



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 February 4, 2016 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., Complaint Officer
Shane Savage, R.Ph., Independent Pharmacist
Joseph Pietroski, Public Member
Kirsten Martin, Public Member

MEMBERS ABSENT

Bradley Hamilton, R.Ph., Chain Pharmacist

STAFF PRESENT

Andrew Black, AAG, Board Attorney
Geraldine Betts, Board Administrator
Kelly McLaughlin, Comprehensive Health Planner I
Thomas Avery, Chief Field Investigator
Jessica Gowell, Senior Consumer Assistant Specialist

OLD BUSINESS

Review and approval of the minutes of January 7, 2016

In a motion by Martin, seconded by Savage, to accept the minutes of January 7, 2016 as presented. Motion carried.

NEW BUSINESS

Adjudicatory Hearing – James Ellis – 2015 PHA 11406

In a motion by Watson, seconded by Pietroski, to find James Ellis in violation of 10 M.R.S. § 8003 (5-A)(A)(5) and Board Rules Chapter 30 section 1 (17). Motion carried. Complaint Officer Savage recused.

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

In a motion by Pietroski, Seconded by Martin, to revoke the pharmacy technician license. Motion carried. Complaint Officer Savage recused.

Complaint Committee's Report

2015 PHA 11726

In a motion by Watson, seconded by Martin, that sufficient evidence exists to schedule 2015 PHA 11726 for an adjudicatory hearing and to offer a consent agreement to include the following: 1) Admission to violation of 32 M.R.S. § 13742-A(1)(C) and Board Rules Chapter 30 § 1(15) and (16) ; 2) Reprimand 3) \$3,000.00 fine and; 4) Completion of ten (10) hours of Board approved continuing education in the area of prescription errors and misfills. The continuing education credits will not count towards the continuing education required for re-licensure and shall be completed and proof of completion submitted to the Board by December 31, 2016. Motion carried Complaint Officers Savage and Holland recused.

2015 PHA 11669

In a motion by Pietroski, seconded by Martin, to dismiss 2015 PHA 11669 with no evidence of a violation of the Board's Laws and Rules. Motion carried, Complaint Officers Savage and Holland recused.

2015 PHA 11619

In a motion by Martin, seconded by Watson, to dismiss 2015 PHA 11619 with no evidence of a violation of the Board's Laws and Rules. Motion carried, Complaint Officers Savage and Holland recused.

2015 PHA 11784

In a motion by Pietroski, seconded by Martin, to dismiss 2015 PHA 11784 with a Letter of Guidance regarding professional behavior and patient safety. The Letter of Guidance is to remain on file for a period of ten (10) years. Motion carried, Complaint Officer Savage and Holland recused.

2015 PHA 11778

In a motion by Pietroski, seconded by Martin, that sufficient evidence exists to schedule 2015 PHA 11778 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); 2) Warning and 3) \$250.00 fine. Motion carried Complaint Officer Savage and Holland recused.

2015 PHA 11757

In a motion by Pietroski, seconded by Martin, that sufficient evidence exists to schedule 2015 PHA 11757 for an adjudicatory hearing and to offer a consent agreement to include the following: 1) Admission to violation of 32 M.R.S. § 13742-A(1)(C) and Board Rules Chapter 30, § (16) ; 2) Warning 3) \$250.00 fine and; 4) Completion of three (3) hours of Board approved continuing education in the area of prescription errors. The continuing education credits will not count towards the continuing education required for re-licensure and shall be completed and proof of completion submitted to the Board within ninety (90) days following the execution of the Consent Agreement. Motion carried Complaint Officer Savage and Holland recused.

2015 PHA 11781

In a motion by Pietroski, seconded by Watson, that sufficient evidence exists to schedule 2015 PHA 11781 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)(4) and (5); 32 M.R.S. § 13753(1)(C) and Board Rules Chapter 8, § 6; 2) Warning and 3) \$500.00 fine. Motion carried Complaint Officers Savage and Holland recused.

2015 PHA 11667

In a motion by Pietroski, seconded by Watson, that sufficient evidence exists to schedule 2015 PHA 11667 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)(4) and (5); 32 M.R.S. § 13753(1)(C) and Board Rules Chapter 8, § 6; 2) Warning and 3) \$250.00 fine. Motion carried Complaint Officers Savage and Holland recused.

2015 PHA 11666

In a motion by Pietroski, seconded by Watson, to dismiss 2015 PHA 11666 with no evidence of a violation of the Board's Laws and Rules. Motion carried, Complaint Officer Savage and Holland recused.

2015 PHA 11703

In a motion by Martin, seconded by Pietroski, to dismiss 2015 PHA 11703 with no evidence of a violation of the Board's Laws and Rules. Motion carried, Complaint Officer Savage and Holland recused.

2015 PHA 11610

In a motion by Martin, seconded by Pietroski, to dismiss 2015 PHA 11610 with no evidence of a violation of the Board's Laws and Rules. Motion carried, Complaint Officer Savage and Holland recused.

2015 PHA 11738

In a motion by Watson, seconded by Martin, that sufficient evidence exists to schedule 2015 PHA 11738 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) and (5) and Board Rules Chapter 11, § 1(2)(C); 2) Warning and 3) \$3,000.00 fine. Motion carried Complaint Officer Savage and Holland recused.

2015 PHA 11640

In a motion by Pietroski, seconded by Martin, that sufficient evidence exists to schedule 2015 PHA 11640 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 Rules Chapter 11, § 3; 2) Warning and 3) \$500.00 fine. Motion carried Complaint Officers Savage and Holland recused.

2015 PHA 11739

In a motion by Pietroski, seconded by Martin, that sufficient evidence exists to schedule 2015 PHA 11739 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 Rules Chapter 11, § 3; 2) Warning and 3) \$3,000.00 fine. Motion carried Complaint Officers Savage and Holland recused.

2015 PHA 11752

In a motion by Pietroski, seconded by Martin, that sufficient evidence exists to schedule 2015 PHA 11752 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 Rules Chapter 11 § 3 ; 2) Warning and 3) \$1,500.00 fine. Motion carried Complaint Officers Savage and Holland recused.

2015 PHA 11753

In a motion by Pietroski, seconded by Watson, that sufficient evidence exists to schedule 2015 PHA 11753 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 Rules Chapter 11 § 3 ; 2) Warning and 3) \$1,500.00 fine. Motion carried Complaint Officers Savage and Holland recused.

2015 PHA 11759

In a motion by Pietroski, seconded by Watson, that sufficient evidence exists to schedule 2015 PHA 11759 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) and(5) and Board Rules Chapter 11, § 1(2)(C); 2) Warning and 3) \$3,000.00 fine. Motion carried Complaint Officers Savage and Holland recused.

2015 PHA 10673

In a motion by Watson, seconded by Martin, to dismiss 2015 PHA 10673 with no evidence of a violation of the Board's Laws and Rules. Motion carried, Complaint Officers Savage and Holland recused.

2015 PHA 11454

In a motion by Martin, seconded by Watson, that sufficient evidence exists to schedule 2015 PHA 11454 for an adjudicatory hearing and to offer a consent agreement to include the following: 1) Admission to violation of 32 M.R.S. § 13742-A(1)(C) and Board Rules Chapter 30, § 1(15); 2) Warning 3) \$250.00 fine and; 4) Completion of three (3) hours of Board approved continuing education in the area of prescription errors and misfills. The continuing education credits will not count towards the continuing education required for re-licensure and shall be completed and proof of completion submitted to the Board within ninety (90) days following execution of the Consent Agreement. Motion carried Complaint Officers Savage and Holland recused.

Board Action on Renewal Applications

Darrick Glidden, PR6550

In a motion by Savage, seconded by Martin, to offer a consent agreement amending decision and order to include the following: 1) The Board acknowledges and agree that Mr. Glidden has satisfactorily completed his obligation to be under contract with the MMPHP and therefore has

fulfilled Conditions #3 of the 2012 Decision and Order stating; Darrick Glidden shall comply with the terms of the August 23, 2010 contract with the Maine Medical Professional Health Program. He shall immediately report to the Board any amendments to that contract and any positive screening results including any ingestion of alcohol or illegal possession or consumption of drugs; has fulfilled Conditions #4 of the 2012 Decision and Ordering stating; Darrick Glidden shall within 30 days provide the Board with a copy of the most recent MMPHP contract; has fulfilled Conditions #5 of the 2012 Decision and Order stating; Darrick Glidden shall meet with the Board within three months prior to the expiration or termination of the MMPHP contract, but in no even shall his license be renewed until such meeting; has fulfilled Conditions #7 of the 2012 Decision and Order stating; Darrick Glidden shall ensure that MMPHP submits one progress report each month to the Board; 2) Mr. Glidden and the Board further acknowledges and agree that Mr. Glidden shall still be subject to the reporting requirements and work restrictions contained in Condition #6 of the 2012 Decision and Order stating; Darrick Glidden shall immediately inform the Board of any employment as a pharmacist during the duration of the MMPHP contract. His employment is restricted to one location. If working at a retail pharmacy, Mr. Glidden will work no more than 80 hours in a 2 week period and will not take on overtime shifts. After one year, Mr. Glidden may petition the Board to change these conditions; 3) Mr. Glidden and the Board further agree to amend Condition #6 of the 2012 Decision and Order so that Mr. Glidden will no longer be restricted to working at only one location; 4) Mr. Glidden and the Board further agree to amend Condition #10 of the 2012 Decision and Order so that Mr. Glidden is relieved of the requirement that his monitor/supervisor be located in the same building; 5) This consent agreement further clarifies that the monthly profess report that the monitor/supervisor submits to the Board under Condition #10 of the 2012 Decision and Order should report on Mr. Glidden's competency, reliability, punctuality, and ability to work effectively with others. The monitoring does not have to be all face-to-face monitoring; 6) Mr. Glidden and the Board acknowledges and agree that unless specifically modified by this Consent Agreement, the condition of licensure imposed by the 2012 Decision and Order remain in fill force and effect. Motion carried, Complaint Officer Holland recused.

Paul Abourjaily, PR4621

In a motion by Martin, seconded by Holland, to accept staff's recommendation and grant licensure to Paul Abourjaily, PR4621, as presented. Motion carried.

Linda Bolland, PR12542

In a motion by Martin, seconded by Watson, to accept staff's recommendation and grant licensure to Linda Bolland, PR12542, as presented. Motion carried.

Benjamin Eche, PR5449, ADV28344

In a motion by Holland, seconded by Watson, to accept staff's recommendation and grant licensure to Benjamin Eche, PR5449, ADV28344, as presented. Motion carried.

Freddy Kaniki, PR5285

In a motion by Martin, seconded by Watson, to accept staff's recommendation and grant licensure to Freddy Kaniki, PR5285, as presented. Motion carried.

Nita Nuhaj, PR12530

In a motion by Martin, seconded by Watson, to accept staff's recommendation and grant licensure to Nita Nuhaj, PR12530, as presented. Motion carried.

Board Discussion – Delegate Authority

In a motion by Holland, seconded by Savage, to delegate to the board administrator decision-making authority to approve and waive the NAPLEX and MPJE examinations for pharmacist reinstatement applications where the pharmacist is currently licensed in another jurisdiction. The Board does not wish to review these applications any longer. Motion carried.

In a motion by Holland, seconded by Watson, that a pharmacist reinstatement application where the pharmacist is not currently licensed in another jurisdiction would be presented to the Board for consideration of waiving the NAPLEX and MPJE examinations. Motion carried.

In a motion by Holland, seconded by Savage, to delegate to the board administrator decision-making authority for determining and accepting other suitable pharmacy inspections in lieu of a State level pharmacy inspection, such as a FDA or NABP-type inspection. Motion carried.

Board Action on Initial Applications

Amanda Bernheisel, PT60011831

In a motion by Watson, seconded by Pietroski, to accept staff's recommendation and grant licensure to Amanda Bernheisel, PT60011831, as presented. Motion carried.

Aubri Cummings, PT60012011

In a motion by Martin, seconded by Watson to accept staff's recommendation and grant licensure to Aubri Cummings, PT60012011, as presented. Motion carried.

Christal Watson, PT60012073

In a motion by Martin, seconded by Holland, to accept staff's recommendation and grant licensure to Christal Watson, PT60012073, as presented. Motion carried.

ALK-Abello, Inc., WH70002361

In a motion by Martin, seconded by Pietroski, to accept staff's recommendation and grant licensure to ALK-Abello, Inc., WH70002361, as presented. Motion carried.

Ortho Clinical Diagnostics, Inc., MF30001438

In a motion by Martin, seconded by Pietroski, to accept staff's recommendation and grant licensure to Ortho Clinical Diagnostics, Inc., MF30001438, as presented. Motion carried.

Nanette Belanger, PT60011980

In a motion by Martin, seconded by Pietroski, to accept staff's recommendation and grant licensure to Nanette Belanger, PT60011980, as presented. Motion carried.

Board Action on Waiver Request – Board Rule Chapter 20 Subchapter 2

St. Joseph Hospital, HOS32

In a motion by Watson, seconded by Holland, to grant the waiver request of Board Rule Chapter 20 Subchapter 2 Section 4, Subsection 1 (C): Access to Automated Pharmacy System, Health Care Professional; Corrections Personnel; Professionals who may remove drugs from dispensing

machines at point of care locations; Section 8 - Dispensing of Drugs; Section 11 (1) - Video Surveillance and Section 11(2) 2 Way Communication. Motion carried.

Correspondence

Bedard Pharmacy Inc., Closed Shop Pharmacy, Christopher Nadeau, Director of Pharmacy Operations.

The Board discussed the correspondence and unanimously agrees that providing pharmacy services to patients receiving Hospice Care at home has to be done from a retail pharmacy not a closed shop pharmacy.

The Board also unanimously agrees that the Maine Pharmacy Rules do not prohibit Bedard Pharmacy's retail license to use the clean room in Bedard Senior Care (closed shop pharmacy license) to provide IV medications.

Charles Ouellette, Clarification of Rules and laws pertaining to pharmaceutical services at a rural health center.

In a motion by Martin, seconded by Watson, to table the correspondence to a future meeting requesting the staff to obtain additional information from Rural Health Centers. Motion carried.

Attorney General Janet T. Mills – presented by AAG Andrew Black.

Assistant Attorney General, Andrew Black discussed Attorney General Janet Mills' message on the heroin and opioid abuse in Maine.

In a motion by Holland, second by Martin, to request staff share this information with all licensees, requested the message be posted to the Website and emailed to all licensees who have an email address on file.

Travel – NABP 2016 Annual Meeting May 14-17, 2016

In a motion by Martin, seconded by Bruno, to elect Bradley Hamilton as the voting delegate and Shane Savage and Kevin Holland as alternative voting delegates for the 2016 Annual Meeting. Motion carried.

Board action on proposed rulemaking on Collaborative Drug Therapy Management

In a motion by Martin, seconded by Savage, to accept the comments and response to comments that were provided regarding Chapter 39. Motion carried

In a motion by Martin, seconded by Savage, to accept the amendments and provisionally adopt the rules as proposed, further move that the Board directs our staff to proceed with the rulemaking process. Motion carried.

Administrator's Report

Administrator Betts updated the Board on the Request for Proposals for a Pharmacist Examiner/Consultant Services; this was published in several newspapers on August 25-27, 2015. This position will assist with technical matters including but not limited to pharmacy inspections, complaints, inventory audits, etc.

Public Comments

None

ADJOURN

There being no further business Pietroski, motioned to adjourn at 11:27 a.m. seconded by Martin.
Motion carried.