



AGENDA

**STATE MEDICAL BOARD OF OHIO
ASSIGNED COMMITTEES**

March 8, 2017

NOTE: Items listed on Committee agendas may also be discussed during the “Reports of Assigned Committees” on the Board’s Agenda

ALSO, Additions or deletions to this agenda may become necessary after publication. Please check the agenda appearing on the Board’s website for the most current version.

Start times are approximate and agenda items and committee meetings may be taken out of order, at the discretion of the Board President.

**PHYSICIAN ASSISTANT/SCOPE OF PRACTICE COMMITTEE
[Cancelled]**

LICENSURE COMMITTEE

8:00 a.m. – Conference Room #318

- I.) Minutes Review
- II.) Employer Recommendations and Certificates of Recommendation

POLICY COMMITTEE

8:30 a.m. – Conference Room # 336

- I.) Minutes Review
- II.) Legislative Update
- III.) Medical Marijuana Rules
- IV.) Amendment to Pharmacy Board Consult Rules
- V.) Hearing Rules
- VI.) Non-Disciplinary Track for Mental or Physical Illness
- VII.) Rule on Continuing Education for Massage Therapists

FINANCE COMMITTEE**9:00 a.m. – Conference Room # 335**

- I.) Minutes Review
- II.) Officer or Staff Reports
 - a.) Medical Board Fiscal Update
 - b.) Other Reports
- III.) Existing Medical Board Fiscal Matters
- IV.) New Medical Board Fiscal Matters
- V.) Action Item



AGENDA

James A. Rhodes State Office Tower
30 E. Broad St., Columbus, OH 43215, 3rd Floor
March 8, 2017 - 9:45 a.m.

**NOTE: Additions to this agenda may become necessary.
Please check the agenda appearing on the Board's website for the most current version.**

Agenda items may be discussed out of order, at the discretion of the Board President.

- I. ROLL CALL
- II. MINUTES REVIEW
February 8, 2017 Board Meeting
- III. APPLICANTS FOR LICENSURE
- IV. REPORTS AND RECOMMENDATIONS (none)
- V. PROPOSED FINDINGS AND PROPOSED ORDERS
 - a.) Iraj Derakhshan, M.D. (Charleston, WV, OH)
 - b.) Barbara VanWye Simpson, L.M.T. (Cincinnati, OH)
- VI. FINDINGS, ORDERS, AND JOURNAL ENTRIES (none)
- VII. APPLICATION FOR CERTIFICATE OF GOOD STANDING
AS A TREATMENT PROVIDER
 - a.) The Woods at Parkside
- VIII. EXECUTIVE SESSION
- IX. SETTLEMENT AGREEMENTS
- X. NOTICES OF OPPORTUNITY FOR HEARING, ORDERS OF SUMMARY
SUSPENSION, ORDERS OF IMMEDIATE SUSPENSION, AND ORDERS OF
AUTOMATIC SUSPENSION
- XI. RULES & POLICIES (none)
- XII. OPERATIONS REPORT

BOARD AGENDA

March 8, 2017
9:45 a.m.
(Continued)

TOPIC

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XIII. REPORTS BY ASSIGNED COMMITTEES

Finance Committee Report

- a.) Officer or Staff Reports
 - i. Medical Board Fiscal Update
 - ii. Other Reports
- b.) Existing Medical Board Fiscal Matters
- c.) New Medical Board Fiscal Matters
- d.) Action Item Review

Policy Committee Report

- a.) Legislative Update
- b.) Medical Marijuana Rules
- c.) Hearing Rules
- d.) Non-Disciplinary Track for Mental or Physical Illness

Licensure Committee Report

- a.) Employer Recommendations & Certificates of Recommendation

Compliance Committee Report

BOARD AGENDA

March 8, 2017
9:45 a.m.
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XIV. PROBATIONARY REQUESTS

- a.) Nabila S. Babar, M.D. (Mason, OH)
- b.) Robert M. Cook, M.D. (Centerville, OH)
- c.) Clinton J. Cornell, P.A. (Cincinnati, OH)
- d.) Robert K. Finley, III, M.D. (Huntington, WV)
- e.) James T. Lutz, M.D. (Cincinnati, OH)
- f.) Michael C. Macatol, M.D. (Columbus, OH)
- g.) David R. Mandel, M.D. (Solon, OH)
- h.) Nicholas L. Pesa, M.D. (Chagrin Falls, OH)
- i.) Donna Porter, M.T. (Wadsworth, OH)
- j.) Giridhar Singh, M.D. (Dublin, OH)
- k.) Onyinyechi Rose Uradu, M.D. (Russell, KY)
- l.) Frank Welsh, M.D. (Cincinnati, OH)
- m.) Mary A. Zielinski, M.T. (Cincinnati, OH)

XV. REINSTATEMENT REQUEST (none)

XVI. FINAL PROBATIONARY APPEARANCES

Stanley Beekman, D.P.M., L.M.T. (Cleveland, OH)

Dr. Beekman is appearing before the Board pursuant to his request for release from the terms of the Board's Order of January 8, 2014.

Robert J. Rosenstein, D.P.M. (Highland Heights, OH)

Dr. Rosenstein is appearing before the Board pursuant to his request for release from the terms of his March 12, 2014 Consent Agreement.

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March 8, 2017
9:45 a.m.
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AGENDA

**STATE MEDICAL BOARD OF OHIO
COMPLIANCE COMMITTEE**

March 8, 2017
Approximately 2:00 p.m.
30 E. Broad St., Columbus, OH 43215, 3rd Floor

**NOTE: Additions to this agenda may become necessary.
Please check the agenda appearing on the Board's website for the most current version.**

I. INITIAL PROBATIONARY APPEARANCES

Paul R. Brown, P.A. (Perrysburg, OH)

Mr. Brown is making his initial appearance before the Committee pursuant to the terms of his December 14, 2016 Consent Agreement.

Joseph P. Burick, D.O. (Akron, OH)

Dr. Burick is making his initial appearance before the Committee pursuant to the terms of his August 10, 2016 Consent Agreement.

Philicia S. Duncan, M.D. (Columbus, OH)

Dr. Duncan is making her initial appearance before the Committee pursuant to the terms of the Board's Order of January 11, 2017.

Marvin H. Rorick, M.D. (Cincinnati, OH)

Dr. Rorick is making his initial appearance before the Committee pursuant to the terms of the Board's Order of September 9, 2015.

Shane T. Sampson, M.D. (Greenville, OH)

Dr. Sampson is making his initial appearance before the Committee pursuant to the terms of his December 14, 2016 Consent Agreement.

Ernest L. Sutton, M.D. (Export, PA)

Dr. Sutton is making his initial appearance before the Committee pursuant to the terms of his November 9, 2016 Consent Agreement.

Onyinyechi Rose Uradu, M.D. (Russell, KY)

Dr. Uradu is making her initial appearance before the Committee pursuant to the terms of the Board's Order of September 14, 2016.

COMPLIANCE COMMITTEE AGENDA

March 8, 2017
Approximately 2:00 p.m.
(Continued)

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- II. APPROVAL OF REPORTS OF CONFERENCES
February 6 & 7, 2017
- III. MINUTES REVIEW

Mr. Giacalone	- aye
Dr. Soin	- aye
Mr. Gonidakis	- aye
Mr. Kenney	- aye
Dr. Schachat	- aye
Dr. Factora	- aye
Dr. Edgin	- aye
Dr. Bechtel	- aye

The motion carried.

PROPOSED FINDINGS AND PROPOSED ORDERS

Dr. Soin stated that in the following matters, the Board issued Notices of Opportunity for Hearing. No timely request for hearing was received. The matters were reviewed by Hearing Examiners, who prepared Proposed Findings and Proposed Orders for each, and are now before the Board for final disposition. These matters are disciplinary in nature, and therefore the Secretary and Supervising Member cannot vote. In these matters, 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 matter of Dr. Derakhshan.

IRAJ DERAKHSHAN, M.D.

Dr. Schottenstein moved to find that the allegations as set forth in the May 11, 2016 Notice of Opportunity for Hearing in the matter of Dr. Derakhshan have been proven to be true by a preponderance of the evidence and to adopt Ms. Blue's Proposed Findings and Proposed Order. Mr. Giacalone seconded the motion.

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

Dr. Schottenstein stated that in May 2016 the Medical Board issued a citation to Dr. Derakhshan based on the allegation that on January 28, 2016, the West Virginia Board of Medicine issued a Final Order in which Dr. Derakhshan was reprimanded and his West Virginia medical license was suspended for three years. The Medical Board issued another citation in July 2016 based on the allegation that on April 21, 2016, in the United States District Court for the Southern District of West Virginia, Dr. Derakhshan pleaded guilty to, and was found guilty of, a felony offense. The Board further alleged that the West Virginia Board revoked Dr. Derakhshan's West Virginia medical license based on the felony conviction. Dr. Schottenstein briefly reviewed Dr. Derakhshan's medical training and career.

Dr. Schottenstein continued that Dr. Derakhshan's practice in Charleston, West Virginia, was focused on the treatment of chronic migraines with daily scheduled opioid therapy. Dr. Derakhshan entered into three consent orders with the West Virginia Board between 2005 and 2014. In the July 2005 Consent Order, Dr. Derakhshan agreed to stop advising patients to cut time-released medication in half with a pill cutter and to cease examining more than 25 patients in a 24-hour period. In the July 2010 Consent Order, Dr. Derakhshan was reprimanded based on an incorrect answer on a license renewal application. In the September 2016 Consent Order, Dr. Derakhshan was reprimanded for using an altered release form to obtain a former patient's medical records from subsequent medical providers without the patient's consent.

Dr. Schottenstein stated that the West Virginia actions were based partially on Dr. Derakhshan's failure to maintain proper medical records with respect to ten patients. Specifically, Dr. Derakhshan had kept his medical records in the form of raw audio recordings that were of inconsistent quality and were not regularly transcribed to be incorporated into the patient chart. Dr. Derakhshan was also found to have improperly discharged one patient to whom he had been prescribing continuous opioid therapy for treatment of migraine headaches and who had reportedly developed an addiction to opioids. Finally, Dr. Derakhshan was found to have given two patients contradictory verbal and written instructions regarding the dose and/or quantity of oxycodone prescribed to the patients.

Dr. Schottenstein stated that in April 2016, in U.S. District Court for the Southern District of West Virginia, Dr. Derakhshan pleaded guilty to, and was found guilty of, a felony violation. In his plea, Dr. Derakhshan stipulated to the fact that prior to June 18, 2015, he had issued a fentanyl prescription which was filled by Patient A. Patient A then returned an unused portion of the medication to Dr. Derakhshan's office after having had an adverse reaction. Dr. Derakhshan further stipulated that on or About June 18, 2015, he dispensed a quantity of fentanyl to Patient B. The dispensing of the fentanyl was not lawful because it was not done by an authorized written prescription and it was therefore untraceable and unrecordable by the West Virginia Board of Pharmacy. Dr. Derakhshan knowingly and intentionally failed to report and record material information regarding the dispensed fentanyl as he was required to do pursuant to Federal drug law. As part of his plea, Dr. Derakhshan agreed to permanently surrender his Drug Enforcement Administration (DEA) registration. On May 16, 2016, the West Virginia Board of Medicine issued an order of revocation of Dr. Derakhshan's medical license in that state, based solely on his felony conviction.

Dr. Schottenstein stated that Dr. Derakhshan has had a long history of disciplinary issues with the West Virginia Board of Medicine, including multiple reprimands, a suspension, and finally a revocation. Since Dr. Derakhshan did not request a hearing in Ohio, he has made no attempt to make a case for mitigating circumstances in defense of his Ohio medical license. Dr. Schottenstein agreed with the Proposed Order of permanent revocation of Dr. Derakhshan's medical license.

A vote was taken on Dr. Schottenstein's motion to approve:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Schottenstein	- aye
	Mr. Giacalone	- aye
	Dr. Soin	- aye
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye
	Dr. Schachat	- aye
	Dr. Factora	- aye
	Dr. Edgin	- aye
	Dr. Bechtel	- abstain

The motion to approve carried.

BARBARA VANWYE SIMPSON, L.M.T.

Dr. Schottenstein moved to find that the allegations as set forth in the June 8, 2016 Notice of

Opportunity for Hearing in the matter of Ms. VanWye Simpson have been proven to be true by a preponderance of the evidence and to adopt Ms. Blue's Proposed Findings and Proposed Order. Mr. Giacalone seconded the motion.

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

Mr. Kenney stated Ms. VanWye Simpson provided massage therapy services to Patient 1 from 2006 to 2016. Mr. Kenney stated as far back as 2008, there had been conversations between Ms. VanWye Simpson and Patient 1 regarding Patient 1's sexual performance within his marriage. In 2009, Ms. VanWye Simpson agreed that she could help Patient 1 with erectile dysfunction. Beginning in June 2008, Ms. VanWye Simpson and Patient 1 met outside the office at various restaurants. Ms. VanWye Simpson has admitted that from September 2012 to February 2015 she engaged in sexual misconduct with Patient 1 on six occasions at her massage therapy studio. Ms. VanWye Simpson has denied engaging in such behavior with any other patient.

Mr. Kenney stated that it is clear that Section 4731.22(B)(20), Ohio Revised Code, was violated in this case and that there was a departure from and failure to conform with minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established. Based on these facts, Mr. Kenney agreed with the Hearing Examiner's Proposed Order to revoke Ms. VanWye Simpson's massage therapy license. Mr. Kenney also wished to add a requirement that Ms. VanWye Simpson must complete a professional boundaries course prior to any Board consideration of an application to grant Ms. VanWye Simpson a new license.

Ms. Anderson stated that when a license is revoked, there is legal uncertainty as to whether the Board can, as part of the order of revocation, require an educational course as a condition for consideration of a new license. However, Ms. Anderson pointed out that the Board discussion of this matter will be memorialized in the meeting minutes and the Board can make clear in its discussion what it would like to see prior to any application for re-licensure. Dr. Soin agreed with Mr. Kenney's comments and stated that the Board would expect Ms. VanWye to complete a professional boundaries course prior to any consideration of an application for re-licensure.

Dr. Bechtel commented that patients of massage therapist are very vulnerable. Dr. Bechtel stated that he has seen people who have been sexually assaulted by massage therapists, resulting in lingering psychological issues. Mr. Kenney agreed with Dr. Bechtel's comments, but stated that the relationship between Ms. VanWye Simpson and Patient 1 went on for years and appears to have been consensual. Dr. Bechtel agreed. Dr. Schottenstein added that there is a distinction between a physical relationship being non-traumatizing and a physical relationship being consensual. Dr. Schottenstein stated that the balance of power in a relationship between a medical professional and a patient makes it non-consensual by definition. Dr. Schottenstein agreed that the relationship was not traumatizing.

A vote was taken on Dr. Schottenstein's motion to approve:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Schottenstein	- aye
	Mr. Giacalone	- aye
	Dr. Soin	- aye
	Mr. Gonidakis	- aye

Mr. Kenney	- aye
Dr. Schachat	- aye
Dr. Factora	- aye
Dr. Edgin	- aye
Dr. Bechtel	- aye

The motion to approve carried.

APPLICATION FOR CERTIFICATE OF GOOD STANDING AS A TREATMENT PROVIDER

Dr. Schottenstein moved to approve the application for a Certificate of Good Standing as a Treatment Provider for Impaired Physicians from The Woods at Parkside. Dr. Saferin seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Dr. Schottenstein	- aye
	Mr. Giacalone	- aye
	Dr. Soin	- aye
	Mr. Gonidakis	- aye
	Mr. Kenney	- abstain
	Dr. Schachat	- aye
	Dr. Factora	- aye
	Dr. Edgin	- aye
	Dr. Bechtel	- abstain

The motion carried.

EXECUTIVE SESSION

Dr. Saferin moved 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. Dr. Schottenstein seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Dr. Schottenstein	- aye
	Mr. Giacalone	- aye
	Dr. Soin	- aye
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye
	Dr. Schachat	- aye
	Dr. Factora	- aye
	Dr. Edgin	- aye
	Dr. Bechtel	- aye

The motion carried.

Pursuant to Section 121.22(G)(3), Ohio Revised Code, the Board went into executive session with Mr. Groeber, Ms. Anderson, Mr. Fais, Ms. Loe, Ms. Debolt, Ms. Pollock, the Enforcement Attorneys, Mr. Wilcox, Ms. Murray, Mr. DePew, Ms. Moore, and Mr. Taylor in attendance.

The Board returned to public session.

EXECUTIVE SESSION

Dr. Schottenstein moved to go into Executive Session for discussion with the Board's attorney concerning matters that are the subject of pending or imminent court action and to consider matters involving the employment of or investigation of charges or complaints against a public employee. Mr. Giacalone seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Dr. Schottenstein	- aye
	Mr. Giacalone	- aye
	Dr. Soin	- aye
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye
	Dr. Schachat	- aye
	Dr. Factora	- aye
	Dr. Edgin	- aye
	Dr. Bechtel	- aye

The motion carried.

Pursuant to Section 121.22(G)(3), Ohio Revised Code, the Board went into executive session with Mr. Groeber, Ms. Anderson, and Mr. Wilcox in attendance. Mr. Wilcox exited the meeting during the Executive Session.

The Board returned to public session.

RATIFICATION OF SETTLEMENT AGREEMENTS

LEE C. LANEY, M.D. – PERMANENT SURRENDER

Dr. Schottenstein moved to ratify the Proposed Permanent Surrender with Dr. Laney. Mr. Giacalone seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Schottenstein	- aye
	Mr. Giacalone	- aye
	Dr. Soin	- aye
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye

Dr. Schachat	- aye
Dr. Factora	- aye
Dr. Edgin	- aye
Dr. Bechtel	- abstain

The motion to ratify carried.

MICHAEL THEODORE BANGERT, M.D. – STEP II CONSENT AGREEMENT

Dr. Schottenstein moved to ratify the Proposed Step II Consent Agreement with Dr. Bangert. Mr. Giacalone seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Schottenstein	- aye
	Mr. Giacalone	- aye
	Dr. Soin	- aye
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye
	Dr. Schachat	- aye
	Dr. Factora	- aye
	Dr. Edgin	- aye
	Dr. Bechtel	- abstain

The motion to ratify carried.

PAUL MATTHEW BOLGER, M.D. – PERMANENT SURRENDER

Dr. Schottenstein moved to ratify the Proposed Permanent Surrender with Dr. Bolger. Mr. Giacalone seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Schottenstein	- aye
	Mr. Giacalone	- aye
	Dr. Soin	- aye
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye
	Dr. Schachat	- aye
	Dr. Factora	- aye
	Dr. Edgin	- aye
	Dr. Bechtel	- aye

The motion to ratify carried.

DANICA GINEMAN, L.M.T. – CONSENT AGREEMENT

Dr. Schottenstein moved to ratify the Proposed Consent Agreement with Ms. Gineman. Mr.

Giacalone seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Schottenstein	- aye
	Mr. Giacalone	- aye
	Dr. Soin	- aye
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye
	Dr. Schachat	- aye
	Dr. Factora	- aye
	Dr. Edgin	- aye
	Dr. Bechtel	- aye

The motion to ratify carried.

WON GEEL SONG, M.D. – PERMANENT SURRENDER/RETIREMENT

Dr. Schottenstein moved to ratify the Proposed Permanent Surrender/Retirement with Dr. Song.
Mr. Giacalone seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Schottenstein	- aye
	Mr. Giacalone	- aye
	Dr. Soin	- aye
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye
	Dr. Schachat	- aye
	Dr. Factora	- aye
	Dr. Edgin	- aye
	Dr. Bechtel	- abstain

The motion to ratify carried.

AUBREY D. WINKLER, P.A. – CONSENT AGREEMENT

Dr. Schottenstein moved to ratify the Proposed Consent Agreement with Ms. Winkler. **Mr. Giacalone seconded the motion.** A vote was taken:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Schottenstein	- aye
	Mr. Giacalone	- aye
	Dr. Soin	- aye
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye
	Dr. Schachat	- aye

Dr. Factora	- aye
Dr. Edgin	- aye
Dr. Bechtel	- aye

The motion to ratify carried.

W.L.W., M.D. – CONSENT AGREEMENT

Mr. Kenney moved to ratify the Proposed Consent Agreement with W.L.W., M.D. Dr. Edgin seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Schottenstein	- nay
	Mr. Giacalone	- nay
	Dr. Soin	- nay
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye
	Dr. Schachat	- aye
	Dr. Factora	- aye
	Dr. Edgin	- aye
	Dr. Bechtel	- abstain

Having failed to obtain at least six affirmative votes, the motion to ratify did not carry.

CITATIONS AND ORDERS OF SUMMARY SUSPENSION, IMMEDIATE SUSPENSION, AND AUTOMATIC SUSPENSION

Ms. Marshall briefly reviewed the proposed citations before the Board today. In response to a question from Dr. Schottenstein, Ms. Marshall stated that proposed Citation #6 is not a Summary Suspension because the practitioner has already had extensive inpatient treatment and his Kentucky medical license has already been reinstated, and therefore it was felt that immediacy of harm could not be shown in support of a Summary Suspension.

At this time the Board read and considered the proposed Notice of Summary Suspension and Opportunity for Hearing in the matter of Robert Raymond Daiber, M.D., a copy of which shall be maintained in the exhibits section of this Journal.

Dr. Schottenstein moved to enter an Order of Summary Suspension in the matter of Robert Raymond Daiber, M.D., in accordance with Section 4731.22(G), Ohio Revised Code, and to issue the Notice of Summary Suspension and Opportunity for Hearing. Mr. Giacalone seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Schottenstein	- aye
	Mr. Giacalone	- aye
	Dr. Soin	- aye

Mr. Gonidakis	- aye
Mr. Kenney	- aye
Dr. Schachat	- aye
Dr. Factora	- aye
Dr. Edgin	- aye
Dr. Bechtel	- abstain

The motion to approve carried.

Dr. Schottenstein moved to send the Notice of Opportunity for Hearing to Borko Djordevic, M.D.; Stephen Lee Moore, D.O.; Douglas John Morin, M.D.; Atma Prakash Nayak, M.D.; and Laurie Anne Quattro, P.A. Mr. Giacalone seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Schottenstein	- aye
	Mr. Giacalone	- aye
	Dr. Soin	- aye
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye
	Dr. Schachat	- aye
	Dr. Factora	- aye
	Dr. Edgin	- aye
	Dr. Bechtel	- aye

The motion to send carried.

Dr. Schottenstein moved to send the Notices of Opportunity for Hearing to Roy L. Donnerberg, M.D.; Mitchum Allen Hissong, L.M.T.; Perry Michael Kalis, M.D.; and Thong Gia Truong, M.D. Mr. Giacalone seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Schottenstein	- aye
	Mr. Giacalone	- aye
	Dr. Soin	- aye
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye
	Dr. Schachat	- aye
	Dr. Factora	- aye
	Dr. Edgin	- aye
	Dr. Bechtel	- abstain

The motion to send carried.

RULES AND POLICIESPROPOSED RULES 4731-11-01 AND 4731-11-09

Dr. Saferin moved to amend Rule 4731-11-01, rescinded rule 4731-11-09, and new rule 4731-11-09 be final filed on March 13, 2017, with an effective date of March 23, 2017, contingent upon their approval by the Joint Commission on Agency Rule Review (JCARR). Dr. Schottenstein seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Dr. Schottenstein	- aye
	Mr. Giacalone	- aye
	Dr. Soin	- aye
	Mr. Gonidakis	- abstain
	Mr. Kenney	- aye
	Dr. Schachat	- aye
	Dr. Factora	- aye
	Dr. Edgin	- aye
	Dr. Bechtel	- aye

The motion carried.

OPERATIONS REPORT

Human Resources: Mr. Groeber stated that the Board recently hired Nate Smith, who will work as an attorney in the Board's Legal Section. The Board is also working to fill a number of investigator positions.

Fiscal: Mr. Groeber stated that the Board's revenue has increased by 11% and costs have increased by 3% from the previous year.

Information Technology: Mr. Groeber stated that development of the eLicense system continues. The release of the new system is scheduled for June 2017.

Communications and Outreach: Mr. Groeber stated that the Board's communications and outreach activities and presentations are listed in the Operations Report.

Agency Operations: Mr. Groeber stated that the total number of open cases/complaints has dropped 2% from last month. In response to questions from Board members, Mr. Groeber stated that he and the Board's staff have worked through a process by which to resolve the more aged cases that are still pending and to ensure that future cases are handled in a more timely manner. Mr. Groeber stated that the Board will see some older cases in the coming months as these processes take effect.

Mr. Groeber stated that the licensure statistics reports to the Board continue to be refined. Mr. Groeber commented that the licensure figures are good compared to the same time last year.

Mr. Groeber stated that as part of his preparation for budget testimony, he and the staff analyzed how much value the Board has added through improvements in the time for standard licensure as well as

expedited licensure, which is about 21 days faster than standard licensure. Mr. Groeber reported that the Board had approximately 240 expedited licensure applications in 2016. Mr. Groeber stated that those physicians who used expedited licensure cumulatively saw about 200,000 extra patients, worked about 10,000 more days, added about \$40,000,000 in revenue for their employers, made about \$6,000,000 more than they would have otherwise, and paid about \$200,000 more in state taxes than they would have otherwise. Mr. Groeber stated that reducing the time for standard licensure by four days from 2015 to 2016 resulted in another 200,000 patients being seen. Mr. Groeber stated that the legislature reacted well to his message. Mr. Groeber stated that the more physicians and allied health professionals are working in Ohio, the more patients are seen and that these licensure initiatives are an economic driver. Dr. Schachat agreed that these figures are very positive, but commented that most of those extra patients would have been seen by other physicians. Mr. Groeber agreed.

OARRS Letters: Mr. Groeber stated that the Board continues to send letters to physicians regarding proper use of the Ohio Automated Rx Reporting System (OARRS). Mr. Groeber stated that there seems to be a sense amongst the public that the Medical Board is targeting good physicians who simply make occasional prescribing mistakes. Mr. Groeber outlined and clarified the OARRS letter process for the benefit of the Board members, as follows:

- The Ohio Board of Pharmacy reviews OARRS data and identifies any patient who was not checked on OARRS prior to being prescribed a controlled substance. Mr. Groeber noted that there are circumstances in which the physician is not required to check OARRS, such as for palliative care.
- The Medical Board takes the data from the Board of Pharmacy and sees if any physician had checked the patient on OARRS within the previous 90 days. Any patient who was checked by any physician within that timeframe is excluded from the list.
- The Board of Pharmacy makes certain that there was no integration directly to OARRS through the physician's employer. If there is such integration, those patients are excluded from the list.
- The resulting list is examined statistically and only those physicians in the very highest number of patients not checked on OARRS are contacted. Mr. Groeber commented that most of those contacted fall into one of the exceptions, and they are therefore removed from the list. Mr. Groeber further commented that no physician with fewer than 100 unchecked patients has been visited by an investigator.

Dr. Soin thanked Mr. Groeber for offering this perspective on how the OARRS data is used. Dr. Soin opined that a physician who is not checking OARRS for that many patients should be probably be contacted the sake of public protection. Dr. Soin stated that the Medical Board is about protecting the public, not prosecuting physicians for no reason.

Mr. Groeber continued that the OARRS letters sent to physicians encourage them to examine their prescribing processes. Mr. Groeber stated that if a physician informs the Board that they only see patients who fall into one of the exceptions, they are removed from the list. Mr. Groeber stated that the goal of this project is to encourage prescribers to check OARRS when it is appropriate and required by law.

Mr. Groeber stated that the results of the project have been significant. Mr. Groeber stated that in August 2016 the average number of patients checked on OARRS daily was approximately 80,000; that figure is currently over 200,000. Mr. Groeber further stated that in August 2016 there were approximately 52,000,000 pills dispensed to patients who had not been checked on OARRS; that figure is currently 7,000,000. Mr. Groeber thanked Ohio's prescribers who have adopted these practices.

Board members and open investigations: Mr. Groeber stated that on occasion Board members are contacted by individuals who are the subject of an ongoing investigation. Mr. Groeber read the following statement to the Board members:

Occasionally staff is made aware of situations where a licensee under Board investigation contacts a Board member. Sometimes these are just simple "heads-up" while others may be a more direct plea for assistance. In either case, it is inappropriate for the licensee to be contacting you. In the event that you are contacted, please notify the licensee that you cannot discuss the matter, nor can you review any communication or documentation. Doing so jeopardizes both your ability to vote on the matter and it presents a potential risk for the licensee themselves.

Mr. Groeber stated that if a Board member is contacted in this fashion, they should inform Mr. Groeber or Ms. Anderson, the Board's Chief Legal Counsel. Mr. Groeber cautioned that contacting someone other than himself or Ms. Anderson could jeopardize that person's involvement as well.

Budget Testimony: Mr. Groeber stated that he gave budget testimony at the Ohio House of Representatives two weeks ago. Most of the questions asked of Mr. Groeber concerned the proposed Board consolidation which has been introduced into legislation. That legislation, if approved, would merge the Ohio Board of Dietetics and the Ohio Respiratory Care Board into the Medical Board. Mr. Groeber testified that the Board could enforce the standard of medical care of those professions with the aid and insight of an advisory committee, especially considering the Medical Board's resources to hire experts to review medical records. Mr. Groeber also testified that the merger, in his opinion, would drive efficiencies. Mr. Groeber felt that, based on the other two boards' licensee volume, their staff is not fully utilized as they would be in the Medical Board.

Medical Board Retreat: Mr. Groeber stated that the Medical Board retreat is scheduled for April 13. Mr. Groeber will circulate an agenda among the Board members in the coming weeks.

Financial Disclosure Forms: Mr. Groeber reminded the Board members that financial disclosure forms must be filed at the Ohio Ethics Commission no later than May 15, 2017.

Executive Director Annual Review: Mr. Groeber stated that it is time for his review as the Board's Executive Director. Mr. Groeber stated that Ms. Loe will work with Dr. Soin to appoint a committee for the review.

REPORTS BY ASSIGNED COMMITTEESFINANCE COMMITTEEFISCAL REPORT

Ms. Loe stated that in January the Board had \$881,000 in revenue and \$735,000 in expenses, with \$3,100,000 in the cash fund. Ms. Loe noted that expenditures increased 3% over the same time two years ago, mostly due to a 2.5% pay increase which was mandated for employees and the filling of vacant positions. Ms. Loe further noted that revenue increased by 11% over the same time two years ago, which is higher than expected. Ms. Loe believed that the unexpected increase is due to expedited licensure, as well as people renewing their licenses earlier.

Ms. Loe stated that both of the administrative fines approved by the Board last month have been received from the respondents. Ms. Loe stated that both fines were for \$500 and were levied on massage therapists who had practiced beyond the expiration of their licenses.

POLICY COMMITTEELEGISLATIVE UPDATE

Mr. LaCross stated that the pending budget bill contains language to reduce the initial physician licensure fee from \$335 to \$305; redefine certificates as licenses while keeping minor certificates intact; and moves the Physician Assistant Policy Committee from a full-employer structure to a reimbursement structure.

Mr. LaCross stated that amendments regarding the Clinical Research Faculty Certificate and the Administrative Medicine License may be put into the budget bill. The Board is currently working with interested parties to determine the best way to proceed with that.

Mr. LaCross noted that due to a change made in the last General Assembly, cosmetic therapists are no longer required to post their certificate when they are working in a salon setting. However, cosmetic therapists must have the certificate electronically in case a Board investigator asks for it.

Mr. LaCross stated that legislation regarding the one-bite reporting exemption is moving forward with Representative Huffman as a sponsor and possibly Representative Johnson as a co-sponsor. Mr. LaCross expected the bill to move quickly.

MEDICAL MARIJUANA RULES

Ms. Anderson stated that the staff has been made aware of an error in Proposed Rule 4731-32-02, Paragraph C, regarding continuing medical education (CME). That error has been corrected with new language.

Ms. Anderson continued that the Board of Pharmacy is using its rules to define a patient with a terminal illness as a patient with a life expectancy of six months or less. The Board of Pharmacy rule provides an expedited process for registration of such patients. Ms. Anderson stated that for cases in which the patient's life extends for longer than six months, the physician must provide confirmation that the illness continues and whether it should continue to be designated as a terminal illness. The Board of Pharmacy

has made changes to its patient caregiver rules to reflect this physician confirmation.

Dr. Soin stated that Section (B)(7) regarding standard medical treatment being attempted or considered will remain in the proposed Rule. Dr. Soin stated that the Board's expectation is that standard medical treatment will be attempted prior to use of medical marijuana. Dr. Soin stated that in cases where standard medical treatment is not appropriate, the physician must document why it is not appropriate.

Dr. Schottenstein moved to send the proposed Rule to the Common Senses Initiative Office, as discussed. Dr. Saferin seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Dr. Schottenstein	- aye
	Mr. Giacalone	- aye
	Dr. Soin	- aye
	Mr. Gonidakis	- abstain
	Mr. Kenney	- abstain
	Dr. Schachat	- aye
	Dr. Factora	- aye
	Dr. Edgin	- aye
	Dr. Bechtel	- aye

The motion carried.

HEARING RULES

Ms. Debolt stated that the Policy Committee has recommended amendments to the proposed hearing rules to reflect comments that have been received from interested parties. Specifically, the phrase "other designee" has been replaced with "Vice President if the President be unavailable..." Also, any language that would give a *pro se* respondent an advantage in some circumstances has been removed.

Dr. Schottenstein noted that the proposed Rule provides for a three-day period for a response to motions that have been filed. However, there does not seem to be a time limit on the motions themselves. Ms. Anderson replied that there has typically not been a problem with the timeframe for filing motions. Ms. Anderson stated that the rule is designed to shorten the timeframe for responses to motions to strike from objections. By shortening this timeframe, the Board President can rule on the motion more quickly and the objections can be delivered to the Board members in a more timely manner.

Dr. Saferin moved to approve the proposed Rules for filing with the Common Sense Initiative Office, as recommended by the Policy Committee. Dr. Schottenstein seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Dr. Schottenstein	- aye
	Mr. Giacalone	- aye
	Dr. Soin	- aye
	Mr. Gonidakis	- aye

Mr. Kenney	- aye
Dr. Schachat	- aye
Dr. Factora	- aye
Dr. Edgin	- aye
Dr. Bechtel	- aye

The motion carried.

NON-DISCIPLINARY TRACK FOR MENTAL OR PHYSICAL ILLNESS

Ms. Marshall commented that working on this initiative has been an enjoyable and satisfying project. Ms. Marshall thanked Mr. Giacalone, Dr. Schottenstein, and Dr. Rothermel for helping to bring this issue forward so quickly.

Ms. Marshall stated that the goal of this project is to create a mechanism for the Board to monitor practitioners who have mental or physical illnesses without using a public disciplinary process, which mars their record for something which is not their fault. The proposal creates a confidential monitoring program which will operate under the Board's investigative authority and be overseen by the Board's Secretary and Supervising Member. The Board would establish specific criteria through its rule-making authority about who would be eligible for the program and the mechanisms that will return a participant to the public disciplinary process in cases of non-compliance. Individuals would be able to participate in the program as many times as needed, provided that they are fully compliant each time. A monitoring period would be set by the Secretary and Supervising Members on a case-by-case basis which cannot be shorter than two years. Ms. Marshall continued that a participant with a significant progressive disease such as primary dementia, Alzheimer's, or schizophrenia would have to agree to career-long monitoring so long as they have a legal mechanism to retain a medical license or to regain a license in the future.

Ms. Marshall stated that if this concept is approved by the Board, it will be sent to the Legal Section to begin the formal rule promulgation process.

Dr. Schottenstein and Mr. Giacalone thanked Ms. Marshall for her work on this project. Dr. Bechtel opined that this is a very positive step and he commended Ms. Marshall for her efforts, as well as those Board members who were involved in the project.

Dr. Schottenstein moved to approve Ms. Marshall's proposal, as outlined in the memo. Dr. Rothermel seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Dr. Schottenstein	- aye
	Mr. Giacalone	- aye
	Dr. Sojn	- aye
	Mr. Gonidakis	- nay
	Mr. Kenney	- nay
	Dr. Schachat	- nay
	Dr. Factora	- aye
	Dr. Edgin	- aye
	Dr. Bechtel	- aye

The motion carried.

RULE ON CONTINUING EDUCATION FOR MASSAGE THERAPISTS

Dr. Schottenstein moved to approved proposed Rule 4731-1-24 for re-submission to the Common Sense Initiative Office, with amendments approved by the Policy Committee. Mr. Giacalone seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Dr. Schottenstein	- aye
	Mr. Giacalone	- aye
	Dr. Soin	- aye
	Mr. Gonidakis	- abstain
	Mr. Kenney	- abstain
	Dr. Schachat	- aye
	Dr. Factora	- aye
	Dr. Edgin	- aye
	Dr. Bechtel	- aye

The motion carried.

LICENSURE COMMITTEE

Dr. Saferin stated that the Licensure Committee discussed several items which will be brought to the Board's attention at a later time.

COMPLIANCE COMMITTEE

Dr. Soin stated that on February 8, 2017, the Compliance Committee met with Joseph C. Carver, M.D.; Ross Rosario Lentini, M.D.; Joshua D. Palmer, M.D.; and Aly M. A. Zewail, M.D.; and moved to continue them under the terms of their respective Board actions. The Compliance Committee also voted to recommend approval of the application for a Certificate of Good Standing as a Treatment Provider for Impaired Practitioners from the Woods at Parkside. The Board accepted that recommendation earlier in today's meeting. The Compliance Committee accepted Compliance staff's report of conferences on January 9 & 10, 2017.

PROBATIONARY REQUESTS

Dr. Soin advised that at this time he would like the Board to consider the probationary requests on today's consent agenda. Dr. Soin asked if any Board member wished to discuss a probationary request separately. Dr. Schottenstein stated that he would like to discuss the probationary request of Nabilia Babar, M.D.

Dr. Schottenstein noted that Dr. Babar is requesting that her Consent Agreement be terminated early for reasons of employment and financial difficulty, but no other compelling reason. Dr. Schottenstein further noted that the Secretary and Supervising Members are not in support of Dr. Babar's request. Mr.

Giacalone opposed granting Dr. Babar's request, noting that Dr. Babar entered into the Consent Agreement freely and had been represented by counsel. Mr. Giacalone opined that the Board would set a bad precedent if it began truncating consent agreements based on alleged hardship. Dr. Soin agreed.

Ms. Murray stated that William K. Basedow, D.O. has requested approval of a submitted practice plan. Ms. Murray noted pointed out that Dr. Basedow has submitted an amendment clarifying that the practice plan also includes the additional restrictions recommended by the educational courses he has taken pursuant to his Board Order.

Dr. Schottenstein moved to accept the Compliance staff's Reports of Conferences and the Secretary and Supervising Member's recommendations as follows:

- **To deny Nabilia S. Babar, M.D.'s request for early release from the terms of her February 10, 2016 Consent Agreement;**
- **To grant Robert M. Cook, M.D.'s request for approval of *intensive Course in Medical Ethics, Boundaries and Professionalism*, offered by Case Western Reserve University, to fulfill the professional ethics course requirement;**
- **To grant Clinton J. Cornell, P.A.'s request for approval of *E&M Documentation and Coding for Physician/Non-Physician Providers*, offered by the Ohio State Medical Association; approval of *Transitioning to Alternative Payment Models*, offered by the Massachusetts Medical Society; approval of *Payer Audits and Payment Recoupments*, offered by the Massachusetts Medical Society; approval of *Understanding Clinical Documentation Requirement for ICD-10*, offered by the Massachusetts Medical Society; approval of *Physician Employment Contracting Basics*, offered by the Massachusetts Medical Society; and approval of *Financial Management of Practice Case Studies (3 Modules)*, offered by the Massachusetts Medical Society, to fulfill the office management/medical billing course requirement.;**
- **To grant Robert K. Finley, III, M.D.'s request for release from the terms of the March 14, 2012 Consent Agreement;**
- **To grant James T. Lutz, M.D.'s request for approval of David S. Williams, M.D., to serve as an additional monitoring physician; and determination of the frequency and number of charts to be reviewed at five charts per week for the doctor's CCAT patients and 5 charts per week for the doctor's immigration examination patients;**
- **To grant Michael C. Macatol, M.D.'s request for approval to reduce personal appearances to every six months;**
- **To grant David R. Mandel, M.D.'s request for approval to reduce personal appearances to annually;**
- **To grant Nicholas L. Pesa, M.D. request for approval to reduce personal appearances to every six months;**
- **To grant Donna Porter, M.T.'s request for approval of the online courses *Ethics: A Guide to Ethics in Massage & Bodywork* and *Ethics for the Real World: Part 1, Part 2, Part 3, Part 4, Part 5*,**

and Part 6, administered by Associated Bodywork and Massage Professionals (ABMP);

- To grant Giridhar Singh, M.D.'s request for approval of *Intensive Course in Medical Boundaries and Professionalism*, administered by Case Western Reserve University, to fulfill the personal/professional ethics course requirement;
- To grant Onyinyechi Rose Uradu, M.D.'s request for approval of *SAFE Opioid Prescribing: Strategies, Assessment, Fundamentals, Education* online course administered by PriMed; the online course *ASAM Pain and Addiction: Common threads XVII*, administered by ASAM E-Learning Center; approval of the online course *Understanding the New Federal Regulation to Increase Buprenorphine Patient Limits*, administered by Providers Clinical Support System for Medical Assisted Treatment (PCSS-MAT); approval of the online course *Treatment of Prescription opioid Dependence; Long Term Outcomes*, administered by PCSS-MAT; approval of the online course *Improving MAT Access and Quality Through Collaborative Care: The CoOp Model*, administered by PCSS-MAT; approval of the online course *Managing Acute & Chronic Pain with Opioid Analgesics in Patients on Medical Assisted Treatment (MAT)*, administered by PCSS-MAT; and approval of *Medical Assistant Treatment of Opioid Use Disorders: Progress and Challenges*, administered by PCSS-MAT, to fulfill the controlled substances prescribing course requirement;
- To grant Frank Welsh, M.D.'s request for approval of *Intensive Course in Medical Ethics, Boundaries and Professionalism*, administered by Case Western Reserve University, to fulfill the professional ethics course requirement;
- To grant Mary A. Zielinski, M.T.'s request for approval of the online course *Professional Ethics* online course, administered by the Center for Massage Therapy Continuing Education; and the online course *Ethical Gray Areas in Massage Therapy*, administered by the American Massage Therapy Association, to fulfill the professional ethics course requirement; and
- To grant William K. Basedow, D.O.'s request for approval of the submitted practice plan, as amended; approval of Pacifico D. Dorado, M.D., to serve as the monitoring physician; and determination of the number and frequency of charts to be reviewed at 10 charts per week.

Mr. Giacalone seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Schottenstein	- aye
	Mr. Giacalone	- aye
	Dr. Soin	- aye
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye
	Dr. Schachat	- aye
	Dr. Factora	- aye
	Dr. Edgin	- aye
	Dr. Bechtel	- abstain

The motion carried.

The Board took a recess at 11:45 a.m. and resumed the meeting at 1:00 p.m.

FINAL PROBATIONARY APPEARANCES

STANLEY BEEKMAN, D.P.M., L.M.T.

Dr. Beekman was appearing before the Board pursuant to his request for release from the terms of the Board's Order of January 8, 2014. Dr. Soin reviewed Dr. Beekman's history with the Board.

In response to questions from Dr. Soin, Dr. Beekman stated that he consults on podiatry cases, as well as some massage therapy in his home. Dr. Beekman stated that he is also working on compiling a book on how tensors and acupuncture points affect the foot. Dr. Beekman commented that he has regained some of his insurance privileges in his practice.

Dr. Soin asked how the Board's action affected Dr. Beekman's practice. Dr. Beekman answered that he lost all of his insurance plans, as well as his malpractice insurance, when his probationary terms began. Dr. Beekman stated that when he is released from his probationary terms he will be able to apply for Medicaid and CareSource. Dr. Beekman stated that he has been offered a job as a podiatrist at his old practice.

Dr. Schottenstein moved to release Dr. Beekman from the terms of the Board's Order of January 8, 2014, effective March 9, 2017. Mr. Giacalone seconded the motion. All members voted aye. The motion carried.

ROBERT J. ROSENSTEIN, D.P.M.

Dr. Rosenstein was appearing before the Board pursuant to his request for release from the terms of his March 12, 2014 Consent Agreement. Dr. Soin reviewed Dr. Rosenstein's history with the Board.

In response to questions from Mr. Giacalone, Dr. Rosenstein stated that he has lost his practice and is currently working as a medical director and a medical scribe for another corporation. Dr. Rosenstein stated that he still sees self-pay patients. Dr. Rosenstein stated that after 36 years of practice, it is difficult to start over, but he will start over and begin applying for insurance companies.

Mr. Giacalone asked if Dr. Rosenstein would address the medical students in attendance regarding his situation and to share words of wisdom. Dr. Rosenstein agreed.

Dr. Rosenstein advised the students take responsibility for themselves and not trust others to make sure everything is alright. Dr. Rosenstein further advised the students to make certain that attorneys review any contract they sign and make sure there are no hidden clauses. Dr. Rosenstein stated that if the students love medicine, they should continue to practice medicine and not look for other options to generate income. Dr. Soin agreed with Dr. Rosenstein's advice and stated that physicians must be very careful of solicitations that claim they can increase the physician's revenue. Dr. Soin noted that in Dr. Rosenstein's case, he lost his practice and it was very disruptive to his life.

Dr. Rosenstein stated that the 90-day suspension of his podiatric medical license gave him the opportunity to take a hard look at himself and find out what he loved. In the end, Dr. Rosenstein found that he loved the practice of medicine.

Dr. Schottenstein moved to release Dr. Rosenstein from the terms of his March 12, 2014 Consent Agreement, effective March 12, 2017. Mr. Giacalone seconded the motion. All members voted aye. The motion carried.

ADJOURN

Mr. Gonidakis moved to adjourn the meeting. Mr. Kenney seconded the motion. All members voted aye. The motion carried.

Thereupon, at 1:10 p.m., the March 8, 2017 session of the State Medical Board of Ohio was adjourned.

We hereby attest that these are the true and accurate approved minutes of the State Medical Board of Ohio meeting on March 8, 2017, as approved on April 12, 2017.



Amol Soin, M.D., President



Kim G. Rothermel, M.D., Secretary

(SEAL)



State Medical Board of Ohio

LICENSURE COMMITTEE MEETING
March 8, 2017
30 E. Broad St., Columbus, OH Room 318

Members: Bruce R. Saferin, D.P.M., Chair Kim G. Rothermel, M.D. Richard Edgin, M.D. Ronan Factora, M.D. Other Board members present: Amol Soin, M.D. Andrew Schachat, M.D. Michael Schottenstein, M.D.	Staff: Joseph Turek, Deputy Director for Licensure Mitchell Alderson, Chief of Licensure Chantel Scott, Chief of Renewal
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Dr. Saferin called the meeting to order at 8:00 a.m.

MINUTES REVIEW

Dr. Rothermel moved to approve the draft minutes of the February 8, 2016 meeting of the Licensure Committee. Dr. Edgin seconded the motion. The motion carried.

EMPLOYER RECOMMENDATIONS AND CERTIFICATES OF RECOMMENDATION

Mr. Turek, referencing a memo sent earlier to the Committee members, proposed eliminating the Employer Recommendation requirement for license and training certificate applications. Mr. Turek stated that this builds on the discontinuation of the Certificate of Recommendation for physician initial licensure applications in 2015. The proposal would also eliminate the Certificate of Recommendation requirement for initial and restoration applicants for both physicians and allied health professionals. Mr. Turek stated that, based on feedback from the Investigations Section and other Board Departments, Employer Recommendations would still be required for all restoration applications. Mr. Turek explained that an Employer Recommendation is more professional while a Certificate of Recommendation is more personal. Mr. Turek commented that employer recommendations could still be requests on a case-by-case basis if the staff thinks it may be useful.

Dr. Edgin moved to recommend approval of Mr. Turek's proposal. Dr. Rothermel seconded the motion.

Dr. Schottenstein supported to proposal and stated that applicants will only ask for recommendations from those who will speak favorably of them, thereby limiting its usefulness to the licensure staff. Dr. Saferin agreed.

A vote was taken on Dr. Edgin's motion. All members vote aye. The motion carried.

Dr. Saferin stated that this matter will be brought to the full Board for discussion at next month's meeting.

COSMETIC THERAPY UNIVERSAL EXAMINATION

Dr. Saferin stated that Ms. Scott has provided information regarding the cosmetic therapy universal examinations that are available. Dr. Saferin stated information and opinions on this topic are still being gathered from the cosmetic therapist community for the Committee's consideration. Dr. Saferin stated that an appropriate examination should cover head and neck massage, as that is within the cosmetic therapist scope of practice in Ohio. Dr. Saferin added that, while cosmetic therapists in Ohio can use lasers for hair removal, the use of laser is not a required part of their scope of practice and need not be included in a licensing examination. Dr. Saferin stated that the licensing examination should be a basic test covering the necessary items to be a cosmetic therapist in Ohio.

The Committee will continue discussion of this topic at next month's meeting.

CE BROKER

Dr. Saferin stated that work continues in determining if the continuing education services provided by CE Broker can be integrated into the Board's new eLicense system.

Dr. Schottenstein, noting the CE Broker is a private business, noted that private companies can possibly go out of business. Dr. Schottenstein asked what would happen if the Board's licensees are involved with CE Broker for tracking their educational requirements and CE Broker goes out of business. Dr. Soin replied that when an electronic medical records vendor goes out of business, they provide a hard drive with each client's data. Dr. Soin speculated that CE Broker may do the same in such an eventuality. Dr. Soin suggested that that question be broached with CE Broker. The Committee agreed.

ADJOURN

Dr. Rothermel moved to adjourn the meeting. Dr. Edgin seconded the motion. The motion carried.

The meeting adjourned at 8:20 a.m.

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

blt

State Medical Board of Ohio

POLICY COMMITTEE MEETING

March 8, 2017

30 East Broad Street, Columbus, OH 43215, Room 336

<p>Members: Amol Soin, M.D., Chair Robert Giacalone Andrew P. Schachat, M.D. Mark. A. Bechtel, M.D.</p> <p>Other Board Members Present: Kim G. Rothermel, M.D. Richard A. Edgin, M.D. Ronan M. Factora, M.D. Michael Schottenstein, M.D.</p>	<p>Staff: A.J. Groeber, Executive Director Kimberly Anderson, Chief Legal Counsel Sallie J. Debolt, Senior Counsel Rebecca Marshall, Chief Enforcement Attorney William Schmidt, Chief of Investigations Jonithon LaCross, Director of Public Policy & Government Affairs Tessie Pollock, Director of Communication Joan Wehrle, Education & Outreach Program Manager</p>
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Dr. Soin called the meeting to order at 8:35 a.m.

MEETING MINUTES REVIEW

Dr. Schachat moved to approve the Policy Committee minutes of the February 8, 2017 meeting. Mr. Giacalone seconded the motion. The motion carried.

LEGISLATIVE UPDATE

Budget update: Mr. LaCross reported that Mr. Groeber provided the Board's budget testimony. The Subcommittee complemented the Board's efforts to streamline processes. The House Health and Human Services Subcommittee continues to take testimony from the Boards.

Mr. LaCross indicated that the fee reduction for new physician licensees is included in the Board's budget. Changing "certificates to practice" to "license to practice" for MDs, DOs and DPMs is also included. Statutory clean up language related to licensure is part of the budget bill. Updates eliminate statutes that are no longer applicable and moves to an eligibility for licensure structure rather than the current eligibility for licensure examination structure. Additionally, Massage Therapists and Cosmetic Therapists will be moved into a separate section.

Changes to the Physician Assistant Policy Committee (PAPC) payment of its members is included in the budget bill (HB49). Currently, PAPC members are considered "employees" and that is changing to reimbursement for travel expenses to attend the PAPC meetings.

Mr. LaCross indicated clinical research faculty licenses and administrative medical licenses are not part of the budget bill but will be included in separate legislation.

Dr. Schottenstein asked if he would be distributing a list of pending legislation. Mr. LaCross reported that he will be providing information to Board members when there is legislation impacting the statutes regulated by the agency.

One-bite legislation is expected soon. Additionally, Mr. LaCross is working with Mike Miller on drafting model language to amend the CME requirements for physicians so that only Category 1 credits are needed for licensure renewal, instead of the current Category I and Category II requirements.

MEDICAL MARIJUANA RULE UPDATE

Dr. Soin noted that the committee will discuss a few minor changes to the proposed rules.

Ms. Anderson distributed a couple of handouts to the committee for reference.

Draft rule 4731-32-02: Certificate to Recommend Medical Marijuana.

Ms. Anderson reported that this rule addresses licensure eligibility and renewal of the certificate to recommend. She reported that staff found a small error in the rule that does not line up precisely with the statute. In paragraph C on the second page of the handout, language was added to the renewal section.

The initial draft had that the physician had to renew by meeting all the requirements that they would have to meet for initial licensure. The statute, however, requires the CME to be two hours annually. Because the certificate to recommend goes with their regular licensure renewal, the first time it may not necessarily be four hours. So, the drafting was slightly tricky. Staff added a clause to paragraph C to say that the physician has completed annually at least two hours of continuing medical education as described in (A)(7) of this rule. This amendment addresses the statutory requirement.

(C) The certificate to recommend shall be renewed when the holder's license to practice as a physician or osteopathic physician is renewed or restored, conditioned upon the holder's certification of having met the requirements in paragraph (A) of this rule and having completed annually at least two hours of continuing medical education in medical marijuana approved in accordance with paragraph (A)(7) of this rule.

Ms. Anderson clarified that the time to obtain the required CME would coincide with the licensee's medical license renewal cycle. She also clarified that the courses would be certified by either the Ohio State Medical Association or the Ohio Osteopathic Association.

Draft rule 4731-32-03: Standard of Care

Paragraph E: Ms. Anderson reported that edits were made to paragraph E of the rule based on discussions with the Pharmacy Board. The Pharmacy Board has rules addressing registration of the patient and caregivers. Those rules have a designation as to whether the patient has a terminal illness. Medical board draft rule 4731-32-03, (D)(2)(C) states . . . qualifying condition is a terminal illness for which the patient has a life expectancy of six months or less . . .

Ms. Anderson noted that there may be a situation where a patient with a terminal illness may live longer than six months and may need to continue medical marijuana if conditions warrant. If the qualifying condition was indicated in the prior six months, the physician shall confirm whether the patient's condition continues to be a terminal illness.

Ms. Anderson directed the committee to page 3, paragraph E, of the handout. The edits are highlighted in the underlined text:

- E A physician who recommends treatment with medical marijuana shall be available to provide follow-up care and treatment to the patient, including physical examination relevant to the patient's condition to determine the efficacy of medical marijuana in treating the patient's qualifying medical condition. If the qualifying condition was indicated as a terminal illness in the prior six months, the physician shall confirm whether the patient's condition continues to be a terminal illness.

Dr. Schachat suggested using "life expectancy of six months or less" be used throughout the rules rather than terminal illness.

Paragraph (B)(7): Dr. Soin reported that extensive discussion was held at the February Policy Committee meeting regarding documenting review of standard medical treatment. There had been some concern that there were not enough guardrails around the rule and there could be a higher potential for diversion if we took out the words "or considered."

Dr. Soin stated that there are a lot of guardrails in place when diagnosing a qualifying medical condition. The current language in (B)(7) is only one of 11 specific items the doctor must review and document in the patient's record including the patient's medical history, relevant prescription history, relevant diagnostic tests etc. Additionally, the doctor has to develop a treatment plan, check OARRS, explain the risks/benefits of treatment with medical marijuana etc.

Dr. Soin voiced his opinion that (B)(7) should stay as written:

- (B)(7) Documented review that standard medical treatment has been attempted or considered. If standard medical treatment is not attempted, the physician must document the reasons that standard medical treatment is not appropriate for this patient.

Committee members agreed with the requirement that the doctor justify why standard medical treatment is not appropriate.

Question was raised as to how often the doctor recommending medical marijuana for a patient would have to reassess the patient. Ms. Anderson indicated that it would be at least once a year, or every six months for patients with a terminal illness.

Because of the committee's past robust discussions regarding standard medical treatment, Mr. Giacalone offered edits to (B)(7) for discussion. Copies of his edits were distributed to the committee. Underlined text identifies the changes:

Document review that standard medical treatment has been attempted or considered for a qualifying medical condition as defined in section 3795.01 of the Revised Code that are diagnosed as being a terminal illness. For qualifying medical conditions that are not considered to be a terminal illness, standard medical treatment must have been attempted and found to have been ineffective, and the physician must document the reasons why standard medical treatment has not been found to be effective for this patient such that treatment with medical marijuana is warranted.

Mr. Giacalone agrees with excluding those with a terminal illness and providing more flexibility for those patients. It is a little higher standard for those with other qualifying conditions such as fibromyalgia or glaucoma, as standard medical treatment must have been attempted and found to have been ineffective.

Dr. Soin appreciated Mr. Giacalone's comments and noted that all are concerned with patient safety and preventing a "pill mill" type of situation with medical marijuana. Dr. Soin pointed out the suggested amendment says that standard medical treatment *must* have been attempted and that is the issue. We have "attempted or considered" in the original language and if standard treatment can't be used the doctor has to explain why it is not appropriate for a specific patient. This gives the doctor leeway if there is good justification for the patient. We are trying to balance patient access with public protection.

He stated that he appreciates Mr. Giacalone's proposed language, but he is a proponent for the original language of (B)(7). Dr. Soin believes there are sufficient patient safety protections built into the rule.

In response to a question asking who determines that medical marijuana is the best choice of treatment for a patient, Ms. Anderson replied that the physician would make that decision.

Another question was raised regarding (B)(8) that indicates the doctor may obtain a drug screen on a patient based on evidence or behavioral indications of addiction or drug abuse. What happens if the screen is positive? Is there anything to prevent the doctor from recommending medical marijuana?

Ms. Anderson replied that (B)(8) is modeled after the Board's chronic pain rules. The Board will be able to develop guidance documents for physicians regarding the medical marijuana rules.

It was also noted that rules can be amended if the need for changes is identified after the medical marijuana program is fully implemented.

Mr. Giacalone suggested a shorter review time than five years for the medical marijuana rule review.

Ms. Anderson indicated that staff can provide feedback to the Board regarding the implementation of the program as it progresses. Comments and inquiries received by the Board after the program is in place will help the Board identify areas that need to be adjusted.

Dr. Soin concluded the discussion of this topic by asking for a motion to recommend to the full Board approval of the edits to paragraph (C) of draft rule 4731-32-02 Certificate to Recommend Medical Marijuana as presented to the committee; the edits of paragraph (E) of draft rule 4731-32-03 Standard of Care as presented to the committee; and to make no changes to the language in paragraph (B)(7) of draft rule 4731-32-03. **Motion was made by Dr. Bechtel and seconded by Dr. Schachat. The full Board will be asked to approve the recommendations of the Policy Committee and to forward the draft rules to the Common Sense Initiative Office. Motion carried.**

AMENDMENT TO PHARMACY BOARD CONSULT RULES

Ms. Anderson reported that the Board of Pharmacy is required to consult with the Medical Board on its rules regarding pharmacist consult agreements with physicians.

The Pharmacy Board is proposing the following:

1. New rule 4729-29-03 which establishes standards for a pharmacist authorized to manage drug therapy pursuant to a consult agreement.
2. Amended rule 4729-29-01 which adds definitions for managing pharmacist and communicated consent.
3. Amended rule 4729-29-02 which adds to the general requirements for a consult agreement.

Copies of the proposed Pharmacy Board rules were included in the committee agenda materials.

Ms. Anderson said that no action is required, but Board members could contact her if they have any questions or concerns with the rules.

HEARING RULES

Ms. Debolt reported that at the December 2016 meeting, the Policy Committee approved draft rules for circulation to interested parties. The proposed rules would impose a page limit on briefs filed during the Board's administrative hearing and clarify the requirements for post-hearing motions that are ruled on by the Board President.

The public comments and Board staff responses and recommendations were reviewed and discussed. The agenda materials include the comments and responses.

The committee agreed with edits to the following rules as recommended by staff and included in the agenda materials:

Rule 4731-13-07 paragraph (A)(1); (E); (E)(1); and(E)(2)

Rule 4731-13-07.1 paragraph (A)(1) and (B)

No changes were made to the following rules:

Rule 4731-13-07.1 Paragraph (A)(2), (A)(3), (A)(4)

Rule 4731-13-03

Motion was made by Mr. Giacalone and seconded by Dr. Bechtel to recommend the full Board approve the edits to the hearing rules as recommended by staff and file the rules with the Common Sense Initiative Office. Motion carried.

PROPOSED NON-DISCIPLINARY TRACK FOR MENTAL OR PHYSICAL ILLNESS

Revised proposed rules for development of a confidential non-disciplinary track for monitoring individuals with mental or physical illnesses (excluding substance use disorders or chemical abuse/dependency) were presented to the committee. Ms. Marshall indicated the revisions were made to the draft rules following feedback received at the December 2016 Policy Committee meeting.

She reported that the significant changes include:

- The monitoring program will operate under the umbrella of the confidential investigative process overseen by the Secretary and Supervising Member(S/SM);
- Individuals will be eligible to re-enter the program provided the prior Participation Agreement was successfully completed and there are no other disqualifying factors;
- Individuals with a significant degenerative/progressive condition (such as Parkinson's disease, multiple sclerosis, primary dementia, schizophrenia, or mild cognitive impairment) must agree to ongoing monitoring if the individual retains any current or possible future right to practice. In all other instances, the length of monitoring will be set by the S/SM on a case-by-case basis, but not less than two years.
- The individual can request termination of the Participation Agreement by submitting a written request to the S/SM along with supporting medical documentation. If the S/SM agree, the individual will be notified that termination has been granted. Conversely, if the S/SM determine that termination is not appropriate, the individual will be notified that termination has been declined and monitoring will continue for at least another six months before another request for termination may be submitted.

Committee members expressed appreciation for the time and effort put into crafting this program.

It was noted that the other professions regulated by the Board need to be added to the draft rules. The updated draft will be returned to the Policy Committee for approval to send the draft rules to interested parties for comment.

Motion was made by Mr. Giacalone and seconded by Dr. Bechtel to recommend that the full Board approve the concept for the non-disciplinary track for mental and physical illness as outlined in the Policy Committee materials. Motion carried.

PROPOSED RULE 4731-1-24 CONTINUING EDUCATION BY MASSAGE THERAPISTS

Ms. Debolt reported that the Common Sense Initiative Office ("CSI") received over 100 comments on the proposed rule establishing that twenty-four hours of continuing education be completed for renewal of a massage therapy license.

The CSI staff advises that based on the comments that office would expect that the number of required hours to be reduced. It should be noted that several participants in the advisory committee telephone conference objected to the decrease in the number of required hours and to the addition of

the Federation of State Massage Therapy Boards as an approver and/or provider of continuing massage therapy education.

Included in the committee agenda materials was a detailed memorandum from Ms. Debolt that included the changes to the proposed rule made by Medical Board staff.

Dr. Bechtel asked if MTs would have courses addressing sexual boundaries. Ms. Debolt responded that MTs will be required to take a course on Ohio law and professional ethics. Sexual boundary information would be included in the course.

Motion was made by Dr. Bechtel and seconded by Mr. Giacalone to recommend that the full Board approve the recommended changes offered by Board staff and to approve the amended proposed rule 4731-1-24 for resubmission to the Common Sense Initiative Office. Motion carried.

ADJOURN

Dr. Schachat moved to adjourn the meeting. Mr. Giacalone seconded the motion. Motion carried.

The meeting adjourned at 9:33 a.m.

State Medical Board of Ohio

FINANCE COMMITTEE MEETING
March 8, 2017
30 E. Broad St., Columbus, OH Room 318

Members: Donald R. Kenney, Sr., Chair Bruce R. Saferin, D.P.M. Michael Gonidakis Michael Schottenstein, M.D. Other members present: Richard A. Edgin, M.D.	Staff: A.J. Groeber, Executive Director Susan Loe, Fiscal and Human Resources
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Mr. Kenney called the meeting to order at 9:10 a.m.

MINUTES REVIEW

Dr. Saferin moved to approve Finance Committee February 8, 2017 meeting minutes. Dr. Schottenstein seconded the motion. The motion carried.

FISCAL UPDATE

Ms. Loe stated that the Board's revenue for January 2017 was 881,000 and expenditures were \$735,000, with a cash balance of \$3,108,000. Ms. Loe noted that the Board's revenue is 11% ahead of what it was two years ago, mostly due to expedited licensure applications and licensees renewing early.

Ms. Loe stated that Mr. Groeber will testify before the legislature regarding the Board's propose budget. Ms. Loe stated that the Board's proposed budget is just enough to cover mandated salary increases and the expenses that would result if a proposed merger with two other licensing boards is approved.

In response to a question from Mr. Gonidakis, Dr. Saferin stated that the Board's proposed reduction in initial licensure fees for physicians is included in the proposed budget.

FINING AUTHORITY

Ms. Loe stated that the Board received payment of two \$500 fines which the Board had approved last month, both from massage therapists who had practiced beyond the expiration of their licenses. Ms. Loe stated that, so far, the Board has collected a total of \$15,000 due to its recently-acquired fining authority. Ms. Loe noted that one \$20,000 fine has been on hold because the decision was appealed, but the practitioner lost the appeal and that matter has been sent to the Attorney General's office for collection. In response to a question from Mr. Gonidakis, Ms. Loe stated that fine are due 30 days after the effective date of the Board action and the respondent is sent an invoice for payment; if the fine is not paid by the 31st day, the matter is sent to the Attorney General's office. Ms. Loe stated that legal restrictions on debt collectors prevents her from contacting those respondents prior to the due date of their fine. In response to questions from Mr. Kenney, Dr. Saferin and Ms. Loe briefly outlined the process for determining fines for proposed settlement agreements, as well as collection efforts.

PROPOSED BOARD CONSOLIDATION

Mr. Groeber stated that his testimony at the legislature was mostly about the proposed board consolidation issue. Mr. Groeber opined in his testimony that the board consolidation would result in more efficiency. Mr. Groeber stated that there was some concern about the Medical Board's ability to regulate dietitians and respiratory care therapists. However, Mr. Groeber pointed out that the Medical Board currently has nine physician members who regulate twelve other professions which are not represented on the Board, with the help of advisory committees. Mr. Groeber further noted that the Medical Board has larger resources to find the best experts available to aid the Board. Mr. Groeber stated that associations representing dietitians and respiratory care therapists are not supportive of the consolidation plan.

In response to questions from Mr. Kenney and Mr. Gonidakis, Mr. Groeber and Ms. Loe stated that the Dietetics Board and the Respiratory Care Board had a total of approximately 90 complaints against licensees last year, their combined staffs are about five or six people, and their annual budgets are relatively small. Mr. Groeber stated that if the consolidation proposal is approved, the Medical Board will be funded to absorb the staff of the other two boards, but there is no similar funding to absorb the executive directors.

E-LICENSE

Mr. Groeber stated that the Board's e-License program is progressing very well. Mr. Groeber stated that the Board's licensure staff have tested every license type in the base system.

COMMUNICATIONS AND OUTREACH

The Committee briefly discussed communications and community outreach. Dr. Schottenstein commented that the use of social media can enhance the Board's outreach efforts and public relations. Mr. Groeber opined that an account on LinkedIn and/or Facebook would be beneficial. Mr. Gonidakis agreed and added that a Facebook page can set up to be informational and to allow an opportunity to respond.

FEDERATION OF STATE MEDICAL BOARDS ANNUAL MEETING

Mr. Groeber reminded the committee that the Federation of State Medical Boards (FSMB) will hold its Annual Meeting in April. Mr. Groeber commented that the FSMB wrote an open letter to President Trump and the most prominent item of that letter was advocating for the interstate license compact. Mr. Groeber opined that that was not appropriate since only 18 of the 70 FSMB member boards have joined the interstate compact. Mr. Groeber stated that he intends to raise this issue at the Annual Meeting. Mr. Groeber stated that the State Medical Board of Ohio has not joined the compact. Mr. Groeber briefly outlined the problematic aspects of the interstate compact, including differing renewal periods complaint confidentiality laws between states. Mr. Groeber added that the FSMB also offers useful services to the member boards, such as verification services.

EDUCATION OUTREACH

Mr. Groeber stated that Ms. Pollock, the Board's Director of Communications, has been tasked with arranging an educational presentation each month in one of Ohio's medical schools. Mr. Groeber updated the Committee on other educational activities, including taping the prescribing course at Case Western Reserve University for training purposes.

Mr. Groeber stated that he visited the Ohio State University School of Medicine and discussed ideas to reduce costs and to simplify the students' transition to residency programs.

EXPEDITED LICENSURE

Mr. Groeber stated that the Board's expedited licensure program, which can issue a medical license approximately 21 days faster than the standard licensure process, has resulted in a total of an extra \$5,000,000 paid in salary, \$40,000,000 more in revenue for employers, and 200,000 more patient visits. Mr. Groeber stated that the program is an economic driver and is becoming a more attractive option for prospective applicants and their employers.

Mr. Kenney suggested that the Board offer medical schools an option to aggregate all their graduating physicians and process them through expedited licensure. Mr. Groeber agreed with Mr. Kenney's idea and stated that a physician can make \$500 to \$1,000 for each day they are able to practice.

Mr. Groeber stated that meeting with the Ohio State University School of Medicine will continue about every four months.

ONE-BITE REPORTING EXEMPTION

Mr. Groeber stated that he and Ms. Anderson met with Amy O'Grady from the Attorney General's office regarding the one-bite reporting exemption and how to address concerns of physicians' fears that entering treatment is a stigma.

ADJOURN

Dr. Saferin moved to adjourn the meeting. Dr. Schottenstein seconded the motion. The motion carried.

The meeting adjourned at 9:45 a.m.

State Medical Board of Ohio

COMPLIANCE COMMITTEE MEETING

March 8, 2017

30 E. Broad St., Columbus, OH Administrative Hearing Room

<p>Members: Amol Soin, M.D., Acting Chair Robert Giacalone Michael Schottenstein, M.D.</p> <p>Other Board members present: Kim G. Rothermel, M.D. Ronan M. Factora, M.D.</p>	<p>Staff: Annette Jones, Compliance Officer Julie Williams, Public Information Officer Benton Taylor, Board Parliamentarian</p>
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Dr. Soin called the meeting to order at 1:40 p.m.

INITIAL PROBATIONARY APPEARANCES

Paul R. Brown, P.A.

Mr. Brown is making his initial appearance before the Committee pursuant to the terms of his December 14, 2016 Consent Agreement. Dr. Soin reviewed Mr. Brown's history with the Board.

In response to questions from Dr. Soin, Mr. Brown stated that his recovery is going well. Mr. Brown stated that he has completed 28 days of intensive inpatient rehabilitation followed by intensive outpatient therapy, as well as a 90-day 12-step program. Mr. Brown stated that he also volunteers at a local mission. Mr. Brown stated that he has been a physician assistant for almost 26 years and would like to continue in that field. Mr. Brown stated that his family support is wonderful and his wife and three sons are very supportive.

Responding to questions from Dr. Schottenstein, Mr. Brown stated that he is currently seeing a psychiatrist and a counselor and he is currently taking medication for depression. Mr. Brown stated that he does not have cravings. Dr. Schottenstein advised Mr. Brown that if cravings do occur, there are medications available to address that.

Mr. Giacalone asked if Mr. Brown would address the medical students in attendance about his situation and share words of wisdom with them. Mr. Brown agreed. Mr. Brown stated he had been treated for alcohol issues about three years ago and he has had no alcohol problems since then. About one year ago Mr. Brown had rotator cuff surgery and was prescribed Percocet for post-operative pain. Mr. Brown stated that the line between physical and mental pain slowly became blurred and he would continually request more Percocet from his orthopedist, who would prescribe it. Mr. Brown needed another rotator cuff repair surgery three months later, leading to more Percocet and, eventually, addiction. Mr. Brown stated that he has since learned that there are alternative medicines that are less addictive and can still relieve pain.

Mr. Giacalone moved to continue Mr. Brown under the terms of his December 14, 2016 Consent Agreement, with future appearances before the Board's Secretary or Designee. Dr. Schottenstein seconded the motion. The motion carried.

Joseph P. Burick, D.O.

Dr. Burick is making his initial appearance before the Committee pursuant to the terms of his August 10, 2016 Consent Agreement. Dr. Soin reviewed Dr. Burick's history with the Board.

In response to questions from Dr. Soin, Dr. Burick stated that the professional boundaries course he had been required to take was very helpful. Dr. Burick learned that he had been practicing medicine as he had when he first began, not the way it is in modern times. Dr. Burick had believed that he could trust patients and play golf with them and have dinner with them, but he has learned that that is no longer the case. Dr. Burick stated that since the course, he has had some invitations from patients to go to dinner had he has told them that he must maintain a distance so that he can treat them as a physician and not as a friend. Dr. Burick stated that he returned to practice on February 1, 2017, and his patients are coming back to him. Dr. Burick stated that though he had been running short of money before returning to work, the Board's action has had little impact on his practice.

Dr. Schottenstein noted that Dr. Burick had come to the attention of the Board due to his difficulty in telling his patients "no." Dr. Schottenstein advised the medical students in attendance that physicians must be able to say "no"; otherwise, they may put their license at risk.

Dr. Schottenstein moved to continue Dr. Burick under the terms of his August 10, 2016 Consent Agreement, with future appearances before the Board's Secretary or Designee. Mr. Giacalone seconded the motion. The motion carried.

Philicia S. Duncan, M.D.

Dr. Duncan is making her initial appearance before the Committee pursuant to the terms of the Board's Order of January 11, 2017. Dr. Soin reviewed Dr. Duncan's history with the Board.

Responding to questions from Dr. Soin, Dr. Duncan stated that her recovery is going well. Dr. Duncan stated that she has not returned to work yet because she has not been able to go through the credentialing process and that it has been difficult to be out of work for so long. Dr. Duncan anticipated being able to return to work around the end of April. Dr. Duncan stated that her long-term career goal is to continue working in a hospital.

In response to questions from Dr. Schottenstein, Dr. Duncan stated that her division at the Ohio State University Wexner Medical Center are very supportive. Dr. Duncan has been spending her time attending rehabilitation meetings, reading, visiting family and friends, and studying for her upcoming Maintenance of Certification examination. Dr. Duncan stated that she has not experienced cravings or depression. Dr. Duncan stated that she sees a psychiatrist monthly and that treatment is going very well.

Mr. Giacalone asked what step Dr. Duncan is currently working on in the 12-step program. Dr. Duncan replied that she is working steps 3 and 4, which are surrendering to her higher power and making a list of her resentments or character defects. Dr. Duncan stated that she is also working with a sponsor. Mr. Giacalone asked if Dr. Duncan would share her experience and words of wisdom with the medical students in attendance. Dr. Duncan agreed.

Dr. Duncan stated that she had experienced depression and attention deficit hyperactivity disorder as a teenager, for which she had received treatment. When Dr. Duncan moved to a different state and had trouble finding a new psychiatrist, Dr. Duncan made a very poor decision to write her own prescriptions instead of getting treatment. Dr. Duncan could not give a reason for her actions except shamefulness and a fear of admitting weakness. Dr. Duncan stated that there is still a stigma against

mental health issues, even among her fellow residents. Dr. Duncan advised the students that anyone with a mental health issue should seek help and not be ashamed.

Dr. Schottenstein commented that, though some people are judgmental about mental illness, his experience is that the stigma against mental health issues is often exaggerated in the minds of those who fear the stigma. Dr. Schottenstein advised that people should not let a concern about stigma prevent them from seeking help. Dr. Schottenstein stated that mental health issues are not self-managed and do not go away on their own.

Mr. Giacalone moved to continue Dr. Duncan under the terms of the Board's Order of January 11, 2017, with future appearances before the Board's Secretary or Designee. Dr. Schottenstein seconded the motion. The motion carried.

Marvin H. Rorick, M.D.

Dr. Rorick is making his initial appearance before the Committee pursuant to the terms of the Board's Order of September 9, 2015. Dr. Soin reviewed Dr. Rorick's history with the Board.

Responding to questions from Dr. Soin, Dr. Rorick stated that in the controlled substances prescribing course he had been required to take he learned that there are patients who try to use physicians as a means to obtain controlled substances. Dr. Rorick stated that many patients have complaints that are difficult to prove and well-meaning physicians can initiate treatment that can escalate. Dr. Rorick stated that as a neurologist he has a broad practice treating a variety of conditions, but the Board found his pain management talents to be lacking. Dr. Rorick stated that he no longer accepts pain management patients and he is very careful about controlled substances.

Dr. Soin asked if Dr. Rorick agreed with the Medical Board's conclusions regarding his care of pain management patients. Dr. Rorick noted that he had appealed the Board's decision. Dr. Rorick stated that there is a heroin epidemic in Southwest Ohio and he does not want to be part of that problem. Dr. Rorick felt that among the cases that were selected for review by the Medical Board, many of those patients were controlled with regards to their complaints. Dr. Rorick stated that for many of the patients, he was their only healthcare provider and they had a multitude of psychiatric and neurologic complaints. Dr. Rorick stated that he did his best to serve the patients ethically. Dr. Rorick stated that when there is a pattern of medication misuse, the patient should be offered some kind of counseling or referred to a pain management specialist. Dr. Rorick stated that there had been few pain management specialists to refer to in Cincinnati at that time, but there are many more now.

Mr. Giacalone opined that Dr. Rorick seems to feel that he is a victim in this situation, that he had been tricked by his patients, and that he is not taking ownership of his actions. Dr. Rorick responded that he had felt he was being a good physician for his patients. Mr. Giacalone recounted the findings on which the Board had based its Order, including Dr. Rorick's continuing to prescribe controlled substances to a patient who was reportedly receiving prescriptions from multiple physicians and pharmacies, continuing to prescribe OxyContin to a patient after received information that the patient was selling her medication, and continuing to prescribe to a patient despite indications of misuse and a history of at least one overdose. Dr. Rorick responded that those were the allegations at the hearing and that, in fact, no one overdosed.

Mr. Giacalone asked if Dr. Rorick felt that his prescribing patterns had been appropriate. Dr. Rorick answered that he did not know there was a basis for comparison as long as the patients were able to maintain their lives in an orderly manner. Dr. Rorick stated that when there was a pattern of a patient having their medication stolen, there was no way to prove that that was not the case. Mr. Giacalone

noted that pharmacies and physicians had reported these patient issues to Dr. Rorick. Dr. Rorick replied that he had not been informed by any physician or pharmacy about misbehavior among his patients. Dr. Rorick stated that his patients had been treated for years on these medications without signs of escalation or addiction, so he did not refer them to an addiction specialist. Dr. Rorick added that he had been the only physician treating neuropathic and chronic pain in his area.

Dr. Soin asked what Dr. Rorick did on the case of a pharmacist who called Dr. Rorick to report that a patient was selling their medications. Dr. Rorick stated that he does not recall that specific case, but in that situation he would have confronted the patient with the report. Dr. Rorick stated that the patient may have been intimidated and may not have told Dr. Rorick the truth. Dr. Rorick stated that he is not aware of any case in which one of his patients was selling their medication. Dr. Soin asked if Dr. Rorick conducted pill counts or drug screens in his practice. Dr. Rorick answered that he was not doing pill counts and that urine drug screens became offered in his practice after the Board's action began. Dr. Rorick stated that he offered his chronic pain patients referrals to other specialists.

Dr. Schottenstein stated that the overall concern of the Committee is that Dr. Rorick seems to perceive the Board's action as an overreaction and that Dr. Rorick feels there was no problem with his pattern of practice. Dr. Schottenstein hoped that Dr. Rorick had developed some insight into what brought him before the Board. Dr. Schottenstein stated that based on prior statements, Dr. Rorick seems to have learned the importance of being able to say "no" to patients and that he has taken a step back from his previous prescribing habits. Dr. Rorick agreed and strongly recommended that physicians perform drug screens and pill counts and to adhere to the guidelines regarding controlled substances. Dr. Rorick stated that there had been a much more liberal approach to prescribing in the time period of 2003 to 2005, but there has been a lot of misuse of medications in Ohio. Dr. Rorick stated that the regulations since that time and the Smart Rx program from the Ohio State Medical Association has done a lot to educate physicians to be more cautious.

Mr. Giacalone commented that there is a prescription drug problem that did not arise out of thin air. Rather, the problem arose from over-prescribing of opioids and that Dr. Rorick's actions contributed to it. Mr. Giacalone noted as an example in incident in which Dr. Rorick continued to prescribe to a patient even after the patient's husband had expressed concern that she was addicted. Mr. Giacalone advised Dr. Rorick to watch what he prescribes very closely because the Medical Board will. Mr. Giacalone stated that further inappropriate prescribing by Dr. Rorick could result in the loss of his ability to prescribe.

Dr. Schottenstein moved to continue Dr. Rorick under the terms of the Board's Order of January 11, 2017, with future appearances before the Board's Secretary or Designee. Mr. Giacalone seconded the motion. The motion carried.

Shane T. Sampson, M.D.

Dr. Sampson is making his initial appearance before the Committee pursuant to the terms of his December 14, 2016 Consent Agreement. Dr. Soin reviewed Dr. Sampson's history with the Board.

In response to questions from Dr. Soin, Dr. Sampson stated that he is uncertain of his plans after his medical license is reinstated. Dr. Sampson stated that he has had to close his practice and he has been told by prospective employers that he would not be eligible for employment until he had complete the Board's probationary term. Dr. Sampson noted that his suspension is for 180 days and his probationary term upon reinstatement will be two years. Dr. Sampson explained that he came to the attention of the Board due to his failure to do Ohio Automated Rx Reporting System (OARRS) reports on two specific patients. Dr. Sampson stated that he had been treating the patients with

controlled substances for a number of years and had tried to send them to pain management clinics or neurologists, but he had no success in getting other health care providers to assist him in his area. Dr. Sampson stated that he has learned that if patients truly have long-term pain, a physician must find a method of treatment other than controlled substances. Dr. Soin agreed, especially in the current political environment.

Dr. Schottenstein asked Dr. Sampson to explain how he came to be in a sexual relationship with a patient. Dr. Sampson replied that he had no excuse for that. Dr. Schottenstein noted that Dr. Sampson did not formally terminate the physician/patient relationship prior to the sexual relationship. Dr. Schottenstein asked if Dr. Sampson had been aware at the time that he was essentially dating a patient. Dr. Sampson stated that it was a complicated situation and that what he did had been wrong. Dr. Sampson stated that he had known the patient for at least 16 years before she briefly became his patient shortly before Dr. Sampson's wife left him. Dr. Sampson stated that he had not recognized that she was crossing a boundary. Dr. Sampson stated that when he terminated the physician/patient relationship, he did so in person and did not send a certified letter as required. Dr. Schottenstein opined that it sounds like there was a gradual slippery slope into the relationship. Dr. Sampson agreed.

Dr. Schottenstein moved to continue Dr. Sampson under the terms of his December 14, 2016 Consent Agreement, with future appearances before the Board's Secretary or Designee. Mr. Giacalone seconded the motion. The motion carried.

Ernest L. Sutton, M.D.

Dr. Sutton is making his initial appearance before the Committee pursuant to the terms of his November 9, 2016 Consent Agreement. Dr. Soin reviewed Dr. Sutton's history with the Board.

Responding to questions from Dr. Soin, Dr. Sutton stated that he retired in March 2016 and he does not plan to practice medicine anymore. However, he will maintain a retired medical license in Virginia and Illinois.

Dr. Schottenstein noted that Dr. Sutton's 2015 Reprimand from the Virginia Medical Board was based on his failure to disclose a formal affiliation with the Cleveland Clinic, as well as concerns conduct, communication, and documentation of start and stop times in the operating room. Dr. Schottenstein further noted that Dr. Sutton fell asleep at one point while on duty. Dr. Schottenstein asked if Dr. Sutton felt these were legitimate concerns. Dr. Sutton explained that he had left out previous assignment locations while he was with the Army for 30 years, as well as the Cleveland Clinic. Dr. Sutton stated that he provided that information when he was called about it. Dr. Sutton further stated that he had not been employed by the Cleveland Clinic, but had worked for a gastroenterology group that practiced in a Cleveland Clinic-affiliated hospital.

Dr. Sutton continued that due to staffing issues, he had practiced in the hospital for three weeks out of every four-week period and was on call every third night at two hospitals. Dr. Sutton stated that he had never worked that kind of schedule before for a sustained period. Dr. Sutton added that he only had a single patient complaint during that time. Dr. Sutton stated that he was diagnosed with sleep apnea and is under treatment for that. Dr. Sutton stated that he is at fault for not fully and accurately completing the Virginia form.

Dr. Schottenstein moved to continue Dr. Sutton under the terms of his November 9, 2016 Consent Agreement, with future appearances before the Board's Secretary or Designee. Mr. Giacalone seconded the motion. The motion carried.

Onyinyechi Rose Uradu, M.D.

Dr. Uradu is making her initial appearance before the Committee pursuant to the terms of the Board's Order of September 14, 2016. Dr. Soin reviewed Dr. Uradu's history with the Board.

In response to questions from Dr. Soin, Dr. Uradu stated that she has completed her required course in controlled substance prescribing. Dr. Uradu stated that she would like to apply what she has learned to her practice, but she no longer has a practice. Dr. Uradu stated that when she returns to practice she will track her patients every day and make sure she is complaint with the limit on the number of patients she can have. Dr. Uradu stated that she will no longer rely on her staff to check the number of patients for her.

Dr. Schottenstein noted that Dr. Uradu take online courses in prescribing. Dr. Schottenstein opined that Dr. Uradu chose her courses because she thought they would add value to her education and her ability to practice. Dr. Schottenstein recalled that Dr. Uradu came to the Board's attention because she had exceeded the 100-patient limit for buprenorphine patients. Dr. Schottenstein opined that when Dr. Uradu first appeared before the Board, she had tried to justify exceeding the 100-patient limit. Dr. Uradu stated that when she first appeared before the Board, she was only looking at the situation from her point of view. However, Dr. Uradu stated that she now understands the Board's point of view in having to balance the benefits of treatment against the risks of prescribing excessive amounts of medication. Dr. Uradu stated that she is using this opportunity to improve herself and her practice. Dr. Uradu commented that one can do a good thing, but in a bad way. Dr. Uradu stated that she does not intend to waste the Board's time and she apologized for not communicating more clearly with the Board earlier.

Dr. Schottenstein assured Dr. Uradu that she is not wasting the Board's time and he was pleased that Dr. Uradu feels she has learned from this experience. Dr. Schottenstein thanked Dr. Uradu for her insight and he hoped she could return to practice soon. Dr. Uradu stated that she has practiced addictionology for nine years, but she cannot return to that field after the Board action due to House Bill 319.

Dr. Schottenstein moved to continue Dr. Uradu under the terms of the Board's Order of September 14, 2016, with future appearances before the Board's Secretary or Designee. Mr. Giacalone seconded the motion. The motion carried.

APPROVAL OF REPORTS OF CONFERENCES

Mr. Giacalone moved to approve the Compliance Staff's Reports of Conferences for February 7 & 8, 2017. Dr. Schottenstein seconded the motion. The motion carried.

MINUTES REVIEW

Dr. Schottenstein moved to approve the draft minutes from November 9, 2016. Mr. Giacalone seconded the motion. The motion carried.

The meeting adjourned at 2:45 p.m.

Anita M. Steinbergh, D.O.
Chair

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