



Paul R. LePage  
Governor

STATE OF MAINE  
DEPARTMENT OF PROFESSIONAL  
AND FINANCIAL REGULATION  
OFFICE OF PROFESSIONAL AND OCCUPATIONAL REGULATION  
35 STATE HOUSE STATION  
AUGUSTA, MAINE  
04333-0035

Anne L. Head, Esq.  
Commissioner

Geraldine L. Betts  
Administrator

Maine Board of Pharmacy  
Minutes of June 4, 2015 Board Meeting

**CALL TO ORDER**

President Bruno called the meeting to order at 8:00 a.m.

**MEMBERS PRESENT**

Joseph Bruno, R.Ph., Pharmacist, President  
Donald Watson, R.Ph., Hospital Pharmacist, Vice President  
Kevin Holland, R.Ph., Independent Pharmacist  
Bradley Hamilton, R.Ph., Chain Pharmacist  
Joseph Pietroski, Public Member  
Kirsten Martin, Public Member

**MEMBERS ABSENT**

Shane Savage, R.Ph., Independent Pharmacist, Complaint Officer

**STAFF PRESENT**

Andrew Black, AAG, Board Attorney  
Geraldine Betts, Board Administrator  
Kelly McLaughlin, Senior Consumer Assistance Specialist  
Thomas Avery, Chief Field Investigator  
Jessica Gowell, Planning & Research Associate I

**OLD BUSINESS**

*Review and approval of the minutes of May 7, 2015*

In a motion by Pietroski, seconded by Hamilton, to accept the minutes of May 7, 2015 and as amended. Motion carried.

**NEW BUSINESS**

***Adjudicatory Hearing –ProCare Pharmacy, LLC – 2014 PHA 10567***

In a motion by Pietroski, seconded by Martin, to find ProCare Pharmacy, LLC in violation of 10 M.R.S. § 8003 (5-A)(A)(4) and 32 M.R.S. § 13753(1)(C). Motion carried.

In a motion by Pietroski, seconded by Martin, to find ProCare Pharmacy, LLC in violation of 10 M.R.S. § 8003 (5-A)(A)(5) and Board Rule Chapter 11 § 3. Motion carried.

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

In a motion by Hamilton, Seconded by Holland, to impose a Warning and a fine of \$250.00. Motion carried.

### **Review and approve Decision and Order**

*Review and approve Decision and Order – Rapid Equine Solutions, LLC – 2015 PHA 10325*

In a motion by Martin, seconded by Hamilton, to accept the Decision and Order in the matter of Rapid Equine Solutions, LLC – 2015 PHA 10325 as presented. Motion carried, Bruno abstained.

### **Complaint Committee's Report**

*2015 PHA 10932*

In a motion by Pietroski, seconded by Martin, to dismiss 2015 PHA 10932 with a Letter of Guidance regarding the use of domperidone in compounding without obtaining new drug approval from the Food and Drug Administration (FDA). The Letter of Guidance is to remain on file for a period of ten (10) years. Motion carried.

*2015 PHA 10933*

In a motion by Pietroski, seconded by Martin, to dismiss 2015 PHA 10933 with a Letter of Guidance regarding the use of domperidone in compounding without obtaining new drug approval from the Food and Drug Administration (FDA). The Letter of Guidance is to remain on file for a period of ten (10) years. Motion carried.

*2015 PHA 10915*

In a motion by Pietroski, seconded by Martin, to dismiss 2015 PHA 10915 with a Letter of Guidance regarding the use of domperidone in compounding without obtaining new drug approval from the Food and Drug Administration (FDA). The Letter of Guidance is to remain on file for a period of ten (10) years. Motion carried.

*2015 PHA 10902*

In a motion by Pietroski, seconded by Martin, to dismiss 2015 PHA 10902 with a Letter of Guidance regarding the use of domperidone in compounding without obtaining new drug approval from the Food and Drug Administration (FDA). The Letter of Guidance is to remain on file for a period of ten (10) years. Motion carried.

*2015 PHA 10903*

In a motion by Pietroski, seconded by Martin, to dismiss 2015 PHA 10903 with a Letter of Guidance regarding the use of domperidone in compounding without obtaining new drug approval from the Food and Drug Administration (FDA). The Letter of Guidance is to remain on file for a period of ten (10) years. Motion carried.

*2015 PHA 10922*

In a motion by Pietroski, seconded by Martin, to dismiss 2015 PHA 10922 with a Letter of Guidance regarding the use of domperidone in compounding without obtaining new drug approval from the Food and Drug Administration (FDA). The Letter of Guidance is to remain on file for a period of ten (10) years. Motion carried.

*2015 PHA 10994*

In a motion by Martin, seconded by Watson, that sufficient evidence exists to schedule 2015 PHA 10994 for an adjudicatory hearing and to offer a consent agreement to include the following: 1) Admission to violation of 10 M.R.S. §§ 8003(5-A)(A)(5) and Board Rule Chapter 11, § 3; 2) Warning; and 3) \$750.00 fine. Motion carried.

*2015 PHA 10983*

In a motion by Martin, seconded by Watson, that sufficient evidence exists to schedule 2015 PHA 10983 for an adjudicatory hearing and to offer a consent agreement to include the following: 1) Admission to violation of 10 M.R.S. § 8003(5-A)(A)(1), (4) and (5); 32 M.R.S. § 13753(1)(C) and Board Rule Chapter 11, § 3; 2) Warning; and 3) \$1,500.00 fine. Motion carried.

*2015 PHA 10703*

In a motion by Watson, seconded by Hamilton, to deny the request for reconsideration of the Consent Agreement offer in the matter of 2015 PHA 10703. Motion carried.

*2010 PHA 6498*

In a motion by Hamilton, seconded by Watson, to terminate all the term and conditions of the consent agreement in the matter of 2010 PHA 6498. Motion carried.

*2015 PHA 11218*

In a motion by Holland, seconded by Hamilton, to impose an immediate suspension of license in the matter of 2015 PHA 11218 for a period not to exceed thirty (30) days pursuant to 5 MRSA § 10004 (3); The Board found that continued licensure will pose an immediate jeopardy to the public and failure to suspend the license will fail to adequately respond to the known risk. Motion carried, Complaint Officer recused.

In a motion by Holland, seconded by Hamilton, that sufficient evidence exists to schedule 2015 PHA 11218 for an adjudicatory hearing and to offer a consent agreement to include the following: 1) Admission to violation of 10 MRSA § 8003(5-A)(A)(5) and Board Rules Chapter 30 Section 1(17); 2) Revocation; and 3) Provide a copy of the Consent Agreement to any current employer or prospective employer related to the practice of pharmacy. Motion carried.

*2015 PHA 11194*

*Bruno recused and left the room.*

In a motion by Holland, seconded by Martin, to impose an immediate suspension of license in the matter of 2015 PHA 11194 for a period not to exceed thirty (30) days pursuant to 5 MRSA § 10004 (3); The Board found that continued licensure will pose an immediate jeopardy to the public and failure to suspend the license will fail to adequately respond to the known risk. Motion carried.

In a motion by Martin, seconded by Watson, that sufficient evidence exists to schedule 2015 PHA 11194 for an adjudicatory hearing and to offer a consent agreement to include the following: 1) Admission to violation of 10 MRSA § 8003(5-A)(A)(5) and Board Rules Chapter 30 Section 1(17); 2) Revocation; and 3) Provide a copy of the Consent Agreement to any current

employer or prospective employer related to the practice of pharmacy. Motion carried, Bruno recused.

*2015 PHA 10773*

In a motion by Pietroski, seconded by Hamilton, to approve the Letter of Guidance as drafted in the matter of 2015 PHA 10773. Motion carried, Bruno abstained.

*2015 PHA 10950*

In a motion by Pietroski, seconded by Martin, to approve the Letter of Guidance as drafted in the matter of 2015 PHA 10950. Motion carried, Bruno abstained.

*2014 PHA 9744*

*Bruno recused and left the room.*

In a motion by Pietroski, seconded by Martin, to preliminary deny the initial application for licensure as a pharmacist in charge in the matter of 2014 PHA 9744; for the sake of patients who might otherwise not have the ability to fill a prescription or transfer their prescriptions to another pharmacy, the Board authorized the licensee to temporarily act as the pharmacist in charge until June 15, 2015, at that time the licensee will no longer be authorized to be the pharmacist in charge until and unless a hearing is requested; the licensee is to continue to retain a peer monitor until August 4, 2015. Motion carried, Bruno recused.

In a motion by Pietroski, seconded by Martin, to authorize Chief Field Investigator, Thomas Avery to file a complaint regarding the alleged misfills. Motion carried, Bruno recused.

**Board Action on Initial Applications**

*Caroline Fogarty, PI28119*

In a motion by Holland, seconded by Hamilton, to accept staff's recommendation and issue a preliminary denial of the pharmacy intern initial application of Caroline Fogarty, PI28119, and offer a Consent Agreement to include: 1) Admission to 32 M.R.S. § 13742-A (1)(A); 2) Obtain a substance abuse evaluation from the Maine Medical Professionals Health Program (MMPHP) and follow the recommendations of the MMPHP, including signing a contract and participating in the program, if so recommended; 3) Submit the evaluation to the Board within thirty (30) days of execution of the consent agreement; and 4) Promptly provide a copy of the consent agreement to all current and prospective employers related to the practice of pharmacy. Motion carried.

*Urui Kapadia, PR5348*

In a motion by Holland, seconded by Martin, to accept staff's recommendation and grant licensure to Urui Kapadia, PR5348, as presented. Motion carried.

*Anthony Lyden, PT60011123*

In a motion by Martin, seconded by Holland, to accept staff's recommendation and issue a preliminary denial of the pharmacy technician initial application of Anthony Lyden, PT60011123, without the offer of a consent agreement. Motion carried.

*Katie Perry, PT60011370*

In a motion by Pietroski, seconded by Martin, to accept staff's recommendation and grant licensure to Katie Perry, PT60011370, as presented. Motion carried.

*Donald Seavey, PT60011782*

In a motion by Holland, seconded by Martin, to accept staff's recommendation and issue a preliminary denial of the pharmacy technician initial application of Donald Seavey, PT60011782, and offer a Consent Agreement to include: 1) Admission to 32 M.R.S. § 13702-A (25) and 10 M.R.S. § 8003 (5-A)(A)(1); 2) Warning; 3) \$250.00 fine; 4) provide employment at a pharmacy within sixty (60) days or the application will be denied and 5) Promptly provide a copy of the consent agreement to all current and prospective employers related to the practice of pharmacy. Motion carried.

*Theresa Witham, PT60011600*

In a motion by Holland, seconded by Martin, to accept staff's recommendation and issue a preliminary denial of the pharmacy technician initial application of Theresa Witham, PT60011600, without the offer of a consent agreement. Motion carried.

**Administrator's Report**

Administrator Betts updated the board on the status of the Durable Medical Equipment (DME) Rules and informed the Board that the Department of Professional and Financial Regulation is undertaking Fee Rule Updates. Joseph Bruno spoke on the NABP Annual Meeting held in New Orleans in May of 2015.

**Correspondence**

*Curtis Picard – Foreign Pharmacies*

In a motion by Pietroski, seconded by Holland, to direct Chief Field Investigator, Thomas Avery to begin an investigation regarding unlicensed practice in the State of Maine and to refer the matter to the Attorney General's Office as the Board lacks jurisdiction of unlicensed entities. Motion carried.

**LD1422 – An Act to Allow Maine Residence to Personally Import Medications as Permitted Under the Federal Food, Drug, and Cosmetic Act.**

No action taken.

**Memo: North Carolina Dental Board Case**

Assistant Attorney General Andrew Black discussed the North Carolina Dental Board case with the Board. No action taken.

**Public Comments**

None

**ADJOURN**

There being no further business Pietroski, motioned to adjourn at 12:00 p.m. seconded by Martin. Motion carried.