

Board of Licensure in Medicine
February 14, 2023
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**Maine Board of Licensure in Medicine
Minutes of February 14, 2023**

Board Members Present: Chair Maroulla S. Gleaton, MD; Secretary Christopher Ross, PA; Steven Blessington, PA; Holly Fanjoy, MD; Public Member Gregory Jamison, RPh; Public Member Kristina Lunner; Noah Nesin, MD (joined meeting at 8:06 a.m.); Brad Waddell, MD; and Public Member Lynne Weinstein (excused 8:38 a.m. – 8:43 a.m. due to computer issues)

Board Members Absent: Renee Fay-Leblanc, M.D.

Board Staff Present: Executive Director Dennis E. Smith; Assistant Executive Director Timothy E. Terranova; Medical Director Kenji Saito, MD; Complaint Coordinator Kelly McLaughlin; Consumer Assistance Specialist Savannah Okoronkwo; Investigative Secretary Faith McLaughlin; Administrative Assistant Maureen S. Lathrop; Licensing Specialist Tracy Morrison; and Secretary Nathan Fitts

Attorney General’s Office Staff Present: Assistant Attorney General Michael Miller

In accordance with the “Board Member Remote Participation Policy” adopted by the Board on January 10, 2023, the Board Chair directed that the February 14, 2023, meeting of the Board be conducted through remote participation of all Board members pursuant to Section 2(A) of that policy. The Board posted notices of this virtual meeting on its website and on the Legislative calendar. In addition, the Board posted a copy of the agenda for the meeting on its website.

Votes were conducted by roll call with members voting “for” “against” or “abstain.”

EXECUTIVE SESSIONS

PURPOSE

None

RECESSES

10:00 a.m. – 10:15 a.m.

Recess

12:20 p.m. – 12:51 p.m.

Lunch

I. Call to Order

Dr. Gleaton called the meeting to order at 8:01 a.m.

A. Amendments to Agenda (none)

B. Scheduled Agenda Items (none)

II. Licensing

A. Applications for Individual Consideration

1. Initial Applications

a. Elena Vagia, M.D.

Mr. Ross moved to grant Dr. Vagia's request for a waiver of the post graduate medical education requirement and approve her license application. Dr. Fanjoy seconded the motion.

A roll call vote was taken, and the motion passed unanimously.

Dr. Gleaton: For
Mr. Ross: For
Mr. Blessington: For
Dr. Fanjoy: For
Mr. Jamison: For
Ms. Lunner: For
Dr. Nesin: For
Dr. Waddell: For
Ms. Weinstein: For

b. Sean Lager, M.D.

Dr. Waddell moved to table the application and request that Dr. Lager provide a letter of support from his prospective employer and a letter confirming that he will maintain professionalism and fulfill the requirements of his employer regarding medical records documentation. Dr. Fanjoy seconded the motion.

A roll call vote was taken, and the motion passed unanimously.

Dr. Gleaton: For
Mr. Ross: For
Mr. Blessington: For
Dr. Fanjoy: For
Mr. Jamison: For
Ms. Lunner: For
Dr. Nesin: For
Dr. Waddell: For
Ms. Weinstein: For

c. David Vargas Lowy, M.D.

Dr. Nesin moved to grant Dr. Vargas Lowy's request for a waiver of the time limit for completion of the USMLE examination series and approve his license application. Dr. Fanjoy seconded the motion.

A roll call vote was taken, and the motion passed unanimously.

Dr. Gleaton: For
Mr. Ross: For
Mr. Blessington: For
Dr. Fanjoy: For
Mr. Jamison: For
Ms. Lunner: For
Dr. Nesin: For
Dr. Waddell: For
Ms. Weinstein: For

2. Reinstatement Applications

a. Malathy Sundaram, M.D.

Dr. Nesin moved to preliminarily deny Dr. Sundaram's reinstatement application with leave to withdraw. Dr. Waddell seconded the motion.

A roll call vote was taken, and the motion passed unanimously.

Dr. Gleaton: For
Mr. Ross: For
Mr. Blessington: For
Dr. Fanjoy: For
Mr. Jamison: For
Ms. Lunner: For
Dr. Nesin: For
Dr. Waddell: For
Ms. Weinstein: For

3. Renewal Applications

a. Timothy R. Jones, M.D.

Mr. Ross moved to allow Dr. Jones thirty days to produce requested continuing medical education documentation and offer him a consent agreement with a warning or leave to withdraw his license, and to preliminarily deny the renewal application if Dr. Jones takes neither action. Mr. Jamison seconded the motion.

A roll call vote was taken, and the motion passed unanimously.

Dr. Gleaton: For
Mr. Ross: For
Mr. Blessington: For
Dr. Fanjoy: For
Mr. Jamison: For
Ms. Lunner: For
Dr. Nesin: For
Dr. Waddell: For
Ms. Weinstein: For

b. John P. Griffin, M.D.

Mr. Ross moved to deny Dr. Griffin's request for reconsideration of the preliminary denial of his renewal application and proposed consent agreement. Ms. Weinstein seconded the motion.

A roll call vote was taken, and the motion passed unanimously.

Dr. Gleaton: For
Mr. Ross: For
Mr. Blessington: For
Dr. Fanjoy: For
Mr. Jamison: For
Ms. Lunner: For
Dr. Nesin: For
Dr. Waddell: For
Ms. Weinstein: For

4. Requests to Convert to Active Status

a. Allen F. Browne, M.D.

Dr. Nesin moved to preliminarily deny Dr. Browne's application for an active license with leave to withdraw, offer him an administrative license or the option to submit a reentry to clinical practice plan for consideration by the Board. Ms. Weinstein seconded the motion.

A roll call vote was taken, and the motion passed unanimously.

Dr. Gleaton: For
Mr. Ross: For
Mr. Blessington: For
Dr. Fanjoy: For
Mr. Jamison: For

Ms. Lunner: For
Dr. Nesin: For
Dr. Waddell: For
Ms. Weinstein: For

b. Mark W. Fourre, M.D.

Ms. Weinstein moved to preliminarily deny Dr. Fourre's application for an active license with leave to withdraw and offer him a consent agreement incorporating his reentry to clinical practice plan. Dr. Nesin seconded the motion.

A roll call vote was taken, and the motion passed unanimously.

Dr. Gleaton: For
Mr. Ross: For
Mr. Blessington: For
Dr. Fanjoy: For
Mr. Jamison: For
Ms. Lunner: For
Dr. Nesin: For
Dr. Waddell: For
Ms. Weinstein: For

5. Requests to Withdraw License/License Application

a. Hassan Massouh, M.D.

Dr. Nesin moved to approve Dr. Massouh's request to withdraw his license application. Mr. Ross seconded the motion.

A roll call vote was taken, and the motion passed unanimously.

Dr. Gleaton: For
Mr. Ross: For
Mr. Blessington: For
Dr. Fanjoy: For
Mr. Jamison: For
Ms. Lunner: For
Dr. Nesin: For
Dr. Waddell: For
Ms. Weinstein: For

b. Vishal Shah, M.D.

Dr. Nesin moved to approve Dr. Shah's request to withdraw his license application. Ms. Weinstein seconded the motion.

A roll call vote was taken, and the motion passed unanimously.

Dr. Gleaton: For
Mr. Ross: For
Mr. Blessington: For
Dr. Fanjoy: For
Mr. Jamison: For
Ms. Lunner: For
Dr. Nesin: For
Dr. Waddell: For
Ms. Weinstein: For

c. Paul Cain, M.D.

Dr. Nesin moved to approve Dr. Cain's request to withdraw his reinstatement application. Dr. Fanjoy seconded the motion.

A roll call vote was taken, and the motion passed 8 in favor, 1 recused.

Dr. Gleaton: Recused
Mr. Ross: For
Mr. Blessington: For
Dr. Fanjoy: For
Mr. Jamison: For
Ms. Lunner: For
Dr. Nesin: For
Dr. Waddell: For
Ms. Weinstein: For

6. Requests for Collaborative/Practice Agreements

a. Jamie L. Dennis, P.A.

Mr. Ross moved to approve Ms. Dennis' practice agreement. Dr. Fanjoy seconded the motion.

A roll call vote was taken, and the motion passed unanimously.

Dr. Gleaton: For
Mr. Ross: For
Mr. Blessington: For

Dr. Fanjoy: For
Mr. Jamison: For
Ms. Lunner: For
Dr. Nesin: For
Dr. Waddell: For
Ms. Weinstein: For

B. Other Items for Discussion

a. Annual Licensing Statistics

This material was presented for informational purposes. No Board action was required.

b. Foreign Trained Physicians Webinar

The Board reviewed Mr. Terranova's written report regarding his attendance. No Board action was required.

C. Citations and Administrative Fines (none)

D. Licensing Status Report

This material was presented for informational purposes. No Board action was required.

E. Licensing Feedback (none)

III. Board Orders/Consent Agreements/Resolution Documents for Review

A. CR16-49 Donald Shea, M.D.

Mr. Ross moved to approve the signed fourth amendment to consent agreement. Dr. Nesin seconded the motion.

A roll call vote was taken, and the motion passed unanimously.

Dr. Gleaton: For
Mr. Ross: For
Mr. Blessington: For
Dr. Fanjoy: For
Mr. Jamison: For
Ms. Lunner: For
Dr. Nesin: For
Dr. Waddell: For
Ms. Weinstein: For

B. Jonathan E. Harvey, M.D.

Mr. Ross moved to approve the consent agreement for conversion of license. Mr. Blessington seconded the motion.

A roll call vote was taken, and the motion passed unanimously.

Dr. Gleaton: For
Mr. Ross: For
Mr. Blessington: For
Dr. Fanjoy: For
Mr. Jamison: For
Ms. Lunner: For
Dr. Nesin: For
Dr. Waddell: For
Ms. Weinstein: For

IV. Complaints

1. CR21-24

Dr. Gleaton moved to table the matter. Mr. Ross seconded the motion.

A roll call vote was taken, and the motion passed 8 in favor, 1 recused.

Dr. Gleaton: For
Mr. Ross: For
Mr. Blessington: For
Dr. Fanjoy: For
Mr. Jamison: For
Ms. Lunner: For
Dr. Nesin: For
Dr. Waddell: Recused
Ms. Weinstein: For

2. CR21-142 Michelle C. Perkins, M.D.

Mr. Blessington moved to dismiss the complaint with a letter of guidance. Mr. Ross seconded the motion.

A roll call vote was taken, and the motion passed unanimously.

Dr. Gleaton: For
Mr. Ross: For
Mr. Blessington: For
Dr. Fanjoy: For

Mr. Jamison: For
Ms. Lunner: For
Dr. Nesin: For
Dr. Waddell: For
Ms. Weinstein: For

MOTION: The complaint was filed by a patient who felt that the physician misdiagnosed her, which led to delay in treatment, pain, and loss of employment. The physician responded to the complaint and explained her medical treatment and decision making. The Board conducted additional investigation, including obtaining an outside expert review that indicated that the physician was made aware of a radiological imaging discrepancy which she did not convey to or discuss with the patient.

The guidance is as follows: a physician should make every effort to engage patients in shared decision-making regarding diagnosis and treatment. Emergency department radiological discrepancies are common and when received should prompt chart review and reassessment of original diagnoses and treatment planning and be timely conveyed to patients as part of shared decision-making regarding diagnoses and treatment.

3. CR22-15

Dr. Nesin moved to allow the physician seven days to agree to permanently convert his license to emeritus status while under investigation within sixty days or undergo a CPEP Clinical Competence Assessment. Ms. Weinstein seconded the motion.

A roll call vote was taken, and the motion passed unanimously.

Dr. Gleaton: For
Mr. Ross: For
Mr. Blessington: For
Dr. Fanjoy: For
Mr. Jamison: For
Ms. Lunner: For
Dr. Nesin: For
Dr. Waddell: For
Ms. Weinstein: For

4. CR22-64 Paul R. Benoit, Jr., M.D.

Ms. Weinstein moved to dismiss the complaint with a letter of guidance. Mr. Blessington seconded the motion.

A roll call vote was taken, and the motion passed 8 in favor, and 1 recused.

Dr. Gleaton: For
Mr. Ross: For
Mr. Blessington: For
Dr. Fanjoy: For
Mr. Jamison: For
Ms. Lunner: For
Dr. Nesin: For
Dr. Waddell: Recused
Ms. Weinstein: For

MOTION: The complaint was initiated by the Board following receipt of the physician's self-report of an incident that occurred at his employing health care facility and a report pursuant to 24 M.R.S. § 2506 that his hospital employment and privileges had been briefly suspended as a result of an incident whereby he put his hands around the neck, in a choking position, and then subsequently the shoulders of a nurse in the operating room and that he made a statement to the nurse to the effect that she needed to fix the issues he was experiencing, or her children would be orphans. The physician responded to the complaint, apologized for his conduct, explained the circumstances leading to his conduct and that his intent was hyperbole and not harm, and explained steps he has taken to prevent a reoccurrence of this behavior.

The guidance is as follows: a physician should act professionally at all times with colleagues and staff despite the existence of stressful or frustrating circumstances and conditions. Physically touching a colleague or staff member or making threatening statements is never an acceptable response to tense or stressful circumstances.

5. CR22-82

Dr. Waddell moved to dismiss the complaint. Ms. Weinstein seconded the motion.

A roll call vote was taken, and the motion passed unanimously.

Dr. Gleaton: For
Mr. Ross: For
Mr. Blessington: For
Dr. Fanjoy: For
Mr. Jamison: For
Ms. Lunner: For
Dr. Nesin: For
Dr. Waddell: For
Ms. Weinstein: For

MOTION: The licensee self-reported settlement of a malpractice case dating back to 2013. At issue was possible misinterpretation of mammography and breast ultrasound leading to delay in diagnosis of breast cancer. Expert peer review conducted as part of

this investigation noted an opportunity for education that the licensee has already taken advantage of.

6. CR22-100

Dr. Fanjoy moved to dismiss the complaint. Mr. Ross seconded the motion.

A roll call vote was taken, and the motion passed unanimously.

Dr. Gleaton: For
Mr. Ross: For
Mr. Blessington: For
Dr. Fanjoy: For
Mr. Jamison: For
Ms. Lunner: For
Dr. Nesin: For
Dr. Waddell: For
Ms. Weinstein: For

MOTION: An elderly patient with dementia and chronic lung disease was admitted to the hospital for altered mental status and pneumonitis. The complainant is the patient's granddaughter who alleges the licensee failed to appropriately treat her infection and she subsequently developed cognitive decline. The complainant also felt that the licensee was racist.

The medical records corroborate that the patient was treated appropriately in the hospital with antibiotics for presumed pneumonia. She was clinically improved and received another course of antibiotics for a rising leukocytosis with no clear source for recurrent infection. She had documented baseline severe dementia and required nursing home placement following her hospitalization.

The care of the licensee was felt to be appropriate and within the standard of care.

7. CR22-103

Mr. Ross moved to dismiss the complaint. Dr. Nesin seconded the motion.

A roll call vote was taken, and the motion passed unanimously.

Dr. Gleaton: For
Mr. Ross: For
Mr. Blessington: For
Dr. Fanjoy: For
Mr. Jamison: For
Ms. Lunner: For
Dr. Nesin: For

Dr. Waddell: For
Ms. Weinstein: For

MOTION: A patient complains that the physician assistant sent in a form to the Bureau of Motor Vehicles for her sleep apnea that resulted in her losing her license. Because of this she decided to change practices and she was without medications for a while. The physician assistant responded that she had been given the paperwork at the end of the visit as she was leaving. The physician assistant tried to get the patient a new CPAP machine and sleep study but was having issues achieving this and she had to fill out the paperwork honestly. Review of the records revealed that the patient received reasonable care.

8. CR22-107

Dr. Waddell moved to dismiss the complaint. Mr. Ross seconded the motion.

A roll call vote was taken, and the motion passed 8 in favor, 1 recused.

Dr. Gleaton: For
Mr. Ross: For
Mr. Blessington: Recused
Dr. Fanjoy: For
Mr. Jamison: For
Ms. Lunner: For
Dr. Nesin: For
Dr. Waddell: For
Ms. Weinstein: For

MOTION: The patient alleges that there was a delay in diagnosis and management of her wrist injury. She also alleges that she was treated in an unprofessional manner. Review of the investigative material does not support these allegations.

9. CR22-108

Dr. Waddell moved to dismiss the complaint. Mr. Ross seconded the motion.

A roll call vote was taken, and the motion passed 8 in favor, 1 recused.

Dr. Gleaton: For
Mr. Ross: For
Mr. Blessington: Recused
Dr. Fanjoy: For
Mr. Jamison: For
Ms. Lunner: For
Dr. Nesin: For
Dr. Waddell: For

Ms. Weinstein: For

MOTION: The patient alleges that the licensee neglected to properly address her complaints of wrist pain while she was being treated for hip fracture. Review of the records indicates that the care provided by the licensee was timely and appropriate – especially considering his role as the consulting hospitalist responsible for managing her non-orthopedic medical issues.

10. CR22-111

Dr. Fanjoy moved to table the complaint. Dr. Waddell seconded the motion.

A roll call vote was taken, and the motion passed unanimously.

Dr. Gleaton: For
Mr. Ross: For
Mr. Blessington: For
Dr. Fanjoy: For
Mr. Jamison: For
Ms. Lunner: For
Dr. Nesin: For
Dr. Waddell: For
Ms. Weinstein: For

11. CR22-114

Ms. Lunner moved to dismiss the complaint. Dr. Nesin seconded the motion.

A roll call vote was taken, and the motion passed unanimously.

Dr. Gleaton: For
Mr. Ross: For
Mr. Blessington: For
Dr. Fanjoy: For
Mr. Jamison: For
Ms. Lunner: For
Dr. Nesin: For
Dr. Waddell: For
Ms. Weinstein: For

MOTION: The complainant alleges that the licensee lied, filed false reports, and continues to provide his “abusive” family rights over him. The licensee’s response and medical documentation satisfactorily address these concerns.

12. CR22-118

Dr. Fanjoy moved to dismiss the complaint. Ms. Weinstein seconded the motion.

A roll call vote was taken, and the motion passed unanimously.

Dr. Gleaton: For
Mr. Ross: For
Mr. Blessington: For
Dr. Fanjoy: For
Mr. Jamison: For
Ms. Lunner: For
Dr. Nesin: For
Dr. Waddell: For
Ms. Weinstein: For

MOTION: A pregnant woman with a third trimester twin gestation alleges the licensee was unprofessional and performed an unnecessary vaginal exam during an evaluation for preterm labor. The patient claims that she did not provide consent for the exam and felt violated. The medical record supports that the patient had a standard evaluation for preterm labor including fetal monitoring and a cervical exam which were reassuring. The licensee indicates that she always obtains verbal consent and communicates before performing any sensitive exam and denies that she would perform an unnecessary exam as a form of retaliation. The records and licensee response support that the patient received standard and appropriate care.

13. CR22-119

Dr. Fanjoy moved to investigate further and request that the physician respond to questions from the Board. Mr. Ross seconded the motion.

A roll call vote was taken, and the motion passed unanimously.

Dr. Gleaton: For
Mr. Ross: For
Mr. Blessington: For
Dr. Fanjoy: For
Mr. Jamison: For
Ms. Lunner: For
Dr. Nesin: For
Dr. Waddell: For
Ms. Weinstein: For

14. CR22-134

Dr. Waddell moved to table the complaint. Dr. Nesin seconded the motion.

A roll call vote was taken, and the motion passed unanimously.

Dr. Gleaton: For
Mr. Ross: For
Mr. Blessington: For
Dr. Fanjoy: For
Mr. Jamison: For
Ms. Lunner: For
Dr. Nesin: For
Dr. Waddell: For
Ms. Weinstein: For

15. CR22-147

Ms. Weinstein moved to investigate further and request that the physician provide additional information. Mr. Blessington seconded the motion.

A roll call vote was taken, and the motion passed unanimously.

Dr. Gleaton: For
Mr. Ross: For
Mr. Blessington: For
Dr. Fanjoy: For
Mr. Jamison: For
Ms. Lunner: For
Dr. Nesin: For
Dr. Waddell: For
Ms. Weinstein: For

16. CR22-158 Rana F. Dagher, M.D.

Ms. Weinstein moved to dismiss the complaint with a letter of guidance. Dr. Waddell seconded the motion.

A roll call vote was taken, and the motion passed unanimously.

Dr. Gleaton: For
Mr. Ross: For
Mr. Blessington: For
Dr. Fanjoy: For
Mr. Jamison: For
Ms. Lunner: For
Dr. Nesin: For
Dr. Waddell: For
Ms. Weinstein: For

MOTION: The complaint was filed by the relative/guardian of a patient who felt that the physician failed to listen to her regarding possible medical causes for the patient’s symptoms, failed to pursue a medical work-up for the patient, and improperly discharged the patient. The physician responded to the complaint, provided the patient’s medical records, and explained her medical decision-making.

The guidance is as follows: when interacting with patient relative/guardians be mindful of the importance of communication and active listening in situations where there may be disagreements regarding diagnoses and the plan of care. As outlined in the enclosed guidelines for “Communicating with Patients,” these aspects of communication, combined with active listening, will enhance your practice and may preclude similar future complaints. In addition, be mindful that careful discharge planning ensures better patient care. This includes both appropriate psychiatric and medical follow-up to help decrease the risk of readmission and set the patient up for success in the community.

17. CR22-159

Dr. Nesin moved to table the complaint. Ms. Lunner seconded the motion.

A roll call vote was taken, and the motion passed unanimously.

Dr. Gleaton: For
Mr. Ross: For
Mr. Blessington: For
Dr. Fanjoy: For
Mr. Jamison: For
Ms. Lunner: For
Dr. Nesin: For
Dr. Waddell: For
Ms. Weinstein: For

18. CR22-165

Dr. Nesin moved to dismiss the complaint. Mr. Ross seconded the motion.

A roll call vote was taken, and the motion passed unanimously.

Dr. Gleaton: For
Mr. Ross: For
Mr. Blessington: For
Dr. Fanjoy: For
Mr. Jamison: For
Ms. Lunner: For
Dr. Nesin: For
Dr. Waddell: For

Ms. Weinstein: For

MOTION: The complainant is a non-guardian family member of the patient and complains that nutrition and hydration were inappropriately withheld after birth. The patient was born with anencephaly and an associated and irreparable neural tube defect, all incompatible with life. Prior to and after this child's birth the licensee offered thorough information and compassionate counseling to the parents and clearly integrated their value system into the shared decision-making.

19. CR22-182

Mr. Ross moved to dismiss the complaint. Dr. Fanjoy seconded the motion.

A roll call vote was taken, and the motion passed unanimously.

Dr. Gleaton: For
Mr. Ross: For
Mr. Blessington: For
Dr. Fanjoy: For
Mr. Jamison: For
Ms. Lunner: For
Dr. Nesin: For
Dr. Waddell: For
Ms. Weinstein: For

MOTION: A patient complains that the physician told his primary care provider that he could not help him. The patient also felt that the physician was irritated by the fact that it was workers compensation related. The physician responded that he did not think that arthroscopy was indicated for the patient's issues and recommended conservative care through a primary care provider. The physician did refer the patient to a hip replacement specialist for another option of treatment but did not think the patient's arthritis was severe enough to require that. Review of the records revealed that the patient received reasonable care.

20. CR22-196

Mr. Blessington moved to dismiss the complaint. Ms. Weinstein seconded the motion.

A roll call vote was taken, and the motion passed unanimously.

Dr. Gleaton: For
Mr. Ross: For
Mr. Blessington: For
Dr. Fanjoy: For
Mr. Jamison: For

Ms. Lunner: For
Dr. Nesin: For
Dr. Waddell: For
Ms. Weinstein: For

MOTION: This complaint was brought forth by a patient that felt a physician working at the occupational health care clinic minimized his work-related injuries, did not adequately treat his pain and used his past medical history against him. Additionally, the patient believed the physician felt he was drug seeking and refused to prescribe him appropriate medications. Finally, he felt the licensee was favoring the work-compensation insurance company over himself.

Review of the records refutes this complaint and reveals that the provider met the standard of care. Specifically, regarding the claim that pain was being inadequately addressed the records show this licensee recommended over the counter analgesics and anti-inflammatories, did in fact prescribe a muscle relaxer, and offered and administered an intramuscular anti-inflammatory/analgesic injection, and when that appeared to demonstrate efficacy, prescribed it in an oral form.

Furthermore, in an effort to reach diagnostic clarity the licensee ordered three additional MRIs based upon the patient's exam findings and complaints of pain. He also documents work-related causation in each of the four Maine State M-1 work comp forms, and dramatically limited workplace activity, which further discredits the accusation he was favoring the insurance company interests over that of the patient.

21. CR22-202

Ms. Weinstein moved to dismiss the complaint. Mr. Ross seconded the motion.

A roll call vote was taken, and the motion passed unanimously.

Dr. Gleaton: For
Mr. Ross: For
Mr. Blessington: For
Dr. Fanjoy: For
Mr. Jamison: For
Ms. Lunner: For
Dr. Nesin: For
Dr. Waddell: For
Ms. Weinstein: For

MOTION: Review of the records reveal this physician is retired and notified the patient prior to his retirement. The patient eventually received the record she requested of her last office visit after a series of miscommunications due to an error in mailing address and e-mail address on file for this physician.

22. CR22-207

Dr. Waddell moved to offer the physician a consent agreement imposing a reprimand, restriction on prescribing controlled substances to patients in Maine and a \$1000 civil penalty. Ms. Weinstein seconded the motion.

A roll call vote was taken, and the motion passed unanimously.

Dr. Gleaton: For
Mr. Ross: For
Mr. Blessington: For
Dr. Fanjoy: For
Mr. Jamison: For
Ms. Lunner: For
Dr. Nesin: For
Dr. Waddell: For
Ms. Weinstein: For

23. CR22-209

Mr. Ross moved to dismiss the complaint. Mr. Blessington seconded the motion.

A roll call vote was taken, and the motion passed unanimously.

Dr. Gleaton: For
Mr. Ross: For
Mr. Blessington: For
Dr. Fanjoy: For
Mr. Jamison: For
Ms. Lunner: For
Dr. Nesin: For
Dr. Waddell: For
Ms. Weinstein: For

MOTION: A patient complains that the physician cut off 20% of his ear after a Mohs procedure to remove Basal cell cancer. The patient states they never had a conversation telling him that he needed a significant portion of his ear removed. The physician responded that this was the second procedure in several years to the same spot to remove cancer and he needed to make sure he had clear margins. When the physician did the informed consent, the patient had no questions. Review of the records revealed that the patient received reasonable care.

24. CR22-217

Dr. Nesin moved to dismiss the complaint. Mr. Ross seconded the motion.

A roll call vote was taken, and the motion passed unanimously.

Dr. Gleaton: For
Mr. Ross: For
Mr. Blessington: For
Dr. Fanjoy: For
Mr. Jamison: For
Ms. Lunner: For
Dr. Nesin: For
Dr. Waddell: For
Ms. Weinstein: For

MOTION: The complainant complains that in 2010 the licensee:

- Misdiagnosed the complainant’s spouse;
- Used the wrong medication which delayed proper treatment and resulted in surgery;
- Falsified medical records; and
- “Sneaked” into the hospital where surgery was performed and “pretended” to be the patient’s doctor

The licensee’s response and medical record documentation satisfactorily address all of these concerns. The care was appropriate, the diagnosis was accurate, the medications were correct, and the care was complicated by the patient’s decision to leave the hospital before completion of the preferred treatment.

25. Intentionally left blank

26. Intentionally left blank

27. Intentionally left blank

28. Intentionally left blank

V. Assessment and Direction

29. AD22-240

Dr. Fanjoy moved to issue a complaint (**CR23-31**). Ms. Weinstein seconded the motion.

A roll call vote was taken, and the motion passed unanimously.

Dr. Gleaton: For
Mr. Ross: For
Mr. Blessington: For
Dr. Fanjoy: For

Mr. Jamison: For
Ms. Lunner: For
Dr. Nesin: For
Dr. Waddell: For
Ms. Weinstein: For

30. AD23-1

Dr. Waddell moved to issue a complaint (**CR23-32**) and obtain an expert review of the records. Dr. Fanjoy seconded the motion.

A roll call vote was taken, and the motion passed unanimously.

Dr. Gleaton: For
Mr. Ross: For
Mr. Blessington: For
Dr. Fanjoy: For
Mr. Jamison: For
Ms. Lunner: For
Dr. Nesin: For
Dr. Waddell: For
Ms. Weinstein: For

31. AD23-2

Dr. Fanjoy moved to close the matter with no further action. Mr. Ross seconded the motion.

A roll call vote was taken, and the motion passed unanimously.

Dr. Gleaton: For
Mr. Ross: For
Mr. Blessington: For
Dr. Fanjoy: For
Mr. Jamison: For
Ms. Lunner: For
Dr. Nesin: For
Dr. Waddell: For
Ms. Weinstein: For

32. AD23-3

Mr. Ross moved to issue a citation and close the matter with no further action upon receipt of payment. Dr. Nesin seconded the motion.

A roll call vote was taken, and the motion passed unanimously.

Dr. Gleaton: For
Mr. Ross: For
Mr. Blessington: For
Dr. Fanjoy: For
Mr. Jamison: For
Ms. Lunner: For
Dr. Nesin: For
Dr. Waddell: Not present
Ms. Weinstein: For

33. Intentionally left blank

34. Intentionally left blank

35. Intentionally left blank

36. Pending Adjudicatory Hearings and Informal Conferences Report

This material was presented for informational purposes. No Board action was required.

37. Consumer Assistance Specialist Feedback

This material was presented for informational purposes. No Board action was required.

VI. Informal Conference (none)

VII. Minutes for Approval

A. January 10, 2023

Mr. Ross moved to approve the minutes of the January 10, 2023, meeting. Dr. Nesin seconded the motion.

A roll call vote was taken, and the motion passed unanimously.

Dr. Gleaton: For
Mr. Ross: For
Mr. Blessington: For
Dr. Fanjoy: For
Mr. Jamison: For
Ms. Lunner: For
Dr. Nesin: For
Dr. Waddell: For
Ms. Weinstein: For

B. January 31, 2023

Dr. Nesin moved to approve the minutes of the January 31, 2023, meeting. Ms. Weinstein seconded the motion.

A roll call vote was taken, and the motion passed 6 in favor, 3 abstained.

Dr. Gleaton: For
Mr. Ross: Abstain
Mr. Blessington: Abstain
Dr. Fanjoy: For
Mr. Jamison: For
Ms. Lunner: Abstain
Dr. Nesin: For
Dr. Waddell: For
Ms. Weinstein: For

VIII. Consent Agreement Monitoring

A. Monitoring Reports

1. Kevin Kendall, M.D.

Dr. Nesin moved to deny Dr. Kendall's request to terminate the consent agreement. Mr. Ross seconded the motion.

A roll call vote was taken, and the motion passed unanimously.

Dr. Gleaton: For
Mr. Ross: For
Mr. Blessington: For
Dr. Fanjoy: For
Mr. Jamison: For
Ms. Lunner: For
Dr. Nesin: For
Dr. Waddell: For
Ms. Weinstein: For

IX. Adjudicatory Hearing (none)

X. Remarks of Chair

Dr. Gleaton reminded Board members that the Federation of State Medical Boards annual meeting will be held in May and encouraged any members interesting in attending to contact staff to make arrangements. She also requested suggestions for articles in future newsletters.

XI. Remarks of Executive Director

Mr. Smith reported that a physician's license was automatically suspended on January 31, 2023, following receipt of disciplinary action taken in his state of principal license through the Interstate Medical Licensure Compact.

A. Change to DEA Registration Requirements and Draft Email Blast

Mr. Ross moved to approve the email blast for distribution to the Board's licensees. Dr. Nesin seconded the motion.

A roll call vote was taken, and the motion passed unanimously.

Dr. Gleaton: For
Mr. Ross: For
Mr. Blessington: For
Dr. Fanjoy: For
Mr. Jamison: For
Ms. Lunner: For
Dr. Nesin: For
Dr. Waddell: For
Ms. Weinstein: For

B. Chapter 12 Joint Rule Regarding Office Based Treatment of Opioid Use Disorder

Dr. Nesin moved to propose amendments to the Chapter 12 Joint Rule Regarding Office Based Treatment of Opioid Use Disorder. Mr. Ross seconded the motion.

A roll call vote was taken, and the motion passed unanimously.

Dr. Gleaton: For
Mr. Ross: For
Mr. Blessington: For
Dr. Fanjoy: For
Mr. Jamison: For
Ms. Lunner: For
Dr. Nesin: For
Dr. Waddell: For
Ms. Weinstein: For

C. Chapter 21 Use of Controlled Substances For Treatment of Pain

Mr. Ross moved to propose amendments to the Chapter 21 Use of Controlled Substances for Treatment of Pain rule. Mr. Jamison seconded the motion.

A roll call vote was taken, and the motion passed unanimously.

Dr. Gleaton: For
Mr. Ross: For
Mr. Blessington: For
Dr. Fanjoy: For
Mr. Jamison: For
Ms. Lunner: For
Dr. Nesin: For
Dr. Waddell: For
Ms. Weinstein: For

D. Recognition – Kristina Lunner, Public Board Member

Mr. Smith informed the Board that Ms. Lunner will resign from the Board effective at the end of the February meeting. Mr. Smith noted the important layman’s perspective that Ms. Lunner brought to the Board as well as her valuable knowledge and experience working to improve health care.

E. Recognition – Medical Director Kenji Saito, M.D.

Mr. Smith informed the Board that Dr. Saito will resign from his position at the end of February. Dr. Saito has been a valuable member of the complaint team assisting staff by arranging expert reviews, reviewing medical records and preparing cases for presentation to the Board. Staff will miss Dr. Saito’s pleasant demeanor and positive attitude.

XII. Assistant Executive Director’s Report

Mr. Terranova reported that the training program with Capitol Clubhouse will restart shortly. He also noted that a new video describing the licensing process has been added to the Board’s website.

A. IAMRA Announcement

Mr. Terranova reported that the International Association of Medical Regulatory Authorities has developed a system that will allow member agencies to share information regarding licensing actions across borders.

B. AIM Foundation Award

Mr. Terranova reported that the AIM Foundation has awarded a \$2,500 scholarship to help cover the cost of his travel to attend the IAMRA meeting later this year.

C. FARB Forum

The Board reviewed Mr. Terranova's written report of his attendance at the meeting.

D. Annual Complaint Status Report

This material was presented for informational purposes. No Board action was required.

E. Feedback Regarding Newsletter Article

The Board reviewed feedback regarding a recent newsletter article. No action was taken.

XIII. Medical Director's Report (none)

XIV. Remarks of Assistant Attorney General

AAG Miller discussed the recent Decision and Order of the Maine Superior Court regarding an appeal of a license denial and challenge to Board rule.

XV. Rulemaking (none)

XVI. Policy Review (none)

XVII. Requests for Guidance (none)

XVIII. Board Correspondence (none)

XIX. FSMB Material

A. Request For Comments Regarding Draft Strategic Plan And Report

This material was presented for informational purposes. No Board action was required.

XX. FYI

This material was presented for informational purposes. No Board action was required.

XXI. Other Business (none)

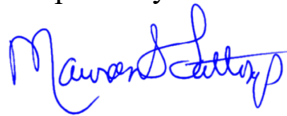
XXII. Adjournment 2:13 p.m.

At 2:13 p.m. Mr. Ross moved to adjourn the meeting. Mr. Jamison seconded the motion.

A roll call vote was taken, and the motion passed unanimously.

Dr. Gleaton: For
Mr. Ross: For
Mr. Blessington: For
Dr. Fanjoy: For
Mr. Jamison: For
Ms. Lunner: For
Dr. Nesin: For
Dr. Waddell: For
Ms. Weinstein: For

Respectfully submitted,



Maureen S. Lathrop
Administrative Assistant

Dear Mr. Smith,

In accordance with the “Board Member Remote Participation Policy” adopted by the Board on January 10, 2023, I am directing that the February 14, 2023, meeting of the Board be conducted virtually through exclusively remote participation pursuant to Section 2(A) of that policy. In support of this directive, I have determined that, based on the following circumstances, there exists an emergency or urgent issue which, pursuant to the policy, requires the Board to meet by entirely remote methods on February 14, 2023:

1. The Secretary of the U.S. Department of Health and Human Services first proclaimed on January 31, 2020, and most recently renewed on October 13, 2022, the nationwide public health emergency (PHE) due to the continued consequences of the Coronavirus Disease 2019 (COVID-19) pandemic. (<https://aspr.hhs.gov/legal/PHE/Pages/default.aspx>)
2. The Commissioner of the Maine Department of Health and Human Services declared on July 1, 2021, a health emergency due to the continued consequences of the COVID-19 pandemic, which shall remain in effect through the duration of the PHE declared by the Secretary of the U.S. Department of Health and Human Services. (<https://www.maine.gov/dhhs/sites/maine.gov.dhhs/files/inline-files/Public%20Health%20Emergency%20Declaration%206-30-21.pdf>)
3. The acting Secretary of the U.S. Department of Health and Human Services wrote a letter to all Governors on January 22, 2021 stating, “To assure you of our commitment to the ongoing response, we have determined that the PHE will likely remain in place for the entirety of 2021, and when a decision is made to terminate the declaration or let it expire, HHS will provide states with 60 days' notice prior to its termination.” (<https://ccf.georgetown.edu/wp-content/uploads/2021/01/Public-Health-Emergency-Message-to-Governors.pdf>)
4. Efforts to combat the pandemic continue in Maine where, as of February 7, 2023, 312,631 residents have been infected (223,440 confirmed and 89,191 probable), 6,833 residents have been hospitalized with the virus, and 2,863 people have died from the virus since January 2020. (<https://www.maine.gov/dhhs/mecdc/infectious-disease/epi/airborne/coronavirus/data.shtml>)
5. As of February 7, 2023, the number of new COVID-19 infections in the State of Maine as confirmed by testing brings the seven-day average of new cases in the State to 148; the number of new cases (confirmed and probable) statewide is 1036; the number of current hospitalizations is 162 (with 19 in critical care); the number of validated vaccine breakthrough cases is 129,544; the total number of deaths is 2,863. (<https://www.maine.gov/dhhs/mecdc/infectious-disease/epi/airborne/coronavirus/data.shtml>)
6. Viruses like SARS-CoV-2 continuously evolve. The Omicron variant of SARS-CoV-2 (including B.1.1.529, BA.1, BA.1.1, BA.2, BA.3, BA.4 and BA.5 lineages) is currently

classified as a Variant of Concern. As of February 7, 2023, the Omicron variant represents 100 percent of all sequenced samples collected in Maine.

7. As of February 7, 2023, 12 of Maine's counties are in the “low”, 4 counties are in the “medium,” and 0 counties are in the “high” transmission category as defined by the U.S. Centers for Disease Control and Prevention.
(https://covid.cdc.gov/covid-data-tracker/#county-view?list_select_state=Maine&data-type=CommunityLevels)
8. Eight of the Boards’ members (6 physicians and 2 physician assistants) are actively practicing medicine or rendering medical services and are potentially exposed to the COVID-19 virus while seeing and treating patients at medical facilities, including hospitals, despite taking precautionary measures.
9. An in-person meeting of the Board is foreseeably likely to result in an increased risk of exposure to the COVID-19 virus, which has an incubation period of 2-14 days before the onset of symptoms, for members of the Board, its staff, licensees, and members of the public.
10. Conducting an in-person Board meeting on February 14, 2023, is not practicable due to the widespread persistence in COVID-19 infections and the continued threat of exposure of the COVID-19 virus to Board members and to members of the public. Therefore, I have determined that there is an emergency such that the February 14, 2023, Board meeting shall be held entirely remotely as the best way to protect the safety and wellbeing of the members of the Board, its staff, licensees, and members of the public.

There will be no physical location where members of the public may attend this meeting. The Board will continue to provide members of the public a meaningful opportunity to attend the meeting remotely via Zoom as it has successfully done since April of 2020. Please post this determination to the Board website and update the agenda to include the Zoom information as soon as possible.

Maroulla S. Gleaton, MD
Chair, Board of Licensure in Medicine