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State of Maine
Board of Licensure in Medicine
137 SHS, 161 Capitol Street
Augusta, Maine 04333-0137
Minutes of December 13, 2016

Board Members Present
Maroulla S. Gleaton, M.D., Chair
David D. Jones, M.D., Secretary
Louisa Barnhart, M.D.
Susan Dench
David H. Dumont, M.D.
Christopher R. Ross, P.A.-C
Peter J. Sacchetti, M.D.
Brad E. Waddell, M.D.
Lynne M. Weinstein

Ms. Corbin was absent. Ms. Dench was excused at 2:10 p.m.

Board Staff Present
Dennis E. Smith, Executive Director
Timothy E. Terranova, Assistant Executive Director
Margaret L. Duhamel, Medical Director
Julie A. Best, Consumer Assistance Supervisor
Savannah Okoronkwo, Consumer Assistance Specialist
Maureen S. Lathrop, Administrative Assistant
Tracy A. Morrison, Physician Licensing Specialist

Attorney General’s Office Staff Present
Michael Miller, Assistant Attorney General

The Board met in public session, with the exception of the times listed below, which were held in executive session. Executive sessions are held to consider matters which, under statute, are confidential (e.g., 1 M.R.S. § 405; 10 M.R.S. § 8003-B; 22 M.R.S. § 1711-C; 24 M.R.S. § 2510; 32 M.R.S. § 3282-A). The Board moved, seconded, and voted the following executive session times. During the public session of the meeting, actions were taken on all matters discussed during executive session.

EXECUTIVE SESSIONS

2:15 p.m. – 2:40 p.m. Pursuant to 32 M.R.S. §3282-A to conduct an Informal Conference

RECESSES

10:52 a.m. – 11:00 a.m. Break
12:25 p.m. – 1:30 p.m. Lunch
2:08 p.m. – 2:15 p.m. Break

I. Call to Order

Dr. Gleaton called the meeting to order at 9:03 a.m. She noted that the MPHP would make their presentation at 11:00 a.m. rather than 12:00 p.m.

A. Introduction of New Staff Member
Mr. Terranova introduced new temporary staff member Anna Volkorez who is assisting with mail, answering the telephone and reception duties. Ms. Volkorez is sharing the position with Branden Dinsmore who was not able to be present at the meeting.

**B. Amendments to Agenda**

Dr. Barnhart moved to amend a discussion regarding required Opioid CME onto the agenda. Mr. Ross seconded the motion, which passed unanimously.

**C. Scheduled Agenda Items**

1. 9:30 a.m. Adjudicatory Hearing Epiphanes K. Balian, M.D. (CR16-121/16-123) – continuance granted
2. 12:00 p.m. MPHP Presentation (working lunch) – time changed to 11:00 a.m.
3. 2:00 p.m. Informal Conference CR15-66 - continuation

**II. Licensing**

**A. Applications for Individual Consideration**

1. **Initial Applications**
   a. Elizabeth L. Bartlett M.D.

   The Licensure Committee moved to preliminarily deny Dr. Bartlett’s license application. The motion passed unanimously.

2. **Reinstatement Applications (none)**

3. **Renewal Applications**
   a. David J. Bourne, M.D.

   The Licensure Committee moved to approve Dr. Bourne’s renewal application. The motion passed unanimously.

   b. Joan Elkins, M.D.

   The Licensure Committee moved to approve Dr. Elkin’s renewal application. The motion passed unanimously.

   c. James Melloh, M.D.

   The Licensure Committee moved to investigate further and request that Dr. Melloh provide additional information. The motion passed unanimously.
d. Algis Vydas, M.D.

The Licensure Committee moved to investigate further, request that Dr. Vydas provide additional information, and offer him the opportunity to request an inactive status license or to withdraw his renewal application. The motion passed unanimously.

e. Douglas Wood, M.D.

The Licensure Committee moved to approve Dr. Wood’s renewal application. The motion passed unanimously.

4. Requests to Convert to Active Status (none)

5. Requests to Withdraw License/License Application

a. Kenneth Lai, M.D.

The Licensure Committee moved to approve Dr. Lai’s request to withdraw his license application. The motion passed unanimously.

B. Other Items for Discussion

a. Daniel O’Brien, M.D. USMLE Petition Request

The Licensure Committee moved to deny Dr. O’Brien’s request for a USMLE petition. The motion passed unanimously.

C. Withdraw License from Registration

Dr. Dumont moved to approve the following licensees’ requests to withdraw their licenses from registration. Dr. Jones seconded the motion, which passed unanimously.

<table>
<thead>
<tr>
<th>NAME</th>
<th>LICENSE NUMBER</th>
</tr>
</thead>
<tbody>
<tr>
<td>Calkins, Joe Jr.</td>
<td>MD15756</td>
</tr>
<tr>
<td>Chung, Nak Chin</td>
<td>MD8313</td>
</tr>
<tr>
<td>Curtin, Hugh</td>
<td>MD14645</td>
</tr>
<tr>
<td>Devlin, Miriam</td>
<td>MD10071</td>
</tr>
<tr>
<td>Harris, Bruce</td>
<td>MD8087</td>
</tr>
<tr>
<td>Hill, Adam</td>
<td>MD20405</td>
</tr>
<tr>
<td>Katz, William</td>
<td>MD9449</td>
</tr>
<tr>
<td>Morse, Willard Jr.</td>
<td>MD16977</td>
</tr>
<tr>
<td>Ouellette, Amy</td>
<td>MD16154</td>
</tr>
</tbody>
</table>

III. Consent Agreements for Review
A. Patrick J. Tangney, M.D. [Appendix A]

Dr. Dumont moved to accept the signed consent agreement. Mr. Ross seconded the motion, which passed 8-0-0-1. Dr. Sacchetti was recused from this matter and left the room.

B. Timothy P. Canham, P.A. [Appendix B]

Mr. Ross moved to accept the signed consent agreement. Ms. Weinstein seconded the motion, which passed unanimously.

C. Joel A. Sabean, M.D. [Appendix C]

Dr. Jones moved to accept the signed consent agreement. Dr. Sacchetti seconded the motion, which passed 8-0-0-1. Ms. Weinstein was recused from this matter and left the room.

IV. Complaints

1. CR16-138

Dr. Waddell moved to set the matter for an informal conference. Ms. Weinstein seconded the motion, which passed 8-0-0-1. Dr. Sacchetti was recused from this matter and left the room.

2. CR16-156

Dr. Jones moved to deny the physician’s request for reconsideration of disciplinary action. Dr. Barnhart seconded the motion, which passed unanimously.

3. CR16-158

Ms. Weinstein moved to dismiss the complaint. Dr. Sacchetti seconded the motion, which passed 8-0-0-1. Dr. Barnhart was recused from this matter and left the room.

**MOTION:** The patient, who resides in the Intensive Mental Health Unit of an institution, complains that the physician is trying to kill him by putting him on and off medication at will and is not providing him with necessary medication. The patient also complains that the physician discusses his treatment with institution staff. The records show well-documented medication trials and adjustments for frequent disruptive and self-destructive behavior. Discontinuation of many medications was felt to be in the patient’s best interest because of side effects, lack of efficacy or patient refusal to take medications. Review of the records show the patient received thoughtful and reasonable care.

4. CR16-177

Dr. Gleaton moved to dismiss the complaint. Dr. Jones seconded the motion, which passed unanimously.
**MOTION:** The patient complains about the care he received from an ophthalmic retinal specialist. The patient had prior cataract surgery, a posterior vitreous detachment related to aging, and subsequent YAG capsulotomy for secondary cataract formation. Unfortunately, he developed a retinal tear and inferior detachment. This was repaired successfully; however, for unknown reasons he developed a neurotrophic corneal ulcer and eventual vision obliterating scar which required corneal surgery in Boston. Visual rehabilitation was hindered by significant anisometropia (visual disparity) and the patient is understandably discouraged with his visual outcome. It would have been unrealistic to expect the retinal specialist to test his corneal sensation, and even so, this more than likely would not have prevented his neurotrophic ulcer. The ophthalmic care he received was appropriate.

5. **CR16-183**

Dr. Dumont moved to dismiss the complaint. Dr. Sacchetti seconded the motion, which passed 8-0-0-1. Mr. Ross was recused from this matter and left the room.

**MOTION:** This complaint involves a colon perforation that occurred during a routine colonoscopy. The complication was immediately recognized by the physician, but the patient required emergency surgery, a prolonged hospital stay and had a prolonged recovery. Unfortunately, this is a recognized but rare complication that can occur even with elective colonoscopies and is noted as a risk on the patient’s consent for the procedure. The patient also complains that the physician never contacted her in the hospital or subsequently and she felt this represented a lack of caring. In fact, the physician’s nurse practitioner did see the patient in the hospital. The physician regrets that he did not have contact with the patient subsequent to the procedure. This would have been reassuring to the patient; however, the medical aspects of the care are appropriate.

6. **CR16-193**

Dr. Waddell moved to dismiss the complaint. Dr. Jones seconded the motion, which passed unanimously.

**MOTION:** The patient, who received a spinal stimulator implant from the physician in February 2012, complains that he was initially unable to locate the physician to report malfunction of the device. When he did locate the physician, who had moved his practice, the physician refused to see the patient. Review of the physician’s telephone records show good faith attempts in July 2013 and April 2016 to both see the patient and refer him to the device manufacturer’s representative for evaluation. The patient failed to keep an August 2013 appointment and did not return messages to call the manufacturer’s representative. The patient did not return a call to schedule an appointment with the physician is 2016, but did reach the device manufacturer who was working with him to have the device removed.

7. **CR16-195**

Dr. Jones moved to dismiss the complaint. Ms. Weinstein seconded the motion, which passed unanimously.
MOTION: The patient complains about the care she received from an emergency room physician. The patient sustained a fracture of one of the bones in her wrist due to an accident at home. Review of the record reveals that reasonable evaluation and treatment was rendered.

8. CR16-194

Mr. Ross moved to dismiss the complaint. Dr. Dumont seconded the motion, which passed unanimously.

MOTION: The patient complains about the care she received from a pain management physician. The physician responded that he provided appropriate care and that it was difficult to treat the patient because she did not come in for appointments. Review of the record reveals that the patient received reasonable care.

9. CR16-197

Dr. Barnhart moved to investigate further. Ms. Dench seconded the motion, which passed unanimously.

10. CR16-46

Dr. Dumont moved to investigate further. Dr. Jones seconded the motion, which passed unanimously.

11. CR16-110

Dr. Dumont moved to investigate further. Dr. Jones seconded the motion, which passed unanimously.

12. CR16-124 Jeffrey A. Benson, M.D.

Mr. Ross moved to dismiss the complaint with a letter of guidance. Dr. Sacchetti seconded the motion, which passed unanimously.

MOTION: In this case, the Board received a complaint from a patient stating that the physician did not do a complete physical and did not conduct a breast examination during her annual wellness visit. The patient also alleged that she was charged inappropriately for two visits for that encounter. The physician responded that the patient had been advised of the medical practice’s billing policy of charging separately for additional services provided at a wellness examination such as treatment of an acute health condition. The physician also stated that, although he did not specifically recall the patient or the visit, his notes document that he did a breast examination. In response to Board questions, the physician stated that he does not typically offer chaperones for breast examinations. He also explained perceived discrepancies in the medical documentation.
The letter of guidance will advise the physician that: 1) clinicians should have a policy for notifying patients of the right to have a chaperone present during any physical examination, especially for examinations of the breasts, genitalia or rectum. The use of a chaperone can provide reassurance to patients about the professional or medical character of the examination; and 2) accurate and complete medical records are necessary and required to ensure appropriate and competent medical care. Inaccurate, incomplete or inconsistent documentation may negatively impact a patient or their care.

13. CR16-135 Kathleen M. Hickey, M.D.

Ms. Weinstein moved to dismiss the complaint with a letter of guidance. Dr. Sacchetti seconded the motion, which passed unanimously.

MOTION: In this case, the Board received a complaint from a patient’s mother that there were significant and concerning inconsistencies between the laboratory test results done on her minor child at the physician’s office and the hospital emergency department. The patient’s mother felt that she was treated unprofessionally when she inquired about her daughter’s condition and the lab result inconsistencies. The physician responded that although she is the patient’s primary care physician, she had not provided the care on the day that the initial laboratory tests were conducted. The physician was in the office the next day and became aware of the discrepancies in the laboratory results. She reported that she recommended the patient return for repeat laboratory tests for her safety. The physician stated that the patient’s mother arrived unexpectedly after unsuccessful attempts by her staff to schedule an appointment.

The letter of guidance will advise the physician that: 1) inconsistencies in office and emergency room laboratory results that may impact patient care must be addressed and followed-up immediately; 2) patient intake information and communications must be clear and concise regardless of a busy day; 3) telephone messages and electronic notes documenting communication with a patient or patient representative should contain specific information regarding the method of communication, including all phone numbers or e-mail addresses, the date and time of the communication, and the name of the physician or staff member who initiated or received the contact; and 4) accurate, complete, and thorough documentation is required and necessary to ensure competent patient care. Clinicians or staff members participating in patient care should not have to “piece together” information.

14. CR16-143

Dr. Barnhart moved to dismiss the complaint. Mr. Ross seconded the motion, which passed unanimously.

MOTION: The patient, who resides in an institution, complains that he did not receive medications prescribed to him at a previous institution and that his complaints were ignored by the physician. The record reveals institutional issues which will be addressed by the Board. The physician is not responsible for the institutional issues identified in this
complaint. Review of the record reveals appropriate decisions were made on the basis of the available data.

15. CR16-151

Dr. Jones moved to set the matter for an informal conference. Ms. Dench seconded the motion which passed 8-0-0-1. Dr. Dumont was recused from this matter and left the room.

16. CR16-161 Eric P. Omsberg, M.D.

Dr. Gleaton moved to dismiss the complaint with a letter of guidance. Ms. Weinstein seconded the motion, which passed unanimously.

**MOTION:** In this case, the Board received a complaint from a patient that the physician had a “poor bedside manner,” continuously interrupted him, and did not listen to his explanations or concerns. He also stated that the physician did not review his chart or the MRI images carefully. Finally, the patient expressed concern that the physician or his staff failed to appropriately protect patient confidentiality. In his response, the physician apologized if the patient felt that he was rude, but indicated that he did listen to the patient and his concerns. He stated that he reviewed all the records and images in detail after the patient left, as reflected in his detailed note. The physician also stated that he would remind his staff regarding confidentiality concerns. Finally, he stated that the patient was informed that there would be no doctor-patient relationship because he was not a treating physician and only providing an Independent Medical Examiner (IME) report.

The letter of guidance will advise the physician: 1) “When a physician is responsible for performing an isolated assessment of an individual’s health or disability for an employer, business, or insurer, a limited patient-physician relationship should be considered to exist.” (American Medical Association, Code of Medical Ethics, Opinions on the Patient-Physician Relationship, Opinion 10.03 Patient-Physician Relationship in the Context of Work-Related and Independent Medical Examinations.) The fact that a physician is not the treating physician does not absolve that physician of providing confidential, respectful, and effective care; and 2) to recognize the importance of empathetic communication with patients, even in the context of conducting an IME.

17. CR16-173

Dr. Sacchetti moved to investigate further. Dr. Jones seconded the motion, which passed 8-0-0-1. Dr. Dumont was recused from this matter and left the room.

18. CR16-189

Dr. Sacchetti moved to dismiss the complaint. Ms. Weinstein seconded the motion, which passed unanimously.
MOTION: The patient complains that his dismissal from a practice constitutes abandonment and that the physician was unqualified to make this decision because the patient’s visits were always with her physician assistant. The physician contends that the patient, a former information technology employee, posed a security risk to the practice and the institution. The physician also explains how unresolved legal matters between the former employee and the institution create a conflict that could interfere with the patient’s care. There is no supporting evidence that the patient was abandoned.

19. CR16-190

Dr. Sacchetti moved to dismiss the complaint. Mr. Ross seconded the motion, which passed unanimously.

MOTION: The patient complains that the physician assistant was in the midst of caring for him when he was dismissed from her care. The physician assistant was not involved in the process of discharging the patient from the institution and provided excellent care to the patient. There is no evidence of abandonment as alleged by the patient.

20. CR16-214

Mr. Ross moved to dismiss the complaint. Dr. Dumont seconded the motion, which passed unanimously.

MOTION: The patient questions the conclusions contained in the medical examination reports issued in connection with a workman’s compensation matter. Review of the record reveals appropriate examination and consideration of medical records.

21. CR16-216

Dr. Waddell moved to dismiss the complaint. Ms. Dench seconded the motion, which passed unanimously.

MOTION: The patient complains that she has been left with unsatisfactory results after three breast augmentation procedures over 11 years. The surgeon agreed to remove the implants free of charge. On the day of the planned implant removal, the surgeon counseled the patient regarding the probably poor cosmetic outcome of implant removal and the fact that implant removal may not resolve her primary complaint of pain. The patient and family members were upset by this counseling. There was apparent mutual agreement not to proceed with implant removal. Review of the records reveals reasonable care has been provided to the patient.

22. CR16-217

Ms. Weinstein moved to investigate further. Dr. Barnhart seconded the motion, which passed unanimously.
23. CR 16-222

Dr. Jones moved to investigate further. Dr. Sacchetti seconded the motion, which passed 7-0-0-2. Dr. Barnhart and Dr. Dumont were recused from this matter and left the room.

24. Intentionally left blank

V. Assessment and Direction

25. AD16-228

Dr. Dumont moved to issue a complaint (CR16-259). Dr. Barnhart seconded the motion, which passed 8-0-0-1. Dr. Waddell was recused from this matter and left the room.

26. AD16-212

Dr. Jones moved to investigate further. Ms. Weinstein seconded the motion, which passed 8-1.

27. AD16-232

Dr. Dumont moved to issue a complaint (CR16-265). Dr. Jones seconded the motion, which passed unanimously.

28. AD16-227

Dr. Sacchetti moved to issue a complaint (CR16-260). Ms. Weinstein seconded the motion, which passed unanimously.

29. AD16-224

Dr. Dumont moved to issue a complaint (CR16-261). Dr. Jones seconded the motion, which passed unanimously.

30. AD16-225

Dr. Jones moved to close the matter with no further action. Dr. Sacchetti seconded the motion, which passed 7-0-0-2. Dr. Barnhart and Dr. Dumont were recused from this matter and left the room.

31. AD16-250

Dr. Jones moved to issue a complaint (CR16-262) against the physician assistant. Ms. Dench seconded the motion, which passed unanimously.
Dr. Jones moved to issue a complaint (CR16-266) against the physician assistant’s primary supervising physician. Mr. Ross seconded the motion, which passed unanimously.

32. AD16-211

Dr. Dumont moved to offer the physician the opportunity to surrender his medical license while under investigation and to issue a complaint if the physician chooses not to surrender his license. Ms. Weinstein seconded the motion, which passed unanimously.

33. AD16-231

Dr. Dumont moved to offer the physician the opportunity to surrender his medical license while under investigation and to issue a complaint if the physician chooses not to surrender his license. Ms. Dench seconded the motion, which passed unanimously.

34. AD16-134

Dr. Jones moved to issue a complaint (CR16-263). Dr. Barnhart seconded the motion, which passed 8-0-0-1. Dr. Sacchetti was recused from this matter and left the room.

35. AD16-229

Dr. Jones moved to close this matter with no further action unless a review reveals additional medical malpractice claims. Dr. Dumont seconded the motion, which passed unanimously.

36. AD16-252

Dr. Jones moved to close this matter with no further action. Dr. Dumont seconded the motion, which passed 7-0-0-2. Dr. Gleaton and Mr. Ross were recused from this matter and left the room.

37. AD15-153 Joel A. Sabean, M.D.

The Board accepted a consent agreement. (See Section III. Consent Agreements for Review and Appendix C).

38. AD16-240

Dr. Sacchetti moved to issue a complaint (CR16-264). Ms. Dench seconded the motion, which passed unanimously.

39. Intentionally left blank

40. Intentionally left blank

41. Pending Adjudicatory Hearings and Informal Conferences report
This material was presented for informational purposes. No Board action was required.

42. Consumer Assistance Specialist Feedback

The Consumer Assistance Specialist provided complainant feedback. No Board action was required.

43. Other Items for Discussion

A. Opioid CME Discussion

The Board reconsidered the issue of opioid prescribing related CME. At the November 8, 2016 meeting the Board voted to accept Category I CME credits earned by licensees between the effective date of the statute, July 29, 2016, and December 31, 2017 to satisfy the statutory requirement for opioid prescribing related CME.

After discussion, Dr. Barnhart moved to accept Category I CME credits earned by licensees between the enactment date of the law, April 19, 2016, and December 31, 2017 to satisfy the statutory requirement for opioid prescribing related CME. Mr. Ross seconded the motion, which passed unanimously.

VI. Informal Conference 2:00 p.m.

A. CR15-66

At 2:15 p.m. Dr. Dumont moved to enter executive session pursuant to 32 M.R.S. § 3282-A to continue an Informal Conference which began on September 13, 2016. Dr. Jones seconded the motion which passed unanimously.

At 2:40 p.m. Mr. Ross moved to come out of executive session. Dr. Sacchetti seconded the motion, which passed unanimously.

Following the Informal Conference, Dr. Waddell moved to dismiss the complaint. Mr. Ross seconded the motion, which passed 5-3.

MOTION: The Board initiated this complaint following receipt of information alleging an ethical conflict of interest involving the physician and a business entity with which he is associated. The physician met with the Board for an informal conference on September 16, 2016. Following the informal conference, the Board voted to continue the informal conference and request that the physician propose solutions to the issues discussed. The physician met with the Board on December 13, 2016 to continue the informal conference. Following discussion with the physician, the Board is satisfied that he understands their concerns regarding the potential for a perceived conflict of interest and with the steps he has taken to resolve its concerns.

VII. Minutes for Approval
Dr. Dumont moved to approve the minutes of the November 8, 2016 meeting. Mr. Ross seconded the motion, which passed 8-0-1-0 with Dr. Jones abstaining.

VIII. Board Orders & Consent Agreement Monitoring

A. Board Orders (none)

B. Monitoring Reports

1. Peter Ameglio, M.D.

   This material was presented for informational purposes. No Board action was required.

2. Geeta Godara, M.D.

   This material was presented for informational purposes. No Board action was required.

3. Lowell Gerber, M.D.

   This material was presented for informational purposes. No Board action was required.

4. Robert Weiss, M.D.

   This material was presented for informational purposes. No Board action was required.

5. Michael Bruehl, M.D.

   Dr. Dumont moved to approve the proposed practice monitor. Dr. Sacchetti seconded the motion, which passed 8-0-0-1. Dr. Barnhart was recused from this matter and left the room.

6. James Grossman, P.A.

   Dr. Jones moved to table Mr. Grossman’s request and ask that he submit additional information. Ms. Weinstein seconded the motion, which passed unanimously.

7. Reinaldo O. de los Heros, M.D.

   This material was presented for informational purposes. No Board action was required.

8. Intentionally left blank

IX. Adjudicatory Hearing 9:30 a.m.

A. CR16-121/16-123 Epiphanes K. Balian, M.D.
A request for continuance was granted. No new date has been set for the adjudicatory hearing.

X. Remarks of Chair

A. Department of Professional and Financial Regulation Manager of the Year

Dr. Gleaton announced that Timothy Terranova, Assistant Executive Director, was chosen as Manager of the Year for the Department of Professional and Financial Regulation (PFR).

Dr. Dumont moved to commend Mr. Terranova for his hard work and dedication and to recognize his receipt of the PFR Manager of the Year award. Dr. Jones seconded the motion, which passed unanimously.

B. Board Member Resignation

Dr. Gleaton announced that Lee Corbin will resign from the Board effective December 31, 2016. The Board expressed their appreciation for Ms. Corbin’s contributions to the Board.

Dr. Jones announced that he will resign from the Board effective June 30, 2016. The Board expressed their appreciation for Dr. Jones’ many years of dedicated service to the Board and the citizens of Maine.

XI. Remarks of Executive Director (none)

XII. Assistant Executive Directors Report

Mr. Terranova reported that the Chapter 6 Telemedicine Standards of Practice rule became effective December 10, 2016. He also provided an update on the status of efforts to hire a licensing specialist.

A. Complaint Status Report

As of December 1, 2016 there are eighty-three complaints outstanding. One hundred fifty-four have been received year-to-date and one hundred twenty-eight have been closed so far this year.

B. Feedback

This material was presented for informational purposes. No Board action was required.

XIII. Medical Director’s Report (none)

XIV. Remarks of Assistant Attorney General
AAG Miller reported that Robert La Morgese, M.D. filed a Petition for Judicial Review of Final Agency Action in Aroostook County Superior Court.

XV. Rulemaking

A. Draft Chapter 21 Use of Controlled Substances for Treatment of Pain

The Board reviewed a draft revision of Chapter 21. Following review, the Board requested that staff make changes for review at the next meeting.

XVI. Policy Review

A. Evaluations Required for Applicants Disclosing Incidents Involving Alcohol and/or Drugs

Dr. Barnhart moved to approve a new policy, Evaluations Required for Applicants Disclosing Incidents Involving Alcohol and/or Drugs, which will replace the current policy, Medical Professionals Health Program (MPHP) Evaluations Required. Dr. Sacchetti seconded the motion, which passed unanimously.

B. Evaluations Required for Applicants Disclosing Incidents Involving Domestic Violence

Dr. Dumont moved to approve a new policy, Evaluations Required for Applicants Disclosing Incidents Involving Domestic Violence, as amended. Mr. Ross seconded the motion, which passed unanimously.

XVII. Requests for Guidance (none)

XVIII. Standing Committee Reports

A. Licensure and CME Committee

1. Licensing Status Report [Appendix D]

This material was presented for informational purposes. No Board action was required.

XIX. Board Correspondence (none)

XX. FSMB Material

A. 2017 Annual Meeting

Mr. Ross moved to authorize Dr. Gleaton (or her designee), Dennis Smith, Executive Director (or his designee), and Lynne Weinstein to attend the Federation of State Medical Board’s annual meeting in Fort Worth, Texas April 20 – 22, 2017. Dr. Waddell seconded the motion, which passed unanimously.
XXI. FYI

This material was presented for informational purposes. No Board action was required.

XXII. Other Business

A. MPHP Presentation

Representatives from the Maine Medical Association’s Medical Professional Health Program presented their 2015 annual statistical report to the Board.

XXIII. Adjournment 3:01 p.m.

Respectfully submitted,

Maureen S. Lathrop
Administrative Assistant
STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

In re: PATRICK J. TANGNEY, M.D. 
Complaint No. CR16-67 

} CONSENT AGREEMENT 

This document is a Consent Agreement, effective when signed by all parties, regarding disciplinary action against the license to practice medicine in the State of Maine held by Patrick J. Tangney, M.D. The parties to the Consent Agreement are: Patrick J. Tangney, M.D. ("Dr. Tangney"), the State of Maine Board of Licensure in Medicine ("the Board") and the State of Maine Department of the Attorney General. This Consent Agreement is entered into pursuant to 10 M.R.S. § 8003(5)(B) and 32 M.R.S. § 3282-A.

STATEMENT OF FACTS

1. Dr. Tangney has held a license to practice medicine in the State of Maine since October 28, 1992 (license number MD13411), and specializes in internal medicine and pulmonary diseases.

2. On March 17, 2016, the Board initiated a complaint alleging that on two occasions in October 2015, Dr. Tangney issued prescriptions for a patient for morphine sulfate 100 mg/5 ml that were in error. The intended dosage was morphine sulfate 10 mg/5 ml. A pharmacist discovered and corrected the error for the first prescription dated October 1, 2015. The second error was not caught until after the patient received one incorrect dosage. The Board docketed the complaint as CR16-67, and sent it to Dr. Tangney for a response.

-1-
3. By letter dated June 3, 2016, Dr. Tangney responded to the complaint. In his response, he acknowledged that on both occasions he had issued prescriptions to the patient for morphine sulfate with an unintended dosage.

4. Pursuant to 32 M.R.S. § 3282-A(2)(F), the Board may impose discipline for unprofessional conduct for a violation of a standard of professional behavior that has been established in the practice of medicine.

5. At its meeting on September 13, 2016, the Board reviewed Complaint CR16-67, and voted to set this matter for an adjudicatory hearing. In addition, the Board voted to offer Dr. Tangney this Consent Agreement to resolve this matter without further proceedings. Absent Dr. Tangney’s acceptance of this Consent Agreement by signing and dating it in front of a notary and mailing it to Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137 on or before November 24, 2016, the matter will be scheduled for an adjudicatory hearing.

COVENANTS

6. Dr. Tangney admits the facts stated above and that such conduct constitutes grounds for discipline pursuant to 32 M.R.S. § 3282-A(2)(F) (for engaging in unprofessional conduct).

7. As discipline for the conduct described above, Dr. Tangney agrees to accept, and the Board imposes:

   a. A CENSURE for engaging in unprofessional conduct;
b. A CIVIL PENALTY in the amount of One Thousand Five Hundred Dollars ($1,500.00), payment of which shall be made by certified check or money order made payable to “Treasurer, State of Maine,” and remitted to Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137, within thirty (30) days of the execution of this Consent Agreement; and

c. Dr. Tangney SHALL submit to the Board in writing within sixty (60) days after the effective date of this Consent Agreement a root cause analysis and remedial plan for his electronic medical record system to ensure that the same type of error does not recur.

8. Violation by Dr. Tangney of any of the terms or conditions of this Consent Agreement shall constitute grounds for discipline, including but not limited to modification, suspension, or revocation of licensure or the denial of re-licensure.

9. This Consent Agreement is not appealable and is effective until modified or rescinded in writing by the parties hereto.

10. The Board and the Department of the Attorney General may communicate and cooperate regarding Dr. Tangney or any other matter relating to this Consent Agreement.

11. This Consent Agreement is a public record within the meaning of 1 M.R.S. § 402 and will be available for inspection and copying by the public pursuant to 1 M.R.S. § 408-A.
12. This Consent Agreement constitutes discipline and is an adverse licensing action that is reportable to the National Practitioner Data Bank (NPDB), the Federation of State Medical Boards (FSMB), and other licensing jurisdictions.

13. Nothing in this Consent Agreement shall be construed to affect any right or interest of any person not a party hereto. If any clause of this Consent Agreement is deemed illegal or invalid, then that clause shall be deemed severed from this Consent Agreement.

14. Dr. Tangney acknowledges by his signature hereto that he has read this Consent Agreement, that he has had an opportunity to consult with an attorney before executing this Consent Agreement, that he executed this Consent Agreement of his own free will and that he agrees to abide by all terms and conditions set forth herein.

15. Dr. Tangney has been represented by Heidi A. Bean, Esq., and Karen Frink Wolf, Esq., who have participated in the negotiation of the terms of this Consent Agreement.

16. For the purposes of this Consent Agreement, the term “execution" means the date on which the final signature is affixed to this Consent Agreement.
I, PATRICK J. TANGNEY, M.D., HAVE READ AND UNDERSTAND THE FOREGOING CONSENT AGREEMENT AND AGREE WITH ITS CONTENTS AND TERMS. I FURTHER UNDERSTAND THAT BY SIGNING THIS AGREEMENT, I WAIVE CERTAIN RIGHTS, INCLUDING THE RIGHT TO A HEARING BEFORE THE BOARD. I SIGN THIS CONSENT AGREEMENT VOLUNTARILY, WITHOUT ANY THREAT OR PROMISE. I UNDERSTAND THAT THIS CONSENT AGREEMENT CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.

DATED: 11-15-14

PATRICK J. TANGNEY, M.D.

STATE OF Maine

Cumberland, S.S.

Personally appeared before me the above-named Patrick J. Tangney, M.D., and swore to the truth of the foregoing based upon his own personal knowledge, or upon information and belief, and so far as upon information and belief, he believes it to be true.

DATED: 11-15-14

NOTARY PUBLIC/ATTORNEY

MY COMMISSION ENDS:

DATED: 11-15-14

HEIDI A. BEAN, ESQ.
KAREN FRINK WOLF, ESQ.
Attorney for Patrick J. Tangney, M.D.
STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

DATED: 12/13/16

MAROULLA S. GLEATON, M.D., Chair

STATE OF MAINE DEPARTMENT
OF THE ATTORNEY GENERAL

DATED: December 13, 2016

MICHAEL MILLER
Assistant Attorney General

Effective Date: December 13, 2016
STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

In re: TIMOTHY P. CANHAM, P.A.) CONSENT AGREEMENT
Complaint No. CR16-154)

This document is a Consent Agreement, effective when signed by all parties, regarding disciplinary action against the license to render medical services in the State of Maine held by Timothy P. Canham, P.A. The parties to the Consent Agreement are: Timothy P. Canham, P.A. ("Mr. Canham"), the State of Maine Board of Licensure in Medicine ("the Board") and the State of Maine Department of the Attorney General. This Consent Agreement is entered into pursuant to 10 M.R.S. § 8003(5)(B) and 32 M.R.S. § 3282-A.

STATEMENT OF FACTS

1. Mr. Canham has held a license to render medical services as a physician assistant in the State of Maine since September 4, 1997 (license number PA550).

2. On July 11 2016, the Board initiated a complaint alleging that Mr. Canham worked at Correctional Health Partners ("CHP") from November 5, 2015 through March 31, 2016, without having a supervising physician registered with the appropriate licensing Board, and failing to notify the Board that he had a change in his supervising physician as required by Board Rule Chapter 2, § 9. The Board complaint was based upon a report from CHP dated April 28, 2016, regarding the termination of Mr. Canham by CHP and Mr. Canham's self-report made by email on May 5, 2016. In Mr. Canham's self-
report he explained that he “wrongly assumed that CHP would have properly licensed [him] through the State of Maine,” and felt that he had been “misled by CHP.” The Board docketed the complaint as CR16-154, and sent it to Mr. Canham for a response.

3. By letter dated July 19, 2016, Mr. Canham responded to the complaint. In his response, he explained that when he was hired he thought that the proper paperwork had been filed with the State. He made inquiries when his license was not displayed in the workplace, and was advised that it “was on the way.” Mr. Canham acknowledged that it was his responsibility to ensure that all licensure paperwork was appropriately submitted.

4. Pursuant to 32 M.R.S. § 3282-A(2)(H), the Board may impose discipline for the violation of a Board statute or rule. Board Rule Chapter 2, § 2(B)(4), in effect at the time of the conduct, provided that the physician assistant shall submit the statement required by § 2(B)(2) at the beginning of the supervisory relationship. Board Rule Chapter 2, § 9, in effect at the time of the conduct, required that a physician assistant notify the Board in writing and supply certain information upon a change or addition of a supervising physician no later than fourteen (14) days after the effective date of the change or addition.

5. At its meeting on October 11, 2016, the Board reviewed Complaint CR16-154, and voted to set this matter for an adjudicatory hearing. In addition, the Board voted to offer Mr. Canham this Consent Agreement to resolve this matter without further proceedings. Absent Mr. Canham’s
acceptance of this Consent Agreement by signing and dating it in front of a notary and mailing it to Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137 on or before November 28, 2016, the matter will be scheduled for an adjudicatory hearing.

COVENANTS

6. Mr. Canham admits the facts stated above and that such conduct constitutes grounds for discipline pursuant to 32 M.R.S. § 3282-A(2)(H) (for violation of Board rules).

7. As discipline for the conduct described above, Mr. Canham agrees to accept, and the Board imposes:
   a. A REPRIMAND for violating Board rules related to the registration of his supervising physician; and
   b. A CIVIL PENALTY in the amount of Five Hundred Dollars ($500.00), payment of which shall be made by certified check or money order made payable to “Treasurer, State of Maine,” and remitted to Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137, within thirty (30) days of the execution of this Consent Agreement.

8. Violation by Mr. Canham of any of the terms or conditions of this Consent Agreement shall constitute grounds for discipline, including but not limited to modification, suspension, or revocation of licensure or the denial of re-licensure.

9. This Consent Agreement is not appealable and is effective until modified or rescinded in writing by the parties hereto.
10. The Board and the Department of the Attorney General may communicate and cooperate regarding Mr. Canham or any other matter relating to this Consent Agreement.

11. This Consent Agreement is a public record within the meaning of 1 M.R.S. § 402 and will be available for inspection and copying by the public pursuant to 1 M.R.S. § 408-A.

12. This Consent Agreement constitutes discipline and is an adverse licensing action that is reportable to the National Practitioner Data Bank (NPDB), the Federation of State Medical Boards (FSMB), and other licensing jurisdictions.

13. Nothing in this Consent Agreement shall be construed to affect any right or interest of any person not a party hereto. If any clause of this Consent Agreement is deemed illegal or invalid, then that clause shall be deemed severed from this Consent Agreement.

14. Mr. Canham acknowledges by his signature hereto that he has read this Consent Agreement, that he has had an opportunity to consult with an attorney before executing this Consent Agreement, that he executed this Consent Agreement of his own free will and that he agrees to abide by all terms and conditions set forth herein.

15. For the purposes of this Consent Agreement, the term "execution" means the date on which the final signature is affixed to this Consent Agreement.
I, TIMORHY P. CANHAM, P.A., HAVE READ AND UNDERSTAND THE FOREGOING CONSENT AGREEMENT AND AGREE WITH ITS CONTENTS AND TERMS. I FURTHER UNDERSTAND THAT BY SIGNING THIS AGREEMENT, I WAIVE CERTAIN RIGHTS, INCLUDING THE RIGHT TO A HEARING BEFORE THE BOARD. I SIGN THIS CONSENT AGREEMENT VOLUNTARILY, WITHOUT ANY THREAT OR PROMISE. I UNDERSTAND THAT THIS CONSENT AGREEMENT CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.

DATED: 11/8/16

TIMOTHY P. CANHAM, P.A.

STATE OF MAINE

100-54-0722, S.S.

Personally appeared before me the above-named Timothy P. Canham, P.A., and swore to the truth of the foregoing based upon his own personal knowledge, or upon information and belief, and so far as upon information and belief, he believes it to be true.

DATED: 11-8-16

NOTARY PUBLIC/ATTORNEY

MY COMMISSION ENDS: 4-8-17
STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

DATED: 12/13/16

MAROULLA S. GLEATON, M.D., Chair

STATE OF MAINE DEPARTMENT
OF THE ATTORNEY GENERAL

DATED: December 19, 2014

MICHAEL MILLER
Assistant Attorney General

Effective Date: December 13, 2014
STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

In re:
JOEL A. SABEAN, M.D. ) ) CONSENT AGREEMENT
No. AD15-153 )

This document is a Consent Agreement, effective when signed by all parties, regarding disciplinary action against the license to practice medicine in the State of Maine held by Joel A. Sabean, M.D. The parties to the Consent Agreement are: Joel A. Sabean, M.D. ("Dr. Sabean"), the State of Maine Board of Licensure in Medicine ("the Board") and the State of Maine Department of the Attorney General. This Consent Agreement is entered into pursuant to 10 M.R.S. § 8003(5)(B) and 32 M.R.S. § 3282-A.

STATEMENT OF FACTS

1. Dr. Sabean has held a license to practice medicine in the State of Maine since August 3, 1977 (license number MD9008), and specializes in dermatology.

2. On October 20, 2015, Dr. Sabean was indicted in the United States District Court for the District of Maine, Criminal Case No. 2:15-cr-175-GZS, on 5 counts of Tax Evasion in violation of 26 U.S.C. § 7201, 52 counts of Unlawful Distribution of Controlled Substances in violation of 21 U.S.C. § 841(a)(1), and 1 count of Health Care Fraud in violation of 18 U.S.C. §§ 2, 1347 ("the Federal Criminal Case"). On November 18, 2016, a jury returned guilty verdicts on all counts as charged in the Federal Criminal Case. Dr. Sabean is currently scheduled to be sentenced on March 21, 2017.
3. On October 26, 2015, the Board of Licensure in Medicine ("the Board") upon learning of the pending federal criminal charges opened an investigation and docketed the matter as AD15-153.

4. Following entry of the jury verdict in the Federal Criminal Case, the Board is prepared to consider whether it should impose an immediate suspension of Dr. Sabean’s license at its meeting scheduled for December 13, 2016, and set the matter for an adjudicatory hearing pursuant to 5 M.R.S. § 10004(3).

5. Pursuant to 32 M.R.S. § 3282-A(2)(G), the Board may impose discipline for criminal convictions that involve dishonesty or false statement, that relate directly to the practice of medicine, or that may result in incarceration for one year or more.

6. Pursuant to 32 M.R.S. § 3282-A(2)(F), the Board may impose discipline for unprofessional conduct for a violation of a standard of professional behavior that has been established in the practice of medicine.

7. Pursuant to 32 M.R.S. § 3282-A(2)(A), the Board may impose discipline for the practice of fraud, deceit or misrepresentation in connection with a service rendered within the scope of the medical license.

8. This Consent Agreement has been negotiated by legal counsel for Dr. Sabean and legal counsel for the Board in order to alleviate the need for the Board to consider whether to issue a summary immediate suspension of licensure and hold an adjudicatory hearing within thirty days following the presentation of this matter to the Board, and to ensure the protection of the
public. Absent acceptance of this Consent Agreement by signing and dating it before a notary and returning it to the Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137 on or before December 12, 2016, the Board will consider whether to issue a summary suspension of Dr. Sabeau’s license on December 13, 2016, and take whatever other action deemed necessary.

COVENANTS

9. Dr. Sabeau acknowledges the facts as stated above and, while he disputes the underlying facts that gave rise to the Verdict of November 18, 2016 and will appeal his conviction and sentence to the United States Court of Appeals for the First Circuit, he agrees that upon his sentencing grounds exist for the Board to impose discipline pursuant to 32 M.R.S. §§ 3282-A(2)(A), (F), and (G).

10. As discipline for the conduct described above, Dr. Sabeau agrees to accept, and the Board imposes:

   a) a period of PROBATION until Dr. Sabeau is sentenced on the Federal Criminal Case for the sole purpose of winding down and closing his medical practice and transferring patient care. During the period of probation, Dr. Sabeau shall not accept any new patients and shall not prescribe or dispense any controlled substances; and

   b) upon a sentence being entered on any of the charges in the Federal Criminal case, Dr. Sabeau shall IMMEDIATELY AND VOLUNTARILY
SURRENDER his license to practice medicine in the State of Maine, without prejudice to his right to apply for reinstatement.

11. This Consent Agreement is not appealable and is effective until modified or rescinded in writing by the parties hereto.

12. The Board and the Department of the Attorney General may communicate and cooperate regarding Dr. Sabean or any other matter relating to this Consent Agreement.

13. This Consent Agreement is a public record within the meaning of 1 M.R.S. § 402 and will be available for inspection and copying by the public pursuant to 1 M.R.S. § 408-A.

14. This Consent Agreement constitutes discipline and is an adverse licensing action that is reportable to the National Practitioner Data Bank (NPDB), the Federation of State Medical Boards (FSMB), and other licensing jurisdictions.

15. Nothing in this Consent Agreement shall be construed to affect any right or interest of any person not a party hereto. If any clause of this Consent Agreement is deemed illegal or invalid, then that clause shall be deemed severed from this Interim Consent Agreement.

16. Dr. Sabean acknowledges by his signature hereto that he has read this Consent Agreement, that he has had an opportunity to consult with an attorney before executing this Consent Agreement, that he executed this Consent Agreement of his own free will and that he agrees to abide by
all terms and conditions set forth herein.

17. Dr. Sabean has been represented by Jay P. McCloskey, Esq., and Thimi R. Mina, Esq., who have participated in the negotiation of the terms of this Consent Agreement.

18. For the purposes of this Consent Agreement, the term “execution” means the date on which the final signature is affixed to this Consent Agreement.

I, JOEL A. SABEAN, M.D., HAVE READ AND UNDERSTAND THE FOREGOING CONSENT AGREEMENT AND AGREE WITH ITS CONTENTS AND TERMS. I FURTHER UNDERSTAND THAT BY SIGNING THIS AGREEMENT, I WAIVE CERTAIN RIGHTS, INCLUDING THE RIGHT TO A HEARING BEFORE THE BOARD. I SIGN THIS CONSENT AGREEMENT VOLUNTARILY, WITHOUT ANY THREAT OR PROMISE. I UNDERSTAND THAT THIS CONSENT AGREEMENT CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.

DATED: 12/6/2016  
JOEL A. SABEAN, M.D.

STATE OF Maine  
Cumberland, S.S.

Personally appeared before me the above-named Joel A. Sabean, M.D., and swore to the truth of the foregoing based upon his own personal knowledge, or upon information and belief, and so far as upon information and belief, he believes it to be true.

DATED: 12/6/16  
NOTARY PUBLIC/ATTORNEY  
MY COMMISSION ENDS: 12/16/21  

Julia Brennan MacDonald  
NOTARY PUBLIC  
State of Maine  
My Commission Expires 12/16/2021
STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

DATED: 12/13/14
MAROULIA S. GLEATON, M.D., Chair

STATE OF MAINE DEPARTMENT
OF THE ATTORNEY GENERAL

DATED: December 3, 2014
MICHAEL MILLER
Assistant Attorney General

Effective Date: December 13, 2014
The following information is included:

A summary of all licenses granted in November 2016 by license type;

A list of all individuals granted a license in November 2016 by license type;

A summary of all pending applications by license type (This list is currently inflated with a number of applications that should be marked as abandoned because there has been no activity for over a year. Staff will be working to clean up the old applications and expect to have a report of their efforts next month.);

A list of online vs. paper renewals by license type; and

A list of licenses lapsed on December 1, 2016.

The lapse list is large (47) due to an issue discovered by staff. There were 29 licenses scheduled to expire on October 31, 2015. These licenses remained in active status despite passing their expiration date and staff could find no record of the licensees being notified of the pending lapse. Staff sent a letter to each licensee on October 24th indicating the problem, asking the licensee to renew, and informing them that their license would lapse on 12/1/2016 if a response had not been received by 11/30/2016. Six licensees responded. The other 23 are represented on the lapse list this month.

That same issue also affects the online renewal percentage. Due to the fact that the licensees were past the expiration date, the licensees had to submit paper renewal applications.

We look forward to your feedback.
### SUMMARY BY LICENSE PREFIX

**EL - EMERGENCY 100-DAY LICENSE**
- **A - Active**: 1
- **SUBTOTAL**: 1

**MD - MEDICAL DOCTOR**
- **A - Active**: 23
- **SUBTOTAL**: 23

**PA - PHYSICIAN ASSISTANT - CLINICAL**
- **A - Active**: 3
- **SUBTOTAL**: 3

**PAN - PHYSICIAN ASSISTANT - NON-CLINICAL**
- **A - Active**: 2
- **SUBTOTAL**: 2

**TD - TEMPORARY LICENSE**
- **A - Active**: 5
- **SUBTOTAL**: 5

**TM - TELEMEDICINE**
- **A - Active**: 9
- **SUBTOTAL**: 9

### SUMMARY BY LICENSE STATUS

- **A - Active**: 43

**TOTAL ALL LICENSES**: 43
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<th>LastName</th>
<th>FirstName</th>
<th>NameSuff</th>
<th>LicenseDesc</th>
<th>Authority</th>
<th>Status</th>
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