

STATE OF MAINE  
BOARD OF OSTEOPATHIC LICENSURE

In re Paul G. Gosselin, D.O.

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**DECISION AND ORDER**

Complaint No. CR 2021-49

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**I. PROCEDURAL HISTORY**

Pursuant to the authority found in 10 M.R.S. Section 8003(5-A), the Maine Board of Osteopathic Licensure (“Board”) met in public session on April 14, May 12, and June 9, 2022. Due to the Board’s determination that an emergency or urgent situation existed, the hearing was held by remote videoconference pursuant to 1 M.R.S. Section 403-B. The purpose of the meeting was to determine whether to impose discipline upon the license of Paul G. Gosselin, D.O. (“Licensee”) as a doctor of Osteopathic Medicine.

By letter dated January 31, 2022, the Licensee was notified that the hearing in this matter was scheduled for April 14, 2022. On January 13, 2022, a prehearing videoconference was convened and a Conference Order was issued on January 14, 2022, explaining the hearing process and setting deadlines for the submission of information prior to the hearing. On February 9, 2022, a Scheduling Order was issued. On March 31, 2022, a status conference was convened and on April 1, 2022, a Conference Order was issued. On April 4, 2022, an Evidentiary Order and an Order on Non-Dispositive Motions were issued. Also on April 4, 2022, a Recommended Decision on the Licensee’s Motion to Dismiss was issued. At the start of the April 14, 2022, hearing day, the Board denied the Licensee’s motion to dismiss or alternatively to stay the proceeding. On May 9, 2022, a Scheduling and Evidentiary Order was issued. At the start of the May 12, 2022, hearing day, the Licensee withdrew his motion to stay the proceedings. On June 8, 2022, a Scheduling and Evidentiary Order was issued.

A quorum of the Board was in attendance during all stages of the proceedings. Participating and voting Board members were John Gaddis, D.O.; Brian Gillis, D.O.; Peter Michaud; Marty McIntyre; Lisa Ryan, D.O.; John Brewer, D.O.; Rebecca Vose, PA-C; James Pisini, D.O.; Christine Munroe, D.O.; and Chair Melissa Michaud, PA-C. The Licensee was present and was represented by David Bauer, Esq., and F. R. Jenkins, Esq. Assistant Attorneys General Andrew Black, Esq., and Katie Johnson, Esq., represented Board Staff. Rebekah Smith, Esq., served as Presiding Officer pursuant to a contract with the Board. The hearing was held in accordance with the requirements of the Maine Administrative Procedure Act, 5 M.R.S. Section 9051 to Section 9064.

Board Staff Exhibits #1 to #43 and Licensee Exhibits #1 to #133 and #136 to #138 were admitted. Licensee Exhibits #134 and #135 were excluded. The Board took notice of its statutes and rules and confirmed that no participating member had any conflict of interest or bias that would prevent him or her from rendering an impartial decision in this matter. Each party made an opening statement. Board Staff presented the following witnesses; the Licensee; Charityanne Panchuck; and Dr. Kathryn Brandt, D.O. The Licensee presented the following witnesses; Katie York; Carol Fredette; Kristen Knopp; Kelly Dudley; Sara Studholme; Jennifer Phelps; Lori Frederick; Christina Hobbs; the Licensee; Steven Katsis, M.D.; and Carrie Madej, D.O. All testimony was taken under oath. Each party made a closing argument on whether the violations had been proven by a preponderance of the evidence. Following the Board's deliberation on the violations, the Licensee was permitted to recall himself for the purpose of giving testimony related to sanction. Each party then made a closing argument regarding sanction.

## **II. FINDINGS OF FACT**

The Board makes the following findings of fact by a preponderance of the credible evidence.

**Complaints History.** The Licensee has held a license to practice osteopathic medicine in the State of Maine since July 15, 1999. (Board Staff Exh. #2.) As of October 2021, the Licensee

maintained a practice called Patriot Health in Waterville, Maine. (Board Staff Exh. #10; Testimony of Licensee.) Charityanne Panchuck served as the administrative assistant at Patriot Health from August to November 2021. (Testimony of Panchuck.) Ms. Panchuck answered the phone, completed paperwork, booked appointments, took payments, and filed paperwork. (Testimony of Licensee.)

On October 22, 2021, Kevin Ward of MaineGeneral Health filed a report regarding the Licensee, alleging that he had issued what appeared to be form letters for COVID-19 vaccine exemptions between August 25, 2021, and October 22, 2021. (Board Staff Exh. #3.) On October 28, 2021, a report was filed against the Licensee by health care provider Bobbie Reeves, alleging that the Licensee was issuing COVID-19 vaccine exemption letters without evaluation or documentation. (Board Staff Exh. #4.)

On November 19, 2021, the Board suspended the Licensee's license for 30 days pending further board action at an adjudicatory hearing. (Board Staff Exh. #5.) On November 22, 2021, the Board issued a complaint against the Licensee based on the October 22, 2021, and October 28, 2021, reports they had received against the Licensee. (Board Staff Exh. #6.) On December 2, 2021, the Board, the Department of the Attorney General, and the Licensee entered into an Interim Consent Agreement in which the Licensee agreed that his license suspension would continue until the Board took further action regarding the complaints. (Board Staff Exh. #7.)

**Factual History.** In late October 2021, Licensee issued multiple vaccine exemption letters to health care workers in Maine as the end of October deadline for vaccination of health care workers approached. (Board Staff Exhs. #10 to #22.) The Licensee did not meet with most of the individuals for whom he wrote a vaccine exemption letter. (Testimony of Licensee; Testimony of Panchuck.) The Licensee did not fill out new patient forms regarding the individuals or perform a physical examination on any of the individuals. (Testimony of Panchuck.) The Licensee was not

the primary care provider for any of the individuals identified in the Notice of Hearing for whom he issued vaccine exemption letters. (Testimony of Licensee.) The Licensee did not consult with the primary care providers of any of the individuals for whom he wrote vaccine exemption letters. (Testimony of Licensee.) The Licensee did not obtain the medical records for the individuals for whom he wrote vaccine exemption letters. (Testimony of Licensee.) The Licensee was unaware of the CDC's guidance regarding exemptions. (Testimony of Licensee.) Before writing the exemption letters, the Licensee had researched the COVID-19 vaccines and considered them more harmful than the COVID-19 infection itself. (Testimony of Licensee.)

Ms. Panchuck communicated with the individuals seeking exemption letters and relayed the information to the Licensee. (Testimony of Licensee.) The Licensee sometimes was in the vicinity of Ms. Panchuck's desk when she was speaking with someone seeking an exemption and would relay information through Ms. Panchuck. (Testimony of Panchuck.) The Licensee understood that without a vaccine exemption letter, the individuals would not have been able to continue their employment in the health care field. (Testimony of Licensee.)

The Licensee regarded the exemption letters as an administrative process largely managed by Ms. Panchuck. (Testimony of Licensee.) The Licensee did not believe that he established patient-doctor relationships with the individuals for whom he wrote letters. (Testimony of Licensee.) The Licensee issued approximately 100 vaccine exemption letters. (Testimony of Panchuck.) Ms. Panchuck was instructed by the Licensee to request that an individual receiving an exemption letter pay \$100. (Testimony of Panchuck.) Some individuals paid \$100 for an exemption letter; other individuals were not charged. (Testimony of Licensee.)

The only records that were retained for the individuals receiving exemption letters were their request paperwork and copies of the exemption letters. (Testimony of Panchuck.) The Licensee

testified that at the time he issued the vaccine exemption letters in 2021 he was unaware that he had to conduct an examination before issuing a vaccine exemption letter. (Testimony of Licensee.)

On October 19, 2021, S.S. emailed the Licensee's office requesting a vaccine exemption letter. (Board Staff Exh. #10.) S.S. indicated that it had been recommended that she contact the Licensee regarding her concerns about the COVID-19 vaccine. (Board Staff Exh. #10.) S.S. reported that she had medical issues that discouraged receiving the vaccine. (Board Staff Exh. #10.) On October 26, 2021, the Licensee issued a vaccine exemption letter to S.S. (Board Staff Exh. #10.) The letter stated that S.S. had vital concerns about taking the current Sars COVID-19 vaccine and that in his professional judgment, immunization against COVID-19 was medically inadvisable for S.S. (Board Staff Exh. #10.) On October 28, 2021, S.S. emailed the Licensee noting that the employer was requesting additional information including the date she was seen, the specific vaccine that she was being exempted for, and identified medical criteria. (Board Staff Exh. #10.) S.S. suggested that if the Licensee wrote that in his professional opinion the risks outweighed the benefits for her health, her employer might accept the letter. (Board Staff Exh. #10.)

At hearing, S.S. testified that her exemption letter from the Licensee was approved by the two medical institutions she worked for. (Testimony of S.S.) She testified that although she had a primary care provider in October 2021, that individual refused to provide her an exemption letter. (Testimony of S.S.) S.S. then contacted the Licensee because she had been told he was willing to discuss issuing exemption letters. (Testimony of S.S.) S.S. had made up her mind not to take the vaccine. (Testimony of S.S.) S.S. paid \$100 to the Licensee for his issuance of the exemption letter. (Testimony of S.S.)

On October 21, 2021, J.P. emailed the Licensee's office requesting an exemption letter for her employer. (Board Staff Exh. #10.) J.P.'s email indicated that she had spoken with a colleague and was trying a last-ditch effort to get an exemption before losing her job at the end of the month.

(Board Staff Exh. #10.) She stated that she did not believe in the vaccine or the vaccination mandate. (Board Staff Exh. #10.) The Licensee thereafter issued an updated letter that his office emailed to J.P. stating that J.P. had vital concerns about taking the current Sars COVID-19 vaccines. (Board Staff Exh. #10.) The letter went on to state that after evaluating J.P. on October 25, 2021, the Licensee believed that it was medically inadvisable for her to receive the current COVID-19 vaccines. (Board Staff Exh. #10.)

At hearing, J.P. testified that she did not have a primary care provider at the time that she asked the Licensee to issue her an exemption. (Testimony of J.P.) J.P. paid the Licensee \$100 for the vaccine exemption letter. (Testimony of J.P.) Although the Licensee's vaccine exemption letter was initially accepted by J.P.'s employer, it was later rejected because the employer had received so many letters from the Licensee. (Testimony of J.P.) J.P. thereafter obtained an exemption letter from a different physician. (Testimony of J.P.) J.P. never met with nor was she examined or evaluated by the Licensee in conjunction with the letter. (Testimony of J.P.)

On October 21, 2021, C.H. emailed the Licensee's office indicating that he had been given the Licensee's contact information and was in need of a COVID-19 medical exemption. (Board Staff Exh. #10.) C.H. indicated several reasons why he should be exempt, acknowledging that his primary care provider had denied the request for an exemption. (Board Staff Exh. #10.) The Licensee issued an updated letter stating that C.H. had vital concerns about taking the current Sars COVID-19 vaccine and listing C.H.'s medical conditions. (Board Staff Exh. #10.) The exemption letter went on to state that after evaluating L.H. on October 25, 2021, it was the Licensee's medical opinion that it was medically inadvisable for him to receive the COVID-19 vaccine. (Board Staff Exh. #10.) On October 27, 2021, C.H. sent an email to the Licensee's office indicating that as the Licensee had probably heard, MaineGeneral was rejecting all medical exemptions and requesting additional information. (Board Staff Exh. #10.) C.H. indicated a desire to meet with the Licensee

to update the medical exemption he had provided. (Board Staff Exh. #10.) C.H. indicated that unlike his spouse, for whom the Licensee had also provided an exemption letter, C.H. had credible reasons for an exemption. (Board Staff Exh. #10.)

On October 22, 2021, L.F. emailed the Licensee's office requesting an appointment to establish care and to potentially obtain a medical exemption letter for the COVID-19 vaccine. (Board Staff Exh. #10.) L.F. indicated that she had many reasons for not wanting to take the vaccine but her primary care and naturopathic doctors refused to write her exemption letters. (Board Staff Exh. #10.) L.F. explained that she had been diagnosed with several conditions but was working to improve her health naturally. (Board Staff Exh. #10.) On October 26, 2021, the Licensee issued a vaccine exemption letter for L.F. (Board Staff Exh. #10.) L.F. came into the office on October 27, 2021, to pick up the letter and later that day emailed the Licensee's office indicating that her employer had indicated that she would need more information in the letter in order for the exemption letter to be accepted. (Board Staff Exh. #10.) L.F. indicated the letter should include the date of her appointment and the specific vaccines that required exemption. (Board Staff Exh. #10.) L.F. asked for the letter to include an exemption for the flu shot. (Board Staff Exh. #10.) She also noted that the letter had to indicate that the Licensee's conclusion was based on identified acceptable medical criteria. (Board Staff Exh. #10.)

At hearing, L.F. testified that she had a primary care provider at the time she sought an exemption letter from the Licensee but she did not request an exemption letter from her primary care provider because she thought he would say no. (Testimony of L.F.) L.F. did not speak with the Licensee personally in the process of obtaining the exemption letter, for which she paid \$100. (Testimony of L.F.)

On October 24, 2021, H.G. emailed the Licensee's office asking to meet with him to discuss a medical exemption for the COVID-19 and flu vaccines. (Board Staff Exh. #10.) H.G. reported a

2017 diagnosis and a prior allergic reaction to medication. (Board Staff Exh. #10.) She noted that the cancer care center and her primary care provider were refusing to give out any exemptions and that the Licensee was her last hope to remain employed by MaineGeneral. (Board Staff Exh. #10.) On October 26, 2021, the Licensee issued a letter indicating that H.G. had vital medical concerns about taking the current COVID-19 and flu vaccines. (Board Staff Exh. #10.) The Licensee stated that in his professional judgment, immunizations against COVID-19 and flu were medically inadvisable for H.G. (Board Staff Exh. #10.) The Licensee issued a second vaccine exemption letter for H.G. on October 26, 2021, adding that H.G. had experienced an adverse reaction to a drug in 2017. (Board Staff Exh. #10.) The revised letter indicated that after meeting with H.G. on October 26, 2021, it was the Licensee's professional judgment that receiving the COVID-19 and flu vaccines were medically inadvisable. (Board Staff Exh. #10.)

On October 25, 2021, K.D. contacted the Licensee's office through email requesting an exemption letter for her employer. (Board Staff Exh. #10.) In her email, K.D. indicated that she had been directed to contact the Licensee regarding a medical exemption at a Maine Medical Freedom meeting. (Board Staff Exh. #10.) She noted that she had environmental and seasonal allergies but no other chronic health conditions. (Board Staff Exh. #10.) On October 28, 2021, the Licensee issued a vaccine exemption letter that was sent to K.D. (Board Staff Exh. #10.) The letter stated that it was the Licensee's understanding that K.D. had vital concerns about taking the current COVID-19 vaccines. (Board Staff Exh. #10.) The Licensee noted that the vaccine insert failed to list the ingredients of the vaccine, resulting in a lack of informed consent. (Board Staff Exh. #10.) The Licensee also stated that after corresponding with K.D. on October 28, 2021, it was his professional judgment that it was medically inadvisable for K.D. to receive the COVID-19 vaccine. (Board Staff Exh. #10.) On October 28, 2021, K.D. called the Licensee's office requesting a revision to the letter. (Board Staff Exh. #10.)



At hearing, K.D. testified that she heard the Licensee's name at a meeting regarding medical freedoms. (Testimony of K.K.) She stated that she had already decided not to take the vaccine for various reasons when she contacted the Licensee, including that she has an autoimmune disease that she did not want exacerbated by the vaccine. (Testimony of K.K.) K.K.'s employer did not grant her an exemption based on the Licensee's letter. (Testimony of K.K.)

On October 25, 2021, V.B. called the Licensee's office seeking a vaccine exemption letter for her employer. (Board Staff Exh. #10.) On October 26, 2021, Ms. Panchuck emailed V.B. a vaccine exemption letter issued by the Licensee stating that J.B. had vital concerns about taking the COVID-19 vaccine. (Board Staff Exh. #10.) The letter stated that in the Licensee's professional judgment, immunization against COVID-19 was medically inadvisable for V.B. (Board Staff Exh. #10.) The Licensee stated in his letter that after evaluating V.B. on October 25, 2021, it was his medical opinion that it was medically inadvisable for V.B. to receive the current COVID-19 vaccines. (Board Staff Exh. #10.)

On October 25, 2021, J.B. contacted the Licensee's office by email seeking a vaccine exemption letter. (Board Staff Exh. #10.) On October 26, 2021, the Licensee issued a letter and his office contacted J.B. to review the letter. (Board Staff Exh. #10.) The same day, the Licensee issued a vaccine exemption letter that was sent to J.B. (Board Staff Exh. #10.) On October 29, 2021, J.B. emailed the Licensee's office asking for the letter to be revised to fit the employer's requirements. (Board Staff Exh. #10.) J.B. indicated that her employer was asking that the wording be changed to reflect that the doctor made his professional judgment that vaccination was inadvisable based on the criteria of the Centers for Disease Control and Prevention ("CDC"). (Board Staff Exh. #10.) J.B. requested an updated exemption letter for the COVID-19 and flu vaccines with the same wording but an indication that the Licensee's conclusion was based on the

criteria laid out by the CDC. (Board Staff Exh. #10.) J.B. sent the Licensee an edited exemption request and asked the Licensee to sign and return it. (Board Staff Exh. #10.)

On October 25, 2021, K.P. emailed the Licensee's office seeking a medical exemption for the COVID-19 vaccine and the flu vaccine. (Board Staff Exh. #10.) She stated in her email that she had experienced a bad reaction to the flu vaccine several years earlier. (Board Staff Exh. #10.) On October 26, 2021, the Licensee issued a letter stating that it was his understanding that K.P. had vital concerns about taking the flu and current COVID-19 vaccine and in his professional judgment, immunization against the flu and COVID-19 was medically inadvisable for K.P. (Board Staff Exh. #10.) Ms. Panchuck emailed K.P. the vaccine exemption letter. (Board Staff Exh. #10.)

On October 25, 2021, K.Y. contacted the Licensee's office seeking a vaccine exemption letter. (Board Staff Exh. #10.) The same day, the Licensee issued an exemption letter that was emailed to K.Y. (Board Staff Exh. #10.) The letter stated that K.Y. had vital concerns about taking the current COVID-19 vaccines and the flu vaccine and that after evaluation of K.Y. on October 25, 2021, in the Licensee's medical opinion it was medically inadvisable for K.Y. to receive the current COVID-19 vaccines or flu vaccine. (Board Staff Exh. #10.) Later that day, K.Y. emailed the Licensee's office and indicated that additional language would be required for her employer to accept the letter; specifically, that in the provider's professional judgment, immunization was medically inadvisable for K.Y. and the exemptions were based on the CDC's criteria. (Board Staff Exh. #10.) On November 1, 2021, the Licensee emailed K.Y. back to ask as follows: "What exactly does CDC say about exemptions?" (Board Staff Exh. #10.)

At hearing, K.Y. testified that she was not seeking treatment from the Licensee and did not consider herself his patient. (Testimony of K.Y.) When K.Y. approached the Licensee, she had already made up her mind not to take the vaccine. (Testimony of K.Y.) K.Y. spoke to the Licensee directly to explain her prior reaction to a vaccine and her concerns about the COVID-19 vaccine.

(Testimony of K.Y.) K.Y.'s employer rejected the Licensee's exemption letter as insufficient and sought medical records to support the exemption letter, which she declined to provide. (Testimony of K.Y.)

On October 25, 2021, Ms. Panchuck emailed C.F. an exemption letter after C.F. contacted the Licensee's office to request one. (Board Staff Exh. #10.) In the letter, the Licensee stated that C.F. had vital concerns about taking the current COVID-19 vaccines and that C.F. had taken the Johnson & Johnson vaccine and suffered a reaction. (Board Staff Exh. #10.) The Licensee reported that after examining C.F. on October 25, 2021, it was his medical opinion that it was medically inadvisable for her to receive the current COVID-19 vaccines. (Board Staff Exh. #10.) C.F. testified at hearing that although she had a primary care provider in the fall of 2021, she could not get an appointment in time to meet the deadline for exemption letters. (Testimony of C.F.) She indicated that she had a reaction to the Johnson and Johnson COVID-19 vaccine in October 2021. (Testimony of C.F.) C.F. testified that she was not seeking to become a patient of the Licensee and she had already decided not to take the vaccine when she contacted him. (Testimony of C.F.)

On October 26, 2021, K.K. contacted the Licensee's office through email requesting a vaccine exemption letter. (Board Staff Exh. #10.) In her email, K.K. stated that she was in need of a medical exemption and was told she could reach out to the Licensee. (Board Staff Exh. #10.) On October 27, 2021, the Licensee issued a COVID-19 vaccine exemption letter regarding K.K., stating that it was his understanding that K.K. had vital medical concerns about taking the COVID-19 booster and that in his professional judgment, immunization against COVID-19 was medically inadvisable for K.K. (Board Staff Exh. #10.)

At hearing, K.K. testified that she had done her own research on the COVID-19 vaccines and determined that the risks were too great. (Testimony of K.K.) K.K. heard from people in her office that the Licensee was issuing exemption letters. (Testimony of K.K.) By the time K.K.

contacted the Licensee, she had determined that she would not take the vaccine. (Testimony of K.K.) K.K.'s exemption letter from the Licensee was not accepted by her employer and she was terminated in November 2021. (Testimony of K.K.)

On October 26, 2021, B.D. called the Licensee's office seeking an exemption letter for her employer and spoke to Ms. Panchuck. (Board Staff Exh. #10.) On October 26, 2021, the Licensee issued a letter indicating that B.D. had vital concerns about taking the current COVID-19 vaccine. (Board Staff Exh. #10.) The Licensee stated that in his professional judgment, immunization against COVID-19 was medically inadvisable for B.D. (Board Staff Exh. #10.) On October 27, 2021, Ms. Panchuck emailed B.D. the exemption letter. (Board Staff Exh. #10.) On October 28, 2021, B.D. emailed the Licensee's office requesting a revision of the letter to meet employer requirements, specifically a date of service and a medical diagnosis. (Board Staff Exh. #10.)

At hearing, Kathryn Brandt, D.O., testified that the process for conducting an evaluation includes obtaining information about the patient's complaint and their medical and social history, conducting a physical examination, and providing an assessment including the clinical reasoning for drawing a conclusion. (Testimony of Brandt.)

On January 6, 2022, the Board posted a position statement on COVID-19 misinformation to its website. (Lic. Exh. #65.) The position statement indicated that a licensee who issued a vaccination exemption without conducting an appropriate examination and without finding a legitimate medical reason supporting such exemption within the standard of care could face disciplinary action. (Lic. Exh. #65.)

### **III. GOVERNING STATUTES AND RULES**

1. The Board's sole purpose is to protect the public health and welfare. 10 M.R.S. § 8008.

2. The Board may impose discipline upon a licensee who exhibits incompetence by engaging in conduct that evidences a lack of ability or fitness to discharge the duty owed to a patient or the public. 32 M.R.S. § 2591-A(2)(E)(1).
3. The Board may impose discipline upon a licensee who exhibits incompetence by engaging in conduct that evidences a lack of knowledge or inability to apply principles or skills to carry out the practice of medicine. 32 M.R.S. § 2591-A(2)(E)(2).
4. The Board may impose discipline upon a licensee for engaging in unprofessional conduct by violating a standard of professional behavior that has been established in the practice of medicine. 32 M.R.S. § 2591-A(2)(F).
5. As a sanction for violations, the Board may impose conditions of probation upon a licensee. 10 M.R.S. § 8003(5)(A-1)(4). The Board may also assess a licensee for all or part of the actual expenses incurred by the Board for investigations and enforcement duties. 10 M.R.S. § 8003-D.

#### **IV. CONCLUSIONS OF LAW**

The Board, keeping in mind its sole purpose to protect the public health and welfare and considering the above facts and those alluded to in the record but not referred to herein, concluded that it had jurisdiction over licensee Paul G. Gosselin, D.O., and found as follows with regard to the allegations against the Licensee.

With regard to Count I in the Notice of Hearing, alleging that the Licensee demonstrated incompetence by engaging in conduct that evidenced a lack of ability or fitness to discharge the duty owed to a patient or the public, which would have subjected him to discipline pursuant to 32 M.R.S. Section 3591-A(2)(E)(1), by improperly issuing vaccine exemptions and failing to create and maintain adequate medical records for patients who received vaccine exemptions, the Board

found by unanimous vote that the allegation had not been proven by a preponderance of the evidence.

With regard to Count II in the Notice of Hearing, alleging that the Licensee demonstrated incompetence by engaging in conduct that evidenced a lack of knowledge or inability to apply principles or skills to carry out the practice of medicine, which would have subjected him to discipline pursuant to 32 M.R.S. Section 3591-A(2)(E)(2), by improperly issuing vaccine exemptions and failing to create and maintain adequate medical records for patients who received vaccine exemptions, the Board found by unanimous vote that the allegation had not been proven by a preponderance of the evidence.

With regard to Count III.a. in the Notice of Hearing, alleging that the Licensee engaged in unprofessional conduct by violating a standard of professional behavior that has been established in the practice of medicine, the Board found, by a vote of seven to three, that the allegation had been proven by a preponderance of the evidence based on the Licensee's failure to examine the individuals, obtain their medical histories, obtain medical records, or consult with their primary care providers, any of which could have constituted an evaluation, prior to writing vaccine exemption letters for J.P., C.H., V.B., K.Y., and C.F. in late October 2021 that indicated that he had performed an evaluation, subjecting him to discipline pursuant to 32 M.R.S. Section 2591-A(2)(F).

With regard to Count III.b. in the Notice of Hearing, alleging that the Licensee engaged in unprofessional conduct by violating a standard of professional behavior that has been established in the practice of medicine, the Board found, by a vote of nine to one, that the allegation had been proven by a preponderance of the evidence based on failing to create or maintain adequate medical records for individuals who received vaccine exemptions after writing vaccine exemption letters for J.P., C.H., V.B., K.Y., and C.F. in October 2021 that indicated that he had performed an evaluation, subjecting him to discipline pursuant to 32 M.R.S. Section 2591-A(2)(F).

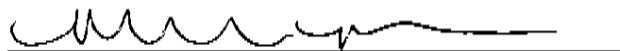
As a sanction for the Licensee’s violations, considering the nature of the violations and the Licensee’s significant prior disciplinary history, the Board imposed the following terms of probation, which will last for a period of one year:

1. The Licensee must attend 10 hours of continuing education classes in medical decision making and 10 hours of continuing education classes in medical documentation, which can be counted towards the Licensee’s biannual continuing education requirement;
2. The Licensee may not issue vaccine exemption letters.

The Board also imposed \$1,000 in hearing costs on the Licensee, which must be paid within one year. The Licensee was given the opportunity to offer evidence and argument regarding his financial circumstances. The Board finds that the Licensee has the ability to pay the imposed costs based on the evidence in the record.<sup>1</sup> Payment of the hearing costs shall be remitted to the attention of Susan Strout, Executive Secretary, Board of Osteopathic Licensure, 142 State House Station, Augusta, Maine 04333-0142 by check or money order payable to the Treasurer, State of Maine.

The effective date of this Decision and Order is the date on which it is signed by the Board Chair.

Dated: August 10<sup>th</sup>, 2022

  
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 Melissa Michaud, PA-C  
 Chair, State of Maine Board of Osteopathic Licensure

<sup>1</sup> On March 31, 2022, Board Staff filed a request that the Licensee produce certain financial documents in order to assess his ability to pay the costs of hearing. (Board Staff Exh. #42.) The Licensee did not provide a response. (Testimony of Licensee.)

## **V. APPEAL RIGHTS**

Pursuant to the provisions of 10 M.R.S. Section 8003(5-A) and 5 M.R.S. Sections 11001 to 11003, any party that appeals this Decision and Order must file a Petition for Review in the Superior Court within 30 days of receipt of this Decision and Order. The petition shall specify the person seeking review, the manner in which they are aggrieved, and the final agency action which they wish reviewed. It shall also contain a concise statement as to the nature of the action or inaction to be reviewed, the grounds upon which relief is sought, and a demand for relief. Copies of the Petition for Review shall be served by certified mail, return receipt requested, upon the State of Maine Board of Osteopathic Licensure, all parties to the agency proceedings, and the Attorney General.