State of Maine
Board of Licensure in Medicine
137 SHS 161 Capitol Street
Augusta, Maine 04333-0137
Minutes of July 10, 2012
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      2. (1:00 p.m.) CR 11-511/12-24
      3. (3:00 p.m.) MPHP Dr. Lani Graham

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State of Maine  
Board of Licensure in Medicine  
137 SHS 161 Capitol Street  
Augusta, Maine 04333-0137  
Minutes of July 10, 2012

BOARD MEMBERS PRESENT  
Gary R. Hatfield, M.D., Chairman  
Maroulla Gleaton, M.D., Board Secretary  
David R. Andrews, M.D.  
Louisa Barnhart, M.D.  
Cheryl Clukey  
David H. Dumont, M.D.  
Dana Dyer  
David D. Jones, M.D.  
David Nyberg, Ph.D.

BOARD STAFF PRESENT  
Randal C. Manning, Executive Director  
Mark C. Cooper, M.D., Medical Director  
Jean M. Greenwood, Board Coordinator  
Dan Sprague, Assistant Executive Director  
Tim Terranova, Consumer Assistant  
Maria MacDonald, Board Investigator

ATTORNEY GENERAL’S OFFICE  
Dennis Smith, Assistant Attorney General  
Detective James Gioia

The Board meets in public session with the exception of the times listed below, which are held in executive session. Executive sessions are held to consider matters which, under statute, are confidential (1 M.R.S. §405) and 10 M.R.S.A. §8003-B, and 22 M.R.S. § 1711-C). The Board moved, seconded, and voted the following executive session times. During the public session portions of the meeting actions are taken on all matters discussed during executive session. Discussions are projected on a screen by PowerPoint projection.

PUBLIC SESSIONS  
9:05 a.m. – 9:06 a.m.  
11:04 a.m. – 11:05 a.m.  
11:05 a.m. – 11:17 a.m.  
12:43 p.m. – 12:44 p.m.  
12:44 p.m. – 1:16 p.m.  
3:31 p.m. – 5:15 p.m.

EXECUTIVE SESSION  
9:06 a.m. – 10:44 a.m.  
10:45 a.m. – 11:04 a.m.  
11:17 a.m. – 12:43 p.m.  
1:16 p.m. – 3:31 p.m.

I. Call to Order - Dr. Hatfield  
A. Amendments to Agenda  
1. John Tkach, M.D. – Monitoring  
B. Scheduled Agenda Items  
Informal Conference(s)  
1. (11:00 a.m.) CR 12-50  
2. (1:00 p.m.) CR 11-511/12-24  
3. (3:00 p.m.) MHP Dr. Lani Graham
II. New Complaints

1. Review Draft Letters of Guidance

   A. CR12-48 Alfred J. Riel, M.D.

       Dr. Gleeton moved to approve the letter of guidance to Dr. Riel, M.D. Dr. Dumont seconded the motion, which passed unanimously.

   B. CR11-246 Reinaldo de los Heros, M.D.

       Dr. Dumont moved to approve the letter of guidance to Dr. de los Heros. Dr. Jones seconded the motion, which passed unanimously.

2. CR 12-77

   Dr. Jones moved to investigate further CR 12-77. Dr. Gleeton seconded the motion, which passed 8-0-0-1 with Dr. Andrews recused.

3. CR 12-11

   Dr. Andrews moved to dismiss CR 12-11. Dr. Gleeton seconded the motion, which passed unanimously.

   The patient alleges misleading pre-operative information, inattention to discharge planning desires, lack of informed consent, and inadequate attention to her post-op pain after undergoing a total hip arthroplasty. The surgeon responds that he was not expecting to do an anterior or minimally invasive procedure due to her size. He also states that he wished to consider a rehabilitation transfer rather than discharge home due to concern for the risks of a prolonged hospital stay.

   Record review showed the patient’s body morphology to be inconsistent with an anterolateral approach for most surgeons. Neither the office note nor the informed consent detailed the patient’s requests or the surgeon’s definitive plan for a specific surgical technique.

   The discharge planning process had to be readjusted due to some difficulties with post-operative progress, but the surgeon’s concerns were appropriate and he was receptive of alternatives to his initial decisions regarding discharge. The surgeon acknowledged an oversight by office staff in not communicating a pain medication prescription renewal to the patient.

4. CR 12-34

   Dr. Barnhart moved to investigate further CR 12-34. Dr. Dumont seconded the motion, which passed 8-0-0-1 with Dr. Jones recused.
5. CR 12-43

Dr. Dumont moved to dismiss CR 12-43. Dr. Jones seconded the motion, which passed unanimously.

The complainant feels the physician did not listen attentively to her mother, missing clues that may have led to an earlier diagnosis of her mother’s cancer. A review of the records shows appropriate care. Although it is not possible to know details of the interaction between the physician and the patient, there is evidence of well thought-out care.

6. CR 12-49

Mr. Dyer moved to dismiss CR 12-49. Dr. Jones seconded the motion, which passed 7-0-0-2 with Dr. Hatfield and Dr. Dumont recused.

The complainant alleges the physician failed to treat his lower back pain with a prescription for Vicodin and Lunesta. Two other physicians and a Nurse Practitioner, whom the patient consulted, independently agreed with the physician that the patient’s condition did not warrant any such prescriptions. The patient refused all other non-narcotic treatment modalities that were recommended. The physician’s advice and the care he provided were entirely appropriate.

7. CR 11-438

Dr. Andrews moved to investigate further CR 11-438. Dr. Jones seconded the motion, which passed 8-0-0-1 with Mr. Dyer recused.

8. CR 12-30 Jeffrey Holmes, M.D.

Dr. Dumont moved to dismiss CR 12-30 Jeffrey Holmes, M.D. with a letter of guidance. Dr. Gleeton seconded the motion, which passed unanimously.

This complaint involves a patient feeling she was wrongly accused of narcotic abuse and then feeling that she received an inadequate history and exam for her medical problem. The physician admits he misread the Prescription Monitoring Program report but claims to have corrected this with the patient. He also claims he did an adequate history and exam and made a reasonable plan for the patient. Further evaluation should have been performed by staff, and the patient feels this was not adequately explained to her, which the doctor disputes.

The letter of guidance will emphasize the importance of: (1) paying close attention to the interpretation of all reports, (2) obtaining and documenting a thorough history and physical exam, and (3) the importance of communicating to both the patient and to ancillary staff any plans or preliminary diagnoses.

9. CR 12-33
Dr. Gleeton moved to dismiss CR 12-33. Dr. Dumont seconded the motion, which passed unanimously.

This patient with her daughter complained that she was treated incompetently by a covering primary care physician. A review of the records reveals a patient with significant chronic medical problems such that treatment of any one of them could result in worsening of another of her medical issues. The medical care of this complex patient was competent.

10. CR 12-37

Dr. Gleeton moved to dismiss CR 12-37. Dr. Jones seconded the motion, which passed unanimously.

A patient who had been cared for by a primary care physician for seven years complained about abandonment. Review of the records reveals clear documentation and competent medical care with the doctor dismissing the patient for multiple trust issues which would hamper the physician-patient relationship going forward. The physician documented this in a letter to the patient, which was appropriate. There was also no evidence of a HIPPA violation. The physician and the Board concur that the use of universal narcotic precautions and checking the Prescription Monitoring Program when prescribing narcotic medication is medically appropriate and necessary.

11 CR 12-40

Dr. Nyberg moved to investigate further CR 12-40. Dr. Jones seconded the motion, which passed unanimously.

Dr. Nyberg moved to issue a complaint in the matter of CR 12-40 (CR 12-126) for unprofessional conduct in failing to respond to correspondence from the Board. Dr. Jones seconded the motion, which passed unanimously.

12. CR 12-55

Ms. Clukey moved to investigate further CR 12-55. Dr. Jones seconded the motion, which passed 8-0-0-1 with Dr. Andrews recused.

13. CR 12-57

Dr. Gleeton moved to dismiss CR 12-57. Dr. Dumont seconded the motion, which passed 8-0-0-1 with Mr. Dyer recused.

The patient complains that she was unfairly discharged by the physician in 2009. According to the physician and the medical records, the patient was discharged from care in early 2009 for violating a written medication use agreement. A review of the records shows the patient (1) attempted to fill a prescription for opiate medication at a pharmacy other than the one listed in her agreement, and (2) failed to submit to a random urine drug screen.
14. CR 12-61

Dr. Andrews moved to dismiss CR 12-61. Dr. Dumont seconded the motion, which passed unanimously.

The complainant alleges the doctor unsafely prescribed medication to her child. The physician states that consultation with the pharmacist addressed his concerns about the safety of the prescription. The physician alleges the patient disregarded instructions that all tablet modifications needed to be done by the pharmacy and administered a dose that she had modified.

After another pharmacist informed the complainant that the tablet modification was not recommended the patient was seen in an emergency room but had no adverse effects.

Interview with the pharmacy staff confirmed mixed messages from the pharmacy and was supportive of the physician’s claims. There was no attempt by the complainant or the pharmacy staff to consult with the physician prior to seeking emergency care. The physician’s care was diligent and appropriate.

15. CR 12-62

Dr. Jones moved to dismiss CR 12-62. Dr. Gleaton seconded the motion, which passed 8-0-0-1 with Dr. Andrews recused.

The complaint addresses adequacy of a procedure, availability of an on call nurse, issues of costs incurred by a patient after a complication of a procedure, adequacy of informed consent, and the patient’s discomfort with other people becoming aware of her original procedure due to her subsequent complication.

Upon review of the record, it is apparent that the patient had a complication post-operatively and she had been informed about the risk before the procedure. Her informed consent appears to have been adequate. Although rare, complications can occur from well-executed surgical procedures. The availability of an on call nurse/physician was supported, after review, by the nurse who had been on call, and by testing the beeper that she wore. The cost of the complication is unfortunate but is a potential risk of having any procedure. The “public” knowledge of her original procedure and the complication, although concerning for the patient, was only among health care professionals. It was very unfortunate that the patient had a complication, but inadequacy of the patient’s care was not supported by the record, and in fact, the follow up care offered by the original providers was excellent.

16. CR 12-75

Dr. Jones moved to investigate further CR 12-75. Dr. Nyberg seconded the motion, which passed unanimously.

17. CR 12-79
Dr. Barnhart moved to dismiss CR 12-79. Dr. Gleeton seconded the motion, which passed 8-0-0-1 with Dr. Andrews recused.

This patient claims to have significant residual pain and functional issues from a motor vehicle accident. The patient was referred for a second opinion and two examiners noted the patient to be such a difficult historian the data needed for a decision could not be obtained. During the alleged "assertive" questioning, the patient felt not believed by the consultant physician. During a follow-up visit the patient did not understand limits set by this physician in declining to treat an acute problem.

The records reflect an extremely detailed examination and referral to obtain more information. The difficulty with the history was noted. Appropriate care was provided. Assertive questioning by a physician is acceptable when sorting out a difficult situation where intervention may result in further harm. It is appropriate for a consultant not to assume acute care for a patient.

18. CR 10-260

Dr. Gleeton moved to unset the previously ordered adjudicatory hearing in the matter of CR 10-260. Dr. Dumont seconded the motion, which passed unanimously.

CR 10-260

Dr. Gleeton moved to dismiss without prejudice CR 10-260. Dr. Jones seconded the motion, which passed unanimously.

The issues in this complaint are addressed by the physician's current Consent Agreement so no further actions are required at this time.

19. Intentionally Left Blank

III. Assessment & Direction

20. AD 12-107

Dr. Gleeton moved to table AD 12-107. Dr. Jones seconded the motion, which passed unanimously.

21. Intentionally Left Blank

22. Complaint Status Report (FYI)

23. Consumer Assistant Feedback (FYI)

24. Physician Feedback (FYI)
IV. Informal Conference(s)

A. CR 12-50

Dr. Dumont moved to investigate further CR 12-50. Dr. Jones seconded the motion, which passed unanimously.

B. CR 11-511/12-24

Dr. Barnhart moved to offer the physician a consent agreement including recommendations made during the informal conference. Dr. Nyberg seconded the motion, which passed unanimously.

V. Minutes of June 12, 2012

Dr. Dumont moved to approve the minutes of June 12, 2012. Dr. Gleeton seconded the motion, which passed 8-0-1 with Dr. Barnhart abstaining.

VI. Board Orders & Consent Agreement Monitoring & Approval

A. Board Orders (None)

B. Consent Agreement Monitoring and Approval

1. Monitoring Compliance Report (FYI)

2. Alexandria Nesbit, P.A.-C.

   Dr. Jones moved to approve Kathleen Kotas, M.D. as Ms. Nesbit's primary care physician, Kathleen Pelkey, D.O. as her workplace monitor and, Jamie Spofford, DPT as her back-up monitor while at Jackson Laboratory. Dr. Gleeton seconded the motion, which passed unanimously.

3. Michael Bell, M.D.

   Dr. Jones moved to amend the consent agreement to reduce the required urine testing to one random sample per month for Dr. Bell. Dr. Gleeton seconded the motion, which passed 8-0-0-1 with Dr. Dumont recused.

4. Andrew Fletcher, M.D.

   Dr. Gleeton moved to table Dr. Fletcher's request to amend his consent agreement. Dr. Andrews seconded the motion, which passed 7-0-0-2 with Dr. Jones and Dr. Dumont recused.

5. John Tkach, M.D.
Dr. Jones moved to deny Dr. Tkach’s request to be released from the consent agreement entered into April 23, 2012. Ms. Clukey seconded the motion, which passed unanimously.

VII. Adjudicatory Hearing(s) (None)

VIII. Remarks of Chairman

1. Renewal Policy – Letter from Licensee (FYI)

IX. Executive Director’s Monthly Report

The Board accepted the report of the Executive Director.

A. Complaint Status Report (FYI)

B. Policy Review of the Prescriptive Policy for Physician Assistants

Dr. Dumont moved to reaffirm the Prescriptive Policy for Physician Assistants. Dr. Gleaton seconded the motion, which passed unanimously.

X. Medical Director’s Report

A. Nail and Hair drug Testing (FYI)

XI. Remarks of Assistant Attorney General

A. Meeting Protocols (Postponed)

XII. Secretary’s Report

A. List A

1. M.D. List A Licenses for Ratification

Dr. Jones moved to ratify the Board Secretary’s approval of the physicians on List A for licensure. Ms. Clukey seconded the motion, which passed unanimously.

The following license applications have been approved by staff and Board Secretary Maroulla Gleaton, M.D. without reservation.

<table>
<thead>
<tr>
<th>NAME</th>
<th>SPECIALTY</th>
<th>LOCATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adair, II, Luther B., M.D.</td>
<td>Diagnostic Radiology</td>
<td>Not Listed</td>
</tr>
<tr>
<td>Barker, Megan J., M.D.</td>
<td>Family Practice</td>
<td>Fairfield</td>
</tr>
<tr>
<td>Carter, III, William P., M.D.</td>
<td>Emergency Medicine</td>
<td>Not Listed</td>
</tr>
</tbody>
</table>
2. P.A. List A Licenses for Ratification

Dr. Jones moved to ratify the Board Secretary’s approval of the physician assistants on List A for licensure. Dr. Andrews seconded the motion, which passed unanimously.

The following Physician Assistant license applications have been approved by the Board Secretary Maroulla Gleeton, M.D. without reservations:

<table>
<thead>
<tr>
<th>NAME</th>
<th>LICENSE</th>
<th>PSP</th>
<th>LOCATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jordan Emery, P.A.-C</td>
<td>Active</td>
<td>Joel Botler, M.D.</td>
<td>Portland</td>
</tr>
<tr>
<td>Kristin Fox, P.A.-C</td>
<td>Inactive</td>
<td>None</td>
<td>None</td>
</tr>
</tbody>
</table>

Maine Board of Licensure in Medicine Minutes of July 10, 2012
B. List B  Applications for Individual Consideration

1. Pacifico D. Ongkingco Jr., M.D.

   The Licensure Committee moved to deny the license application of Pacifico D. Ongkingco Jr., M.D. The motion passed unanimously.

2. Scott Adelman, M.D. (Tabled)

3. Konstantinos Papageorgiou, M.D.

   The Licensure Committee moved to approve Dr. Papageorgiou’s request for a waiver of part 3 of the USMLE. The motion passed unanimously.

4. Patrick D. Henry, M.D.

   The Licensure Committee moved to approve the license application of Patrick D. Henry, M.D. The motion passed unanimously.

5. Richard Ferstenberg, M.D.

   The Licensure Committee moved to approve the license application of Richard Ferstenberg, M.D. The motion passed unanimously.

6. James Steele, M.D. (Tabled)

C. List C  Applications for Reinstatement

1. List C Applications for Reinstatement (None)

2. List C Applications for Reinstatement for Individual Consideration

   a. Dewey Yates, M.D.

      The Licensure Committee moved to deny the application for reinstatement of Dewey Yates, M.D. with leave to withdraw. The motion passed unanimously.

D. List D  Withdrawals

1. List D (1) Withdraw License Application (None)

2. List D (2) Withdraw License from Registration
Dr. Jones moved to approve the physicians and physician assistants on List D (2) to withdraw their licenses for registration. Dr. Andrews seconded the motion, which passed unanimously.

The following physicians and physician assistants have applied to withdraw their licenses from registration.

<table>
<thead>
<tr>
<th>NAME</th>
<th>LICENSE NO.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Andrews, Edson James</td>
<td>MD15813</td>
</tr>
<tr>
<td>Enking, Patrick</td>
<td>PA206</td>
</tr>
<tr>
<td>Kahn, Jason</td>
<td>MD17876</td>
</tr>
<tr>
<td>Krainin, James</td>
<td>MD17667</td>
</tr>
<tr>
<td>Miller, Clinton</td>
<td>MD15753</td>
</tr>
<tr>
<td>Petrus, Jaime</td>
<td>MD17196</td>
</tr>
<tr>
<td>Schevenin, Jeffrey</td>
<td>MD12623</td>
</tr>
<tr>
<td>Spyra, Wolfgang</td>
<td>MD14104</td>
</tr>
<tr>
<td>Weathersby, Mary</td>
<td>MD18152</td>
</tr>
<tr>
<td>Withers, Scott</td>
<td>PA193</td>
</tr>
</tbody>
</table>

3. List D (3) Withdraw License from Registration - Individual Consideration (None)

E. List E  Licenses to lapse by operation of law (FYT)

The following physician and physician assistant licenses lapsed by operation of law effective July 10, 2012.

<table>
<thead>
<tr>
<th>NAME</th>
<th>LICENSE NO.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Baldwin, Melbourne</td>
<td>PA1257</td>
</tr>
<tr>
<td>Bonci, Laurie</td>
<td>PA1270</td>
</tr>
<tr>
<td>Bookheim, William</td>
<td>PA36</td>
</tr>
<tr>
<td>Carlin, Richard</td>
<td>PA173</td>
</tr>
<tr>
<td>Chabrier, Linda</td>
<td>MD18722</td>
</tr>
<tr>
<td>Dantas, Bruno</td>
<td>MD18126</td>
</tr>
<tr>
<td>Drown, Diana</td>
<td>PA1113</td>
</tr>
<tr>
<td>Edgar, Joseph Jr.</td>
<td>MD6134</td>
</tr>
<tr>
<td>Erickson, Lila</td>
<td>PA1210</td>
</tr>
<tr>
<td>Falconer, Oscar</td>
<td>PA1089</td>
</tr>
<tr>
<td>Gibson, Cheryl</td>
<td>MD13193</td>
</tr>
<tr>
<td>Golden, Nicholas</td>
<td>MD17666</td>
</tr>
<tr>
<td>Goodman, Dennis</td>
<td>MD13460</td>
</tr>
<tr>
<td>Habal, Mutaz</td>
<td>MD6839</td>
</tr>
<tr>
<td>Haque, Rizwan</td>
<td>MD10790</td>
</tr>
<tr>
<td>Johnson, Corrinne</td>
<td>PA1190</td>
</tr>
<tr>
<td>Katz, Stephen</td>
<td>MD16054</td>
</tr>
<tr>
<td>Kellin, Kenneth</td>
<td>MD18350</td>
</tr>
</tbody>
</table>
Kopp, Keely PA1129
Linn, Joel PA329
Lowery, Daniel PA1267
Meatley, Heath MD18472
Michel, Eduard MD17339
Miller, D. Sewall Jr. MD7453
Mitchell, Raymond PA649
Mueller, Elizabeth PA1202
Neer, Mark PA1266
Neer, Terri PA1271
Oceretko, Arkadij MD5230
O’Connor, Nancy PA1159
O’Donnell, Corianne PA1247
Polidori, Mariano MD18020
Porter, Deborah MD15652
Prentiss, Meghan PA1131
Reiner, Robert MD12985
Roush, Denise PA890
Schmidt, Edward MD8509
Scott, Daniel PA125
Shin, David MD15737
Sokol, Levi MD18636
Stensen, Erika PA1173
Thomas, Leno MD16686
Tsoukas, Christos MD11025
Valtinson, Erika PA1118
Wayne, Richard MD16636
Wheeler, Peter PA1236
Zhang, Gongqiao PA1151

F. List F Licensees requesting to convert to active status (None)

G. List G Renewal applications for review (None)

H. List H Physician Assistant Schedule II Authority Requests (None)

XIII. Standing Committee Reports

A. Special Projects Committee (Tabled)

B. Physician Assistant Advisory Committee

1. Reappointment of Committee Member

   Dr. Dumont moved to reappoint Marty McIntyre to the PA Advisory Committee. Dr. Gleaton seconded the motion, which passed unanimously.
2. March 2012 Minutes From PA Committee (FYI)

XIV. Board Correspondence (FYI)

XV. FYI

XVI. FSMB Material (FYI)

XVII. Other Business - MPHP – Abuse vs. Dependence

Dr. Lani Graham spoke to the Board about “Abuse vs. Dependence” with an overview of the program’s experience with the substance abuse diagnosis which may be earlier in the process than reaching dependence. Dr. Graham explained that substance abuse disorder is a wide spectrum with substance abuse or even harmful drinking on one end and then dependence on the other. The program utilizes a separate, less restrictive, contract for participants in the “substance abuse” category.

XIII. Adjournment 5:15 p.m.

Dr. Andrews moved to adjourn. Dr. Jones seconded the motion, which passed unanimously.

Respectfully submitted,

Jean M. Greenwood
Board Coordinator