

KENTUCKY BOARD OF PHARMACY
Transportation Cabinet Auditorium
200 Mero Street
Frankfort, KY 40601
and via Zoom teleconference
Join Zoom Meeting (maximum 100 participants)

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March 22, 2023

10:00 a.m.

Board Meeting Agenda

- I. CALL TO ORDER**
- II. MINUTES**
 - a. January 25, 2023
- III. APPEARANCES**
 - a. Richard Schultz, NAPLEX and MPJE
- IV. INTERAGENCY/PROFESSIONAL ASSOCIATIONS**
- V. BOARD REPORTS**
 - A. Executive Director
 - a. Emars
 - b. Legislative Update
 - c. Location of Future Meetings
 - d. NABP Proposed Resolutions
 - B. General Counsel
 - a. Expungement Request
 - i. 16-0438B
 - C. Deputy Executive Director/Inspection Staff
 - a. NABP Medication Safety Academy Report
- VI. COMMITTEE REPORTS**
 - a. KYPRN

VII. REGULATIONS

- a. 201 KAR 2:380 and 380E Board Authorized Protocols
- b. 201 KAR 2:220 Collaborative Care Agreements
- c. 201 KAR 2:076 Compounding

VIII. APPLICATIONS

- a. MPJE Request
 - i. Tony Jacobs
- b. Technicians
 - i. Robert Sharp
 - ii. Jenna Vogt

IX. CORRESPONDENCE

- a. Baptist Health Retail Pharmacy Lexington P06933 - Request for Expansion
- b. UK Fountain Court Clinic Pharmacy P08210 – Request for Expansion
- c. Dual PIC Request – Benjamin Wesley Huff (P08201 & P08250)
- d. Dual PIC Request – Robert Warford (P07832 & New Pending Permit)
- e. Dual PIC Request – Adam Coffman (P08227 & P07518)
- f. Dual PIC Request- Richard Slone (P06091 & P07140)
- g. Dual PIC Request – Hazelee Vice (P08098 & CP00132)
- h. Off-Site Storage Request – P07867
- i. Off-site Storage Request – P07057

X. OLD BUSINESS

- a. St. Elizabeth Healthcare, Chris Clifton – Pharmacy Kiosks
- b. NABP District 3 – APhA Well-Being Index

XI. NEW BUSINESS

- a. Declaratory Opinion- Role of Pharmacy Technicians in Point of Care Testing
- b. Child Fatality Review Panel Recommendation

XII. CLOSED SESSION

- a. Proposed or Pending Litigation

MINUTES

KENTUCKY BOARD OF PHARMACY

held at
200 Mero Street
Frankfort KY 40601
and via Zoom

BOARD MEETING

March 22, 2023
10:00 a.m.

CALL TO ORDER A regularly scheduled hybrid meeting was held at the Kentucky Transportation Building Auditorium, 200 Mero Street, Frankfort, Kentucky. President John Fuller called the meeting to order at 10:00 a.m.

Members present: John Fuller, Peter Cohron, Jonathan Van Lahr, Meredith Figg, Anthony Tagavi, and Jason Belcher.

Staff present: Christopher Harlow, Executive Director; Eden Davis, General Counsel; Juliana Swiney, Deputy Executive Director; Amanda Harding, Pharmacy and Drug Inspector; Paul Daniels, Pharmacy and Drug Inspector; John Romines, Pharmacy and Drug Inspector; Rhonda Hamilton, Pharmacy and Drug Inspector; Jessica Williams, Pharmacy and Drug Inspector; Nikki Holiday, Executive Assistant.

MINUTES: Executive Director Harlow had three corrections/additions to the minutes from the January meeting. 1) Add the permit numbers for the pharmacies that had requests come before the Board; add in the time Jason Belcher had to leave the meeting; and the results of each voting cycle that led to the appointments for the Advisory Council.

MINUTES: Pete Cohron motioned to approve the minutes with changes from the January 25, 2023, meeting. Jonathan Van Lahr seconded, and the motion passed unanimously.

APPEARANCES

Richard Schultz came before the Board to request permission to sit for the NAPLEX and MPJE. Mr. Schultz tested positive for cocaine while participating in a clinical rotation through Sullivan University College of Pharmacy in 2020 and has not successfully completed the Kentucky Professionals Recovery Network Program.

Action: Anthony Tagavi motioned to allow Mr. Schultz to sit for the exams with the following conditions: He must comply with 1 year of scrupulous check-ins/compliance with KYPRN's testing program, (continue monitoring and check-ins until testing and licensure and then 6 months of scrupulous check-ins/compliance post licensure). Jonathan Van Lahr seconded. Yays: Anthony Tagavi, Jonathan Van Lahr, and Meredith Figg; Nays: Pete Cohron and Jason Belcher. The motion passed 3 – 2.

INTERAGENCY/PROFESSIONAL ASSOCIATIONS

KPhA – Ben Mudd informed the Board that KPhA received a \$10,000 grant from PTCB for advanced training for pharmacy technicians. The intent of the grant is to help provide training for the advanced roles of technicians that the Board has discussed in the past. The Foundation is working with Sullivan University College of Pharmacy to create these trainings, and any guidance from the Board on where this process stands and how to move forward is appreciated.

Session update – SB37 has passed, and we are internally looking at how we will nominate our positions for the Advisory Council.

KPhA Annual Meeting is June 9-11 in Bowling Green.

Retail Federation – Shannon Stiglitz thanked the Board and wanted to voice the support from the Kentucky Retail Federation for amendments to 201 KAR 2:380 to be able to continue the Paxlovid protocol if possible so pharmacists can continue to receive payment from Medicaid.

BOARD REPORTS

Executive Director: Dr. Harlow gave a report on eMars. A new budget will be presented to the Board in November. Currently we are right where we should be in terms of spending. As a reminder, we had two long-term employees retire and we are just now getting their invoices for their sick time payout. We will have a better understanding of where we are in May after the invoices are paid.

Dr. Harlow gave an update on pharmacist licensure after the renewal period. Resident pharmacists = 6110 Non-resident pharmacists = 5354; percentages are the same as the last year. The window is closed for online renewal. Approximately 300 pharmacists went into lapsed status mid-March, most of which are non-resident, and some who retired.

Legislative update – SB 47 medical cannabis; updated language did remove anything related to pharmacists and the Board of Pharmacy. The bill amended 218A to include medical cannabis under the Cabinet for Health and Family Services. SB 37 did pass the Senate and House and has been delivered to the Governor. The bill includes an update to the Advisory Council (AC) that doesn't change the charge of the AC, but more of the composition of the AC. This needs to be discussed today because we do have an existing AC, that has been charged with two topics: white, clear, brown bagging and compliance packaging. No recommendations have come out of the AC on these topics yet. The new AC will replace the existing AC effective in July. The question for the Board is this: Do you see any need for the current AC (with 3 new members who have not yet attended a meeting) to continue to meet? Also, in addition to the current topics, Jonathan Van Lahr would also like to see them look further into the temperature tracking topic.

Action: Jonathan Van Lahr motioned to not have the existing AC meet again and charge the new AC with the same 3 tasks, which are 1) white, clear, brown bagging; 2) compliance packaging; 3) temperature tracking in mail order, in that order. Peter Cohron seconded the motion. The motion passed unanimously.

PREP act – the Federal Emergency ends on May 11, 2023. This means our emergency regulation will no longer be in effect and Pharmacists, pharmacy technicians, and pharmacy interns' vaccination authority will revert to state law. (201 KAR 2:420). There will be additional changes and Board staff will send notification via email blast to pharmacists when the changes take effect, as well as post it on our website.

Non-resident licensure stakeholder group update – meeting in April to have further dialog about update. We are meeting with them to continue the dialog regarding non-resident licensure. We will have more to discuss at the May meeting after we meet with the stakeholder group.

Dr. Harlow asked the Board where they would like to hold future Board meetings. Other agencies are moving back to pre-COVID procedures, and the Board has budget restraints that need to be considered when determining where to hold future meetings.

Action: Anthony Tagavi motioned to hold future meetings at the Board Office conference room. Jonathan Van Lahr seconded the motion. The motion passed.

Chris is attending the NABP Annual meeting as the delegate for KY. He reviewed each NABP resolution that would be addressed and voted on at the meeting. The Board members did not have any issues with any of the resolutions.

General Counsel: Expungement Request – 16-0438B

Action: Jonathan Van Lahr motioned to grant the expungement. Anthony Tagavi seconded the motion and the motion passed.

Deputy Executive Director: Juliana Swiney gave a report on the NABP Medication Safety Academy.

COMMITTEE REPORTS

Pharmacist Recovery Network Committee, Brian Fingerson: Last meeting was on March 24, and there was one anniversary appearance. There are 26 currently being monitored, 21 have Board orders, and 5 are self-reports. There were 2 clients whose periods have expired, and 2 new clients were added. Next meeting is May 9, 2023.

Regulation Committee, Chris Harlow: They will have a report in May. They will be reviewing telework proposed language.

Pharmacy Technician Committee, Chris Harlow: The committee will reconvene in late April or May.

Diversity & Inclusion Task Force, Chris Harlow: They will be reconvening in May, so they will have a report at the next Board meeting.

LEGISLATION/REGULATIONS

201 KAR 2:380 and 380E Board Authorized Protocols: After the regulations went before ARRS, we have been working in good faith with KMA to revise the language for 380. 380E was determined to be deficient by ARRS.

Action on 380: Anthony Tagavi motioned to approve the revised regulation as written. Peter Cohron seconded, and the motion passed.

Action on 380E: Anthony Tagavi motioned to withdraw 380E. Jonathan Van Lahr seconded, and the motion passed.

201 KAR 2:220 Collaborative Care Agreements: This regulation is sunsetting.

Action: Peter Cohron motioned to assign this regulation to the Regulation Committee. Anthony Tagavi seconded, and the motion passed.

201 KAR 2:076 Compounding: The revised language was provided to the Board, and Board staff will post language on the website for public comment. Comments will be brought to the Board at the May meeting.

APPLICATIONS

Technicians: Robert Sharp came before the Board for permission to register as a pharmacy technician due to felony DUI conviction in 2016 in addition to not disclosing the additional 3 DUIs he also had on his record.

Action: Peter Cohron motioned to approve Mr. Sharp's application. Anthony Tagavi seconded, and the motion passed.

MPJE Request: Tony Jacobs came before the Board to request permission to sit for the MPJE. In 2006 he turned himself in for diversion of controlled substances. He has since been through treatment.

Action: Anthony Tagavi motioned to grant Mr. Jacobs permission to sit for the MPJE. Meredith Figg seconded, and the motion passed.

CORRESPONDENCE

P06933, Baptist Health Retail Pharmacy Lexington – Request for expansion

Action: Peter Cohron motioned to approve the request with the provision that the facility is inspected prior to opening. Anthony Tagavi seconded, and the motion passed.

P08210, UK fountain Court Clinic Pharmacy – Request for expansion

Action: Meredith Figg motioned to approve the request. Pete Cohron seconded, Anthony Tagavi abstained, and the motion passed.

P07832 and P08270 (new pending permit), Robert Warford (011845) – Dual PIC request

Action: Peter Cohron motioned to approve the request for 3 months. Meredith Figg seconded, and the motion passed.

Jonathan Van Lahr suggested that when someone submits a dual PIC request because they are opening a new pharmacy, the Executive Director and General Counsel should have the authority to approve them without appearing before the Board.

Action: Peter Cohron motioned to allow the Executive Director, the Inspector for the region, and General Counsel to approve dual PIC requests only for this reason, with the provision that they have a PIC in place prior to opening, and the requests can be approved for up to 90 days. If the request needs to be extended, the Executive Director, Inspector, and General Counsel may renew the request for up to another 90 days. If the request needs to be extended again, it must go before the Board. Jonathan Van Lahr seconded, and the motion passed.

P08227 and P07518, Adam Coffman (015963) – Dual PIC request

Action: Jonathan Van Lahr motioned to approve the request for 3 months. Peter Cohron seconded, and the motion passed.

P06091 and P07140, Richard Slone (008306) – Dual PIC request

Action: Peter Cohron motioned to approve the request until the May Board meeting. Jonathan Van Lahr seconded, and the motion passed.

P0898 and CP00132, Hazelee Vice (017211) – Dual PIC request

Action: Anthony Tagavi motioned to approve the request. Jonathan Van Lahr seconded, and the motion passed.

P07867 – Off-site storage request

Action: Anthony Tagavi motioned to approve the request. Peter Cohron seconded, and the motion passed.

P07057 – Off-site storage request

Action: Jonathan Van Lahr motioned to approve the request. Anthony Tagavi seconded, and the motion passed.

OLD BUSINESS

St. Elizabeth Healthcare, Chris Clifton – Pharmacy Kiosks update. After discussion, the Board determined that research needs to be done regarding this topic and determine what states allow these and the effects they have had on their pharmacy environment.

Action: Peter Cohron motioned to assign this topic to the new Advisory Council for further study. Jonathan Van Lahr seconded, Meredith Figg abstained, and the motion passed.

NABP District 3 – APhA Well-Being Index – update provided in the Board packet for informational purposes.

NEW BUSINESS

Declaratory Opinion – Role of Pharmacy Technician in Point of Care Testing. In 2019 the Board made an opinion on this topic.

Action: Anthony Tagavi motioned to accept the declaratory opinion. Jonathan Van Lahr seconded, and the motion passed.

Discussion about general supervision vs. immediate supervision.

Action: Anthony Tagavi motioned to utilize enforcement discretion not based on a standard of immediate supervision, but on a standard of general supervision as a failure of supervision in this declaratory opinion.

Child Fatality Review Panel Recommendation – when there are recommendations specific to our Board, they are sent to us, and we are required to respond as to how we are meeting these recommendations. In addition to the recommendations provided to us by the panel, and our solutions to those recommendations, the inspection staff has educational materials they distribute to pharmacies when they are doing inspections. The inspection staff will provide their report from 2020 to the Board at the May meeting.

Action: Jonathan Van Lahr motioned to approve/accept the report. Anthony Tagavi seconded, and the motion passed.

CLOSED SESSION

Action: Anthony Tagavi motioned to go into closed session. Jonathan Van Lahr seconded, and the motion passed.

--Closed Session--

Action: Anthony Tagavi motioned to go back into open session. Jonathan Van Lahr seconded, and the motion passed.

Action: Anthony Tagavi made a motion for Board staff to address auto-generation or adjudication of prescriptions via rulemaking to be brought back to the Board meeting in May. Jonathan Van Lahr seconded, and the motion passed.

Action: Anthony Tagavi made a motion that in case 19-0344A, the permit holder is to be fined \$15,000, be on probation for 3 years, with semi-annual inspections to review record keeping and prescription records with the cost to be paid by the respondent, and no use of prescriber agreements perpetually. Peter Cohron seconded, Jason Belcher, John Fuller and Meredith Figg abstained, and the motion passed.

Action: Regarding case 19-0344B, Anthony Tagavi made a motion to impose a \$5,000 fine, 15 hours of law CE to be acquired by December 31, 2023, in addition to the CE that is already required, a 5-year probation, and no use of prescriber agreements perpetually. Peter Cohron seconded, Jason Belcher, John Fuller and Meredith Figg abstained, and the motion passed.

Action: Jonathan Van Lahr motioned to add the allegation of violation of KRS 315.121 (1)(A) to case number 22-0069. Anthony Tagavi seconded, Jason Belcher, Meredith Figg, John Fuller and Peter Cohron abstained, and the motion passed.

ADJOURNMENT

Action: Anthony Tagavi motioned to adjourn. Meredith Figg seconded, and the motion passed unanimously. Meeting adjourned at 2:46 p.m.