

**State of Maine
Board of Licensure in Medicine
137 SHS, 161 Capitol Street
Augusta, Maine 04333-0137
September 13, 2011 @ 9:00 AM
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9:00 A.M.

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**State of Maine
Board of Licensure in Medicine
137 SHS, 161 Capitol Street
Augusta, Maine 04333-0137
September 13, 2011 Meeting**

BOARD MEMBERS PRESENT

Gary R. Hatfield, M.D., M.D., Chairman
Maroulla Gleaton, M.D. Board Secretary
David R. Andrews, M.D.
Louisa Barnhart, M.D.
Cheryl Clukey
David H. Dumont, M.D.
Dana D. Dyer
David D. Jones, M.D.
David Nyberg, Ph.D.

BOARD STAFF PRESENT

Mark C. Cooper, M.D., Medical Director
Jean M. Greenwood, Board Coordinator
Dan Sprague, Assistant Executive Director
Tim Terranova, Consumer Assistant
Maria MacDonald, Board Investigator

ATTORNEY GENERAL'S OFFICE

Dennis Smith, Assistant Attorney General
Detective Peter Lizanecz

The Board meets in public session with the exception of the times listed below, which are held in executive session. Executive sessions are held to consider matters which, under statute, are confidential (1 M.R.S. §405) and 10 M.R.S.A. §8003-B, and 22 M.R.S. § 1711-C.) The Board moved, seconded, and voted the following executive session times. During the public session portions of the meeting actions are taken on all matters discussed during executive session. Discussions are projected on a screen by PowerPoint projection.

PUBLIC SESSIONS

9:00 a.m. – 9:10 a.m.
9:41 a.m. – 9:42 a.m.
10:34 a.m. – 10:35 a.m.
10:20 a.m. – 11:50 a.m.
12:29 p.m. – 12:30 p.m.
1:09 p.m. – 1:10 p.m.
2:56 p.m. – 3:16 p.m.
4:00 p.m. – 4:32 p.m.
4:43 p.m. – 6:00 p.m.

PURPOSE

Call to Order
Public Session
Public Session
Public Session
Public Session
Public Session
Public Session
Public Session
Public Session

EXECUTIVE SESSION

9:10 a.m. – 9:41 a.m.
9:42 a.m. – 10:20 a.m.
12:30 p.m. – 1:09 p.m.
1:10 p.m. – 2:56 p.m.
3:16 p.m. – 4:00 p.m.

Progress Reports and New Complaints
Progress Reports and New Complaints
New Complaints and Assessment & Direction
Informal Conferences
New Complaints

RECESS

10:20 a.m. – 10:34 a.m.
11:50 a.m. – 12:29 p.m.
4:32 p.m. – 4:43 p.m.

I. CALL TO ORDER

Dr. Hatfield called the meeting to order at 9:04 a.m.

A. AMENDMENTS TO THE AGENDA

1. Amended to Section VII (B) (7) Joshua P. Werblin, M.D.

B. SCHEDULED AGENDA ITEMS

1. INFORMAL CONFERENCES (CR 09-314 and CR 10-340)

C. INTRODUCTION OF NEW BOARD MEMBERS

Dr. Hatfield introduced new members Louisa Barnhart, M.D., David R. Andrews, M.D., and Dana Dyer, public member.

II. PROGRESS REPORTS

1. CR 10-049

Dr. Gleaton moved to table CR 10-049. Dr. Jones seconded the motion, which passed unanimously.

2. CR 11-025

Dr. Jones moved to dismiss CR 11-025. Dr. Dumont seconded the motion, which passed unanimously.

The complainant alleges he was given a medicine that was in the same family as another medicine that had sedating and other untoward effects on him. He also states that the PA he was seeing gave him an incorrect dose of the medicine in question.

There is not any family or chemical relationship of the medicine the patient was given and the previous medicine that he felt he was unable to take. He was mistakenly given a double dose of the new medicine by a nurse (RN) who saw him at the practice, not by the PA whom he was also seeing. He had no specific complaint about the double dose at follow up, and stopped this medicine and his other medicines soon after, for other unrelated issues. He voluntarily restarted this medicine with a new provider one year later.

After a review of the record, the practice's procedure for calling in prescriptions, and job descriptions for this practice, the Board found no basis for the complaint.

3. CR 11-068

Dr. Dumont moved to investigate further CR 11-068. Dr. Jones seconded the motion, which passed 8-0-0-1 with Dr. Hatfield recused.

4. CR 11-030

Dr. Hatfield moved to investigate further CR 11-030. Dr. Jones seconded the motion, which passed 8-0-0-1 with Dr. Gleaton recused.

5. CR 11-064

Dr. Hatfield moved to dismiss CR 11-064. Dr. Jones seconded the motion, which passed unanimously.

The complainant feels that the physician did not appropriately manage his pain medications, communicated with him only through nursing staff, failed to examine him, and refused to certify that he is permanently and totally disabled.

A review of the records shows proper pain medication management. A referral was made to a pain care expert; however, the complainant failed to keep the scheduled appointment. The records document multiple visits with the physician, including examinations on which the physician based his opinion regarding the complainant's disability status.

6. CR 11-146

Dr. Gleaton moved to dismiss CR 11-146. Dr. Dumont seconded the motion, which passed unanimously.

A patient complained about the care that a sleep specialist physician rendered. She specifically felt that the results of a sleep study test were not communicated to her appropriately or in a timely fashion to allow effective treatment for her problems. Review of the records shows appropriate evaluation, but subsequent circumstances did not allow the physician to follow up in person to discuss the test results and to achieve mutual understanding of any treatment needed. The patient chose to seek care elsewhere before the follow up discussion could take place.

7. CR 11-199

Dr. Dumont moved to dismiss CR 11-199. Dr. Gleaton seconded the motion, which passed unanimously.

This is a very complicated case in which a father is concerned that the diagnosis and treatment his son is receiving for a behavioral and eating disorder (Pediatric

Associated Neuropsychiatry Disorder Associated with Strep infection – PANDAS) is inappropriate. The father disagrees with the care and there are multiple conflicting consults regarding this child's disease. The father provided the Board with a taped phone recording of a conversation with the physician and there is clearly disagreement about how to proceed with care; however, the physician kept the mother and guardian ad litem informed and they were satisfied with the child's treatment.

The National Institute of Mental Health recognizes this syndrome and admits to significant controversy as to its diagnosis and treatment. The physician admits to using non-approved treatment but justifies this with a significant literature review and the use of multiple consultations. While the patient's father does not appear to be satisfied with this treatment, the patient's mother and guardian ad litem seem to be. The physician is appropriately concerned and admits this is a difficult case but appears to be doing the best she can in caring for this child.

8. CR 11- 172

Dr. Nyberg moved to dismiss CR 11- 172. Dr. Dumont seconded the motion, which passed unanimously.

In this Board complaint, our primary concern was to verify the progress and prognosis of ongoing therapy including medication, and to note any improvement in the physician's work relations.

The Board subpoena to the physician's place of work was not successful, but his treating therapist provided a convincing note on both issues. At this time, there appears to be little likelihood that the offending behavior in question will recur.

9. CR 10-037

Dr. Gleaton moved to table CR 10-037. Dr. Jones seconded the motion, which passed unanimously.

10. CR 11-173

Dr. Jones moved to dismiss CR 11-173. Dr. Gleaton seconded the motion, which passed unanimously.

Based on the receipt and review of new information, the Board finds no factual basis for the complaint.

11. COMPLAINT STATUS REPORT (FYI)

12. REVIEW DRAFT LETTERS OF GUIDANCE

A. CR 10-144 SEAN F. McCLOY, M.D.

Dr. Jones moved to approve the letter of guidance to Dr. McCloy. Dr. Gleaton seconded the motion, which passed unanimously.

B. CR 10-206 EDWARD J. HARSHMAN, M.D.

Dr. Gleaton moved to approve the letter of guidance to Dr. Harshman. Dr. Dumont seconded the motion, which passed unanimously.

C. CR 10-283 DAVID J. KUMAKI, M.D.

Dr. Jones moved to approve the letter of guidance to Dr. Kumaki. Dumont seconded the motion, which passed unanimously.

D. CR 10-512 DAVID N. MARKELLOS, M.D.

Ms. Clukey moved to approve the letter of guidance to Dr. Markellos. Dr. Gleaton seconded the motion, which passed unanimously.

E. CR 10-514 BRUCE E. LEITER, M.D.

Dr. Dumont moved to approve the letter of guidance to Dr. Leiter. Dr. Jones seconded the motion, which passed unanimously.

13. CONSUMER ASSISTANT FEEDBACK (FYI)

III. NEW COMPLAINTS

14. CR 11-016

Dr. Nyberg moved to dismiss CR 11-016. Dr. Dumont seconded the motion, which passed 8-0-0-1 with Dr. Gleaton recused.

The patient last saw this physician in March of 2005. At this visit the patient acted strangely, suggesting delusion, and threatened to shoot the physician's colleague who she suspected had been following her. The physician arranged for a transfer of care and has not seen the patient since. This complaint is lengthy, convoluted, and also suggestive of delusion. There is no evidence to support any of the many allegations of improbable unprofessional behavior. The physician's response is detailed, convincing, and shows a serious concern for the patient's wellbeing.

15. CR 11-216

Dr. Jones moved to dismiss CR 11-216. Dr. Gleaton seconded the motion, which passed 8-0-0-1 with Dr. Andrews recused.

The complainant had an unfortunate injury to an organ at the start of a scheduled C-Section. The injury was immediately recognized, specialty consultation was emergently obtained, and appropriate treatment and post operative follow up occurred. The baby was delivered without any apparent injury or abnormality. The patient needed another minor operative procedure on post operative day two, but otherwise the complainant and baby had an uneventful recovery.

Although this was a serious injury that was physically and emotionally difficult for the patient, it appears that she will not have any long term harm from this injury. The possibility of an intraoperative complication is a recognized risk of surgery. The physician's response to the complaint adequately explains the cause of the injury and is very apologetic.

16. CR 11-319

Dr. Dumont moved to dismiss CR 11-319. Dr. Jones seconded the motion, which passed unanimously.

This physician was referred to the Board after his employment by a hospital was terminated, allegedly because of clinical competency issues. The physician provides a timeline of events and reviews in detail the cases that were presented for alleged competency issues. This physician is an attending surgeon with expertise in hepato-biliary surgery and was supposedly hired to improve the quality of care provided to these patients at this facility. The physician claims he attempted to make several changes in clinical practice and clinical systems of care and that he met increasing resistance from some of his partners and that was why he was terminated. During the 14 months he was employed at this hospital he did about 300 surgeries and was involved in dozens of other cases.

Eleven cases were forwarded for review. An analysis of these cases, as well as of physician comments, including comments from fellow attending physicians, indicates that the surgeon was doing extremely difficult cases on complicated patients. There were a small number of complications but they do not seem to be inordinate and appear to have been managed appropriately and rapidly recognized. The political climate of the practice and the hospital seems to have overshadowed the clinical care provided by the physician, and specific complaints are either taken out of context or based on innuendo and not based on poor patient outcomes. Review of these cases does not show a problem with this physician's clinical competence.

17. CR 11-131

Dr. Gleaton moved to dismiss CR 11-131. Dr. Jones seconded the motion, which passed unanimously.

The patient alleges that the physician acted unprofessionally and failed to refer him to a specialist. The physician denied acting unprofessionally and indicated that he did refer the patient to a specialist. According to the physician, the complaint was filed after he discharged the patient from the practice. The patient did not provide the Board with a release to obtain his medical records from the physician. Without the records, the Board cannot assess the care the physician provided the patient. There is no evidence to corroborate the patient's allegations.

18. CR 11-180

Ms. Clukey moved to dismiss CR 11-180. Dr. Jones seconded the motion, which passed unanimously.

The complainant was asked to leave his physician's practice on the basis of failing testing used to monitor his medication usage. The testing showed he was taking substances not prescribed to him as well as not taking his prescribed medication. The complainant feels that these tests were incorrect, and that he should still be able to get his prescriptions. The records show that after the complainant failed the first test, he was told in person and also in a letter that should he have such findings again, he would no longer be able to have medications prescribed to him. The patient was subsequently asked to leave the practice after he failed another test. The Board feels that these actions were appropriate, and believes this type of testing is quite accurate.

19. CR 11-246

Dr. Dumont moved to investigate further CR 11-246. Dr. Gleaton seconded the motion, which passed unanimously.

20. CR 11-202

Ms. Clukey moved to dismiss CR 11-202. Dr. Jones seconded the motion, which passed unanimously.

The patient alleges that the physician deliberately omitted information from his medical record. The physician denies ever omitting information from the patient's record and describes his care and treatment of the patient. A review of the medical records indicates that the physician documented conditions the patient alleges were omitted, and that the physician included in the medical record letters the patient wrote to the physician and requested to be included.

21. CR 11-324

Ms. Clukey moved to dismiss CR 11-324. Dr. Dumont seconded the motion, which passed 8-0-0-1 with Dr. Jones recused.

The complainant alleges that he was discriminated against and denied medical treatment because he is an HIV patient. The physician response indicates that he has never seen, evaluated, or spoken to the complainant. The patient was scheduled for an appointment, but cancelled due to lack of transportation, and also declined to reschedule. The physician states he routinely treats HIV patients and has never restricted access to available appointments. There is no evidence to corroborate the patient's allegation of discrimination.

22. CR 11-100

Dr. Dumont moved to dismiss CR 11-100. Dr. Gleaton seconded the motion, which passed unanimously.

The patient, who is subject to institutional care, complains the physician has refused to see him for 10 months. The physician responds that he is the Medical Director of the institution and the patient has been seen multiple times by other physicians for the same complaint. He has reviewed his request and considers it an elective cosmetic procedure.

23. CR 11-101

Dr. Dumont moved to investigate further CR 11-101. Dr. Gleaton seconded the motion, which passed 8-1-0-0.

24. CR 11-138

Dr. Hatfield moved to dismiss CR 11-138. Dr. Dumont seconded the motion, which passed unanimously.

The complainant feels his physician did not believe him when he reported his mental health problems, and changed his medications inappropriately, which led to unnecessary suffering. A review of the records shows appropriate medical care, with no evidence that this care led to suffering.

25. CR 11-147

Dr. Jones moved to dismiss CR 11-147. Ms. Clukey seconded the motion, which passed unanimously.

This institutionalized patient complains that he felt his symptoms after an assault were minimized by this physician, that he had been denied appropriate

interventions after his assault, and that his narcotics were abruptly stopped. He complains that he was told to take only Tylenol.

The record reflects that the care of this patient was appropriate, with referrals to multiple specialists, and that his narcotics were not stopped, just decreased to Tylenol #3 after 2 ½ months of stronger medicine.

26. CR 11-156

Dr. Gleaton moved to dismiss CR 11-156. Dr. Dumont seconded the motion, which passed unanimously.

In this case, the patient who is subject to institutional care complains the physician refused to treat an eye condition. He also complains that the physician has done nothing to help with a recurring rash and burning sensation of his skin. The physician responds that the patient has been seen more than 20 times over 5 years by an optometrist for his eye complaints. The patient has also been seen and treated multiple times for his complaints of a rash and burning sensation of his skin. He also has been referred to specialists for evaluation. A review of the medical record confirms this.

27. CR 11-157

Dr. Gleaton moved to dismiss CR 11-157. Dr. Dumont seconded the motion, which passed unanimously.

The patient states the physician has ignored his complaints of eye problems and has refused his request to see a specialist. The physician, who is the institution's Medical Director, replies that the patient has seen an optometrist more than 20 times over the past 5 years. An outside consultation was obtained. That consultation did not reveal any ocular pathology and the recommendation was for yearly evaluations. The patient's request was denied because it was not time for the annual exam.

28. CR 11-182

Ms. Clukey moved to dismiss CR 11-182. Dr. Jones seconded the motion, which passed unanimously.

An inmate in the Maine State Prison System complained about medication prescribing changes made by his treating psychiatrist who has been treating the patient for four years. Review of the complaint, physician response and records indicates a frustrated patient who has fixed ideas about which medications may or may not be effective for him. The physician offers reasonable and considered reasons for prescribing certain drugs to this patient in this setting.

29. CR 11-184

Dr. Gleaton moved to dismiss CR 11-184. Dr. Dumont seconded the motion, which passed unanimously.

An inmate in the Maine State Prison System complained about medication prescribing changes made by his treating psychiatrist who has been treating the patient for four years. Review of the complaint, physician response and records indicates a frustrated patient who has fixed ideas about which medications may or may not be effective for him. The physician offers reasonable and considered reasons for prescribing certain drugs to this patient in this setting.

30. CR 11-198

Ms. Clukey moved to dismiss CR 11-198. Dr. Jones seconded the motion, which passed unanimously.

The complainant feels that a medication change made by his physician, from a once-per-day extended release version of a medication to the same daily dosage of a three-time-per-day immediate release version of the same medication, was not appropriate. He feels the new dosing schedule is causing him substantial physical and mental side-effects and is also reducing the efficacy of the medication.

A review of the records and the physician's response shows that this is a change the physician has made with almost all of his patients taking this medication. The physician gives justification for the change and the medication changes are reasonable, understanding that the change does have the potential to alter side-effects.

31. CR 11-200

Ms. Clukey moved to dismiss CR 11-200. Dr. Jones seconded the motion, which passed unanimously.

The complainant alleges the physician, who is Medical Director at his institution, used poor medical judgment with regard to opioid medications and certain diagnostic issues. The physician's response includes a detailed rationale and the records to refute the allegations.

32. CR 11-318

Dr. Jones moved to order an informal conference in the matter of CR 11-318. Dr. Gleaton seconded the motion, which passed 8-0-0-1 with Dr. Dumont recused.

33. CR 11-061 WESLEY A. McELDOON, M.D.

Dr. Nyberg moved to order an Adjudicatory Hearing in the matter of CR 11-061 Wesley A. McEldoon, M.D. Dr. Dumont seconded the motion, which passed unanimously.

34. CR 11-103

Dr. Jones moved to dismiss CR 11-103. Dr. Dumont seconded the motion, which passed unanimously.

The complaint is based on three separate issues of communication. The police were involved in her care, initially not by her choice. She feels her wishes were ignored when the police were called, but the record supports her active acquiescence once the police arrived. She was also given a medicine that she thought she was allergic to, but in reality, was not. This was not explained to her and when she found out later on a call back to the ED because of increased pain, she became upset, and presented to another ED where she was admitted. The chart does not support admission due to the use of the medicine, but admission due to poor pain control. The patient has not authorized release of her medical records.

The need for clear communication with patients and informed involvement with their treatment plans has been discussed with this PA by his primary supervising physician. The PA understands the importance of this, is apologetic to the complainant, and states he has learned from this complaint.

35. CR 11-128

Dr. Dumont moved to dismiss CR 11-128. Dr. Jones seconded the motion, which passed 8-0-0-1 with Dr. Andrews recused.

In this case a patient complains about the surgical outcome she received after breast surgery for carcinoma. Patient was diagnosed with a large right breast tumor and had chemotherapy before her mastectomy with anticipated need for post-operative radiation treatment. The plastic surgeon felt the patient would be a poor candidate for reconstructive surgery due to the extent of her disease and her body habitus. She did eventually undergo mastectomy with placement of a tissue expander and then later had more surgery with a right breast implant and left breast mammoplasty. Post-operatively the patient complained of poor healing and breast asymmetry. She expressed dissatisfaction with her cosmetic results and eventually transferred to another plastic surgeon for more surgery.

Review of the surgeon's response and records shows adequate pre-operative planning and a thorough discussion of the procedures and their risks. The patient

received careful follow-up and seemed to have an appropriate second procedure as had been planned. Unfortunately the patient was not satisfied with her cosmetic outcome. The surgeon did offer further care and surgery but the patient transferred care instead. Satisfactory cosmetic outcomes in this type of surgery can be difficult to achieve, as in this case, but the standard of care nevertheless seems appropriate.

36. CR 11-162

Dr. Hatfield moved to dismiss CR 11-162. Dr. Gleaton seconded the motion, which passed 8-0-0-1 with Dr. Andrews recused.

The complainant feels she had inappropriate and unnecessary testing done by the physician, and is upset that these tests will now be in her medical record.

The physician explains the clinical reasoning leading her to order this test on two different occasions. A review of the records shows the testing to have been appropriate.

37. CR 11-183

Dr. Jones moved to dismiss CR 11-183. Dr. Gleaton seconded the motion, which passed unanimously.

The complainant felt that she was not properly educated in the side effects of one of her prescribed medicines, and more importantly, when she had a side effect from one of the medicines her provider or covering provider was not available. She called the office where she had been seen and did not receive a call back until the next day. The covering PA who called her back apologized for the delay, stating she had been very busy.

The PA who saw the patient was off work for 2 days after the patient's visit to the office. She apologizes for the lack of a timely call back, and her inability to advise the patient about the side effects she was having from prednisone.

The PA in the complaint states she talked to the patient about possible side effects of the medicine during their visit. She is pleased that the patient has no long term side effects from the medicine in question. She has addressed the communication issue with her practice manager and feels that the lack of a timely response to an important call from one of her patients will not happen in the future.

38. CR 11-185

Dr. Jones moved to dismiss CR 11-185. Dr. Dumont seconded the motion, which passed unanimously.

The complainant had the misfortune to have intermittent right sided abdominal pain for over 2 years. She had emergent pelvic surgery at the end of this time, which may or may not have been related to this prolonged intermittent pain. She also had a lot of stress from family health and financial issues, and a family business, as well as having many children to care for. She complains that her physician did not listen to her and did not appropriately work up her symptoms prior to her surgery. She states that her doctor inappropriately treated her with an antidepressant, causing many side effects for the patient. She also complains that the physician was not timely in sending records to her new physician.

Review of the record finds that the patient had timely appropriate evaluations by her physician, as well as by an ED physician, her gynecologist, a general surgeon and two GI physicians. There were multiple blood tests, exams, and imaging procedures utilized.

The patient stopped her antidepressant on her own, followed by her doctor's blessing and then requested on her own to start it again.

The physician appeared to listen to the patient's complaints as evidenced by the referrals and testing ordered by her. She sent the patient's medical record to the new practice within 2 weeks of the request. It is unfortunate that the patient needed emergent pelvic surgery, and fortunate that her outcome was excellent. The physician's care was thorough and appropriate.

39. CR 11-218

Dr. Hatfield moved to table CR 11-218. Dr. Gleaton seconded the motion, which passed 8-0-0-1 with Dr. Andrews recused.

40. CR 11-219

Dr. Hatfield moved to table CR 11-219. Dr. Dumont seconded the motion, which passed 8-0-0-1 with Dr. Andrews recused.

41. CR 11-220

Dr. Hatfield moved to table CR 11-220. Dr. Gleaton seconded the motion, which passed 8-0-0-1 with Dr. Andrews recused.

42. CR 11-247

Dr. Dumont moved to dismiss CR 11-247. Dr. Gleaton seconded the motion, which passed unanimously.

This complaint involves a patient who alleges fraudulent and unethical care because his Suboxone provider made him pay cash for his visits despite the

patient being on MaineCare. The patient then alleges that treatment was stopped because of lack of payment. The patient did not authorize a release of records but the physician replies that the patient was informed up front both verbally and in writing (acknowledged by the patient's signature) that the practice did not accept MaineCare. In addition, the patient violated his Suboxone contract by missing several appointments and by failing multiple urine drug screens. The physician was under no obligation to continue to care for this patient.

43. CR 11-248

Dr. Nyberg moved to dismiss CR 11-248. Dr. Gleaton seconded the motion, which passed unanimously.

The patient is a 57 year old veteran with chronic PTSD who saw the physician (a 75 year old psychiatrist) for follow up and medication adjustment. The patient has a history of impulsive anger and irritability, which were on display during the appointment, frightening the physician. The patient complains that it was the physician who was aggressive and alleges being threatened or intimidated by him before leaving the office with a security officer. It appears the physician maintained a professional demeanor during the encounter and that the allegations are without foundation.

44. CR 11-249

Dr. Gleaton moved to investigate further CR 11-249. Dr. Jones seconded the motion, which passed unanimously.

45. CR 11-256 JAFAR IMANPOUR, M.D.

Dr. Jones moved to dismiss CR 11-256 with Letter of Guidance. Dr. Gleaton seconded the motion, which passed 8-0-0-1 with Dr. Dumont recused.

This case involves a patient who had lain hypotensive with a wide complex tachycardia in an emergency department for over 4 hours. There were 5 physicians involved in his care and the patient was eventually transferred to a second facility, even though cardiology was available at the first facility. The patient was emergently cardioverted at the second hospital 7 hours after his initial presentation to the first facility.

The physician, as a hospitalist, was asked by the ED physician to evaluate and admit the patient. During the physician's evaluation, the cardiologist on call answered his page and agreed to see the patient in the ICU. The hospitalist physician states he then called back and recommended transfer of the patient to his usual cardiologist at another facility. The physician relayed this to the ED physician and left the emergency department.

Nursing notes indicate the hospitalist spent an hour with the patient and completed an evaluation. The physician did not document his evaluation, phone calls with the cardiologist, or recommendations.

The physician stated he had not accepted responsibility for the patient; however, he responded to the ED physician's request to see the patient, examined him, discussed the care with the cardiologist and ED physician, and explained the plan of care to the family.

While Board understands the confusion in this case and the need for all involved physicians to have acted more appropriately in the patient's interest, it does have recommendations concerning the physician's documentation and professional responsibility. This case is dismissed with a Letter of Guidance which will emphasize the physician's need to document his history, exam, and plan, his responsibility to treat a patient who is in an unstable condition, and his obligation to recognize that the act of examining a patient at another physician's request implies responsibility for the patient as a consultant or attending.

46. CR 11-264

Dr. Gleaton moved to dismiss CR 11-264. Dr. Dumont seconded the motion, which passed unanimously.

A patient complained about the medical care and unprofessional attitude she experienced from an obstetrician/gynecologist and his medical assistant. She underwent a total abdominal hysterectomy and unilateral salpingo-oophorectomy for chronic pelvic pain. The procedure was successful for the pain aspect but urinary incontinence seemed to worsen for her which was uncomfortable. The interactions between the physician, medical assistant and patient may have been awkward because the doctor was out of the country briefly at a medical meeting when the patient was having difficulty; however, the physician maintained contact with the assistant electronically and he interacted with the patient including discussing radiographic findings. Review of the record substantiates reasonable medical care and lengthy verbal interaction with the patient to help alleviate the patient's post operative fears and discomfort, and to educate the patient about her problems.

47. CR 11-266

Dr. Dumont moved to dismiss CR 11-266. Dr. Jones seconded the motion, which passed 8-0-0-1 with Dr. Gleaton recused.

The complainant feels the physician is responsible for the actions of his staff, and complains that she was unable to get an appointment because of personal issues she has had with one of the office staff members. The physician explains that he is himself employed, and is not responsible for staffing issues; he has forwarded

this complaint to his employer. Evidence is supplied that the issue has been resolved. The Board feels that no further action is needed.

48. CR 11-270

Dr. Jones moved to dismiss CR 11-270. Dr. Dumont seconded the motion, which passed 8-0-0-1 with Dr. Gleaton recused.

The patient complains that the physician is responsible for the BMV decision to restrict her driver's license, that she was not adequately warned this was about to happen, and that her medical record is replete with errors. The physician has apologized for causing a significant inconvenience for the patient, but she was required by law to inform the BMV of the patient's condition. The physician discussed these issues with the patient as noted in the record, though the patient does not remember this. The physician corrected two errors in the record the same day they were identified.

49. CR 11-279

Ms. Clukey moved to dismiss CR 11-279. Dr. Jones seconded the motion, which passed unanimously,

The complainant alleges that her friend, the patient, was not treated with dignity and compassion. She also complains she was not allowed to ask questions. The patient arrived 30 minutes late to his appointment and his companion 10 minutes later.

The physician responds he was able to exclude any serious medical problems and concluded the patient's symptoms were due to age related pruritus. The complainant did not believe him and repeatedly interrupted, offered her own diagnosis, and kept arguing with the physician while he was trying to communicate his opinion and diagnosis. The physician and the patient's companion were both getting frustrated. The physician explained that he would prescribe medication for the itching and that the patient should return in two weeks if the symptoms persisted. The physician also stated he did leave the exam room twice; once to get the patient medical samples and once to take a phone call.

The Board feels the physician's explanation and documented medical care were appropriate for this patient.

50. CR 11-281

Dr. Gleaton moved to dismiss CR 11-281. Dr. Jones seconded the motion, which passed unanimously.

A patient complained about the callousness of his ophthalmologist who had recently performed cataract surgery on the patient. He also complained about the ophthalmic technicians involved in his care. He obtained final glasses prescription after recent cataract surgery; and, because he had poor vision, he was seen by technicians immediately who rechecked his glasses prescription. Since he was found to be decreased in vision despite best correction, he saw the doctor two days later and was assessed to have a well known complication from surgery. He was successfully treated for the complication which had decreased his vision immediately post op. There was no evidence of inappropriate care. Patients are often anxious about their eyesight and rightfully so. Despite the doctor and her office personnel trying to help this patient, he was left feeling no one really cared about him, which is unfortunate, but there is no evidence of unprofessional or incompetent care.

51. CR 11-282

Dr. Hatfield moved to dismiss CR 11-282. Dr. Dumont seconded the motion, which passed 8-0-0-1 with Dr Andrews recused.

The complainant feels his physician was wrong to deny him narcotic pain medications. He has an approval for medical usage of marijuana from another physician, and feels that the physician cannot stop prescribing narcotics due to the marijuana usage.

The physician outlines the patient's usage of marijuana long before having a medical approval, and the efforts he has made over time to help him stop this drug. He also outlines his policies on the usage of narcotics, including his unwillingness to prescribe these medications for a patient using marijuana, and he outlines his attempts to wean all his chronic pain patients off narcotic therapy.

The records document multiple warnings to the patient about the need to stop using marijuana along with narcotic pain relievers, and also document the physician's intention to wean the complainant off these medications for other medical reasons. The Board feels his treatment of this patient was appropriate.

52. CR 11-293

Dr. Jones moved to order an informal conference in the matter of CR 11-293. Dr. Gleaton seconded the motion, which passed unanimously.

53. CR 11-301

Dr. Dumont moved to dismiss CR 11-301. Dr. Jones seconded the motion, which passed 8-0-0-1 with Dr. Hatfield recused.

In this complaint the patient makes multiple allegations against his cardiologist. He alleges that he had a drop in his cardiac function that was not addressed, that he was supposed to be on anticoagulants that were never actually prescribed, that his records were released without his permission, and that the physician was rude to him.

An extensive review of the patient's records and a very thorough response by the cardiologist shows that the patient had very attentive care with appropriate testing, prescriptions, follow-up, and referrals. The patient's frequent chest complaints were vigorously pursued with testing, referrals, and when appropriate various procedures.

The chart clearly shows that when information was released to anyone outside of the cardiology office it was always done with the patient's permission. The physician was very gracious in making sure the patient received appropriate medical care even when he did not have a primary care physician. He was, however, forced to counsel the patient about appropriate behavior in the office and was remorseful when the doctor/patient relationship eventually had to be terminated. None of the patient's allegations appear to be valid.

54. CR 11-321

Dr. Hatfield moved to dismiss CR 11-321. Dr. Jones seconded the motion, which passed unanimously.

The complainant feels that the physician did not treat her appropriately when she saw the physician for acute back pain. It was later found that she had a compression fracture of the spine as the etiology of this pain.

The physician feels that his decision-making process was reasonable, but feels that he likely lacked empathy at that appointment. He explains why this may have occurred at that particular time.

Given the physician's insight into the problem, along with the fact that he has contacted the patient and apologized for that encounter, the Board does not feel further action is needed.

55. CR 11-327

Ms. Clukey moved to dismiss CR 11-327. Dr. Jones seconded the motion, which passed 7-2.

The patient complains that the physician would not give him adequate pain medication and that he is a man of dubious character. The physician gives a convincing explanation of his decision not to prescribe more pain medication, which he made after conferring with the patient's primary care physician.

56. CR 11-334

Dr. Nyberg moved to dismiss CR 11-334 with a letter of guidance. Ms. Clukey seconded the motion, which failed 4-5.

Dr. Jones moved to dismiss CR 11-334. Dr. Gleaton seconded the motion, which passed 7-2.

The complaint concerns patient records placed in the waiting room temporarily by one of the physician's staff, without the physician's knowledge. Patient records are confidential and it is the physician's responsibility to ensure medical records under his or her control remain protected from non authorized access. It is clear to the Board that this physician and her staff will not allow any breach of patient confidentiality in the future.

57. INTENTIONALLY LEFT BLANK

IV. ASSESSMENT & DIRECTION

58. AD 11-090

Dr. Dumont moved to table AD 11-090. Dr. Andrews seconded the motion, which passed 8-0 with Dr. Gleaton absent from the room.

59. AD 11-108

Dr. Jones moved to issue a complaint in the matter of AD 11-108 (CR 11-397). Dr. Nyberg seconded the motion, which passed 8-0 with Dr. Gleaton absent from the room.

60. AD 11-242

Dr. Jones moved to issue a complaint in the matter of AD 11-242 (CR 11-398). Dr. Nyberg seconded the motion, which passed 7-0-0-1 with Dr. Dumont recused and Dr. Gleaton absent from the room.

61. AD 11-283

Dr. Dumont moved to file AD 11-283. Dr. Jones seconded the motion, which passed 8-0 with Dr. Gleaton absent from the room.

62. AD 11-316 (CR 11-399)

Dr. Dumont moved to issue a complaint in the matter of AD 11-316(CR 11-399). Dr. Nyberg seconded the motion, which passed 8-0 with Dr. Gleaton absent from the room.

63. AD 11-363 (CR 11-400)

Dr. Dumont moved to issue a complaint in the matter of AD 11-363 (CR 11-400). Dr. Jones seconded the motion, which passed 8-0 with Dr. Gleaton absent from the room.

64. AD 11-365

Dr. Jones moved to file AD 11-365. Dr. Dumont seconded the motion, which passed 8-0 with Dr. Gleaton absent from the room.

V. INFORMAL CONFERENCES

A. CR 09-314

Dr. Jones moved to investigate further and order a 3286 evaluation in the matter of CR 09-314. Dr. Dumont seconded the motion, which passed unanimously.

B. CR 10-340

Dr. Jones moved to investigate further and order a 3286 evaluation in the matter of CR 10-340. Dr. Gleaton seconded the motion, which passed unanimously.

VI. MINUTES OF JULY 12, 2011

Dr. Jones moved to approve the minutes of July 12, 2011. Dr. Dumont seconded the motion 6-0-3-0 with the three new members abstaining.

VII. BOARD ORDERS AND CONSENT AGREEMENT APPROVAL AND MONITORING

A. BOARD ORDERS (NONE)

B. CONSENT AGREEMENT APPROVAL AND MONITORING

1. MICHAEL A. BELL, M.D. [SEE APPENDIX A ATTACHED]

Dr. Gleaton moved to approve Walter Doerfler, D.O. as Dr. Bell's new workplace monitor. Dr. Jones seconded the motion, which passed 8-0-0-1 with Dr. Dumont recused.

Dr. Nyberg moved to approve the First Amendment to Consent Agreement in the matter of Michael A. Bell, M.D. Dr. Gleaton seconded the motion, which passed 8-0-0-1 with Dr. Dumont recused.

2. KARL F. SITTERLY, M.D.

Dr. Gleaton moved to grant Dr. Sitterly's request to terminate his consent agreement. Dr. Dumont seconded the motion, which passed unanimously.

3. THOMAS FOLKEMER, M.D.

Dr. Gleaton moved to approve a course proposed by Dr. Folkemer -- "Controlled Substances Management" offered by Case Western Reserve -- as one of the courses required by his consent agreement. Dr. Dumont seconded the motion, which passed unanimously.

4. ALEXANDRA NESBIT, P.A.-C

Dr. Nyberg moved to deny the physician assistant but to accept the other providers proposed. Ms. Clukey seconded the motion, which failed 3-6. Dr. Nyberg moved to deny the physician assistant proposed as the primary healthcare provider. Ms. Clukey seconded the motion, which failed 3-6.

Dr. Jones moved to approve the providers proposed by Ms. Nesbit and to amend the consent agreement to reflect that PCP means physician or other healthcare provider approved by the Board. Dr. Dumont seconded the motion which passed 6-3.

5. VENKATRAM NETHALA, M.D.

Dr. Gleaton moved to approve Daniel Fowler, M.D. as Dr. Nethala's PCP, Travis Hussey, LCSW, LADC, CSS as his substance abuse counselor and Jay Reynolds, M.D. as his practice monitor. Dr. Dumont seconded the motion, which passed 8-0-0-1 with Dr. Jones recused.

6. LINDA KENISTON-DUBOCQ, M.D.

Dr. Kenniston-Dubocq is requesting an amendment to her consent agreement to decrease urine testing to 6 per year, to change from twice monthly substance abuse treatment to sessions at her counselor's discretion, and meeting with her practice monitor monthly rather than weekly.

Dr. Jones moved to deny all of Dr. Kenniston-Dubocq's proposed amendments to her consent agreement. Dr. Gleaton seconded the motion, which passed 8-0-0-1 with Dr. Barnhart recused.

7. JOSHUA P. WERBLIHN, M.D.

Dr. Gleaton moved to approve courses regarding opioid prescribing, ethics and boundaries, and medical record keeping proposed by Dr. Werblin as outlined in the terms of his consent agreement. Dr. Jones seconded the motion, which passed unanimously.

VIII. ADJUDICATORY HEARING (NONE)

IX. REMARKS OF CHAIRMAN

A. WELCOME NEW BOARD MEMBERS

Dr. Hatfield welcomed three new Board members: Louisa Barnhart, M.D., David R. Andrews, M.D., and Dana Dyer.

B. STANDING COMMITTEE ASSIGNMENTS (FYI)

C. BOARD MEMBER INFORMATION (FYI)

D. ADOPTION OF CHAPTER 3 REPEAL

The Board of Licensure in Medicine (the Board), pursuant to 32 M.R.S.A. § 3269, sub-§3 is empowered to license and to set standards of practice for physicians and surgeons practicing medicine in Maine. Under 32 M.R.S.A. §3269, sub-§7, the Board is empowered to adopt rules as the Board determines necessary. Chapter 3, Physician Supervision of Advanced Practice Registered Nurse Under Delegation, is being repealed and not replaced because the statutory basis for Chapter 3, 32 M.R.S.A. § 2205-B(3) entitled "Delegated performance of services," was repealed in 2009 (PL 2009, c. 512, Section 1).

As of the August 6, 2011 deadline, no comments were received.

Dr. Dumont moved to adopt the repeal of Chapter 3, Physician Supervision of Advanced Practice Registered Nurse Under Medical Delegation, due to the repeal of the governing statute. Dr. Jones seconded the motion, which passed unanimously.

X. EXECUTIVE DIRECTOR'S MONTHLY REPORT (FYI)

The Board received a written report from the Executive Director.

A. COMPLAINT STATUS REPORT (FYI)

B. POLICY REVIEW – UPDATE – NPDB QUERIES

Board staff is proposing updated language to the Board policy “NPDB Queries.”

Dr. Gleaton moved to approve the policy updates. Dr. Jones seconded the motion, which passed unanimously.

C. DRAFT BOARD DIRECTIVE – LOG – MINUTES

Dr. Dumont moved to approve a new Board Directive “Letters Of Guidance (LOG) in Minutes” which sets out the procedure currently in place for handling LOGs in the minutes. Dr. Gleaton seconded the motion, which passed unanimously.

XI. MEDICAL DIRECTOR’S REPORT

A. UPDATE ON LD 1501 WORKGROUP (FYI)

B. MEDICAL DIRECTOR’S (FYI)

XII. REMARKS OF ASSISTANT ATTORNEY GENERAL (NONE)

XIII SECRETARY’S REPORT

A, LIST A

1. M.D. LIST A – LICENSES FOR RATIFICATION

Dr. Jones moved to ratify the physicians named on M.D. List A below. Ms. Clukey seconded the motion, which passed unanimously.

The following license M.D. applications have been approved by Board Secretary, Maroulla Gleaton, M.D.

NAME	SPECIALTY	LOCATION
Acosta, Ruben	Internal Medicine	Bangor
Alexander, Michael R.	Psychiatry	Not Listed
Aremu, Oyebisi S.	Anesthesiology	Presque Isle
Bannur, Manjunath R.	Family Medicine	Skowhegan
Bates, Daniel J.	Emergency Medicine	Damariscotta
Bohus, Robert W.	Urology	Millinocket
Borer, Joseph M.	Emergency Medicine	Bangor
Borhade, Mahesh B.	Internal Medicine	Caribou
Brown, Michael W.	Radiation Oncology	Augusta
Couto, Corey A.	Radiology	Bangor

Cruz-Tolentino, Minnie Sheila L.	Family Medicine	Fairfield
Degenhardt, Alexandra L.	Neurology	Midcoast
Desai, Akshay S.	Cardiovascular Medicine	Portland
Diamond-Falk, Kathryn	Internal Medicine	Portland
Dickinson, Edward T.	Emergency Medicine	Bar Harbor
Doehne, Karin M.	Internal Medicine	Biddeford
Fishel, Joseph D.	Psychiatry	Not Listed
FLINT, Joan M.D.	Emergency Medicine	Lewiston
Freeman, Richard W.	Internal Medicine	Not Listed
Gajare, Anil W.	Pediatrics	Lincoln
Gallo, Jordan	Emergency Medicine	Portland
Govind, Abhishekh S.	Family Practice	Farmington
Hajjar, Mirna	Neurology	Bangor
Hatch, Wendell D.	Diagnostic Radiology	Not Listed
Hong, Eun-Kyung	OB/GYN	Houlton
Ikeako, Chinyelu Adaobi	Psychiatry	Bangor
Iqbal, Azhar	Pediatrics	York
Jawed, Ali K.	General Surgery	Bangor
Joshi, Sreenath R.	Pediatrics	Sanford
Kohan, Don	General Surgery	Bangor
Kustan, John A.	Radiology	Portland
Langer, Monica	Pediatric/General Surgery	Not Listed
Leslie-Mazwi, Thabele M.	Neurology	Portland
Levey, Michael S.	Diagnostic Radiology	Not Listed
Loughland, Mackenzie E.D.	Pediatrics	Machias
Luyckx, Benoit A.	Diagnostic Radiology	Calais
Lynds, Jeffrey J.	Family Practice	Not Listed
Madrigal Hoyos, Erika	Internal Medicine	Bangor
McElroy, Candice A.	Family Medicine	York
Meyer, Daniel A.	Internal Medicine	Portland
Nedeau, April E.	General Surgery	Lewiston/Auburn
Niayesh, Mohammad H.	General Surgery	Not Listed
Noeddegaard, Louise S.	Internal Medicine	Brunswick
Nohria, Anju	Cardiovascular Medicine	Portland
Oberman, Lee M.	Gastroenterology	Bangor
Palminteri, Jennifer M.	Internal Medicine	Portland
Park, Brian H.	Pediatrics	Houlton
Pathan, Asim H.	Internal Medicine	Fort Kent
Pirozzi, Donald J.	Dermatology	Augusta
Pofahl, Jennifer E.	OB/GYN	Portland
Raine, Marie D.	Psychiatry	Bangor
Romerocaces, Gloria M.	A&C Pathology	Not Listed
Russell, Melissa L.	Pediatrics	Brunswick
St. Jean, Michael R.	General Surgery	Bangor
Schlosshauer, Peter W.	A&C Pathology	Not Listed
Shanker, Pradheep J.	Diagnostic Radiology	Not Listed

Singhal, Karunesh	Family Medicine	Caribou
Smith, Benjamin P.	Pulmonary / Critical Care / IM	Portland
Smolkin, Matthew B.	A&C Pathology	York
Tanbe, Georges	Internal Medicine	Portland
Thadisina, Sowmya	Family Medicine	Caribou
Theiler, Regan N.	OB/GYN	Portland
Trubey, Cameron L.	Family Medicine	Bangor
Villa, Otto F.	IM/Pulmonary/CCM	Not Listed
Wesolowski, Emily L.	Pediatrics	Portland
White, William B.	Orthopedic Surgery	Presque Isle
Wohlwend, John R.	Diagnostic Radiology	Not Listed
Wood, Emily V.	Infectious Diseases	Portland

2. P.A. LIST A LICENSES FOR RATIFICATION

Dr. Jones moved to ratify the Physician Assistants named on P.A. List A below. Dr. Nyberg seconded the motion, which passed unanimously.

The following Physician Assistant license applications have been approved by the Board Secretary, Maroulla Gleaton, M.D. without reservation:

<u>Name</u>	<u>License</u>	<u>PSP</u>	<u>Location</u>
Robin Behl, PA-C	Active	Howard Margolskee, M.D.	Pittsfield
Jonathan Degner, PA-C	Active	Reed Quinn, M.D.	Portland
Abby Labrecque, PA-C	Inactive	NONE	NONE
William Simpson, PA-C	Inactive	NONE	NONE
Jed Jankowski, PA-C	Active	Cynthia Atkinson, M.D.	Portland
Logan Rich, PA-C	Inactive	NONE	NONE
Maud Abess, PA-C	Inactive	NONE	NONE
Jeffrey Crowder, PA-C	Inactive	NONE	NONE
Lauren Foresman, PA-C	Active	Douglas Aiken, M.D.	Freeport
Michael Silveira, PA-C	Active	Karl Sze, M.D.	South Portland
Cynthia Davies, PA-C	Active	Michael Carroll, M.D.	Biddeford
Teagan O'Toole-Roy, PA-C	Active	Jennifer Charity, M.D.	Bangor
Rachel Mutchie, PA-C	Inactive	NONE	NONE
Robert Poor, PA-C	Active	Karl Sze, M.D.	South Portland

B. LIST B – APPLICATIONS FOR INDIVIDUAL CONSIDERATION

1. MEJAH SOONG, M.D.

The Licensure Committee moved to table Dr. Soong's application for licensure. The motion passed unanimously.

2. DEBRA LITTLE, M.D.

The Licensure Committee moved to investigate further Dr. Little's application for licensure. The motion passed unanimously.

3. WILLIAM SPINA, M.D.

The Licensure Committee moved to grant Dr. Spina licensure with a consent agreement for conditional licensure that requires him to enroll in and successfully participate in Maine MPHP for the same duration as in Vermont. The motion passed unanimously.

4. BRIAN NILES, M.D.

The Licensure Committee moved to grant licensure to Dr. Niles. The motion passed unanimously.

C. LIST C APPLICATIONS FOR REINSTATEMENT

1. LIST C APPLICATIONS FOR REINSTATEMENT

Dr. Dumont moved to ratify the Board Secretary's action in granting reinstatement to Michael D. Pleacher, M.D. Dr. Jones seconded the motion, which passed unanimously.

2. LIST C APPLICATIONS FOR REINSTATEMENT FOR INDIVIDUAL CONSIDERATION

a. SHANA CLARK, M.D.

The Licensure Committee moved to table Dr. Clark's application for licensure. The motion passed unanimously.

b. STEPHEN GREENLEAF, P.A.-C.

The Licensure Committee moved to approve the license application of Stephen Greenleaf, P.A.-C. The motion passed unanimously.

D. LIST D WITHDRAWALS

1. LIST D(1) WITHDRAW LICENSE APPLICATION (NONE)

2. LIST D(2) WITHDRAW LICENSE FROM REGISTRATION

Dr. Jones moved to approve the physicians on List D(2) below to withdraw their licenses from registration. Ms. Clukey seconded the motion, which passed unanimously.

The following physicians and physician assistants have applied to withdraw their licenses from registration.

<u>NAME</u>	<u>LICENSE NUMBER</u>
Andrews, Robert	005671
Bailey, Susan	014816
Bostwick, George	004778
Deune, Eagen	014228
Eccher, Stephen	008038
Jakus, Jonathan	008220
Kay, Alexander	018196
Lightfoot, Thomas	018102
Littlejohn, Patrick	005661
Peterson, John	008942
Rivkins, Matthew	018473
Stevens, Donald	016827
Sunshine, Thomas	013101
Toevs, Christine	018355
Williams, Thomas	004992
Wilcox, Dennis	016023

E. LIST E LICENSES TO LAPSE BY OPERATION OF LAW

The following physician and physician assistant licenses lapsed by operation of law effective August 17, 2011.

<u>NAME</u>	<u>LICENSE NO.</u>
Alkhatib, Ousama	018417
Awobuluyi, Marc T.	017971
Bergin, Colleen J.	018210
Cantor, Francine D.	015286
Davies, Robert C.	016775
Evans, Carol	017991
Golchini, Hassan	017637
Jackson, George M.	017747
Johns, Robert	016857
Kamalpurkar, Balu G.	009715
Lowe, William R.	017442
Luck, Michael D.	018606
McClure, Lauren D.	017878
Michaels, Christopher A.	015386
Michaels, Michael J.	016264

Perz-Cruet, Miguelangelo J.	015537
Rohrbacher, Anna H.	017815
Swett, Carlton E.	004791
Yun, Jiyon	018373
Zarczynaki, Edward P.	018193

F. LIST F LICENSEES REQUESTING TO CONVERT LICENSE TO ACTIVE STATUS (NONE)

G. LIST G RENEWAL APPLICATIONS FOR REVIEW

1. DEEP ACHARYA, M.D.

The Licensure Committee moved to approve Dr. Acharya's renewal application. The motion passed unanimously.

2. JOHATHAN GODMAN, M.D.

The Licensure Committee moved to approve Dr. Godman's renewal application. The motion passed unanimously.

H. LIST H PHYSICIAN ASSISTANT SCHEDULE II AUTHORITY REQUESTS FOR RATIFICATION

1. APPLICATIONS TO RENEW SCHEDULE II AUTHORITY (NONE)

2. APPLICATIONS FOR NEW SCHEDULE II AUTHORITY.

Dr. Jones moved to ratify the Board Secretary's approval for Schedule II prescribing authority for Lauren Labrecque, P.A.-C. Dr. Dumont seconded the motion, which passed unanimously.

The following new request for Schedule II prescribing authority has been approved by the Board Secretary Maroulla Gleaton, M.D.

<u>NAME</u>	<u>PSP</u>	<u>LOCATION</u>
Lauren Labrecque, PA-C	Andrew Dionne, MD	Augusta

XIV. STANDING COMMITTEE REPORTS

A. ADMINISTRATION, POLICY & RULES COMMITTEE

1. ANNUAL FINANCIAL REPORT

Dr. Dumont reviewed the Annual Financial Report.

B. PUBLIC INFORMATION COMMITTEE

Ms. Clukey reported that the newsletter would be coming out soon.

I. PHYSICIAN ASSISTANT ADVISORY COMMITTEE (FYI)

XV. BOARD CORRESPONDENCE (FYI)

XVI. FYI

XVII. FSMB MATERIAL (FYI)

XVIII. OTHER BUSINESS (NONE)

XIX. ADJOURNMENT 6:00 P.M.

Ms. Clukey moved to adjourn. Dr. Jones seconded the motion, which passed unanimously.

Respectfully submitted,



Jean M. Greenwood
Board Coordinator

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

In re:) FIRST AMENDMENT TO
Michael A. Bell, .M.D.) CONSENT AGREEMENT
Complaint No. CR08-134)
)

This document is a First Amendment to a Consent Agreement for Conditional Licensure effective December 9, 2008, regarding a disciplinary action against and conditions imposed upon the license to practice medicine in the State of Maine held by Michael A. Bell, M.D. The parties to this First Amendment of that Consent Agreement are: Michael A. Bell, .M.D. ("Dr. Bell"), the State of Maine Board of Licensure in Medicine ("the Board"), and the Office of the Attorney General (the "Attorney General"). This First Amendment to Consent Agreement is entered into pursuant to 32 M.R.S. § 3282-A and 10 M.R.S. § 8003(5).

BACKGROUND

1. On December 9, 2008, the parties entered into a Consent Agreement regarding a disciplinary action concerning and conditions imposed upon the license to practice medicine in the State of Maine held by Michael A. Bell, M.D.
2. Paragraph 16 of the Consent Agreement provides Dr. Bell an opportunity to request to amend the terms and conditions of the Consent Agreement.
3. On May 9, 2011, the Board received a written request from Dr. Bell to amend the Consent Agreement in the following manner:

- a. By reducing the frequency of his substance abuse counseling and the frequency of his random drug testing; and
- b. By deleting the language of paragraphs 10(c)(5)(a) and 10(c)(5)(c)(i) because the American Board of Family Medicine (ABFM), which revoked his specialty certification following the Board's discipline of his Maine medical license, was refusing to reinstate his specialty certification based solely upon that language. With his written request to the Board, Dr. Bell submitted correspondence from the ABFM concerning this issue.

4. On June 14, 2010, the Board reviewed this matter and voted not to reduce the frequency of Dr. Bell's substance abuse counseling or random drug testing. However, the Board voted to request its legal counsel to prepare a draft amendment to the Consent Agreement regarding to amend the Consent Agreement by deleting the language of paragraph 12(c) of the Consent Agreement that prohibited Dr. Bell from self-diagnosing or self-treating.

AMENDMENT

5. In light of Dr. Bell's progress in recovery, including in-patient treatment and successful monitoring with negative drug screens for over three years, Dr. Bell, the Board, and the Office of Attorney General hereby agree to amend the Consent Agreement dated December 9, 2008, as follows:

- a. By amending paragraph 10(c)(5)(a) to read as follows:

Clinical Setting Inspections. During the period of probation, Dr. Bell shall provide the Board with all locations where he practices medicine. In addition, Dr. Bell shall permit the Board or its agents to conduct announced and/or unannounced inspections of all locations where he practices medicine. Dr. Bell shall reimburse the Board for any actual costs incurred as a result of any inspection performed pursuant to this section.

b. By deleting paragraph 10(c)(5)(c)(i), which prohibited his access to Pyxis machines and permitted him to possess limited types of controlled substances only in the presence of another hospital employee.

6. Dr. Bell acknowledges by his signature hereto that all other terms and conditions of the Consent Agreement effective December 9, 2008, as amended by this First Amendment to Consent Agreement, remain in full force and effect.

7. Dr. Bell acknowledges by his signature hereto that he has read this First Amendment to Consent Agreement, 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.

**I, MICHAEL A. BELL, M.D., HAVE READ AND UNDERSTAND
THE FOREGOING FIRST AMENDMENT TO CONSENT AGREEMENT**


AND AGREE WITH ITS CONTENTS AND TERMS. I FURTHER UNDERSTAND THAT BY SIGNING I WAIVE CERTAIN RIGHTS INCLUDING THE RIGHT TO FURTHER HEARINGS REGARDING THIS AMENDMENT. I ALSO WAIVE THE RIGHT TO APPEAL TO THE COURT REGARDING THIS AMENDMENT. KNOWING THIS, I SIGN IT VOLUNTARILY, WITHOUT ANY THREAT OR PROMISE. I UNDERSTAND THAT THIS FIRST AMENDMENT, TOGETHER WITH THE CONSENT AGREEMENT, CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN, OR OTHERWISE. I ACKNOWLEDGE THAT I HAVE HAD THE OPPORTUNITY TO DISCUSS THIS AGREEMENT WITH LEGAL COUNSEL PRIOR TO SIGNING IT.

Dated: 08/24/2011


MICHAEL A. BELL, M.D.

STATE OF MAINE
Cumberland, SS.

Before me this 24th day of August, 2011, personally appeared Michael A. Bell, 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.



Notary Public/ Attorney at Law

My commission expires:

DEBRA L. RANCOURT
Notary Public, Maine
My Commission Expires 2-23-2014

STATE OF MAINE
BOARD OF LICENSURE IN
MEDICINE

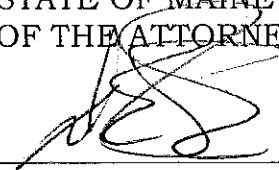
DATED: 9/13/11


Gary R. Hatfield, M.D.
Chairman

STATE OF MAINE DEPARTMENT
OF THE ATTORNEY GENERAL

DATED:

9/13/11



DENNIS E. SMITH
Assistant Attorney General

Effective Date:

9/13/11