

STATE OF MAINE
DEPARTMENT OF PROFESSIONAL
AND FINANCIAL REGULATION
OFFICE OF PROFESSIONAL AND OCCUPATIONAL REGULATION
35 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0035

Janet T. Mills
Governor

Anne L. Head, Esq.
Commissioner

Geraldine L. Betts
Administrator

Maine Board of Pharmacy
Minutes of June 6, 2024, Board Meeting

Virtual Meeting Public Notification and Hearing/Viewing Instructions Provided at the Opening of the Meeting by Board President Edward Kane.

CALL TO ORDER

President Kane called the meeting to order at 8:34 a.m.

MEMBERS PRESENT

Edward Kane, Esq., Public Member, Board President
Eric Norberg, RPh, Pharmacist, Vice President
Bradley Hamilton, R.Ph., Chain Pharmacist, Complaint Officer
Nicholas Haar, PharmD, R.Ph., Hospital Pharmacist (*Left meeting at 12:15 p.m.*)
Timothy McCormack, Esq., Public Member
Abdifatah Ahmed, PharmD, R.Ph., Independent Pharmacist (*Left meeting at 10:30 a.m.*)

MEMBERS ABSENT

Cassandra White, PharmD, R.Ph., Pharmacist

STAFF PRESENT

Geraldine L. Betts, Administrator
Thomas Avery, Chief Field Investigator
Adam Wood, Regulatory Health Compliance Agent
Jennifer Willis, Assistant Attorney General, Board Counsel
Meagan McLaughlin, Comprehensive Health Planner II
Dominic Cotone, Comprehensive Health Planner I
Clark Phinney, Comprehensive Health Planner I

VINCENT L. DICIANNI, ESQ., PRESIDENT, AFFILIATED MONITORS

Mr. DiCianni of Affiliated Monitors provided an overview and how the monitoring and assessment program can be used for probationary sanctions as part of a licensee's board order or consent agreement. The program's monitors are trained practitioners that work directly with the licensee and work with a large range of industries and professions.

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OFFICE LOCATION: GARDINER ANNEX
76 NORTHERN AVENUE, GARDINER, MAINE

MINUTES REVIEW AND APPROVAL

1. December 29, 2023, Hamilton moved to accept as written, seconded by Norberg. Unanimously voted.
2. February 1, 2024, Hamilton moved to accept as written, seconded by Norberg. Unanimously voted.
3. March 7, 2024, Hamilton moved to accept as written, seconded by Norberg. Unanimously voted.

APPLICATION, REVIEW AND BOARD ACTION

Laila Ata (Initial)

McCormack moved to preliminarily deny licensure to Laila Ata, PT60018681, and offer a Consent Agreement to include the following 1) Admission to 32 M.R.S. § 13742-A(1)(A), for misuse of alcohol, drugs or other substances; 2) Obtain, at applicant's own expense, an evaluation from Medical Professionals Health Program (MPHP), or a pre-approved, licensed health care practitioner with training and experience in substance misuse diagnosis and treatment, and if ongoing treatment or monitoring is recommended, applicant agrees to submit the treatment and monitoring terms to the Board, applicant agrees to ensure that quarterly reports of compliance will be submitted to the Board, and agrees to follow all terms of the proposed treatment and monitoring requirements until its completion; and agrees to execute all waivers to all practitioners to share required information with the Board, seconded by Hamilton. Ahmed, Haar and Kane in favor, Norberg opposed.

Melanie M. Pinette (Initial)

McCormack moved to preliminarily deny licensure to Melanie M. Pinette, PT60018868, and offer of Consent Agreement to include the following 1) Admission to 32 M.R.S. § 13742-A(1)(A) misuse of alcohol, drugs or other substances; 2) Probation for a period of five (5) years from the date of issuance the applicant agrees to disclose substance misuse disorder and criminal history to all pharmacy and pharmacy-related employers, maintain abstinence, maintain regular practice of counseling; 3) Obtain, at applicant's own expense, an evaluation from a pre-approved licensed health care practitioner with training and experience in substance misuse diagnosis and treatment or a medical professionals health program, and if ongoing treatment or monitoring is recommended, applicant agrees to submit the treatment and monitoring terms to the Board, applicant agrees to ensure that quarterly reports of compliance will be submitted to the Board, and agrees to follow all terms of the proposed treatment and monitoring requirements until its completion; and agrees to execute all waivers to all practitioners to share required information with the Board. In addition, regardless of the findings of the substance misuse evaluation, applicant agrees to obtain at her own expense, for the period of one year from the first date of licensure, random urine toxicology screening for substance use, which screening must include at least fourteen (14) different substances prone to abuse, from a Board-approved toxicology laboratory, which must total no fewer than twelve (12) total screenings, seconded by Hamilton. Unanimously voted.

LICENSEE WITHDRAWAL

Vistapharm LLC WH70002776, Expiration December 1, 2024.

This Board tabled this request and to be added to a future agenda.

COMPLAINT PRESENTATION(S) AND BOARD ACTION

2024-PHA-19887

McCormack moved to dismiss 2024-PHA-19887 with no evidence of a violation of the Board's Laws and Rules, seconded by Norberg. Ahmed, Haar and Kane in favor. Complaint Officer Hamilton recused.

2023 PHA 19255

McCormack moved to schedule 2023-PHA-19255 for an adjudicatory hearing and to authorize the Assistant Attorney General to negotiate a Consent Agreement to include the following: 1) Admission to violation of 32 M.R.S. 13742-A(1)(C) and Board Rule Chapter 30 § 1(17); 2) Reprimand and; 3) Revocation of license, seconded by Norberg. Ahmed, Haar and Kane in favor. Complaint Officer Hamilton recused.

2023 PHA 19267

McCormack moved to dismiss 2023-PHA-19267 with no evidence of a violation of the Board's Laws and Rules, seconded by Norberg. Ahmed, Haar and Kane in favor. Complaint Officer Hamilton recused.

2023 PHA 19619

McCormack moved to dismiss 2023-PHA-19619 with no evidence of a violation of the Board's Laws and Rules, seconded by Norberg. Ahmed, Haar and Kane in favor. Complaint Officer Hamilton recused.

2022 PHA 18062

McCormack moved to dismiss 2022-PHA-18062 with no evidence of a violation of the Board's Laws and Rules, seconded by Norberg. Ahmed, Haar and Kane in favor. Complaint Officer Hamilton abstained.

2022 PHA 18063

McCormack moved to dismiss 2022-PHA-18063 with no evidence of a violation of the Board's Laws and Rules, seconded by Norberg. Ahmed, Haar and Kane in favor. Complaint Officer Hamilton abstained.

2023 PHA 19479

McCormack moved to schedule 2023-PHA-19479 for an adjudicatory hearing and to authorize the Assistant Attorney General to negotiate a Consent Agreement to include the following; 1) Admission to violation of 32 M.R.S. 13742-A(1)(C) and Board Rule Chapter 30 § 1(3); 2) Warning and; 3) \$500.00 Civil Penalty, seconded by Norberg. Ahmed, Haar and Kane in favor. Complaint Officer Hamilton abstained.

2023 PHA 19480

McCormack moved to schedule 2023-PHA-19480 for an adjudicatory hearing and to authorize the Assistant Attorney General to negotiate a Consent Agreement to include the following: 1) Admission to violation of 32 M.R.S. 13742-A(1)(C) and Board Rule Chapter 30 § 1(3); 2) Warning and; 3) \$500.00 Civil Penalty, seconded by Norberg. Ahmed, Haar and Kane in favor. Complaint Officer Hamilton abstained.

2023 PHA 19481

McCormack moved to dismiss 2023-PHA-19481 with no evidence of a violation of the Board's Laws and Rules, seconded by Norberg. Ahmed, Haar and Kane in favor. Complaint Officer Hamilton abstained.

2023 PHA 19482

McCormack moved to dismiss 2023-PHA-19482 with no evidence of a violation of the Board's Laws and Rules, seconded by Norberg. Ahmed, Haar and Kane in favor. Complaint Officer Hamilton abstained.

2023 PHA 19563

McCormack moved to dismiss 2023-PHA-19563 with no evidence of a violation of the Board's Laws and Rules, seconded by Haar. Ahmed, Kane and Norberg in favor. Complaint Officer Hamilton abstained.

2023 PHA 19572

McCormack moved to dismiss 2023-PHA-19572 with no evidence of a violation of the Board's Laws and Rules, seconded by Norberg. Ahmed, Haar and Kane in favor. Complaint Officer Hamilton abstained.

2023 PHA 19651

Haar moved to dismiss 2023-PHA-19651 with Letter of Guidance, to be drafted by Assistant Attorney General Letter of Guidance to stay on file for a period of ten (10) years, seconded by Ahmed. Kane, McCormack and Norberg in favor. Complaint Officer Hamilton abstained.

2023 PHA 19672

Norberg moved to schedule 2023-PHA-19672 for an adjudicatory hearing and to authorize the Assistant Attorney General to negotiate a Consent Agreement to include the following: 1) Admission to violation of 10 M.R.S. 8003(5-A)(A)(5) and Board Rule Chapter 13 § 2(5); 2) Warning and; 3) \$1500.00 Civil Penalty, seconded by McCormack. Ahmed, Haar and Kane in favor. Complaint Officer Hamilton abstained.

2024 PHA 19712

McCormack moved to dismiss 2024-PHA-19712 with Letter of Guidance, to be drafted by Assistant Attorney General Letter of Guidance to stay on file for a period of ten (10) years, seconded by Haar. Kane and Norberg in favor. Complaint Officer Hamilton abstained.

2024 PHA 19725

McCormack moved to schedule 2024-PHA-19725 for an adjudicatory hearing and to authorize the Assistant Attorney General to negotiate a Consent Agreement to include the following: 1) Admission to violation of Board Rule Chapter 30 § 1(17); 2) Reprimand and; 3) License Revocation, seconded by Norberg. Haar and Kane in favor. Complaint Officer Hamilton abstained.

2024 PHA 19744

McCormack moved to dismiss 2024-PHA-19744 with no evidence of a violation of the Board's Laws and Rules, seconded by Norberg. Haar and Kane in favor. Complaint Officer Hamilton abstained.

2024 PHA 19776

Norberg moved to dismiss 2024-PHA-19776 with no evidence of a violation of the Board's Laws and Rules, seconded by McCormack. Haar and Kane in favor. Complaint Officer Hamilton abstained.

2024 PHA 19777

McCormack moved to dismiss 2024-PHA-19777 with Letter of Guidance, to be drafted by Assistant Attorney General Letter of Guidance to stay on file for a period of ten (10) years, seconded by Norberg. Haar and Kane in favor. Complaint Officer Hamilton abstained.

2023 PHA 19091

McCormack moved to dismiss 2023-PHA-19091 with no evidence of a violation of the Board's Laws and Rules, seconded by Norberg. Haar and Kane in favor. Complaint Officer Hamilton abstained.

2023 PHA 19343

Norberg moved to schedule 2023-PHA-19343 for an adjudicatory hearing and to authorize the Assistant Attorney General to negotiate a Consent Agreement to include the following; 1) Admission to violation 10 M.R.S. 8003(5-A)(A)(5) and Board Rule Chapter 8 § 8, Chapter 13 § 6(6); 2) Warning and; 3) \$1500.00 Civil Penalty, seconded by McCormack. Haar and Kane in favor. Complaint Officer Hamilton abstained.

2023 PHA 19344

McCormack moved to dismiss 2023-PHA-19344 with no evidence of a violation of the Board's Laws and Rules, seconded by Norberg. Haar and Kane in favor. Complaint Officer Hamilton abstained.

2023 PHA 19444

McCormack moved to dismiss 2023-PHA-19444 with no evidence of a violation of the Board's Laws and Rules, seconded by Norberg. Haar and Kane in favor. Complaint Officer Hamilton abstained.

2024 PHA 19952

Norberg moved to dismiss 2024-PHA-19952 with no evidence of a violation of the Board's Laws and Rules, seconded by McCormack. Haar and Kane in favor. Complaint Officer Hamilton abstained.

2023 PHA 19573

McCormack moved to dismiss 2023-PHA-19573 with no evidence of a violation of the Board's Laws and Rules, and for Board staff to refile complaint against the licensed Retail Pharmacy and

Pharmacist in Charge from July of 2023, seconded by Norberg. Haar and Kane in favor. Complaint Officer Hamilton abstained.

2024 PHA 19778

McCormack moved to dismiss 2024-PHA-19778 with no evidence of a violation of the Board's Laws and Rules, seconded by Norberg. Haar and Kane in favor. Complaint Officer Hamilton abstained.

2024 PHA 19851

McCormack moved to dismiss 2024-PHA-19851 with no evidence of a violation of the Board's Laws and Rules, seconded by Norberg. Haar and Kane in favor. Complaint Officer Hamilton abstained.

REQUEST FOR CONSIDERATION

Christopher M. Guthrie, Quarles & Brady LLP

Request for clarification of licensure requirement for facilities that sell prescription devices retail and wholesale.

The Board declined to comment on this request.

REQUEST FOR ADVISORY RULING

David Ellis, R.Ph.

Request for advisory ruling regarding the federal Drug Supply Chain Safety Act and how it might affect the acquisition of prescription medications for a medical mission trip.

McCormack moved to decline to issue an Advisory Ruling as this is outside of their jurisdiction, seconded by Norberg. Unanimously voted.

CORRESPONDENCE PROPOSAL

Walgreen Eastern Co., Inc. Nichole Cover, R.Ph., Director, Pharmacy Affairs, Walgreen Co.

Request for specific Walgreen pharmacies to be serviced by Walgreen Central Fill facility.

The Board to have staff communicate the rulemaking progress to Ms. Cover.

NATIONAL ASSOCIATION OF BOARDS OF PHARMACY (NABP) 120TH ANNUAL CONFERENCE REPORT

Presenter, Board Member, Bradley Hamilton, RPh.

The Board voted to table this discussion and add it to a future agenda.

RULEMAKING – Subcommittee Draft Rule Recommendations for Board Review and Consideration – Presenter, Chair of Subcommittee for Rulemaking Dr. Cassandra White, PharmD)

The Board agreed to schedule rulemaking for the third Monday of each month beginning July 15, 2024.

U.S. ATTORNEY'S OFFICE (EASTERN DISTRICT OF MICHIGAN) PRESS RELEASE ON MICHIGAN PHARMACY OWNER SENTENCED FOR UNLAWFUL DISTRIBUTION OF CONTROLLED SUBSTANCES – DISCUSSION

Presenter, Jennifer Willis, Assistant Attorney General

The Board voted to table this discussion and add it to a future agenda.

PUBLIC OPPORTUNITY TO COMMENT

No public comments.

ADJOURNMENT

There being no further business McCormack moved to adjourn the meeting, seconded by Norberg.
Unanimously voted

Meeting adjourned at 12:24 p.m.

*Prepared By: Meagan McLaughlin, Comprehensive Health Planner II
Board approved: September 5, 2024*