

Board of Licensure in Medicine
 June 13, 2023
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**Maine Board of Licensure in Medicine
Minutes of June 13, 2023
8:03 a.m. – 11:30 a.m.**

Board Members Present: Secretary Christopher R. Ross, P.A.; Steven Blessington, P.A.; Holly Fanjoy, M.D.; Renee Fay-Leblanc, M.D.; Public Member Gregory Jamison, RPh; Noah Nesin, M.D.; Public Member Jonathan Sahrbeck (excused 9:53 a.m. – 10:15 a.m.); and Public Member Lynne Weinstein

Board Members Absent: Chair Maroulla S. Gleaton, M.D. and Brad E. Waddell, M.D.

Board Staff Present: Executive Director Dennis E. Smith, JD; Assistant Executive Director Timothy E. Terranova; 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: AAG Megan Hudson and AAG Katie Johnson

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

None

RECESSES

9:40 a.m. – 9:53 a.m.

Recess

I. Call to Order

Mr. Ross called the meeting to order at 8:03 a.m.

A. Introduction of New Board Member

The new public Board member introduced himself. Mr. Sahrbeck is an attorney from Cape Elizabeth.

B. Amendments to Agenda (none)

C. Scheduled Agenda Items

1. 8:15 a.m. Interview – William B. Bush, M.D.

II. Licensing

A. Applications for Individual Consideration

1. Initial Applications

a. Kyle A. Klosowski, M.D.

Dr. Fay-Leblanc moved to approve the British Isles Credentialing – General Medical Council Examinations comprising the Applied Knowledge Test (AKT) and Recorded Consultation Assessment (RCA) as substantially equivalent to the VQE and grant Dr. Klosowski’s license. Dr. Fanjoy seconded the motion, which passed unanimously.

b. William B. Bush, M.D. (Interview 8:12 a.m. – 8:32 a.m.)

The Board conducted an interview with Dr. Bush to discuss his failure to disclose malpractice information and a period of probation during his third year of post-graduate medical education on his license application. During the interview, Dr. Bush requested to withdraw his license application.

Dr. Nesin moved to approve Dr. Bush’s request to withdraw his license application. Ms. Weinstein seconded the motion, which passed unanimously.

c. Giovanni Speziali, M.D.

Dr. Nesin moved to grant Dr. Speziali’s request for a waiver of the post-graduate medical education requirements and grant his license. Dr. Fay-Leblanc seconded the motion, which passed unanimously.

d. Milos Sinik, M.D.

Dr. Fay-Leblanc moved to offer Dr. Sinik a consent agreement requiring that he enter into a contract with the Medical Professionals Health Program for a minimum of one year, meet monthly with a mentor approved by the Board Chair or Secretary with quarterly reports to the Board and attend therapy with a PhD-level psychologist. Dr. Nesin seconded the motion, which passed unanimously.

2. Reinstatement Applications (none)

3. Renewal Applications

a. Peter A. Karth, M.D.

Dr. Nesin moved to issue Dr. Karth a citation for failure to report disciplinary action to the Board within ten days and grant his license renewal upon payment of the fine. Ms. Weinstein seconded the motion, which passed unanimously.

b. Robert T. Howard, III., M.D.

Dr. Fay-Leblanc moved to table Dr. Howard's request for reconsideration and request that he submit confirmation that he has performed ten laparoscopic procedures under observation/supervision. Dr. Fanjoy seconded the motion, which passed 7-0-1-0 with Mr. Sahrbeck abstaining.

4. Requests to Convert to Active Status (none)

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.

D. Licensing Feedback (none)

III. Election of Officers

Ms. Weinstein nominated Dr. Gleaton for the office of Board Chair and Mr. Ross for the office of Board Secretary.

Ms. Weinstein moved to elect Dr. Gleaton for the office of Board Chair and Mr. Ross for the office of Board Secretary. Dr. Nesin seconded the motion, which passed unanimously.

IV. Board Orders/Consent Agreements/Resolution Documents for Review (none)

V. Complaints

1. CR22-70

Dr. Fay-Leblanc moved to table the matter. Dr. Fanjoy seconded the motion, which passed unanimously.

2. CR22-89 Nina E. Fagles, M.D.

Dr. Nesin moved to dismiss the complaint with a letter of guidance. Mr. Blessington seconded the motion, which passed unanimously.

MOTION: The complaint was filed by a patient who alleged frequent late refills of opioid pain medication causing withdrawal symptoms. The physician responded to the complaint and explained her treatment and medical decision-making. The Board investigated the complaint, including a review of the patient's opioid prescription medication utilizing the prescription monitoring program (PMP). The PMP did not show a pattern of late refills; however, it did show three instances of early refills. In addition, the medical records indicated that the patient called for early refills, took more medication than prescribed, took controlled medication that was not prescribed to the patient, and the patient was unable to be reached for a random pill count and urine drug screen. The Board's investigation also included obtaining an outside expert review of ten patient medical records selected from the PMP due to the relatively large numbers of patients on opioids and benzodiazepines in combination.

The guidance is as follows:

1. In most circumstances concomitant use of opioids and benzodiazepines should be avoided, even at low doses, especially in the elderly.
2. In most circumstances, providers should not exceed recommended maximum dosing of somnolent drugs, especially in the elderly. Higher line therapies for insomnia should be the preferred treatment, and that should typically include CBT, if available.
3. For most anxiety states, higher line therapies other than benzodiazepines should be the preferred treatment and should typically include psychotherapy, if available.
4. The use of benzodiazepines and somnolent drugs in the elderly is especially risky and should be undertaken rarely and with great caution.
5. For most chronic pain states, higher line therapies other than opioids should be the preferred treatment, and that should typically include psychotherapy, if available.
6. When patients call frequently for early refills of a controlled drug it should typically trigger an evaluation for misuse of or addiction to that medication.
7. Alprazolam and plain oxycodone have a high street value and a high potential for misuse and/or diversion and alternatives should be considered.

3. CR22-219

Dr. Fay-Leblanc moved to issue the physician a citation for failure to report his arrest/conviction to the Board within ten days and to offer a consent agreement imposing a reprimand, required weekly therapy for a minimum of one year with monthly reports to the Board and speech therapy as recommended by the therapist with monthly reports to the Board. Alternatively, offer the option of voluntary surrender while under investigation. Ms. Weinstein seconded the motion, which passed unanimously.

4. CR22-220

Mr. Ross moved to investigate further and obtain an expert review. Dr. Fay-Leblanc seconded the motion, which passed unanimously.

5. CR22-230 John C. Hickey, M.D.

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

MOTION: The complaint was filed by the mother of a minor patient who was upset after overhearing the physician and a staff person discussing her child's name outside the door of the examination room and just prior to entering the room. The physician responded to the complaint, provided a copy of the medical records, and provided an explanation regarding his discussion outside the door to the examination room.

The guidance is as follows: be cognizant of the ways in which others may interpret conversations or statements that occur within the medical practice to avoid any instances where a patient or their guardian may perceive such conversations as offensive or unprofessional. Professional behavior is always expected and necessary for maintaining clinical relationships.

6. CR22-232

Mr. Blessington moved to investigate further and obtain an expert review. Dr. Fanjoy seconded the motion, which passed unanimously.

7. CR23-9

Ms. Weinstein moved to investigate further. Mr. Sahrbeck seconded the motion, which passed unanimously.

8. CR23-11

Dr. Fanjoy moved to dismiss the complaint. Dr. Nesin seconded the motion, which passed unanimously. Mr. Sahrbeck was not present. AAG Hudson was recused from the matter.

MOTION: The patient was admitted for induction of labor for oligohydramnios and underwent vaginal delivery of a healthy term baby by the licensee. The patient alleges that the licensee did not obtain consent for a procedure which was done due to failure of labor progression. This resulted in the patient having a traumatic birthing experience which did not align with prenatal expectations and birthing plan. The licensee indicates that the induction of labor was medically necessary and often consists of artificial rupture of membranes and that all interventions were discussed with the patient and verbal consent is always obtained. The licensee expresses empathy and apologizes for the patient's negative experience. She has made changes to her practice's workflows to improve the visibility of birth plans to the care team and feedback regarding patient experiences in real-time to help facilitate supportive communication. Letters of support from two physician colleagues and an interview with a nurse present during the patient's labor all attest to appropriate medical care.

9. CR23-27 Christopher P. Hjorth, M.D.

Dr. Fay-Leblanc moved to dismiss the complaint with a letter of guidance. Dr Fanjoy seconded the motion, which passed unanimously. Mr. Sahrbeck was not present.

MOTION: The complaint was filed by a patient who alleged that the physician placed an inaccurate diagnosis in his medical record, which he refused to change despite the patient's requests. The physician responded to the complaint, provided a copy of the medical records, and explained his treatment and medical decision-making, including how he arrived at the diagnosis.

The guidance is as follows: when contemplating adding a new diagnosis, particularly a potentially stigmatizing psychiatric diagnosis, to a patient's medical record you should consider the potential impact to the patient's ongoing care with existing or future health care providers as well as discuss the diagnosis with the patient, including potential therapies. In addition, it is important to clearly document your medical decision-making and the clinical basis for a diagnosis.

10. CR23-28

Mr. Ross moved to dismiss the complaint. Ms. Weinstein seconded the motion, which passed unanimously. Mr. Sahrbeck was not present.

MOTION: A patient complains that the physician assistant provided him with medications that she was not authorized to do and that he suffered side effects. He also complains that he was discharged from the practice and was unable to find a new

practice. The physician assistant responded that she prescribed medications that were in her scope of practice and tried to manage the patient's symptoms appropriately. She also states that the patient was discharged for aggressive behavior towards staff. Review of the records reveals that the patient received reasonable care.

11. CR23-32

Dr. Fay-Leblanc moved to investigate further and request that the physician provide information regarding any pending medical malpractice cases and provide quality improvement documentation for the past twenty-four months. Dr. Fanjoy seconded the motion which passed 7-0-1-0 with Mr. Sahrbeck abstaining.

12. CR23-34

Dr. Nesin moved to investigate further and obtain an expert review for this patient as well as five other patients prescribed antibiotics during the past six months. Dr. Fay-Leblanc seconded the motion, which passed unanimously.

13. CR23-37

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

MOTION: A patient complains that the physician coerced and withheld medications for sexual favors. The patient rescinded the statement and said it was a different provider, but when staff tried to confirm they received no response. The physician responded that he treats all his patients in a professional and respectful manner and denies the allegations. Review of the records revealed that the patient received reasonable care.

14. CR23-39

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

MOTION: A patient complains the physician diagnosed her without an examination resulting in a misdiagnosis with the patient suffering and scarring. Review of the detailed records reveals two thorough examinations, with recommended treatments, detailed conversation, explanations and suggestions. Appropriate and thoughtful care have been provided to the patient.

15. CR23-40

Dr. Fanjoy moved to dismiss the complaint. Ms. Weinstein seconded the motion, which passed unanimously.

MOTION: The patient was a thirteen-year-old male who presented to the emergency department with his mother for abdominal pain and vomiting. The mother alleges that the licensee engaged in unprofessional conduct during the physician examination. The licensee denied engaging in unprofessional conduct and explained the circumstances surrounding the encounter. A review of the medical records and other documentation, including a statement from a colleague who was present as a chaperone, corroborates the licensee's response. The care of the patient was appropriate.

16. CR23-49

Dr. Fanjoy moved to dismiss the complaint. Dr. Nesin seconded the motion, which passed 7-0-0-1. Mr. Blessington was recused from the matter and left the room.

MOTION: The patient was an eighteen-year-old male who was admitted for a medical evaluation and mental health assessment. The complainant is the patient's father who alleges that the licensee provided inappropriate care, withheld information from the patient's parents, and made harmful decisions. The licensee care for the patient as part of the psychiatry team during the patient's hospitalization. The patient's suicide risk assessment necessitated a change in his plan to ensure safety. The licensee's response and medical records support the medical care provided. The licensee does appropriately acknowledge opportunities for improvement in communication. The treatment of the patient was within the standard of care and was acceptable.

17. CR23-55

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

MOTION: The patient felt the physician and the hospital provided poor treatment and inappropriately discharged him with an inappropriate diagnosis after not treating his pain, not prescribing appropriate medications, and not ordering the appropriate imaging tests.

The records reveal the licensee ordered the appropriate tests to rule out life-threatening processes, treated the patient's pain and diagnosed the patient with the most likely medical problem, based upon all data findings, including the CT scan. The care and treatment were appropriate.

18. CR23-70

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

MOTION: This complaint comes subsequent to a visit that occurred six years ago. This was the only visit the licensee had with the complainant. Review of the records and voluminous file suggests appropriate care and referral by the licensee and numerous other providers. The complainant was often dissatisfied with suggestions from other providers of care, but the licensee was not part of those recommendations.

19. Intentionally left blank

20. Intentionally left blank

V. Assessment and Direction

21. AD23-21

Dr. Fanjoy moved to issue a complaint (**CR23-112**) and obtain an expert review. Dr. Fay-Leblanc seconded the motion, which passed 7-0-0-1. Dr. Nesin was recused from the matter and left the room.

22. AD23-38

Dr. Fay-Leblanc moved to issue a complaint (**CR23-113**), request that the physician undergo a §3286 evaluation at Vanderbilt with a polygraph and voluntarily convert his license to inactive status until resolution of this matter. Dr. Fanjoy seconded the motion, which passed unanimously. AAG Hudson was recused from the matter and left the room. AAG Katie Johnson was present for the discussion of this matter.

23. AD23-73

Dr. Nesin moved to issue a complaint (**CR23-114**), request that the physician undergo a §3286 neuropsychological and substance misuse evaluation and agree to voluntarily convert his license to inactive status until resolution of this matter. Mr. Sahrbeck seconded the motion, which passed unanimously.

24. AD23-94

Dr. Fanjoy moved to issue a complaint (**CR23-115**) and request that the physician undergo a §3286 substance misuse evaluation. Ms. Weinstein seconded the motion, which passed unanimously.

25. Intentionally left blank

26. Intentionally left blank

27. Pending Adjudicatory Hearings and Informal Conferences Report

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

28. Consumer Assistance Specialist Feedback

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

VI. Informal Conference (none)

VII. Minutes for Approval

Dr. Nesin moved to approve the minutes of the May 9, 2023, meeting. Ms. Weinstein seconded the motion, which passed 6-0-2-0 with Mr. Blessington and Mr. Sahrbeck abstaining.

VIII. Consent Agreement Monitoring

A. Monitoring Reports

1. Mark W. Fourre, M.D.

Dr. Fay-Leblanc moved to grant Dr. Fourre's request to pause his reentry to practice requirements for six months. Dr. Fanjoy seconded the motion, which passed unanimously.

IX. Adjudicatory Hearing (none)

X. Remarks of Chair (none)

XI. Remarks of Executive Director

A. Update on PMP Referrals

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

XII. Assistant Executive Director's Report

Mr. Terranova introduced the Board's new Medical Director, Paul N. Smith, M.D. Dr. Smith will start on June 20th.

Mr. Terranova informed the Board that Lisa Reny, Licensing Specialist, resigned. The position has been posted.

A. FY24 Contracts

Mr. Jamison moved to approve the following contracts for FY2024:

- Medical Professionals Health Program for \$85,000 and up to \$120,000

- Maine Medical Association Center for Quality Improvement for \$37,452
- Pulse Marketing for \$5,000

Mr. Sahrbeck seconded the motion, which passed unanimously.

B. Travel Request for Approval

Mr. Ross moved to approve attendance of two Board members and one staff member at the Council on Licensure Enforcement and Regulation Educational Conference in September. Mr. Sahrbeck seconded the motion, which passed unanimously.

C. AIM/FSMB Annual Meeting Memo

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

XIII. Medical Director's Report (none)

XIV. Remarks of Assistant Attorney General (none)

XV. Rulemaking (none)

XVI. Policy Review (none)

XVII. Requests for Guidance (none)

XVIII. Board Correspondence (none)

XIX. FSMB Material (none)

XX. FYI

XXI. Other Business (none)

XXII. Adjournment 11:30 a.m.

At 11:30 a.m. Dr. Fay-Leblanc moved to adjourn the meeting. Dr. Nesin seconded the motion, which passed unanimously.

Respectfully submitted,



Maureen S. Lathrop
Administrative Assistant