

Board of Licensure in Medicine
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**Maine Board of Licensure in Medicine
Minutes of October 10, 2023**

Board Members Present: Chair Maroulla S. Gleaton, M.D.; Renee Fay-LeBlanc, M.D.; Public Member Gregory D. Jamison, RPh; Noah Nesen, M.D.; Public Member Jonathan Sahrbeck (excused at 11:55 a.m.); Brad E. Waddell, M.D.; and Public Member Lynne M. Weinstein

Board Members Absent: Secretary Christopher R. Ross, P.A.; Holly Fanjoy, M.D.; and Anthony T. Ng, M.D.

Board Staff Present: Executive Director Timothy E. Terranova; Medical Director Paul N. Smith, M.D.; 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

10:00 a.m. – 10:14 a.m.

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

12:41 p.m. – 1:34 p.m.

Pursuant to 32 M.R.S. § 3282-A(1) to conduct an informal conference

RECESSES

10:18 a.m. – 10:32 a.m.

Recess

12:00 p.m. – 12:39 p.m.

Lunch

I. Call to Order

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

A. Amendments to Agenda

Dr. Fay-LeBlanc moved to amend PA Amanda Schweizer’s reinstatement application off the agenda. Mr. Sahrbeck seconded the motion, which passed unanimously.

B. Scheduled Agenda Items

1. Informal Conference (CR23-44)

II. Licensing

A. Applications for Individual Consideration

1. Initial Applications

a. Prince C. Madumere, M.D.

Dr. Nesin moved to approve Dr. Madumere's license application. Mr. Jamison seconded the motion, which passed unanimously.

2. Reinstatement Applications

a. Amanda L. Schweizer, P.A. (amended off agenda)

3. Renewal Applications

a. Kathleen M. Vozzelli, M.D.

Dr. Waddell moved to offer Dr. Vozzelli an administrative, emeritus or inactive status license and to preliminarily deny her renewal application with leave to withdraw while not under investigation if she declines those options. Ms. Weinstein seconded the motion, which passed unanimously.

4. Requests to Convert to Active Status (none)

5. Requests to Withdraw License/License Application

a. Kayode M. Balogun, M.D.

Mr. Jamison moved to approve Dr. Balogun's request to withdraw his license application. Dr. Fay-LeBlanc seconded the motion, which passed unanimously.

6. Requests for Collaborative/Practice Agreements

a. Nicolette K. Caron, P.A.

Dr. Waddell moved to approve Ms. Caron's current practice agreement and to issue a complaint based on her period of practice with no approved practice agreement. Dr. Fay-LeBlanc seconded the motion, which passed unanimously.

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. CR20-178 Bryan E. Woods, 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 patient's wife who contended that the physician inappropriately prescribed diazepam to her husband and that he was aware that her husband was actively abusing alcohol. The physician responded to the complaint and explained his treatment and medical decision-making and explained that while he was aware of the patient's history of alcohol abuse, he was not aware that the patient was abusing alcohol when he was in treatment with him. At the Board's request the physician voluntarily completed a continuing medical education course on the Assessment and Effective Treatment of Alcohol and Substance Use Disorders.

The guidance is as follows: It is important to utilize Universal Precautions when prescribing controlled substances to monitor for misuse or abuse. A clinician should periodically evaluate or conduct an appropriate assessment for initially prescribing and continuing to prescribe controlled substances to a patient with a history of a substance use disorder or substance misuse.

2. CR23-78 Erika Cajsa Schumacher, M.D.

Mr. Jamison 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 co-parent of the physician's minor child who alleged that the physician had prescribed the child antibiotics without examination or diagnosis. The physician responded to the complaint and admitted that she had prescribed antibiotics to her minor child and explained her medical decision-making and indicated that she would cease prescribing medications to her minor child for her health condition.

The guidance is as follows: The American Medical Association's *Code of Medical Ethics* discourages physicians from treating themselves or family members – unless in an emergency or isolated setting where there is no other qualified physician available – due to concerns regarding professional objectivity, patient autonomy, and informed consent. In addition, in the event that a physician treats a family member in an emergency or isolated setting where there is no other qualified physician available, the physician should perform an appropriate assessment of the patient, document the assessment and any medical decision making, and then provide the documentation to the patient's primary care provider or specialist. A copy of the

Board's Summer 2019 Newsletter with an article entitled *Prescribing for Colleagues, Friends, Family, or Self: a Professional Quagmire* is enclosed with this letter of guidance for your review.

3. CR23-79

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

MOTION: The patient alleges that radiographs of her neck were not performed and/or interpreted correctly. Review of the records shows that the images were performed and interpreted properly. However, there was an issue relating to the order for radiographs which led to some minor inaccuracies in the initial written report. Once identified, these inaccuracies were addressed by the licensee with a timely addendum to the report.

4. CR23-82

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

5. CR23-97

Dr. Gleaton moved to dismiss the complaint. Dr. Nesin seconded the motion, which passed 6-0-0-1. Dr. Waddell was recused from the matter and left the room.

MOTION: A female patient complained about the care she received from her general surgeon who performed a laparoscopic Nissen fundoplication for gastrointestinal reflux disease that was severe and chronic lasting many years. This condition could not be remedied by conservative medical treatments. This patient had appropriate evaluation, and uneventful surgical procedure for her disease. Issues arose for her postoperatively when she experienced pain, nausea and regurgitation which is common after this procedure. Unfortunately, the patient believes she received racially biased care by other hospital staff. The records reveal appropriate care and consideration of the patient by the licensee, and there were supportive letters from the physician's assistant and nursing staff in the hospital who cared for the patient as well. The surgeon's response was also thoughtful; and he went out of his way to try to help the patient further, but it was her personal choice not to proceed with his care or support.

6. CR23-100

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

MOTION: The complainant asserts that the wound care clinic failed to administer an IV antibiotic for a diabetic foot ulcer with underlying osteomyelitis, which ultimately resulted in a below knee amputation.

The licensee responded that:

- His first interaction was when the patient was hospitalized for this problem, when IV antibiotics were administered with consultation with an infectious disease specialist.

- He performed two amputation surgeries on the complainant and a colleague performed the 3rd and definitive amputation.
- Follow-up care continued for several months, with discussions of delays in getting a prosthesis and pain management.

The licensee was not involved in the complainant's care prior to hospitalization and the licensee's care was appropriate and well documented.

7. CR23-101

Dr. Nesin moved to investigate further and obtain an outside expert review. Ms. Weinstein seconded the motion, which passed unanimously.

8. CR23-102

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

MOTION: The complainant asserts that the wound care clinic failed to administer an IV antibiotic for a diabetic foot ulcer with underlying osteomyelitis, which ultimately resulted in a below knee amputation, and that this licensee would not prescribe pain medication at the follow-up visit.

The licensee responded that:

- He was only involved in the complainant's care briefly when he saw him once for a day 4 postoperative visit in the hospital, when he authored the supplemental orthopedic discharge summary and when he saw the complainant once as an outpatient, postoperatively.
- At that postoperative visit the patient stated that pain was well controlled on the current pain management regimen.

The licensee was not involved in the care related to the choice to use oral antibiotics prior to hospitalization and the care provided by the licensee was appropriate and well documented.

9. CR23-106

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

MOTION: The patient alleges that her acute surgical illness (appendicitis) was not properly managed by the licensee resulting in ongoing complications from the procedure. Review demonstrates that timely and appropriate surgical care was provided by the licensee and her colleagues. The lingering issues reported by the patient are not infrequently seen in this situation. More importantly, these issues were not necessarily avoidable.

10. CR23-107

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

MOTION: The patient alleges that the care provided by the licensee was negligent. Review of the records indicates that this licensee was a consultant to the primary operating surgeon managing this patient's acute appendicitis. The care provided by this licensee was timely, well documented, and most importantly, clinically appropriate.

11. CR23-109 (tabled)

Lack of quorum due to recusals.

12. CR23-110

Dr. Gleaton moved to issue a citation to the physician for failure to make a required notification to the Board and to dismiss the complaint upon payment of the fine. Mr. Sahrbeck seconded the motion, which passed unanimously.

MOTION: A patient complains about his consultation with an ocular motility/strabismus fellowship trained ophthalmologist. The patient was referred for possible surgical intervention for a long-standing lazy eye. The records reveal thorough evaluation which ended in conservative increased prism in his spectacles as recommended treatment with reevaluation if worsening of symptoms occurs. This is totally reasonable instead of surgical intervention and in the patient's best interest.

13. CR23-117

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

14. CR23-122

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

MOTION: A patient's spouse complains that the licensee abruptly discontinued the patient's morphine pain medication resulting in dizziness and disorientation. The record reflects that an inadvertent dose reduction was made but was immediately corrected the following day by another provider. The licensee recognizes the inadvertent error and has stated they have resolved to be more diligent in the future.

15. CR23-123

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

MOTION: The patient was prescribed high doses of chronic opioids 120 mmEqu daily who's prescriber was no longer able to prescribe. The licensee worked in a pain clinic that was helping to manage these patients. The licensee continued the chronic dosages, referred the patient to another pain clinic for a second opinion (this referral was denied), had the patient evaluated for any possible surgical interventions, referred the patient to social work and PT (both things the patient did not pursue) and recommended the patient be evaluated when she reported acute

worsening of her pain and offered non-opioid treatment options (which were declined). The records show that the licensee did an excellent job trying to manage a very difficult situation.

16. CR23-170

Mr. Jamison moved table the matter. Mr. Sahrbeck seconded the motion, which passed unanimously.

17. CR23-133

At 10:00 a.m. Ms. Weinstein moved to enter executive session pursuant to 1 M.R.S. § 405(6)(F) to discuss confidential information. Dr. Waddell seconded the motion, which passed unanimously.

At 10:14 a.m. Dr. Nesin moved to come out of executive session. Dr. Fay-LeBlanc seconded the motion, which passed unanimously.

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

MOTION: A former patient complains the physician breached confidentiality by discussing his case with his wife who was a nurse at the facility at the time and feels he was coerced into having his wife attend his appointment. Review of the records reveals appropriate care.

18. Intentionally left blank

19. Intentionally left blank

20. Intentionally left blank

V. Assessment and Direction

21. AD23-146

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

22. AD23-152

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

23. AD23-162

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

24. AD23-178

Dr. Nesin moved to issue a complaint (**CR23-238**) and obtain an outside expert review. Ms. Weinstein seconded the motion, which passed unanimously.

25. AD23-182

Dr. Nesin moved to issue a complaint (**CR23-239**) and obtain an outside expert review. Mr. Sahrbeck seconded the motion, which passed unanimously.

26. AD23-186

Ms. Weinstein moved to issue a complaint (**CR23-240**) and request personnel and investigative records from the facility related to investigation of allegations against the physician. Dr. Waddell seconded the motion, which passed unanimously.

27. Intentionally left blank

28. Pending Adjudicatory Hearings and Informal Conferences Report

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

29. Consumer Assistance Specialist Feedback

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

VI. Informal Conference 1:00 p.m.

A. CR23-44

At 12:41 p.m. Dr. Waddell moved to enter executive session pursuant to 32 M.R.S. § 3282-A(1) to conduct an informal conference. Dr. Fay-LeBlanc seconded the motion, which passed unanimously.

At 1:34 p.m. Dr. Waddell moved to come out of executive session. Dr. Fay-LeBlanc seconded the motion, which passed unanimously.

Dr. Nesin moved to investigate further to allow the physician to complete a CPEP evaluation scheduled for November, and request five patient charts of patients prescribed controlled substances and seen at least twice in the past six months for review by the physician who completed the initial records review. Dr. Waddell seconded the motion, which passed unanimously.

VII. Minutes for Approval

Mr. Jamison moved to approve the minutes of the September 12, 2023 meeting. Mr. Sahrbeck seconded the motion, which passed 6-0-1-0 with Dr. Fay-LeBlanc abstaining.

VIII. Consent Agreement Monitoring

A. Monitoring Reports (none)

IX. Adjudicatory Hearing (none)

X. Remarks of Chair

Dr. Gleaton recently attended an FSMB Workgroup regarding reentry to practice. She expects the workgroup will have a final report in the near future.

Dr. Fay-LeBlanc, Ms. Weinstein and Kelly McLaughlin recently attended the 2023 CLEAR Educational Conference. Ms. Weinstein and Dr. Fay-LeBlanc made brief comments regarding the conference.

XI. Remarks of Executive Director

Mr. Terranova reported that staff would be conducting interviews for the investigative secretary position. The Assistant Executive Director position will be reposted.

Mr. Terranova suggested nominating Dennis Smith, former Executive Director of the Board, for an FSMB award. The Board approved the nomination.

A. Additional Hearing Dates

Mr. Terranova discussed with the Board the need to schedule some additional meeting dates to hold several adjudicatory hearings. The Board's preference was to schedule additional meetings on the Monday afternoon prior to scheduled Board meeting dates.

B. Travel Request

Mr. Terranova requested authorization for AAG Michael Miller to attend the 2024 FSMB annual meeting.

Dr. Waddell moved to approve AAG Miller's attendance at the 2024 FSMB annual meeting. Mr. Jamison seconded the motion, which passed unanimously.

C. Maine Hospital Association

Mr. Terranova noted that the Maine Hospital Association included articles in recent newsletters urging hospitals to verify the type of license held by licensees when granting hospital privileges and allowing employed physicians to conduct reviews for the Board.

XII. Assistant Executive Director's Report (none)

XIII. Medical Director's Report (none)

XIV. Remarks of Assistant Attorney General (none)

XV. Rulemaking

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

Dr. Fay-LeBlanc moved to approve the Basis Statement and Response to Comments document and adopt the amended Chapter 12 Joint Rule Regarding Office Based Treatment of Opioid Use Disorder. Dr. Nesin seconded the motion, which passed unanimously.

B. Chapter 21 Use of Controlled Substances for Treatment of Pain

Ms. Weinstein moved to approve the Basis Statement and Response to Comments document and adopt the amended Chapter 21 Use of Controlled Substances for Treatment of Pain rule. Dr. Fay-LeBlanc seconded the motion, which passed unanimously.

XVI. Policy Review

A. Board Member Remote Participation Policy

Following discussion of the Board Member Remote Participation Policy, Dr. Fay-LeBlanc moved to propose revisions to the policy and hold a public hearing at the November 14th Board meeting. Dr. Waddell seconded the motion, which passed unanimously.

XVII. Requests for Guidance (none)

XVIII. Board Correspondence (none)

XIX. FSMB Material (none)

XX. FYI

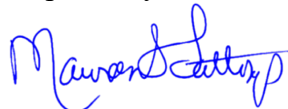
This material was presented for informational purposes. No Board action was required.

XXI. Other Business (none)

XXII. Adjournment 1:38 p.m.

At 1:38 p.m. Mr. Jamison moved to adjourn the meeting. Dr. Fay-LeBlanc seconded the motion, which passed unanimously.

Respectfully submitted,



Maureen S. Lathrop
Administrative Assistant