



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 March 3, 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
Bradley Hamilton, R.Ph., Chain Pharmacist
Joseph Pietroski, Public Member
Kirsten Martin, Public Member

MEMBERS ABSENT

Shane Savage, R.Ph., Independent Pharmacist

STAFF PRESENT

Andrew Black, AAG, Board Attorney
Geraldine Betts, Board Administrator
Kelly McLaughlin, Senior Consumer Assistance Specialist
Thomas Avery, Chief Field Investigator

NEW BUSINESS

Board Action on Decision & Order – James Ellis – 2015 PHA 11409

In a motion by Pietroski, seconded by Watson, to accept the Decision and Order in the matter of James Ellis, 2015 PHA 11409 as presented. Motion carried.

Complaint Committee's Report

2015 PHA 11578

The licensee accepted the previously offered consent agreement therefore no action was taken.

2015 PHA 11748

In a motion by Martin, seconded by Watson, that sufficient evidence exists to schedule 2015 PHA 11748 for an adjudicatory hearing and to offer a consent agreement to include the

Licensing (207)624-8579
Main Receptionist (207)624-8603
TTY users call Maine relay 711



PRINTED ON RECYCLED PAPER
www.maine.gov/professionallicensing

Geraldine.L.Betts@maine.gov
Direct Line: (207)624-8625
Fax: (207)624-8666

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

following: 1) Admission to violation of 10 M.R.S. § 8003 (5-A) (A)(1) and (5) and Board Rule Chapter 11, § 1(2)(C); 2) Warning and 3) \$4,500.00 fine. Motion carried, Complaint Officer Holland recused.

2015 PHA 11783

In a motion by Pietroski, seconded by Martin, that sufficient evidence exists to schedule 2015 PHA 11783 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)(11), 10 M.R.S. § 8003-G and 10 M.R.S. § 8003-G(2)(B); 2) Warning; 3) \$250.00 fine; and 4) Obtain a substance abuse assessment from the Maine Medical Professionals Health Program (MMPHP) and a subsequent evaluation referred through the MMPHP and follow MMPHP's treatment and monitoring recommendations, including signing a contact and participating in the MMPHP program, if so recommended and 5) Provide a copy of the substance abuse evaluation and its recommendations to the Board within 30 days of the execution of the consent agreement. Motion carried, Complaint Officer Holland recused.

2015 PHA 11819

In a motion by Hamilton, seconded by Watson, to preliminary deny the pending application based on prior disciplinary actions. Motion carried, Complaint Officer Holland recused.

2015 PHA 11829

In a motion by Martin, seconded by Watson, that sufficient evidence exists to schedule 2015 PHA 11829 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 Officer Holland recused.

2015 PHA 11830

In a motion by Martin, seconded by Watson, that sufficient evidence exists to schedule 2015 PHA 11830 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 Rule Chapter 11, § 1(2)(C); 2) Warning and 3) \$4,500.00 fine. Motion carried, Complaint Officer Holland recused.

2015 PHA 11833

In a motion by Martin, seconded by Watson, that sufficient evidence exists to schedule 2015 PHA 11833 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), Board Rules Chapter 8, § 6 and Board Rules Chapter 13, § 3(1); 2) Warning and 3) \$5,000.00 fine. Motion carried, Complaint Officer Holland recused.

2015 PHA 10855

In a motion by Watson, seconded by Hamilton to modify the Letter of Guidance that was offered at the January 7, 2016 meeting changing the period in which the Letter of Guidance will be placed in the file from ten (10) years, to five (5) years. Motion carried, Complaint Officer Holland recused.

2016 PHA 12035

In a motion by Martin, seconded by Pietroski, to impose an immediate suspension of license in the matter of 2016 PHA 12035 for a period not to exceed thirty (30) days pursuant to 5 M.R.S. § 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 Holland recused.

In a motion by Martin, seconded by Pietroski, that sufficient evidence exists to schedule 2016 PHA 12035 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), (5) and (9) and 32 M.R.S. § 13742-A; 2) Reprimand; and 3) Revocation. Motion carried, Complaint Officer Holland recused.

2016 PHA 11939, 2016 PHA 11941, and 2016 PHA 12023

In a motion by Watson, seconded by Martin to enter executive session at 8:49 a.m. pursuant to 1 MRSA § 405(6)(E). Motion carried, Complaint Officer Holland recused.

In a motion by Pietroski, seconded by Hamilton to end executive session at 9:25 a.m. Motion carried, Complaint Officer Holland recused.

In a motion by Martin, seconded by Hamilton, to impose a suspension effect March 11, 2016 of the license in the matter of 2016 PHA 11939, 2016 PHA 11941 and 2016 PHA 12023 for a period not to exceed thirty (30) days pursuant to 5 M.R.S. § 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 Holland recused.

In a motion by Pietroski, seconded by Watson, that sufficient evidence exists to schedule 2016 PHA 11939, 2016 PHA 11941 and 2016 PHA 12023 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(8), Board Rules chapter 31, § 1(1), and Board Rules chapter 31, § 2(1) and(3); 2) Reprimand; 3) \$12,000.00 fine; 4) Probation for a period of one (1) year commencing on March 28, 2016, and shall remain in effect thereafter until the licensee has obtained the number of hours of supervision and monitoring required by the conditions of probation. The conditions of probation are that the licensee will not be eligible to act as the pharmacist in charge of any pharmacy, preceptor or mentor of any pharmacy intern or student, or consulting pharmacist for any rural health center, The licensee may only practice pharmacy under the supervision of a peer monitor who must be preapproved by the Board Complaint Officer, must have been continually licensed as a pharmacist by the Board for the preceding five (5) ears, must not have been disciplined by any jurisdiction within the preceding five (5) years, must not be related to the licensee and must be physically present at all time the licensee is practicing as a pharmacist; 5) The licensee must ensure that the peer monitor files monthly reports with the Board due on tenth calendar day of each month in which the peer monitor for the preceding calendar month describes any misfills, prescription errors, or bill errors that occurred, identifies any instances in which the licensee permitted unauthorized individuals to enter the prescription filling area, calculate the number of hours that the licensee practice pharmacy under the peer monitor's

supervision, and certifies to the accuracy of the information in the reports; 6) the licensee must practice under the peer monitor's supervision for a total of at least 1500 hours as reported by the peer monitor in the monthly reports, if the licensee fails to each the 1500-hour requirement in one year, the probationary period will not expire, but will remain in effect until the licensee satisfies the 1500-hour requirement. Motion carried, Complaint Officer Holland recused.

Board Action on Applications

Khawla Wise, PT60012194

In a motion by Holland, seconded by Watson to preliminary deny pharmacy technician licensure to Khawla Wise with an offer of a Consent Agreement including: 1) Admissions to 10 M.R.S. § 8003(5-A)(A)(7) and Board Rules, Chapter 6-A(4)(1); 2) Warning; 3)\$750.00 fine to be paid prior to the issuance of the pharmacy technician license; and 4) limitation to practice sites, not eligible to practice at Orono Pharmacy. Motion carried.

Rochester Drug Co-Operative Inc., WH70002459

In a motion by Pietroski, seconded by Watson to accept staff's recommendation and grant licensure to Rochester Drug Co-Operative Inc., WH70002459, as presented. Motion carried.

Johnson & Johnson Health Care Systems, WH70002430

In a motion by Pietroski, seconded by Watson to table action pending receipt of a VAWD certification, a federal entity inspection or a state inspection. Motion carried.

Jarrold Clements, PT60012197

In a motion by Pietroski, seconded by Holland to accept staff's recommendation and grant licensure to Jarrod Clements PT60012197, as presented. Motion carried.

Mariah Colby, PT60008022

Hamilton recused and left the room.

In a motion by Pietroski, seconded by Holland to preliminary deny pharmacy technician licensure to Mariah Colby with an offer of a Consent Agreement including: 1) Admissions to 10 M.R.S. § 8003(5-A)(A)(7); 10 M.R.S. § 8003-G(2)(D), and Board Rules, Chapter 6-A(4)(1); 2) Reprimand; and 3)\$100.00 fine to be paid prior to the issuance of her pharmacy technician license. Motion carried, Hamilton recused.

Michelle Holman, PII2381 and PT60012163

Bruno recused and left the room.

In a motion by Martin, seconded by Hamilton to preliminary deny the renewal application without the offer of a consent agreement. Motion carried, Bruno recused.

In a motion by Martin, seconded by Hamilton to preliminary deny pharmacy technician licensure to Michelle Holman with an offer of a Consent Agreement including: 1) Admissions to 10 M.R.S. § 8003(5-A)(A)(7); 10 M.R.S. § 8003-G(2)(D), and Board Rules, Chapter 6-A(4)(1); 2) Reprimand; and 3)\$900.00 fine to be paid prior to the issuance of her pharmacy technician license. Motion carried, Pietroski opposed, Bruno recused.

In a motion by Hamilton, seconded by Martin to file a complaint against the pharmacist-in-charge for aiding and abetting unlicensed practice. Motion carried, Bruno recused.

Samantha Kenney, PII3045 and PT60012173

In a motion by Martin, seconded by Hamilton, to preliminary deny the intern renewal application without the offer of a consent agreement; and for the Pharmacy Technician application request the applicant to present evidence that the history of misuse of alcohol no longer poses a risk and that she will perform the duties of a pharmacy technician in a manner that does not endanger the health or safety of patients; such as obtaining a substance abuse evaluation from a Licensed Alcohol and Drug Counselor or other qualified professional who is pre-approved by the Board Complaint Committee and present the outcome of the evaluation to the Board along with a treatment plan if deemed necessary to the Board within 30 days. The Board will re-evaluate the application at a future meeting. Motion carried.

Kelvin Whitehead, PR45311

In a motion by Pietroski, seconded by Martin to accept staff's recommendation and grant licensure to Kelvin Whitehead, PR45311 as presented. Motion carried.

Katahdin Valley Health Center Ashland Clinic (RHC 50001554), Katahdin Valley Health Center Brownville Clinic (RHC 50001555), Katahdin Valley Health Center Millinocket Clinic (RHC 50001556), Katahdin Valley Health Center (PH 50001533 PIC - application)

In a motion by Pietroski, seconded by Martin to accept staff's recommendation and grant licensure to Katahdin Valley Health Center Ashland Clinic (RHC 50001554), Katahdin Valley Health Center Brownville Clinic (RHC 50001555), Katahdin Valley Health Center Millinocket Clinic (RHC 50001556), Katahdin Valley Health Center (PH 50001533 pharmacist in charge application) motion carried.

Administrator's Report

Administrator Betts updated the Board that staff has requested information regarding pharmaceutical services and the responses are being received. It is anticipated for presentation at the April 7, 2016 meeting. The Board was updated on the Pharmacist Examiner/Consultant Services position, one bid was received and an interview is set up for the week of March 7, 2016 more information will be presented to the board at the April 7, 2016 Board meeting. Administrator Betts provided the Board with a legislative update.

In a motion by Martin, seconded by Watson to approve Administrator Betts to attend the 112th NABP Annual Meeting to be held in San Diego, CA on May 14 – 17th, 2016 in place of Kevin Holland. Motion carried.

Public Comments

None

ADJOURN

There being no further business Holland, motioned to adjourn at 10:35 a.m. seconded by Pietroski. Motion carried.