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State of Maine
Board of Licensure in Medicine
137 SHS, 161 Capitol Street
Augusta, Maine 04333-0137
Minutes of April 10, 2018

Board Members Present
Maroulla S. Gleaton, M.D., Chair
Susan Dench
David H. Dumont, M.D.
Christopher Ross, P.A.
Peter J. Sacchetti, 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
Maureen S. Lathrop, Administrative Assistant
Tracy A. Morrison, Licensing Specialist
Elena I. Crowley, Licensing Specialist

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

Dr. Barnhart and Dr. Sullivan were absent.
Dr. Waddell was excused at 1:07 p.m.

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

I. Call to Order

Dr. Gleaton called the meeting to order at 9:00 a.m.

A. Amendments to Agenda

Dr. Sacchetti moved to amend a clinical competence discussion, which was tabled at the April 9th meeting, onto the agenda. Mr. Ross seconded the motion, which passed unanimously.
At 11:00 a.m. Ms. Dench moved to amend Dr. Ira Mandel’s request to withdraw his license, which was tabled at the April 9th meeting, onto the agenda. Mr. Ross seconded the motion, which passed unanimously.

B. Scheduled Agenda Items

1. 1:00 p.m. Joint Adjudicatory Hearing – Kathy L. Bouton-Semmel, P.A. (CR16-262) & Ghinwa Hassan, M.D. (CR16-266)

II. Complaints

1. CR16-220

Dr. Sacchetti moved to dismiss the complaint. Ms. Dench seconded the motion, which passed 6-0-0-1. Dr. Dumont was recused from the matter and left the room.

**MOTION:** A physician was terminated by his employer for failing to meet an improvement plan in the areas of prescribing controlled substances and medical record keeping. The Board conducted a preliminary chart review where these concerns were highlighted. The Board requested that the physician complete a course in medical documentation, improve his charting of patient encounters, and follow universal precautions when prescribing controlled medication. The physician completed the course and a second chart review demonstrated successful remediation.

2. CR17-58

Dr. Dumont moved to investigate further. Mr. Ross seconded the motion, which passed 6-0-0-1. Dr. Sacchetti was recused from the matter and left the room.

3. CR17-198

Dr. Waddell moved to set the matter for an adjudicatory hearing and authorize AAG Miller to offer a consent agreement limiting the physician’s practice to outpatient, office-based procedures involving local anesthesia only. Ms. Dench seconded the motion, which passed 6-0-0-1. Dr. Dumont was recused from the matter and left the room.

4. CR17-134

Dr. Sacchetti moved to dismiss the complaint. Mr. Ross seconded the motion, which passed 6-0-0-1. Dr. Waddell was recused from the matter and left the room.

**MOTION:** The Board initiated a complaint against the physician after receiving information from his former employer that he allegedly violated patient confidentiality and possibly HIPAA by accessing the hospital’s electronic medical record system (EMR) to obtain information about a patient who was not under his direct care. The physician admitted to doing this several times as well as printing on one occasion to review the patient’s
management by a nurse practitioner who he claims to have been supervising when the care took place. Though the physician could have conducted himself differently by involving his employer, he was under no obligation to do so. There is an agreement of supervision for the nurse practitioner cosigned by the physician and two other physicians in the practice placing this records review within his supervisory responsibilities.

5. CR17-163

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

MOTION: A patient complains of the care he received while attempting to undergo cataract surgery. After further investigation and presenting questions to the physician, she acknowledged what could have been done differently to achieve a better outcome for the patient and how the surgery could have been completed. The physician has implemented new provisions within the practice and this experience has heightened awareness to develop new policies and staff training to alleviate the potential of a recurrence.

6. CR17-178

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

MOTION: The Board received a complaint that alleged inappropriate communication of patient information. The Board voted to investigate further and invite the physician to an informal conference. The physician expressed an intent to retire which resolves this complaint and alleviates concerns about future patient disclosures.

7. CR17-223

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

MOTION: A patient complains that her primary care physician would not complete paperwork and unfairly ejected her from the office. The physician explained why she could not accurately complete the paperwork and her response was poorly received by the patient. The physician felt intimidated and left the room and called security. A scribe who was present during the encounter corroborates the physician’s account of what occurred.

8. CR17-235

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

MOTION: A patient complains about the care he received from a physician assistant in the emergency department. The patient had long-standing back pain and developed an anxiety
attack when he learned that his back surgery was to be delayed several weeks. He feels that he was treated as a drug seeker in the emergency department. The physician assistant felt that the anxiety was triggered by the prolonged back pain issues and tried to investigate this while advising the patient that he would not be prescribing any controlled substances. This resulted in a misunderstanding regarding the goals of the visit and left the patient unhappy. The physician assistant expressed regret that their communication did not function well and has changed his practice to better explain how the emergency department functions. The medical care provided appears to be appropriate.

9. CR17-240

Mr. Ross moved to table the complaint and offer the physician an inactive status license until resolution of an outstanding complaint in another state or, if he declines, order that the physician undergo a § 3286 evaluation. Ms. Dench seconded the motion, which passed unanimously.

10. CR17-249

Mr. Ross moved to further investigate. Ms. Weinstein seconded the motion, which passed 6-0-0-1. Dr. Waddell was recused from the matter and left the room.

11. CR17-259

Ms. Weinstein moved to dismiss the complaint. Ms. Dench seconded the motion, which passed 3-0-0-4. Dr. Dumont, Dr. Gleaton, Mr. Ross, and Dr. Sacchetti were recused from the matter and left the room.

MOTION: The complainant alleges she was sexually assaulted by the physician during the caesarean section birth of her son nearly 32 years ago. The physician has detailed his position relative to the patient during the procedure with several other practitioners present alongside. The physician has clearly expressed if there had been any contact as stated by the complainant, it was not intentional and not in the manner alleged. The goal of the physician was to focus solely on the safety of the delivery for the mother and baby.

12. CR17-161

Dr. Sacchetti moved to investigate further. Ms. Weinstein seconded the motion, which passed 6-0-0-1. Dr. Waddell was recused from the matter and left the room.

13. CR17-202

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

MOTION: A patient complains that she was inappropriately restrained and that her anxiety was not properly addressed during the conduct of an endoscopic procedure. The
gastroenterologist denies that she restrained the patient in any way. Review of the records indicates that appropriate care was provided.

14. CR17-227

Ms. Dench moved to dismiss the complaint. Dr. Sacchetti seconded the motion, which passed 6-0-0-1. Dr. Dumont was recused from the matter and left the room.

**MOTION:** A patient presents to the hospital for severe flank pain and complains about the care he received from the physician and his office staff. The patient is diagnostically challenging, only providing limited history. The physician alleged that the patient is demanding and has made threats. The decision to have the patient obtain future services from another physician was decided by this medical practice as the relationship between physician and patient became strained. The office facilitated the transfer of care to Boston as requested by the patient. Appropriate care was provided.

15. CR17-239

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

**MOTION:** A Board complaint was initiated after receipt of a report that a teleradiologist resigned her clinical privileges while under investigation for issues involving clinical competence. Additional information provided by the radiologist and her employer suggests that the claim she intentionally resigned her privileges was inaccurate. Review of additional quality data mitigates any concerns of clinical incompetence. Further Board action at this time is not warranted.

16. CR17-260

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

17. CR17-261

Mr. Ross moved to dismiss the complaint. Ms. Dench seconded the motion, which passed 6-0-0-1. Dr. Waddell was recused from the matter and left the room.

**MOTION:** The patient complains that the physician did a wrong-side procedure on his nose. The physician responded that this was the fourth procedure on the patient’s nose. The previous procedures were not performed by this physician. The physician stated that the patient received the best outcome that he could expect, and the next recommended procedure is not one that this physician performs. Review of the records and consent reveals that appropriate care was provided.
18. CR17-262

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

**MOTION:** A parent accuses a physician of having his child taken from him and placed in DHHS custody. The baby thrived when in foster care and regressed in the care of his parents. The physician did everything required of him and provided appropriate care.

19. CR17-184

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

**MOTION:** This complaint involves allegations of inappropriate opioid prescribing by a physician caring for a female with multiple medical problems and chronic pain. The physician assumed care of the patient in 2009 while she was already being prescribed high doses of fentanyl. The physician was able to taper the patient down to a significantly lower dose of opioids, but when she had increased symptoms he did eventually resume the fentanyl patch at low dose. Unfortunately, within an hour of resuming the medication she became unresponsive and required emergency medical care. It is pharmacologically extremely unlikely this medication had an effect, although no other etiology of her altered mental status could be determined Extensive review of the patient’s care up to this time showed appropriate testing, documentation, and thoughtful decision making and prescribing.

20. CR17-209

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

**MOTION:** A patient complains that the physician was dismissive of her concerns regarding potential hearing loss following trauma, and the patient felt lectured and belittled when a secondary concern was raised by the physician. The physician responded that the patient’s hearing tests reflected normal hearing, explained his discussion regarding the secondary concern, and stated that he was sorry that the patient felt belittled and that he did not listen to her. Review of the patient records reveals appropriate care was provided.

21. CR17-238

Dr. Dumont moved to incorporate this complaint into the adjudicatory hearing and consent agreement negotiation previously ordered regarding the physician. Ms. Weinstein seconded the motion, which passed 6-0-0-1. Dr. Sacchetti was recused from the matter and left the room.
22. CR17-252

Ms. Dench moved to dismiss the complaint. Mr. Ross seconded the motion, which passed 6-0-0-1. Dr. Waddell was recused from the matter and left the room.

**MOTION:** A patient’s medical advocate complains that the pulmonologist did not provide adequate care in that he was late in obtaining medical records, did not call in a new medication dose, and caused the patient to drive further than necessary for testing and referrals. Review of the medical record shows thorough and reasonable care.

23. CR17-265

Ms. Weinstein moved to dismiss the complaint. Mr. Ross seconded the motion, which passed 6-0-0-1. Dr. Waddell was recused from the matter and left the room.

**MOTION:** A patient complains about the care she received from the physician stating his behavior to be unprofessional, unethical, and unkind. Review of the records reveals a difficult diagnosis for the patient to accept, and a considerable element of anxiety with the physician being forthcoming regarding the diagnosis and prognosis. Explanations were provided including risks of the disease, the progression, and the side effects of therapy options. However, reasonable care was provided.

24. CR17-266

Mr. Ross moved to dismiss this complaint, issue complaints against the physician assistant and her primary supervising physician (PSP) for failure to provide notification to the Board of a change in PSP within ten days, and refer the information to the Board of Osteopathic Licensure for review. Dr. Dumont seconded the motion, which passed unanimously.

**MOTION:** The patient’s daughter complains that the physician assistant was incompetent which lead to her mother’s death. The physician assistant responded that she agreed that the patient was not well enough to go home and needed further treatment which was approved by the insurance company. Review by her supervising physician showed appropriate care. Review of the records revealed that the patient received reasonable care.

25. CR17-55

Dr. Waddell moved to dismiss the complaint and approve return to an active status license for the physician. Mr. Ross seconded the motion, which passed unanimously.

**MOTION:** A complaint was issued by the Board against an orthopedic surgeon after notification of an investigation being conducted in the United Kingdom where the physician practiced prior to applying to work in Maine. The complaint alleged inappropriate clinical care of surgical patients and poor record keeping. The physician agreed to make his Maine license inactive pending completion of the investigation in the UK. That investigation is concluded with a determination that no further action is warranted. All temporary restrictions
on the physician’s license in the UK have been lifted. No further Board action is warranted and the physician may return to an active status license.

26. CR17-133

Dr. Sacchetti moved to investigate further and order that the physician undergo a §3286 evaluation. Mr. Ross seconded the motion, which passed 6-0-0-1. Dr. Waddell was recused from the matter and left the room.

27. CR17-263

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

**MOTION:** The complaint contains no allegations with respect to the practice of medicine or the competency of the physician.

28. CR18-4

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

**MOTION:** A patient complains about a physician who has documented in medical records the patient’s polysubstance misuse and feels this betrayed his confidence in the physician. Review of the records reveals the patient has admitted and discussed with the physician self-medicating which has included street drugs and additionally has had conflict with other providers who would not provide him with oxycodone. Records reveal consistent and appropriate care by the physician who has repeatedly tried to address the concerns of the patient. The patient repeatedly accused the physician of unsubstantiated accounts of drug misuse. However, he has personally self-reported this information which is part of his medical record.

29. CR18-14

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

**MOTION:** A patient complains that his joint problem was misdiagnosed and therefore incorrectly treated by a rheumatologist. The records support the specialist’s diagnosis. Management of the patient was appropriate.

30. CR18-19

Mr. Ross moved to dismiss the complaint. Ms. Dench seconded the motion, which passed unanimously.
MOTION: The patient complains that the physician did not treat him appropriately by not providing antibiotics and scaring him with the thought that he might have cancer. The physician responded that she believes she treated the patient appropriately and made him aware of other possible causes of his symptoms. Review of the records reveals the patient received reasonable care.

31. CR18-30

Ms. Dench moved to set the matter for an adjudicatory hearing and authorize AAG Miller to negotiate a consent agreement to include a warning. Dr. Waddell seconded the motion, which passed 6-0-0-1. Dr. Sacchetti was recused from the matter and left the room.

32. Intentionally left blank

33. Intentionally left blank

34. Intentionally left blank

III. Informal Conference (none)

IV. Joint Adjudicatory Hearing 1:00 p.m.

A. Kathy L. Bouton-Semmel, P.A. (CR16-262) & Ghinwa Hassan, M.D. (CR16-266)

Rebekah J. Smith, Esq., Hearing Officer, convened the hearing at 1:20 p.m.

Kathy L. Bouton-Semmel, P.A. and Ghinwa Hassan, M.D. were present and represented by Kelly M. Hoffman, Esq. AAG Michael Miller presented the State’s case.

Ms. Dench and Mr. Ross were recused from the matter and left the room.

After deliberation by the Board, the following motions were made with regard to Kathy L. Bouton-Semmel, P.A.:

Dr. Dumont moved to dismiss the allegation that PA Bouton-Semmel engaged in unprofessional conduct in violation of 32 M.R.S. § 3282-A(2)(F) by representing to the public and St. Joseph’s Family Medicine patients that she held a valid certificate of registration from the Board during the period January 29, 2016 until September 7, 2016. Ms. Weinstein seconded the motion, which passed 4-0.

Dr. Dumont moved to dismiss the allegation that PA Bouton-Semmel engaged in a violation of a Board statute or Board rule in violation of 32 M.R.S. § 3282-A(2)(H) by violating 32 M.R.S. § 3270-E by rendering medical services without a certificate of registration. Ms. Weinstein seconded the motion, which passed 3-1.
Dr. Dumont moved to dismiss the allegation that PA Bouton-Semmel engaged in a violation of a Board statute or Board rule in violation of 32 M.R.S. § 3282-A(2)(H) by violating Board Rule Chapter 2 §§ 2(B) and 7 in effect during the period January 29, 2016 through July 17, 2016 by practicing as a physician assistant without the approval by the Board of the primary supervising physician and obtaining a certificate of registration. Ms. Weinstein seconded the motion, which passed 4-0.

Dr. Dumont moved to dismiss the allegation that PA Bouton-Semmel engaged in a violation of a Board statute or Board rule in violation of 32 M.R.S. § 3282-A(2)(H) by violating Board Rule Chapter 2 § 9 in effect during the period January 29, 2016 through July 17, 2016 by failing to notify the Board of the termination, change or addition of a primary supervising physician no later than fourteen (14) days after the termination or change. Ms. Weinstein seconded the motion, which passed 4-0.

Dr. Dumont moved to dismiss the allegation that PA Bouton-Semmel engaged in a violation of a Board statute or Board rule in violation of 32 M.R.S. § 3282-A(2)(H) by violating Board Rule Chapter 2 § 2(5) in effect during the period July 18, 2016 through September 7, 2016 by rendering medical services as a physician assistant without having a certificate of registration issued for her primary supervising physician. Ms. Weinstein seconded the motion, which passed 4-0.

Dr. Sacchetti moved to issue PA Bouton-Semmel a letter of guidance to remain on file for ten years. Dr. Dumont seconded the motion, which passed 3-1.

Dr. Dumont moved to approve PA Bouton-Semmel’s renewal application. Dr. Sacchetti seconded the motion, which passed 4-0.

After deliberation by the Board, the following motions were made with regard to Ghinwa Hassan, M.D.:

Ms. Weinstein moved to dismiss the allegation that Dr. Hassan engaged in a violation of a Board statute or Board rule in violation of 32 M.R.S. § 3282-A(2)(H) by violating 32 M.R.S. § 3270-E by allowing a physician assistant under her supervision to render medical services without a certificate of registration. Dr. Dumont seconded the motion, which passed 4-0.

Dr. Dumont moved to dismiss the allegation the Dr. Hassan engaged in a violation of a Board statute or Board rule in violation of 32 M.R.S. § 3282-A(2)(H) by violating Board Rule Chapter 2 §(2)(B)(4) in effect during the period of January 29, 2016 through July 17, 2016 by failing to submit the statement described in § 2(B)(2) at the beginning of the supervisory relationship. Ms. Weinstein seconded the motion, which passed 4-0.

Dr. Dumont moved to dismiss the allegation that Dr. Hassan engaged in a violation of a Board statute or Board rule in violation of 32 M.R.S. § 3282-A(2)(H) by violating Board Rule Chapter 2 §§ 7(B)(1) and (2) in effect during the period January 29, 2016 through July 17, 2016 for supervising a physician assistant without obtaining approval of the Board. Ms. Weinstein seconded the motion, which passed 4-0.
Dr. Dumont moved to dismiss the allegation that Dr. Hassan engaged in a violation of a Board statute or Board rule in violation of 32 M.R.S. § 3282-A(2)(H) by violating Board Rule Chapter 2 §§ 2(1), 2(5)(A), and 4(1)(B) in effect during the period July 18, 2016 through September 17, 2016 by supervising a physician assistant who did not possess a valid certificate of registration issued by the Board and/or without complying with the requirements of the rules. Ms. Weinstein seconded the motion, which passed 4-0.

V. Licensing

A. Requests to Withdraw License/License Application

1. Ira G. Mandel, M.D.

   Dr. Dumont moved to accept Dr. Mandel’s request to withdraw his license. Mr. Ross seconded the motion, which passed unanimously.

B. Other Items for Discussion

1. Clinical Competence Requests/Definition of Clinical Medicine/ABMS

   Following discussion, the Board instructed staff to create a nonclinical license for physicians and amend license applications as appropriate.

VI. Adjournment 5:06 p.m.

Respectfully submitted,

Maureen S. Lathrop
Administrative Assistant