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5. Intentionally left blank

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State of Maine
Board of Licensure in Medicine
137 SHS, 161 Capitol Street
Augusta, Maine 04333-0137
Minutes of September 12, 2017

Board Members Present
Maroulla S. Gleaton, M.D., Chair
Louisa Barnhart, M.D., Secretary
Susan Dench
David H. Dumont, M.D.
Christopher Ross, P.A.
Michael P. Sullivan, M.D.
Brad E. Waddell, M.D.
Lynne M. Weinstein

Board Staff Present
Dennis E. Smith, Executive Director
Timothy E. Terranova, Assistant Executive Director
Margaret L. Duhamel, M.D., Medical Director
Julie A. Best, Consumer Assistance Supervisor
Savannah Okoronkwo, Consumer Assistance Specialist
Maureen S. Lathrop, Administrative Assistant
Elena I. Crowley, Licensing Specialist

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

Dr. Sacchetti was absent.

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

None

RECESSES

9:20 a.m. – 9:30 a.m.            Recess
10:33 a.m. – 10:47 a.m.         Recess
1:03 p.m. – 1:39 p.m.           Lunch
3:10 p.m. – 3:20 p.m.           Recess

I. Call to Order

Dr. Gleaton called the meeting to order at 9:30 a.m.

A. Introduction of New Board Member

Dr. Gleaton introduced new Board member, Michael Sullivan M.D.
B. Amendments to Agenda

Dr. Dumont moved to amend the following items onto the agenda: 1) Dr. Kimberly Dovin’s license application; 2) Dr. Semena Curlsik’s application to convert to active status; and 3) Dr. Douglas Redosh’s request to withdraw his license application. Dr. Barnhart seconded the motion, which passed unanimously.

C. Scheduled Agenda Items

1. 10:30 a.m. Adjudicatory Hearing regarding Jessica L. Cyr, P.A. (CR16-155)
2. 1:00 p.m. Adjudicatory Hearing regarding Karen J. Diamond-Akey, M.D. (CR17-50) – Continuance granted

II. Licensing

A. Applications for Individual Consideration

1. Initial Applications

   a. Thomas C. Randall M.D.

      The Licensure Committee moved to table Dr. Randall’s application pending receipt of additional information. The motion passed unanimously.

   b. Kathryn A. Rohr, M.D.

      The Licensure Committee moved to approve the application pending receipt of additional information. The motion passed unanimously.

   c. Jeffrey L. Tong, M.D.

      The Licensure Committee moved to table the application pending receipt of additional information. The motion passed unanimously.

   d. Gretchen Gimbel, P.A.

      The Licensure Committee moved to table the application and request that Ms. Gimbel undergo a § 3286 evaluation. The motion passed unanimously.

   e. Adeeb Ahmed, M.D.

      The Licensure Committee moved to approve Dr. Ahmed’s application pending his successful passage of the jurisprudence exam in paper form with a score of 90 or better. The motion passed unanimously.
f. George Shanlikian, M.D.

The Licensure Committee moved to table Dr. Shanlikian’s application pending receipt of additional information. The motion passed unanimously.

g. Stephen Durrenberger, M.D.

The Licensure Committee moved to preliminarily deny Dr. Durrenberger’s application with leave to withdraw. The motion passed unanimously.

h. Emma Chipman, M.D.

The Licensure Committee moved to approve Dr. Chipman’s application pending her successful passage of the jurisprudence exam in paper form with a score of 90 or better. The motion passed unanimously.

i. Kimberly A. Dovin, M.D.

The Licensure Committee moved to approve Dr. Dovin’s application. The motion passed 7-0-0-1. Dr. Dumont was recused from the matter and left the room.

2. Reinstatement Applications (none)

3. Renewal Applications

a. Deborah Hoffert, M.D.

The Licensure Committee moved to offer Dr. Hoffert an inactive status license and request that she undergo a § 3286 evaluation if she declines. The motion passed unanimously.

b. Scott Shulman, M.D.

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

c. Lowell Gerber, M.D.

The Licensure Committee moved to preliminarily deny Dr. Gerber’s renewal application. The motion passed unanimously.

d. Kimberly Caldwell, P.A.

The Licensure Committee moved to approve Ms. Caldwell’s license application. The motion passed unanimously.
4. Requests to Convert to Active Status

a. Semena Curlik, M.D.

The Licensure Committee moved to request clarification of Dr. Curlik’s clinical re-entry to practice plan. The motion passed unanimously.

5. Requests to Withdraw License/License Application

a. Douglas J. Redosh, M.D.

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

6. Requests for Supervisory Relationships (none)

B. Other Items for Discussion

1. Unrestricted licenses with the potential to return to specialty care

This discussion was tabled until the October meeting.

2. Holly Arato M.D. request for SPEX sponsorship

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

3. Duties of the Board Secretary

This discussion was tabled until the October meeting.

C. Withdraw License from Registration

Mr. Ross moved to approve the following licensees’ requests to withdraw their licenses from registration. Ms. Weinstein seconded the motion, which passed unanimously.

<table>
<thead>
<tr>
<th>NAME</th>
<th>LICENSE NUMBER</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aldea, Michael S.</td>
<td>MD15283</td>
</tr>
<tr>
<td>Ayubi, Bahman</td>
<td>MD8304</td>
</tr>
<tr>
<td>Baldwin, Warren</td>
<td>MD4578</td>
</tr>
<tr>
<td>Chand, Mastian G.V.</td>
<td>MD20643</td>
</tr>
<tr>
<td>Cioroiu, Michael G.</td>
<td>MD11168</td>
</tr>
<tr>
<td>Conway, David C.</td>
<td>MD12882</td>
</tr>
<tr>
<td>Ennis, William J., III.</td>
<td>MD13617</td>
</tr>
<tr>
<td>Kanda, Yasuo</td>
<td>MD6228</td>
</tr>
<tr>
<td>Lamanna, James R.</td>
<td>MD12630</td>
</tr>
</tbody>
</table>
III. Consent Agreements/Resolution Documents for Review

1. CR16-24 Michael Bruehl, M.D. [Appendix A]

Mr. Ross moved to approve the signed consent agreement amendment. Dr. Dumont seconded the motion, which passed 7-0-0-1. Dr. Barnhart was recused from the matter and left the room.

2. CR16-261 Stephanie Graves, P.A. [Appendix B]

Mr. Ross moved to accept the signed consent agreement and Ms. Graves’ written summary regarding her cognitive behavioral therapy. Ms. Weinstein seconded the motion, which passed unanimously.

Mr. Ross moved to reject the monitoring plan. Ms. Weinstein seconded the motion, which passed unanimously.

IV. Complaints

1. CR17-2

Dr. Dumont moved to set the matter for an adjudicatory hearing and authorize AAG Miller to negotiate a consent agreement to include: 1) a reprimand; 2) reimbursement of costs of $3,000; and 3) probation with terms and conditions. Dr. Barnhart seconded the motion, which passed unanimously.

2. CR17-16

Dr. Dumont moved to set the matter for an adjudicatory hearing and authorize AAG Miller to negotiate a consent agreement to include: 1) a reprimand; 2) reimbursement of costs of
$3,000; and 3) probation with terms and conditions. Dr. Barnhart seconded the motion, which passed unanimously.

3. **CR17-22**

Dr. Dumont moved to set the matter for an adjudicatory hearing and authorize AAG Miller to negotiate a consent agreement to include: 1) a reprimand; 2) reimbursement of costs of $3,000; and 3) probation with terms and conditions. Dr. Barnhart seconded the motion, which passed unanimously.

4. **CR17-28**

Dr. Dumont moved to set the matter for an adjudicatory hearing and authorize AAG Miller to negotiate a consent agreement to include: 1) a reprimand; 2) reimbursement of costs of $3,000; and 3) probation with terms and conditions. Dr. Barnhart seconded the motion, which passed unanimously.

5. **CR17-35**

Dr. Dumont moved to set the matter for an adjudicatory hearing and authorize AAG Miller to negotiate a consent agreement to include: 1) a reprimand; 2) reimbursement of costs of $3,000; and 3) probation with terms and conditions. Dr. Barnhart seconded the motion, which passed unanimously.

6. **CR17-53**

Dr. Dumont moved to set the matter for an adjudicatory hearing and authorize AAG Miller to negotiate a consent agreement to include: 1) a reprimand; 2) reimbursement of costs of $3,000; and 3) probation with terms and conditions. Dr. Barnhart seconded the motion, which passed unanimously.

7. **CR17-54**

Dr. Barnhart moved to investigate further. Mr. Ross seconded the motion, which passed unanimously.

8. **CR17-14**

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

**MOTION:** The patient complains that the physician was practicing medicine with an administrative license and ordering tests through another entity bypassing the primary care provider. The physician explained the reason for doing so and clarified that test results were being forwarded to the primary care provider.
9. CR17-15

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

**MOTION:** This is a complaint filed by the family of a patient who died from metastatic lung cancer. The family claims the physician was slow to obtain appropriate testing to determine the best treatment. Review of the records and evidence show that the patient was diagnosed with cancer within weeks of a new treatment being approved; however, certain testing was required to determine if the patient was a candidate for the treatment. The initial study protocol required testing on a solid tumor which the patient did not have. Eventually it was determined that the test could be done on pleural fluid and the results indicated the patient was appropriate for the new treatment. It was ordered the day the results were available.

There appears to have been some misunderstanding between the family and the physician about testing requirements and the timing of these tests. It is unfortunate that there was not better communication about these issues and perceived delays. The overall care, however, appears to have been appropriate.

10. CR17-26 Joann S. Kaplan, M.D.

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

**MOTION:** In this case, the mother of a patient complains that the physician administered vaccines to her seventeen year old son on July 25, 2014 without parental consent. In her response, the physician explained that her standard practice is to provide the parent with the relevant vaccine information sheet and obtain verbal consent from a parent prior to vaccine administration, and acknowledged that the usual protocol may not have been followed by the medical assistant who is no longer with her practice.

The letter of guidance will advise the physician that: it is important to ensure that informed consent has been obtained prior to any procedure or the administration of vaccines.

11. CR17-33

Dr. Sullivan moved to modify the terms of the proposed consent agreement. Dr. Barnhart seconded the motion, which passed 7-0-0-1. Dr. Dumont was recused from the matter and left the room.

12. CR17-84 Deep S. Acharya, M.D.

Dr. Waddell moved to dismiss the complaint with a letter of guidance. Dr. Sullivan seconded the motion, which passed unanimously.
MOTION: In this case, the patient complains that the physician inappropriately discharged her from the emergency department without first consulting her cardiologist despite a suspected problem with her implantable cardioverter defibrillator (ICD). The physician responded that given his past experience, he believed it was safe to discharge the patient because she was stable and had an appointment later that day to have the ICD evaluated with her cardiologist.

The letter of guidance will advise the physician that: 1) absent adequate resources for a full evaluation of a cardiology patient presenting to the emergency department, a specialist should be consulted prior to discharging the patient; and 2) it is important to update and maintain medical knowledge in the appropriate emergency department management of patients with an ICD.

13. CR17-92

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

MOTION: The patient complaint about the prescription he received from his ophthalmologist. He felt that he did not receive enough information to take the prescription to purchase glasses elsewhere other than the physician’s optical dispensary. Review of the records along with the physician’s response reveals appropriate care and an accurate copy of the glasses prescription was supplied to the patient. There was no effort to withhold the data. Additionally, the physician’s optician tried to help the patient get his needs met in acquiring glasses elsewhere.

14. CR17-103

Ms. Dench moved to dismiss the complaint. Dr. Dumont seconded the motion, which passed 7-0-0-1. Ms. Weinstein and AAG Miller were recused from the matter and left the room.

MOTION: A patient with a long history of abdominal pain, multiple symptoms that varied over time involving other regions in addition to the abdomen, and multiple allergies which limited pharmacological options complains about both her care and the conduct of her physician. The patient also expresses her dissatisfaction with other physicians treating her concurrently as she had many other clinicians involved in her treatment. Review of an extensive record reveals thoughtful and appropriate care and treatment were provided.

The patient also claims she was charged for services that weren’t rendered. The physician acknowledged a billing error which was rectified and stated that the office billing staff has received further training on code input with periodic auditing put in place.

15. CR17-121

Mr. Ross moved to investigate further. Ms. Weinstein seconded the motion, which passed unanimously.
16. CR17-122

Mr. Ross moved to dismiss the complaint. Ms. Dench seconded the motion, which passed 7-0-0-1. Dr. Waddell was recused from the matter and left the room.

**MOTION:** The patient complains about the care she received from her physician for lower extremity peripheral vascular disease. She questions whether the vascular care procedures and reconstructive surgeries led to unexpected adverse outcomes. Review of the record reveals appropriate care and treatment.

17. CR17-124

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

**MOTION:** A patient with multiple symptoms that varied over time complains that the doctor failed to diagnose her and provide proper treatment, leaving her with permanent damages. Review of the extensive record shows consistent record keeping and multiple referrals for help in diagnosis and treatment of symptoms. No evidence for a clearly missed diagnosis was provided. The care appears thoughtful and appropriate.

18. CR17-128

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

**MOTION:** The patient complains that the provider refuses to treat her chronic pain and does not listen to her concerns. Careful review of the records reveals consistent, compassionate, and appropriate care with explanations and suggestions for alternatives to treat pain.

19. CR17-129

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

**MOTION:** The patient complains about the care she received and alleges an inappropriate remark was made and that her medical records were falsified. Review of the records shows reasonable care was provided.

20. CR16-264

Dr. Barnhart moved to set the matter for an adjudicatory hearing and authorize AAG Miller to negotiate a consent agreement to include: 1) a substance misuse evaluation; 2) attendance at a course for disruptive providers; and 3) license probation with terms and conditions. Dr. Sullivan seconded the motion, which passed unanimously.
21. CR17-36 Keith Chasse, P.A.

Dr. Dumont moved to dismiss the complaint with a letter of guidance. Ms. Weinstein seconded the motion, which passed 7-0-0-1. Dr. Sullivan was recused from the matter and left the room.

**MOTION:** In this case, a patient complains that the physician assistant abruptly discontinued his longstanding pain medication and instructed him to obtain further treatment for his condition from his primary care provider. The physician assistant responded that the practice normally does not prescribe pain medication for chronic pain and that the patient was given notice that he would need to obtain further prescriptions from his primary care provider.

The letter of guidance will advise the physician assistant to: remember that discontinuing a medication may have an effect on a patient and, in the case of opioid medication, may include withdrawal symptoms. Be sensitive to the needs of the patients you are managing by providing adequate continuity in the transition of care.

22. CR17-39

Dr. Dumont moved to set the matter for an informal conference. Dr. Sullivan seconded the motion, which passed unanimously.

23. CR17-51

Dr. Barnhart moved to modify the terms of the proposed consent agreement. Dr. Sullivan seconded the motion, which passed unanimously.

24. CR17-111

Dr. Barnhart moved to set the matter for an adjudicatory hearing and authorize AAG Miller to negotiate a consent agreement to include: 1) attendance at a boundary course; and 2) license probation with terms and conditions. Dr. Dumont seconded the motion, which passed 7-0-0-1. Dr. Gleaton was recused from the matter and left the room.

25. CR17-139

Dr. Waddell moved to preliminarily deny the physician’s renewal application and authorize AAG Miller to offer two consent agreement options to the physician: 1) obtain a clinical competence assessment and undergo a § 3286 evaluation; or 2) surrender his Maine medical license. Mr. Ross seconded the motion, which passed unanimously.
26. CR17-153

Ms. Weinstein moved to set for matter for an adjudicatory hearing and authorize AAG Miller to offer a consent agreement for surrender of the physician’s Maine medical license. Dr. Dumont seconded the motion, which passed unanimously.

27. CR16-223

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

**MOTION:** A physician complains of large quantities of Suboxone and benzodiazepines being prescribed by this provider to former patients of hers after failed urine drug screens at her office. After review of the records and an informal conference, appropriate changes have been recognized and made, and the provider has changed to a specialty that he is prepared to take action and responsibility for. All requests from the Board have been satisfied in an appropriate and timely manner.

28. CR16-245

Ms. Weinstein moved to dismiss the complaint. Mr. Ross seconded the motion, which passed unanimously.

**MOTION:** A patient complains the physician did not conduct urine drug screening, met with patients in a parking lot, used another physician’s address on prescription pads, and increased dosages of medications. After review of the records and an informal conference, appropriate changes have been recognized and made, and the provider has changed to a specialty that he is prepared to take action and responsibility for. All requests from the Board have been satisfied in an appropriate and timely manner.

29. CR17-42

Ms. Weinstein moved to dismiss the complaint. Dr. Sullivan seconded the motion, which passed unanimously.

**MOTION:** A patient complains his medication was stolen, the physician refused to refill it the following day, and he feels abandoned by the physician. The patient continued to see the physician, but became upset when prescriptions would not be refilled weeks early. The physician gave the patient notice as to the closing of his Suboxone practice. After review of the records and an informal conference, appropriate changes have been recognized and made, and the provider has changed to a specialty that he is prepared to take action and responsibility for. All requests from the Board have been satisfied in an appropriate and timely manner.

30. Intentionally left blank
V. Assessment and Direction

32. AD17-145

Dr. Waddell moved to close the matter with no further action. Dr. Barnhart seconded the motion, which passed unanimously.

33. AD17-172

Dr. Dumont moved to issue a citation for failure to accurately answer a question on an application and to issue a complaint if the physician does not accept the citation. Mr. Ross seconded the motion, which passed unanimously.

34. AD17-156

Dr. Barnhart moved to close the matter with no further action. Ms. Weinstein seconded the motion, which passed unanimously.

35. AD17-162

Dr. Dumont moved to close the matter with no further action. Mr. Ross seconded the motion, which passed unanimously.

36. AD17-165

Dr. Barnhart moved to close the matter with no further action. Mr. Ross seconded the motion, which passed unanimously.

37. AD17-158

Dr. Barnhart moved to issue a complaint (CR17-198). Ms. Weinstein seconded the motion, which passed 7-0-0-1. Dr. Dumont was recused from the matter and left the room.

38. Intentionally left blank

39. Pending Adjudicatory Hearings and Informal Conferences report

During discussion regarding pending adjudicatory hearings, Dr. Dumont moved to amend complaint CR17-50 onto the agenda. Mr. Ross seconded the motion which passed unanimously.

Dr. Dumont moved to unset the adjudicatory hearing and set the matter for an informal conference to be held in October. Dr. Barnhart seconded the motion, which passed unanimously.
40. Consumer Assistance Specialist Feedback (none)

41. Other Items for Discussion (none)

VI. Informal Conference (none)

VII. Minutes for Approval

Dr. Barnhart moved to approve the minutes of the August 8, 2017 meeting. Dr. Dumont seconded the motion, which passed unanimously.

VIII. Board Orders & Consent Agreement Monitoring

A. Board Orders (none)

B. Monitoring Reports

1. Lowell Gerber, M.D.

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

2. Kevin Kendall, M.D.

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

3. Elmer Lommler, M.D.

   Dr. Waddell moved to amend the consent agreement to terminate the license probation, but maintain certain prescribing and medical record documentation requirements in the current consent agreement. Ms. Weinstein seconded the motion, which passed 6-0-0-2. Dr. Barnhart and Dr. Dumont were recused from the matter and left the room.

4. Intentionally left blank

5. Intentionally left blank

IX. Adjudicatory Hearings

A. 10:30 a.m. CR16-155 Jessica L. Cyr, P.A.

   Rebekah J. Smith, Esq., Hearing Officer, convened the hearing at 10:47 a.m.

   Ms. Cyr was present and represented by Christopher C. Taintor, Esq. AAG Michael Miller represented the State.

   After deliberation by the Board, the following motions were made:
Dr. Waddell moved that the preponderance of the evidence did not support the allegation that Ms. Cyr engaged in unprofessional conduct. Ms. Weinstein seconded the motion, which passed unanimously.

Dr. Waddell moved that the preponderance of the evidence did support the allegation that Ms. Cyr violated Board statute or rule by rendering medical services without a certificate of registration. Dr. Barnhart seconded the motion, which passed unanimously.

Dr. Waddell moved that the preponderance of evidence did support the allegation that Ms. Cyr violated Board Rule Chapter 2 by practicing as a physician assistant without Board approval of her primary supervising physician and without a certificate of registration. Ms. Dench seconded the motion, which passed unanimously.

Dr. Dumont moved that the preponderance of evidence did support the allegation that Ms. Cyr violated Board Rule Chapter 2 regarding notifications of termination, change or addition of a primary supervising physician. Dr. Waddell seconded the motion, which passed unanimously.

Mr. Ross moved to issue a warning. Ms. Dench seconded the motion, which passed unanimously.

Dr. Waddell moved to delegate authority to sign the decision and order to Board Chair Maroulla S. Gleaton, M.D. Mr. Ross seconded the motion, which passed unanimously.

Dr. Barnhart moved to approve the renewal of Ms. Cyr’s license effective immediately. Ms. Weinstein seconded the motion, which passed unanimously.

B. 1:00 p.m. CR17-50 Karen J. Diamond-Akey, M.D. – Continuance Granted

X. Remarks of Chair (none)

XI. Remarks of Executive Director

Mr. Smith reported that he submitted a request to amend the statute regarding adjudicatory hearings to allow the Board to designate a subcommittee of three Board members to hold an adjudicatory hearing or to retain a hearing officer to hold a hearing and issue a recommended decision and order to the Board.

A. AIM Fall Meeting

Mr. Ross moved to authorize Mr. Smith to attend the Administrators in Medicine (AIM) fall meeting in Memphis, Tennessee on October 9th and 10th. Ms. Weinstein seconded the motion, which passed unanimously.
B. FAR B 42nd Annual Forum

Ms. Dench moved to authorize Mr. Terranova to attend the 42nd Annual Federation of Associations of Regulatory Boards (FARB) Forum in Coronado, California January 25th – 28th, 2018. Mr. Ross seconded the motion, which passed unanimously.

XII. Assistant Executive Directors Report

Mr. Terranova reported on the status of planned upgrades to the building’s security system and computer software.

A. Complaint Status Report

As of September 1, 2017 there are one hundred eight complaints outstanding. Eighteen complaints were opened during the month of August and fifteen were closed.

B. Quality Counts Report

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

C. Licensing Feedback (none)

D. Board Committees and Assignments

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 on the status of a pending appeal.

XV. Rulemaking

A. Chapter 2 Joint Rule Regarding Physician Assistants

The Board reviewed proposed changes to the rule and requested that staff provide a copy to the Board of Osteopathic Licensure for review and comment.

XVI. Policy Review

A. Press Release of Board Disciplines

Dr. Dumont moved to approve amendments to the Press Release of Board Disciplines policy. 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 C]

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

XIX. Board Correspondence (none)

XX. FSMB Material

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

XXI. FYI

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

XXII. Other Business (none)

XXIII. Adjournment 4:50 p.m.

Respectfully submitted,

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

In Re: } FIRST AMENDMENT TO
MICHAEL B. BRUEHL, M.D. } CONSENT AGREEMENT
Complaint No. CR16-24 }

This document is a First Amendment to the Consent Agreement effective November 8, 2016, regarding disciplinary action imposed upon the license to practice medicine in the State of Maine held by Michael B. Bruehl, M.D ("First Amendment"). The parties to this First Amendment are: Michael B. Bruehl, M.D. ("Dr. Bruehl"), the State of Maine Board of Licensure in Medicine ("the Board"), and the Department of the Attorney General (the "Attorney General"). This First Amendment is entered into pursuant to 32 M.R.S. § 3282-A and 10 M.R.S. § 8003(5).

BACKGROUND

1. On November 8, 2016, the parties entered into a Consent Agreement upon the license to practice medicine in the State of Maine held by Dr. Bruehl ("the Consent Agreement"). The Consent Agreement imposes a license restriction prohibiting the prescribing of any controlled substance for a period greater than seven (7) days.

2. On July 11, 2017, the Board reviewed correspondence from Dr. Bruehl's counsel and information from Board staff and voted to offer Dr. Bruehl this First Amendment to address an ambiguity and clarify the above stated license restriction. Absent acceptance of this First Amendment by Dr. Bruehl by signing it and dating it in front of a notary
and returning it to the Maine Board of Licensure in Medicine, 137 State
House Station, Augusta, Maine 04333-0137 on or before August 28,
2017, the Board shall take such further action it deems necessary.

AMENDMENT

3. Dr. Bruehl, the Board, and the Department of the Attorney
General hereby agree to amend the Consent Agreement dated November
8, 2016 by:

1) Amending paragraph 14(a) to read as follows:
   a) A LICENSE RESTRICTION permitting the prescribing of
      controlled substances to be issued only for the treatment of acute
      medical conditions and prohibiting the prescribing of any
      controlled substance for a period greater than seven (7) days. Dr.
      Bruehl may not authorize a refill of a controlled substance
      prescription.

2) Inserting a new paragraph 14(b)(3) as follows:
   Dr. Bruehl acknowledges that while this Consent Agreement
   together with any amendments is in effect he must directly
   communicate with the Board or Board staff and has the obligation
   to respond to any request for information or documentation within
   the timeframe specified or requested. Failure to comply with or
   respond to any request will be considered a violation of this
   Consent Agreement.

3) Inserting a new paragraph 14(b)(4) as follows:
The duration of any probationary period shall be tolled for: a) any absence from the state that is in excess of thirty (30) continuous days; b) any absence from the state that is in excess of sixty (60) aggregate days in a single year; c) any period in which Dr. Bruehl does not hold an active license. Dr. Bruehl shall inform the Board in writing in advance of any such absence from the state.

4. Dr. Bruehl acknowledges by his signature hereto that all other terms and conditions of the Consent Agreement effective November 8, 2016 remain in full force and effect.

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

6. Dr. Bruehl has been represented by Sandra L. Rothera, Esq., who has participated in the negotiation of the terms of this First Amendment.
I, MICHAEL B. BRUEHL, M.D., HAVE READ AND UNDERSTAND THE FOREGOING FIRST AMENDMENT AND AGREE WITH ITS CONTENTS AND TERMS. I FURTHER UNDERSTAND THAT BY SIGNING THIS FIRST AMENDMENT, I WAIVE CERTAIN RIGHTS, INCLUDING THE RIGHT TO A HEARING BEFORE THE BOARD. I SIGN THIS FIRST AMENDMENT VOLUNTARILY, WITHOUT ANY THREAT OR PROMISE. I UNDERSTAND THAT THIS FIRST AMENDMENT CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.

Dated: 8/3/14

MICHAEIL B. BRUEHL, M.D.

STATE OF MAINE

Before me this 3rd day of August, 2017, personally appeared Michael B. Bruehl, M.D., who after first being duly sworn, signed the foregoing First Amendment to Consent Agreement in my presence or affirmed that the signature above is his own.

[Signature]
Notary Public / Attorney at Law
My commission expires 11/4/2018

DATE: August 8, 2017

SANDRA E. ROTHERA, ESQ.
Attorney for Michael B. Bruehl, M.D.
STATE OF MAINE BOARD OF LICENSURE IN MEDICINE

DATED: 9/12/17

MAROULLA S. GLEATON, M.D., Chairman

STATE OF MAINE DEPARTMENT OF THE ATTORNEY GENERAL

DATED: 9/12/17

MICHAEL MILLER
Assistant Attorney General

Effective Date:
APPENDIX B

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

In re: STEPHANIE A. GRAVES, P.A. Complaint No. CR16-261

) CONSENT AGREEMENT

This document is a Consent Agreement, effective when signed by all parties, regarding disciplinary action against the physician assistant license in the State of Maine held by Stephanie A. Graves, P.A. The parties to the Consent Agreement are: Stephanie A. Graves, P.A. ("Ms. Graves"), 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. Ms. Graves has held a physician assistant license in the State of Maine since July 5, 2011 (license number PA1274).

2. On January 4, 2017, the Board initiated a complaint following receipt of a mandated report pursuant to 24 M.R.S. § 2506 from The Aroostook Medical Center ("TAMC") stating that Ms. Graves employment had been terminated for "falsification of medical records" based upon information that Ms. Graves had documented physical examinations of patients that were reportedly not performed. The Board docketed the complaint as CR16-261, and sent it to Ms. Graves for a response.

3. By letter dated February 2, 2017, Ms. Graves responded to the complaint. In her response, Ms. Graves stated that at the time of the events involving the allegations that she had documented but not conducted
appropriate physical examinations, she was undergoing "extreme emotional and psychological stress" that may have affected her work performance or memory recall. Ms. Graves stated that although she does not believe that she falsified medical records or failed to perform complete examinations, she cannot state with "100% certainty what she did for an examination for each of her patients."

4. On January 24, 2017, Ms. Graves submitted an application for physician assistant registration to the Board.

5. On March 31, 2017, Ms. Graves underwent a psychiatric assessment requested by the Board.

6. Pursuant to 32 M.R.S. § 3282-A(2)(E), the Board may impose discipline for engaging in conduct that evidences a lack of ability or fitness to discharge the duty owed by the licensee to a client or patient or the general public, or that evidences a lack of knowledge or inability to apply principles or skills to carry out the practice for which the licensee is licensed.

7. Pursuant to 32 M.R.S. § 3282-A(2)(F), the Board may impose discipline for engaging in unprofessional conduct by violating a standard of professional behavior that is established in the practice of medicine.

8. At its meeting on April 11, 2017, the Board reviewed Complaint CR16-261, and voted to set this matter for an adjudicatory hearing. In addition, the Board voted to offer Ms. Graves this Consent Agreement to resolve this matter without further proceedings.
9. By letter dated June 2, 2017, Ms. Graves through legal counsel requested that the Board modify terms offered in the consent agreement.

10. At its meetings on July 11, 2017 and August 8, 2017, the Board reviewed Ms. Graves’s requested modifications and voted to offer this consent agreement in order to resolve this matter without further proceedings. Absent Ms. Graves’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 September 22, 2017, the matter will be scheduled for an adjudicatory hearing.

COVENANTS

9. Ms. Graves admits the facts stated above and that such conduct constitutes grounds for discipline pursuant to 32 M.R.S. §§ 3282-A(2)(E), and (2)(F) (for engaging in conduct that evidences a lack of ability or fitness to discharge the duty owed by the licensee to a client or patient or the general public, or that evidences a lack of knowledge or inability to apply principles or skills to carry out the practice for which the licensee is licensed, and for engaging in unprofessional conduct).

10. As discipline for the conduct described above, Ms. Graves agrees to accept the following discipline:

A period of license PROBATION for at least two (2) years subject to the following conditions:

a) Ms. Graves has engaged in at least six (6) sessions of cognitive behavioral therapy conducted by a licensed professional approved by
the Board Chair or Board Secretary. Within fifteen (15) calendar days of the execution of this Consent Agreement, Ms. Graves shall submit to the Board a written summary describing her experience with the cognitive behavioral therapy.

b) Prior to rendering any medical services or approval of any application for physician assistant registration, Ms. Graves must have a Physician Practice Monitor approved by the Board Chair or Board Secretary. The Physician Practice Monitor may be Ms. Graves’s Primary Supervising Physician. Within thirty (30) days of the effective date of this Consent Agreement the Physician Practice Monitor shall submit to the Board a monitoring plan describing how the monitoring will be performed, including the method by which medical record documentation accuracy will be corroborated with randomly selected patients. The Physician Practice Monitor must review all of Ms. Graves’s patient charts to verify accuracy of the medical record documentation within two (2) business days of the patient encounter. Ms. Graves shall cause the Physician Practice Monitor to provide written monthly reports to the Board confirming the accuracy of Ms. Grave’s medical record documentation, describing how the accuracy of the records was determined, and identifying any issues regarding documentation or Ms. Graves’s ability to safely or competently render medical services. Ms. Graves understands that the Physician Practice Monitor shall be an agent of the Board pursuant to 24 M.R.S. § 2511. Ms. Graves may not render any medical services in the absence of the Physician Practice Monitor unless an alternate physician practice
monitor has been approved by the Board Chair or Board Secretary for a specified and limited time period.

Following receipt of the third written report of the Physician Practice Monitor, Ms. Graves may submit a written request for modification of the report frequency, number of patient chart reviews to be conducted, or other requirement of this subparagraph. Upon receipt of a written request for modification of the report frequency, number of patient chart reviews to be conducted, or other requirement of this subparagraph, the Board, in its sole discretion shall determine whether to approve the request.

Following two (2) years of reports from the Physician Practice Monitor, Ms. Graves may request termination or modification of the requirements of probation. Upon receipt of a request for termination or modification of the requirements of probation, the Board in its sole discretion shall maintain, terminate, or modify the requirements of probation.

11. The duration of any probationary period shall be tolled for: a) any absence from the state that is in excess of thirty (30) continuous days; b) any absence from the state that is in excess of sixty (60) aggregate days in a single year; c) any period in which Ms. Graves does not hold an active license or physician assistant registration. Ms. Graves shall inform the Board in writing in advance of any such absence from the state.

12. Ms. Graves acknowledges that while this Consent Agreement is in effect she must directly communicate with the Board or Board staff and has the obligation to respond to any request for information or documentation
within the timeframe specified or requested. Failure to comply with or respond to any request shall be considered a violation of this Consent Agreement.

13. Violation by Ms. Graves 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.

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

15. The Board and the Department of the Attorney General may communicate and cooperate regarding Ms. Graves or any other matter relating to this Consent Agreement.

16. 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.

17. 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.

18. 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.
19. Ms. Graves acknowledges by her signature hereto that she has read this Consent Agreement, that she has had an opportunity to consult with an attorney before executing this Consent Agreement, that she executed this Consent Agreement of her own free will and that she agrees to abide by all terms and conditions set forth herein.

20. Ms. Graves has been represented by Norman G. Trask, Esq., who has participated in the negotiation of the terms of this Consent Agreement.

21. 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, STEPHANIE A. GRAVES, 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: 8/29/17  
STEPHANIE A. GRAVES, P.A.

STATE OF MAINE  
AROOSTOOK, S.S.

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

DATED: 8/29/2017  
MINDY R. NELSON  
NOTARY PUBLIC/ATTORNEY  
MY COMMISSION ENDS: May 9, 2022

DATED: 8/29/17  
NORMAN G. TRASK, ESQ.  
Attorney for Stephanie A. Graves, P.A.
The following information is included:

A summary of all new licenses granted in August 2017 by license type (67);
A list of all individuals granted a new license in August 2017 by license type;
A summary of all pending applications by license type (179);
A list of online vs. paper renewals by license type (87,91); and
A list of licenses lapsed on September 1, 2017 (28).

In addition the overall licensing statistics include:

The number of active MD licenses (not including EC) September 1, 2017 (5833);
The number of active MD licenses with a Maine address (not including EC) on September 1, 2017 (3517);
The number of active PA/PAN licenses on September 1, 2017 (822);
The number of active PA/PAN licenses with a Maine address on September 1, 2017 (760); and
The number of licenses pending renewal on September 1, 2017 (45).

We look forward to your feedback.
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