



**State Medical Board of Ohio Meeting Minutes  
July 10, 2019**

Michael Schottenstein, M.D., President, called the meeting to order at 10:00 am in the Administrative Hearing Room, 3<sup>rd</sup> floor of the Rhodes Office Tower, 30 East Broad Street, Columbus, Ohio 43215 with the following members present: Richard Edgin, M.D., Vice President; Kim G. Rothermel, M.D., Secretary; Bruce R. Saferin, D.P.M., Supervising Member; Robert P. Giacalone, R.Ph., J.D.; Mark A. Bechtel, M.D.; Sherry Johnson, D.O.; Harish Kakarala, M.D.; and Jonathan Feibel, M.D.

**MINUTES REVIEW**

Motion to approve the minutes of the May 23, 2019 Special Board meeting, with the correction of typographical errors and the correction that Mr. Gonidakis had seconded the motion to adjourn:

Motion	Dr. Saferin
2 <sup>nd</sup>	Dr. Kakarala
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

Motion to approve the minutes of the June 11, 2019 Board Retreat, as drafted.

Motion	Dr. Kakarala
2 <sup>nd</sup>	Dr. Saferin
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Abstain
Dr. Bechtel	Y

The motion carried.

Motion to approve the minutes of the June 12, 2019 Board meeting, as drafted.

Motion	Dr. Saferin
2 <sup>nd</sup>	Dr. Kakarala

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Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Abstain
Dr. Bechtel	Y

The motion carried.

### **APPLICANTS FOR LICENSURE**

Dr. Schottenstein asked the board to consider the Licensure items on the agenda. No board member asked to consider any applications separately.

Motion to approve, contingent upon all requested documents being received and approved in accordance with licensure protocols, the physician and allied professional applicants contained in the handouts provided to Board members.

Motion	Dr. Edgin
2 <sup>nd</sup>	Dr. Saferin
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

Motion to approve, contingent upon all requested documents being received and approved in accordance with licensure protocols, the applicants for a Certificate to Recommend Medical Marijuana contained in the handouts provided to the Board members:

Motion	Dr. Saferin
2 <sup>nd</sup>	Dr. Edgin
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

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## **REPORTS AND RECOMMENDATIONS**

Dr. Schottenstein asked the Board to consider the Reports and Recommendations appearing on the agenda. He asked if each member of the Board received, read and considered the Hearing Record; the Findings of Fact, Conclusions and Proposed Orders; and any objections filed in the matters of: Constance E. Ange, D.O.; Franklin D. Demint, D.O.; Laura Ann Ringenbach; and John Allen Ross, M.D.

Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Bechtel	Y

Dr. Schottenstein further asked if each member of the Board understands that the Board's disciplinary guidelines do not limit any sanction to be imposed, and that the range of sanctions available in each matter runs from Dismissal to Permanent Revocation or Permanent Denial.

Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Bechtel	Y

Dr. Schottenstein stated that in accordance with the provision in section 4731.22(F)(2), Ohio Revised Code, specifying that no member of the Board who supervises the investigation of a case shall participate in further adjudication of the case, the Secretary and Supervising Member must abstain from further participation in the adjudication of any disciplinary matters. In the disciplinary matters before the Board today, Dr. Rothermel served as Secretary and Dr. Saferin served as Supervising Member. In addition, Dr. Bechtel served as Secretary and/or Supervising Member in the matters of Dr. Ange and Dr. Demint. The matter of Dr. Ross is non-disciplinary, and therefore all Board members may vote.

During these proceedings, no oral motions were allowed by either party. Respondents and their attorneys addressing the Board were allotted five minutes to do so. The assistant attorneys general are subject to the same limitations.

### **Constance E. Ange, D.O.**

Dr. Schottenstein directed the Board's attention to the matter of Constance E. Ange, D.O. Objections have been filed and were previously made available to Board members. Mr. Porter was the Hearing Examiner.

Dr. Schottenstein stated that a request to address the Board has been filed on behalf of Dr. Ange. Five minutes will be allowed for that address.

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Dr. Ange was represented by her attorney, Patrick Quinn.

Mr. Quinn asked the Board to consider three key points in this matter. First, Mr. Quinn stated that this is ultimately a case about record-keeping and charting rather than substantive decision-making or prescription decisions by Dr. Ange. Mr. Quinn stated that the Hearing Examiner's Report and Recommendation does not identify any substantive medical or prescription decisions that were so far out of bounds as to warrant discipline. Mr. Quinn stated that while he does not minimize the importance of record-keeping, there is a marked difference between a decision that is utterly indefensible and a decision that is sound and reasonable.

Second, Mr. Quinn stated that the recommended sanction of permanent revocation of Dr. Ange's license is unduly harsh. Mr. Quinn stated that the Hearing Examiner's Report and Recommendation gave no consideration to any of the mitigating factors that the Board has identified as pertinent issues. Mr. Quinn identified the following mitigating factors:

- There is no indication or even a suggestion that Dr. Ange had a dishonest or selfish motive.
- Dr. Ange has made full and free disclosure throughout the investigatory and adjudication process.
- Dr. Ange has demonstrated remorse.
- Dr. Ange has acknowledged that she could have and should have done some things better.
- Dr. Ange has testified about how her practice is different today than it was during the timeframe covered by the Board's initial Notice of Opportunity for Hearing.
- The likelihood of any recurrence of this conduct is low. The remoteness in time (some of the conduct at issue dates back almost a decade to 2010; the most recent events date back three years to 2016) is an indication that there is no ongoing pattern of practice that would suggest a high chance of recurrence.

Mr. Quinn acknowledged that Dr. Ange had been the subject of previous discipline and had been required to complete a medical record-keeping course. However, Mr. Quinn stated that those factors should be considered along with other factors, and should not be a *per se* bar on continued licensure.

Third, Mr. Quinn stated that there is no indication of harm or potential harm to patients in this case. Mr. Quinn acknowledged that the absence of harm does not preclude the finding of a violation, but he opined that it should weigh heavily in determining the proper sanction.

Mr. Quinn stated that due to the nature of the mitigation involved in this case and given the Board's principle goal of protecting the public, lesser sanctions involving some combination of probation, additional education, fines, or conditions on practice would be a far better resolution than permanent revocation of license.

Dr. Schottenstein asked if the Assistant Attorney General wished to respond. Ms. Snyder stated that she wished to respond.

Ms. Snyder stated that though Dr. Ange's record were horrible, this case is beyond record-keeping. Ms. Snyder stated that Dr. Ange's record lacked support for the huge amounts of dangerous drugs that she was prescribing. Ms. Snyder opined that Dr. Ange's medical records demonstrate that she was dangerously cavalier and sloppy in her prescribing of controlled substances, often in dangerous combinations and to very young people. Ms. Snyder stated that Dr. Ange appears to have been simply throwing drugs at these patients' symptoms rather than forming accurate diagnoses using the Diagnostic and Statistical Manual (DSM). Ms. Snyder further stated that these symptoms were often typical life stressors, such as job stress or school stress, which could have been symptoms of a mental diagnosis but there is no reflection of this in the patient records.

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Ms. Snyder added that even if such reflections had been in the records, often the combinations and doses of the prescriptions had no justification.

Ms. Snyder continued that the records do show that Dr. Ange ignored very obvious red flags in several patients. For instance, Dr. Ange continued to prescribe Adderall and Ativan to Patient 1 in combination with opiates even though she knew that Patient 1's pain management physician had recommended sending the patient to a chemical dependency specialist. Dr. Ange also prescribed large amounts of Klonopin to Patient 2 even though the patient was already on Soma and oxycodone. Ms. Snyder noted that Patient 2 had asked Dr. Ange how much of the medications should be taken; Dr. Ange's responded that she would prescribe more. Dr. Ange ultimately prescribed 240 Klonopin pills, 345 mg, in a single week. Patient 2 took a 30-day supply of Klonopin in just eight days. Ms. Snyder commented that this was not a red flag for Dr. Ange. Ms. Snyder stated that Patient 6 underwent inpatient rehabilitation for abusing prescription medications such as Xanax. Immediately after being discharged, Patient 6 was prescribed Klonopin and Vyvance by Dr. Ange. Ms. Snyder stated that all these cases have red flags that an experienced psychiatrist like Dr. Ange should have seen and acted on. Ms. Snyder stated that Dr. Ange rarely ever documented any justification for changing medications or for increasing or decreasing the dosage.

Ms. Snyder pointed out that Dr. Ange has been the subject of Board discipline before, which is noted as an aggravating factor in the Report and Recommendation. As a result of that discipline, Dr Ange was required to take a medical record-keeping course and a prescribing course. So, the Board has already tried to work with Dr. Ange and given her an opportunity. Ms. Snyder stated that what Dr. Ange has been doing in her practice is extremely dangerous, and this is why the State supports the Proposed Order of permanent revocation of Dr. Ange's medical license.

Motion to approve and confirm the Proposed Findings of Fact, Conclusions, and Order in the matter of Dr. Ange:

Motion	Mr. Giacalone
2 <sup>nd</sup>	Dr. Johnson

Dr. Schottenstein stated that he will now entertain discussion in the above matter.

Mr. Giacalone agreed with the Assistant Attorney General, based on Dr. Ange's prescribing history and treatment. Mr. Giacalone stated that Dr. Ange used drugs to treat symptoms without addressing the underlying cause. Mr. Giacalone felt that the volume of drugs prescribed for the patients, especially the use of Klonopin, were significant and he questioned the rationale that went into the decision-making process. While the defense counsel seemed to say that past precedent should not be considered in terms of discipline, Mr. Giacalone disagreed. Mr. Giacalone stated that it is problematic that Dr. Ange has come before the Board again in an egregious case and that she did not get the message the first time.

Dr. Schottenstein stated that this is a minimal standards case, and therefore the Board has to determine whether a typical prudent psychiatrist in good standing and with a similar level of training and experience would practice in a similar way under similar circumstances. Dr. Schottenstein commented that when he reviews a minimal standards case, he starts out with the understanding that hindsight is 20/20 and he tries to give the benefit of the doubt because many of these patient cases are complex and challenging. Nonetheless, Dr. Schottenstein had a sense that Dr. Ange had failed to maintain minimal standards of care with regard to both documentation and prescribing.

Dr. Schottenstein observed that the defense counsel admitted to instances in the record where Dr. Ange could have done better in her charting. However, Dr. Schottenstein stated that the inadequacy was not one of instances, but was more consistent. Dr. Schottenstein stated that the real test of documentation is whether another physician can pick up the chart, read through it, understand the case and treatment plan, and take over for the treating physician is necessary. Dr. Schottenstein opined that this was not the case with Dr.

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Ange's records and there was a consistent lack of documentation of diagnosis, the rationale for the treatment plan, or the risks, benefits, and alternatives to medication choices. Dr. Schottenstein stated that the prescribing documented in these patients was substantially negligent.

Dr. Schottenstein continued that Dr. Ange should have known better than to prescribe in this manner, and he opined that Dr. Ange had put the public at risk. Dr. Schottenstein commented that when he saw the dosages, quantities, and combinations of medications prescribed by Dr. Ange, his first reaction was one of disbelief and that there must have been some mistake in the hearing transcript. Consequently, Dr. Schottenstein found himself going through the exhibits to verify that the transcript was correct. Dr. Schottenstein opined that an ordinary, prudent, typical psychiatrist would conclude that Dr. Ange's prescribing was negligent, excessive, and dangerous. Dr. Schottenstein stated that to say there were instances where documentation could have been better or that the Board's expert witness' concerns had to do with a difference in philosophy is a substantial minimalization of a very worrisome manner of practice. Dr. Schottenstein did not feel that one could make a blanket statement that no patient harm occurred from this prescribing pattern.

Dr. Schottenstein did not believe there was any question that Dr. Ange has practiced below the minimal standards of care. Dr. Schottenstein found it particularly concerning that this behavior occurred after Dr. Ange had completed courses in medical record-keeping and controlled substance prescribing because it demonstrates that the remediation did not positively impact Dr. Ange's practice. Dr. Schottenstein concurred with the Proposed Order of permanent revocation.

Dr. Feibel stated that Dr. Ange failed to keep accurate records and she quickly increased dosages of medications, which put at least eight patients in jeopardy. Noting that Dr. Ange has already had remedial courses in record-keeping and prescription drug management, Dr. Feibel failed to see the benefit in sending her to a remedial course again. Dr. Feibel found it evident in Dr. Ange's testimony that she does not see the ills of her ways. Dr. Feibel stated that he disagrees with the objections raised by Dr. Ange and that permanent revocation is necessary to protect the public.

Vote on the motion to approve and confirm:

Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Bechtel	Abstain

The motion carried.

### **Franklin Donald Demint, D.O.**

Dr. Schottenstein directed the Board's attention to the matter of Franklin Donald Demint, D.O. Objections have been filed and were previously distributed to Board members. Ms. Shamansky was the Hearing Examiner.

Dr. Schottenstein stated that a request to address the Board has been filed on behalf of Dr. Demint. Five minutes will be allowed for that address.

Dr. Demint was represented by his attorney, Heidi Dorn.

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Ms. Dorn stated that Dr. Demint is a physician who is trying to do the right thing. Ms. Dorn stated that Dr. Demint has been sober for nearly a decade, is working his recovery program, and has never had a positive urine drug screen during the nearly ten years that he has been under Board-ordered testing. Ms. Dorn stated that Dr. Demint has a strong desire to continue as a physician and to practice in compliance with all the Board's requirements.

Ms. Dorn continued that Dr. Demint's sobriety is so important to him that his practice as gravitated to addiction medicine and he could continue to serve his southern Ohio community by helping others with addiction. Ms. Dorn stated that Dr. Demint's dedication and efforts in this area have not gone unnoticed. Because Dr. Demint practices addiction medicine the right way, the U.S. Attorney's office has used Dr. Demint as a witness to prosecute corrupt suboxone practitioners in central and southern Ohio. Ms. Dorn further noted that U.S. Attorney Maritsa Flaherty submitted a letter of support for Dr. Demint.

Ms. Dorn stated that Dr. Demint has been under a Board Order for nearly ten years and he has been compliant with those requirements for the vast majority of that time. However, in May 2017 Dr. Demint became very ill with pre-sepsis and renal failure. These illnesses caused changes in Dr. Demint's behavior and his interactions both inside and outside his house. Ms. Dorn stated that all of the alleged violations in the Notice of Opportunity for hearing stem from this illness. Ms. Dorn stated that Dr. Demint understands and recognizes that he should have notified the Board of these things sooner and he is very remorseful for not doing so.

Ms. Dorn noted that Dr. Demint has continued to comply with all the requirements of his Board Order. Ms. Dorn stated that Dr. Demint has been sober since August 3, 2009, and all of his urine drug screens have been negative since that time. Ms. Dorn stated that the positive hair test in November 2018 was due to a laboratory error, according to the testimony of Dr. Demint's expert, Daniel Schwarz, M.D. Ms. Dorn observed that Dr. Schwarz is licensed in Ohio, practices as an addictionologist in Ohio, and works as a laboratory director. Ms. Dorn contrasted this with the State's expert, James Ferguson, D.O., who has never been licensed in Ohio and has not actively practiced medicine since the 1990's. Noting Dr. Ferguson's testimony that marijuana stays in the hair indefinitely, Ms. Dorn stated that Dr. Demint's hair tested negative 90 days after the November positive result and he has had negative hair tests ever since. Ms. Dorn stated that this proves that the November 2018 positive result was likely a laboratory error. Ms. Dorn further noted that both experts have admitted that a single hair test should not be the ultimate determining factor for whether Dr. Demint has relapsed.

Ms. Dorn stated that Dr. Demint has nearly ten years of sobriety which has been documented and proven by the Medical Board. Ms. Dorn reiterated that Dr. Demint has never had a positive urine drug screen in all of the randomized testing conducted by the Board. Ms. Dorn stated that the overwhelming evidence is that the one positive hair test is not indicative that Dr. Demint has relapsed. Ms. Dorn, remarking that Dr. Demint has been under a Summary Suspension since December 2018, asked the Board to credit him with "time served" and reprimand Dr. Demint.

Dr. Demint stated that in May 2017 he was very ill with pre-sepsis and renal failure, along with some other conditions. Dr. Demint stated that he tried to continue working as long as he could, but he was ultimately hospitalized for seven days at the end of May 2017. Dr. Demint stated that the illness caused him to act out of character and he became disoriented and forgetful. Dr. Demint unfortunately missed his bi-annual Board appearance and had to reschedule. Dr. Demint stated that he also acted out of character with his wife and he truly regrets his actions for which he has been punished. Dr. Demint stated that he and his wife have fortunately reconciled. Dr. Demint also regretted his failure to report his conviction to the Board sooner.

Dr. Demint stated that his sobriety is important to him and he wants to continue practicing medicine and helping those who are struggling with addiction.

Dr. Schottenstein asked if the Assistant Attorney General wished to respond. Mr. Wilcox stated that he wished to respond.

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Mr. Wilcox stated that the record in this case is very extensive and he supports the Hearing Examiner's Report and Recommendation. Mr. Wilcox stated that Dr. Demint has been under probationary terms with the Board for almost a decade, and he is once again before the Board today. Mr. Wilcox did not believe that Dr. Demint has shown that the Board can trust him any further with a medical license in Ohio. Mr. Wilcox stated that he will not go through Dr. Demint's extensive disciplinary history other than to point out that he has had multiple instances of discipline for impairment, practicing below the minimal standards of care, misleading the Board, and failing to comply with consent agreements. Dr. Demint continues to be subject to the terms of the Board's order of November 2014.

Mr. Wilcox continued Dr. Demint is here today due to multiple violations, including impairment. Mr. Wilcox stated that Dr. Demint's hair test had been ordered by the Board's Compliance staff because Dr. Demint had had three diluted urine samples, which is a red flag that he had been watering down his samples. As the State's expert Dr. Ferguson convincingly testified, the hair test's positive result is from a metabolite, meaning that the body had ingested marijuana and was not simply transferred by means such as second-hand smoke or saliva. Mr. Wilcox stated that the facts support the contention that Dr. Demint has relapsed on marijuana. Mr. Wilcox added that Dr. Demint does not follow the terms of his Order and he misses personal appearances with the Board's representatives.

Mr. Wilcox stated that the Medical Board often works to help physicians and "fix" them, but he opined that Dr. Demint has shown that he is unfixable. Mr. Wilcox noted that the Proposed Order is for revocation, but he asked the Board to consider permanent revocation of Dr. Demint's medical license because he did not feel that Dr. Demint is amenable to additional probation.

Motion to approve and confirm the Proposed Findings of Fact, Conclusions, and Order in the matter of Dr. Demint:

Motion	Mr. Giacalone
2 <sup>nd</sup>	Dr. Edgin

Dr. Schottenstein stated that he will now entertain discussion in the above matter.

Mr. Giacalone commented that Dr. Demint's attorney seems to want to undermine the credibility of the State's expert. However, Mr. Giacalone opined that the defense expert also seemed to have a credibility issue based upon some of the statements he had made. For example, the defense expert stated that the Food and Drug Administration (FDA) approves laboratories, which is not the case. Rather, Mr. Giacalone pointed out that the FDA approves medical devices and drugs, while other entities, specifically the Centers for Medicare and Medicaid Services (CMS) approves accrediting organizations that inspect and issue Clinical Laboratory Improvement Amendments (CLIA) certificates to laboratories. Mr. Giacalone questioned how someone who was so adamant about his decision concerning the credibility of the testing lab at issue could be unaware of this and misstate this simple fact.

Mr. Giacalone noted the Assistant Attorney General's comment that Dr. Demint has had a long and illustrious career with the Board. Mr. Giacalone opined that this was an understatement, noting that Dr. Demint has been before the Board a number of times. Mr. Giacalone found it difficult to believe the litany of excuses Dr. Demint had offered for how marijuana may have gotten into his system, such as perhaps having ingested food that he had not known had been spiked with marijuana. These facts, coupled with the diluted urine samples that had been submitted by Dr. Demint, led Mr. Giacalone to agree with the Assistant Attorney General that permanent revocation of Dr. Demint's medical license may make sense.

Dr. Feibel stated that Dr. Demint had not been truthful to the Board, and this was Dr. Feibel's major objection in this case. Dr. Feibel noted that Dr. Demint was clearly convicted of domestic violence, yet he still declared to the Board that he was in compliance with his Board Order which states that he must obey all laws and notify

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the Board immediately if that is not the case. Dr. Feibel added that Dr. Demint did not notify the Board even after his conviction. Dr. Feibel opined that Dr. Demint is not remediable and he agreed with Mr. Giacalone's suggestion to permanently revoke Dr. Demint's medical license.

Motion to amend the license revocation in the Proposed Order to a permanent revocation of Dr. Demint's license to practice osteopathic medicine and surgery in Ohio:

Motion	Dr. Feibel
2 <sup>nd</sup>	Mr. Giacalone

Dr. Schottenstein observed that this is a case of mitigation. Dr. Schottenstein stated that Dr. Demint failed to appear at office conferences and he also submitted quarterly declarations stating that he was in full compliance with his Board Order when he was not. After Dr. Demint submitted a hair sample on or about November 2, 2018, which tested positive for cannabinoids and was confirmed for Carboxy-THC, Dr. Demint's medical license was summarily suspended. Dr. Schottenstein further noted that three of the four urine samples Dr. Demint submitted prior to the positive hair test were dilute samples, which strongly suggests, but does not prove, that Dr. Demint had intentionally consumed large amounts of water to mask the presence of marijuana in his urine.

Dr. Schottenstein continued that although he appreciated the defense arguments, he did not find them mitigating in the matter at hand. Dr. Schottenstein did not find Dr. Demint's explanations for missing his office conferences to be either credible or plausible. Dr. Schottenstein opined that it is a very substantial rationalization to say that a conviction in a court of law does not need to be reported to the Board just because it is under appeal. With regard to Dr. Demint's positive marijuana test, Dr. Schottenstein recalled Occam's Razor, the maxim that when one is presented with competing hypotheses, the simplest solution is likely the correct one. In this case, the simplest explanation for the multiple dilute urine screens and the positive hair test, given Dr. Demint's history of marijuana dependence, is that he relapsed. Dr. Schottenstein was not persuaded by the efforts to cast aspersions on the testing process or the suggestion of the possibility of accidental ingestion.

Dr. Schottenstein felt that the Proposed Order of revocation was appropriate, but he questioned whether the revocation should be permanent or non-permanent. Dr. Schottenstein opined that if Dr. Demint's conviction, lack of disclosure to the Board, and failure to attend his office conferences is conceptualized as occurring in the context of his addiction, then a non-permanent revocation would be appropriate. However, if one conceptualizes Dr. Demint's deceitful behavior as separate from his relapse, then Dr. Schottenstein would consider a permanent revocation.

Dr. Schottenstein felt it was fair to say that Dr. Demint has displayed a pattern of deceit with the Board, in both word and deed. Dr. Demint has been unable to maintain a consistent length of time out of trouble, and the Board has been monitoring him for ten years. Dr. Schottenstein was uncertain how the Board could adequately monitor a license who does not comply with the tenets and disclosure requirements of a Board Order. Dr. Schottenstein asked himself, "If we suspend the doctor with extended probation, would I be right to expect anything different going forward? Would anyone be surprised if we're having this conversation again two years from now?" Dr. Schottenstein stated that Dr. Demint is not owning the problem, he is only making excuses for it. Dr. Schottenstein did not see how the Board can help Dr. Demint when he does not appear to want to be helped. Consequently, Dr. Schottenstein agreed with the proposed amendment to permanently revoke Dr. Demint's license.

Ms. Anderson clarified that if the motion to amend the Proposed Order passes, the amended Order of permanent revocation will still include the \$1,000 fine.

Vote on the motion to amend the Proposed Order to a permanent revocation of Dr. Demint's medical license, with a fine of \$1,000:

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Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Bechtel	Abstain

The motion carried.

Motion to approve and confirm the Proposed Findings of Fact, Conclusions, and Order, as amended, in the matter of Dr. Demint:

Motion	Dr. Feibel
2 <sup>nd</sup>	Dr. Giacalone
Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Bechtel	Abstain

The motion carried.

### **Laura Ann Ringenbach**

Dr. Schottenstein directed the Board's attention to the matter of Laura Ann Ringenbach. No objections have been filed. Ms. Lee was the Hearing Examiner.

Dr. Schottenstein stated that a request to address the Board has been filed on behalf of Ms. Ringenbach. Five minutes will be allowed for that address.

Ms. Ringenbach thanked the Board members, and also thanked the Hearing Examiner for her thoughtful Report and Recommendation, with which Ms. Ringenbach concurred. Ms. Ringenbach hoped that after 12 years of recovery and sobriety, continued compliance with the Nursing Board's requirements, and ongoing chemical dependency education, her desire to obtain a respiratory care professional license under the Medical Board guidelines will be viewed as sincere and will be beneficial to her future patients and the public.

Ms. Ringenbach stated that this past week she suffered injuries in a serious auto accident. While in the emergency department, Ms. Ringenbach chose non-narcotic pain medications instead of justifiable pain pills. Ms. Ringenbach stated that she made this choice for her own sobriety rather than any mandated guidelines and that choosing the sober, non-narcotic way demonstrates that she is truly embracing her recovery and recognizing that this is an ongoing part of her life.

Ms. Ringenbach stated that by following the guidelines set forth in the Report and Recommendation, she looked forward to hopefully being granted a respiratory care professional license in Ohio.

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Dr. Schottenstein asked if the Assistant Attorney General wished to respond. Ms. Pelphrey stated that she did not wish to respond.

Motion to approve and confirm the Proposed Findings of Fact, Conclusions, and Order in the matter of Ms. Ringenbach:

Motion	Mr. Giacalone
2 <sup>nd</sup>	Dr. Johnson

Dr. Schottenstein stated that he will now entertain discussion in the above matter.

Dr. Schottenstein stated that it is always troubling to him when there is a respondent who had had a surgery and became addiction to post-surgical opioid medications. Dr. Schottenstein stated that such cases remind him that the Board has opioid prescribing rules for a reason.

Dr. Schottenstein stated that Ms. Ringenbach has a history of severe opioid use disorder, but it has reportedly been in full remission for about 12 years. Ms. Ringenbach has consistently worked a recovery program and she has a sponsor. Dr. Schottenstein felt that Ms. Ringenbach is a candidate for licensure, and he also agreed with the permanent license restrictions recommended by the Hearing Examiner. Therefore, Dr. Schottenstein supported the Hearing Examiner's Proposed Order.

Vote on Mr. Giacalone's motion to approve and confirm:

Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

## **John Allen Ross, M.D.**

Dr. Schottenstein directed the Board's attention to the matter of John Allen Ross, M.D. Objections have been filed and were previously made available to Board members. Ms. Shamansky was the Hearing Examiner.

Dr. Schottenstein stated that a request to address the Board has been filed on behalf of Dr. Ross. Five minutes will be allowed for that address.

Dr. Ross was represented by his attorney, James Leo.

Mr. Leo stated that this case involves Dr. Ross' application for a certificate to recommend medical marijuana (CTR), which was denied based upon Rule 4731-32-02(A)(6), which Mr. Leo referred to as the disciplinary action disqualification rule. Under that rule, a person is prohibited from recommending medical marijuana if he or she has been engaged in inappropriate prescribing, personally furnishing, dispensing, diverting, administering, supplying, or selling a controlled substance or dangerous drug. The proposed denial of Dr. Ross' application is based on an August 2015 Consent Agreement in which Dr. Ross admitted to 1) allowing his nurses to perform an i-lipo procedure in his office, a 2) leaving signed medical prescriptions in his office for

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the nurse to complete so that patients could obtain bloodwork. Mr. Leo stated that neither of these admissions fit the elements of the disciplinary action disqualification rule. Mr. Leo stated that the pre-signed prescriptions Dr. Ross had left for his nurses were for laboratory work, not controlled substances. Mr. Leo added that it was also not an overt, purposeful action, as the disciplinary action disqualification rule would suggest it needs to be to disallow an application for a CTR.

Mr. Leo continue that beyond the elements of the rule, there is another legal aspect to this case. Mr. Leo stated that the disciplinary action disqualification rule became effective in September 2017 and Dr. Ross entered into his Consent Agreement in August 2015. Therefore, the rule is being applied retroactively, which is not allowed under the Ohio constitution or the U.S. constitution. Mr. Leo stated that under case precedent, if a rule does not specifically state that it will be applied retroactively then it is presumed to be applied prospectively.

Mr. Leo stated that Dr. Ross has had a very long career in medicine with no disciplinary actions besides his August 2015 Consent Agreement. Mr. Leo stated that Dr. Ross has served his patients and his community very well. Mr. Leo further noted that Dr. Ross is a cancer survivor and is uniquely qualified to know how his patients can benefit from medical marijuana. Mr. Leo hoped that the Board will take these factors into consideration and grant Dr. Ross' application for a CTR.

Dr. Schottenstein asked if the Assistant Attorney General wished to respond. Mr. Wilcox stated that he wished to respond.

Mr. Wilcox stated that the Proposed Order in this matter is a non-disciplinary denial of Dr. Ross' application for a CTR. Regarding defense counsel's legal arguments about the rule applying retroactively, Mr. Wilcox stated that the rule applies when the applicant submits the application for a CTR; Dr. Ross submitted his application in 2019.

Mr. Wilcox stated that the legislature granted the Medical Board the power to create rules regarding the CTR. One of the rules the Board created was 4731-32-02, Ohio Administrative Code, which outlines the eligibility for a CTR. Among other things, this rule specifies that the applicant must not have been subject to a disciplinary action by any licensing entity based in whole or in part on inappropriate prescribing, personally furnishing, dispensing, diverting, administering, supplying, or selling a controlled substance or other dangerous drug. In Dr. Ross' 2015 Consent Agreement, he admitted to pre-signing blank prescriptions for use by his office staff. Dr. Ross further admitted that that conduct constituted a felony in this state, specifically illegal processing of drug documents, as well as other misdemeanor violations. Mr. Wilcox stated that the key point is not what the prescriptions were ultimately used for, but that Dr. Ross admitted to acts constituting a felony.

Mr. Wilcox continued that the 2015 Consent Agreement was clearly a disciplinary action based on inappropriate prescribing. Mr. Wilcox opined that the Board would be correct to deny Dr. Ross' application based on the fact pattern.

Motion to approve and confirm the Proposed Findings of Fact, Conclusions, and Order in the matter of Dr. Ross:

Motion	Dr. Edgin
2 <sup>nd</sup>	Dr. Kakarala

Dr. Schottenstein stated that he will now entertain discussion in the above matter.

Mr. Giacalone stated that if the defense attorney's argument is correct, then the Board would be unable to prohibit an over-prescriber who was disciplined prior to September 2017 from obtaining a CTR. Mr. Giacalone found this argument difficult to believe and he opined that the Assistant Attorney General's interpretation made more sense.

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Mr. Giacalone stated that in some respects he understands Dr. Ross' argument that the prescriptions had been pre-signed only for laboratory orders. However, the problem Mr. Giacalone had was that he could not go back in time and ascertain with absolute certainty that the pre-signed prescriptions were for laboratory tests. If Mr. Giacalone could do that, he may possibly agree with the defense argument. Mr. Giacalone observed that the Consent Agreement included an interpretation that Dr. Ross had violated the Board's controlled substance requirements. Mr. Giacalone did not see how the Board could give Dr. Ross the benefit of the doubt because it would then have to give the benefit of the doubt in every other case.

Dr. Schottenstein stated that sometimes a sympathetic licensee comes before the Board with a request that is contrary to a statute or rule, and the statute or rule is written in such a way that the Board does not have the discretion to deviate from it even if it might want to. Dr. Schottenstein stated that this matter feels like one of those cases. Dr. Schottenstein stated that Dr. Ross appears to be credible and persuasive, but the facts give him pause in terms of granting a CTR.

Dr. Schottenstein made some observations regarding the defense counsel's concerns about unconstitutional retroactive application of the rule. First, the rule was approved by the Joint Commission on Agency Rule Review (JCARR) without objections. Second, the rule uses the same language that has been used in the Board's pain clinic rule. So until it is shown otherwise, Dr. Schottenstein felt it was fair to say that it is a valid rule. Dr. Schottenstein stated that he has had a lot of thoughts on this matter, but this is all he will say on it.

Dr. Schottenstein continued that the defense believes the rule speaks to affirmative acts concerning inappropriate prescriptions and that the act of leaving signed prescriptions with staff, while inappropriate, was passive in nature. The defense further believes that in any event, the pre-signed prescriptions were for laboratory work and not controlled substances. However, Dr. Schottenstein stated that it is an affirmative act to sign a blank prescription that can be used for a controlled substance. Dr. Schottenstein elucidated that just because the prescriptions were intended for laboratory work does not mean they could not be diverted and used for another purpose.

Dr. Schottenstein appreciated the defense counsel's point that there is a contradiction in that, if Dr. Ross' application is denied, he will still be able to prescribe and dispense opioids and not allowed to recommend medical marijuana. Dr. Schottenstein stated that he will not argue that point, but he would say that there are oftentimes contradictions in the law which may be remedied by amending the law as the situation warrants. Right now, the Medical Board has the law that it has and it is the Board's obligation to enforce it. Dr. Schottenstein agreed with the Proposed Order to deny Dr. Ross' application for a CTR.

Vote on the motion to approve and confirm:

Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Bechtel	Abstain

The motion carried.

### **FINDINGS, ORDERS, AND JOURNAL ENTRIES**

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Dr. Schottenstein stated that in the following matters, the Board issued Notices of Opportunity for Hearing and documentation of Service was received for each. There were no timely requests for hearing filed, and more than 30 days have elapsed since the mailing of the Notices. These matters are therefore before the Board for final disposition. These matters are non-disciplinary in nature, and therefore all Board members may vote.

### **Howard Chad Larky, D.O.**

Dr. Schottenstein stated that Dr. Larky has applied for a certificate to recommend the medical use of marijuana. The Board has proposed to deny Dr. Larky's application because the doctor has previously been subject to disciplinary action that was based, in whole or part, on inappropriately prescribing a controlled substance or other dangerous drug, making him ineligible for a certificate to recommend.

Motion to find that the allegations set forth in the January 22, 2019 Notice of Opportunity for Hearing have been proven to be true by a preponderance of the evidence, and that the Board enter an Order, effective immediately upon mailing, denying Dr. Larky's application for a certificate to recommend the medical use of marijuana:

Motion	Dr. Edgin
2 <sup>nd</sup>	Dr. Saferin
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

### **Alesha Lynn Lifka, M.T.**

Dr. Schottenstein stated that Ms. Lifka has applied for restoration of her certificate to practice massage therapy. The Board has notified Ms. Lifka that it proposed to approve her application, provided that she take and pass the Massage and Bodywork Licensing Examination (MBLEx) due to the fact that Ms. Lifka has not engaged in the active practice of massage therapy for more than two years.

Motion to find that the allegations set forth in the February 13, 2019 Notice of Opportunity for Hearing have been proven to be true by a preponderance of the evidence and that the Board enter an Order, effective immediately upon mailing, approving Ms. Lifka's application for restoration of her license to practice massage therapy in the State of Ohio, provided that she takes and passes the MBLEx within six months of the mailing of the Notice of Opportunity for a Hearing:

Motion	Dr. Saferin
2 <sup>nd</sup>	Dr. Edgin
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y

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Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

### **Abhishek Ramadhin, M.D.**

Dr. Schottenstein stated that Dr. Ramadhin has applied for a license to practice medicine and surgery in Ohio. The Board has proposed to deny Dr. Ramadhin's application due to the fact that he has not successfully completed at least 24 months of graduate medical education through the second-year level or its equivalent, as determined by the Board.

Motion to find that the allegations set forth in the April 10, 2019 Notice of Opportunity for Hearing have been proven to be true by a preponderance of the evidence, and that the Board enter an Order, effective upon Board mailing, denying Dr. Ramadhin's application for a license to practice medicine and surgery in Ohio:

Motion	Dr. Saferin
2 <sup>nd</sup>	Dr. Kakarala
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

### **Randy Michael Smith, D.O.**

Dr. Schottenstein stated that Dr. Smith has applied for a certificate to recommend the medical use of marijuana. The Board has proposed to deny Dr. Smith's application because the doctor does not currently hold an active, unrestricted license to practice medicine and surgery or osteopathic medicine and surgery, due to an April 10, 2019 Step I Consent Agreement that indefinitely suspended the doctor's license for at least 180 days, with general probationary requirements, and conditions for reinstatement or restoration, including the requirement that the doctor enter into a subsequent consent agreement incorporating probationary terms, conditions and limitations as determined by the Board.

Motion to find that the allegations set forth in the May 10, 2019 Notice of Opportunity for Hearing have been proven to be true by a preponderance of the evidence, and that the Board enter an Order, effective upon Board mailing, denying Dr. Smith's application for a certificate to recommend the medical use of marijuana:

Motion	Dr. Saferin
2 <sup>nd</sup>	Dr. Kakarala
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y

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Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

**Monica Shane Waldorf, M.T.**

Dr. Schottenstein stated that Ms. Waldorf has applied for restoration of her certificate to practice massage therapy. The Board has notified Ms. Waldorf that it proposed to approve her application, provided that she take and pass the Massage and Bodywork Licensing Examination (MBLEx) due to the fact that Ms. Waldorf has not engaged in the active practice of massage therapy for more than two years.

Motion to find that the allegations set forth in the February 13, 2019 Notice of Opportunity for Hearing have been proven to be true by a preponderance of the evidence, and that the Board enter an Order, effective upon Board mailing, approving Ms. Waldorf’s application for restoration, provided that she takes and passes the MBLEx within six months of the date of the certificate of mailing of the Notice of Opportunity for a Hearing:

Motion	Dr. Saferin
2 <sup>nd</sup>	Dr. Edgin
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

**EXECUTIVE SESSION I**

Motion to go into Executive Session to confer with the Medical Board’s attorneys on matters of pending or imminent court action, and for the purpose of deliberating on proposed consent agreements in the exercise of the Medical Board’s quasi-judicial capacity:

Motion	Dr. Saferin
2 <sup>nd</sup>	Dr. Kakarala
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

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The Board went into Executive Session at 10:52 a.m. and returned to public session at 12:11 p.m.

The Board meeting recessed at 12:12 p.m. The meeting resumed at 1:15 pm

## **EXECUTIVE SESSION II**

Motion to go into Executive Session for the purpose of preparing for, conducting, or reviewing negotiations or bargaining sessions with public employees concerning their compensation or other terms and conditions of their employment; and to consider the appointment, employment, dismissal, discipline, promotion, demotion, or compensation of a public employee or official:

Motion	Dr. Edgin
2 <sup>nd</sup>	Dr. Bechtel
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

The Board went into Executive Session at 1:15 p.m. and returned to public session at 1:52 p.m.

## **EXECUTIVE DIRECTOR REVIEW COMMITTEE REPORT**

Dr. Schottenstein stated that the Executive Director Review Committee met earlier today to discuss Mr. Groeber's performance as Executive Director. The consensus of the Committee was that Mr. Groeber has done a superior job, is very effective and professional, and the Committee was very pleased with his performance.

Motion to approve a 2.75% pay increase for the Executive Director, effective the pay period that includes July 1, 2019, and an additional merit increase of .75%, pending approval of the Governor's office:

Motion	Dr. Saferin
2 <sup>nd</sup>	Dr. Edgin
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Abstain
Dr. Bechtel	Y

The motion carried.

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**SETTLEMENT AGREEMENTS**

**George A. Southiere, M.D.**

Motion to ratify the proposed Voluntary Permanent Retirement with George A. Southiere, M.D.:

Motion	Dr. Kakarala
2 <sup>nd</sup>	Dr. Johnson
Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Bechtel	Abstain

The motion carried.

**Melissa Lynn Verchio, M.D.**

Motion to ratify the proposed Step II Consent Agreement with Melissa Lynn Verchio, M.D.:

Motion	Dr. Kakarala
2 <sup>nd</sup>	Dr. Edgin
Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Bechtel	Abstain

The motion carried.

**Pankaj Chand Gupta, M.D.**

Motion to ratify the proposed Consent Agreement with Pankaj Chand Gupta, M.D.:

Motion	Dr. Kakarala
2 <sup>nd</sup>	Dr. Johnson
Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y

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Dr. Bechtel	Y
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The motion carried.

### **SPM, D.O.**

Mr. Giacalone recommended that the Board not accept this proposed Consent Agreement. Mr. Giacalone stated that this physician had a case in Kentucky involving egregious conduct. Although the Kentucky Board of Medical Licensure took action, Mr. Giacalone felt that the action was insufficient. Mr. Giacalone stated that this physician should be held accountable and should be brought before the State Medical Board of Ohio for discipline.

No motion was made to ratify the proposed Consent Agreement. The proposed Consent Agreement was not ratified.

### **Stewart I. Adam, III, M.D.**

Motion to ratify the proposed Consent Agreement with Stewart I. Adam, III, M.D.:

Motion	Dr. Kakarala
2 <sup>nd</sup>	Dr. Johnson
Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Bechtel	Abstain

The motion carried.

### **Thomas James Gantner, P.A.**

Motion to ratify the proposed Step II Consent Agreement with Thomas James Gantner, P.A.:

Motion	Dr. Kakarala
2 <sup>nd</sup>	Dr. Johnson
Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

### **Allen M. Amorn, M.D.**

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Motion to ratify the proposed Probationary Consent Agreement with Allen M. Amorn, M.D.:

Motion	Dr. Edgin
2 <sup>nd</sup>	Dr. Kakarala
Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

### **Jon Berkeley Silk, Jr., M.D.**

Motion to ratify the proposed Step I Consent Agreement with Jon Berkeley Silk, Jr., M.D.:

Motion	Dr. Johnson
2 <sup>nd</sup>	Dr. Edgin
Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Bechtel	Abstain

The motion carried.

### **Kenice R. Frank D.P.M.**

Motion to ratify the proposed Permanent Surrender with Kenice R. Frank, D.P.M.:

Motion	Dr. Kakarala
2 <sup>nd</sup>	Dr. Edgin
Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

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## Roman Michael Dale, M.D.

Motion to ratify the proposed Consent Agreement with Roman Michael Dale, M.D.:

Motion	Dr. Kakarala
2 <sup>nd</sup>	Dr. Johnson
Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

## NOTICES OF OPPORTUNITY FOR HEARING, ORDERS OF SUMMARY SUSPENSION, ORDERS OF IMMEDIATE SUSPENSION, AND ORDERS OF AUTOMATIC SUSPENSION

Ms. Marshall presented the following Citations to the Board for consideration:

1. Dominick Braccia, D.O.: Based on action by the State Board of Medicine of the Commonwealth of Pennsylvania. This proposed citation does not include an Immediate Suspension because the physician's Ohio medical license has lapsed.
2. Eric O. Hernandez, L.M.T.: A Summary Suspension, based on failure to submit to a Board-ordered examination.
3. Lara Kollab, D.O.: Based on discriminatory comments that the Board alleges failed to demonstrate good moral character, as well as false statements related to the practice of medicine. This physician has a training certificate but is not currently in a training program.
4. Frank Lazzerini, M.D.: Based on numerous felony offenses, including involuntary manslaughter, aggravated drug trafficking, and engaging in a pattern of corrupt activity. This proposed citation is not an Immediate Suspension because the physician's Ohio medical license has been suspended for the last three years under a consent agreement.
5. Van L. Malia, D.O.: Based on a public disciplinary action by the Georgia Composite Medical Board.
6. Marissa Maia Mertz, M.D.: Based on failure to comply with any of the terms and conditions of the physician's March 2019 Step I Consent Agreement.
7. George P. Naum, III, D.O.: An Immediate Suspension, based on having been found guilty of several federal drug-related crimes.
8. Anthony Todde Securo, M.D.: Proposed denial of an applicant for licensure, based on multiple disciplinary actions in Georgia between 2004 and 2013 and a disciplinary action by the West Virginia Board of Medicine in 2017.
9. W. L. Gregory Siefert, M.D.: Based on action by the Board of Medical Licensure of the Commonwealth of Kentucky related to prescribing.
10. Rodney J. Williams, M.D.: Proposed denial of an applicant for licensure, based on a history of a surrender of his Drug Enforcement Administration (DEA) registration, and also a March 2019

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disciplinary action by the Pennsylvania State Board of Medicine related to practicing while his license was inactive and prescribing below the minimal standards of care.

Motion to approve and issue proposed Citation #4:

Motion	Dr. Johnson
2 <sup>nd</sup>	Dr. Edgin
Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Bechtel	Abstain

The motion carried.

Motion to approve and issue proposed Citation #'s 1, 3, 5, 6, 8, 9, and 10:

Motion	Dr. Kakarala
2 <sup>nd</sup>	Dr. Edgin
Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

Motion to approve and issue proposed Citation #2, a Summary Suspension:

Motion	Dr. Kakarala
2 <sup>nd</sup>	Dr. Edgin
Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

Motion to approve and issue Citation #7, an Immediate Suspension:

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Motion	Dr. Kakarala
2 <sup>nd</sup>	Dr. Johnson
Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Bechtel	Abstain

The motion carried.

### **RULES & POLICES**

Mr. Groeber announced that, regrettably, Ms. Debolt will retire at the end of August. The Board agreed that Ms. Debolt has done an excellent job as the Board's senior counsel. The Board congratulated Ms. Debolt and wished her well.

### **Rules for Adoption**

Motion to adopt, amend, and rescind the twenty-five rules as described in the June 24, 2019 memorandum from Ms. Debolt and to assign each rule action the effective date of July 31, 2019.

Motion	Dr. Bechtel
2 <sup>nd</sup>	Dr. Saferin
In Favor	All
Opposed	None

The motion carried.

### **OPERATIONS REPORT**

**Human Resources:** Mr. Groeber stated that hiring is on hold pending the passage of a budget bill in the legislature, though the Board is poised to bring in some applicants for a couple of positions. Mr. Groeber stated that the hiring process for the investigator position in Montgomery County will begin as soon as possible.

**Agency Operations:** Mr. Groeber stated that the total number of licenses issued has increased and the total number of open cases has decreased. Mr. Groeber stated that administrative triage has seen a spike which is mostly due to a timing issue. Mr. Groeber stated that agency operations in terms of complaint management is good.

Licensure statistics continue to be up year-to-date, though that increase is beginning to level out. Mr. Groeber noted that when the Medical Board merged with the Ohio Board of Dietetics and the Ohio Respiratory Care Board it saw increases in licensure in the range of 10%, but now the increases are back down to a normal 2% to 3%. Licenses are also being issued faster.

**Proposed New Minimum Disciplinary Guidelines related to Sexual Misconduct:** Ms. Marshall stated that the objective of this proposal is to be more proactive on sexual misconduct cases at an earlier point and to

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have appropriate discipline for lower-level offenses. The proposed new guidelines would divide sexual misconduct violations into two categories: One category will involve touching and the other will involve comments. The proposed guidelines will allow the Board to take more actions on licensees making inappropriate comments or using their physician/patient balance of power in a way that is inappropriate but has not yet escalated into violations that involve touching.

Under the proposed new guidelines, violations involving comments would have a minimum discipline of a reprimand, probation until the completion of an approved boundaries course, and a fine of \$1,000 to \$5,000. The current sexual misconduct guidelines will be kept with a modification to clarify that it applies to violations involving touching.

Motion that the minimum disciplinary guidelines related to sexual misconduct be adopted as proposed, effective immediately:

Motion	Dr. Bechtel
2 <sup>nd</sup>	Dr. Edgin
In Favor	All
Opposed	None

The motion carried.

**Medical Marijuana Expert Contracts:** In response to a question from Dr. Schottenstein, Mr. Groeber explained that since the legislature passed a temporary two-week budget, the Board had to prioritize which contracts to undertake for this brief period and which should not be authorized until a permanent budget is passed. It was determined that contracts for medical marijuana experts will be among those that will wait until the permanent budget passes. Because the experts could not be under contract at this time, the Medical Marijuana Expert Review Committee did not meet today.

### **REPORTS BY ASSIGNED COMMITTEES**

#### **Physician Assistant Policy Committee Report**

Ms. Debolt stated that the Physician Assistant Policy Committee (PAPC) meetings by telephone conference are going very well. At this month's meeting, which was attended by Dr. Schottenstein, the PAPC discussed the proposed detoxification rules and recommended that they be filed with the Common Sense Initiative (CSI) as drafted. The PAPC also approve language for two rules dealing with standards for surgery and requirements for assessing and granting clearance for youth to return to practice or competition after head injuries.

#### **Compliance Committee Report**

Dr. Schottenstein stated that the Compliance Committee last met on June 12, 2019. There were five initial appearances: Hollie Aneshansley, M.T.; Larry Doss, M.D.; Gerry Hsu, P.A.; Muyuan Ma, M.D.; Melissa Verchio, M.D. The Compliance Committee voted to continue all licensees under the terms of their agreements. The Compliance Committee also approved the Compliance Staff's Reports of Conferences for office conferences held May 6 and May 7, 2019, followed by the approval of the draft minutes from the May 8, 2019 Compliance Committee meeting. There were no treatment provider applications to review during the June meeting.

#### **Dietetics Advisory Council Report**

Mr. Smith stated that the Dietetics Advisory Council met yesterday to discuss potential changes to the continuing education rules for dietitians. The Council also discussed a new requirement of the Commission on

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Dietetic Registration (CDR), effective January 2024, that will require an individual to have a graduate degree in order to take the CDR examination, and what effect, if any, this new requirement will have on dietetics licensure in Ohio.

Mr. Smith continued that Ms. Pollock provided a communications update, including an advance look at an item written by Julie Williams about collaboration between physicians and dietitians that will appear in the next Medical Board magazine. Ms. Pollock and the Council also discussed additional ways that communication could be furthered on issues such as the malnutrition prevention report and other information in the next several issues of the magazine. Mr. Smith commented that the Council continues to be impressed with the work of the Communications group.

The Council also reviewed statistics regarding complaints filed against dietetics licensees. The Council's consensus was that statistical analysis related to these complaints are very similar to what had been seen in the past by the Ohio Board of Dietetics.

The Council received an update on the continued search for a consumer member of the Council. Mr. Smith hoped to have the new consumer member in place by the next meeting of the Council.

## **Licensure Committee Report**

### Licensure Application Reviews

#### Katherine M. Armbruster, M.T.

Dr. Saferin stated that Ms. Armbruster has applied for restoration of her Ohio massage therapy license. Ms. Armbruster's application does not indicate any massage therapy practice within the last two years. The Licensure Committee has recommended approving Ms. Armbruster's application, provided she take and pass the Massage and Bodywork Licensing Examination (MBLEx).

Motion to approve Ms. Armbruster's application for restoration of her Ohio license, contingent on her passing of the MBLEx within six months from the date of mailing of the Notice of Opportunity for a Hearing:

Motion	Dr. Saferin
2 <sup>nd</sup>	Dr. Bechtel
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

#### Karla A. Hall

Dr. Saferin stated that Ms. Hall has applied for a massage therapy license in Ohio. Ms. Hall advised she has not actively practiced massage therapy with the past two years. However, Ms. Hall passed the Massage and Bodywork Licensing Examination (MBLEx) on May 15, 2019. The Licensure Committee has recommended approving Ms. Hall's application as presented.

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Motion to approve Ms. Hall's application for an Ohio license as presented:

Motion	Dr. Saferin
2 <sup>nd</sup>	Dr. Bechtel
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

## Amy Miller, R.C.P.

Dr. Saferin stated that Ms. Miller has applied for restoration of her Ohio Respiratory Care Professional (RCP) license. Ms. Miller has not practiced as a respiratory care professional in the last two years. The Licensure Committee has recommended approving Ms. Miller's application, provided she takes and passes the Therapist Multiple-Choice Examination (TMC).

Motion to approve Ms. Miller's application for restoration of her Ohio license, contingent on successful completion of the TMC within six months from the date of mailing of the Notice of Opportunity for a Hearing:

Motion	Dr. Saferin
2 <sup>nd</sup>	Dr. Edgin
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

## Tonie Perez, R.C.P.

Dr. Saferin stated that Ms. Perez has applied for restoration of her Ohio Respiratory Care Professional (RCP) license. Ms. Perez has not practiced as a respiratory care professional for that last two years. The Licensure Committee has recommended approving Ms. Perez's application, provided she take and pass the Therapist Multiple-Choice Examination (TMC).

Motion to approve Ms. Perez's application for restoration of her Ohio license contingent on successful completion of the TMC within six months from the date of mailing of the Notice of Opportunity for a Hearing:

Motion	Dr. Saferin
2 <sup>nd</sup>	Dr. Edgin

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Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

Jennifer L. Rader

Dr. Saferin stated that Ms. Rader has applied for a massage therapy license in Ohio. Ms. Rader has not practiced as a massage therapist in the last two years. The Licensure Committee has recommended approving Ms. Rader’s application, provided she take and pass the Massage and Bodywork Licensing Examination (MBLEx).

Motion to Approve Ms. Rader’s application for an Ohio license, contingent on successful completion of the MBLEx within six months from the date of mailing of the Notice of Opportunity for a Hearing:

Motion	Dr. Saferin
2 <sup>nd</sup>	Dr. Edgin
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

Steven Sutter, M.D.

Dr. Saferin stated that Dr. Sutter has applied for a license to practice medicine and surgery in Ohio. Dr. Sutter has not practiced clinical medicine in the last two years. The Licensure Committee has recommended approving Dr. Sutter’s application as presented.

Motion to approve Dr. Sutter’s request for Ohio licensure as presented:

Motion	Dr. Saferin
2 <sup>nd</sup>	Dr. Rothermel
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y

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Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

### Kaye Wissler, M.T.

Dr. Saferin stated that Ms. Wissler has applied for restoration of her Ohio massage therapy license. Ms. Wissler has not practiced massage therapist in the last two years, but she passed the Massage and Bodywork Licensing Examination (MBLEx) on April 23, 2019. The Licensure Committee has recommended approving Ms. Wissler’s application as presented.

Motion to approve Ms. Wissler’s application for restoration as presented:

Motion	Dr. Saferin
2 <sup>nd</sup>	Dr. Rothermel
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

### Approval of Respiratory Care Continuing Education Courses

Dr. Saferin stated that the Board received a request to approve the presentation “Ethical Considerations Surrounding Lung Transplantation” for one contact hour of continuing education on Ohio respiratory care law or professional ethics. The Licensure Committee has recommended approval of this request.

Motion that the presentation “Ethical Considerations Surrounding Lung Transplantation” be approved for one contact hour of Respiratory Care Continuing Education on Ohio respiratory care law or professional ethics, pursuant to the provisions of chapter 4761-9 of the Ohio Administrative Code:

Motion	Dr. Saferin
2 <sup>nd</sup>	Dr. Edgin
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

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Dr. Saferin stated that the Board received a request to approve the presentation “Ethics in Health Care Professional Practice” for one contact hour of continuing education on Ohio respiratory care law or professional ethics. The Licensure Committee has recommended approval of this request.

Motion that the presentation “Ethics in Health Care Professional Practice” be approved for one contact hour of Respiratory Care Continuing Education on Ohio respiratory care law or professional ethics, pursuant to the provisions of chapter 4761-9 of the Ohio Administrative Code:

Motion	Dr. Saferin
2 <sup>nd</sup>	Dr. Bechtel
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

### **Finance Committee Report**

#### **Fiscal Report**

Dr. Schottenstein stated that the Board’s May 2019 revenue was \$778,931, a decrease from April 2019 likely due to the fact that there were no license renewal deadlines in May. Revenue is up by 1% year-to-date. Dr. Schottenstein commented that the June numbers look good so far and he hoped that revenue for the Fiscal Year would ultimately be in the 2% to 3% range. The Board had a net positive revenue of \$20,993 for May 2019 and the Fiscal Year-to-date net revenue is \$412,743. The Board’s cash balance is very substantial at \$5,013,439, which is close to a record.

Dr. Schottenstein stated that expenditures are up by 8.4% year-to-date, which is substantially a function of large invoices that the Board recently paid for work on the e-License system. Dr. Schottenstein noted that the expense the Board pays for expert witnesses has increased on a monthly basis and he considered that to be money well spent. Dr. Schottenstein further noted that payroll is down, largely due to vacancies. Dr. Schottenstein observed that the Board is well under its spending authority.

Dr. Schottenstein stated that the Board has not received any disciplinary or continuing medical education (CME) fines since the last report, though the Board did receive an \$11,770 settlement in the matter of Amir Zia, M.D.

#### **Communications Update**

Dr. Schottenstein stated that proposals for the cultural competency video and human trafficking video are due July 15 and so far there are four bids for each.

The Communications team will provide a Spanish resource for translation of the public records request policy, as well as for the document regarding how to file a complaint.

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The Committee received a final proof from Publishing Concept for the Medical Board magazine and a final version should be ready for approval soon. The Medical Board is drafting content to inform licensees about the one-bite program and that content will be synchronized with the content of the Ohio Physicians Health Program (OPHP). There will be ongoing education and outreach material on this topic through various modes of communication.

Dr. Schottenstein stated that in the past, Board members have volunteered to review articles and provide feedback for the Medical Board magazine prior to publication. Dr. Bechtel and Dr. Edgin volunteered to review articles and provide feedback.

### Approval for Attendance at the Tri-Regulatory Meeting

Dr. Schottenstein stated that the Finance Committee has recommended approval of this travel request.

Motion to approve travel expenses in accordance with state travel policy for Michael Schottenstein, M.D., to attend the Tri-Regulatory Board meeting, hosted by the Federation of State Medical Boards, in Frisco, Texas on September 26-27, 2019; that such expenses are not expected to exceed \$2,000; and that Dr. Schottenstein's attendance at the meeting is in connection with his responsibilities and is related to his position as a member of the State Medical Board of Ohio; and to approve travel expenses with the same stipulations for other Board or staff members who wish to attend the meeting; and that the attendance of any additional individuals will be in connection with their responsibilities and related to their positions as members of the State Medical Board of Ohio or members of the Medical Board staff:

Motion	Dr. Saferin
2 <sup>nd</sup>	Dr. Edgin
In Favor	All
Opposed	None
Abstain	Dr. Schottenstein

The motion carried.

### Approval for Purchase of Additional Salesforce Development Hours

Dr. Schottenstein stated that the Finance Committee has recommended approval of the proposal to purchase additional Salesforce development hours.

Motion to approve the purchase of additional Salesforce development hours from the Department of Administrative Services Office of Information Technology (DAS OIT) of up to \$49,500 for Fiscal Year 2020 to support system fixes and improvements for the e-License system:

Motion	Dr. Saferin
2 <sup>nd</sup>	Dr. Bechtel
In Favor	All
Opposed	None

The motion carried.

### Approval of FETI Trauma-Informed Training

Dr. Schottenstein stated that the Finance Committee has recommended approval of the Forensic Experiential Trauma Interview (FETI) training for up to 29 of the Board's investigators and enforcement attorneys.

## State Medical Board of Ohio Meeting Minutes – July 10, 2019

Motion to approve sending 29 Board staff members to FETI training facilitated by the Ohio Attorney General's office at an expense not to exceed \$49,300:

Motion	Dr. Edgin
2 <sup>nd</sup>	Dr. Saferin
In Favor	All
Opposed	None

The motion carried.

### **Policy Committee Report**

Mr. Giacalone stated that the Policy Committee received a legislative update as well as a rule review update at its meeting this morning.

### **Detoxification Rules**

Motion to approve filing of the detoxification rules 4730-04-01, 4730-04-02, 4731-33-01 and 4731-33-02 with the Common Sense Initiative (CSI):

Motion	Dr. Saferin
2 <sup>nd</sup>	Dr. Edgin
In Favor	All
Opposed	None

The motion carried.

### **PROBATIONARY REQUESTS**

Motion to approve the Secretary and Supervising Member's recommendations for the following probationary requests:

- a) Daniel I. Borison, M.D.: Approval of request for release from the terms of the February 13, 2019 Consent Agreement.
- b) Gregory G. Duma, M.D.: Approval of request for authority to administer, personally furnish and/or possess controlled substances.
- c) Yamini Jadcherla, M.D.: Approval of Kristin S. Stukus, M.D. to serve as the monitoring physician; determination of the frequency and number of charts at ten charts per month specifically reviewing patients charts when controlled substances are prescribed; and approval of authority to administer, personally furnish or possess controlled substances while participating in the fellowship program.
- d) Craig M. Jarrett, M.D.: Approval of release from the terms of the September 12, 2018 Consent Agreement.
- e) David O'Connell, M.D.: Approval of discontinuance of the psychiatric treatment requirement.
- f) Sreelatha Pulakhandam, M.D.: Approval of release from the terms of the April 10, 2019 Consent Agreement.
- g) M. Salim Ratnani, M.D.: Approval of request to reduce psychiatric treatment sessions to every three months.
- h) Shane T. Sampson, M.D.: Approval of request for release from the terms of the August 9, 2017 Consent Agreement.

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- i) Randy M. Smith, D.O.: Approval of Kathleen E. Dorsten, M.A., I.M.F.T., to serve as the treating psychotherapist.
- j) Aubrey D. Winkler, P.A.: Approval of request to reduce appearances from to annually.

Motion	Dr. Feibel
2 <sup>nd</sup>	Dr. Edgin
Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Bechtel	Abstain

The motion carried.

### **TREATMENT PROVIDER APPLICATIONS**

Motion to approve the Application for Certificate of Good Standing as a Treatment Provider for Impaired Practitioners for Caron Treatment Centers:

Motion	Dr. Rothermel
2 <sup>nd</sup>	Dr. Saferin
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

Motion to approve the Application for a Certificate of Good Standing as a Treatment Provider for One-Bite Participants for Positive Sobriety Institute:

Motion	Dr. Johnson
2 <sup>nd</sup>	Dr. Saferin
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Bechtel	Y

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The motion carried.

## **FINAL PROBATIONARY APPEARANCES**

### **Janice E.G. Douglas, M.D.**

In response to questions from Dr. Schottenstein, Dr. Douglas stated that she currently practices for the Ohio Department of Rehabilitation and it is the most interesting work she has ever done. Dr. Douglas felt that she helps a lot of people. Dr. Douglas stated that she had previously been involved in research for 29 years. Dr. Douglas did not anticipate returning to research in the future.

Dr. Schottenstein observed that in 2002 Dr. Douglas had helped a friend obtain millions of dollars' worth of computer equipment. At that time, it appeared that Dr. Douglas did not understand the nature of the concerns about her behavior. Dr. Douglas opined that that perception is due to a misinterpretation. Dr. Douglas stated that extensive court hearings in Boston made it clear that she had unknowingly been taken advantage of by a con artist. Dr. Douglas stated that after a hung jury she did not have enough money to go back a second time, even though other people had been found not guilty.

Responding to further questions from Dr. Schottenstein regarding recovery, Dr. Douglas replied that today is her birthday and it is her 14<sup>th</sup> sober birthday, having 14 years of sobriety. Dr. Schottenstein congratulated Dr. Douglas on this achievement. Dr. Douglas stated that she has a sponsor and she also sponsors other people. Dr. Douglas attends three to four meetings per week and has no plans to change that following her release from probation. Dr. Douglas stated that she likes her meetings and she has served as chair and as secretary of meetings.

Motion to release Dr. Douglas from the terms of the Board's Order of July 13, 2011, effective immediately:

Motion	Dr. Edgin
2 <sup>nd</sup>	Dr. Johnson
Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Bechtel	Abstain

The motion carried.

### **James T. Lutz, M.D.**

Dr. Schottenstein noted that Dr. Lutz had had issues with the Board involving light-based medical devices, phentermine, and prescribing medicine to a family member in a non-emergency situation. Dr. Schottenstein asked about Dr. Lutz's plans for proceeding with medical practice. Dr. Lutz responded that he would like to reobtain his occupational medicine certification, which he lost due to his disciplinary action. Dr. Lutz also has interest in addiction medicine and suboxone treatment, having already obtained certification to treat up to 100 patients with Suboxone. Dr. Lutz will likely go into either occupational medicine or addiction medicine, or a combination of both.

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Dr. Schottenstein asked if Dr. Lutz has learned from his experiences and if he sees that his behavior had been instrumental in his coming before the Board. Dr. Lutz stated that he takes responsibility for what he did and he has learned that he should have used the Board as a resource instead of relying on other people. Dr. Schottenstein observed that Dr. Lutz had taken the prescribing course at Case Western Reserve University and had also be involved in the Center for Personalized Education for Physicians (CPEP). Dr. Schottenstein asked if those were valuable experiences for Dr. Lutz. Dr. Lutz replied that the experiences were valuable.

Dr. Schottenstein asked if Dr. Lutz had any questions for the Board. Dr. Lutz had no questions.

Motion to release Dr. Lutz from the terms of his December 9, 2015 Consent Agreement, effective immediately:

Motion	Dr. Kakarala
2 <sup>nd</sup>	Dr. Edgin
Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Bechtel	Abstain

The motion carried.

### **Elizabeth S. Unk, M.D.**

Responding to questions from Dr. Schottenstein, Dr. Unk stated that things are going very well for her, both personally and professionally. Dr. Unk stated that she is married and has three children aged 13, 10, and 6. Dr. Unk is still with the same practice in Worthington, Ohio, working part-time three days per week. Dr. Unk stated that she has a good work/life balance. Dr. Unk added that her recovery is going very well and she has made incredible friendships and connections in the recovery community. Dr. Unk stated that she will continue with her sponsor moving forward. Dr. Unk stated that she has had sponsees in the past, but does not have any sponsees currently.

Dr. Unk continued that her accident had been very public and that was very difficult, but it was also a blessing because she has been able to be open about it with her patients. This has enabled Dr. Unk's patients to be more open and forthcoming with her and to know that there would be no judgment. Dr. Unk was pleased that she has been able to use such a terrible accident and the horrible choices she had made for something good.

In response to further questions from Dr. Schottenstein, Dr. Unk stated that she has explored the possibility of going into addiction medicine. Dr. Unk commented that her time at Shepherd Hill and her meetings have helped her be more assertive, whereas before she had been more of a people-pleaser and a push-over. Dr. Unk felt that this whole experience has helped her be a better physician, noting that just this week two different patients reached out to her and Dr. Unk was able to help guide them through the problems without using controlled medications.

Dr. Schottenstein observed that Dr. Whitney at Shepherd Hill felt that Dr. Unk was very dedicated to her sobriety and took it very seriously, which is also evident today.

Motion to release Dr. Unk from the terms of the Board's Order of June 11, 2014, effective July 13, 2019:

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Motion	Dr. Kakarala
2 <sup>nd</sup>	Dr. Edgin
Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Bechtel	Abstain

The motion carried.

Dr. Unk stated that she is very grateful for the privilege of being able to continue practicing medicine.

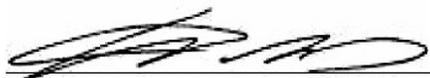
**ADJOURN**

Motion	Dr. Saferin
2 <sup>nd</sup>	Dr. Bechtel
In Favor	All
Opposed	None

The motion carried.

The meeting adjourned at 2:44 p.m.

We hereby attest that these are the true and accurate approved minutes of the State Medical Board of Ohio meeting on July 10, 2019, as approved on August 14, 2019.

  
Michael Schottenstein, M.D., President

  
Kim G. Rothermel, M.D., Secretary

(SEAL)





**LICENSURE COMMITTEE MEETING  
July 10, 2019 - Room 336**

<b>Committee Members Present:</b> Bruce R. Saferin, D.P.M, Chair Kim G. Rothermel, M.D. Richard Edgin, M.D. Jonathan B. Feibel, MD	<b>Staff Present:</b> Joseph Turek, Director of Licensure & Licensee Services Colin Depew, Assistant Attorney Mitchell Alderson, Chief of Licensure Jerica Stewart, Communication & Outreach Administrator
<b>Other Board Members Present:</b> Michael Schottenstein, M.D. Mark A. Bechtel, M.D.	

Dr. Saferin called the meeting to order at 8 am.

**MINUTES REVIEW**

**Dr. Edgin moved to approve the draft minutes of June 12, 2019. Dr. Rothermel seconded the motion. Dr. Feibel abstained. The motion carried.**

**LICENSURE APPLICATION REVIEWS**

Katherine Armbruster – Allied Licensure Restoration Application

Ms. Armbruster has applied for restoration of her massage therapy license. She has not practiced within the last two years.

**Dr. Rothermel moved to approve Ms. Armbruster’s application contingent on successful completion of the MBLEx within six months from the date of mailing of the Notice of Opportunity for a Hearing. Dr. Edgin seconded the motion. All in favor, motion carried**

Karla Hall – Allied Licensure Application

Ms. Hall has applied for a massage therapy license. She has not practiced within the last two years but passed the MBLEx on May 15, 2019.

**Dr. Edgin moved to approve Ms. Hall’s application as presented. Dr. Rothermel seconded the motion. All in favor, motion carried.**

Amy Miller – Allied Licensure Restoration Application

Ms. Miller has applied for restoration of her respiratory care professional license. She has not practiced within the last two years.

**Dr. Edgin moved to approve Ms. Miller’s application contingent on successful completion of the Therapist Multiple-Choice Examination within six months from the date of mailing of the Notice of Opportunity for a Hearing. Dr. Rothermel seconded the motion. All in favor, motion carried.**

Dr. Feibel asked about the missing portion of the motion “Ohio Respiratory Care law and the Ohio Respiratory Care Law and Professional Ethics Course and Quiz”.

Mr. Turek stated it was removed from the motion because it is a requirement for restoration.

Tonie Perez – Allied Licensure Restoration Application

Ms. Perez has applied for restoration of her respiratory care professional license. She has not practiced within the last two years.

**Dr. Rothermel moved to approve Ms. Perez’s application contingent on successful completion of the Therapist Multiple-Choice Examination within six months from the date of mailing of the Notice of Opportunity for a Hearing. Dr. Edgin seconded. All in favor, motion carried.**

Jennifer Rader – Allied Licensure Application

Ms. Rader has applied for a massage therapy license. She has not practiced within the last two years.

**Dr. Rothermel moved to approve Ms. Rader’s application contingent on successful completion of the MBLEx within six months from the date of mailing of the Notice of Opportunity for a Hearing. Dr. Edgin seconded. All in favor, motion carried.**

Dr. Edgin pointed out Ms. Rader still had an active license in Virginia and asked in the case of a physician, if the board would approve for reciprocity.

Mr. Turek responded no and clarified the difference between holding a license and not practicing. Ms. Rader has not been practicing in Virginia.

Steven Sutter, MD – Physician Licensure Application

Dr. Sutter has applied for a medical license .He has not practiced clinical medicine within the last two years.

**Dr. Rothermel moved to approve Dr. Sutter’s application for Ohio licensure as presented. Dr. Edgin seconded. All in favor, motion carried.**

**OTHER ITEMS**

Kaye Wissler – Allied Licensure Restoration Application

Ms. Wissler has applied for restoration of her massage therapy license. She has not practiced within the last two years but passed the MBLEX on April 23, 2019.

**Dr. Rothermel moved to approve Ms. Wissler's application as presented. Dr. Edgin seconded. All in favor, motion carried.**

## **OTHER ITEMS**

### Respiratory Care Continuing Education (RCCE) Course Approval

The board received a request to approve the course "Ethical Considerations Surrounding Lung Transplantation" for one contact hour of continuing education on Ohio respiratory care law or professional ethics.

**Dr. Feibel moved that the course be approved. Dr. Edgin seconded. All in favor, motion carried.**

### Respiratory Care Continuing Education (RCCE) Course Approval

The board received a request to approve the course "Ethics in Health Care Professional Practice" for one contact hour of continuing education on Ohio respiratory care law or professional ethics.

**Dr. Rothermel moved that the course be approved. Dr. Edgin seconded. All in favor, motion carried.**

Dr. Saferin asked how much longer the board will need to approve courses.

Mr. Turek stated the rule that would eliminate the requirement is in progress.

## **ADJOURN**

**Dr. Feibel moved to adjourn meeting. Dr. Edgin seconded the motion. All members voted aye. The motion carried.**

The meeting adjourned at 8:09 am.

Bruce R. Saferin, D.P.M.  
Chair

js



**FINANCE COMMITTEE MEETING MINUTES**  
**July 10, 2019 - Room 318**

<b>Members in attendance:</b> Michael Schottenstein, MD, Chair Bruce R. Saferin, DPM Richard A. Edgin, MD	<b>Staff in attendance:</b> A.J. Groeber, Executive Director Susan Loe, Director of Fiscal & Human Resources Tessie Pollock, Director of Communications Jerica Stewart, Communication & Outreach Administrator
<b>Other Board Member present:</b> Jonathan Feibel, MD	

Dr. Schottenstein called the meeting to order at 8:30 a.m.

**MINUTES REVIEW**

**Dr. Saferin moved to approve the draft minutes of June 12, 2019. Dr. Edgin seconded the motion. All members voted aye. The motion carried.**

**FISCAL UPDATE**

Dr. Schottenstein updated the committee: Looking at the Fiscal update from May 2019, revenue was \$778,931- that's down from April 2019. We have no renewal deadlines for May. The influx of training certificates continues and is responsible for \$113,750 of that revenue. You may see that revenue was substantially higher in May 2017 but that was right before Salesforce went live and we had encouraged licensees to apply prior to the deadline in case there were bugs in the system. So May 2017 was an unnaturally high revenue month.

Revenue is up 1% YTD, anything in the 2 to 4% range is good for us, but June numbers look good so far and we are hoping it will push us into that desired range. We have net positive revenue of \$20,993 for May 2019 and our fiscal YTD revenue is \$412,743. Our cash balance is very substantial at \$5,013,439, that's close to our record. We had projected revenue of about \$9.5 million for the fiscal year. As of May 2019, we had fiscal YTD revenue of \$9,404,585 so we're close to our projected revenue with another month to go. We will have net positive revenue for this fiscal year, which is compelling because our odd-numbered fiscal years tend to be down years. This is a good fiscal year all things considered.

Expenditures are up 8.4% YTD, which is substantially a function of those large invoices that the board recently paid for e-License work. In addition, the expense being paid to expert witnesses has increased on a monthly basis – that's considered money well spent. You can see that fiscal YTD 2019 number for payment to expert is \$390,690 as compared to the fiscal year 2018 YTD expense of \$193,136. The board pays an expert a rate of \$200 an hour and the average expert overall represents an expenditure by the board of anywhere from \$5,000 to \$8,000. The contract says the expense is not to exceed \$8,000 but we have the option to modify that. Payroll has been down largely due to vacancies. There have been no big bills for spending, we're well under our spending authority. We're under-spending our allocated budget substantially. We'll probably end up with roughly \$10 million in spending for the fiscal year and we're allocated to spend around \$11 million. Our allotment for the upcoming budget has been decreased from \$11 million to \$10.5 million. As to our fines, we did not receive any disciplinary or CME fine revenue since our last report. Having said that, we did receive an \$11,770 settlement regarding the matter of Dr. Zia. He originally owed \$15,000 for his fine, that went up to \$22,000 with interest. That was settled for \$18,000 and after the Attorney General and special counsel got their cut, we got the remainder.

Just a note, regarding the interim budget in place, because the actual budget did not pass, we were allowed an allotment of 1/26 of the \$10.5 million that we're authorized to spend, approximately \$400,000. That situation rectifies itself when the actual budget passes.

Mr. Groeber confirmed the bill had not yet passed. He added out of that \$400,000, payroll was about \$310,000, leaving approximately \$90,000 for a two-week period. Items such as the Medical Marijuana Expert Review Committee being postponed another month is due to having to encumber contracts for those experts.

Ms. Loe stated the board is trying to use the remainder of the allotment during this interim period for bills that are already in place (for example travel expenses).

Mr. Groeber stated cases pending investigation right now are being reviewed. Critical reports will be given special consideration.

Ms. Loe and Mr. Groeber stated that in 2014, experts were paid approximately \$120,000- \$150,000. Now it has doubled.

Mr. Groeber stated that it was more of a function of the process. Enforcement attorneys used to have to get their own experts which caused case delays.

Dr. Edgin asked Mr. Groeber if he'd received the email from a pediatric physician in California.

Mr. Groeber confirmed he did receive the email and that they will reach out to her.

Dr. Edgin commented that two to three weeks ago there was a review on sedation in the ICU that may be of interest to the board members. Mr. Groeber said that he would share the information with the board if Dr. Edgin sent it to him.

Dr. Feibel asked if the \$400,000 was the budget for the year.

Ms. Loe explained that the proposed budget for the year was \$10.5 million but since it hasn't passed, they passed an emergency bill for 1/26 of the budget for 17 days.

Mr. Groeber explained that the legislation determines how much the Medical Board can spend over the course of a year. There are times DAS can get authority to take money out of the reserve for special expenditures, for example emergency e-License maintenance. The budget will likely be approved but until then, it is locked down.

Dr. Schottenstein added that the amount is more of an allotment than a budget.

Ms. Loe stated a medical marijuana expert would be roughly a \$20,000 expense, so that is why those are on hold for now. She also stated there are partial encumbrance guidelines released by OBM for urgent situations.

## COMMUNICATIONS UPDATE

Ms. Pollock informed the committee: Although the board cannot award contracts at this time, there are currently two RFPs out: the cultural competency video and the translation of the human trafficking videos. During this process, there was an opportunity to translate two public-facing documents on the website: the public records policy and how to file a complaint PDF.

Mr. Groeber asked how the translation would be completed.

Ms. Stewart stated that ATA certification is difficult to achieve and even though we decided not to require it, the chosen vendor will assign two ATA-certified linguists to the documents. Because of the low-dollar cost, they will not need to go to RFP- the cost is about \$300.

Mr. Groeber asked how the translation items will be presented on the website.

Ms. Stewart replied that the public records request is already a PDF document and it will be translated and attached to the same page on the website. She made a PDF version of the how to file a complaint information and will also attach it on that page instead of navigating to a second translated version of the page.

Mr. Groeber asked if the license application was in Spanish.

Ms. Pollock replied it is not. Board members commented that applicants are required to be fluent in English to practice in Ohio.

Mr. Groeber asked Ms. Stewart to have the vendor review the Medical Board website and determine if they have ever done similar work with another state or public entity.

Ms. Pollock stated the magazine is being printed. In the past, articles were sent through Dr. Schachat and Dr. Schottenstein to review. It is open for any other board members who would like to review.

Ms. Pollock stated the communications team put together the communication plan for One Bite program. This includes the announcement and the long-term resources for licensees.

Ms. Pollock pointed the committee to the digital communication stats. Medical Marijuana searches remain one of the top searches on the website and the most opened emails for the certificate to recommend newsletter. The open rate ranges from 40% to 60%.

Mr. Groeber asked the board members if they'd like to receive the CTR eNews.

The members confirmed.

## NEW BUSINESS

Dr. Schottenstein shared:

### **Approval of Dr. Schottenstein to attend the Tri-Regulatory Board Meeting**

The FSMB is hosting a Tri-Regulatory Board Meeting that includes representatives from the FSMB, National Association of Boards of Pharmacy, and the National Council of Boards of Nursing in Frisco, TX on September 26-27, 2019. The Tri-Regulatory Board meets every 3 years and includes representatives from the 3 respective national boards / state affiliates. The goal is to more effectively regulate licensees across healthcare disciplines. Dr. Schottenstein has indicated that he would like to attend, with an estimated travel cost not to exceed \$2,000. The Finance Committee should vote on the travel request, and plan to make a recommendation to the full board in preparation for a vote. The FSMB has included an invitation for one additional participant, and the committee / full board may wish to consider approving another person.

**Dr. Edgin moved to approve the travel expenses in accordance with state travel policy for Dr. Michael Schottenstein to attend the Tri-Regulatory Board Meeting hosted by the Federation of State Medical Boards in Frisco, TX on September 26-27, 2019. Expenses are not expected to exceed \$2,000. Attendance in the meetings in connection with responsibilities and is related to his position as a member of the State Medical Board of Ohio. Dr. Saferin seconded. Dr. Edgin and Dr. Saferin in favor. Dr. Schottenstein abstained. Motion carried.**

Dr. Schottenstein stated there's an option for another board member or staff member to attend as well.

The committee discussed. No one was at the Finance Committee opted to attend the meeting with Dr. Schottenstein, but the members wanted to approve the funds in case another member opted to do so

**Dr. Saferin moved to approve the funds for a second attendee of the Tri-Regulatory Board Meeting. Dr. Edgin seconded. All in favor, motion carried.**

#### **Approval to Purchase Additional Salesforce Development Hours**

The State Medical Board has for the past three years purchased additional eLicense development hours from DAS OIT. The board utilizes these hours to implement system fixes and improvements much more quickly than if it had to wait for DAS OIT to assign their in-house developers. Examples of the developments completed by our resource from last fiscal year include a streamlined subpoena request / approval module and the adjudications e-filing portal. The rate per hour is approximately \$110, and the staff is requesting that the Finance Committee and full board approve up to \$49,500 for fiscal year 2020 (approximately 450 hours of development).

**Dr. Saferin moved to recommend the approval of the purchase of additional Salesforce development hours from DAS OIT of up to \$49,500 for fiscal year 2020 to support system fixes and improvements for the e-License system. Dr. Edgin seconded. All in favor, motion carried.**

Mr. Groeber stated the board has done this for the last three years. The first year did not use all the hours, the second year was close and this year they reached the maximum.

Dr. Schottenstein asked if the \$49,500 was a suitable amount.

Mr. Groeber confirmed that \$49,500 is a good amount and doesn't entail permission from the controlling board, which is required when a purchased item is over \$50,000.

#### **Executive Director Raise**

Most employees of the State Medical Board receive annual raises in accordance with the Ohio Civil Service Employee Association (OCSEA) labor contract, or from the Ohio Revised Code which covers the bulk of non-union employees. The remaining employees in E2 status who are not the Executive Director of the board, can have their raises approved by the Executive Director. The Board members must approve the raise of the Executive Director. All employees are receiving the same raise amount of 2.75% effective July 1, 2019. In order for the Executive Director to receive the 2.75% requested raise, the Finance Committee can put forward a motion and vote in favor of funding the raise prior to the full Board vote. Should the motion pass, the full Board will need to vote up on this matter after hearing from the Executive Director Review Committee. Ms. Loe can provide additional input if needed.

**Dr. Saferin moved to recommend approval of the funds for the Executive Director's raise as recommended by the Executive Director Review Committee. Edgin seconded the motion. All in favor, motion carried.**

#### **Approval of FETI Trauma-Informed Training**

The Ohio Attorney General's office is arranging a 5-day FETI training in November. Certified FETI® is the founding and governing body of the official Forensic Experiential Trauma Interview, a science and practice-based interviewing methodology informed by the latest research on the neurobiology of trauma and memory. The Forensic Experiential Trauma Interview (FETI®) provides interviewers with a science-informed interviewing framework that maximizes opportunities for information collection and accurately documents the participant's experience in a neutral, equitable, and fair manner. Management is seeking approval to send up to 29 employees (investigators and enforcement attorneys) to the training that is anticipated to be in November, at an expense not expected to exceed \$49,300. If approved by the Finance Committee, this request will go to the full board for approval.

**Dr. Saferin moved to recommend approval sending 29 board staff members to Forensic Experiential Trauma Interview training facilitated by the Ohio Attorney's Office at an expense not to exceed \$49,300. Dr. Edgin seconded the motion. All in favor, motion carried.**

Ms. Loe informed the committee of a three-day training in August for investigators called Certified Medical Board Investigator training. It's put on by a national organization, Administrators in Medicine (AIM), and this year it is in Columbus. The proposal is to have all the investigators attend. The training has a section on sexual boundaries, social media and trauma. The cost is \$500 per person, which will make the total cost under \$10,000 so the expense doesn't need to be approved by the Finance committee, but she wanted to make them aware.

Dr. Saferin asked if the training is just for investigators.

Mr. Groeber confirmed it is. He explained that AIM is an ancillary group to the Federation of State Medical Boards.

Dr. Schottenstein asked if there were any upcoming board member trainings.

Mr. Groeber mentioned that he and leadership have asked the Attorney General's victim advocates group for recommendations of a one to two-hour training. He mentioned that Dr. Schottenstein sent him a recommendation for a sexual boundaries workgroup that was one or two hours long. He stated that he thinks it would be good for the board members to have this type of training and see how the process is different.

Dr. Schottenstein asked when that training may take place.

Mr. Groeber stated that they'd like to wait until around August. The training just approved on the FETI which was intended for November however, it was scheduled for Veteran's day. As a federal holiday, union employees cannot be asked to attend, and it will need to be rescheduled. Once that is determined, the board member training can be decided.

## ADJOURN

**Dr. Saferin moved to adjourn. Dr. Edgin seconded the motion. All in favor, motion carried.**

The meeting adjourned at 8:57 a.m.

Michael Schottenstein, M.D.  
Chair

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**POLICY COMMITTEE MEETING**  
**July 10, 2019**  
**30 East Broad Street, Columbus, OH 43215, Room 336**

<p>Members: Robert Giacalone Mark Bechtel, MD Sherry Johnson, DO</p> <p>Other Board Members present: Michael Schottenstein, MD Bruce Saferin, DPM Richard Edgin, MD Kim Rothermel, MD Harish Kakarala, MD Jonathan Feibel, MD</p>	<p>Staff: A.J. Groeber, Executive Director Kimberly Anderson, Chief Legal Counsel Sallie J. Debolt, Senior Counsel Nathan Smith, Senior Legal and Policy Counsel Joan Wehrle, Education &amp; Outreach Program Manager Rebecca Marshall, Chief Enforcement Attorney Joe Turek, Deputy Director David Fais, Deputy Director Jonithon LaCross, Director Public Policy and Government Affairs James Roach, Acting Chief of Investigations</p>
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Mr. Giacalone called the meeting to order at 9:15 a.m.

#### **Meeting Minutes Review**

Mr. Giacalone reported that the draft minutes of the June 12, 2019 meeting had been distributed to the committee and were included in the agenda materials.

**Dr. Bechtel moved to approve the draft minutes of the June 12, 2019 Policy Committee meeting. Dr. Johnson seconded the motion. Motion carried.**

#### **Rules Review Update**

Ms. Anderson referred to the report included in the agenda materials. The dietetics rule are scheduled for review at the August meeting. Several rules will be presented to the full board for adoption today. Ms. Anderson reported that the light-based medical device rules remain with CSI for antitrust review.

#### **Legislative Update**

Mr. LaCross report that an interim budget is in place until July 17<sup>th</sup>. The senate version includes the telemedicine certificate removal, CME change, and limited certificate removal issue. It also includes a decrease in the initial licensure fee for PAs from \$500 to \$400.

Mr. Groeber reported that the interim budget provides agency funding until July 1, 2019. We were provided spending authority for 1/26<sup>th</sup> of our annual allotment which enables the agency to

remain open and staff to get paid. We operate per fiscal year and encumber funds for experts for the full fiscal year. We have limited funds under the interim budget, so we are being very deliberate with any expert contracts signed now. Consequently, the Medical Marijuana review committee was delayed until August because those are experts and we must encumber funds under contract.

Mr. LaCross reported that Conference Committee meetings continue.

### **Internal Management Rule for License Approval**

Ms. Anderson said that the budget bill includes language that removes the requirement for six votes by the board for licensure. That board requested the change to help speed up the licensure process so that an applicant with a complete application doesn't have to wait until the next board meeting to get a license.

Language in the draft budget bill allows the Board to delegate licensure approval in accordance with an internal management rule. The agenda materials included a draft rule which establishes criteria for licenses which can be approved by the Secretary and Supervising Member and by the Board's Deputy Director for Licensure.

The rule requires full board approval for licenses where the applicant is seeking a waiver or determination of equivalency to any eligibility requirement or a determination of fitness to resume practice due to inactivity. In addition, any license approval in which a disciplinary sanction is imposed must be approved by the full Board. Six affirmative votes by the board are needed in these situations, just as they are now.

Ms. Anderson said that all other routine licensure applications would be approved by the Secretary and Supervising Member or by the deputy director of licensure or the deputy director's designee.

Approval of the following licenses and certificates may be delegated to the Secretary and Supervising Member:

- Certificate of conceded eminence
- Clinical research faculty certificate
- Visiting clinical professional development certificate
- Special activity certificate
- Special activity license to practice as a genetic counselor
- Expedited license to practice medicine and surgery or osteopathic medicine and surgery by endorsement
- Certificate to recommend medical use of marijuana

Approval of the following licenses may be delegated to the deputy director of licensure or the deputy director's designee:

- License to practice as a physician assistant
- License to practice medicine and surgery or osteopathic medicine and surgery
- License to practice a limited branch of medicine

- Training certificate
- Volunteer's certificate
- License to practice podiatric medicine and surgery
- Visiting podiatric faculty certificate
- Podiatric training certificate
- License to practice dietetics
- Limited permit to practice dietetics
- Certificate to practice as an anesthesiologist assistant
- License to practice respiratory care
- Limited permit to practice respiratory care
- Certificate to practice as an oriental medicine practitioner
- License to practice as an acupuncturist
- License to practice as a radiologist assistant
- License to practice as a genetic counselor
- Supervised practice license as a genetic counselor

Additionally, the internal management rule permits the Secretary and Supervising Member and the deputy director of licensure to decide if something needs to go to the full board. It could be either an individual application or a class of applications.

Since the budget bill is pending, Ms. Anderson said we'd like to be able to send the proposed internal management rule to interested parties after the budget bill is passed. We will have 90 days to implement the changes once the budget bill is signed by the Governor. Internal management rules do not have to go through CSI or JCARR.

Dr. Saferin said this statutory change enables the Board to issue licenses in real time.

**Dr. Bechtel moved to approve the initial circulation of the proposed internal management rule for license approval to interested parties when the budget bill is approved. Dr. Johnson seconded the motion. Motion carried.**

### **Controlled Substance Prescribing Rules**

Ms. Anderson reported that the following controlled substance prescribing rules are due for the five-year rule review on 12/31/2020:

- 4731-11-02, OAC, General Provisions
- 4731-11-03, OAC, Utilization of anabolic steroids, schedule II controlled substances
- 4731-11-04, OAC, Controlled Substances: Utilization of short term anorexiant for weight reduction
- 4731-11-04.1, OAC, Controlled substances: utilization for chronic weight management
- 4731-11-07, OAC, Research utilizing controlled substances
- 4731-11-11, OAC, Standards and procedures for review of "Ohio Automated Rx Reporting System" (OARRS)

Ms. Anderson said that she would like to circulate the rules to interested parties as no change rules, and we can further review any comments received. The initial review comment period is usually two weeks.

**Dr. Bechtel moved to approve for initial circulation to interested parties. Dr. Johnson seconded the motion. Motion carried.**

### **Dextoxification Rules – Physician and Physician Assistant**

Ms. Debolt reported that the agenda materials include both the physician detox rules and the physician assistant detox rules. The memo included the comments received, as well as the proposed rules.

Mr. Giacalone asked about a comment received from Dr. Pirner referencing the ASAM levels of care. Dr. Pirner suggested that consideration should be given to including ASAM level of care 0.5 for purposes of early intervention.

Dr. Schottenstein said he had addressed this at the PAPC meeting held earlier this week. The ASAM level of care 0.5 is a screening level of care. Professionals who engage in that activity are usually addiction counselors, social workers, or health educators, not physicians. He thought that it would not be necessary to include that in the rules for that reason.

Ms. Debolt reported that the PAPC recommended that the PA detox rules be submitted to CSI as proposed.

**Dr. Bechtel moved to recommend that the Medical Board approve the proposed rules 4730-4-01, 4730-4-02, 4731-33-01, and 4731-33-02 be filed with the Common Sense Initiative Office. Dr. Johnson seconded the motion. Motion carried.**

### **Adjourn**

**Dr. Bechtel moved to adjourn the meeting. Motion seconded by Dr. Johnson. Motion carried.**

The meeting adjourned at 9:30 a.m.

jkw



**COMPLIANCE COMMITTEE MEETING**  
**July 10, 2019**

<p><b>Members:</b> Michael Schottenstein, MD, Chair Robert Giacalone Harish Kakarala, MD</p> <p><b>Also attending:</b> Kim G. Rothermel, MD Jonathan Feibel, MD Richard Edgin, MD Sherry Johnson, DO</p>	<p><b>Staff:</b> Alexandra Murray, Managing Attorney Annette Jones, Compliance Officer Angela Moore, Compliance Officer Rebecca Marshall, Chief Enforcement Attorney Joan Wehrle, Education and Outreach Program Manager AJ Groeber, Executive Director Tessie Pollock, Director of Communication</p>
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Dr. Schottenstein called the meeting to order at 2:54 p.m.

**INITIAL PROBATIONARY APPEARANCES**

[Muhammad W. Anjum, MD. \(appearing via Skype conference\)](#)

Dr. Anjum is making his initial appearance before the Compliance Committee. Unless otherwise determined, future appearances will be determined by the Secretary and Supervising Member.

The December 12, 2018 consent agreement allowed for his license to be issued under probationary terms and conditions based on the doctor's admission that in April 2017 he applied for a license to practice medicine and surgery but the Massachusetts Board of Registration in Medicine issued a 2013 Order of Final Denial, denying Dr. Anjum's application, based in part on the grounds that the doctor had inadequate/substandard medical skills; that he suffered from poorly treated obstructive sleep apnea; that following the 2013 denial he received additional education, knowledge and training.

Dr. Anjum reported that he holds licenses in licenses in New York, Pennsylvania, Maryland, Virginia, Washington DC, Nebraska and Ohio. All licenses are in good standing. He noted that Nebraska has a reentry agreement, similar to the license has in Ohio. Dr. Anjum reported that he is not working in Nebraska as he is in fellowship training at Georgetown University Hospital in Washington, DC.

Dr Schottenstein asked how his training in going. Dr. Anjum said that it is going very well. On July 1<sup>st</sup>, he started the second year of a two-year fellowship focusing on Parkinson's disease, extremity tremors, and movement disorders. He said that his fellowship is going very well. Dr. Schottenstein asked if he is getting any feedback during his fellowship. Dr. Anjum replied that he has received excellent comments from his program director and others.

In response to a question from Dr. Schottenstein, Dr. Anjum reported that his sleep apnea is now well controlled. He explained how CPAP has really helped him and it has helped his overall performance.

Dr. Schottenstein asked Dr. Anjum about the Drexel reentry program. Dr. Anjum said it was a really great experience. He said that he left his position at Harvard to do the Drexel course. The course was very comprehensive and included clinical rounds, examinations, and simulated patient experiences. The pre-course and post-course testing showed his steady improvement throughout the program.

Mr. Giacalone asked Dr. Anjum if he reinstated his Massachusetts license. Dr. Anjum said he did not apply for reinstatement and he does not plan to apply. He said he is licensed in other states and he is very happy at Georgetown. He explained that his family and his wife's family are also in the Georgetown area. More than likely he will practice in Georgetown or the tri-state area.

Dr. Schottenstein asked if he planned to return to Ohio after he finishes his fellowship. Dr. Anjum said that at this time he does not expect to return to Ohio to practice, but you just don't know.

**Mr. Giacalone moved to continue Muhammad Anjum MD under the terms of the December 12, 2018 Consent Agreement, with future appearances before the Board Secretary or designee. Dr. Kakarala seconded the motion. Motion carried.**

#### **Confidential monitoring program report**

Ms. Murray provided the biannual report of participants in the B19 Confidential Monitoring Program. A summary report was included in the agenda materials.

Ms. Murray reported that the (B)(19) Confidential Monitoring Program went into effect in December 2018. Two MDs are participating in the program. One has a primary diagnosis of PTSD. The other has a primary diagnosis of depression.

One of the participants already had their initial meeting with the Secretary and Supervising Member. The other doctor is slated to meet with them next month. Ms. Murray indicated that we are receiving regular reports from their treating psychiatrist and psychotherapist. The program is working well. She anticipates that the next report in six months will have more detail.

Mr. Giacalone asked if these are the numbers she expected. Ms. Murray said she expects there to be more participants as the program grows, as it has been a slow start to the program. Ms. Murray commented that participants are those with only a B19 issue who meet the qualifications for the program.

Ms. Marshall told the committee that we try to funnel as many licensees into the program as we can, if they qualify for the program.

### **Approval of Reports of Conferences**

**Dr. Kakarala moved to approve the Compliance staff's reports of office conferences held June 10 and 13, 2019. Mr. Giacalone seconded the motion. Motion carried.**

### **Minutes Review**

**Dr. Kakarala moved to approve the draft minutes from June 12, 2019 Compliance Committee meeting. Mr. Giacalone seconded the motion. Motion carried.**

### **Adjourn**

**Dr. Kakarala moved to adjourn. Mr. Giacalone seconded the motion. Motion carried.**

The meeting adjourned at 3:16 p.m.

jkw