

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 March 3, 2022 Board Meeting

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

CALL TO ORDER

President Hamilton called the meeting to order at 8:30 a.m.

MEMBERS PRESENT

Bradley Hamilton, R.Ph., Chain Pharmacist, President
Edward Kane, Public Member, Vice President
Nicholas Haar, R.Ph., Hospital Pharmacist
John House, R.Ph., Independent Pharmacist
Timothy McCormack, Public Member
Eric Norberg, R.Ph., Pharmacist
Cassandra White, R.Ph., Pharmacist

STAFF PRESENT

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

PRESENTER

9:00 a.m. Medical Professionals Health Program (MPHP) Guy Cousins, Director; Heidi LaMonica, Operations Manager; Heidi Wright, Clinical Coordinator; Jennifer Bailey, Clinical Coordinator; Chelsea Pherigo, Clinical Coordinator

Guy Cousins introduced the MPHP staff and gave the Board an overview of the program regarding referral sources and monitoring agreements. The Board thanked MPHP for their time and the important services they provide.

STATE SERVICE CONTRACT AGREEMENT WITH THE MEDICAL PROFESSIONALS HEALTH PROGRAM (MPHP) – ANDREW BLACK, ASSISTANT ATTORNEY GENERAL

Hamilton moved that the Board go into executive session at 9:38 a.m. pursuant to 1 M.R.S. § 405(6)(E) to consult with its attorney concerning the legal rights and duties of the Board under

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

the contract with the Maine Medical Association, which sponsors the Medical Professionals Health Program, seconded by Harr. Unanimously voted.

The Board ended executive session at 9:59 a.m.

Assistant Attorney General, Andrew Black informed the public in attendance that the Board received legal advice under their current contract with MPHP.

COMPLAINT PRESENTATION(S) AND BOARD ACTION

2021-PHA-17293

Hamilton moved that the Board go into executive session at 10:02 a.m. pursuant to 1 M.R.S. § 405(6)(F) to discuss information contained in the records made confidential by statute, specifically investigation records of a complaint made confidential by 10 M.R.S. § 8003-B(1), seconded by Kane. Unanimously voted.

The Board ended executive session at 10:28 a.m.

McCormack moved to schedule 2021-PHA-17293 for an adjudicatory hearing and to offer a Consent Agreement to include the following: 1) Admission to violation of 10 M.R.S. § 8003(5-A)(A)(4) and (5), Board Rules Chapter 11 § 1(4) and 32 M.R.S. § 13794; 2) Reprimand; 3) \$276,500.00 fine, seconded by White. Unanimously voted.

2021-PHA-17650

Kane moved to dismiss 2021-PHA-17650 with a Letter of Guidance concerning if a pharmacy operates a recording system that enables prescribers to telephone the pharmacy and leave recorded voice prescriptions, the pharmacy must have policies and procedures in place that address when, how, and by whom these voice messages will be reviewed. The Letter of Guidance is to remain on file for a period of ten (10) years, seconded by Norberg. Unanimously voted.

2021-PHA-17739

White moved to schedule 2021-PHA-17739 for an adjudicatory hearing and to offer a Consent Agreement to include the following: 1) Admission to violation of Board Rules Chapter 30 § 1 (16); 2) Censure; 3) \$1,500.00 fine and 4) Completion of four (4) hours of Board-approved continuing professional education on preventing prescription errors which may not be used to fulfill the continuing education required for relicensure. The Board will accept the continuing education credits provided by the licensee and indicate that portion of the Consent Agreement has been satisfied, seconded by Haar. Unanimously voted.

2021-PHA-17798

Haar moved to dismiss 2021-PHA-17798 with no evidence of a violation of the Board's Laws and Rules, seconded by White. Unanimously voted. Hamilton abstained.

2021-PHA-17805

White moved to dismiss 2021-PHA-17805 with no evidence of a violation of the Board's Laws and Rules, seconded by McCormack. Unanimously voted.

2021-PHA-17807

Hamilton recused. Audio and video were turned off.

Kane moved to dismiss 2021-PHA-17807 with no evidence of a violation of the Board's Laws and Rules, seconded by White. Unanimously voted. Hamilton recused.

2021-PHA-17810

Norberg moved to dismiss 2021-PHA-17810 with no evidence of a violation of the Board's Laws and Rules, seconded by White. Unanimously voted.

2021-PHA-17842

White moved to dismiss 2021-PHA-17842 with no evidence of a violation of the Board's Laws and Rules, seconded by Norberg. Unanimously voted.

2021-PHA-17870

White recused. Audio and video were turned off.

McCormack moved to dismiss 2021-PHA-17870 with a Letter of Guidance concerning the importance of maintaining professional demeanor and staying current with the latest guidance from the Centers for Disease Control, the Food and Drug Administration, and the manufacturers of vaccines. The Letter of Guidance is to remain on file for a period of ten (10) years, seconded by Norberg. Unanimously voted. White recused.

2021-PHA-17903

Kane moved to dismiss 2021-PHA-17903 with no evidence of a violation of the Board's Laws and Rules, seconded by Haar. Unanimously voted.

2021-PHA-17904

Kane moved to dismiss 2021-PHA-17904 with a Letter of Guidance concerning if a pharmacy operates a recording system that enables prescribers to telephone the pharmacy and leave recorded voice prescriptions, any pharmacists at the pharmacy has a professional obligation to check these voice messages at regular intervals and when opening the pharmacy each day. The Letter of Guidance is to remain on file for a period of ten (10) years, seconded by Norberg. Unanimously voted.

2021-PHA-17912

McCormack moved to schedule 2021-PHA-17912 for an adjudicatory hearing and to offer a Consent Agreement to include the following: 1) Admission to violation of Board Rules Chapter 30 § 1 (16); 2) Censure; 3) \$500.00 fine and 4) Completion of three (3) hours of Board-approved continuing professional education on preventing prescription errors which may not be used to fulfill the continuing education required for relicensure. The Board will accept the continuing education credits provided by the licensee and indicate that portion of the Consent Agreement has been satisfied, seconded by Norberg. Unanimously voted.

2021-PHA-17945

McCormack moved to table action, seconded by Kane. Unanimously voted.

2021-PHA-17948

Norberg moved to dismiss 2021-PHA-17948 with a Letter of Guidance concerning affording patients the opportunity to transfer prescriptions to other pharmacies and being able to transfer prescriptions in a reasonably timely manner upon patient request and pharmacies should not impede the ability of patients, or pharmacies acting on behalf of patients, to make transfer requests. The Letter of Guidance is to remain on file for a period of ten (10) years, seconded by White. Unanimously voted.

2021-PHA-17958

McCormack moved to schedule 2021-PHA-17958 for an adjudicatory hearing and to offer a Consent Agreement to include the following: 1) Admission to violation of 10 M.R.S. § 8003(5-A)(A)(5); Board Rules Chapter 13 § 5, Board Rules Chapter 13, § 6(2), 32 M.R.S. § 13742-A(1)(C), Board Rules Chapter 30, § 1(13) and Board Rules Chapter 30, § 1(18); 2) Warning; 3) \$500.00 fine and 4) Completion of three (3) hours of Board-approved continuing professional education on safeguarding of prescription drugs and shall be completed and proof of completion submitted within ninety (90) days. The continuing education credits may not be used to fulfill the continuing education required for relicensure. The Board will accept the continuing education credits provided by the licensee and indicate that portion of the Consent Agreement has been satisfied, seconded by Kane. Unanimously voted. Hamilton abstained.

2021-PHA-17964

Kane moved to dismiss 2021-PHA-17964 with no evidence of a violation of the Board's Laws and Rules, seconded by McCormack. Unanimously voted.

McCormack moved to amend the motion to request staff to verify there was not a gap in the pharmacist in charge, if a gap occurred requests that staff file a complaint, seconded by Kane. Unanimously voted.

2021-PHA-17968

McCormack moved to dismiss 2021-PHA-17968 with no evidence of a violation of the Board's Laws and Rules, seconded by Norberg. Unanimously voted.

2021-PHA-17969

McCormack moved to dismiss 2021-PHA-17969 with no evidence of a violation of the Board's Laws and Rules, seconded by Norberg. Unanimously voted.

2022-PHA-17999

Kane moved to dismiss 2022-PHA-17999 with no evidence of a violation of the Board's Laws and Rules, seconded by McCormack. Unanimously voted.

2022-PHA-18021

Harr moved to dismiss 2022-PHA-18021 with no evidence of a violation of the Board's Laws and Rules, seconded by White. Unanimously voted.

2022-PHA-18022

Harr moved to dismiss 2022-PHA-18022 with a Letter of Guidance concerning when a pharmacy decides to deviate from its posted schedule or close for a day, it must also take steps to correct any automatic emails whose messages are affected by the closure. The Letter of Guidance is to remain on file for a period of ten (10) years, seconded by White. Unanimously voted.

ELECTION OF OFFICERS FOR 2022

The board tabled the matter until the April 7, 2022 Board Meeting.

TRAVEL

President Bradley Hamilton, Maine Pharmacy Associations Spring Conference.

The Board approved Bradley Hamilton to attend the Maine Pharmacy Associations Spring Conference April 30, 2022.

PUBLIC OPPORTUNITY TO COMMENT

Amy Downing, Maine Pharmacy Association commented regarding her request for President, Bradley Hamilton to present at the Spring Conference.

Administrator Betts thanked John House for his time served on the Board and appreciates him time and efforts.

ADJOURN

There being no further business Kane moved to adjourn at 11:56 a.m., seconded by Hamilton. Unanimously voted.

*Prepared By: Jessica Gowell, Professional Licensing Supervisor
Board approved: May 5, 2022*