

**KENTUCKY BOARD OF PHARMACY**

**via Zoom**

<https://us02web.zoom.us/j/87650974323?pwd=L3YxdTMvVnhDQWNoakJ3bU1RbGIUdz09>

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Meeting ID: 876 5097 4323 Passcode: 545340

**November 30, 2021**

**9:00 a.m.**

**AGENDA**

- I. CALL TO ORDER**
- II. MINUTES**
  - A. October 26, 2021
  - B. November 9, 2021
- III. APPEARANCES**
  - A. Carolyn Basford, President DME Board – Sterile Water Regulation
- IV. INTERAGENCY**
- V. BOARD REPORTS**
  - A. General Counsel
    - 1. Expungement Requests
      - a) 13-0098 B
      - b) 18-0122 C
      - c) 20-0112 C
      - d) 98-0086 B
    - 2. Update on hiring of two new legal positions
  - B. eMars
  - C. ARPN Council Report, Chris Harlow
- VI. COMMITTEE REPORTS**
  - A. Kentucky Professional Recovery Committee, Brian Fingerson
    - 1. Recommendation for student participation
  - B. Advisory Council, Matt Martin

- 1. Continuing Education Recommendation
- C. Regulation Committee, Ralph Bouvette
  - 1. Repository Regulation Draft
- D. Pharmacy Technician Committee, David Figg
- E. Diversity and Inclusion Task Force, Shannon Borden and Crystal Isaacs
- F. Medication Safety Committee, Elizabeth Hess
- G. Case Review Panel, Jill Rhodes

**VII. LEGISLATION**

- A. 201 KAR 2:430, Emergency orders and hearings
  - 1. Comment from Attorney General
  - 2. Review of regulation with proposed edits
- B. Pharmacy Closures ereg

**VIII. CORRESPONDENCE**

- A. Archway Apothecary – Non-resident Pharmacy Permit Waiver Request
- B. Morgan Bryson, NC2573 and pending application – Dual PIC Request

**IX. OLD BUSINESS**

- A. Neil Medical Group – SMART PASS
- B. Electronic Final Product Verification, RxCrossroads
- C. Hiring Process for Executive Director
- D. CVS, Kentucky stores with virtual verification

**X. NEW BUSINESS**

- A. 2022 Board Calendar
- B. MPJE Exam
- C. Continuing Education for Approval, 21-38
- D. Advisory Council Applications – One vacancy [Consultant Member]
  - 1. Cole Wendeln
  - 2. J. Todd Carter
  - 3. John Tyler Stevens
  - 4. Julie Anderson
  - 5. Matt Carrico
  - 6. Natasha Thompson
  - 7. Ross Goetz
- E. PRNC Applications – Two vacancies [Consumer Member and Pharmacist Member]
  - 1. Anthony Cwalina
  - 2. Cole Wendeln
  - 3. Durran Taylor
  - 4. Gavin Howington
  - 5. John Tyler Stevens
  - 6. J. Todd Carter
  - 7. Krystal Flaherty
  - 8. Natasha Thompson
  - 9. Ross Goetz
  - 10. Sarah Blevins
  - 11. Susan Martin
  - 12. Lisa Bradley

13. Stuart Lemarr - Consumer

F. Professional Development Committee Appointment – KSHP member

**XII. CLOSED SESSION**

A. Review of Executive Director Applications

*ATTENTION: A portion of the meeting may be held in closed/executive session for the purpose of (1) deliberating as a judicial or quasi-judicial body regarding the final adjudication of the Board's pending cases; (2) 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; and (3) Discussions or hearings which might lead to the appointment, discipline, or dismissal of an individual employee, member, or student without restricting that employee's, member's, or student's right to a public hearing if requested. 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)(f)KRS 61.810(1)(k). Following discussion and deliberation, any and all action will be taken in open/public session.*

## MINUTES

### KENTUCKY BOARD OF PHARMACY

held at

125 Holmes Street

Frankfort KY 40601

via teleconference

### BOARD MEETING

November 30, 2021

**CALL TO ORDER** A regularly scheduled meeting was held via teleconference from the Kentucky Board of Pharmacy, Frankfort, Kentucky. President Rhodes called the meeting to order on November 30, 2021 at 9:00 a.m.

Members: Jill Rhodes; Peter Cohron; Jonathan Van Lahr; John Fuller and Chris Harlow. Absent: Jody Forgy.

Staff: Larry Hadley, Executive Director; Eden Davis, General Counsel; Amanda Harding, Pharmacy and Drug Inspector, Jessica Williams, Pharmacy and Drug Inspector and Darla Sayre, Executive Staff Advisor.

Guest: Kortney Brown, KHSP.

**MINUTES** Jonathan Van Lahr moved to accept the minutes from the October 26, 2021 and November 9, 2021 meetings. Peter Cohron seconded, and the motion passed unanimously.

**APPEARANCE – Carolyn Basford, Kentucky Board of Durable Medical Equipment** Carolyn Basford appeared before the Board requesting the Board to consider amending their regulations or statutes to allow DME suppliers to supply sterile water and saline to patients for use in durable medical equipment. Eden Davis advised that the development of a Special Limited Pharmacy Permit similar to 201 KAR 2:225 would be the best option to accomplish this.

**Action:** Peter Cohron moved to direct Eden Davis work with the DME Board to develop a draft regulation to be presented to the Board at the March 2022 Board meeting. John Fuller seconded, and the motion passed unanimously.

### INTERAGENCY

**Kentucky Pharmacist Association** Ben Mudd thanked Jill Rhodes for her service as President during 2021.

### BOARD REPORTS

**General Counsel** Eden Davis presented the following expungement requests for Board approval:

1. 13-0098 B – Peter Cohron moved to approve this request. Chris Harlow seconded, and the motion passed unanimously.

2. 18-0122 C – Peter Cohron moved to approve this request. Jonathan Van Lahr seconded, and the motion passed unanimously.
3. 98-0086 B – Peter Cohron moved to approve this request. Jonathan Van Lahr seconded, and the motion passed unanimously.
4. 20-0112 C – The Board determined that this case did not meet the criteria for expungement [three years from occurrence]. Larry Hadley provided a summary of the case resolution. Chris Harlow moved to vacate the original Agreed Order, issue a Letter of Reprimand and refund the administrative fine of \$1,000. John Fuller seconded, and the motion passed unanimously.

Eden Davis informed the Board that the two new legal positions approved would-be put-on hold until the next fiscal year due to budgetary concerns. The hiring process can begin next spring with July 1, 2022 as the effective date of employment.

**APRN COUNCIL** Chris Harlow reported the APRN Council discussed telehealth and regenerative medicine including stem cell injections.

#### **COMMITTEE REPORTS**

**Kentucky Professional Recovery Network** Brian Fingerson presented the final recommendation of the committee for student participation in the program. There are three options for a student or graduate intern to utilize the PRN Program:

1. A self-referral, that is they admit to a problem with substance use and wish to seek help
2. A referral based upon a diagnosis of Substance Use Disorder (SUD) by a licensed professional
3. An order of the Board of Pharmacy

The PRN Committee is available for consultation at any point in this process. Reporting of arrests/convictions to the Board of Pharmacy is the responsibility of the student/intern.

**Action:** Chris Harlow moved to approve the recommendation and add to the Policy and Procedures Manual. Jonathan Van Lahr seconded, and the motion passed unanimously.

**Advisory Council** No information to report. President Rhodes thanked Matt Martin for his service on the Advisory Council. Dr. Martin has served as chair. His term expires December 31, 2021.

**Regulation Committee** Ralph Bouvette presented to the Board the most recent draft of the Repository regulation after the committee received comments from the Board at the October meeting. During the review, the Board corrected omission errors, requested the addition of an ineligible drug list and the inclusion of language prohibiting a pharmacy from charging a handling fee.

**Actions:** Jonathan Van Lahr moved to approve as amended and direct Eden Davis to submit to LRC. Peter Cohron seconded, and the motion passed unanimously.

Peter Cohron moved to direct Board staff to post a list of authorized recipient pharmacies on the website once available. Jonathan Van Lahr seconded, and the motion passed unanimously.

**Pharmacy Technician Committee** David Figg reported the committee continues to work on enhanced pharmacy technician duties in regard to training and what other states are utilizing.

**Diversity and Inclusion Task Force** No information to report.

**Medication Safety Committee** No information to report.

**Case Review Panel** President Rhodes advised that her term on the Board ends December 31, 2021. Jonathan Van Lahr volunteered to serve on the Case Review Panel during January until a permanent replacement is named at the January Board meeting.

**Action:** Peter Cohron moved to appoint Jonathan Van Lahr to serve on the January Case Review Panel. John Fuller seconded, and the motion passed unanimously.

## LEGISLATION

**201 KAR 2:430, Emergency orders and hearings** Eden Davis presented a revised draft of the regulation after comments received from the Attorney General's office.

**Action:** Peter Cohron moved to approve the draft and submit to LRC. Chris Harlow seconded, and the motion passed unanimously.

**Pharmacy Closures eReg and 201 KAR 2:106 amendments** Eden Davis provided a draft of an amended 201 KAR 2:106 with eReg filing developed by the sub-committee appointed at the October meeting. The eReg would be effective the date of filing and remain in effect until the amendment process is finalized for the ordinary regulation. Jonathan Van Lahr requested the addition of 'nine (9) aggregate working days within a thirty (30) day period' to Section 1 (4).

**Actions:** Peter Cohron moved to approve the draft as amended and submit to LRC. Jonathan Van Lahr seconded, and the motion passed with John Fuller abstaining.

Chris Harlow moved to add a review of the Emergency Suspensions of Regulations to the January Board meeting Agenda. Peter Cohron seconded, and the motion passed unanimously.

## CORRESPONDENCE

### Actions:

**Archway Apothecary, Non-resident Pharmacy Permit Waiver** Chris Harlow moved to deny this request. Peter Cohron seconded, and the motion passed unanimously.

**Morgan Bryson, NC2573 and Pending Application, Dual PIC Request** Chris Harlow moved to deny this request. Peter Cohron seconded, and the motion passed unanimously. The Board requests Morgan Bryson to appear at the January Board meeting for further information.

## OLD BUSINESS

**Neil Medical Group – SMART PASS** Amanda Harding provided the requested review of this process. The Board determined that no action was required.

**Electronic Final Product Verification, RX Crossroads** The Board continued the discussion on this process tabled from the October meeting. Jonathan Van Lahr stated that it appears the Board is being requested to redefine ‘final verification’ due to advanced technology.

**Action:** Peter Cohron moved to have the Advisory Council review the final verification process both physically and electronically. This is a priority request with an opinion and/or recommendations to be presented at the January Board meeting. Chris Harlow seconded, and the motion passed unanimously. The Board will allow this approved process at RX Crossroads to continue while this issue is under review.

**CVS, Virtual Verification** The Board determined this request falls into the final verification category that will be under review by the Advisory Council. Larry Hadley will request CVS provide the requested information from the September meeting. Information to be provided:

- Workflow overview of prescriptions filled via automation,
- Medication Safety data from pilot program,
- Results of the internal pilot studies conducted by CVS, and
- Legal review by General Counsel on the legality of process in Kentucky law.

**Action:** Chris Harlow moved to direct Eden Davis draft and send a cease and desist letter prohibiting the use of virtual verification in Kentucky pharmacies until the Board has made their decision. Peter Cohron seconded, and the motion passed unanimously.

**Hiring Committee for Executive Director** Jill Rhodes requested the inclusion of incoming Board members, Meredith Figg and Jason Belcher to the hiring committee. The hiring committee established at the last Board meeting was Jill Rhodes, Peter Cohron, Jody Forgy, John Fuller, Jonathan Van Lahr, Larry Hadley and Eden Davis.

**Action:** Peter Cohron moved to include the incoming Board members to the hiring committee. John Fuller seconded, and the motion passed unanimously with Chris Harlow abstaining.

## **NEW BUSINESS**

**2022 Board Calendar** Peter Cohron presented a proposed 2022 calendar for Board meetings and Case Review Panel meetings.

**Action:** Peter Cohron moved to approve the calendar with changes made during the meeting. Jonathan Van Lahr seconded, and the motion passed unanimously.

2022 Board meeting calendar – 9:00 a.m. for virtual, 10:00 a.m. for in-person

- January 26
- February 23
- March 30

- June 1
- July 27
- August 31
- October 26
- November 30

Case Review Panel Calendar - 9:00 a.m. for virtual, 10:00 a.m. for in-person

- January 19
- February 9
- March 23
- May 18
- July 20
- August 24
- October 19
- November 22

**MPJE/NAPLEX Exams** Jill Rhodes proposed setting testing attempts for the NAPLEX and MPJE exams required for pharmacist licensure. There are currently no regulatory limits to the amount of testing attempts per applicant. Peter Cohron provided data from other states on this issue. He proposed the Board; establish limits, require remedial measures for additional attempts and determine if this would require regulatory amendments or Board policy. Eden Davis advised that these requirements must be regulatory to be enforceable.

**Action:** Jonathan Van Lahr moved to direct Eden Davis to provide an amended 201 KAR 2:020 draft at the January meeting. Amended language:

NAPLEX: After three failed attempts of the NAPLEX, the applicant must complete the NAPLEX refresher course and submit proof of completion to the Board office. Applicant will then be eligible to sit for the exam two additional times. Applicant has a lifetime limit of five attempts to pass the exam.

MPJE: After three failed attempts of the MPJE, the applicant must complete an approved law review course or five hours of continuing education on pharmacy law. Applicant must submit proof of completion to the Board office. Applicant will then be eligible to sit for the exam two additional times. Applicant has a lifetime limit of five attempts to pass the exam.

Peter Cohron seconded, and the motion passed unanimously.

**Advisory Council** President Rhodes requested Board members submit their votes for the appointment a member by using Chat or verbally. Votes received [majority indicated with an asterisk]:

- Matt Carrico – 3\*
- Natasha Thompson - 1
- J. Todd Carter - 1



**Action:** Jonathan Van Lahr moved to appoint Matt Carrico as a member of the Advisory Council. Peter Cohron seconded, and the motion passed unanimously.

**Pharmacist Recovery Network Committee** President Rhodes requested Board members submit their votes for the appointment the pharmacist member by using Chat or verbally. Votes received [majority indicated with an asterisk]:

- Ross Goetz – 1
- Lisa Bradley – 2\*
- J. Todd Carter – 1
- Sarah Blevins – 1

President Rhodes advised the Board that there was only one consumer application submitted, Stuart Lemarr.

**Action:** Peter Cohron moved to appoint Lisa Bradley for a second term on the PRN Committee and Stuart Lemarr as the consumer member. Jonathan Van Lahr seconded, and the motion passed unanimously.

**Continuous Professional Development Committee Appointment** President Rhodes stated the representative for this committee from KSHP is Craig Beavers.

**Action:** Peter Cohron moved to approve this appointment. Chris Harlow seconded, and the motion passed unanimously.

President Rhodes announced that Jody Forgy's term on the Board would end December 31, 2021. She thanked Mr. Forgy for his dedication and service to the Board.

Chris Harlow recused and was placed in the waiting room.

**CLOSED SESSION** Peter Cohron moved to go into closed session and to include the hiring committee of the Board of Pharmacy for the Executive Director position along with Darla Sayre entered closed session pursuant to KRS 61.810(f), for a discussion of the specific candidates that applied for the position of Executive Director with the Kentucky Board of Pharmacy. John Fuller seconded, and the motion passed unanimously. Peter Cohron moved to come out of closed session after a discussion of the specific candidates that applied for the position of Executive Director with the Kentucky Board of Pharmacy. John Fuller seconded, and the motion passed unanimously. President Rhodes then stated that during closed session, only the specific candidates that applied for the Executive Director position and who was to be interviewed was discussed. No formal action was taken in closed session.

**Action:** Jonathan Van Lahr moved for the hiring committee to conduct interviews for the Executive Director position on December 15, 2021 via a Special Called Board meeting. Peter Cohron seconded, and the motion passed unanimously.

Chris Harlow returned to the meeting.

**ADJOURNMENT** Peter Cohron moved to adjourn. Jonathan Van Lahr seconded, and the motion passed unanimously. President Rhodes adjourned the meeting at 3:14 p.m.