly:

- Failed to provide adequate security and control of drugs. The pharmacy reported a loss of 449 dosage units of schedule II controlled substances over 185 days 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. Larry Hadley moved to submit the recommendation to the Board for approval. Jill Rhodes seconded and the motion passed with the investigator abstaining from the vote to limit their role to that of a factfinder.

Case 21-0064 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 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. Larry Hadley moved to submit the recommendation to the Board for approval. Jill Rhodes seconded and the motion passed with the investigator abstaining from the vote to limit their role to that of a factfinder.

CASE 21-0078 A and B.

SUMMARY:

- Consumer allegedly found a tablet of a different strength in her ropinirole 0.5 mg prescription vial filled in March of 2021.
- Consumer previously received 0.25 mg tablets of ropinirole in February of 2021.
- Consumer contacted the pharmacy and a pharmacy technician attempted to explain the physician wrote for a higher strength on her March prescription.
- PIC reviewed pharmacy operations and determine no other ropinirole prescriptions filled on the same day as the consumer prescription.
- PIC inspected all opened stock to ensure pharmacy staff did not combine the two different ropinirole strengths into one bottle.

Case 21-0078 A. Pharmacy permit holder allegedly:

- Sold a misbranded drug due to a medication error. Patient allegedly found a tablet of a different strength in her prescription vial.

Alleged Violation of Law:

- KRS 217.065 (1) – a drug is deemed to be misbranded if its labeling is false in any manner

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

Case 21-0078 B. Pharmacist in Charge 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 found a tablet of a different strength in her prescription vial.

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

CASE 21-0119 A and B.

SUMMARY:

- Consumer alleged the pharmacy dispensed a prescription containing one tablet of a different medication.
- PIC conducted investigation and determined the pharmacy staff counted the other medication before the consumer's prescription.
- PIC educated pharmacy staff to confirm the counting trays are cleared prior to counting a next prescription.

Case 21-00119 A. Pharmacy permit holder allegedly:

- Sold a misbranded drug by dispensing a prescription containing one tablet of a different medication.

Alleged Violation of Law:

- KRS 315.121 (1)(a) – 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 with the investigator abstaining from the vote to limit their role to that of a factfinder.

Case 21-0119 B. Pharmacist in charge (PIC) allegedly:

- Failed in the proper disposition of drugs and the provision of pharmacy services;
- 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. Consumer dispensed a prescription containing one tablet of a different medication.

Alleged Violations of Law:

- 201 KAR 2:205 Section 2 (3)(b)- The procurement, storage, security, and disposition of drugs and the provision of pharmacy services; and
- 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 specifying violations and recommend continued adherence to the corrective action plan already in place. Jill Rhodes moved to submit the recommendation to the Board for approval. Larry Hadley seconded and the motion passed 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

Larry Hadley moved for the Case Review Panel to go into closed session pursuant to KRS 61.810(1)(c) and (j) to discuss proposed or pending litigation and individual adjudications to include Katie Busroe, Amanda Harding, Paul Daniels, Rhonda Hamilton, John Romines, Eden Davis, Darla Sayre and Amanda Montgomery. Jill Rhodes seconded, and the motion passed unanimously. Larry Hadley moved to come out of closed session. Jill Rhodes seconded, and the motion passed unanimously.

CASE 20-0091 A and B.

SUMMARY:

- Patient was prescribed Adderall XR capsules.
- Prescriber did not indicate no generic substitution of prescription.
- On two separate occasions, pharmacy initially processed prescription through Patient's primary insurance for generic equivalent and claim was rejected because brand name preferred by plan.
- Pharmacy reprocessed prescription for brand name.
- Patient questioned price when picking up prescription and discovered it was filled with brand name.
- Patient asked pharmacy to reprocess prescription for generic.
- Pharmacy filled prescription for generic and applied discount card instead of using insurance in order to lower price for Patient.
- Patient said pharmacy staff did not provide clear explanation as to why prescription was filled for brand name since it was not requested.

Case 20-0091 A. Pharmacy permit holder allegedly:

- Engaged in unethical or unprofessional conduct by filling a prescription with a brand name drug instead of a lower-priced therapeutically equivalent drug.

Alleged Violation of Law:

- KRS 315.121 (1)(a) – unprofessional and 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 with the investigator abstaining from the vote to limit their role to that of a factfinder.

Case 20-0091 B. Pharmacist allegedly:

- Engaged in unprofessional or unethical conduct likely to deceive, defraud, or harm the public, with or without established proof of actual injury, by filling a prescription with a brand name drug instead of a lower-priced therapeutically equivalent drug.

Alleged Violations of Law:

- 315.121 (2)(d) - engaging in conduct likely to deceive, defraud, or harm the public, with or without established proof of actual injury;

- KRS 217.822 (1) – requires pharmacist filling a prescription written for a brand name drug to substitute a lower-priced therapeutically equivalent drug for which the pharmacist has in stock, unless otherwise instructed by the patient at the point of purchase or by the patient's practitioner

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

CASE 21-0002 A, B, and C.

SUMMARY:

- Patient was prescribed methylphenidate 5mg tablets.
- The vial dispensed to Patient was labeled as methadone 5mg tablets.
- Patient read the patient information sheet and contacted pharmacy after reading that the medication is used to treat pain.
- PIC confirmed the order entry error and dispensed replacement prescription for the correct medication when Patient returned to pharmacy.
- The verifying pharmacist was notified of the error and contacted Patient's prescriber.
- PIC determined that order entry technician only entered the first 4 letters of the drug and selected the wrong medication from the dropdown list.
- Technician was re-trained on entering a minimum of 5 letters of drug name and order entry verification steps were reinforced.
- Patient did not take any doses of the incorrect medication.

Case 21-0002 A. Pharmacy permit holder allegedly:

- Sold a misbranded drug due to a medication error. Patient was prescribed methylphenidate 5mg tablets but allegedly received methadone 5mg tablets.

Alleged Violation of Law:

- KRS 217.065 (1) – misbranding of drug

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

Case 21-0002 B. Pharmacist-in-charge (PIC) allegedly:

- Failed in the provision of pharmacy services. Patient was prescribed methylphenidate 5mg tablets but allegedly received methadone 5mg tablets.

Alleged Violation of Law:

- 201 KAR 2:205 Section 2 (3)(b) – PIC shall be responsible for the provision of pharmacy services

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

Case 21-0002 C. Pharmacist allegedly:

- Engaged in unprofessional or unethical conduct likely to harm the public with or without established proof of actual injury by committing a medication error. Patient was prescribed methylphenidate 5mg tablets but allegedly received methadone 5mg tablets.

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 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. Larry Hadley moved to submit the recommendation to the Board for approval. Jill Rhodes seconded and the motion passed with the investigator abstaining from the vote to limit their role to that of a factfinder.

CASE 21-0073 A and B.

SUMMARY:

- Kentucky Labor Cabinet (KLC) inspected pharmacy for reported violations of workplace requirements associated with COVID-19.
- KLC findings and deficiencies referred to Board as a result of pharmacy employees not wearing facial coverings inside the pharmacy.
- Governor executive order requiring facial coverings in pharmacies.
- Board inspector observed PIC and technicians working within 6 feet of one another and not wearing facial coverings inside the pharmacy during inspection of facility.
- PIC said he would review the most recent orders from the governor and information from Kentucky Department for Public Health, CDC, and OSHA and implement necessary changes.

Case 21-0073 A and B. Pharmacy permit holder allegedly:

- Engaged in unethical or unprofessional conduct by failing to ensure employees wear facial coverings in pharmacy during state of emergency due to the coronavirus (COVID-19) pandemic.

Alleged Violations of Law:

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

Pharmacist-in-charge (PIC) allegedly:

- Engaged in unprofessional or unethical conduct by failing to wear a facial covering in the pharmacy during state of emergency due to the coronavirus (COVID-19) pandemic.

Alleged Violations of Law:

- KRS 315.121 (2)(d) - engaging in conduct likely to harm the public, demonstrating a willful or careless disregard for the health, welfare, or safety of a patient, and 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 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, split evenly between the cases. Jill Rhodes moved to submit the recommendation to the Board for approval. Larry Hadley seconded and the motion passed with the investigator abstaining from the vote to limit their role to that of a factfinder.

Rhonda Hamilton cases – Voting members: Jill Rhodes, Larry Hadley and Rhonda Hamilton

Larry Hadley moved for the Case Review Panel to go into closed session pursuant to KRS 61.810(1)(c) and (j) to discuss proposed or pending litigation and individual adjudications to include Katie Busroe, Amanda Harding, Paul Daniels, Jessica Williams, John Romines, Eden Davis, Darla Sayre and Amanda Montgomery. Jill Rhodes seconded, and the motion passed unanimously. Larry Hadley moved to come out of closed session. Jill Rhodes seconded, and the motion passed unanimously.

CASE 19-0346E Revisit

CASE PRESENTED: March, 2020

VIOLATION OF LAW: KRS 315.020(3) –no person shall engage in the practice of pharmacy unless licensed to practice under the provisions of KRS Chapter 315, except as provided in subsection 4.

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

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 one-year

probation. Jill Rhodes moved to submit the recommendation to the Board for approval. Larry Hadley seconded and the motion passed with the investigator abstaining from the vote to limit their role to that of a factfinder.

CASE 19-0296 A and B Revisit.

SUMMARY:

- Asset Protection Solutions Manager received notification on July 16, 2019 that there were shortages of oxycodone/acetaminophen 10mg/325mg, promethazine with codeine, and tramadol. After conducting an investigation and completing daily counts of these medications, the unexplained shortages seemed to stop. However, small, unexplained shortages were discovered on two strengths of hydrocodone/acetaminophen.
- A second investigation was conducted, including daily counts, security videos being reviewed, and interviews being conducted. Asset Protection Solutions Manager noticed suspicious behavior on video of Pharmacy Technician when counting hydrocodone/acetaminophen prescriptions. The case was eventually closed after determining the video was not definitive and Pharmacy Technician had denied diverting any medications during her interview.
- On September 30, 2019, Asset Protection Solutions Manager noticed unexplained shortages on three strengths of hydrocodone/acetaminophen while reviewing pharmacy inventory adjustments. His investigation led him to again review security video of prescriptions being filled for hydrocodone/acetaminophen. He again noticed suspicious behavior on Pharmacy Technician's part.
- He interviewed Pharmacy Technician again on October 7, 2019. She denied diverting any medication from the pharmacy, but could not explain her actions on the video. Pharmacy Technician's employment was terminated and Police Department was notified.
- A completed DEA 106 form was sent to me on or about December 4, 2019. Six hundred seventy-one tablets of hydrocodone/acetaminophen 10mg/325mg were listed as missing.
- All loss was attributed to employee pilferage.
- Case was originally brought forward in March 2020. The decision was made to revoke the technician's registration.
- Asset Protection Solutions Manager continued to notice additional small shortages of hydrocodone/acetaminophen.
- A second DEA 106 form was received by the Board office on October 26, 2020. It showed a loss of 123 hydrocodone/acetaminophen 7.5mg/325mg and 3 tablets of oxycodone/acetaminophen 5mg/325mg.
- After conducting an investigation, Asset Protection Solutions Manager determined causes of additional losses were not due to theft but recordkeeping (a prescription was deleted twice) and inappropriate counting (using scales instead of counting by hand).

Case 19-0296 A Revisit. Pharmacy permit holder allegedly:

- Failed to provide adequate security and control of drugs.
- The pharmacy initially reported a loss of two hydrocodone/acetaminophen 10mg/325mg, which was updated to 671 tablets.
- The pharmacy reported additional losses of 123 hydrocodone/acetaminophen 7.5mg/325mg and 3 tablets of oxycodone/acetaminophen 5mg/325mg.
- Alleged Violation of Law:
201 KAR 2:100 Section 1 – a pharmacy shall provide adequate security and control of its controlled substances and prescription legend drugs

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

Case 19-0296 B Revisit. Pharmacist-in-charge allegedly:

- Failed to provide adequate security and control of drugs.
- The pharmacy initially reported a loss of two hydrocodone/acetaminophen 10mg/325mg, which was updated to 671 tablets.
- The pharmacy reported additional losses of 123 hydrocodone/acetaminophen 7.5mg/325mg and 3 tablets of oxycodone/acetaminophen 5mg/325mg.

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 sufficient evidence of a violation, however, the penalty shall be the issuance of a Letter of Reprimand recommending implementation of a corrective action plan for inventory control management for all controlled substances. Jill Rhodes moved to submit the recommendation to the Board for approval. Larry Hadley seconded and the motion passed with the investigator abstaining from the vote to limit their role to that of a factfinder.

CASE 21-0057 A and B.

SUMMARY:

- Consumer complaint was received via voicemail at the Board office.
- Consumer stated a pharmacy refused to allow her to come in to get a vaccination after being on the waitlist for a few weeks.
- Consumer stated if they had told her that originally, she could have gone elsewhere and already gotten at least one dose of the vaccine.

Case 21-0057 A. Pharmacy permit holder allegedly:

- Engaged in unprofessional or unethical conduct by refusing to allow a patient to get a vaccination after placing her on a waitlist, thus delaying care.

Alleged Violation of Law:

- KRS 315.121 (1)(a)—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 with the investigator abstaining from the vote to limit their role to that of a factfinder.

21-0057 B. Pharmacist in charge allegedly:

- Engaged in unprofessional or unethical conduct by refusing to allow a patient to get a vaccination after placing her on a waitlist, thus delaying care.

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 or pharmacy intern, with or without established proof of actual injury

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

CASE 21-0111 A, B, and C.

SUMMARY:

- Consumer complaint was received stating that a pharmacy gave him the wrong strength of his medication.
- Investigation showed an old prescription for a lower strength was refilled. His current prescription for the correct strength was out of refills.
- Pharmacy records indicate the prescription was requested either by phone or mobile application during a time when the pharmacy was closed.

Case 21-0111 A. Pharmacy permit holder allegedly:

- Engaged in unethical or unprofessional conduct by selling an inappropriate prescription.
- Sold an old refill for Trintellix 10mg after patient had been on Trintellix 20mg for six months.

Alleged Violation of Law:

- KRS 315.121 (1)(a)—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 with the investigator abstaining from the vote to limit their role to that of a factfinder.

Case 21-0111 B. Pharmacist in charge allegedly:

- Failed in the provision of pharmacy services.

Alleged Violation of Law:

- 201 KAR 2:205 Section 2 (3)(b)—the pharmacist in charge shall be responsible 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 with the investigator abstaining from the vote to limit their role to that of a factfinder.

Case 21-0111 C. Pharmacist allegedly:

- Failed to conduct a prospective drug use review prior to dispensing.
- Dispensed an old refill for Trintellix 10mg after patient had been on Trintellix 20mg for six months.

Alleged Violation of Law:

- 201 KAR 2:210 Section 4 (1) and (2)—a prospective drug use review shall be conducted by the pharmacist prior to dispensing, including an assessment of the patient’s drug therapy

CRP Recommendation: There is sufficient evidence of a violation, however, the penalty shall be the issuance of a Letter of Reprimand recommending a review of medication history prior to pharmacist prescription approval. Jill Rhodes moved to submit the recommendation to the Board for approval. Larry Hadley seconded and the motion passed 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

Larry Hadley moved for the Case Review Panel to go into closed session pursuant to KRS 61.810(1)(c) and (j) to discuss proposed or pending litigation and individual adjudications to include Katie Busroe, Amanda Harding, Paul Daniels, Jessica Williams, Rhonda Hamilton, Darla Sayre and Amanda Montgomery. Jill Rhodes seconded, and the motion passed unanimously. Larry Hadley moved to come out of closed session. Jill Rhodes seconded, and the motion passed unanimously.

CASE 21-0005 A and B.

SUMMARY:

- On January 12, 2021, citizen contacted Board of Pharmacy stating the Pharmacy did not transfer spouse’s prescriptions to another Pharmacy on December 29, 2020.
- Transferring Pharmacy Owner/PIC provided documentation that patient’s prescriptions were transferred to Receiving Pharmacy on January 11, 2021, three days before the prescriptions were due to be filled.

- Receiving Pharmacy received one transferred prescription on January 11, 2021. Receiving Pharmacy had already obtained new prescriptions for patient from prescribers before January 11, 2021. Patient was never without medication.
- Neither the patient nor the patient's spouse requested Receiving Pharmacy obtain transfers from the Original Pharmacy, but did request the Original Pharmacy transfer prescriptions to the Receiving Pharmacy.

Case 21-0005 A. Pharmacy permit holder allegedly:

- Failed to transfer patient's prescriptions upon request of patient.

Alleged Violation of Law:

- KRS 315.121 (1)(a) – 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 with the investigator abstaining from the vote to limit their role to that of a factfinder.

Case 21-0005 B. Pharmacist in Charge (PIC) allegedly:

- Failed to transfer patient's prescriptions upon request of patient.
- Failed to provide name of transferring Pharmacist.

Alleged Violations of Law:

- KRS 315.121 (1)(a) – Unprofessional or unethical conduct;
- KRS 315.121 (2)(d) – 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; and
- 201 KAR 2:165 Section 1(2)(c) – The name of the pharmacist transferring the information

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

CASE 21-0010 A and B.

SUMMARY:

- Former employee submitted complaint Pharmacy disposed of Protected Health Information (PHI) improperly exposing patient's personal information, violating HIPAA (Health Insurance Portability and Accountability Act), and the Pharmacy was not collecting copays for Medicare and Medicaid patients.
- Owner and Pharmacist in Charge both state that the owner takes sealed boxes of PHI to owner's residence for destruction by burning.
- Owner and Pharmacist in Charge both state that customers who are unable to pay copays are allowed to charge copays. Pharmacy makes attempts to collect amounts

charged but had never denied patient medication based on inability to pay and the Pharmacy has never turned delinquent accounts over to collections.

Case 21-0010 A. Pharmacy permit holder allegedly:

- Engaged in unprofessional or unethical conduct

Alleged Violation of Law:

- KRS 315.121 (1)(a) – Pharmacy engaged in unprofessional or unethical conduct. Pharmacy dispensed medication without a valid prescription

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

CRP Recommendation: Refer complaint regarding collection of co-pays to CHFS Office of Inspector General. Jill Rhodes moved to submit the recommendation to the Board for approval. Larry Hadley seconded and the motion passed with the investigator abstaining from the vote to limit their role to that of a factfinder.

Case 21-0010 B. Pharmacist in Charge allegedly:

- Engaged in unprofessional or unethical conduct by failing to protect patient information from unlawful disclosure. Pharmacist disclosed patient information without proper authorization or authority.

Alleged Violation of Law:

- KRS 315.121 (2)(b) – Pharmacist divulged or revealed to unauthorized persons patient information or the nature of professional services rendered without the patient's express consent or without order or direction of a court

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

CASE 21-0052 A and B.

SUMMARY:

- On February 12, 2021, prescriber contacted Board of Pharmacy stating the Pharmacy provided controlled substance to a patient without a legal prescription.
- Pharmacist admitted that patient received incorrect medication due to original prescription on hold at the pharmacy being entered into the pharmacy's computer system for the incorrect medication.
- Pharmacy has implemented new procedures and retrained staff to prevent a possible recurrence of the same error.

Case 21-0052 A. Pharmacy permit holder allegedly:

- Engaged in unprofessional or unethical conduct. Pharmacy dispensed medication without a valid prescription.

Alleged Violation of Law:

- KRS 315.121 (1)(a) – Pharmacy engaged in unprofessional or unethical conduct. Pharmacy dispensed medication without a valid prescription

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

Case 21-0052 B. Pharmacist in Charge allegedly:

- Engaged in unprofessional or unethical conduct by failing to exercise appropriate professional judgment in determining whether a prescription drug order is lawful. Pharmacist dispensed medication without a valid prescription.

Alleged Violation of Law:

- KRS 315.121 (2)(j) – Pharmacist failed to exercise appropriate professional judgment in determining whether a prescription drug order is lawful

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, additional 6 hours of continuing education on medication errors and their prevention. Jill Rhodes moved to submit the recommendation to the Board for approval. Larry Hadley seconded and the motion passed with the investigator abstaining from the vote to limit their role to that of a factfinder.

CASE 21-0114 A and B.

SUMMARY:

- On March 4, 2021, Board of Pharmacy received complaint that patient received Gabapentin instead of Ibuprofen in a prescription filled February 10, 2021.
- Pharmacist stated although possible it is highly unlikely based on inventory and circumstances that patient received incorrect medication.

Case 21-0114 A. Pharmacy permit holder allegedly:

- Sold a misbranded drug due to medication error. Patient allegedly was dispensed a prescription for Ibuprofen that contained Gabapentin.

Alleged Violation of Law:

- KRS 217.065 (1) - If its labeling is false or misleading in any particular

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

Case 21-0114 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 allegedly was dispensed a prescription for Ibuprofen that contained Gabapentin.

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 or pharmacy intern, with or without established proof of actual injury

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

CASE 21-0116 A and B.

SUMMARY:

- On March 15, 2021, owner contacted Kentucky Board of Pharmacy via email stating that on March 12, 2021, the Pharmacy permanently closed and the records were transferred to another Pharmacy in the same town.
- The owner notified Pharmacist in Charge less than 24 hours before the permanent closure occurred.
- Owner stated that Board Staff informed him that the purchaser was responsible to submit change of ownership paperwork.

Case 21-0116 A. Pharmacy permit holder allegedly:

- Failure to notify the Board of Pharmacy of by written notice fifteen (15) days prior to the anticipated closure. Pharmacy permanently closed and records transferred to another Pharmacy on March 12, 2021. Board of Pharmacy notified of closure by email on March 15, 2021.

Alleged Violation of Law:

- 201 KAR 2:106 Section 2 (1) (a) – Failure to notify the Board of Pharmacy of by written notice fifteen (15) days prior to the anticipated closure

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. Larry Hadley moved to submit the recommendation to the Board for approval. Jill Rhodes seconded and the motion passed with the investigator abstaining from the vote to limit their role to that of a factfinder.

Case 21-0116 B. Pharmacist in Charge allegedly:

- Failed to immediately notify the Board of Pharmacy of a deviation of business hours of 5 consecutive business days or greater.

Alleged Violations of Law:

- 201 KAR 2:205 Section 2 (3) (d) – Pharmacist in Charge is required to report to the Board of Pharmacy within 14 calendar days any change in the operating hours of the Pharmacy
- 201 KAR 2:205 Section 2 (3) (e) – Pharmacist in Charge is required to make or file any reports required by state or federal laws and regulations

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

CASE 21-0121 A, B, and C.

SUMMARY:

- On March 19, 2021, citizen contacted Board of Pharmacy stating the pharmacy only filled part of their prescription per their corporate policy denying them pain relief. Citizen filed complaint the same day.
- On April 12, 2021, Inspector visited pharmacy to obtain documents and interview staff.
- On April 13, 2021, Inspector requested policies and all pertinent records from corporate office.
- On April 28, 2021, corporate office provided the requested policies and records. Based on the policies and records provided the pharmacist who filled the prescription was following the corporate policy.
- On April 29, 2021, received pharmacist in charge's statement.

Case 21-0121 A. Pharmacy permit holder allegedly:

- Engaged in unprofessional or unethical conduct. Pharmacy had a policy preventing patient from receiving full amount of their prescription.

Alleged Violation of Law:

- KRS 315.121 (1) (a) – 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 with the investigator abstaining from the vote to limit their role to that of a factfinder.

Case 21-0121 B. Pharmacist in Charge allegedly:

- Engaged in unprofessional or unethical conduct by failing to provide pharmacy services.
Alleged Violation of Law:
- 201 KAR 2:205 Section (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 with the investigator abstaining from the vote to limit their role to that of a factfinder.

Case 21-0121 C. Pharmacist allegedly:

- Engaged in unprofessional or unethical conduct by failing to exercise appropriate professional judgment in determining whether a prescription drug order is lawful.
Alleged Violation of Law:
- KRS 315.121 (2) (j) – Failing to exercise appropriate professional judgment in determining whether a prescription drug order is lawful

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 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 2:50 p.m.