

Board of Licensure in Medicine
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July 11, 2023

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**Maine Board of Licensure in Medicine
Minutes of July 11, 2023**

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

Board Members Absent: None

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

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

10:34 a.m. – 10:54 a.m.

Pursuant to 1 M.R.S. §405(6)(A) to discuss a personnel issue

12:50 p.m. – 12:53 p.m.

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

RECESSES

10:17 a.m. – 10:32 a.m.

Recess

12:02 p.m. – 12:31 p.m.

Lunch

I. Call to Order

Dr. Gleaton called the meeting to order at 8:00 a.m.

A. Amendments to Agenda

Mr. Ross moved to make the following amendments to the agenda: 1) amend the Multidisciplinary Comprehensive Assessment Program onto the agenda under Assistant Executive Director's Report; 2) amend complaint CR23-113 off the agenda; and 3) amend the monitoring report regarding Cameron Bonney, M.D. off the agenda. Ms. Weinstein seconded the motion, which passed unanimously.

B. Scheduled Agenda Items

1. 10:30 a.m. Meeting with Human Resources – Personnel Issue

II. Licensing

A. Applications for Individual Consideration

1. Initial Applications

a. Michael S. Sirkin, M.D.

Dr. Nesin moved to table Dr. Sirkin's application and direct that he undergo a § 3286 comprehensive neuropsychological evaluation, complete a minimum of 24 hours of continuing medical education approved by the Chair or Secretary regarding professional ethics and boundaries and sexual harassment and report to the Board what he gained from the education. Alternatively, the Board offered Dr. Sirkin leave to withdraw his application while not under investigation. Mr. Ross seconded the motion, which passed unanimously.

b. Michael A. Wack, M.D.

Dr. Fanjoy moved to table Dr. Wack's application and request that he complete continuing medical education approved by the Chair or Secretary regarding HIPAA/confidentiality and report to the Board what he gained from the education. Mr. Ross seconded the motion, which passed unanimously.

c. Jordan A. Breau, M.D.

Dr. Waddell moved to table Mr. Breau's application and request that he submit a more robust reentry to practice plan to include scheduled progress reports to the Board and an explanation of how he will be supervised – in person or by other means. Mr. Breau may submit an FPPE in support of his reentry to practice plan. Dr. Fanjoy seconded the motion, which passed unanimously.

d. David J. Swierzewski, M.D.

Dr. Waddell moved to table Dr. Swierzewski's application and offer him the following options: 1) offer a consent agreement requiring that he complete the Fundamentals of Laparoscopic Surgery course prior to providing patient care in Maine, report to the Board what he learned from the course, direct observation of ten laparoscopic procedures by a peer monitor approved by the Chair or her designee, and reports to the Board from the peer monitor at three and six months; 2) offer a consent agreement requiring that he agree not to perform laparoscopic surgeries in Maine; or 3) offer him leave to withdraw his application while not under investigation. Dr. Fay-Leblanc seconded the motion, which passed unanimously.

2. Reinstatement Applications

a. Thomas F. Scott, M.D.

Dr. Fay-Leblanc moved to preliminarily deny Dr. Scott's application and offer him leave to withdraw while not under investigation. Mr. Ross seconded the motion, which passed unanimously.

3. Renewal Applications

a. Greeshma P. Reddy, M.D.

Dr. Fay-Leblanc moved to grant Dr. Reddy's request to delay her CPEP evaluation while she prepares for her board certification exam, but the CPEP evaluation must be completed by October 31, 2023. Dr. Waddell seconded the motion, which passed unanimously.

b. Paul Pukurdpol, M.D.

Dr. Fay-Leblanc moved to issue a complaint (CR23-127). Ms. Weinstein seconded the motion, which passed unanimously.

4. Requests to Convert to Active Status (none)

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

6. Requests for Collaborative/Practice Agreements

a. Gary S. Sorcher, P.A.

Mr. Ross moved to approve Mr. Sorcher's practice agreement. Dr. Fanjoy seconded the motion, which passed 9-0-0-1. Mr. Blessington was recused from the matter and left the room.

b. Suzanne B. Bohlmann, P.A.

Mr. Ross moved to approve Ms. Bohlmann's practice agreement. Dr. Fanjoy seconded the motion, which passed 9-0-0-1. Mr. Sahrbeck was recused from the matter and left the room.

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. CR22-70 Joseph F. Lopes, M.D.

Dr. Fay-Leblanc moved to dismiss the complaint with a letter of guidance. Ms. Weinstein seconded the motion, which passed unanimously.

MOTION: The complaint was filed by the son of a geriatric patient alleging that the physician's care and treatment was substandard due to the patient's social-economic status. The physician responded to the complaint, explained his medical decision making and denied that the care and treatment he provided was based upon the patient's socioeconomic status. The Board investigated the complaint, which included obtaining an outside expert review that indicated the care the physician provided met the standard of care.

The guidance is as follows: all communications with patients regarding the results of laboratory and other diagnostic procedures should be documented in the medical record.

2. CR22-121

Dr. Nesin moved to issue a citation based on the physician's failure to make a required report to the Board within ten days and offer a consent agreement to include a period of probation for at least twelve months, required Board-approved continuing medical education and practice restrictions. Dr. Fay-Leblanc seconded the motion, which passed unanimously.

3. CR22-157

Dr. Fay-Leblanc moved to accept the physician assistant's voluntary surrender of license while under investigation. Dr. Fanjoy seconded the motion, which passed unanimously.

4. CR22-239

Dr. Waddell moved to table the matter. Ms. Weinstein seconded the motion, which passed unanimously.

5. CR23-31

Dr. Gleaton moved to table the matter. Dr. Waddell seconded the motion, which passed unanimously.

6. CR23-32

Dr. Fay-Leblanc moved to dismiss the complaint. Ms. Weinstein seconded the motion, which passed unanimously.

MOTION: The licensee made a self-report of a one-million-dollar malpractice settlement. The Board issued a complaint and obtained an outside expert review of the case. The expert reviewer described the MRI reading as inaccurate and a "gross violation from the standard of care." This provider has four other medical malpractice settlements representing different modalities. The Board voted in June to investigate further and request the licensee to provide information regarding peer review as well as to indicate if any other malpractice cases are pending. Peer review information was reassuring, and no additional malpractice complaints are pending.

7. CR23-42

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

MOTION: This case involves a physician assistant working in a primary care practice who missed signs of child abuse. The licensee provided care to this infant from June 2018 – January 2019. The infant suffered severe injuries and permanent neurological damage. Review of the materials reveals that the provider had some biases as she knew the family for ten plus years and also the mother's history of childhood leukemia which affected her differential diagnosis. Since this happened, the licensee has taken it upon herself to get additional training/education in recognizing child abuse.

8. CR23-54

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

MOTION: The mother of a patient complains that her son did not receive adequate care by his internal medicine physician. The patient was seen in a same day follow-up from a prior provider exam. The patient presented alone to the encounter with a complaint of left leg pain present for over a month despite previously receiving care from two other providers in the practice. The doctor performed a brief, focused exam and made conservative recommendations including scheduling physical therapy and stretching exercises till the patient could receive the therapy. The patient was to continue prior medications. Review of the records reveals reasonable care. Quite likely, had the parent been present at the exam, the issues complained about could have been addressed.

9. CR23-56

Dr. Waddell moved to dismiss the complaint. Dr. Fay-Leblanc seconded the motion, which passed unanimously.

MOTION: The patient alleges that the licensee encouraged unnecessary surgery to address the patient's complaint of hip pain. Review demonstrates that the licensee performed a thoughtful evaluation and, in fact, did not offer or encourage surgery. Instead, the licensee recommended conservative (non-operative management) and also facilitated a second opinion with another orthopedic surgeon. Appropriate care was provided.

10. CR23-57

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

MOTION: The patient complains that the physician ignored his medical concerns and was advised to leave the emergency room and see his normal counselor. The physician responded that he provided appropriate, responsive, professional care well within the applicable standards of care. Review of the records reveals that the patient received reasonable care.

11. CR23-58

Ms. Weinstein moved to dismiss the complaint. Mr. Blessington seconded the motion, which passed 9-0-0-1. Dr. Nesin was recused from the matter and left the room.

MOTION: A patient complains the physician engaged in unethical conduct thirteen years ago when she referred the patient to her spouse for diagnosis and treatment. At the time, a previous referral had been made, however the patient never received the referral, and the physician flagged the referral department and then recommended this particular specialist (her husband) who happened to be triple Board certified to treat this patient in what became a chronic condition.

Review of the record reveals an appropriate referral at the time as there were circumstances that this referral was clinically indicated. The patient was notified by either the physician who referred her, or her staff member of the husband/wife relationship and the patient continued to see the specialist. Appropriate care provided.

12. CR23-59

Mr. Blessington moved to dismiss the complaint. Dr. Fay-Leblanc seconded the motion, which passed unanimously.

MOTION: The complainant felt her physician treated her with disrespect, was vindictive and neglectful. Specifically, she said the provider cancelled appointments and prescriptions on her and made her undergo urine drug screening, blood tests, an ECG, and inappropriate physical exams as if she was an illicit drug user.

Review of the records, however, does not support this. The records demonstrate the licensee appropriately evaluated and screened the patient before prescribing controlled substances, did not cancel appointments with her or other providers, continued to fill prescriptions when the patient was between providers, and facilitated a mental health consultation. The records indicate the licensee's actions met the standard of care.

13. CR23-62

Dr. Fanjoy moved to investigate further and interview the physician's office staff, obtain medical records from the second retinal specialist who treated the patient, request the physician respond to additional questions from the Board, and obtain an outside expert review. Dr. Waddell seconded the motion, which passed 9-0-0-1. Dr. Gleaton was recused from the matter and left the room.

14. CR23-87

Mr. Jamison moved to table the matter. Dr. Nesin seconded the motion, which passed unanimously.

15. CR23-90

Dr. Fay-Leblanc moved to investigate further and request that the physician complete a professional boundaries course approved by the Chair, Secretary or case reporter

and report to the Board what she gained from the course. Dr. Waddell seconded the motion, which passed unanimously.

16. CR23-93

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

MOTION: The complainant felt the physician assistant was negligent and refused to treat his wife for mild asymptomatic post-partum preeclampsia. He felt she needed blood pressure medication, and her care could be managed by a walk-in center and did not require a higher level of care.

The records demonstrate the licensee exercised exemplary medical care and concern regarding the patient's presenting symptoms concerning for preeclampsia with severe features. The physician assistant's recommendation for emergency department referral was appropriate, as her clinic could not provide the recommended higher level of care. The licensee explained her reasoning with the patient by providing educational materials and detailed possible adverse consequences if the patient chose not to seek a higher level of care.

17. CR23-104

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

MOTION:

The complainant asserts that:

- The licensee's office rescheduled her appointment but did not notify her
- The licensee did not review the medical records before seeing her
- The licensee was rude, dismissive and minimized her complaints
- The licensee didn't take her history of serious dye allergy seriously enough

The licensee responds that:

- The record and studies were reviewed prior to seeing the complainant
- The complainant's understanding of imaging study results were not consistent with the actual findings
- The licensee reviewed treatment options, including the possible epidural steroid injection and tried to explain the low risk of reaction to contrast as it is used in that procedure
- The licensee also suggested physical therapy, but the complainant was not interested
- Allodynia and opioid induced hyperalgesia were also brought up but the complainant did not wish to discuss these
- The complainant became "aggressive and accusatory"

The office's administrator explains that the appointment was rescheduled, that attempts to call the complainant were unsuccessful and that a letter was sent. At any rate, the complainant was seen in a timely manner when she presented for care.

18. CR23-113 (amended off agenda)

19. CR23-114

Dr. Nesin moved to request that the physician voluntarily convert his license to inactive status pending resolution of this matter. Mr. Jamison seconded the motion, which passed unanimously.

20. Intentionally left blank

21. Intentionally left blank

V. Assessment and Direction

22. AD23-12

Dr. Nesin moved to close the matter with no further action. Dr. Fanjoy seconded the motion, which passed unanimously.

23. AD23-25

Dr. Nesin moved to issue a complaint (**CR23-126**) and obtain an outside expert review of ten patient medical records. Dr. Fay-Leblanc seconded the motion, which passed 9-0-0-1. Dr. Gleaton was recused from the matter and left the room.

24. AD23-26

Dr. Fanjoy moved to close the matter with no further action. Dr. Waddell seconded the motion, which passed 9-0-0-1. Dr. Fay-Leblanc was recused from the matter and left the room.

25. AD23-69

Dr. Fanjoy moved to close the matter with no further action. Dr. Waddell seconded the motion, which passed unanimously.

26. AD23-86

Dr. Fay-Leblanc moved to offer the physician the opportunity to permanently convert his license to emeritus status while not under investigation and if he chooses not to, issue a complaint and direct that the physician undergo a § 3286 comprehensive neuropsychological evaluation and medical evaluation by a Board-approved specialist.

Mr. Ross seconded the motion which passed 7-0-0-3. Dr. Fanjoy, Dr. Negin and Dr. Waddell were recused from the matter and left the room.

At 12:47 p.m. Mr. Ross moved to offer the physician the option of attending the three-day MCAP program if it is equivalent to obtaining individual evaluations. Mr. Sahrbeck seconded the motion, which passed 7-0-0-3. Dr. Fanjoy, Dr. Negin and Dr. Waddell were recused from the matter and left the room.

27. AD23-91

Mr. Ross moved to offer the physician the opportunity to permanently surrender his license while under investigation and if he chooses not to, issue a complaint. Mr. Sahrbeck seconded the motion, which passed unanimously.

28. Intentionally left blank

29. Pending Adjudicatory Hearings and Informal Conferences Report

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

30. Consumer Assistance Specialist Feedback (none)

VI. Informal Conference (none)

VII. Minutes for Approval

A. May 30, 2023

Dr. Fay-Leblanc moved to approve the minutes of the May 30, 2023, meeting. Mr. Jamison seconded the motion, which passed 6-0-4-0 with Mr. Blessington, Mr. Ross, Mr. Sahrbeck and Dr. Negin abstaining.

B. June 13, 2023

Mr. Ross moved to approve the minutes of the June 13, 2023, meeting. Ms. Weinstein seconded the motion, which passed 8-0-2-0 with Dr. Gleaton and Dr. Waddell abstaining.

VIII. Consent Agreement Monitoring

A. Monitoring Reports

1. Cameron R. Bonney, M.D. (amended off agenda)

2. Frank Richter, M.D.

Dr. Nesin moved to approve Dr. Richter's request to terminate his consent agreement. Mr. Ross seconded the motion, which passed 9-0-0-1. Dr. Waddell was recused from the matter and left the room.

IX. Adjudicatory Hearing (none)

X. Remarks of Chair

Dr. Gleaton reported that she will attending an upcoming FSMB Board meeting.

XI. Remarks of Executive Director

Mr. Smith notified the Board that he will be retiring from State government effective October 1, 2023.

XII. Assistant Executive Director's Report

A. Recognition – Steven C. Blessington, P.A.

Mr. Terranova reported that Mr. Blessington was resigning from the Board effective at the conclusion of the meeting. Mr. Terranova presented Mr. Blessington with a plaque honoring him for his diligence, integrity and dedication as a Board member.

B. MPHP Annual Report 2022

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

C. Multidisciplinary Comprehensive Assessment Program (MCAP)

The Board reviewed information regarding the Multidisciplinary Comprehensive Assessment Program (MCAP) of Chicago. This program is similar to the Vanderbilt Comprehensive Assessment Program (VCAP), which is currently on hiatus.

Following discussion Mr. Ross moved to convert any outstanding VCAP assessments to MCAP assessments. Ms. Weinstein seconded the motion, which passed unanimously.

XIII. Medical Director's Report (none)

XIV. Remarks of Assistant Attorney General

AAG Miller reported that the court upheld the Board's Order Directing Evaluation regarding Wade Hamilton, M.D.

At 12:50 p.m. Mr. Ross moved to enter executive session pursuant to 1 M.R.S. § 405(6)(E) to consult with legal counsel regarding litigation strategy. Dr. Fay-Leblanc seconded the motion, which passed unanimously.

At 12:53 p.m. Mr. Ross moved to come out of executive session. Dr. Fay-Leblanc 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 10:30 a.m.

1. Meeting with Human Resources – Personnel Issue

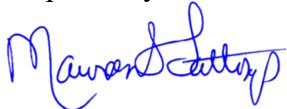
At 10:34 a.m. Mr. Ross moved to enter executive session pursuant to 1 M.R.S. § 405(6)(A) to discuss a personnel issue. Mr. Blessington seconded the motion, which passed unanimously.

At 10:54 a.m. Mr. Ross moved to come out of executive session. Ms. Weinstein seconded the motion, which passed unanimously.

XXII. Adjournment 12:55 p.m.

At 12:55 p.m. Mr. Sahrbeck moved to adjourn the meeting. Mr. Ross seconded the motion, which passed unanimously.

Respectfully submitted,



Maureen S. Lathrop
Administrative Assistant