

MINUTES
KENTUCKY BOARD OF PHARMACY
Student Center
University of Kentucky
March 9, 2005

CALL TO ORDER: A regular meeting of the Kentucky Board of Pharmacy was held at the Student Center on the Campus of the University of Kentucky, in Lexington, Kentucky. President Edwards called the meeting to order at 9:13a.m.

Members present: Mark Edwards, Becky Cooper, Greg Naseman, and Peter Orzali. Staff: Michael Burleson, Executive Director; Jeff Osman, Inspections and Investigations Coordinator; Katie Busroe, Steve Hart, and Phil Losch, Pharmacy and Drug Inspectors; and Cheryl Lalonde-Mooney, Assistant Attorney General and Board Counsel. Guests, Brenda Bunting and Greg Baker, Walgreens; Mike Mayes, KPhA; Jan Gould, KRF; Ralph Bouvette, APSC; Vicki Yates Brown, Attorney; Wendy Galloway, John McDaniel, Resident; Allison Cubit, Jason Poe, Christine Tham, University of Kentucky College of Pharmacy students; Melanie Curtis, Court Reporter, Bob Durham and Dudley Ellis, Licensing and Regulations, Leah Tolliver, Chair KPhA Consulting pharmacists, Mark and Lisa Schuler; Richard Ross, Mike Wyant, Lucy Amburgy, Suzy Amburgy, Ruby Jo Lubarsky, Joe Arnold, KAHCF, Joe Saylor, Staffing Solutions, Frank Romenilli and University of Kentucky PY3 Class.

MINUTES: Becky Cooper made a motion to accept the Minutes of the January 5, 2005 Board meeting, seconded by Greg Naseman and passed unanimously. Greg Naseman made a motion to accept the Minutes from the January 21, 2005 Board meeting seconded by Pete Orzali, and passed unanimously. Becky Cooper made a motion to accept the Minutes from the January 22, 2005 Board meeting, seconded by Pete Orzali, and passed unanimously.

APPEARANCES: Mike Wyatt made a special presentation to Richard L. Ross who for the past 26 years worked with the Board of Pharmacy. He presented Mr. Ross with a portrait of himself that is to be hung at the Board office. Mr. Ross thanked everyone, especially Jeff Osman, Charlene Sizemore, and Ralph Bouvette. Mark Edwards read a Proclamation from the Board recognizing Mr. Ross.

Lisa Schuler was sworn in by Melanie Curtis, Court Reporter. She asked for her license to be reinstated. After an overview of her progress and treatment, Greg Naseman made a motion, seconded by Pete Orzali, that her license will be reinstated and she be allowed to return to practice with the following conditions of the Agreed Order: 5 years probation, maximum hours of work: 40hrs/wk or 80 hrs/2wk, cannot be pharmacist-in-charge during terms of probation, cannot have power of attorney during terms of probation, must provide copy of Agreed Order to all employees, must have aftercare contract with IPC – to include drug counselor if indicated, must sign a release for Board to have access to all medical records, must attend NA/AA meetings no less than 3 times per week, must provide IPC with written monthly reports of all NA/AA meetings, must agree to random observed urine/blood screens, quarterly inspections by Board for 2 years, perpetual inventory required for: C-II, C-III, C-IV, shall not ingest any mood altering substances including alcohol, notify Board within 10

days of any RX/OTC med prescribed/ingested, IPC Chair or President to approve all pharmacies/worksites prior to employment, cannot fill any RX's for self or immediate family, and must identify to the Board one pharmacy for these RX's, provide IPC with a written self-performance evaluation monthly she has already attended SE-PRN. Any violation of state/federal pharmacy or drug laws constitutes violation of AO and may result in an emergency suspension of pharmacist license and hearing scheduled by the Board. All above is reported to NABP. The motion passed unanimously.

Greg Naseman explained to the pharmacy students that 1 in 4 of them will need help.

Sally Droste was sworn in by Melanie Curtis, Court Reporter. She appeared before the board asking for reinstatement of her license. After an overview of her progress and treatment, Pete Orzali made a motion, seconded by Greg Naseman, that her license will be reinstated and she be allowed to return to practice with the following conditions of the Agreed Order: 10 years probation, maximum hours of work: 40hrs/wk or 80 hrs/2wk, cannot be pharmacist-in-charge during terms of probation, cannot have power of attorney during terms of probation, must provide copy of Agreed Order to all employees, must have aftercare contract with IPC – to include drug counselor if indicated, must sign a release for Board to have access to all medical records, must attend NA/AA meetings no less than 3 times per week, must provide IPC with written monthly reports of all NA/AA meetings, must agree to random observed urine/blood screens, quarterly inspections by Board for 2 years, perpetual inventory required for: C-II, shall not ingest any mood altering substances including alcohol, notify Board within 10 days of any RX/OTC med prescribed/ingested, IPC Chair or President to approve all pharmacies/worksites prior to employment, cannot fill any RX's for self or immediate family, must identify to the Board one pharmacy for these RX's, and provide IPC with a written self-performance evaluation monthly, she has already attended SE-PRN. Any violation of state/federal pharmacy or drug laws constitutes violation of AO and may result in an emergency suspension of pharmacist license and hearing scheduled by the Board. All above is reported to NABP. The motion passed unanimously.

Jeff Arnold, Med Care Pharmacy, Chairman of Pharmacy Work Group with the KY Association of Health Care Facilities (KAHCF) was sworn in by Melanie Curtis, Court Reporter. KAHCF is asking if long-term care facilities can purchase and distribute non-legend drugs in bulk. Their request came as a result of the recent changes in the Medicaid program. After much discussion, it was decided that this was actually a financial issue. The Board was concerned about proper labeling and patient safety, as well as proper dispensing. It was determined that the current regulations do not allow what is being requested pursuant to 201.KAR 074. It was suggested that more information and possible guidelines come from the Consultant Pharmacist Committee.

INTERAGENCY: Mike Burleson wanted to let everyone know that the DEA is taking comments regarding the letter that was sent out with renewal in regards to the Schedule II prescriptions.

BOARD REPORTS: President. 1. Advisory Council had their first meeting; he is very pleased with their beginning and working on the issue of pharmacy technicians' registration. 2. Board members need to turn in their Registration for NABP attendance. 3. Senate Bill 63, the Board's Bill, and passed during the Legislation Session.

BOARD MEMBERS:

Becky Cooper spoke to the students and encouraged them to know the pharmacy's laws and consider serving on the Board some day.

Pete Orzali spoke to the students about becoming involved in professional organizations.

Executive Director. MARS reports are in your packets, if you have questions please contact him. The Budget for fiscal year 05-06 is enclosed. He welcomed the pharmacy students and thanked Dr. Frank Romnelli for helping to make this meeting possible. The Department of Real Property is working on the building in Lexington, but no approvals have come through. He congratulated Ms. Cooper on her article in the KPhA Journal. He thanked the office staff for working so hard on renewals with all the problems. There will be a law review for CE on April 21 at the Holiday Inn North in Lexington, Kentucky. The summer exam will be held in both the Nursing Building and in the College of Pharmacy due to remodeling.

The Board Staff had no comments.

President Edwards reviewed the IPC Program for the pharmacy students.

CURRENT/PENDING CASES: KBP Case Updates: Pete Orzali moved for acceptance and entry of the proposed Agreed Orders as written, seconded by Greg Naseman, and passed unanimously.

Case No. 02-0002A; Case No. 03-0092A; Case No. 04-0033A; Case No. 04-0045A; Case No. 04-0048B; Case No. 04-0056A; Case No. 04-0056B; Case No. 04-0065; Case No. 04-0067B; Case No. 04-0080A; Case No. 04-0080B; Case No. 04-0081A; Case No. 04-0085A; Case No. 04-0087; Case No. 04-0090A; Case No. 04-0090B; Case No. 04-0091; Case No. 04-0092A; Case No. 04-0092B; Case No. 04-0094; Case No. 04-0099A; Case No. 04-0101A; Case No. 04-0101B; Case No. 04-0103; Case No. 04-0104; Case No. 04-0107; Case No. 04-108B; Case No. 04-0111A; Case No. 04-0111B; Case No. 04-0115; Case No. 04-0117; Case No. 04-0118A; Case No. 04-0118B; Case No. 04-0119; Case No. 04-0122

CASE REVIEW COMMITTEE: Pete Orzali moved for acceptance of the Committee recommendation for the following case reports:

Case No. 04-0054A (Revisit). Pharmacy allegedly engaged in unprofessional conduct as the result of a medication error. The Board office received a Medical Professional Liability Insurance Claim from the Kentucky Department of Insurance. On or about June 21, 2002, a patient had medications filled, including one for Prinivil. On or about August 2002, the patient informed the pharmacy that he had received someone else's Prinivil, had taken it, and been hospitalized. He wanted financial compensation. The pharmacist explained that he would not just give the patient money, but he could go through his insurance. At this time, the pharmacist confiscated the prescription vial. The patient did sue the pharmacy. At a meeting of the attorneys, the pharmacist, and the patient, the patient produced a second vial of Prinivil with someone else's name on the label. The pharmacist did not want to settle the case, but was advised that it was more cost effective to settle than to fight the claim. New information: The Board office sent a registered letter to the complainant, but received no response. Alleged violation of law: KRS 315.121(2)(d). CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice. Greg Naseman seconded, and it passed unanimously.

Case No. 04-0054B (Revisit). Pharmacist allegedly engaged in unprofessional conduct by committing a medication error. The Board office received a Medical Professional Liability Insurance Claim from the Kentucky Department of Insurance. On or about June 21, 2002, a patient had medications filled, including one for Prinivil. On or about August 2002, the patient informed the pharmacy that he had received someone else's Prinivil, had taken it, and been hospitalized. He wanted financial compensation. The pharmacist explained that he would not just give the patient money, but he could go through his insurance. At this time the pharmacist confiscated the prescription vial. The patient did sue the pharmacy. At a meeting of the attorneys, the pharmacist, and the patient, the patient produced a second vial of Prinivil with someone else's name on the label. The pharmacist did not want to settle the case, but was advised that it was more cost effective to settle than to fight the claim. New information: The Board office sent a registered letter to the complainant, but received no response. Alleged violation of law: KRS 315.121(2)(d). CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice. Greg Naseman, seconded, and it passed unanimously.

Case No. 04-0095A. Pharmacy permit holder allegedly sold a misbranded drug as the result of a medication error. Patient presented a prescription for Zoloft 100 mg, take 1 tablet twice daily, quantity of 60. The pharmacist filled the prescription as Zoloft 100 mg, take 2 tablets twice daily. The patient took the prescription as dispensed and reportedly experienced increased anxiety, trouble sleeping, profuse sweating, headaches, and a burning sensation on the top of her head. The patient contacted the prescribing physician about the dose, discovered it was incorrect, yet had the prescription refilled. The patient is currently on Zoloft 300 mg a day. It is not unusual for this physician to prescribe doses of Zoloft higher than the manufacturer's recommended dose. Alleged violation of law: KRS 217.065(1). CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference,

if requested, or the issuance of a Formal Complaint and Notice of Hearing. Greg Naseman seconded, and it passed unanimously.

Case No. 04-0095B. Pharmacist allegedly engaged in unprofessional conduct by committing a medication error. Patient presented a prescription for Zoloft 100 mg, take 1 tablet twice daily, quantity of 60. The pharmacist filled the prescription as Zoloft 100 mg, take 2 tablets twice daily. The patient took the prescription as dispensed and reportedly experienced increased anxiety, trouble sleeping, profuse sweating, headaches, and a burning sensation on the top of her head. The patient contacted the prescribing physician about the dose, discovered it was incorrect, yet had the prescription refilled. The patient is currently on Zoloft 300 mg a day. It is not unusual for this physician to prescribe doses of Zoloft higher than the manufacturer's recommended dose. Alleged violation of law: KRS 315.121(2)(d). CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing. Greg Naseman seconded, and it passed unanimously.

Case No. 04-096A. Pharmacy permit holder allegedly engaged in unprofessional conduct by committing a medication error. A patient had her prescription transferred from Pharmacy A to Pharmacy B. The original prescription was written for paroxetine (Paxil) 20 mg. The patient received fluoxetine (Prozac) 20 mg from Pharmacy B. Pharmacist from Pharmacy B verified the drug with the pharmacist from Pharmacy A twice and is confident that the pharmacist said fluoxetine. The pharmacist at Pharmacy A verified per records that the pharmacist receiving the transfer was D.D. The patient stated that she had no ill effects from the fluoxetine and just wanted an apology from the pharmacist at Pharmacy B. Alleged violation of law: KRS 315.121(2)(d). CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action, and the case is closed without prejudice. Greg Naseman seconded, and it passed unanimously.

Case No. 04-096B. Pharmacist allegedly engaged in unprofessional conduct by committing a medication error. A patient had her prescription transferred from Pharmacy A to Pharmacy B. The original prescription was written for paroxetine (Paxil) 20 mg. The patient received fluoxetine (Prozac) 20 mg from Pharmacy B. Pharmacist from Pharmacy B verified the drug with the pharmacist from Pharmacy A twice and is confident that the pharmacist said fluoxetine. The pharmacist at Pharmacy A verified per records that the pharmacist receiving the transfer was D.D. The patient stated that she had no ill effects from the fluoxetine and just wanted an apology from the pharmacist at Pharmacy B. Alleged violation of law: KRS 315.121(2)(d). CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action and the case is closed without prejudice. Greg Naseman seconded, and it passed unanimously.

Case No. 04-0114A. Pharmacy permit holder allegedly sold a misbranded drug as the result of a medication error. The Board office received a complaint from Pharmacist C regarding Pharmacist B. It was alleged that Pharmacist B committed a medication error by filling a Zoloft prescription under the wrong patient's name. It was further alleged that Pharmacist B

failed to maintain proper recordkeeping of Concerta CR 18 mg tablets, filled out-of-state controlled substances prescriptions that had an electronic signature, dispensed unmixed medications, and failed to properly transfer prescriptions. Pharmacist B reported two medication errors allegedly committed by Pharmacist C. A prescription written for Ziac 2.5 mg was filled with Ziac 5 mg and a prescription written for Verapamil 120 mg was filled with Verapamil CR 120 mg. Pharmacist B alleges that Pharmacist C involuntarily left work at the pharmacy and was searching for ways to get even. Alleged violation of law: KRS 217.065(1). CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing. Greg Naseman seconded, and it passed unanimously.

Case No. 04-0114B. Pharmacist allegedly engaged in unprofessional conduct by committing a medication error. The Board office received a complaint from Pharmacist C regarding Pharmacist B. It was alleged that Pharmacist B committed a medication error by filling a Zoloft prescription under the wrong patient's name. It was further alleged that Pharmacist B failed to maintain proper recordkeeping of Concerta CR 18 mg tablets, filled out-of-state controlled substances prescriptions that had an electronic signature, dispensed unmixed medications, and failed to properly transfer prescriptions. Pharmacist B reported two medication errors allegedly committed by Pharmacist C. A prescription written for Ziac 2.5 mg was filled with Ziac 5 mg, and a prescription written for Verapamil 120 mg was filled with Verapamil CR 120 mg. Pharmacist B alleges that Pharmacist C involuntarily left work at the pharmacy and was searching for ways to get even. Alleged violation of law: KRS 315.121(2)(d). CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing. Greg Naseman seconded, and it passed unanimously.

Case No. 04-0114C. Pharmacist allegedly engaged in unprofessional conduct by committing a medication error. The Board office received a complaint from Pharmacist C regarding Pharmacist B. It was alleged that Pharmacist B committed a medication error by filling a Zoloft prescription under the wrong patient's name. It was further alleged that Pharmacist B failed to maintain proper recordkeeping of Concerta CR 18 mg tablets, filled out-of-state controlled substances prescriptions that had an electronic signature, dispensed unmixed medications, and failed to properly transfer prescriptions. Pharmacist B reported two medication errors allegedly committed by Pharmacist C. A prescription written for Ziac 2.5 mg was filled with Ziac 5 mg and a prescription written for Verapamil 120 mg was filled with Verapamil CR 120 mg. Pharmacist B alleges that Pharmacist C involuntarily left work at the pharmacy and was searching for ways to get even. Alleged violation of law: KRS 315.121(2)(d). CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing. Greg Naseman seconded, and it passed unanimously.

Case No. 04-0125A. Pharmacy permit holder allegedly engaged in unprofessional conduct by committing a medication error. The Board office received a medical malpractice payment report. A patient allegedly received Lorazepam 1 mg instead of the prescribed Clonazepam 1 mg. The vial was labeled as Clonazepam 1 mg. The patient went to the emergency room with chest pains and palpitations. At the emergency room, the patient did produce a Lorazepam 1 mg tablet. The patient did not return to the pharmacy with the lorazepam but did refill the prescription at the same pharmacy. The inspector was unable to contact the patient. Alleged violation of law: KRS 315.121(2)(d). CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action, and the case is closed without prejudice. Greg Naseman seconded, and it passed unanimously.

Case No. 04-0125B. Pharmacist allegedly engaged in unprofessional conduct by committing a medication error. The Board office received a medical malpractice payment report. A patient allegedly received Lorazepam 1 mg instead of the prescribed Clonazepam 1 mg. The vial was labeled as Clonazepam 1 mg. The patient went to the emergency room with chest pains and palpitations. At the emergency room, the patient did produce a lorazepam 1 mg tablet. The patient did not return to the pharmacy with the lorazepam, but did refill the prescription at the same pharmacy. The inspector was unable to contact the patient. Alleged violation of law: KRS 315.121(2)(d). CRC Recommendation: There is insufficient evidence of a violation to warrant disciplinary action, and the case is closed without prejudice. Greg Naseman seconded, and it passed unanimously.

Case No. 05-001. Pharmacist was allegedly arrested for a DUI and tampered with evidence during his arrest. He has since been served with an arrest warrant for trying to “destroy, conceal, and remove pills from his pockets by throwing them on the ground.” On December 11, 2004, Pharmacist had a vehicle accident on his way to work. He was arrested for DUI, speeding, and possession of unlabeled controlled substances. Pharmacist surrendered his pharmacist’s license to Brian Fingerson, chairperson of the Kentucky Pharmacist Recovery Network. In his letter to Mr. Fingerson, pharmacist only addressed the alcohol issue. Alleged violations of law: KRS 315.121(1)(c)-pending, KRS 315.121(2)(f). CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing. Greg Naseman seconded, and it passed unanimously.

Case No. 05-0002A. Pharmacy permit holder allegedly relocated the pharmacy within a hospital without prior notification to the Board and without an inspection of the new location. Alleged violations of law: KRS 315.035(1) and 201 KAR 2:050 Section 1(13). CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing. Greg Naseman seconded, and it passed unanimously.

Case No. 05-0002B. Pharmacist-in-charge allegedly relocated the pharmacy within a hospital without prior notification to the Board and without an inspection of the new location. Alleged violations of law: 315.035(1) and 201 KAR 2:050 Section 1(13). CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing. Greg Naseman seconded, and it passed unanimously.

Case No. 05-0003. Pharmacist allegedly violated previous Settlement Agreement. Pharmacist entered into a Settlement Agreement with the Kentucky Board of Pharmacy on December 3, 2003. Pharmacist was to complete and have certified 6 hours of continuing education on Kentucky pharmacy law by December 3, 2004. The Board office did not receive the continuing education. A letter dated January 11, 2005, was sent to Pharmacist. As of this date, the Board office has not heard from Pharmacist. Alleged violation of law: KRS 315.121(1)(i). CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing. Greg Naseman seconded, and it passed unanimously.

Case No. 05-0004. Pharmacist allegedly violated previous Agreed Order. Pharmacist entered into an Agreed Order with the Kentucky Board of Pharmacy on December 3, 2003. Pharmacist was to complete and have certified 6 hours of continuing education on medication errors and their prevention by December 4, 2004. The Board office did not receive the continuing education. A letter dated January 11, 2005, was sent to Pharmacist. As of this date, the Board office has not heard from Pharmacist. Alleged violation of law: KRS 315.121(1)(i). CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing. Greg Naseman seconded, and it passed unanimously.

Case No. 05-0005. Pharmacist allegedly violated previous Agreed Order. Pharmacist entered into an Agreed Order with the Kentucky Board of Pharmacy on March 10, 2004. Pharmacist was to complete and have certified 6 hours of continuing education on Kentucky pharmacy law by September 10, 2004. The Board office did not receive the continuing education. A letter dated January 11, 2005, was sent to Pharmacist. As of this date, the Board office has not heard from Pharmacist. Alleged violation of law: KRS 315.121(1)(i). CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing. Greg Naseman seconded, and it passed unanimously.

Case No. 05-0006. Pharmacy permit holder allegedly violated previous Agreed Order. Pharmacy entered into an Agreed Order with the Kentucky Board of Pharmacy on December 3, 2003. The

Order required the hospital administrator to complete and have certified 6 hours of continuing education on Kentucky pharmacy law by December 3, 2004. A letter dated January 11, 2005, was sent to the administrator. The Board office received a telephone call from the administrator stating that the pharmacy had filed bankruptcy and was under new ownership. She expressed that she was unaware of the Agreed Order and felt it was not the new owner's responsibility. Alleged violation of law: KRS 315.121(1)(i). CRC Recommendation: There is sufficient evidence developed, and the investigator is directed to conduct further investigation.

Greg Naseman seconded, and it passed unanimously.

Case No. 05-0007. Pharmacist allegedly violated previous Agreed Order. Pharmacist entered into an Agreed Order with the Kentucky Board of Pharmacy on June 9, 2004. Pharmacist was to complete and have certified 6 hours of continuing education on Kentucky pharmacy law by September 1, 2004. The Board office did not receive the continuing education. A letter dated January 11, 2005, was sent to Pharmacist. Pharmacist telephoned the Board office and stated that he was unable to find 6 hours of Kentucky pharmacy law continuing education. Alleged violation of law: KRS 315.121(1)(i). CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing. Greg Naseman seconded, and it passed unanimously.

Case No. 05-0008. Pharmacist allegedly failed to complete 1.5 units of pharmacy continuing education in 2004. Pharmacist self-reported on pharmacist's license renewal application that she did not complete any of the 1.5 units required. Alleged violations of law: KRS 315.065(2) and 201 KAR 2:015. CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing. Greg Naseman seconded, and it passed unanimously.

Case No. 05-0009. Pharmacist allegedly failed to complete 1.5 units of pharmacy continuing education in 2004. During a routine inspection of the pharmacy by the inspector, the pharmacist was only able to document 1.2 units of continuing education obtained by December 31, 2004. Alleged violations of law: KRS 315.065(2) and 201 KAR 2:015. CRC Recommendation: Case is dismissed. Greg Naseman seconded, and it passed unanimously.

Case No. 05-0010. Pharmacist allegedly violated previous Agreed Order. Pharmacist entered into an Agreed Order with the Kentucky Board of Pharmacy on August 13, 2003. Pharmacist was to complete and have certified 6 hours of continuing education on medication errors and their prevention by August 13, 2004. The Board office did not receive the continuing education. A letter dated January 11, 2005, was sent to Pharmacist. On January 20, 2005, Pharmacist submitted 1.5 hours of continuing education regarding medication errors. The inspector talked to Pharmacist who stated that he thought he had submitted everything that was required. On February 7, 2005, the Board office received an additional 3.5 hours. Alleged violation of law: KRS 315.121(1)(i). CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to

attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing. Greg Naseman seconded, and it passed unanimously.

Case No. 05-0011. Pharmacist allegedly failed to complete 1.5 units of pharmacy continuing education in 2004. Pharmacist self-reported on pharmacist's license renewal application that he did not complete any of the 1.5 units required. Alleged violations of law: KRS 315.065(2) and 201 KAR 2:015. CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing. Greg Naseman seconded, and it passed unanimously.

Case No. 05-0012. Pharmacist allegedly failed to complete 1.5 units of pharmacy continuing education in 2004. Pharmacist self-reported on pharmacist's license renewal application that she completed 1.2 units of continuing education. Alleged violations of law: KRS 315.065(2) and 201 KAR 2:015. CRC Recommendation: There is sufficient evidence developed and the investigator is directed to conduct further investigation. Greg Naseman seconded, and it passed unanimously.

Case No. 05-0014. Pharmacist allegedly failed to complete 1.5 units of pharmacy continuing education in 2004. Pharmacist self-reported on pharmacist's license renewal application that he completed 1.2 units of continuing education. Alleged violations of law: KRS 315.065(2) and 201 KAR 2:015. CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing. Greg Naseman seconded, and it passed unanimously.

Case No. 05-0017A. Special limited medical gas pharmacy permit holder allegedly changed locations without informing the Board office or having an inspection of the new location. The pharmacist consultant had discussed this and has a policy regarding the procedure for relocating, which was not followed. Alleged violation of law: KRS 315.035(5). CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing. Greg Naseman seconded, and it passed unanimously.

Case No. 05-0017B. Pharmacist consultant for a special limited medical gas pharmacy permit holder allegedly allowed the permit holder to change locations without informing the Board office or having an inspection of the new location. The pharmacist consultant had discussed this and has a policy regarding the procedure for relocating, which was not followed. Alleged violation of law: 201 KAR 2:205Section 2(3)(e). CRC Recommendation: Case is dismissed. Greg Naseman seconded, and it passed unanimously.

Case No. 05-0018A. Pharmacy permit holder allegedly engaged in unprofessional conduct by refusing to refund a patient's money for medicine that was not received by the patient and allegedly sold a misbranded product as the result of a medication error. The Board office received a written complaint. The patient had been charged for a quantity of 60 Allegra 60 mg tablets but only received 30. He was unable to tolerate the medication and asked the pharmacist for a refund on the 30 he did not receive. The pharmacist refused. The investigator discovered that the original prescription was written for Allegra 60 mg, quantity of 30 with 5 refills. It was filled with a quantity of 60 with 5 refills. Alleged violations of law: KRS 315.121 (2)(h) and KRS 217.065(1). CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing. Greg Naseman seconded, and it passed unanimously.

Case No. 05-0018B. Pharmacist allegedly engaged in unprofessional conduct by refusing to refund a patient's money for medicine that was not received by the patient and by committing a medication error. The Board office received a written complaint. The patient had been charged for a quantity of 60 Allegra 60 mg tablets but only received 30. He was unable to tolerate the medication and asked the pharmacist for a refund on the 30 he did not receive. The pharmacist refused. The investigator discovered that the original prescription was written for Allegra 60 mg, quantity of 30 with 5 refills. It was filled with a quantity of 60 with 5 refills. Alleged violations of law: KRS 315.121 (2)(d) and (h). CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing. Greg Naseman seconded, and it passed unanimously.

Case No. 05-0019A. Pharmacy permit holder allegedly failed to renew permit in a timely manner and continued to operate. The pharmacy is a "condo pharmacy" that is open for limited hours, with no walk in business, and dispenses approximately four nebulizer medicines. The permit expired on June 30, 2004. The pharmacist-in-charge had signed the renewal application and forwarded it to the corporate office, located out of state. The office received the renewal application, but is unsure of what happened to it. Alleged violation of law: KRS 315.035(1). CRC Recommendation: There is sufficient evidence of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing. Greg Naseman seconded, and it passed unanimously.

Case No. 05-0019B. Pharmacist in charge allegedly failed to renew pharmacy permit in a timely manner and continued to operate. The pharmacy is a "condo pharmacy" that is open for limited hours, with no walk in business, and dispenses approximately four nebulizer medicines. The permit expired on June 30, 2004. The pharmacist-in-charge had signed the renewal application and forwarded it to the corporate office, located out of state. The office received the renewal application, but is unsure of what happened to it. Alleged violation of law: 201 KAR 2:205 Section 2(3)(e). CRC Recommendation: There is sufficient evidence

of a violation to warrant disciplinary action and the Executive Director is directed to attempt resolution through an Agreed Order and, if unsuccessful, to proceed with either an Administrative Conference, if requested, or the issuance of a Formal Complaint and Notice of Hearing. Greg Naseman seconded, and it passed unanimously.

RECIPROCITY/RELICENSURE/INTERNSHIP

Victor Calonico filed an application to reciprocate to Kentucky; however, he had not been employed 1500 hours as a pharmacist within the past year. He is not working as a pharmacist now. Greg Naseman made the motion to deny his request for waiver of the 1500 hours. Becky Cooper seconded, and passed unanimously. Greg Naseman did ask the Executive Director to let Mr. Calonico know he can take the Full Board Examination in July.

Don Cashman asks permission to get his intern license because he had a misdemeanor in 1992. Pete Orzali made a motion that he is allowed to get his intern license. Greg Naseman seconded, and passed unanimously.

Executive Director requested a ruling on what he should bring to the Board and when he had authority to grant exceptions without Board Approval. Greg Naseman made a motion to give the Executive Director the authority to grant this type of waiver, provided the offense is greater than 5 years old and is a minor offense however; anything considered a severe offense would still be brought to the Board. Seconded by Becky Cooper, and passed unanimously. It was asked that any exceptions the Executive Director makes be in his report so the Board could be accountable for them as well.

CORRESPONDENCE/COMMUNICATIONS:

Letter from **Staffing Solutions**: Joe Saylor appeared before the board requesting to share a clean room on a "lease" basis. After a lengthy discussion, Greg Naseman made the motion: seeing no damage to public health and no clear cut legal prohibition, I move that the space be allowed to be shared by considering the clean room a piece of equipment with equally shared responsibility for the up keep of this piece of equipment. Therefore the liability is equally shared. Pete Orzali seconded, Becky Cooper voted against the motion, however it passed.

Letter from **Rachel Chancy**, Pharmacy Group, sent in a request for an exemption from certain equipment requirements. Greg Naseman made the motion to allow her exemption to 1 – 5: class A balance/weights, graduates 1 ml to 250 ml, mortar and pestle, ointment slab, filtration system, and refrigeration. However, there would be no to the exemption for a sink with hot and cold running water in pharmacy. Pete Orzali seconded, and passed unanimously. Executive Director was to write a letter informing her of the Boards decision.

Letter from **Kegler Brown Hill & Ritter** wrote a letter requesting a ruling on developing an after-hours centralized on-call center for its pharmacy operations. Greg Naseman made the motion to respond to this letter as follows: 1. Yes, use professional judgement, 2. No, KY Board of Pharmacy will not require the out of state pharmacist to be licensed in KY. 3. They will need to ask other regulating bodies. Pete Orzali seconded, and passed unanimously.

Letter from **John Campbell** requesting that a KY pharmacist be allowed to repackage prescription drugs provided by the Veterans Administration from bulk lots to unit doses that the nursing home requires. After a lengthy discussion, the board directed Executive Director to write a letter letting Mr. Campbell know why they were denying his request and suggesting he talk with the nursing home.

Letter from **Michael Allen Ingram** request that he be allowed to take the Board Exams without having proof of graduation in by the deadline, because he does not graduate until June 17. Greg Naseman made the motion we grant the exemption for the timing of graduation paperwork requirement. Becky Cooper seconded, and passed unanimously.

Letter from **Caverna Memorial Hospital**, Charles Bryant requested that he be allowed to be dual PIC. Becky Cooper made a motion to approve his request. Pete Orzali seconded, and passed unanimously.

Letter from **Western Baptist Hospital** asking if their generic labeling was correct. Greg Naseman made a motion that the Executive Director respond to Western Baptist Hospital that this is not even an issue, since all the requirements were met. Seconded by Becky Cooper, and passed unanimously.

NABP: The Executive Director reminded everyone that the NABP Meeting is May 21-25 in New Orleans, LA and that the Board handle registration, turn in the form enclosed in your packet today, but everyone is responsible for their own hotel and airline reservations.

LEGISLATION/REGULATIONS: Jan Gould, lobbyist for APSC gave a brief report on legislative activity. The main things that were passed: Senate Bill 107, Senate Bill 63, House Bill 343, tax reform, and a budget.

CONTINUING EDUCATION: Greg Naseman made the motion to accept the continuing education programs as recommended. Seconded by Becky Cooper, and passed unanimously.

FINES: The fines report is enclosed for your information.

OLD BUSINESS: 1. Dr. Mike Samuel: UK Office of Health Research 2. Regulations for telehealth will be ready at the next Board meeting. 3. Business cards will be available at the next Board meeting.

NEW BUSINESS: UTAH School for Alcohol and Substance Abuse is June 19-24, 2005. It is in Salt Lake City. Greg Naseman made the motion that Mike Burlson, Jeff Osman, Patricia Thornbury and Pete Orzali attend the UTAH School, seconded by Becky Cooper, passed unanimously.

ADJOURNMENT: On motion by Mr. Naseman, seconded by Ms. Cooper, and passed unanimously, President Edwards adjourned the meeting at 2:35p.m. The next Board meeting is scheduled to begin at 9:00a.m. on April 13, 2005 at the Board of Pharmacy Office in Frankfort.

Michael Burleson, Executive Director

MB:lha