



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 4, 2016 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., Complaint Officer  
Shane Savage, R.Ph., Independent Pharmacist  
Bradley Hamilton, R.Ph., Chain Pharmacist  
Kirsten Martin, Public Member

**STAFF PRESENT**

Andrew Black, AAG, Board Attorney  
Geraldine Betts, Board Administrator  
Kelly McLaughlin, Comprehensive Health Planner I  
Thomas Avery, Chief Field Investigator  
Jessica Gowell, Senior Consumer Assistant Specialist

**OLD BUSINESS**

*Review and approval of the amended minutes of May 5, 2016*

In a motion by Savage, seconded by Hamilton, to accept the amended minutes of May 5, 2016 as presented. Motion carried.

*Review and approval of the minutes of June 2, 2016*

In a motion by Hamilton, seconded by Watson, to accept the minutes of June 2, 2016 as presented. Motion carried.

**NEW BUSINESS**

**Adjudicatory Hearing –Paul Preston – 2015 PHA 11322**

In a motion by Martin, Seconded by Hamilton, to grant licensure with a period of probation for ten (10) years with the following conditions: 1) Provide a copy of the Decision and Order to all present and future employers; 2) Cannot serve as a preceptor or a pharmacist in charge; 3) Must

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

maintain the current monitoring agreements with the Medical Professionals Health Program, through July 21, 2018, which calls for toxicology screening three (3) times per month while working in the field of pharmacy; 4) Beginning with the start date of employment in the field of pharmacy, the licensee must have a preceptor, approved by the Board, for a period of six (6) months, who must submit quarterly reports to the Board. After six (6) months of employment, the licensee must have a workplace monitor, approved by the Board, for an additional period of six (6) months, who must submit quarterly reports to the Board; and 5) May work no more than an average of forty (40) hours per week over a period of two (2) weeks, for a period of one (1) year from the start date of employment in the field of pharmacy. The Board further recommended that the licensee's care providers coordinate his care. Motion carried.

### **Adjudicatory Hearing –Paul Corrado – 2016 PHA 12179**

*Bruno and Savage recused and left the room.*

In a motion by Hamilton, seconded by Martin to find the licensee in violation of 10 M.R.S. § 8003(5-A)(A)(9). Motion carried. Savage and Bruno recused.

In a motion by Martin, seconded by Hamilton to uphold the preliminary denial. Motion carried. Savage and Bruno recused.

### **Complaint Committee's Report**

*2016 PHA 12448*

*Hamilton recused and left the room.*

In a motion by Savage, seconded by Martin, to impose an immediate suspension of license in the matter of 2016 PHA 12448 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 and Hamilton recused.

In a motion by Savage, seconded by Martin, that sufficient evidence exists to schedule 2016 PHA 12448 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 Section 1(17); 2) Reprimand; and 3) Revocation. Motion carried, Complaint Officer and Hamilton recused.

*2016 PHA 12449*

In a motion by Martin, seconded by Savage, to impose an immediate suspension of license in the matter of 2016 PHA 12449 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 Martin, seconded by Savage, that sufficient evidence exists to schedule 2016 PHA 12449 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 Section 1(17); 2) Reprimand; and 3) Revocation. Motion carried, Complaint Officer recused.

*2015 PHA 11547*

In a motion by Hamilton, seconded by Martin, that sufficient evidence exists to schedule 2015 PHA 11547 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 11, § 3; 2) Warning; and 3) \$1,000.00 fine. Motion carried, Complaint Officer Savage and Holland recused.

*2015 PHA 11746*

In a motion by Martin, seconded by Hamilton, that sufficient evidence exists to schedule 2015 PHA 11746 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 11, § 3; 2) Warning; and 3) \$1,500.00 fine. Motion carried, Complaint Officer Savage and Holland recused.

*2015 PHA 11744*

In a motion by Martin, seconded by Watson, that sufficient evidence exists to schedule 2015 PHA 11744 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 11, § 3; 2) Warning; and 3) \$3,000.00 fine. Motion carried, Complaint Officer Savage and Holland recused.

*2015 PHA 11747*

In a motion by Hamilton, seconded by Martin, that sufficient evidence exists to schedule 2015 PHA 11747 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 11, § 3; 2) Warning; and 3) \$1,000.00 fine. Motion carried, Complaint Officer Savage and Holland recused.

*2015 PHA 11740*

In a motion by Hamilton, seconded by Martin, that sufficient evidence exists to schedule 2015 PHA 11740 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 11, § 3; 2) Warning; and 3) \$1,500.00 fine. Motion carried, Complaint Officer Savage and Holland recused.

*2015 PHA 11742*

In a motion by Watson, seconded by Hamilton, that sufficient evidence exists to schedule 2015 PHA 11742 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 11, § 3; 2) Warning; and 3) \$1,000.00 fine. Motion carried, Complaint Officer Savage and Holland recused.

*2015 PHA 11754*

In a motion by Hamilton, seconded by Martin, that sufficient evidence exists to schedule 2015 PHA 11754 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

11, § 3; 2) Warning; and 3) \$750.00 fine. Motion carried, Complaint Officer Savage and Holland recused.

*2015 PHA 11834*

In a motion by Martin, seconded by Hamilton, that sufficient evidence exists to schedule 2015 PHA 11834 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) and (5) and Board Rules Chapter 11, § 3; 2) Warning; and 3) \$3,000.00 fine. Motion carried, Complaint Officer Savage and Holland recused.

*2015 PHA 11537*

In a motion by Martin, seconded by Hamilton, to dismiss 2015 PHA 11537 with no evidence of a violation of the Board's Laws and Rules. Motion carried, Complaint Officers Savage and Holland recused.

*2015 PHA 11745*

In a motion by Martin, seconded by Watson, that sufficient evidence exists to schedule 2015 PHA 11745 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 11, § 3; 2) Warning; and 3) \$750.00 fine. Motion carried, Complaint Officer Savage and Holland recused.

*2015 PHA 11831*

In a motion by Hamilton, seconded by Martin, that sufficient evidence exists to schedule 2015 PHA 11831 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 11, § 3; 2) Warning; and 3) \$1,500.00 fine. Motion carried, Complaint Officer Savage and Holland recused.

*2016 PHA 12270*

In a motion by Savage, seconded by Hamilton, to dismiss 2016 PHA 12270 with no evidence of a violation of the Board's Laws and Rules. Motion carried, Complaint Officer Holland recused.

*2016 PHA 12269*

In a motion by Savage, seconded by Hamilton, to dismiss 2016 PHA 12269 with no evidence of a violation of the Board's Laws and Rules. Motion carried, Complaint Officer Holland recused.

*2016 PHA 12290*

In a motion by Watson, seconded by Martin, that sufficient evidence exists to schedule 2016 PHA 12290 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 Board Rules Chapter 7 § 7-B(1); 2) Reprimand; and 3) \$1,000.00 fine. Motion carried, Complaint Officer Holland recused.

*2016 PHA 12311*

In a motion by Watson, seconded by Martin, to dismiss 2016 PHA 12311 with a Letter of Guidance regarding a pharmacist in charge must notify the Board within ten (10) days after the cessation of employment of any pharmacy technician at the pharmacist in charge's pharmacy. The Letter of Guidance is to remain on file for a period of ten (10) years. Motion carried, Complaint Officer Holland recused.

*2016 PHA 12312*

In a motion by Savage, seconded by Hamilton, to dismiss 2016 PHA 12312 with a Letter of Guidance regarding a pharmacist in charge must notify the Board within ten (10) days after the cessation of employment of any pharmacy technician at the pharmacist in charge's pharmacy. The Letter of Guidance is to remain on file for a period of ten (10) years. Motion carried, Complaint Officer Holland recused.

*2015 PHA 11819*

In a motion by Martin, seconded by Watson, to dismiss 2015 PHA 11819 with no evidence of a violation of the Board's Laws and Rules. Motion carried, Complaint Officers Savage and Holland recused.

*2016 PHA 12112*

In a motion by Savage, seconded by Martin, that sufficient evidence exists to schedule 2016 PHA 12112 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), Board Rules chapter 30 section 1(21) and 22 M.R.S. § 1711-C; 2) Reprimand; and 3) Revocation. Motion carried, Complaint Officer Holland recused.

*2016 PHA 12177*

*Hamilton recused and left the room.*

In a motion by Martin, seconded by Savage, to dismiss 2016 PHA 12177 with no evidence of a violation of the Board's Laws and Rules. Motion carried, Watson opposed, Hamilton and Complaint Officer Holland recused.

*2016 PHA 12238*

In a motion by Savage, seconded by Martin, that sufficient evidence exists to schedule 2016 PHA 12235 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)(9); 2) Reprimand; and 3) Revocation. Motion carried, Complaint Officer Holland recused.

*2013 PHA 9589*

In a motion by Savage, seconded by Hamilton to deny the request to rescind the consent agreement fully executed on November 6, 2014. Motion carried.

*2016 PHA 12473*

In a motion by Savage, seconded by Martin, to impose an immediate suspension of license in the matter of 2016 PHA 12473 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 Savage, seconded by Martin, that sufficient evidence exists to schedule 2016 PHA 12473 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 Section 1(17); 2) Reprimand; and 3) Revocation. Motion carried, Complaint Officer recused.

### **Board Action on Renewal Applications**

#### *Biofusion, MO40001485*

In a motion by Martin, seconded by Holland, to accept staff's recommendation and grant licensure to Biofusion, MO40001485 as presented. Motion carried.

#### *CVS Caremark, MO40000685*

In a motion by Martin, seconded by Holland, to preliminary deny mail order licensure to CVS Caremark with an offer of a Consent Agreement including: 1) Admission to violation of 10 M.R.S. § 8003-G(2)(D) and Board Rules Chapter 11 section 1(2)(C); 2) Reprimand; 3) Probation until such time as the Massachusetts Board releases the entity from probation and petition the Board; 4) Compliance with all the terms of the Massachusetts Board Case in the event the Massachusetts Board enters an Order suspending or revoking licensure then the Maine license shall stand automatically suspended, effective the date of such order, pending formal action by the Maine Board; and 5) Comply with all Federal and State Laws regarding the practice of pharmacy; 6) Report all future disciplinary actions within ten (10) days and 7) Fine of \$1,000.00. Motion carried.

#### *Dean Jacobs, PR4294*

In a motion by Holland, seconded by Martin, to preliminary deny pharmacist licensure to Dean Jacobs without the offer of a Consent Agreement including: 1) Admission to violation of 10 M.R.S. § 8003(5-A)(A)(4), 10 M.R.S. § 8003-G(2)(D) and 32 M.R.S. § 13742-A(1)(A). In lieu of denying the pending pharmacist renewal application outright, offer an opportunity for the licensee to present evidence that the history of misuse of alcohol no longer poses a risk and that the licensee will perform the duties of a pharmacist in a manner that does not endanger the health or safety of patients. The licensee must provide the following within thirty (30) days: 1) Obtain a substance abuse evaluation from MMPHP including signing a contract and participating in the program, if so recommended and present the substance abuse evaluation, treatment plan and contract to the Board within thirty (30) days; and 2) The substance abuse evaluation, treatment plan and contract (if applicable) will then be presented to the Board to re-evaluate the renewal application. In the event the licensee does not provide the requested substance abuse evaluation, treatment plan and contract (if applicable) the license will be denied pursuant to 32 M.R.S. § 13742-A(1)(A); 10 M.R.S. § 8003(5-A)(A)(4), and 10 M.R.S. § 8003-G(2)(D). Motion carried.

### **Board Action on Initial Applications**

In a motion by Hamilton, seconded by Martin to add to the agenda the initial application for Eastport Family Pharmacy, PH50001563. Motion carried.

*Aaron Pertens, PR46058*

In a motion by Holland, seconded by Martin, to accept staff's recommendation and grant licensure to Aaron Pertens, PR46058, as presented. Motion carried.

*Candice Pinkham, PT60012469*

*Holland recused and left the room.*

In a motion by Savage, seconded by Watson, to accept staff's recommendation and grant licensure to Candice Pinkham, PT60012469, as presented. Motion carried, Holland recused.

*Ellyse MacAllister, PT60012256*

In a motion by Martin, seconded by Holland, to preliminary deny pharmacy technician licensure to Ellyse MacAllister without the offer of a Consent Agreement. Motion carried.

*Jennie Burdette, PR46210*

In a motion by Martin, seconded by Hamilton to table the application presentation of Jennie Burdette, PR46210 for further information. Motion carried.

*Kayla Daigle, PT60011852*

In a motion by Martin, seconded by Watson to preliminary deny pharmacy technician licensure to Kyla Daigle, PT60011852 with an offer of a Consent Agreement including: 1) Admission to violation of Board Rules Chapter 7, § 1-A, Board Rules Chapter 7 Section 1(5) and 10 M.R.S. § 8003(5-A)(A)(5); 2) Reprimand; and 3) Fine of \$2,500.00. Motion carried.

*Eastport Family Pharmacy, PH50001563*

In a motion by Holland, seconded by Hamilton to preliminary deny pharmacy licensure to Eastport Family Pharmacy, PH50001563 with an offer of a Consent Agreement including: 1) Admission to violation of 32 M.R.S. § 13751(1), 32 M.R.S. § 13752(3), 32 M.R.S. § 13754(1) and 10 M.R.S. §8003(5-A)(A)(7); 2) Reprimand; and 3) Fine of \$2,712.00. Motion carried.

### **Travel – NABP-AACP District I & 2 Meeting September 15-17, 2016; White Sulphur Springs, West Virginia**

In a motion by Holland, seconded by Martin to delegate Joseph Bruno and Bradley Hamilton to attend the district meeting. Motion carried.

### **Board Discussion – Delegate Authority**

In a motion by Holland, seconded by Savage, to delegate to the board administrator decision-making authority to initiate complaints for pharmacist in charge applications that are not received within seven (7) days pursuant to 10 M.R.S. § 8003(5-A)(A)(5) and Board Rules Chapter 11, § 3 and authorize the Board Chair to sign consent agreements based on certain formulas, such cases will no longer go to the Board for action. Motion carried.

Administrator Betts will put together a document and have the Board review and approve at the September 2016 Board Meeting.

### **Correspondence**

*Lee Ohmart regarding consumer price information*

The Board discussed the correspondence and directs the licensees to the Maine Board of Pharmacy Laws and Rules. Motion carried.

*Kellie Manders regarding pharmacy immunizations.*

Kelly Manders withdrew her request for the board to address the correspondence.

*Charles Dingman, Mail Order Delivery to Patients care of a Dialysis Facility*

In a motion by Hamilton, seconded by Martin to permit Fresenius RX to mail medications upon request directly to Fresenius Dialysis Clinics for delivery to patients. Motion carried.

### **Administrator's Report**

Administrator Betts updated the Board on the budget and legislation.

### **Public Comments**

Gregory Cameron addresses the Board stating that Husson University is now teaching Pharmacy Law during orientation.

### **ADJOURN**

There being no further business Holland motioned to adjourn at 5:30 p.m. seconded by Martin. Motion carried.