



Paul R. LePage
Governor

STATE OF MAINE
DEPARTMENT OF PROFESSIONAL
AND FINANCIAL REGULATION
OFFICE OF PROFESSIONAL AND OCCUPATIONAL REGULATION
35 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0035

Anne L. Head, Esq.
Commissioner

Geraldine L. Betts
Administrator

Maine Board of Pharmacy
Minutes of August 6, 2015 Board Meeting

CALL TO ORDER

President Bruno called the meeting to order at 8:00 a.m.

MEMBERS PRESENT

Joseph Bruno, R.Ph., Pharmacist, President
Donald Watson, R.Ph., Hospital Pharmacist, Vice President
Kevin Holland, R.Ph., Independent Pharmacist
Bradley Hamilton, R.Ph., Chain Pharmacist
Shane Savage, R.Ph., Independent Pharmacist, Complaint Officer
Kirsten Martin, Public Member
Joseph Pietroski, Public Member

STAFF PRESENT

Andrew Black, AAG, Board Attorney
Kelly McLaughlin, Senior Consumer Assistance Specialist
Thomas Avery, Chief Field Investigator
Jessica Gowell, Planning & Research Associate I

OLD BUSINESS

Review and approval of the minutes of June 25, 2015

In a motion by Savage, seconded by Pietroski, to accept the minutes of June 25, 2015 and as presented. Motion carried.

NEW BUSINESS

Presentation, Donna Horn – Independent Healthcare Monitors

The presentation was rescheduled to a future meeting.

Rulemaking- Chapter 34-A Licensure of Retail Suppliers of Prescription Medical Devices Update

In a motion by Pietroski, seconded by Savage, to accept and adopt the position statement on the proposed rule Chapter 34-A Licensure of Retail Suppliers of Prescription Medical Devices.
Motion carried.

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OFFICE LOCATION: GARDINER ANNEX
76 NORTHERN AVENUE, GARDINER, MAINE

Rulemaking – Chapter 39 Collaborative Drug Therapy Management – Review and Action on Rule Proposal

In a motion by Savage, seconded by Hamilton, to accept the draft rule proposal as presented. Motion carried.

Review and approve Decision and Order – ProCare Pharmacy, LLC. – 2014 PHA 10567

In a motion by Savage seconded by Martin, to accept the Decision and Order in the matter of ProCare Pharmacy, LLC, 2014 PHA 10567 as amended. Motion carried.

Complaint Committee’s Report

2015 PHA 11088

In a motion by Watson, seconded by Martin, to schedule 2015 PHA 11088 for an adjudicatory hearing and to offer a consent agreement to include the following: 1) Admission to violation of 10 M.R.S. § 8003(5-A)(A)(1); 2) Warning; and 3) \$500.00 fine. Motion carried. Complaint Officer recused.

2015 PHA 11136

In a motion by Martin, seconded by Pietroski, to dismiss 2015 PHA 11136 with no evidence of a violation of the Board’s Laws and Rules. Motion carried, Complaint Officer recused.

2015 PHA 10993

In a motion by Pietroski, seconded by Holland, to dismiss 2015 PHA 10993 with no evidence of a violation of the Board’s Laws and Rules. Motion carried, Complaint Officer recused.

2015 PHA 11163

In a motion by Pietroski, seconded by Holland, to schedule 2015 PHA 11163 for an adjudicatory hearing and to offer a consent agreement to include the following: 1) Admission to violation of 10 M.R.S. § 8003(5-A)(A)(5), and Board Rules Chapter 13 § 3 (2)(E); 2) Warning; and 3) \$250.00 fine. Motion carried, Complaint Officer recused.

2015 PHA 11164

In a motion by Martin, seconded by Watson, to schedule 2015 PHA 11164 for an adjudicatory hearing and to offer a consent agreement to include the following: 1) Admission to violation of 10 M.R.S. § 8003(5-A)(A)(5); Board Rules Chapter 13 § 3(2)(E); and Board Rules Chapter 8 §6; 2) Warning; and 3) \$500.00 fine. Motion carried, Complaint Officer recused.

2015 PHA 10942

In a motion by Martin, seconded by Watson, to schedule 2015 PHA 10942 for an adjudicatory hearing and to offer a consent agreement to include the following: 1) Admission to violation of 10 M.R.S. § 8003(5-A)(A)(4) and (5); 32 M.R.S. § 13753(1)(C) and Board Rules Chapter 13 § 3(1); 2) Censure; and 3) \$5,250.00 fine. Motion carried, Complaint Officer recused.

2015 PHA 10855

In a motion by Holland, seconded by Watson to table this complaint for further information. Motion carried, Complaint Officer recused.

2015 PHA 11076

In a motion by Holland, seconded by Martin, to schedule 2015 PHA 11076 for an adjudicatory hearing and to offer a consent agreement to include the following: 1) Admission to violation of 10 M.R.S. § 8003(5-A)(A)(5), and Board Rules Chapter 13 § 6(6); 2) Warning; and 3) \$1,500.00 fine. Motion carried, Complaint Officer recused.

2015 PHA 11077

In a motion by Pietroski, seconded by Martin, to schedule 2015 PHA 11077 for an adjudicatory hearing and to offer a consent agreement to include the following: 1) Admission to violation of 10 M.R.S. § 8003(5-A)(A)(5), and Board Rules Chapter 13 § 6(6); 2) Warning; and 3) \$1,500.00 fine. Motion carried, Complaint Officer recused.

2015 PHA 11268

In a motion by Watson, seconded by Martin, to schedule 2015 PHA 11268 for an adjudicatory hearing and to offer a consent agreement to include the following: 1) Admission to violation of 32 M.R.S. § 13742-A(1)(C) and Board Rules Chapter 30 § 1(15); 2) Censure; 3) \$1,000.00 fine and 4) Successful completion of six (6) hours of Board-approved Continuing Education in the prevention of prescription errors and misfills. These continuing education credits will not count towards the continuing education required for re-licensure and shall be completed and proof of completion submitted to the Board within ninety (90) days of the final execution of the Consent Agreement. Motion carried, Complaint Officer recused.

2015 PHA 11242

In a motion by Watson, seconded by Martin, to schedule 2015 PHA 11242 for an adjudicatory hearing and to offer a consent agreement to include the following: 1) Admission to violation of 32 M.R.S. § 13742-A(1)(C) and Board Rules Chapter 30 § 1(15); 2) Warning; 3) \$250.00 fine and 4) Successful completion of three (3) hours of Board-approved Continuing Education in the prevention of prescription errors and misfills. These continuing education credits will not count towards the continuing education required for re-licensure and shall be completed and proof of completion submitted to the Board within ninety (90) days of the final execution of the Consent Agreement. Motion carried, Complaint Officer recused.

2015 PHA 11322

In a motion by Pietroski, seconded by Holland, to impose an immediate suspension of license in the matter of 2015 PHA 11322 for a period not to exceed thirty (30) days pursuant to 5 M.R.S. § 10004 (3); The Board found that continued licensure will pose an immediate jeopardy to the public and failure to suspend the license will fail to adequately respond to the known risk. Motion carried, Complaint Officer recused.

In a motion by Pietroski, seconded by Holland, that sufficient evidence exists to schedule 2015 PHA 11322 for an adjudicatory hearing and to offer a consent agreement to include the following: 1) Admission to violation of 10 M.R.S. § 8003(5-A)(A)(5) and Board Rules Chapter 30 Section 1(17); 2) Reprimand; 3) Revocation; and 4) Provide a copy of the Consent Agreement to any current employer or prospective employer related to the practice of pharmacy. Motion carried, Complaint Officer recused.

2015 PHA 10968

In a motion by Martin, seconded by Pietroski, to schedule 2015 PHA 109868 for an adjudicatory hearing and to offer a consent agreement to include the following: 1) Admission to violation of 10 M.R.S. §§ 8003(5-A)(A)(4) and (5); 32 M.R.S. § 13753(1)(C), and Board Rules Chapter 11 § 3; 2) Warning; and 3) \$28,000.00 fine. Motion carried, Complaint Officer recused.

2014 PHA 10703

In a motion by Pietroski, seconded by Martin, to accept the proposed modification to the consent agreement offer in the matter of 2014 PHA 10703 which extends the acceptance date in paragraph 7 to September 1, 2015, and modifies the discipline to a “warning” in Section 9(a). Motion carried, Complaint Officer recused.

2013 PHA 9622

Savage and Bruno recused and left the room.

In a motion by Holland, seconded by Martin, to terminate all the term and conditions of the consent agreement in the matter of 2013 PHA 9622. Motion carried, Savage and Bruno recused.

2015 PHA 11406

In a motion by Hamilton, seconded by Watson to table 2015 PHA 11406 for further investigation. Motion carried, Complaint Officer recused.

Board Action on Reinstatement Application

Mark Larrabee, PR4932

In a motion by Savage, seconded by Hamilton, to accept staff’s recommendation and grant licensure to Mark Larrabee, PR4932, as presented. Motion carried.

Board Action on Applications

Deron Bruce, PT60011879

In a motion by Pietroski, seconded by Holland, to accept staff’s recommendation and grant licensure to Deron Bruce, PT60011879, as presented. Motion carried.

Jordan Heath, PT60011554

In a motion by Hamilton, seconded by Holland, to accept staff’s recommendation and issue a preliminary denial of the pharmacy technician application of Jordan Heath, PT60011554, and offer a Consent Agreement to include: 1) Admission to 32 MRSA § 13742-A(1)(A) ; 2) Obtain a substance abuse evaluation at the applicant’s expense from a Board pre-approved Licensed Alcohol and Drug Counselor or other qualified professional and submit the evaluation to the Board within thirty (30) days of signing the consent agreement, the Board will review the evaluation and revisit this application once received and 3) Promptly provide a copy of the consent agreement to all current and prospective employers related to the practice of pharmacy. Motion carried.

Shannon McCartney, PT60011790

In a motion by Pietroski, seconded by Holland, to accept staff’s recommendation and grant licensure to Shannon McCartney, PT60011790, as presented. Motion carried.

Wes McFadden, PT60011896

Savage recused and left the room.

In a motion by Pietroski, seconded by Hamilton, to accept staff's recommendation and issue a preliminary denial of the pharmacy technician application of Wes McFadden, PT60011896, and offer a Consent Agreement to include: 1) Admission to 32 M.R.S. § 13742-A(1)(A) and 10 M.R.S. § 8003(5-A)(3); 2) Obtain a substance abuse evaluation at the applicant's expense from a Board pre-approved Licensed Alcohol and Drug Counselor or other qualified professional and submit the evaluation to the Board within thirty (30) days of signing the consent agreement, the Board will review the evaluation and revisit this application once received and 3) Promptly provide a copy of the consent agreement to all current and prospective employers related to the practice of pharmacy. Motion carried, Savage recused.

Heidi Packard, PT60010962

In a motion by Watson, seconded by Martin, to accept staff's recommendation and grant licensure to Heidi Packard, PT60010962, as presented. Motion carried.

Gerard Turmelle, PT60011703

In a motion by Martin, seconded by Hamilton, to accept staff's recommendation and issue a preliminary denial of the pharmacy technician application of Gerard Turmelle, PT60011703, and offer a Consent Agreement to include: 1) Admission to violation of 10 M.R.S. § 8003(5-A)(A)(1); 2) Warning; and 3) \$250.00 fine. Motion carried.

Owens & Minor Distribution, WH70001793, WH70002228, WH70002397, WH70002414

In a motion by Holland, seconded by Martin, to accept staff's recommendation and issue a preliminary denial of the wholesaler initial applications of Owen & Minor Distribution WH70002228, WH70002397, WH70002414 and the renewal applications of Owens & Minor Distribution WH70001641 and WH70001793, and offer a Consent Agreement to include: 1) Admission to violation of 10 M.R.S. § 8003(5-A)(A)(1); 10 M.R.S. § 8003-G(2)(B) and 10 M.R.S. § 8003(5-A)(A)(4); 2) Reprimand; and 3) \$1,250.00 fine. Motion carried.

Discovery House Central Maine & Joseph Norton, OTP50001535, PIC29534

Savage recused and left the room.

In a motion by Martin, seconded by Pietroski, to accept staff's recommendation and issue a preliminary denial of the Opioid Treatment Program of Discovery House Central Maine, OTP50001535, and offer a Consent Agreement to include: 1) Admission to violation of 10 M.R.S. § 8003(5-A)(A)(1), 2) Reprimand; and 3) \$250.00 fine. Motion carried, Savage recused.

In a motion by Martin, seconded by Pietroski, to accept staff's recommendation and issue a preliminary denial of the Pharmacist In Charge license of Joseph Norton, PIC29534, and offer a Consent Agreement to include: 1) Admission to violation of 10 M.R.S. § 8003(5-A)(A)(1), 2) Reprimand; and 3) \$500.00 fine. Motion carried, Savage recused.

Board Action of Waiver Request

Aroostook Medical Center, HOS49

In a motion by Holland, seconded by Watson, to grant the waiver request of Board Rule Chapter 20 Subchapter 2 Section 4, Subsection 1 (C): Access to Automated Pharmacy System, Health

Care Professional; Corrections Personnel; Professionals who may remove drugs from dispensing machines at point of care locations; and Section 11 (1) - Video Surveillance. Motion carried.

Cary Medical Center, HOS22

In a motion by Holland, seconded by Watson, to grant the waiver request of Board Rule Chapter 20 Subchapter 2 Section 4, Subsection 1 (C): Access to Automated Pharmacy System, Health Care Professional; Corrections Personnel; Professionals who may remove drugs from dispensing machines at point of care locations; Section 11 (1) - Video Surveillance; and Section 11(2) 2 Way Communication. Motion carried.

Calais Regional Hospital, HOS35

In a motion by Holland, seconded by Hamilton, to grant the waiver request of Board Rule Chapter 20 Subchapter 2 Section 4, Subsection 1 (C): Access to Automated Pharmacy System, Health Care Professional; Corrections Personnel; Professionals who may remove drugs from dispensing machines at point of care locations; Section 8 - Dispensing of Drugs; Section 11 (1) - Video Surveillance; and Section 11(2) 2 Way Communication. Motion carried.

Northern Maine Medical Center, HOS14

In a motion by Martin, seconded by Hamilton, to grant the waiver request of Board Rule Chapter 20 Subchapter 2 Section 4, Subsection 1 (C): Access to Automated Pharmacy System, Health Care Professional; Corrections Personnel; Professionals who may remove drugs from dispensing machines at point of care locations; Section 5 Verification of Prescription Medication to be Dispensed by an Automated Pharmacy System and Section 7 Insertion of Canisters, Pockets or Containers into Dispensing Machine; Section 6, Transport and Delivery; Section 8 - Dispensing of Drugs; Section 11 (1) - Video Surveillance; and Section 11(2) 2 Way Communication. Motion carried.

Franklin Memorial Hospital, HOS17

In a motion by Martin, seconded by Hamilton, to table action on the waiver request and to obtain more information as the request did not provide sufficient detail. Motion carried.

Correspondences

Brian Marden, Maine Medical Center; Guidance/Interpretation on "Direct Supervision" of Registered Pharmacy Technicians.

The Board discussed the correspondence and agreed that currently the Laws and Rules would not allow such practice.

Kennebunk Veterinary Hospital, Legal access to stock bottles of compounded medications.

The Board discussed the correspondence and stated as described this practice is against federal Law.

Administrator's Report

Administrator Betts updated the Board on the Request for Proposals for a Pharmacist Examiner/Consultant Services; this will be published in several newspapers within the next two (2) weeks. This position will assist with technical matters including but not limited to pharmacy inspections, complaints, inventory audits, etc.

Travel – NABP-AACP District 1 & II Meeting September 24-26, 2015

The Board was instructed if any member is interested in attending to email Administrator Betts.

Public Comments

None

ADJOURN

There being no further business Martin, motioned to adjourn at 10:00 a.m. seconded by Holland.
Motion carried.