

Board of Licensure in Medicine
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January 9, 2024

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**Maine Board of Licensure in Medicine
Minutes of January 9, 2024
8:01 a.m. – 11:48 a.m.**

Board Members Present: Chair Maroulla S. Gleaton, M.D.; Secretary Christopher R. Ross, P.A.; Holly Fanjoy, M.D.; Renee M. Fay-LeBlanc, M.D.; Public Member Gregory Jamison, RPh; Noah Nesin, M.D.; Anthony T. Ng, M.D.; Public Member Jonathan Sahrbeck; Brad Waddell, M.D.; and Public Member Lynne M. Weinstein

Board Members Absent: None

Board Staff Present: Executive Director Timothy E. Terranova; Medical Director Paul N. Smith, M.D.; Complaint Coordinator Kelly McLaughlin; Consumer Assistance Specialist Faith McLaughlin; Administrative Assistant Maureen S. Lathrop; Licensing Specialist Tracy Morrison; and Licensing Specialist Savannah Okoronkwo

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

The Board met in public session except during the times listed below which were held in executive session. Executive sessions are held to consider matters which, under statute, are confidential (*e.g.*, 1 M.R.S. § 405; 10 M.R.S. § 8003-B; 22 M.R.S. § 1711-C; 24 M.R.S. § 2510; 32 M.R.S. § 3282-A). The Board moved, seconded, and voted the following executive session times. During the public session of the meeting, actions were taken on all matters discussed during executive session. In addition, though not required by law, the meeting was made virtually available to the public not attending the meeting in person using the platform Zoom. A link for the public to access the Board meeting virtually was included on the Board’s agenda and posted on its website.

EXECUTIVE SESSIONS

PURPOSE

10:51 a.m. – 11:04 a.m.

Pursuant to 1 M.R.S. § 405(6)(E) to consult and seek legal advice regarding pending litigation

RECESSES

9:47 a.m. – 10:01 a.m.

Recess

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 (none)**
- 2. Reinstatement Applications (none)**
- 3. Renewal Applications**

a. Vanessa M. Alvarez, M.D.

Dr. Fay-LeBlanc moved to grant the license renewal. Mr. Ross seconded the motion, which passed unanimously.

4. Requests to Convert to Active Status

a. Robert F. Zimmerman, III., M.D.

Dr. Nesin moved to approve Dr. Zimmerman's request for an active status license upon receipt of his written representation that he will comply with his reentry to practice plan. Dr. Fay-LeBlanc seconded the motion, which passed 9-0-0-1. Ms. Weinstein was recused from the matter and left the room.

5. Requests to Withdraw License/License Application (none)

6. Requests for Collaborative/Practice Agreements (none)

B. Other Items for Discussion (none)

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 (none)

IV. Complaints

1. CR22-122 Albert W. Adams, M.D.

Dr. Fay-LeBlanc moved to dismiss the complaint with a letter of guidance. Mr. Ross seconded the motion, which passed unanimously.

MOTION: The Board-issued complaint arose from reported concerns about the physician's prescribing large doses of opioids to an adult patient. The physician responded to the complaint, explained the care provided to the patient, and discussed processes that have been put in place to refer patients to appropriate providers.

The guidance is as follows: It is best practice to have transition communications, plans, and procedures in place to transition young adults out of a pediatric practice and to recognize that transitioning these patients is appropriate and necessary. All clinicians should maintain appropriate professional boundaries and be mindful of concerns that may arise when considering whether to provide treatment to friends, family, or staff.

2. CR23-45

Dr. Fay-LeBlanc moved to table the matter. Dr. Ng seconded the motion, which passed 9-0-0-1. Dr. Nesin was recused from the matter and left the room.

3. CR23-65 Kevin I. Davey, M.D.

Dr. Fay-LeBlanc moved to dismiss the complaint with a letter of guidance. Mr. Ross seconded the motion, which passed unanimously.

MOTION: On April 13, 2023, the Board initiated a complaint following a referral from the Maine Prescription Monitoring Program (PMP) regarding the physician's opioid and benzodiazepine prescribing practices. The physician responded to the complaint and explained the care provided to patients. Further investigation included an outside expert review of patient records.

The guidance is as follows: Clinicians should follow Board Rules and CDC guidelines when prescribing for chronic pain, including utilization of Universal Precautions when prescribing controlled substances and maintaining appropriate documentation. It is prudent to ensure that PMP queries are attributed to the appropriate prescribing clinician.

4. CR23-111

Dr. Waddell moved to table the matter. Dr. Fay-LeBlanc seconded the motion, which passed unanimously.

5. CR23-117

Dr. Fay-LeBlanc moved to investigate further and request that the physician assistant complete a course approved by Dr. Fanjoy regarding atypical presentation of stroke and report to the Board what he gained from the course. Ms. Weinstein seconded the motion, which passed unanimously.

6. CR23-159

Dr. Waddell moved to dismiss the complaint. Dr. Ng seconded the motion, which passed unanimously.

MOTION: The patient complains that her procedure (EGD) was not properly performed and that results of the procedure were not communicated to her properly. Review of the records indicates that the procedure was indeed properly performed, but there was a clerical error in the pathology report (promptly corrected) that led to significant confusion. Subsequently, productive communication between patient and licensee staff became more challenging for all parties. The licensee and his staff have undertaken efforts to avoid such problems in the future.

7. CR23-168 Kevin M. Brady, M.D.

Mr. Ross moved to dismiss the complaint with a letter of guidance. Mr. Sahrbeck seconded the motion, which passed unanimously.

MOTION: The Board-issued complaint arose from the physician's failure to complete the Jurisprudence Examination requirement for licensure, notwithstanding having been notified on multiple occasions of the need to complete this requirement. In response to the complaint, the physician apologized and completed the required examination.

The guidance is as follows: Great care should be taken when addressing the requirements to obtain and maintain medical licensure. Failure to respond to Board or Board staff communications in a timely manner is unacceptable and considered unprofessional conduct which may result in Board action.

8. CR23-173

Ms. Weinstein moved to dismiss the complaint. Mr. Ross seconded the motion, which passed unanimously.

MOTION: A patient with a complex medical history complains about his care when they transitioned to a new provider. Review of the records reveals appropriate care provided while the physician and staff worked with the patient to adjust his medications and suggested refills and requests take place via phone call not over patient portal or after hour calls to expedite the process.

9. CR23-177

Dr. Fanjoy moved to table the matter. Mr. Ross seconded the motion, which passed unanimously.

10. CR23-181

Dr. Gleaton moved to dismiss the complaint. Mr. Sahrbeck seconded the motion, which passed unanimously.

MOTION: A patient complained about the care she received from her primary care internal medicine physician. The physician/patient relationship was only a year and a half long. The patient felt the physician changed the medical diagnoses in her chart and furthermore alleged that the doctor was not accurate in placing the correct diagnoses in her chart as well. Review of the records reveals that inaccuracies in the patient's records goes back much further than this provider. The record also shows borderline indications for diagnoses that go along with age and might be considered within normal limits but could be listed as medical issues. The physician tried to work the charting out with the patient and correct discrepancies based on more recent testing, but the physician/patient relationship of trust was broken, and the patient never truly understood or accepted the physician's efforts. The patient received reasonable care from this physician overall for her multitude of issues.

11. CR23-187

Dr. Nesin moved to dismiss the complaint. Dr. Fay-LeBlanc seconded the motion, which passed unanimously.

MOTION: The complainant asserts that the licensee:

- Charted about the patient's mental status.
- Accused the patient of selling their controlled medications.
- Threatened to stop controlled medication prescriptions if the patient would not leave a urine sample.
- Failed to have adequate coverage to renew prescriptions when the licensee was away from the practice.
- Prescribed a medication that was not appropriate.

The complainant also stated that he purposely left a urine sample that he knew would not yield expected results.

The licensee responded with rational, well considered explanations for all the complainant's concerns and medical record documentations are consistent with those explanations. The licensee's concerns and interventions were appropriate and review of the PMP indicates no delays in medication refills on the part of this licensee.

12. CR23-197

Dr. Fanjoy moved to dismiss the complaint. Mr. Sahrbeck seconded the motion, which passed 9-0-0-1. Dr. Fay-LeBlanc was recused from the matter and left the room.

MOTION: The complainant is a patient who alleges the licensee improperly prescribed a medication and reports concerns regarding record management, privacy and handling of his medication. The licensee prescribed his medication appropriately but there were difficulties with paperwork submitted for prescription assistance from the manufacturer. The issue was addressed, and the patient received his medication with no detriment or interruption of his care. The patient's concerns were validated and

addressed by the licensee. The medical records and office communications corroborate that the licensee adhered to the standard of care, and treatment was appropriate.

13. CR23-204

Mr. Sahrbeck moved to dismiss the complaint. Dr. Ng seconded the motion, which passed unanimously.

MOTION: The Board issued complaint alleges that the licensee practiced telemedicine outside of the permissible scope. The licensee has years of experience in his field in different states and this situation developed throughout the pandemic, which was a time of uncertainty and a lack of clarity in numerous fields including medicine. There is information that the licensee received incorrect legal advice from a third party that his activities were permitted. Upon notice from the Board to the licensee, his practices ceased, and he cancelled patients. He seems to have been forthright with what occurred. Since then, the licensee received his Maine license under the Interstate Medical Licensure Compact. Given that the licensee is now in compliance and understands his incorrect conduct, dismissal of the complaint is appropriate.

14. CR23-210

Dr. Gleaton moved to dismiss the complaint. Mr. Sahrbeck seconded the motion, which passed 9-0-0-1. Dr. Waddell was recused from the matter and left the room.

MOTION: A patient complained about the care she received from hospital staff and a general surgeon who provided oncologic surgical care. This patient was a referral to the surgeon after a colonoscopy was performed and cancer was detected in the ascending colon. The records reveal she had reasonable preoperative surgical consultation, laboratory work-up, surgical intervention and postoperative care. There was appropriate management of possible postoperative abscess process as well. The records also reveal the necessity for refusal by the partners of the surgeon, for the safety of the staff of the practice, to perform further unrelated surgery on this patient. The patient also indicated in her complaint that at discharge she was left with intravenous equipment in her arm and the surgeon appropriately referred this to hospital supervisory nursing staff to investigate this aspect of the complaint and contact the patient.

15. CR23-240

Mr. Jamison moved to investigate further and subpoena personnel records, interview staff who worked with the physician, and direct that the physician undergo a § 3286 comprehensive neuropsychological evaluation. Dr. Ng seconded the motion, which passed unanimously.

16. CR23-257

Mr. Ross moved to dismiss the complaint. Dr. Ng seconded the motion, which passed unanimously.

MOTION: The patient complains that the physician was brash, demanding and very rude. In addition, the patient indicates that the physician spent less than 100 seconds with him before ending the appointment and he was charged \$120 for the visit. Because he was charged for the visit, he was unable to see another provider. The physician responded that she works for a telemedicine platform and the medicine the patient was requesting has a potential for abuse and she didn't feel comfortable prescribing the medicine based on the type of exam she was able to conduct. The physician tried to address the patient's complaints and provide fair and equitable treatment. Review of the records revealed the patient received reasonable care.

17. Intentionally left blank

18. Intentionally left blank

V. Assessment and Direction

19. AD23-148

Dr. Nesin moved to investigate further and obtain an outside expert review of the entire case. Mr. Ross seconded the motion, which passed 9-0-0-1. Dr. Fanjoy was recused from the matter and left the room.

20. AD23-152

Dr. Fay-LeBlanc moved to table the matter. Mr. Ross seconded the motion, which passed unanimously.

21. AD23-179

Dr. Fay-LeBlanc moved to issue a complaint and obtain an outside expert review by a pediatrician. Dr. Ng seconded the motion, which passed unanimously.

22. AD23-233

Dr. Fay-LeBlanc moved to issue two citations and allow the physician fourteen days to surrender his license while not under investigation. Upon payment of the citations and surrender of license the matter will be closed with no further action. Issue a complaint if the physician does not surrender his license. Mr. Ross seconded the motion, which passed unanimously.

23. AD23-235

Dr. Gleaton moved to issue three citations. Upon payment of the citations the matter will be closed with no further action. Mr. Sahrbeck seconded the motion, which passed unanimously.

24. Intentionally left blank

25. Pending Adjudicatory Hearings and Informal Conferences Report

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

26. Consumer Assistance Specialist Feedback

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

VI. Informal Conference (none)

VII. Minutes for Approval

Mr. Ross moved to approve the minutes of the December 12, 2023 meeting. Ms. Weinstein seconded the motion, which passed unanimously.

VIII. Consent Agreement Monitoring

A. Monitoring Reports (none)

IX. Adjudicatory Hearing (none)

X. Remarks of Chair

Dr. Gleaton reported that she will attend an FSMB Board of Director's meeting in February and anticipates that the report from the Reentry to Practice work group will be available prior to the annual meeting in April.

XI. Executive Director's Report

Mr. Terranova reported that the new security system for the building is expected to be installed and in use by the end of the month.

Mr. Terranova reminded the Board of a schedule change for February. A meeting to conduct regular Board business will be scheduled for Monday, February 12th beginning at 1:00 p.m. An adjudicatory hearing is scheduled for Tuesday, February 13th beginning at 8:00 a.m.

A. FSMB Annual Meeting

Dr. Gleaton moved to select Ms. Weinstein to serve as the Board's voting delegate at the FSMB annual meeting in April. Dr. Fay-LeBlanc seconded the motion, which passed unanimously.

B. FSMB Fee Change

Mr. Terranova reported that applicants using FCVS for Requiring State Medical Boards will receive the Uniform Application at no extra charge. The Uniform Application has a one-time non-refundable fee of \$60 for the initial application of each MD, DO or PA

license going to any FCVS Non-Requiring State Medical Boards. The UA does not charge a fee for any additional applications.

C. State Representatives Letter

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

D. IMLCC Annual Report

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

E. IMLCC Board Member Request

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

F. Brinton Darlington, M.D. Obituary (FYI)

Dr. Darlington was a former Board member and Board Secretary.

G. License Renewal Demonstration

Mr. Terranova gave a demonstration of the online license renewal process.

XII. Assistant Executive Director's Report (none)

XIII. Medical Director's Report (none)

XIV. Remarks of Assistant Attorney General

At 10:51 a.m. Ms. Weinstein moved to enter executive session pursuant to 1 M.R.S. § 405(6)(E) to consult and seek legal advice regarding pending litigation. Mr. Ross seconded the motion, which passed unanimously.

At 11:04 a.m. Dr. Ng moved to come out of executive session. Dr. Waddell seconded the motion, which passed unanimously.

XV. Rulemaking (none)

XVI. Policy Review (none)

XVII. Requests for Guidance (none)

XVIII. Board Correspondence (none)

XIX. FSMB Material (none)

XX. FYI

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

XXI. Other Business

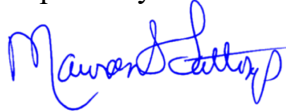
A. Petition to Withhold Information Pursuant to a FOAA Request

Following discussion, Mr. Sahrbeck moved to deny the Petition to Withhold Information Pursuant to a FOAA Request and delegate authority to sign the decision on the matter to the Board Chair. Dr. Waddell seconded the motion, which passed unanimously.

XXII. Adjournment 11:48 a.m.

At 11:48 a.m. Mr. Ross moved to adjourn the meeting. Dr. Fanjoy seconded the motion, which passed unanimously.

Respectfully submitted,



Maureen S. Lathrop
Administrative Assistant