

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 February 2, 2023, 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 8:30 a.m.

MEMBERS PRESENT

Edward Kane, Esq., Public Member, Board President
Bradley Hamilton, R.Ph., Chain Pharmacist, Complaint Officer
Eric Norberg, R.Ph., Pharmacist, Vice President
Nicholas Haar, PharmD, R.Ph., Hospital Pharmacist
Timothy McCormack, Esq., Public Member
Abdifatah Ahmed, PharmD, R.Ph., Independent Pharmacist

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
Jessica Gowell, Comprehensive Health Planner II
Dominic Cotone, Comprehensive Health Planner I
Meagan McLaughlin, Comprehensive Health Planner I

MINUTES REVIEW AND APPROVAL

January 5, 2023

Norberg moved to accept the minutes of January 5, 2023, as presented, seconded by Hamilton.
Unanimously voted.

**RULEMAKING – REVIEW AND ACCEPT THE BASIS STATEMENT AND
RESPONSE TO COMMENTS AND VOTE TO ADOPT RULES**

1. Chapter 4-A, Administration of Drugs and Vaccines (Amend)

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

McCormack moved to accept the Basis Statement and Response to Comments and to adopt the rule, seconded by Hamilton. Unanimously voted.

2. Chapter 41, Sale of Nonprescription Drugs Through Vending Machine Outlets (New)

McCormack moved to accept the Basis Statement and Response to Comments and to adopt the rule, seconded by Hamilton. Unanimously voted.

3. Chapter 42, Compounding Drugs for Veterinary Office Use (New)

McCormack moved to accept the comment regarding Section 3(2)(B) and amend the rule to eliminate the requirement for the pharmacy to collect a signed acknowledgement from a veterinarian; seconded by Norberg. Unanimously voted.

McCormack moved to accept the comment regarding Section 3(2)(B)(iii) and Section 4(8) and amend the rule to increase the dispensing limit from the proposed 120-hours (5-days) to 14 days (336-hours), seconded by Ahmed. Unanimously voted.

McCormack moved to accept the comment regarding Section 4(8) and amend the rule to read “Compounded Preparation for Vet Office Use Only. Intended only for dispensing and admin for nonfood-producing animals as determined by the prescribing vet”, seconded by Norberg. Unanimously voted.

Hamilton moved to amend the motion to eliminate *Preparation* and fully say “administration”, seconded by McCormack. Unanimously voted.

McCormack moved to not accept the comment regarding 503B outsourcing facilities as the Board does not have licensing authority, seconded by Hamilton. Unanimously voted.

McCormack moved to not accept the comment for assurance that the veterinarian is not held responsible or disciplined should an owner eat a pet pig or chicken after the pet consumes the compounded prescription drug because the Board of Pharmacy does not license, regulate, or impose discipline related to the practice of veterinary medicine on dispensing a prescription drug and associated practice, seconded by Haar. Unanimously voted.

COMPLAINT PRESENTATION(S) AND BOARD ACTION

2022-PHA-18225

McCormack moved to schedule 2022-PHA-18225 for an adjudicatory hearing and to offer a Consent Agreement in include the following: 1) Admission to violation of 32 M.R.S. §13742-A, Board rules Chapter 30 § (16) and (28); and 2) Revocation, seconded by Haar. Kane, Norberg, Haar, McCormack and Ahmed in favor, Complaint Officer Hamilton abstained.

2022-PHA-18456

Norberg moved to dismiss 2022-PHA-18456 with no evidence of a violation of the Board’s Laws and Rules, seconded by McCormack. Kane, Norberg, Haar, McCormack and Ahmed in favor, Complaint Officer Hamilton abstained.

2022-PHA-18305

McCormack moved to deny the request for reconsideration and reoffer the consent agreement with the same terms; 1) Admission to violation of 10 M.R.S. § 8003-G; 2) Reprimand; and 3) \$500.00 fine, seconded by Norberg. Norberg, Kane, Haar, McCormack and Ahmed in favor, Complaint Officer Hamilton abstained.

2022-PHA-18361

Norberg moved to dismiss 2022-PHA-18361 with no evidence of a violation of the Board's Laws and Rules, seconded by Haar. Kane, Norberg, Haar, McCormack and Ahmed in favor, Complaint Officer Hamilton abstained.

2022-PHA-18362

Norberg moved to dismiss 2022-PHA-18362 with no evidence of a violation of the Board's Laws and Rules, seconded by Haar. Kane, Norberg, Haar, McCormack and Ahmed in favor, Complaint Officer Hamilton abstained.

2022-PHA-18472

McCormack moved to dismiss 2022-PHA-18472 with no evidence of a violation of the Board's Laws and Rules, seconded by Norberg. Kane, Norberg, Haar, McCormack and Ahmed in favor, Complaint Officer Hamilton abstained.

2022-PHA-18602

McCormack moved to schedule 2022-PHA-18602 for an adjudicatory hearing and to offer a Consent Agreement in include the following: 1) Admission to violation of 10 M.R.S. §8003(5-A)(A)(5) and Board Rules Chapter 13 § 2(1) and (5); 2) Reprimand and 3) \$7,500.00 fine, seconded by Norberg. Kane, Norberg, Haar, McCormack and Ahmed in favor, Complaint Officer Hamilton abstained.

2022-PHA-18603

McCormack moved to schedule 2022-PHA-18603 for an adjudicatory hearing and to offer a Consent Agreement in include the following: 1) Admission to violation of 10 M.R.S. §8003(5-A)(A)(5) and Board Rules Chapter 13 § 2(1); 2) Warning and 3) \$1,000.00 fine, seconded by Haar. Kane, Norberg, Haar, McCormack and Ahmed in favor, Complaint Officer Hamilton abstained.

2022-PHA-18604

McCormack moved to schedule 2022-PHA-18604 for an adjudicatory hearing and to offer a Consent Agreement in include the following: 1) Admission to violation of 10 M.R.S. §8003(5-A)(A)(5) and Board Rules Chapter 8 §6 and Chapter 13 § 3(3); 2) Warning and 3) \$750.00 fine, seconded by Ahmed.

Haar moved to amend the motion to schedule 2022-PHA-18604 for an adjudicatory hearing and to offer a Consent Agreement in include the following: 1) Admission to violation of 10 M.R.S. §8003(5-A)(A)(5) and Board Rules Chapter 8 §6 and Chapter 13 § 3(3); and 2) Warning, seconded by Norberg. Kane, Norberg, Haar, McCormack and Ahmed in favor, Complaint Officer Hamilton abstained.

2022-PHA-18644

Norberg moved to dismiss 2022-PHA-18644 with no evidence of a violation of the Board's Laws and Rules, seconded by Ahmed. Kane, Norberg, Haar, McCormack and Ahmed in favor, Complaint Officer Hamilton abstained.

2022-PHA-18679

Ahmed moved to schedule 2022-PHA-18679 for an adjudicatory hearing and to offer a Consent Agreement in include the following: 1) Admission to violation of 32 M.R.S. §13742-A(1)(C), 10 M.R.S. § 8003(5-A)(A)(5) and Board Rules Chapter 30 § 1(15); 2) Warning and 3) \$500.00 fine, seconded by McCormack. Kane, Norberg, Haar, McCormack and Ahmed in favor, Complaint Officer Hamilton abstained.

2022-PHA-18694

McCormack moved to schedule 2022-PHA-18694 for an adjudicatory hearing and to offer a Consent Agreement in include the following: 1) Admission to violation of 10 M.R.S. § 8003(5-A)(A)(5) and Board Rules Chapter 34 §4(6); 2) Warning and 3) \$750.00 fine, seconded by Norberg. Kane, Norberg, Haar, McCormack and Ahmed in favor, Complaint Officer Hamilton abstained.

BOARD ACTION ON WAIVER REQUEST

Drug Faire LLC, PH50001725 - Waiver to operate 1 hour per year.

Ahmed moved to table action requesting Administrator Betts and Assistant Attorney General, Jennifer Willis to research the classifications listed in 32 M.R.S. §13751 (1) and (2) seconded by Norberg. Kane, Norberg, Haar, McCormack and Ahmed in favor, Hamilton recused.

PUBLIC OPPORTUNITY TO COMMENT

Noah Gordon commented regarding the discussion regarding the waiver request for Drug Faire LLC.

ADJOURN

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

*Prepared By: Jessica Gowell, Comprehensive Health Planner II
Board approved: March 2, 2023*