

Board of Licensure in Medicine
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November 14, 2023

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XXI. Other Business 12:00 p.m.	
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**Maine Board of Licensure in Medicine
Minutes of November 14, 2023**

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

Board Members Absent: Chair Maroulla S. Gleaton, M.D.

Board Staff Present: Executive Director Timothy E. Terranova (excused at 9:30 a.m.); Medical Director Paul N. Smith, M.D.; Complaint Coordinator Kelly McLaughlin; Consumer Assistance Specialist Faith McLaughlin; 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

11:19 a.m. – 11:28 a.m.

Pursuant to 1 M.R.S. § 405(6)(F) to discuss confidential information

2:15 p.m. – 2:30 p.m.

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

RECESSES

9:28 a.m. - 9:35 a.m.

Recess

11:57 p.m. – 1:25 p.m.

Lunch and Software Install/Demonstration for Board Members

I. Call to Order

Mr. Ross called the meeting to order at 8:01 a.m.

A. Amendments to Agenda (none)

B. Scheduled Agenda Items

- 1. 8:00 a.m. Board Member Remote Participation Policy Hearing**
- 2. 8:30 a.m. Update on Commission Regarding Foreign Trained Physicians Living in Maine**
- 3. 10:00 a.m. Adjudicatory Hearing – Cathleen G. London, M.D. (CR21-51) – Continuance Granted**
- 4. 11:30 a.m. Adjudicatory Hearing - David L. Conner, M.D. (CR21-207; CR22-56; CR22-160; CR22-200) – Presentation of Proposed Resolution**
- 5. 12:00 p.m. Software Install and Demonstration for Board Members**

II. Licensing

A. Applications for Individual Consideration

1. Initial Applications

a. Joseph L. Racanelli, M.D.

Dr. Fanjoy moved to investigate further, request that Dr. Racanelli provide additional information and offer him leave to withdraw his application while not under investigation. Dr. Ng seconded the motion, which passed unanimously.

b. Michael S. Sirkin, M.D.

Dr. Nesin moved to approve Dr. Sirkin's license application. Dr. Ng seconded the motion, which passed unanimously.

c. Kyle A. Lapidus, M.D.

Dr. Fay-LeBlanc moved to approve Dr. Lapidus' license application. Dr. Nesin seconded the motion, which passed unanimously.

2. Reinstatement Applications (none)

3. Renewal Applications

a. William R. Wood, Jr., M.D.

Dr. Ng. moved to approve Dr. Wood's renewal application upon receipt of his written representation to comply with his reentry to practice plan. Ms.

Weinstein seconded the motion, which passed 8-0-0-1. Dr. Nesin was recused from the matter and left the room.

4. Requests to Convert to Active Status (none)

5. Requests to Withdraw License/License Application

a. Fahimy Saoud, M.D.

Dr. Fay-LeBlanc moved to approve Dr. Saoud's request to withdraw her license application. Dr. Ng seconded the motion, which passed unanimously.

6. Requests for Collaborative/Practice Agreements

a. Chad C. McGraw, P.A.

Dr. Fay-LeBlanc moved to approve Mr. McGraw's practice agreement. Dr. Ng seconded the motion, which passed unanimously.

B. Other Items for Discussion (none)

C. Citations and Administrative Fines (none)

D. Licensing Status Report (none)

E. Licensing Feedback

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

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

A. CR21-207; CR22-56; CR22-160; CR22-200 David L. Conner, M.D. – Presentation of Proposed Resolution

Dr. Ng moved to accept the consent agreement as presented in the matter of David L. Conner, M.D. Mr. Jamison seconded the motion, which passed unanimously.

IV. Complaints

1. CR22-76

Ms. Weinstein moved to issue a citation based on the physician's failure to correctly answer a question on his renewal application and to dismiss the complaint upon receipt of payment. Dr. Nesin seconded the motion, which passed unanimously.

MOTION: A patient complains the physician demonstrated unprofessional behavior while discussing the results of surgery and biopsy telephonically. The patient stated she was in pain, felt she was not being heard and wanted definitive answers. The

physician attempted to explain he is not a pathologist, could not provide a knowledgeable interpretation of the statements made in the report and offered the patient a second opinion with an oncologist who would be better suited to review the results. An outside expert review confirmed the appropriate standard of care was demonstrated.

2. CR22-214

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

3. CR22-220

Mr. Ross moved to table the matter and offer the physician a consent agreement requiring a Board-approved practice monitor for a period of at least one year to review a minimum of ten patient charts monthly and provide quarterly reports to the Board. In addition, the physician must complete courses regarding professional boundaries and medical records documentation with a report to the Board regarding what he learns from the professional boundaries course. Mr. Sahrbeck seconded the motion, which passed unanimously.

4. CR22-238

Dr. Fanjoy moved to investigate further, inform the physician that the courses she submitted are not comparable and not accepted, and request that she submit documentation of enrollment in the next available Board preapproved medical records documentation course. Dr. Fay-LeBlanc seconded the motion, which passed unanimously.

5. CR23-62

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

6. CR23-82 Andrew B. Russ, M.D.

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

MOTION: The complaint was filed by the mother of a minor patient who was upset that her child received a vaccination during a school vaccination clinic without parental consent and particularly because parental consent would have been withheld. The physician responded to the complaint, provided a copy of the medical records, explained the circumstances surrounding this event which occurred during the COVID-19 pandemic, and described changes made to prevent similar circumstances. The value of volunteer efforts such as the physicians can be acknowledged; however, fundamental principles must prevail.

The guidance is as follows: every clinician is required to ensure that appropriate and adequate informed consent for all treatment and every procedure is obtained and fully documented.

7. CR23-90

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

8. CR23-109

Dr. Fay-LeBlanc moved to table the matter. Dr. Fanjoy seconded the motion, which passed 7-0-0-2. Dr. Nesein and Ms. Weinstein were recused from the matter and left the room.

9. CR23-112

Mr. Jamison moved to table the matter. Dr. Fanjoy seconded the motion, which passed 8-0-0-1. Dr. Nesein was recused from the matter and left the room.

10. CR23-116

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

MOTION: The complainant suffers with chronic pain and alleges that the licensee:

- Told her to do physical therapy, yoga and mental health counseling, and to lose weight.
- Would not increase her opioid pain medication despite ongoing chronic pain.
- Ordered an oral drug screen, after which she developed an allergic reaction to the swab, and then ordered a urine drug screen at a subsequent visit and was frustrated.
- Didn't properly assess x-ray and bone density testing results.
- Told her she needed to stop taking diazepam.
- Was rude to her.

The licensee responds with explanations for care decisions, including patient safety, some non-reassuring behaviors, including failure to appear for random testing and pill counts, taking more medication than prescribed and unexpected urine drug screen results, and ongoing support in her care with recommendations from a practice palliative care committee. Medical records are consistent with these explanations and the care is appropriate, including decisions to taper and not increase opioid pain medications.

11. CR23-140

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

MOTION: The complainant suffers with chronic pain and alleges that the licensee:

- Didn't believe he had psoriatic arthritis, which was diagnosed in 2010 (the context of this discussion was the complainant's worsening shoulder pain).
- Became agitated when the complainant requested an increase in breakthrough pain medication and then purposely delayed sending in the prescription.

The licensee responds that the patient has multiple chronic pain symptoms and did indeed complain of increased shoulder pain, that he does not recall a discussion of psoriatic arthritis, and that it would not change the treatment plan that day either way, and that the delay in the prescription was caused by a computer error and that this was documented the following day.

Review of medical records reveals appropriate care and decision making, the diagnosis in question is in the complainant's problem list, the patient complained of multiple areas of worsening pain on the day in question, and the prescription was sent the same day as the visit.

12. CR23-124

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

13. CR23-127

Mr. Jamison moved to table the matter and flag the license for a continuing education audit. Dr. Fanjoy seconded the motion, which passed unanimously.

14. CR23-129

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

MOTION: The complainant is a patient who alleges that the licensee inappropriately touched her and sexually assaulted her during an emergency department encounter. The patient sought care due to concerns of a possible toxic ingestion or poisoning. The licensee denies the allegations and responds that he provided appropriate care. The medical record indicates that the patient was seen for a possible panic attack and insomnia. She was improved upon arrival and was discharged without need for workup or formal psychiatric evaluation. The records corroborate that the treatment provided was within the standard of care. A triage nurse involved in the patient's care supports the licensee and reports no evidence of inappropriate treatment or alleged sexual assault of this patient.

15. CR23-135

Dr. Fanjoy moved to dismiss the complaint. Dr. Ng seconded the motion, which passed 8-0-0-1. Mr. Ross was recused from the matter and left the room.

MOTION: The complainant is a patient who alleges that the licensee was unethical when he terminated the patient-physician relationship and failed to provide specialty referrals for his medical condition. The patient feels that the licensee lacked knowledge regarding his diagnosis of dysautonomia and that his delay in care and appropriate treatment caused harm. He also feels that he was misdiagnosed with mental illness and discriminated for his diagnosis. The licensee responds that the patient was disrespectful and condescending and disagrees that he committed an ethics violation. The transfer of care to another physician in the system was approved by the chief of primary care and was supported by the system's protocol. The medical records support that the licensee attempted to care for this patient and address multiple chronic concerns over the three months that he was his primary care physician. The termination of the patient-physician relationship appeared to be a mutual agreement.

16. CR23-137

Ms. Weinstein moved to dismiss the complaint. Dr. Ng seconded the motion, which passed 8-0-0-1. Dr. Fanjoy was recused from the matter and left the room.

MOTION: A patient complains of what she considers multiple violations in the emergency department on the evening of her visit. She arrived complaining to triage of chest pain, shortness of breath, tingling, hot inside, chills outside, possible tick bites as she states is covered in ticks when doing yard work (amongst other things). Most of the complaint focuses on treatment in the emergency department by multiple providers, not the physician named in the complaint. Her primary concern discussed with the physician was Lyme disease or another tick-borne disease.

There was not a room available in the ED for the patient as she was in the waiting room, however multiple tests were ordered and performed. A recommendation for follow up with her primary care provider within a few days and discharge note with a diagnosis was provided. Inadvertently, her physician was improperly noted in the discharge paperwork which was an error and could be corrected. Reasonable care was provided.

17. CR23-142

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

MOTION: The complainant states that the licensee did not properly explain cost associated with an injection of a certain new medication. The complainant received billings for the procedure and medication that the complainant deemed excessive. The complainant placed several calls to insurer and the licensee's practice without,

according to the complainant, appropriate resolution. Ultimately after speaking with the complainant, the licensee agreed to “write off” the complainant’s portion of the billing. The licensee provided appropriate care and when informed of the complainant’s issue handled it very appropriately.

18. CR23-143

Mr. Ross moved to dismiss the complaint. Dr. Ng seconded the motion, which passed 8-0-0-1. Dr. Fanjoy was recused from the matter and left the room.

MOTION: A patient complains that the physician assistant hovered and stated he was not going to get treatment when he presented to the emergency room. The patient also complains that he believes the physician assistant wanted to do a procedure that was not necessary. The physician assistant responded that she evaluated the issue and offered an appropriate plan of care which she tried to make with shared decision making. She apologized for any interpretation by the patient that she was trying to discourage him from being there. Review of the records revealed that the patient received reasonable care.

19. CR23-149

At 11:19 a.m. Ms. Weinstein moved to enter executive session pursuant to 1 M.R.S. § 405(6)(F) to discuss confidential information. Dr. Fay-LeBlanc second the motion, which passed 8-0-0-1. Mr. Sahrbeck was recused from the matter and left the room.

At 11:28 a.m. Dr. Fay-LeBlanc moved to come out of executive session. Dr. Ng seconded the motion, which passed 8-0-0-1. Mr. Sahrbeck was recused from the matter and left the room.

Dr. Fanjoy moved to dismiss the complaint. Dr. Ng seconded the motion, which passed 8-0-0-1. Mr. Sahrbeck was recused from the matter and left the room.

MOTION: The complainant is the mother of an infant who was diagnosed with non-accidental trauma by the licensee. The mother alleges that the licensee made a conclusion of child abuse without completing a true investigation for which she subsequently lost custody of her child. The licensee responded that she followed standard practice, and the child was examined in the hospital and a thorough evaluation was performed. The patient had findings that were concerning for non-accidental trauma and a DHHS investigation resulted in placement of the child. The medical records corroborate that the licensee adhered to the standard of care and treatment was appropriate. The complainant withdrew her complaint following receipt of the licensee’s response.

20. CR23-165

Dr. Fanjoy moved to investigate further until resolution of a pending criminal matter contingent upon the physician’s written representation that he will not work in any

health care position or seek active licensure in any state and discloses all states where he is licensed. Dr. Fay-LeBlanc seconded the motion, which passed unanimously.

21. CR23-170 Orlando Ricci, M.D.

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

MOTION: The Board issued complaint arose from failure to promptly take the State jurisprudence examination, a requirement for licensure, notwithstanding having been notified on at least four occasions beginning June 2, 2023 of the need to complete this requirement. In response to the complaint, the physician apologized and completed the required examination on August 19, 2023.

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.

22. CR23-192

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

MOTION: A patient complains that the physician assistant made her wait to be evaluated in the emergency room and then did not provide her with appropriate medications which she is prescribed. The patient also complains that the physician assistant documented medications that she was not given and that no one seemed to care about her. The physician assistant responded that she evaluated the patient's injuries with three different imaging studies, provided narcotic pain relief and provided appropriate care on a very busy day in the emergency room. Review of the records revealed that the patient received reasonable care.

23. CR23-205

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

24. CR23-206

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

25. Intentionally left blank

26. Intentionally left blank

V. Assessment and Direction

27. AD23-132

Mr. Jamison moved to close the matter with no further action. Dr. Ng seconded the motion, which passed unanimously.

28. AD23-180

Dr. Waddell moved to issue a complaint (**CR23-260**) and obtain an outside expert review. Dr. Fay-LeBlanc seconded the motion, which passed unanimously.

29. AD23-184

Dr. Fanjoy moved to issue a complaint (**CR23-23-261**) and obtain an outside expert review. Mr. Sahrbeck seconded the motion, which passed unanimously.

30. AD23-185

Dr. Fanjoy moved to issue a complaint (**CR23-262**) and obtain an outside expert review. Mr. Sahrbeck seconded the motion, which passed unanimously.

31. AD23-207

Dr. Waddell moved to issue a complaint (**CR23-263**) and direct that the physician undergo a § 3286 psychiatric and substance misuse evaluation. Dr. Fay-LeBlanc seconded the motion, which passed unanimously.

32. AD23-212

Dr. Nesin moved to issue a complaint (**CR23-264**) and direct that the physician undergo a § 3286 psychiatric and substance misuse evaluation. Dr. Fay-LeBlanc seconded the motion which passed unanimously.

33. AD23-249

Dr. Waddell moved to issue a complaint (**CR23-265**) and obtain an outside expert review. Mr. Sahrbeck seconded the motion, which passed unanimously.

34. Pending Adjudicatory Hearings and Informal Conferences Report

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

35. Consumer Assistance Specialist Feedback

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

VI. Informal Conference (none)

VII. Minutes for Approval

Ms. Weinstein moved to approve the minutes of the October 10, 2023 meeting. Mr. Sahrbeck seconded the motion, which passed 5-0-3-0 with Dr. Fanjoy, Dr. Ng and Mr. Ross abstaining.

VIII. Consent Agreement Monitoring

A. Monitoring Reports

1. Donald B. Shea, M.D.

Dr. Nesin moved to approve Dr. Shea’s request to terminate his consent agreement. Dr. Waddell seconded the motion, which passed unanimously.

IX. Adjudicatory Hearing – Continuance Granted

A. CR21-51 Cathleen G. London, M.D.

X. Remarks of Chair (none)

XI. Remarks of Executive Director

A. Update on Commission Regarding Foreign Trained Physicians Living in Maine

Executive Director Terranova discussed the commission’s progress and request for recommendations from the Board regarding what will be acceptable demonstration of education and training. Following discussion, the Board agreed that Tennessee seemed to have a reasonable pathway. It was additionally suggested that Foreign Trained Physician candidates for licensure complete a two-year residency program under Accreditation Council for Graduate Medical Education (“ACGME”). Maine has established residency programs currently in place and the Board felt it would be easier to modify something in place than to create from brand new. Most likely the residency programs will align with overall mission of gaining more licensees to provide services. The Board also recommended that, after a Foreign Trained Physician completes the two-year clinical practice requirement, they would be required to take and pass the United States Medical Licensing Examination (“USML”) Step 3 prior to full licensure and independent practice.

B. 2024 FSMB Artificial Intelligence Symposium

Dr. Fay-LeBlanc moved to approve attendance of one Board member and one staff member at the 2024 FSMB Artificial Intelligence Symposium. Mr. Sahrbeck seconded the motion, which passed unanimously.

C. FSMB Draft Strategies for Prescribing Opioids for the Management of Pain

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

D. MMA-QI BOLIM Milestone Report

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

XII. Assistant Executive Director's Report (none)

XIII. Medical Director's Report (none)

XIV. Remarks of Assistant Attorney General

At 2:15 p.m. Mr. Sahrbeck moved to enter executive session pursuant to 1 M.R.S. §405(6)(E) to consult and seek legal advice regarding litigation strategy. Dr. Ng seconded the motion, which passed unanimously.

At 2:30 p.m. Mr. Sahrbeck moved to come out of executive session. Dr. Waddell seconded the motion, which passed unanimously.

XV. Rulemaking (none)

XVI. Policy Review

A. Revised Draft Remote Participation Policy 8:06 a.m. – 8:10 a.m.

At 8:06 a.m. the Board commenced a public hearing regarding a revised draft Board Member Remote Participation Policy. Notice of the public hearing and review of the revised draft policy was included on the Board's agenda, in the Legislature's weekly legislative calendar, and a notice and copy of the revised draft policy was published on the Board's website. Members of the public were provided an opportunity to submit written comments in advance of the hearing or provide comments during the hearing. No written comments were received, and no comments were provided during the hearing.

Following discussion of the revised draft policy, Dr. Fay-LeBlanc moved to adopt the revised Board Member Remote Participation Policy. Dr. Ng seconded the motion, which passed unanimously.

The public hearing ended at 8:10 a.m.

XVII. Requests for Guidance (none)

XVIII. Board Correspondence (none)

XIX. FSMB Material (none)

XX. FYI (none)

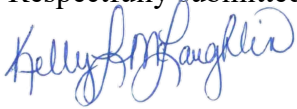
XXI. Other Business 12:00 p.m.

A. Software Install and Demonstration for Board Members

XXII. Adjournment 2:32 p.m.

At 2:32 p.m. Mr. Ross moved to adjourn the meeting. Mr. Sahrbeck seconded the motion, which passed unanimously.

Respectfully submitted,



Kelly L. McLaughlin
Complaint Coordinator