

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 August 4, 2022 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, R.Ph., Pharmacist, Vice President
Bradley Hamilton, R.Ph., Chain Pharmacist, Complaint Officer (*left meeting at 10:24*)
Nicholas Haar, PharmD, R.Ph., Hospital Pharmacist
Abdifatah Ahmed, PharmD, R.Ph., Independent Pharmacist
Timothy McCormack, Esq., Public Member
Cassandra White, PharmD, R.Ph., Pharmacist

STAFF PRESENT

Geraldine L. Betts, Administrator
Thomas Avery, Chief Field Investigator
Andrew Black, Assistant Attorney General, Board Counsel
Jennifer Willis, Assistant Attorney General, Board Counsel
Jessica Gowell, Professional Licensing Supervisor

MINUTES REVIEW AND APPROVAL

June 2, 2022

Hamilton moved to accept the minutes of June 2, 2022 as amended, seconded by Haar. Unanimously voted. Norberg abstained.

RULEMAKING DISCUSSION

1. Chapter 4-A, Administration of Drugs and Vaccines and Operation of Drug and Vaccine Administration Clinics (Amend)

McCormack moved to accept the draft, seconded by Ahmed.

McCormack moved to amend the motion and table action, seconded by Ahmed. Unanimously voted.

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76 NORTHERN AVENUE, GARDINER, MAINE

2. *Chapter 41, Sale of Nonprescription Drugs Through Vending Machine Outlets (NEW)*
Hamilton moved to table action, seconded by White. Unanimously voted.

3. *Chapter 42, Compounding Drugs for Veterinary Office Use (NEW)*
Hamilton moved to accept the draft as proposed, seconded by Norberg. Unanimously voted.

McCormack moved to create a subcommittee to review the rules, seconded by White.
Unanimously voted. The Board will be provided a new draft rulemaking package once complete.

COMPLAINT PRESENTATION(S) AND BOARD ACTION

2015-PHA-11346

Norberg moved to approve the request amending the Consent Agreement to remove all requirements, seconded by McCormack. Unanimously voted. Complaint Officer abstained.

2021-PHA-17525

McCormack moved to approve the proposed Consent Agreement to include the following: 1) Admission to violation of 32 M.R.S. § 13751(1) and Board Rules Chapter 11, §5; 2) Reprimand and 3) \$10,000.00 fine, seconded by Norberg. Unanimously voted. Complaint Officer abstained.

2021-PHA-17526

McCormack moved to dismiss 2021-PHA-17526 with no evidence of a violation of the Board's Laws and Rules, seconded by Norberg. Unanimously voted. Complaint Officer abstained.

2021-PHA-17816

McCormack moved to approve the proposed Consent Agreement to include the following: 1) Admission to violation of 32 M.R.S. § 13751(1) and Board Rules Chapter 11, §5; 2) Reprimand and 3) \$5,000.00 fine, seconded by Norberg. Unanimously voted. Complaint Officer abstained.

2022-PHA-18094

White moved to dismiss 2022-PHA-18094 with no evidence of a violation of the Board's Laws and Rules, seconded by Norberg. Unanimously voted. Complaint Officer abstained.

2022-PHA-18155

Norberg moved to schedule 2022-PHA-18155 for an adjudicatory hearing and to offer a Consent Agreement to include the following: 1) Admission to violation of Board Rules Chapter 13 (3)(1); 2) Reprimand and 3) \$8,000.00 fine, seconded by White. Unanimously voted. Complaint Officer abstained.

2022-PHA-18157

Norberg moved to schedule 2022-PHA-18157 for an adjudicatory hearing and to offer a Consent Agreement to include the following: 1) Admission to violation of Board Rules Chapter 13 (3)(1); 2) Reprimand and 3) \$2,000.00 fine, seconded by White. Unanimously voted. Complaint Officer abstained.

2022-PHA-18158

Norberg moved to schedule 2022-PHA-18158 for an adjudicatory hearing and to offer a Consent Agreement to include the following: 1) Admission to violation of Board Rules Chapter 13 (3)(1); 2) Reprimand and 3) \$2,000.00 fine, seconded by White. Unanimously voted. Complaint Officer abstained.

2022-PHA-18160

White moved to dismiss 2022-PHA-18160 with a Letter of Guidance ensuring incoming pharmacist in charge registrations are on file with the board and that during all hours of operation there is a registered pharmacist in charge at all retail locations. The Letter of Guidance is to remain on file for a period of ten (10) years, seconded by McCormack. Unanimously voted. Complaint Officer abstained.

2022-PHA-18164

Norberg moved to dismiss 2022-PHA-18164 with no evidence of a violation of the Board's Laws and Rules, seconded by White. Unanimously voted. Complaint Officer abstained.

2022-PHA-18166

McCormack moved to schedule 2022-PHA-18166 for an adjudicatory hearing and to offer a Consent Agreement to include the following: 1) Admission to violation of Board Rules Chapter 13 (3)(1); 2) Censure and 3) \$7,000.00 fine, seconded by Ahmed. Unanimously voted. Complaint Officer abstained.

2022-PHA-18207

White moved in lieu of a Consent Agreement to dismiss 2022-PHA-18207 with a Letter of Guidance ensuring incoming pharmacist in charge registrations are on file with the board and that during all hours of operation there is a registered pharmacist in charge at all retail locations. The Letter of Guidance is to remain on file for a period of ten (10) years, seconded by McCormack. Unanimously voted. Complaint Officer abstained.

2022-PHA-18210

McCormack moved to deny the request and main the proposed Consent Agreement, seconded by Norberg, Kane, Ahmed, Haar, McCormack in favor; White and Norberg opposed. Complaint Officer abstained.

2022-PHA-18240

Norberg moved to schedule 2022-PHA-18240 for an adjudicatory hearing and to offer a Consent Agreement to include the following: 1) Admission to violation of Board Rules Chapter 11 Section 3; 2) Censure and 3) \$1,000.00 fine, seconded by McCormack. Kane, Ahmed, Norberg, and McCormack in favor; White and Haar opposed. Complaint Officer abstained.

2022-PHA-18242

McCormack moved to schedule 2022-PHA-18242 for an adjudicatory hearing and to offer a Consent Agreement to include the following: 1) Admission to violation of Board Rules Chapter 13 (3)(1); 2) Censure and 3) \$5,000.00 fine, seconded by White. Unanimously voted. Complaint Officer abstained.

2022-PHA-18249

McCormack moved to schedule 2022-PHA-18249 for an adjudicatory hearing and to offer a Consent Agreement to include the following: 1) Admission to violation of Board Rules Chapter 11 Section 3; 2) Censure and 3) \$1,000.00 fine, seconded by Norberg, Kane, Ahmed, Norberg, and McCormack in favor; White and Haar opposed. Complaint Officer abstained.

2022-PHA-18297

White moved to dismiss 2022-PHA-18297 with no evidence of a violation of the Board's Laws and Rules, seconded by Norberg. Unanimously voted. Complaint Officer abstained.

2022-PHA-18311

White moved to dismiss 2022-PHA-18311 with no evidence of a violation of the Board's Laws and Rules, seconded by Norberg. Unanimously voted. Complaint Officer abstained.

2022-PHA-18317

White moved to schedule 2022-PHA-18317 for an adjudicatory hearing and to offer a Consent Agreement to include the following: 1) Admission to violation of Board Rules Chapter 13 § 2(1); 2) Warning and 3) \$18,000.00 fine, seconded by Norberg. Unanimously voted. Complaint Officer abstained.

2022-PHA-18330

Norberg moved to dismiss 2022-PHA-18330 with no evidence of a violation of the Board's Laws and Rules, seconded by White. Unanimously voted. Complaint Officer abstained.

Norberg moved to amend the motion to dismiss 2022-PHA-18330 with no evidence of a violation of the Board's Laws and Rules and for staff to investigate licensure requirements concerning oxygen, seconded by White. Unanimously voted. Complaint Officer abstained.

2022-PHA-18343, 2022-PHA-18344, 2022-PHA-18345

Norberg moved to approve the proposed Consent Agreement to include the following: 1) Admission to violation of 32 M.R.S. § 13751(1) and Board Rules Chapter 11, §5; 2) Reprimand and 3) \$175,000.00 fine, seconded by Ahmed. Unanimously voted. Complaint Officer abstained.

2022-PHA-18359

White moved to dismiss 2022-PHA-18359 with no evidence of a violation of the Board's Laws and Rules, motion failed for the lack of a second.

McCormack moved to table action, seconded by Norberg, Kane, Ahmed, Norberg, McCormack and Harr in favor; White opposed. Complaint Officer abstained.

2022-PHA-18363

McCormack moved to schedule 2022-PHA-18363 for an adjudicatory hearing and to offer a Consent Agreement to include a Censure and a \$1,000.00 fine, motion failed for the lack of a second.

McCormack moved to table action, seconded by Norberg. Kane, Ahmed, Norberg, McCormack and Harr in favor; White opposed. Complaint Officer abstained.

2022-PHA-18405

White moved to dismiss 2022-PHA-18405 with a Letter of Guidance regarding the requirement that pharmacist in charge notifications are reported within seven days. The Letter of Guidance is to remain on file for a period of ten (10) years, seconded by Ahmed. Unanimously voted. Complaint Officer abstained.

2022-PHA-18406

White moved to dismiss 2022-PHA-18406 with a Letter of Guidance regarding the requirement that pharmacist in charge notifications are reported within seven days. The Letter of Guidance is to remain on file for a period of ten (10) years, seconded by Norberg. Unanimously voted. Complaint Officer abstained.

2022-PHA-18407

Norberg moved to dismiss 2022-PHA-18407 with a Letter of Guidance ensuring incoming pharmacist in charge registrations are on file with the board and that during all hours of operation there is a registered pharmacist in charge at all retail locations. The Letter of Guidance is to remain on file for a period of ten (10) years, seconded by McCormack. Unanimously voted. Complaint Officer abstained.

2022-PHA-18408

McCormack moved to dismiss 2022-PHA-18408 with no evidence of a violation of the Board's Laws and Rules, seconded by Ahmed. Unanimously voted. Complaint Officer abstained.

APPLICATION, REVIEW AND BOARD ACTION

Bailey St. Pierre, PT60017324 (Initial)

Norberg moved to accept staff's recommendation and grant licensure to Bailey St. Pierre, PT60017324 as presented, seconded by Hamilton. Unanimously voted.

Kaiser Permanente Sterling Automated Refill Center, MO40002535 (Renewal)

Hamilton moved to preliminarily deny pharmacy licensure to Kaiser Permanente Sterling Automated Refill Center, MO40002535 with an offer of a Consent Agreement to include the following: 1) Admission to violation of 10 M.R.S. § 8003-G(2)(D); 2) Reprimand; and 3) \$500.00 fine, seconded by Norberg. Unanimously voted.

CORRESPONDENCE

Jeffrey Austin, Maine Hospital Association regarding LD 1776 Public Law Chapter 566 An Act To Allow Pharmacists To Dispense an Emergency Supply of Chronic Maintenance Drugs.

The Board reviewed the correspondences and refers Jeffrey Austin to the Prescription Monitoring Program for guidance.

Haar moved to add to the agenda the correspondence from the Maine Society of Health System Pharmacists, MaineHealth, and Northern Light Health, COVID-19 Related Shortage of IV Contrast Media, seconded by Norberg. Unanimously voted.

Norberg moved to issue an extension to the Board Statement issued May 19, 2022 regarding beyond-use dating of intravenous iodinated contrast media drugs during active shortage. In order to protect the public health and welfare, the Board issues the following extension for the period of 30 days, the Board will not consider it “unprofessional conduct” for purposes of Board Rules Chapter 29, when a licensed pharmacist assigns a beyond-use date to a repackaged intravenous iodinated contrast media drug, provided that the beyond-use date complies with the guidance contained in the USP’s “Operational Considerations for Sterile Compounding During Covid-19 Pandemic.” seconded by White. Unanimously voted.

BOARD ACTION ON WAIVER REQUEST

Walgreen Eastern Co Inc., PH50001591 – Emergency pharmacist in charge.

Hamilton moved to approve the waiver request pursuant to Board Rules Chapter 13, Section 3(4) and to waive the hour requirement of Board Rules Chapter 13 Section 3(3), seconded by Norberg. Unanimously voted.

TRAVEL

NABP/AACP District 1 & 2 Annual Meeting, October 5-7, 2022, Newport, Rhode Island.

The Board discussed the NABP/AACP District 1 & 2 Annual Meeting. If any Board Member is interested in attending notify Administrator Bett’s by August 12, 2022, if two board members express interest, President Kane will have a discussion with Administrator Bett’s regarding funding.

PUBLIC OPPORTUNITY TO COMMENT

No comments.

ADJOURN

There being no further business Hamilton moved to adjourn at 12:11 p.m., seconded by Norberg. Unanimously voted.

*Prepared By: Jessica Gowell, Professional Licensing Supervisor
Board approved: September 1, 2022*