

**State of Maine
Board of Licensure in Medicine
July 8, 2008 @ 9:00 AM
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**State of Maine
Board of Licensure in Medicine
137 State House Station, (mailing)
Physical Address: 161 Capitol Street
Augusta, Maine 04333-0137
July 8, 2008 @ 9:00 AM
Licensure Committee will meet at 8:00 A.M.**

BOARD MEMBERS PRESENT

Sheridan R. Oldham, M.D., Chairman
Gary R. Hatfield, M.D., Board Secretary
Cheryl D. Clukey
George K. Dreher, M.D.
David H. Dumont, M.D.
Maroulla Gleaton, M.D.
Bettsanne Holmes
David Nyberg, Ph.D.

BOARD STAFF PRESENT

Randal C. Manning, Executive Director
Jean M. Greenwood, Administrative Assistant
Timothy Terranova, Consumer Assistant
Dan Sprague, Assistant Executive Director

ATTORNEY GENERAL'S OFFICE

Dennis Smith, Assistant Attorney General

Dr. Onion was excused.

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.A. §405). The Board moved, seconded, and voted the following executive session times. All voting takes place in public session.

EXECUTIVE SESSIONS PURPOSE

10:58 a.m. – 11:35 a.m. Informal conference
1:04 p.m. – 1:45 p.m. Informal conference
3:24 p.m. – 3:51 p.m. Assessment & Direction, Progress Reports and New Complaints
3:52 pm. – 4:11 p.m. Assessment & Direction, Progress Reports and New Complaints
4:26 p.m. – 5:37 p.m. Assessment & Direction, Progress Reports and New Complaints

PUBLIC SESSIONS

9:05 a.m. – 10:04 a.m.
10:09 a.m. – 10:47 a.m.
11:37 a.m. – 12:12 p.m.
1:56 p.m. – 2:45 p.m.
2:51 p.m. – 3:24 p.m.
5:37 p.m. – 5:49 p.m.
5:56 p.m. – 6:17 p.m.

RECESS/LUNCH

10:04 a.m. - 10:09 a.m.
10:47 a.m. -10:58 a.m.
12:12 p.m. – 1:04 p.m.
1:45 p.m. – 1:56 p.m.
2:45 p.m. – 2:51 p.m.
4:11 p.m. – 4:26 p.m.
5:49 p.m. – 5:50 p.m.

9:00 A.M.

- I. CALL TO ORDER Dr. Oldham
- A. Amendments to Agenda
 1. Amend CR 08-131 to New Complaints
 2. Amend to Josephine Meador, M.D Consent Agreements Approval and Monitoring

- B. Scheduled Agenda Items
 - 1. Section V. Informal Conferences
 - 11:00 a.m. CR 07-290
 - 1:00 p.m. CR 07-311
 - 2. Adjudicatory Hearing
 - 2:30 P.M. CR 06-319, Sarah E. Babine, M.D.

C. WELCOME TO NEW BOARD MEMBER.

Dr. Oldham introduced and welcomed the Board's newest member David H. Dumont, M.D., who has been appointed to replace the seat formerly occupied by Dr. Kimberly Gooch, who retired in June. Dr. Dumont is the Director of Medical Services / Hospitalist, the Medical Director of Anesthesia Services at Penobscot Valley Hospital, and a Medical Examiner for the State of Maine. Dr. Dumont is Board Certified by the American Board of Family Physicians.

D. FSMB REPRESENTATIVES ADDRESS THE BOARD.

The Board welcomed Martin Crane, M.D., Chair-elect, of the Board of Directors and Lisa Robin, Senior Vice President of Member Services of the Federation of State Medical Boards (FSMB).

Ms. Robin and Dr. Crane distributed material to Board members and talked about the services FSMB provides to the Boards.

D. MAINE MEDICAL ASSOCIATION'S REPORT ON THE MMA/BOLIM JOINT PROJECT ON CHRONIC PAIN.

The Board also welcomed Gordon Smith, Executive Vice President of Maine Medical Association (MMA), and Noel J. Genova, MA, PA-C to make a presentation regarding the joint project on Chronic Pain sponsored by MMA and BOLIM. This activity has been planned and implemented in accordance with the Essentials and Standards of the Maine Medical Association Committee on Continuing Medical Education and Accreditation through the partnership of the Maine Medical Education Trust and MMA/BOLIM Chronic Pain Project. The Maine Education Trust is accredited by the Maine Medical Association to provide CME activities for physicians. Dr. Dreher has been a consultant to the project from BOLIM during the time the preliminary outline of the course was put together.

EXECUTIVE SESSION

II. ASSESSMENT & DIRECTION

A. AD 08-054 (CR 08-254)

MOTION was made by Dr. Nyberg to issue a complaint in the matter of AD 08-054. Ms. Holmes seconded the motion which passed 7-0-0-1, with Dr. Dreher recused.

B. AD 08-084 (CR 08-255)

MOTION was made by Dr. Dreher to issue a complaint in the matter of AD 08-084. Dr. Hatfield seconded the motion which passed 8-0.

C. AD 08-174

MOTION was made by Dr. Hatfield to file AD 08-174. Dr. Nyberg seconded the motion which passed 8-0.

D. AD 08-175

MOTION was made by Dr. Hatfield to file AD 08-175. Dr. Nyberg seconded the motion which passed 8-0.

E. AD 08-167 (CR 08-256)

APPROVED SEPTEMBER 9, 2008

MOTION was made by Dr. Dreher to issue a complaint in the matter of AD 08-167. Ms. Holmes seconded the motion which passed 7-0-0-1, with Dr. Hatfield recused.

F. AD 08-201 (CR 08-257)

MOTION was made by Dr. Gleaton to issue a complaint in the matter of AD 08-201. Dr. Nyberg seconded the motion which passed 8-0.

G. AD 08-202 (CR 08-258)

MOTION was made by Dr. Gleaton to issue a complaint in the matter of AD 08-202. Dr. Dreher seconded the motion which passed 8-0.

H. AD 08-204 Joseph C. Brito, M.D.

MOTION was made by Dr. Dreher to consolidate AD 08-204 into Dr. Britto's license denial appeal hearing. Ms. Holmes seconded the motion which passed 8-0.

III. PROGRESS REPORTS

A. CR 07-113 Sergio Riffel, M.D

The Board came out of executive session.

MOTION was made by Dr. Gleaton to unset the Adjudicatory Hearing in the matter of Sergio Riffel, M.D. Dr. Nyberg seconded the motion which passed 8-0.

MOTION was made by Dr. Gleaton to reset the Adjudicatory Hearing in the matter of Sergio Riffel, M.D. The Board set forth parameters and instructed the AAG Smith to attempt to negotiate a consent agreement. Dr. Hatfield seconded the motion which passed 8-0.

B. Complaint Status Report (FYI)

C. Review Draft Letters of Guidance

The Board approved a draft letter of guidance.

D. Consumer Assistant Feedback (FYI)

IV. NEW COMPLAINTS

A. CR 07-322

MOTION was made by Dr. Gleaton to dismiss CR 07-322. Dr. Nyberg seconded the motion.

This 47 year old female patient felt that she had received less than optimum care for her lower back pain and disease by a neurosurgeon. Careful review of the records including outside board review by a consultant did not find evidence of inadequate or inappropriate care.

The motion passed 6-1-0-1, with Dr. Hatfield recused.

B. CR 08-030 Jaroslav P. Stulc, M.D.

MOTION was made by Ms. Clukey to order an Adjudicatory Hearing in the matter of CR 08-030 Jaroslav P. Stulc, M.D. Ms. Holmes seconded the motion which passed 8-0.

C. CR 08-052 Jaroslav P. Stulc, M.D.

MOTION was made by Ms. Clukey to order an Adjudicatory Hearing in the matter of CR 08-052 Jaroslav P. Stulc, M.D. Ms. Holmes seconded the motion which passed 8-0.

D. CR 08-041 was amended off the agenda.

E. CR 08-063

MOTION was made by Dr. Nyberg to dismiss CR 08-063. The motion was seconded by Dr. Hatfield.

The complainant tested positive for cannabinoids, propoxyphene, but not for oxycodone which was prescribed, in violation of the pain contract he had signed. For this reason, and for inappropriate behavior, the physician discharged the complainant from his practice. When the complainant made suicidal threats the physician called the police for help. The complainant voluntarily underwent psychological assessment at Spring Harbor and was discharged the next day. The physician was justified in his decision to dismiss the patient and call for police assistance. Although one option would be to continue to provide all other care while not providing any controlled medication, the physician in this case felt that discharging the patient was necessary.

The motion passed 8-0.

F. CR 08-064

MOTION was made by Dr. Hatfield to investigate further CR 08-064. Ms. Holmes seconded the motion which passed 8-0.

G. CR 08-079

MOTION was made by Dr. Dreher to dismiss CR 08-079. The motion was seconded by Dr. Nyberg.

The complaint focuses on the patient's perceived neglect regarding treatment while an inpatient with insomnia and stated emergency GI surgery required shortly after discharge. A review of the records showed awareness and appropriate interventions for the insomnia. The records show no signs of any significant physical complaints being verbalized to staff with stable vital signs and reasonable PO intake all suggested no significant GI symptomatology during the patient's stay.

The motion passed 8-0.

H. CR 08-083

MOTION was made by Dr. Gleaton to investigate further CR 08-083. Ms. Holmes seconded the motion which passed 7-0-0-1 with Dr. Oldham recused.

I. CR 08-092 Thomas E. Van Der Kloot, M.D.

MOTION was made by Dr. Gleaton to dismiss the complaint in the matter of Thomas E. Van Der Kloot, M.D (CR 08-092), with a Letter of Guidance. Dr. Dumont seconded the motion.

The patient's wife complained of a physician who was not involved in the patient's care wrongly breached confidentiality by accessing the patient's electronic medical record, disclosing information in the medical record to the patient's employer, and that the disclosure of that information led to the patient not being able to continue at his place of employment. After review of the evidence, it is clear that the physician did access the patient's record without being part of his treating medical team. There is no evidence, however, that the physician disclosed any of the medical record to anyone and specifically not to anyone at the patient's place of employment. Also, the patient's treating cardiologists both felt that the patient could not return to work for medical reasons. The accused physician has taken two educational opportunities to learn more about confidentiality and patient records because of this situation and complaint. In addition, he has written a letter of remorse in response to the situation, however; the patient and his wife have chosen not to read it.

The motion passed 5-2-0-1, with Ms. Holmes recused.

J. CR 08-093

MOTION was made by Dr. Dreher to dismiss CR 08-093. Dr. Nyberg seconded the motion.

The complaint here was made by an individual who had no direct contact with the physician and was concerned about the care a family member was receiving from the doctor. No complaints were made by anyone else.

A review of the record and the physician's response indicate an awareness of potential problems with plans to consider referral to a diagnostic team if they persisted. However, a phone call from another physician indicated the family's desire to change care which was hampered initially by insurance regulations and the original physician's desire to follow a thoughtful diagnostic path. When a later call indicated that the care had been fully transferred, the first physician felt their involvement was no longer required.

The motion passed 7-0. Dr. Gleaton was out of the room.

K. CR 08-094

MOTION was made by Ms. Holmes to dismiss CR 08-094. Dr. Nyberg seconded the motion.

The patient complained that an OB-GYN violated ethics by listening to another provider's assessment of the patient. The patient saw the M.D. for a physical and at her request he referred her to a nurse practitioner. There is no breach of patient confidentiality in direct practitioner to practitioner communication.

The motion passed 6-0-0-1, with Dr. Gleaton recused and out of the room.

L. CR 08-116

MOTION was made by Dr. Hatfield to dismiss CR 08-116. The motion was seconded by Ms. Clukey.

In this case, the complainant feels that his pain was treated inadequately and that his physician showed a lack of compassion as well as a lack of medical knowledge. He also feels that the physician was more interested in practicing in a fashion to bring financial gain as opposed to providing best patient care. A review of the records shows appropriate medical care was given, including thoughtful consideration of other issues than just pain for this patient.

The motion passed 8-0.

M. CR 08-120 Michael S. Berry, M.D.

MOTION was made by Ms. Holmes to order an Adjudicatory Hearing in the matters of CR 08-120 and CR 08-133 both involving Michael S. Berry, M.D. Dr. Dumont seconded the motion which passed 8-0.

N. CR 08-133 Michael S. Berry, M.D. (See above - combined with previous complaint and ordered to an Adjudicatory Hearing).

O. CR 08-127

MOTION was made by Dr. Dreher to investigate further CR 08-127. Dr. Hatfield seconded the motion which passed 8-0

P. CR 08-129

MOTION was made by Ms. Clukey to dismiss CR 08-129. The motion was seconded by Ms. Holmes.

The complainant is seeking reimbursement from the physician for allegedly knocking out her dental bridge and the anchor tooth during the administration of anesthesia during a surgery. The physician explained he was not the person who

administered the anesthesia. A Certified Registered Nurse Anesthetist (CRNA) who was a hospital employee provided direct anesthesia care to the patient. Also due to systematic errors, the hospital failed to responsibly discharge and properly communicate with the patient. The record shows that the physician properly communicated with the patient in the hospital in a timely manner about this issue and provided a thoughtful and reasoned explanation for why he is not responsible for the broken dental bridge.

The allegations that the physician was responsible for the mishap during anesthesia were unsubstantiated.

The motion passed 8-0.

Q. CR 08-140

MOTION was made by Dr. Dreher to dismiss CR 08-140. Dr. Dumont seconded the motion.

This patient has a complex history of medical and emotional problems and felt the care provided by the physician was improper. The physician was trying to adequately treat these problems which were complicated by the patient's perception of never being cared for enough and difficulty in making use of offered resources. The records support the physician's adequate and reasoned care throughout.

The motion passed 8-0.

R. CR 08-160

MOTION was made by Dr. Nyberg to investigate further CR 08-160. Dr. Hatfield seconded the motion which passed 8-0.

S. CR 08-131

MOTION was made by Dr. Gleaton to grant an extension of time for the physician to respond to the complaint and instruct the Assistant Attorney General to obtain a temporary consent agreement regarding cessation of practice until a resolution of this matter is reached. Dr. Nyberg seconded the motion which passed 8-0

V. INFORMAL CONFERENCE(S)

1. CR 07-290

MOTION was made by Ms. Clukey to dismiss CR 07-290. The motion was seconded by Dr. Nyberg.

This is a complaint brought by the mother of a patient who alleged that during an appointment with her son the doctor reached over and slapped his face during a discussion of his diabetes log. The allegation that the physician slapped the patient's face was unsubstantiated, however, the physician did admit that she gently tapped his face to get his attention and has apologized to the patient.

The motion passed 5-3.

2. CR 07-311

MOTION was made by Ms. Holmes to dismiss CR 07-311. Dr. Gleaton seconded the motion.

After the Informal Conference, the doctor indicated he has made significant changes in his practice to make it more comfortable for female patients when they come for exams and dialogue. The doctor also indicated he had done significant research on recent information on post traumatic stress syndrome and that he plans to continue efforts to enlarge his awareness of patient's experiences and how to be helpful.

The motion passed 8-0.

VI. MINUTES OF JUNE 10, 2008

MOTION was made by Dr. Gleaton to approve the amended minutes of June 10, 2008. Dr. Nyberg seconded the motion which passed 7-0-1.

VII. NEW BUSINESS (none)

VIII. BOARD ORDERS & CONSENT AGREEMENT MONITORING & AND APPROVAL

A. Board Orders (none)

B. Consent Agreement Monitoring and Approval

1. Monitoring Compliance Report (FYI)

2. Robert Phelps, M.D.

At the March 2008 Board meeting the Board reviewed information that Dr. Phelps had a “minor” slip in his 12-step program and went on dating and pornography sites for a period of 10 days after his stroke. After review, the Board voted to ask Dr. Phelps to voluntarily cease practice and asked staff to obtain records from Dr. Morse and ask Dr. Morse to do an immediate cognitive evaluation.

At the April 2008 Board meeting, Dr. Phelps provided information from Dr. McCann, Dr. Morse and Dr. Welch. Based on this information, Dr. Phelps requested the Board reconsider its request that he voluntarily cease practice. After review, the Board voted to table the issue and obtain Dr. Philip’s records and a statement from Eric Dinnerstein, M.D. The Board reviewed the information provided.

MOTION was made by Dr. Gleaton to continue the consent agreement in its current form. Dr. Nyberg seconded the motion which passed 7-0-0-1. Dr. Dreher was recused.

3. Bert Beverly, M.D.

Dr. Beverly requested termination of his Board Order dated June 8, 1994 and asked the Board to grant him an unconditional license. The Board Order states that Dr. Beverly may undergo some level of substance monitoring for the remainder of his career as a licensed physician.

MOTION was made by Dr. Dreher to grant Dr. Bert Beverly an unconditional license. Dr. Gleaton seconded the motion which passed 7-1.

4. Walter Hearn, P.A.-C.

Mr. Hearn entered a Consent Agreement with the Board of Licensure in Medicine on May 13, 2003, after being arrested twice within eighteen (18) months for operating under the influence. The only condition remaining for Mr. Hearn to meet is random urine testing. All other terms of the Agreement have been met.

Board staff reported in February 2008 that Mr. Hearn missed a scheduled urine test due to what Dr. Simmons felt was lack of organization on Mr. Hearn’s part. The Board did not take action at that time.

Board staff received a request from Dr. Hearn asking the Board to release him from his Consent Agreement in order to secure employment in Atlanta, Georgia for a company which produced medical software.

MOTION was made by Dr. Dreher to terminate Mr. Hearn’s consent agreement. Dr. Gleaton seconded the motion which passed 7-0-1.

5. Daniel Bobker, M.D. (Non-compliance)

APPROVED SEPTEMBER 9, 2008

The Board received information dated June 24, 2008, stating that Dr. Bobker had a positive urine test for Hydrocodone. Dr. Bobker's license was suspended as of June 24, 2008 pursuant to his Consent Agreement which states in part "if any urine or blood test is positive then the result shall be the immediate, indefinite, automatic suspension of Dr. Bobker's license.

In addition on July 2, 2008 the Board received a report from Dr. Bobker's Counselor, who had seen him after this had happened, and reported there were no problems. Staff contact with the Counselor revealed that he did know about the positive urine but that Dr. Bobker had not told him until after he knew that Dr. Simmons had contacted the Counselor. When asked why he did not report it to the Board he said he had not looked his notes over real well before writing the report to the Board.

MOTION was made by Dr. Nyberg to refer Christopher Coose to the Board of Alcohol & Drug Counselors for alleged incompetence. Dr. Gleaton seconded the motion which passed 6-0-0-2. Dr. Dreher and Dr. Hatfield were recused.

6. Josephine Meador, M.D.

The Board received information from Dr. Simmons reported on June 26, 2008 that Josephine Meador, M.D. had voluntarily withdrawn from the PHP. Dr. Meador's Consent Agreement, signed July 13, 2004, effective until December 9, 2013. Staff contacted Dr. Meador to explain that this was a violation of her consent agreement. Dr. Meador stated she intended to give up her Maine medical license. The Board reviewed Dr. Meador's letter stating her intention.

MOTION was made by Dr. Gleaton to accept Dr. Meador's surrender of her Maine medical license. Ms. Clukey seconded the motion which passed 8-0.

IX. ADJUDICATORY HEARING 2:30 P.M.

A. CR 06-319 Sarah E. Babine, M.D.

An Adjudicatory Hearing was held in the matter of Sarah E. Babine, M.D. to settle CR 06-319. An official Board Order will be prepared by the Presiding Officer and presented to the Board for review at the September 9, 2007 meeting.

X. REMARKS OF CHAIRMAN

A. Proposed changes in Chapter 1 Rule

MOTION was made by Dr. Dreher and seconded by Dr. Nyberg to accept the new language in the Administrative License portion of the proposed Chapter 1 rules which will exclude § 1 DEFINITIONS (1) (C). The motion passed 8-0.

XI. EXECUTIVE DIRECTOR'S MONTHLY REPORT

The Board discussed the Eastern Region Boards Meeting in New Hampshire. Due to an unexpected lack of attendees, the Board decided to cancel the meeting and reschedule sometime in September or October.

Cost Saving Measures

With the intent of reducing commuting costs for staff, flexible hours will be implemented (normally 4 ten hour days) with a guarantee of appropriate public coverage as well as occasional work from home. The plan has been reviewed by the Commissioner – there are no impediments to implementation. A guideline document has been drafted and reviewed by Ms. Holmes. The 4 day 10 hour program will be implemented in July.

The Board accepted the report of the Executive Director.

A. Request to Standardize Types of PA & APRN Schedule II Prescribing Authority

The Board first saw this request at its May 2008 meeting and requested a review by the PA Advisory Committee, which was done in June 2008 and their suggestions were outlined before the Board for review.

MOTION was made by Dr. Dreher and second by Ms. Clukey to approve this method of defining prescribing authority scheduling types to go on the website. The motion passed 8-0.

B. Policy: Emergency License

The Board previously had a policy whereby if an Emergency license was granted a temporary license would not be granted to that same applicant and vice versa if a Temporary license was granted an Emergency license would not be granted to the same applicant. The Board has revised its practice in this regard. A draft of the changes to the Emergency policy was before the Board for review.

MOTION was made by Dr. Dreher to accept new language of Board policy for Emergency License policy. Dr. Gleaton seconded and passed 8-0.

C. Board Goals (see Administrative Committee)

XII. REMARKS OF ASSISTANT ATTORNEY GENERAL

The Board requested advice from its legal counsel about holding adjudicatory hearings and permitting the physician to testify by telephone rather than appear in person. The Board has previously discussed adopting a policy requiring physicians to attend adjudicatory hearings in person.

AAG Smith advised the Board not to adopt a policy requiring the physical presence of physicians at all adjudicatory hearings for the following reasons: (1) the Administrative Procedures Act (APA) does not appear to require physical presence – but an opportunity to present evidence; (2) case law concerning this issue from Ohio and Colorado where the physicians were unable to physically attend hearings, and in which the courts indicated that the physician could have testified by telephone; and (3) the fact that the Board has had actual cases where the State intended to present the testimony of witnesses by telephone because they were located outside of the State of Maine and were unable to physically attend the hearing (due to geography or work). Thus, it would be difficult to argue that a witness should be permitted to testify by telephone against a physician but that a physician should not be permitted to similarly do so (*i.e.* It presents an issue of the fundamental fairness of the proceeding).

AAG Smith advised the Board that it could express a preference to the hearing officer that, when having an adjudicatory hearing, the Board would like the physician to be physically present and testify rather than testify by telephone. For example, if the physician is located in Maine, he/she can be subpoenaed to appear in person before the Board. However, if the Board has provided the physician with the notice of hearing, it can proceed without subpoenaing the physician (*i.e.* the physician may decide not to appear). In such a case, the physician may decide not to appear and testify, and instead retain legal counsel to appear for him/her, present evidence, present arguments, and cross examine witnesses. In that particular case, the defendant has essentially waived the right to appear before the Board and testify under oath which may be considered by the Board in deciding the case. Similarly, if the physician is located outside the State, he/she is not subject to subpoena, may decide not to appear and testify, and instead retain legal counsel to appear for him/her, present evidence, present arguments, and cross examine witnesses. Where such a physician seeks to present his/her testimony by telephone, the Board could have a standing instruction for hearing officers that testimony by telephone by a physician located outside the State of Maine should be permitted only after determining that “good cause” exists (*i.e.* that it would cause undue financial hardship, military deployment, work commitments, illness, etc).

XIII SECRETARY’S REPORT

A. List A

1. M.D. List A Licenses for Ratification

The following license applications have been approved by staff and Board Secretary Gary R Hatfield, MD without reservation:

<u>NAME</u>	<u>SPECIALTY</u>	<u>LOCATION</u>
Abdal-Raheem, Sulieman	Internal Medicine	Bangor/EMMC

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Acharya, Deep S	Family Medicine	Skowhegan
Al-Trash, Fida	Internal Medicine	Bangor
Bisbal, Oswaldo	Internal Medicine	Lewiston
Boyd, Stephen D	Internal Medicine	Brunswick
Cheng, Sam S L	Diagnostic Radiology	Not Listed
Crchova, Melissa	Psychiatry	Fort Kent
Dann, Phoebe H	Diagnostic Radiology	Not Listed
Fanjoy, Holly W	Emergency Medicine	EMMC, Bangor
Fremont, Oliver T	Pediatrics	Portland
Garcia, Carolyn L	OB/GYN	Rumford
Goradia, Dhawal A	Diagnostic Radiology	Teleradiology
Hearst, Matthew J	Otolaryngology	Portland
Hepler, Amanda J	Family Medicine	Rangeley
Hill, Kina T	Internal Medicine	Presque Isle
Howe, Allyson S	Family Medicine	Portland/Falmouth
Hunt, Rebecca C	OB/GYN	Portland
James, Edward J	Diagnostic Radiology	Telemedicine
Kapur, Anuradha	Internal Medicine	Not Listed
Kasabji, Abdulkader	Internal Medicine	Bangor
Kelly, Patrick J	Neurosurgery	Hancock County, Northeast
Lamm, Everett J	Pediatrics	Kittery/York
Mansfield, William T	Cardiovascular disease	Portland/Augusta
McMichen, John W	Family Medicine	TAMC
Millian, Norman S	Family Medicine	Lewiston/Auburn
Morrison, Peter F	Neurology	Portland
Oury, Nicole M	Emergency Medicine	Bangor
Pattavina, Charles F	Emergency Medicine	Bangor
Pearce, Melissa W	OB/GYN	Dover-Foxcroft
Rayner, Abigail V	Family Medicine	Skowhegan
Rethy, Michael C	Telemedicine	Telemedicine
Ruddy, Theresa W	General Surgery	Not Listed
Rusu, Mircea B	Internal Medicine	Not Listed
Sasse, Robert J	Family Medicine	Pittsfield
Shah, Samir S	Diagnostic Radiology	Not Listed
Shulman, Ivan A	General Surgery	Houlton
Singh, Veera	Internal Medicine	Bangor
Wechsler, Elena	Radiology	Portland
Wiegand, Timothy J	Internal Medicine	Portland
Williams, Marcus R	Internal Medicine	Southern Maine
Yates, Michael J	Emergency Medicine	Cary Medical Center
Yenchek, Robert H	Internal Medicine	Augusta
Ying, Kan	Diagnostic Radiology	Not Listed

MOTION was made by Dr. Gleaton to ratify the physicians on List A below for permanent license. Ms. Clukey seconded the motion which passed 8-0.

2. P.A. List A Licenses for Ratification

The following PA license applications have been approved by staff and Board Secretary Gary R Hatfield, MD without reservation:

<u>NAME</u>	<u>LICENSE</u>	<u>PSP</u>	<u>LOCATION</u>
Matthew Colaluca	Active Temp	Guy Nuki, M.D.	Waterville
Sarah Methvin	Active Temp	Dave Frost, M.D.	Augusta
Jesse Roberts	Active	Michael Becker, M.D.	Portland
Jesse Ritch	Active	Cynthia Atkinson, M.D.	Portland

Sarah McCarthy Active Cynthia Atkinson, M.D. Portland

MOTION was made by Ms. Clukey to ratify the physician assistants on List A for licensure. Dr. Dreher seconded the motion which passed 8-0.

B. List B Applications for Individual Consideration

1. Gregory S. Carroll, MD

Dr. Carroll's application for permanent licensure is being presented for review of his medical malpractice history.

MOTION was made by the Licensure Committee to grant a license. The motion passed 8-0.

2. William K. Kelly, MD

Dr. Kelly's permanent application was presented to the licensure committee because of yes answers to questions; # 1, # 4 a & b, # 6, and, #9 which read:

#1 Had ANY licensing authority (INCLUDING MAINE) deny your application for any type of license, or take any disciplinary action against the license issued to you in that jurisdiction, including but not limited to warning, reprimand, fine, suspension, revocation, restrictions in permitted practice, or probation with or without monitoring?

4 Been denied registration or had your ability to prescribe or dispense controlled substances modified, restricted (except by administrative rule or statute in a jurisdiction), suspended, revoked, or voluntarily suspended by-

14.4a) U.S. Drug Enforcement Administration (DEA)?

14.4b) Any state/territory of the U.S. INCLUDING MAINE?

#6 Have you suffered from any physical, psychiatric, or addictive disorder that would impair or require limitations on your functioning as a physician or that resulted in the inability to practice medicine for more than 30 days?

#7 Have you been charged, summonsed, indicted, arrested, or convicted of any criminal offense (including motor vehicle offenses but not including minor traffic or parking violations)?

#9 Have you had your hospital, HMO, or other health care entity privileges revoked, suspended, restricted, limited in any way, or withdrawn involuntarily?

Dr. Kelly had not had active practice for five or more years and it was felt it would not be wise to have him come to Maine to relearn medical care.

MOTION was made by the Licensure Committee to preliminarily deny the license application of Dr. William K. Kelly with leave to withdraw his application. The motion passed 8-0.

3. Renato C. Mendoza, M.D. – Temporary Application

Dr. Mendoza's Temporary application for licensure is being presented because of yes answers to questions # 1, #4 a & b, #6, and #9 which read:

#1 Had ANY licensing authority (INCLUDING MAINE) deny your application for any type of license, or take any disciplinary action against the license issued to you in that jurisdiction, including but not limited to warning, reprimand, fine, suspension, revocation, restrictions in permitted practice, or probation with or without monitoring?

4 Been denied registration or had your ability to prescribe or dispense controlled substances modified, restricted (except by administrative rule or statute in a jurisdiction), suspended, revoked, or voluntarily suspended by-

14.4a) U.S. Drug Enforcement Administration (DEA)?

14.4b) Any state/territory of the U.S. INCLUDING MAINE?

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#6 Have you suffered from any physical, psychiatric, or addictive disorder that would impair or require limitations on your functioning as a physician or that resulted in the inability to practice medicine for more than 30 days?

#9 Have you had your hospital, HMO, or other health care entity privileges revoked, suspended, restricted, limited in any way, or withdrawn involuntarily?

Dr. Mendoza had significant problems related to alcohol abuse 20 years ago but appears to have been stable and had his license restored 10 years ago. There are no indications of other problems. The Committee did note that he has a tendency to have some personal ups and downs it appears not to have impacted his ability to practice medicine in any way and has very good references. The Committee will grant Dr. Mendoza a Temporary license to give the Committee an opportunity to look at this in more detail if necessary later on.

MOTION was made by the Licensure Committee to grant a temporary license to Renato C. Mendoza, M.D. The motion passed 8-0.

4. Snigdha Sharma, M.D,

Dr. Sharma is requesting a waiver of the 7 year time limit for passing all 3 steps of the USMLE, and because the application is complete was presented for review to approve licensure.

MOTION was made by the Licensure Committee to grant a permanent license to Snigdha Sharma, M.D. The motion passed 8-0.

5. James J Stone, MD – Temporary Application

Dr. Stone is requesting a waiver of the 7 year time limit for passing all 3 steps of the USMLE, and since the application is complete was presented for review.

MOTION was made by the Licensure Committee to grant a temporary license to James J. Stone, M.D. The motion passed 8-0.

6. Daron C. Massey, MD – Education Certificate Application

Dr. Massey's application for an Educational Certificate is being presented because of a yes answer to question #7 which reads:

#7 Have you been charged, summonsed, indicted, arrested, or convicted of any criminal offense (including motor vehicle offenses but not including minor traffic or parking violations)?

Dr. Massey states he entered a plea of not guilty in municipal court in New Jersey regarding a complaint of pushing an ex-girlfriend down in 2007.

The Licensure Committee noted that Dr. Massey completed a course in anger management and the charges were entirely dropped so he never actually had any convictions. On June 20, 2008, the Superior Court of New Jersey issued a Final Order of Expungement for this situation, in accordance with the laws of New Jersey. He is going into a 2 year training program at Maine Medical Center where he will be monitored and if anything is amiss it would be much more likely to be noticed. Staff was instructed to write a letter to Dr. Massey indicating that this behavior by one of our licensees is considered unprofessional conduct and subject to discipline.

MOTION was made by the Licensure Committee to grant an Educational Certificate to Daron C. Massey, M.D. The motion passed 8-0.

7. Samer Sbayi, MD

Dr. Sbayi's application for permanent licensure is complete and was presented for review. He was granted a waiver of the 7 year time limit for passing all three steps of the USMLE at the May 2008 Licensure committee meeting.

MOTION was made by the Licensure Committee to grant a permanent license to Samer Sbayi, M.D. The motion passed 7-0-0-1, with Dr. Dumont recused.

8. Ian M. Reight, M.D. (Investigate further)

9. Judith M. Gilmore

Dr. Gilmore's file was originally presented to the Licensure Committee for review on June 14, 2005, because the Board received information of limitations of privileges imposed by the Navy. Dr. Gilmore answered no to question #9 which reads:

#9 Have you had your hospital, HMO, or other health care entity privileges revoked, suspended, restricted, limited in any way, or withdrawn involuntarily?

Dr. Gilmore's license was preliminarily denied with leave to withdraw because the Board was unable to obtain information which would clear a negative evaluation. Dr. Gilmore withdrew her application.

Dr. Gilmore was able to obtain documentation from the Department of the Navy indicating that the negative evaluation had been overturned by higher authorities and therefore her application was cleared.

MOTION was made by the Licensure Committee to grant a permanent license to Judith M. Gilmore. The motion passed 8-0.

C. List C (1) Reinstatement. Applications for Ratification

MOTION was made by the Ms. Clukey to ratify reinstatement to the physicians on List C. Dr. Nyberg seconded the motion which passed 8-0.

NAME	SPECIALITY
Deering, Shad H	OB/GYN
Frehm, Eric J.	Neontology

List C (2) Applications for Reinstatement for individual consideration

1. Robert P. Andrews, M.D. (Investigate further)

D. List D Withdrawals

1. List D (1) Withdraw License Application (none)

2. List D (2) Withdraw License from Registration

MOTION was made by Dr. Nyberg and seconded by Ms. Holmes to ratify the following applications to withdraw from licensure. The motion passed 8-0.

<u>NAME</u>	<u>LICENSE NUMBER</u>
Chan, Tin-sion	005491
Vukovich, Joseph	011294
Wolf, Wendy	014323
Clarke, Daniel	008483

3. List D (3) Withdraw License from Registration - Individual Consideration (none)

E. List E Licenses to lapse by operation of law (FYI)

The following physician licenses lapsed by operation of law effective June 9, 2008.

<u>NAME</u>	<u>LICENSE NO.</u>
Buetow, Peter	017532
Burgoyne, John	013290
Craine, Karina	017461
Herbert, Frances	016950
LaPlaca, Thomas	017211
Macomber, Charles	014207
Mathers, Amy	016892
Monzel, Michael	011796
Ndyajunwoha, Sarah	016957
Rosenthal, Benjamin	016452
Sarjeant Jr, Alex	006312
Shea, Bernard	015676
Stebbins, Joseph	015758
Tuddenham, Ann	014495

- F. List F Licensees requesting to convert to active status (none)
- G. List G Renewal applications for review (none)
- H. List H. Delegated Practitioner Schedule II Request Ratification (none)

XIV STANDING COMMITTEE REPORTS

A. Personnel & Finance Committee

1 Personnel Action Discussion.

The Executive Director serves at the pleasure of the Board. In order for Mr. Manning to receive the 2% increase approved for other state personnel the Board must give their approval.

MOTION was made by Dr. Dreher to approve the 2% cost of living raise for the Mr. Manning retroactive to July 1, 2008. Ms. Holmes seconded the motion which passed 8-0.

2. FY 2009 Board Goals were reviewed by the Board.

MOTION was made by Dr. Gleaton to approve the FY 2009 Board Goals. Dr. Nyberg seconded the motion which passed 8-0.

3. Annual strategic Planning efforts (moved to September)

B. Public Information Committee (none)

C. Legislative & Regulatory Committee (none)

D. Physician Assistant Advisory Committee (none)

E. Licensure Committee (Met this morning, discussion above –Secretary’s Report)

F. CME Committee (none)

G. Ethics Committee

Dr. Nyberg presented a draft of an Informed Consent document for Board review. He plans to bring the final document to the September meeting for adoption.

H. Special Projects Committee (none)

1. Physician Satisfaction Survey

The Board is working to improve the complaint process. A draft Post-Complaint Survey was presented aimed at getting feedback from licensees about their experience with the complaint process.

XV. BOARD CORRESPONDENCE (none)

XVI. FYI

XVII. FSMB MATERIAL

XVIII. OTHER BUSINESS

XIX. ADJOURNMENT 6:18 p.m.

MOTION was made by Ms. Clukey and seconded by Dr. Gleaton to adjourn. The motion passed 8-0.

Respectfully submitted,

Jean M. Greenwood, Board Clerk
Administrative Assistant and
Board Coordinator