

**Maine Board of Licensure in Medicine
Minutes of September 19, 2023**

Board Members Present: Maroulla Gleaton, M.D., Chair; Holly Fanjoy, M.D.; Renee Fay-LeBlanc, M.D.; Gregory Jamison, RPh, Public Member; Brad Waddell, M.D.; and Lynne Weinstein, Public Member

Board Members Absent: Christopher Ross, P.A., Secretary; Noah Negin, M.D.; and Jonathan Sahrbeck

Board Staff Present: Assistant Executive Director Timothy E. Terranova; Complaint Coordinator Kelly McLaughlin; Consumer Assistance Specialist Faith McLaughlin; Administrative Assistant Maureen S. Lathrop; and Licensing Specialist Savannah Okoronkwo

Attorney General’s Office Staff Present: Assistant Attorney General Timothy Steigelman; Assistant Attorney General Jennifer Willis; and Assistant Attorney General Lisa Wilson

In accordance with the “Board Member Remote Participation Policy” adopted by the Board on January 10, 2023, the Board Chair directed that the September 19, 2023, meeting of the Board be conducted through remote participation of all Board members pursuant to Section 2(A) of that policy. The Board posted notices of this virtual meeting on its website and on the Legislative calendar. In addition, the Board posted a copy of the agenda for the meeting on its website.

Votes were conducted by roll call with members voting “for” “against” or “abstain.”

EXECUTIVE SESSIONS

PURPOSE

None

RECESSES

10:36 a.m. – 10:46 a.m.

Recess

11:22 a.m. – 11:52 a.m.

Lunch

I. Call to Order

Dr. Gleaton called the meeting to order at 9:05 a.m.

II. Adjudicatory Hearing

Hearing Officer Rebekah J. Smith, Esq. convened the hearing at 9:09 a.m.

Dr. Nass was present and represented by Gene R. Libby, Esq.

AAG Timothy Steigelman represented Board Staff.

Hearing Officer Smith conducted a roll call vote to confirm that Board members had the hearing exhibits, transcripts from prior days of hearing and the parties written closing arguments with all members voting in the affirmative.

Following deliberations, the Board made the following motions with regard to the allegations in the notice of hearing:

Allegation I. Pursuant to 32 M.R.S. § 3282A(2)(E)(1) for incompetence by engaging in conduct that evidences a lack of ability or fitness to discharge the duty owed by the licensee to a patient in provided care for Patients 1, 2, and/or 3.

Dr. Waddell moved that the preponderance of evidence did not support the allegation that the licensee engaged in conduct evidencing a lack of ability or fitness to discharge the duty owed by the licensee to a patient in providing care for Patients, 1, 2 and 3. Dr. Fay-LeBlanc seconded the motion.

A roll call vote was taken, and the motion passed unanimously.

Maroulla Gleaton, MD:	For
Holly, Fanjoy, MD:	For
Renee Fay-LeBlanc, MD:	For
Gregory Jamison, RPh:	For
Brad Waddell, MD:	For
Lynne M. Weinstein:	For

Allegation II. Pursuant to 32 M.R.S. § 3282-A(2)(E)(2) for incompetence by engaging in conduct that evidences a lack of knowledge or inability to apply principles and skills to carry out the practice for which the licensee is licensed in providing care for Patients 1, 2, and/or 3.

Dr. Fay-LeBlanc moved that the preponderance of evidence did support the allegation that the licensee engaged in conduct evidencing a lack of knowledge and inability to apply principles and skills to carry out the practice for which the licensee is licensed in providing care to Patients 1, 2 and 3. Ms. Weinstein seconded the motion.

A roll call vote was taken, and the motion passed unanimously.

Maroulla Gleaton, MD:	For
Holly, Fanjoy, MD:	For
Renee Fay-LeBlanc, MD:	For
Gregory Jamison, RPh:	For
Brad Waddell, MD:	For
Lynne M. Weinstein:	For

Allegation IV. Pursuant to 32 M.R.S. § 3282-A(2)(H) for violation of Board statute or rule, specifically Chapter 6 Telemedicine Standards of Practice, § 1 (3&4) and § 3(3) for failure to conform to the appropriate standards of care and professional ethics while using telemedicine for Patients 1, 2, and/or 3.

Dr. Waddell moved that the preponderance of evidence did support the allegation that the licensee violated Chapter 6 Telemedicine Standards of Practice, 1 (3&4) and § 3(3) by failing to conform to the appropriate standards of care while using telemedicine for Patients 1, 2 and 3. Dr. Fay-LeBlanc seconded the motion.

A roll call vote was taken, and the motion passed unanimously.

Maroulla Gleaton, MD:	For
Holly, Fanjoy, MD:	For
Renee Fay-LeBlanc, MD:	For
Gregory Jamison, RPh:	For
Brad Waddell, MD:	For
Lynne M. Weinstein:	For

Allegation V. Pursuant to 32 M.R.S. § 3282-A(2)(H) for violation of Board statute or rule, specifically Chapter 6 Telemedicine Standards of Practice, § 3(7) for failure to conduct an appropriate medical interview to obtain relevant medical history and/or to perform an appropriate examination for Patients 1, 2 and/or 3.

Dr. Waddell moved that the preponderance of evidence did support the allegation that the licensee violated Chapter 6 Telemedicine Standards of Practice, § 3(7) by failing to conduct an appropriate medical interview for Patients 1, 2 and 3. Dr. Fanjoy seconded the motion.

A roll call vote was taken, and the motion passed unanimously.

Maroulla Gleaton, MD:	For
Holly, Fanjoy, MD:	For
Renee Fay-LeBlanc, MD:	For
Gregory Jamison, RPh:	For
Brad Waddell, MD:	For
Lynne M. Weinstein:	For

Allegation VI. Pursuant to 32 M.R.S. § 3282-A(2)(H) for violation of Board statute or rule, specifically Chapter 6 Telemedicine Standards of Practice, § 3(9) for failure to provide appropriate informed consent for the health care services provided for Patients 1, 2 and/or 3 via telemedicine.

Dr. Waddell moved that the preponderance of evidence did not support the allegation that the licensee violated Chapter 6 Telemedicine Standards of Practice, § 3(9) by failing to provide appropriate informed consent for the health care services provided for Patients 1, 2 and 3. Dr. Fanjoy seconded the motion.

A roll call vote was taken, and the motion passed unanimously.

Maroulla Gleaton, MD:	For
Holly, Fanjoy, MD:	For
Renee Fay-LeBlanc, MD:	For
Gregory Jamison, RPh:	For
Brad Waddell, MD:	For

Lynne M. Weinstein: For

Allegation VIII. Pursuant to 32 M.R.S. § 3282-A(2)(H) for violation of Board statute or rule, specifically Chapter 6 Telemedicine Standards of Practice, § 3(12)(B) for failing to refer Patients 1,2 and/or 3 to an acute care facility or an emergency department when referral was necessary for the safety of the patient or in a case of an emergency.

Dr. Fay-LeBlanc moved that the preponderance of the evidence did support the allegation that the licensee violated Chapter 6 Telemedicine Standards of Practice, 3(12)(B) by failing to refer Patient 2 to an acute care facility or an emergency department when referral was necessary for the safety of the patient. Dr. Fanjoy seconded the motion.

A roll call vote was taken, and the motion passed unanimously.

Maroulla Gleaton, MD: For
Holly, Fanjoy, MD: For
Renee Fay-LeBlanc, MD: For
Gregory Jamison, RPh: For
Brad Waddell, MD: For
Lynne M. Weinstein: For

Allegation IX. Pursuant to 32 M.R.S. § 3282-(2)(H) for violation of Board statute or rule, specifically Chapter 6 Telemedicine Standards of Practice, § 3(20) for prescribing to Patients 1 2 and/or 3 based solely on a telephone evaluation in the absence of a valid physician-patient relationship.

Dr. Waddell moved that the preponderance of evidence did not support the allegation that the licensee violated Chapter 6 Telemedicine Standards of Practice, § 3(20) by prescribing to Patients 1, 2 and 3 based solely on a telephone evaluation in the absence of a valid physician-patient relationship. Dr. Fay-LeBlanc seconded the motion.

A roll call vote was taken, and the motion passed unanimously.

Maroulla Gleaton, MD: For
Holly, Fanjoy, MD: For
Renee Fay-LeBlanc, MD: For
Gregory Jamison, RPh: For
Brad Waddell, MD: For
Lynne M. Weinstein: For

Allegation XI. Pursuant to 32 M.R.S. §3282-A(2)(H) for violation of Board statute or rule, specifically Chapter 6 Telemedicine Standards of Practice, § 3(9) for failure to ensure that an appropriate informed consent was timely documented in the medical records of Patients 1, 2 and/or 3.

Dr. Fay-LeBlanc moved that the preponderance of evidence did support the allegation that the licensee violated Chapter 6 Telemedicine Standards of Practice, § 3(9) by failing to ensure that an appropriate informed consent was timely documented in the medical records of Patients 1, 2, and 3. Ms. Weinstein seconded the motion.

A roll call vote was taken, and the motion passed unanimously.

Maroulla Gleaton, MD: For
Holly, Fanjoy, MD: For
Renee Fay-LeBlanc, MD: For
Gregory Jamison, RPh: For
Brad Waddell, MD: For
Lynne M. Weinstein: For

Allegation XII. Pursuant to 32 M.R.S. § 3282-A(2)(H) for violation of Board statute or rule, specifically Chapter 6 Telemedicine Standards of Practice, § 3(13) for failing to ensure that complete, accurate and timely medical records for Patients 1, 2 and/or 3 were maintained.

Dr. Waddell moved that the preponderance of evidence did support the allegation that the licensee violated Chapter 6 Telemedicine Standards of Practice, § 3(13) by failing to ensure that complete medical records for Patients 1, 2 and 3 and accurate medical records for Patient 1 were maintained. Dr. Fay-LeBlanc seconded the motion.

A roll call vote was taken, and the motion passed unanimously.

Maroulla Gleaton, MD: For
Holly, Fanjoy, MD: For
Renee Fay-LeBlanc, MD: For
Gregory Jamison, RPh: For
Brad Waddell, MD: For
Lynne M. Weinstein: For

Allegation XIII. Pursuant to 32 M.R.S. § 3282-A(2)(H) for violation of Board statute or rule, specifically Chapter 6 Telemedicine Standards of Practice, § 3(14) for failing to have in place and/or follow mandatory written protocols to ensure that all telemedicine encounters are secure and confidential, by sharing patient details with persons who were not the relevant patient(s), without written authorization from the relevant patient(s).

Dr. Waddell moved that the preponderance of the evidence did support the allegation that the licensee violated Chapter 6 Telemedicine Standards of Practice, §3(14) by failing to have in place and/or follow mandatory written protocols to ensure that all telemedicine encounters are secure and confidential. Ms. Weinstein seconded the motion.

A roll call vote was taken, and the motion passed unanimously.

Maroulla Gleaton, MD: For
Holly, Fanjoy, MD: For
Renee Fay-LeBlanc, MD: For
Gregory Jamison, RPh: For
Brad Waddell, MD: For
Lynne M. Weinstein: For

Allegation XIV. Pursuant to 32 M.R.S. § 3282-A(2)(A) for the practice of fraud, deceit or misrepresentation in connection with service rendered within the scope of the license issued for

lying to a pharmacist that a prescription for hydroxychloroquine was being prescribed for Lyme disease.

Dr. Waddell moved that the preponderance of evidence did support the allegation that the licensee engaged in deceit and misrepresentation in connection with service rendered within the scope of the license issued by lying to a pharmacist that a prescription for hydroxychloroquine was being prescribed for Lyme disease. Mr. Jamison seconded the motion.

A roll call vote was taken, and the motion passed unanimously.

Maroulla Gleaton, MD:	For
Holly, Fanjoy, MD:	For
Renee Fay-LeBlanc, MD:	For
Gregory Jamison, RPh:	For
Brad Waddell, MD:	For
Lynne M. Weinstein:	For

Allegation XVIII. Pursuant to 32 M.R.S. § 3282-A(2)(R) for failing to timely respond to a complaint notification sent by the Board.

Dr. Waddell moved that the preponderance of evidence did not support the allegation that the licensee failed to timely respond to a complaint notification sent by the Board. Dr. Fay-LeBlanc seconded the motion.

A roll call vote was taken, and the motion passed unanimously.

Maroulla Gleaton, MD:	For
Holly, Fanjoy, MD:	For
Renee Fay-LeBlanc, MD:	For
Gregory Jamison, RPh:	For
Brad Waddell, MD:	For
Lynne M. Weinstein:	For

Allegation XIX. Pursuant to 32 M.R.S. § 3282-A(2)(P) & (Q) for failing to timely respond to and comply with Board-issued subpoenas.

Dr. Waddell moved that the preponderance of evidence did not support the allegation that the licensee failed to timely respond to and comply with Board-issued subpoenas. Dr. Fay-LeBlanc seconded the motion.

A roll call vote was taken, and the motion passed unanimously.

Maroulla Gleaton, MD:	For
Holly, Fanjoy, MD:	For
Renee Fay-LeBlanc, MD:	For
Gregory Jamison, RPh:	For
Brad Waddell, MD:	For
Lynne M. Weinstein:	For

Hearing Officer Smith conducted a roll call vote to confirm that Board members received the additional Board staff sanction exhibits with all members voting in the affirmative.

AAG Timothy Steigelman gave a closing argument on behalf of Board staff.

Gene Libby, Esq. gave a closing argument on behalf of Dr. Nass.

Following discussion regarding sanctions, the Board made the following motions:

Ms. Weinstein moved to 1) issue a reprimand based on allegations 2, 8, and 14; 2) impose a two-year probation requiring a practice monitor approved by the Board Chair to review ten charts per month and provide quarterly reports to the Board focusing on documentation and clinical decision-making; completion within four months of an 8 – 12 hour ethics course and a 4 – 6 hour medical record documentation course to include telehealth record keeping approved by the Board Chair; submission within four months of a written telehealth plan consistent with Board rule; and completion of a clinical competence assessment within four months by an evaluator approved by the Board with implementation of the recommendations from the evaluation; 3) assessment of half the costs of hearing up to a maximum of \$10,000 payable within six months; 4) grant the license renewal with a suspension until April 30, 2025 to be stayed upon completion of probationary terms. Mr. Jamison seconded the motion.

A roll call vote was taken, and the motion passed unanimously.

Maroulla Gleaton, MD:	For
Holly, Fanjoy, MD:	For
Renee Fay-LeBlanc, MD:	For
Gregory Jamison, RPh:	For
Brad Waddell, MD:	For
Lynne M. Weinstein:	For

Dr. Waddell moved to delegate authority to the Board Chair to sign the Board Order to be effective upon execution. Mr. Jamison seconded the motion.

A roll call vote was taken, and the motion passed unanimously.

Maroulla Gleaton, MD:	For
Holly, Fanjoy, MD:	For
Renee Fay-LeBlanc, MD:	For
Gregory Jamison, RPh:	For
Brad Waddell, MD:	For
Lynne M. Weinstein:	For

III. Adjournment 2:00 p.m.

Respectfully submitted,



Maureen S. Lathrop
Administrative Assistant