

MINUTES**THE STATE MEDICAL BOARD OF OHIO****August 8, 2018**

Robert P. Giacalone, R.Ph., J.D., President, called the meeting to order at 10:23 a.m. in the Administrative Hearing Room, 3rd Floor, the James A. Rhodes Office Tower, 30 E. Broad Street, Columbus, Ohio 43215, with the following members present: Andrew P. Schachat, Vice President; Kim G. Rothermel, M.D., Secretary; Bruce R. Saferin, D.P.M., Supervising Member; Michael L. Gonidakis, Esq.; Amol Soin, M.D.; Michael Schottenstein, M.D.; Richard Edgin, M.D.; Ronan M. Factora, M.D.; Mark A. Bechtel, M.D.; Betty Montgomery; and Sherry L. Johnson, D.O.

Also present were: Anthony J. Groeber, Executive Director; Kimberly Anderson, Assistant Executive Director; David Fais, Assistant Executive Director; Sallie Debolt, Senior Counsel; Susan Loe, Director of Human Resources and Fiscal; Jonithon LaCross, Public Policy & Governmental Affairs Program Administrator; Teresa Pollock, Director for Communications; Joseph Turek, Deputy Director for Licensure; Gary Holben, Operations Manager; Nathan Smith, Staff Attorney; Rebecca Marshall, Chief Enforcement Attorney; James Roach, Assistant Chief Enforcement Attorney; Marcie Pastrick, Mark Blackmer, Angela McNair, and Adam Meigs, Enforcement Attorneys; Kyle Wilcox, Emily Pelphrey, and James Wakley, Assistant Attorneys General; R. Gregory Porter, Chief Hearing Examiner; Kimberly Lee, Hearing Examiner; Alexandra Murray, Managing Attorney, Standards Review and Compliance; Annette Jones and Angela Moore, Compliance Officers; Colin DePew, Legal and Policy Staff Attorney; Jacqueline A. Moore, Legal/Public Affairs Assistant; and Benton Taylor, Board Parliamentarian.

MINUTES REVIEW

Dr. Saferin moved to approve the draft minutes of the July 11, 2018, Board meetings, as written. Dr. Schottenstein seconded the motion. A vote was taken:

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

The motion carried.

APPLICANTS FOR LICENSURE

Dr. Saferin moved to approve for licensure, contingent upon all requested documents being

received and approved in accordance with licensure protocols, the physician applicants listed in Exhibit "A" and the allied professional applicants in Exhibit "B," as listed in the Agenda Supplement and handouts. Dr. Soin seconded the motion. A vote was taken:

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

The motion carried.

Dr. Saferin moved to approve for licensure, contingent upon all requested documents being received and approved in accordance with licensure protocols, the applicants listed in Exhibit "C" for the Certificate to Recommend Medical Marijuana, as listed in the Agenda Supplement and handouts. Dr. Soin seconded the motion. A vote was taken:

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

The motion carried.

REPORTS AND RECOMMENDATIONS

Mr. Giacalone announced that the Board would now consider the Reports and Recommendations appearing on its agenda.

Mr. Giacalone asked whether each member of the Board had received, read and considered the hearing records, the Findings of Fact, Conclusions of Law, Proposed Orders, and any objections filed in the matters of: Stephen S. Brown, M.D.; Anthony G. Conrardy, M.D.; and Anthony Joseph DiCello. A roll call was taken:

ROLL CALL:

Dr. Rothermel	- aye
Dr. Saferin	- aye
Dr. Schottenstein	- aye
Dr. Soin	- aye
Dr. Schachat	- aye
Mr. Giacalone	- aye
Mr. Gonidakis	- aye
Dr. Edgin	- aye
Dr. Factora	- aye
Ms. Montgomery	- aye
Dr. Johnson	- aye
Dr. Bechtel	- aye

Mr. Giacalone asked whether each member of the Board understands that the disciplinary guidelines do not limit any sanction to be imposed, and that the range of sanctions available in each matter runs from dismissal to permanent revocation. A roll call was taken:

ROLL CALL:

Dr. Rothermel	- aye
Dr. Saferin	- aye
Dr. Schottenstein	- aye
Dr. Soin	- aye
Dr. Schachat	- aye
Mr. Giacalone	- aye
Mr. Gonidakis	- aye
Dr. Edgin	- aye
Dr. Factora	- aye
Ms. Montgomery	- aye
Dr. Johnson	- aye
Dr. Bechtel	- aye

Mr. Giacalone noted that, in accordance with the provision in section 4731.22(F)(2), Ohio Revised Code, specifying that no member of the Board who supervises the investigation of a case shall participate in further adjudication of the case, the Secretary and Supervising Member must abstain from further participation in the adjudication of any disciplinary matters. In the matters before the Board today, Dr. Rothermel served as Secretary and Dr. Saferin served as Supervising Member.

Mr. Giacalone reminded all parties that no oral motions may be made during these proceedings.

The original Reports and Recommendations shall be maintained in the exhibits section of this Journal.

STEPHEN S. BROWN, M.D.

Mr. Giacalone directed the Board's attention to the matter of Stephen S. Brown, M.D. No objections have been filed. Ms. Blue was the Hearing Examiner.

Dr. Schottenstein moved to approve and confirm Ms. Blue's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Stephen S. Brown, M.D. Dr. Soin seconded the motion.

Mr. Giacalone stated that he will now entertain discussion in the matter of Dr. Brown.

Dr. Schachat stated that the allegations against Dr. Brown include making false statements, having limitations placed on his Kentucky medical license, and failure to cooperate in the Ohio Board's investigation. Dr. Schachat noted that Dr. Brown is a psychiatrist and his Ohio medical license is currently active.

Dr. Schachat continued that in April 2017, the Kentucky Board of Medical Examiners issued an order revoking Dr. Brown's Kentucky medical license. The Kentucky action was based on a complaint alleging patient abandonment. According to the Kentucky Board's findings, Dr. Brown's patients arrived for scheduled appointments and found that his office was locked. Patients attempted to contact Dr. Brown; some patients were told that Dr. Brown was ill, while others were told that the office closed due to a financial catastrophe. Dr. Brown's patients were not referred to other providers and their medical records were not readily available to them. Dr. Schachat stated that Dr. Brown had apparently stopped seeing his patients without explanation.

Dr. Schachat stated that an agent from the Kentucky Office of Inspector General, Drug Enforcement and Professional Practices Branch of the Cabinet for Health and Family Services, requested patient records, but Dr. Brown was unable to provide them. Dr. Brown had explained that his records were shredded after they were damaged due to a burst water pipe. Dr. Brown did not respond to a follow-up inquiry from the Kentucky Board. On April 17, 2017, the Kentucky Board entered a default ruling revoking his Kentucky medical license.

Dr. Schachat stated that Dr. Brown submitted an application to renew his Ohio medical license in May 2017. On the application, Dr. Brown answered "no" to a question asking if any board, bureau, department, agency, or any other body had filed any charges, allegations, or complaints against him. The Ohio Board sent interrogatories to Dr. Brown in July 2017 and resent them in August 2017 and September 2017. Dr. Brown did not reply to the Board's requests for information.

Dr. Schachat stated that Dr. Brown did not appear at his Ohio hearing. However, Dr. Brown submitted an unsworn statement that said, in general, that Kentucky Board investigators do not like doctors; that there was a former employee of Dr. Brown's who was vindictive; that there was victimization by anonymous persons; and that nothing that Dr. Brown could do would alter the outcome of the hearing.

Dr. Schachat noted that the Report and Recommendation's Findings of Fact show that Dr. Brown's Kentucky medical license was revoked; that he answered a question falsely on his Ohio medical license renewal application; and that he has not answered the Ohio Board's questions or cooperated with its investigation. Dr. Schachat agreed with the Hearing Examiner's Proposed Order, which would permanently revoke Dr. Brown's Ohio medical license and levy a civil fine of \$5,000.

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

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

Mr. Giacalone	- aye
Mr. Gonidakis	- aye
Dr. Edgin	- aye
Dr. Factora	- aye
Ms. Montgomery	- aye
Dr. Johnson	- aye
Dr. Bechtel	- aye

The motion to approve carried.

ANTHONY G. CONRARDY, M.D.

Mr. Giacalone directed the Board's attention to the matter of Anthony G. Conrardy, M.D. Objections to Mr. Porter's Report and Recommendation have been filed and were previously distributed to Board members.

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

Dr. Conrardy was represented by his attorney, James McGovern.

Mr. McGovern stated that Dr. Conrardy is currently incarcerated for the five felony counts that are at issue before the Board today. Mr. McGovern stated that the Medical Board has done good work under the guidance of the Governor to address Ohio's pill mill issue, particularly for physicians who hold medical licenses in other states in addition to Ohio. Mr. McGovern stated that a careful review of the hearing record demonstrates that Dr. Conrardy is not a pill mill physician. Mr. McGovern stated that in the past, the Board has been able to distinguish between pill mill physicians and physician who got "caught up" in a pill mill through, for instance, *locum tenens* work like Dr. Conrardy. In the latter cases, the Board has used its judgement to determine an appropriate level of sanction.

Mr. McGovern stated that he is not asking the Board to impose no sanction on Dr. Conrardy, but to refrain from imposing the most severe sanction. Mr. McGovern appreciated Mr. Porter's and Ms. Pelphrey's cooperation in arranging for Dr. Conrardy to testify by telephone during his incarceration. Mr. McGovern stated that Dr. Conrardy's testimony, as well as the testimony of Dr. Conrardy's brothers who are all established professionals and traveled to Ohio to testify, establishes that he is a man who puts others ahead of himself. Mr. McGovern stated that Dr. Conrardy has a proven track record of service to the community and has worked towards being a legitimate physician.

Mr. McGovern stated that there had been evidence that was excluded from the hearing record over his objections. However, Mr. McGovern felt that the hearing record as it stands still demonstrates the Dr. Conrardy, who spent 20 minutes or more with each of his patients and went through other steps, is not a pill mill physician like the Board has seen in the past and does not warrant permanent revocation of his license.

Mr. Giacalone asked if the Assistant Attorney General wished to respond. Ms. Pelphrey stated that she did wish to respond.

Ms. Pelphrey stated that when he was practicing, Dr. Conrardy was feeding the opiate monster. Ms.

Pelphrey pointed out that Dr. Conrardy was tried in criminal court, all the evidence was presented, and a jury found him guilty of five counts of Unlawful Distribution of Controlled Substances. Ms. Pelphrey stated that a Medical Board administrative hearing is not the place to relitigate a criminal matter. Ms. Pelphrey noted that Dr. Conrardy had to testify from prison because he had been sentenced to 30 months for helping people improperly. Ms. Pelphrey stated that it is the Board's decision whether it wants to continue to license a physician who has been prescribing opiates and feeding the opiate problem.

Ms. Pelphrey recommended that a permanent revocation of Dr. Conrardy's Ohio medical license would be a more appropriate sanction than the Hearing Examiner's Proposed Order.

Dr. Schottenstein moved to approve and confirm Mr. Porter's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Anthony G. Conrardy, M.D. Dr. Schachat seconded the motion.

Mr. Giacalone stated that he will now entertain discussion in the matter of Dr. Conrardy.

Dr. Soin stated that this case involves a physician who is currently incarcerated due to a felony conviction regarding the prescribing of opioids. Dr. Soin briefly reviewed Dr. Conrardy's education and career. Dr. Soin noted that Dr. Conrardy is not board-certified in anesthesiology. Dr. Conrardy has stated that he has taken the written examination to be board-certified in anesthesiology, but has been unable to pass the oral examination after five to six attempts. Dr. Conrardy has stated that he is introverted and shy and he is older than most applicants taking the examination, and these may be reasons that he has been unable to pass the oral examination. Dr. Soin commented that, as someone who has taken the anesthesiology oral examination, he does not find Dr. Conrardy's excuses to be credible.

Dr. Soin stated that he understands the testimony that Dr. Conrardy is not necessarily a pill mill physician in the true sense of that phrase, noting that the Medical Board has seen cases involving significantly larger amounts of prescribed opioids. Dr. Soin observed Dr. Conrardy's prescribing to a patient in State's Exhibit 4 and stated that he could envision scenarios in which a patient would be medically justified to receive that amount of medication in some limited situations.

Dr. Soin noted Dr. Conrardy's testimony that he had had no role in the administration of the clinic and that his duties had been limited to clinical care of patients. Dr. Conrardy also testified that when he saw a patient he would evaluate the patient, do a history and a focused examination, and oftentimes refer to objective evidence such as x-rays and MRI's. Dr. Soin noted specific cases reviewed in the Report and Recommendation, such as the case of Patient BM in which Dr. Conrardy discussed how he evaluated the patient and documented radiculopathic pain radiating down the legs. Dr. Conrardy ordered some imaging and developed Patient BM's care plan based on the history and physician exam.

Dr. Soin continued that there was also character testimony from Dr. Conrardy's brothers, including David Conrardy, C.P.A.; Philip Conrardy, M.D.; and Paul Conrardy, D.D.S. There were also letters written in support of Dr. Conrardy which are included in the hearing record.

Dr. Soin stated that the Proposed Order would impose a permanent limitation/restriction on Dr. Conrardy's license to bar him from prescribing, administering, dispensing, or personally furnishing any controlled substance except those utilized in relation to surgical anesthesiology. The Proposed Order would also suspend Dr. Conrardy's license for a minimum of two years and provide a pathway for him to return to practice following his incarceration.

Dr. Soin expressed concerns, based on the evidence in the hearing record, about the quality of Dr. Conrardy's patient selection, as well as his cognitive ability since he was unable to pass the board certification examination in his own primary specialty. Dr. Soin also had concerns about Dr. Conrardy's ability to practice in general after he has completed his incarceration. Dr. Soin opined that Dr. Conrardy's medical license should be permanently revoked.

Dr. Soin moved to amend the Proposed Order to a permanent revocation of Dr. Conrardy's license to practice medicine and surgery. Dr. Schottenstein seconded the motion.

Dr. Schottenstein opined that the Board is not here today to decide whether the behavior underlying Dr. Conrardy's conviction rises to the level of a pill mill case. Rather, the Board is here today because Dr. Conrardy was found guilty by a jury of five felony counts of Unlawful Distribution of Controlled Substances. Therefore, the case before the Board is one of mitigation. Dr. Schottenstein stated that it is not the Board's role to relitigate the trial proceedings or second-guess the jury verdict.

Dr. Schottenstein stated that this case appears to be another object lesson in the dangers of straying outside one's specialty of medical practice. In the record, Dr. Conrardy verbalized that when he contemplated accepting the position at the pain clinic, he was not sure he was qualified for it but that he would learn on the job. Dr. Conrardy further indicated that it was meaningful to him that his patients had been seen previously by other physicians whose notes he could follow. Dr. Schottenstein stated that Dr. Conrardy was aware of his lack of training and experience in the area of pain management, but he took the position nonetheless. Dr. Schottenstein appreciated the defense counsel's point that even experienced pain management physicians may have been fooled by the patients who presented to Dr. Conrardy at the clinic. However, Dr. Schottenstein stated that Dr. Conrardy's odds of avoiding being fooled would have been improved had he not been practicing outside his area of expertise.

Ms. Montgomery agreed with Dr. Soin that there is a concern about Dr. Conrardy's competence to practice medicine following his incarceration, noting that Dr. Conrardy will not have practiced medicine for some years when he is released. Ms. Montgomery also agreed that Dr. Conrardy's competence to practice in his specialty is critically important. However, Ms. Montgomery stated that there are people who freeze up in a testing situation, especially in oral testing. Ms. Montgomery suggested that the two-year suspension in the Proposed Order could be reduced, or the Order could include conditions to ensure that Dr. Conrardy is properly educated and competent in the field he chooses to practice in once he is released.

Ms. Montgomery stated that the pill mill physicians that the Board has dealt with in the past rarely or never even took vital signs on their patients, let alone perform actual examinations and attempt to properly evaluate patients as Dr. Conrardy appears to have done. Ms. Montgomery opined that this is indicative of Dr. Conrardy's intent, and therefore she would prefer to give Dr. Conrardy a chance to return to practice soon rather than later, under the proper controls.

Dr. Soin appreciated Ms. Montgomery's comments and agreed that this is not necessarily a pill mill situation. Dr. Soin stated that he is primarily concerned about Dr. Conrardy's ability to practice competently in Ohio. Dr. Soin commented that he would not want Dr. Conrardy taking care of him or his family members. Dr. Soin stated that Dr. Conrardy seems to freeze up in a stressful situation like a board examination, and he did not want an anesthesiologist who is in charge of his life to freeze up in stressful situations. Dr. Soin stated that for an anesthesiologist to fail the examination multiple times is concerning

to him.

Dr. Soin further noted that a certified anesthesiologist must maintain their certification and take a quiz every three months, in addition to continuing medical education (CME) and other educational activities to maintain competence. Dr. Soin stated that an uncertified anesthesiologist does not have to undergo these activities. Dr. Soin further noted that Dr. Conrardy will be incarcerated for 30 months, and to reenter the field of anesthesiology after such a long time away from practice is also very concerning.

Dr. Soin added that he is also concerned about the optics of allowing someone who has been incarcerated for 30 months to return to the practice of medicine and take care of the citizens of Ohio. Because of all these reasons, Dr. Soin opined that the best way to protect the public is to permanently revoke Dr. Conrardy's medical license.

Mr. Giacalone opined that the Board seems to be relitigating this issue, which it should not be doing. Mr. Giacalone noted that Dr. Conrardy had very highly regarded criminal attorneys at his trial and his attorney is currently serving as the U.S. Attorney for the Eastern District of Michigan. Mr. Giacalone pointed out that despite Dr. Conrardy's legal representation, he was still convicted and sent to prison. Mr. Giacalone further noted that the jury had viewed much more information from both sides, whereas he felt the information before the Board was one-sided to Dr. Conrardy's benefit.

Mr. Giacalone noted that the judge in Dr. Conrardy's criminal case had commented that he had not been able to impose as long a prison sentence as he would have liked. The judge had further commented that Dr. Conrardy "will not be licensed again either as a doctor or as a person who can write prescriptions." Mr. Giacalone stated that he did not want to second-guess the judge, who had sat through all aspects of this case and did not want Dr. Conrardy writing any prescriptions, let alone opioid prescriptions. Mr. Giacalone stated that there is a significant opioid crisis and this is about the safety of the public. Mr. Giacalone stated that Dr. Conrardy has literally had his day in court. Mr. Giacalone supported permanent revocation of Dr. Conrardy's medical license.

Mr. Gonidakis opined that the Board is not relitigating the case, but is determining what will happen with Dr. Conrardy after he has served his debt to society. Mr. Gonidakis felt that Ms. Montgomery made a strong argument that Dr. Conrardy may deserve an opportunity to return to the practice of medicine at some point with proper monitoring and education.

Mr. Giacalone stated that a great deal of mitigating information is being presented to the Board. Mr. Giacalone stated that Dr. Conrardy is not a victim. Rather, the victims are the people who are struggling with the opioid epidemic thanks in part, either willingly or unwillingly, to Dr. Conrardy's actions. Mr. Giacalone stated that the mitigating information is one-sided, but those who sat through the court trial and saw all the information decided to send Dr. Conrardy to jail. Mr. Giacalone acknowledged that many people, most of whom are related to Dr. Conrardy, have testified or stated how wonderful Dr. Conrardy is, but an independent body disagreed and sent him to jail.

A vote was taken on Dr. Soin's motion to amend:

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

Dr. Schachat	- nay
Mr. Giacalone	- aye
Mr. Gonidakis	- nay
Dr. Edgin	- aye
Dr. Factora	- nay
Ms. Montgomery	- nay
Dr. Johnson	- aye
Dr. Bechtel	- nay

The motion to amend did not carry.

Dr. Soin reiterated that the Proposed Order would impose a permanent limitation/restriction on Dr. Conrardy's license to bar him from prescribing, administering, dispensing, or personally furnishing any controlled substance except those utilized in relation to surgical anesthesiology. Dr. Soin stated that this would prevent Dr. Conrardy from prescribing controlled substances outside an operating room or surgical care center. Mr. Giacalone asked if Dr. Conrardy should be restricted from prescribing controlled substances in all situations. Dr. Soin replied that that would prevent Dr. Conrardy from practicing anesthesiology.

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

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

The motion to approve carried.

ANTHONY J. DICELLO

Mr. Giacalone directed the Board's attention to the matter of Anthony J. DiCello. No objections have been filed. Ms. Shamansky was the Hearing Examiner.

Mr. Giacalone stated that a request to address the Board has been filed on behalf of Mr. DiCello. Five minutes will be allowed for that address.

Mr. DiCello was represented by his attorney, Eric Jones.

Mr. Jones stated that in 2009, Mr. DiCello was a very young and immature man and he made some very big mistakes. Mr. DiCello pleaded guilty to trafficking and possession of cocaine in 2009. In 2011, the

Medical Board revoked Mr. DiCello's license to practice massage therapy in Ohio, but provided an opportunity for him to regain his license if he complied with all court orders and did not break any laws. Mr. Jones stated that Mr. DiCello has complied with everything the courts have ordered and has made full restitution. Mr. Jones noted that Mr. DiCello is now starting a catering business. Mr. Jones stated that Mr. DiCello has done everything to turn his life around and to be able to regain his massage therapy license.

Mr. Jones continued that the Hearing Examiner could not find any lack of moral character sufficient to deny Mr. DiCello his license. The Proposed Order would grant Mr. DiCello's application for a new massage therapy license with some restrictions. Mr. Jones stated that it is appropriate to have Mr. DiCello evaluated by a Board-approved provider and to require him to comply with any resulting recommendations in order to have a pathway to return to massage therapy.

Mr. DiCello stated that he respects and acknowledges the concerns the Board may have about him. Mr. DiCello stated that he had no issues with the law prior to 2006. Mr. DiCello stated that at that time he had been 29-years-young and was in a complicated relationship with a young woman who suffered severe anxiety and depression. Mr. DiCello stated that he does not blame the young woman and he takes full responsibility for his actions. Mr. DiCello believed that his legal matters were a product of the negative environment he had been in. Mr. DiCello stated that since removing himself from the relationship, he has not been in any legal trouble for over ten years. Mr. DiCello stated that the legal mistakes he made had no direct correlation to his practice as a massage therapist and did not affect his clientele or his employers at any time.

Mr. DiCello continued that in 2010 he spent three months incarcerated among many vile individuals and was treated poorly. Mr. DiCello stated that his ordeal disgraced my closest family members. Mr. DiCello stated that upon his release, he filed for bankruptcy. Mr. DiCello stated that since that time, he has worked several years of long, hard hours in low-wage restaurant jobs and had to walk or bike to work because his driver's license was suspended for over six months. Mr. DiCello stated that it took seven years to serve his probation and pay the maximum in monetary fines which totaled over \$25,000, in addition to paying more than \$50,000 on legal representation.

Mr. DiCello stated that he has fully adhered to his probationary guidelines and the Medical Board's requirements to remain drug-free and obey the law. Mr. DiCello stated that he has successfully re-tested on the Massage and Bodywork Licensing Examination (MBLEX) and has submitted nothing but clean drug screens. Mr. DiCello stated that he has been scared straight and has nothing but the utmost respect for the law, himself, and his freedom.

Mr. DiCello stated that his punishment has scarred his personal record and made it difficult to obtain gainful employment through traditional means. Mr. DiCello stated that regaining his massage therapy license would provide him with the confidence to connect with previous clients and employers, as well as the opportunity to regain his professional identity.

Mr. DiCello continued that his close family members made him earn back their trust, and he eventually did. Mr. DiCello stated that the personal hurt he felt going through this in a close Italian family was almost debilitating, but his family now supports him with love and encouragement knowing that these acts were completely out of character for him.

Mr. DiCello acknowledged the Board's concerns that he may relapse. Mr. DiCello stated that he has

admitted to all his past substance abuse, which occurred over ten years ago, and his criminal acts had manifested from a dysfunctional relationship. Mr. DiCello stated that he now avoids environments that encourage excessive alcohol or drug use. Mr. DiCello stated that he holds strong Christian values and beliefs, and he maintains only healthy relationships with a close group of family and friends.

Mr. DiCello stated that he has met amazing people in his recent restaurant career and he submitted letters of professional recommendation from them for his hearing. Mr. DiCello stated that this ordeal has caused him to grow up and understand that there are real consequences for unlawful actions. Mr. DiCello stated that when life is difficult and challenging, it is an opportunity to grow, learn, and become better. Mr. DiCello added that he maintains a healthy lifestyle through prayer, yoga, meditation, proper nutrition, and associating with likeminded acquaintances.

Mr. DiCello felt that part of his identity is to share a healing touch and to use the wellness knowledge he has gained to help others in need. Mr. DiCello asked the Board to grant his application for relicensure. Mr. DiCello opined that Hearing Examiner's Proposed Order includes probationary guidelines that he has already completed. Mr. DiCello stated that he would participate in a modified probationary period, stating that several of the guidelines are very challenging to his current employment and income. Mr. DiCello stated that he would rather not continue to drag negative past circumstances into the future, and he felt that his employment opportunities would be greatly hindered by disclosing his complete sentencing report to a potential employer. Mr. DiCello added the he has no issue explaining his criminal past to an employer if he is asked to do so.

Mr. DiCello stated that he is very grateful for a chance to reinstate his massage therapy license. Mr. DiCello stated that his massage therapy knowledge is his only professional education and he holds it in high regard.

Mr. Giacalone asked if the Assistant Attorney General wished to respond. Mr. Wilcox stated that he did not wish to respond.

Dr. Schottenstein moved to approve and confirm Ms. Shamansky's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Anthony J. DiCello. Dr. Soin seconded the motion.

Mr. Giacalone stated that he will now entertain discussion in the matter of Mr. DiCello.

Dr. Edgin stated that on or about July 30, 2009, in the Franklin County Court of Common Pleas, Mr. DiCello pleaded guilty to, and was convicted of, one count each of Trafficking in Cocaine; Possession of Cocaine; and Possession of Criminal Tools, all fifth-degree felonies. In October 2007, when Mr. DiCello submitted an application for the renewal of his massage therapy certificate, he answered "No" to a question that asked whether any board, bureau, department, agency, or any other body had filed any charges, allegations, or complaints against him. Dr. Edgin said that, in fact, Mr. DiCello had been indicted on one felony count of Vandalism in the Franklin County Court of Common Pleas on or about February 23, 2006.

Dr. Edgin added that materials submitted with Mr. DiCello's 2017 application for a new massage therapy license included a Sentencing Memorandum which was submitted to the court on Mr. DiCello's behalf. The Sentencing Memorandum stated that Dr. DiCello was facing imprisonment due to his substance abuse problem and extremely poor choices. The Board has alleged that, though Mr. DiCello indicated in 2017 that he had not used any recreational drugs or abused any prescription medications since 2008, he

acknowledged that he continued to consume alcohol, despite his early testimony in a 2010 Board hearing that his 2006 Vandalism conviction was related to his consumption of alcohol. Specifically, Mr. DiCello had admitted to consuming a glass of wine at a wedding in October 2017 and three vodka and Sprite cocktails at dinner on his birthday in May 2017, which caused him to feel under the influence of alcohol.

Dr. Edgin continued that the Board further alleged that Mr. DiCello had provided information about a drug and alcohol assessment he had at Netcare in 2009 while awaiting sentencing. In this information, Mr. DiCello identified cocaine as his drug of choice and his diagnoses included "cocaine abuse by history" and "alcohol abuse by history." Mr. DiCello has since said that he does not have an abuse problem and that he is not an addicted personality.

Dr. Edgin stated that in 2006, Mr. DiCello used a wooden pallet to break some windows, which led to his vandalism charge. Dr. Edgin related the details of Mr. DiCello's later arrest for selling cocaine to an undercover agent from the Drug Enforcement Administration. Mr. DiCello was ultimately incarcerated for two to three months and had to complete community service. Mr. DiCello has stated that he used cocaine about once per month during that time period, but Dr. Edgin noted some evidence that he had used cocaine weekly.

Dr. Edgin stated that Mr. DiCello has paid his fines and all of his drug testing was negative. Mr. DiCello did not go through a Board-approved treatment, but he did have a one-day assessment on two occasions and no further drug treatment was recommended. In his hearing, Mr. DiCello stated that he had answered "No" to the licensure application question because he thought he had already paid his debt for the vandalism charge and did not want to bring it up again; Mr. DiCello had also stated that he thought the matter was confidential.

Dr. Edgin noted that although the Hearing Examiner had recommended in 2010 that Mr. DiCello's massage therapy license be permanently revoked, the Board decided to non-permanently revoke the license and allow Mr. DiCello to reapply in five years if he remained drug-free and committed no criminal acts. Dr. Edgin stated that Mr. DiCello never went through Alcoholics Anonymous or any 12-step program and he never saw a Board-approved treatment provider. Mr. DiCello has stated that he has not used any drugs since his revocation, but he has admitted to alcohol use. Mr. DiCello has further stated that he will abstain from alcohol in the future. Dr. Edgin noted that Mr. DiCello had some supporting letters and statements from others.

Dr. Edgin stated that he is troubled by the fact that Mr. DiCello does not think that he has a drug abuse problem or an alcohol abuse problem, and he has never been through a formal treatment program. Dr. Edgin opined that Mr. DiCello should be more serious about the alcohol problem, noting that alcohol is what led to his initial vandalism charge.

Dr. Edgin stated that the Proposed Order would grant Mr. DiCello's application for licensure, immediately suspend the license for a minimum of 90 days followed by a minimum probationary period of five years, and establish interim monitoring and probationary terms and conditions.

Dr. Schottenstein noted that in his closing arguments, Mr. DiCello's attorney referenced the need for fairness regarding the implementation of the Board's rule requiring treatment of alcohol use disorder in this case. Specifically, the attorney said, "Just because somebody has an issue with drugs or alcohol does not automatically make them an alcoholic or drug addict." Dr. Schottenstein speculated that the attorney meant that it is possible to abuse a substance without being physically dependent on it and that it

can be for a temporary period of time. In response, Dr. Schottenstein stated that if one has had an issue with drug or alcohol abuse, that certainly raises the risk of developing alcoholism or drug addiction and it certainly seems prudent to intervene as a way of managing that risk.

Dr. Schottenstein noted Mr. DiCello's contention that it is unnecessary for him to undergo intensive outpatient treatment because he is now in a healthy relationship and his drug issue, which he had during a time of anxiety and depression, is behind him. Dr. Schottenstein respectfully disagreed. Dr. Schottenstein stated that he would never minimize that pain that Mr. DiCello was experiencing at that time, nor does he judge Mr. DiCello for wanting to engage in drug-seeking behavior to make the pain go away. However, Dr. Schottenstein stated that suffering is part of life and even profound suffering is something that everyone is likely to experience at some point. Dr. Schottenstein stated that other people know what it is like to experience family, health, or relational issues, but most people do not start abusing drug to compensate for this level of pain. Dr. Schottenstein stated that he says this not as a judgment, but simply to make a point that Mr. DiCello's behavior was not a normal reaction to stress and was not an adaptive coping mechanism.

Dr. Schottenstein continued that substance use occurs when people are prone to mood disorder or substance use disorder. Dr. Schottenstein stated that these disorders may be under reasonable control at baseline, but when something stressful occurs their mood could become clinically depressed and they could begin abusing drugs. Dr. Schottenstein stated that Mr. DiCello has a history of a pattern of risky behavior and his need for treatment is not just based on the technicality of the Board's rule, but in his own best interest. Dr. Schottenstein stated that stress is part of life and Mr. DiCello will forever be at increased risk of relapse regarding his behavior. Dr. Schottenstein stated that treatment minimizes the risk of relapse and without the treatment the risk of relapse is more substantial.

Dr. Schottenstein hoped that Mr. DiCello will make good choices going forward and that he puts his heart into the substance abuse treatment. Dr. Schottenstein stated that he agrees with the Proposed Order.

Ms. Montgomery stated that she also agrees with the Proposed Order. Ms. Montgomery congratulated Mr. DiCello for attempting to get his life under control. Ms. Montgomery hoped that Mr. DiCello takes his treatment seriously and that he stays positive.

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

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

The motion to approve carried.

PROPOSED FINDINGS AND PROPOSED ORDERS

Mr. Giacalone stated that in the following matters, the Board issued a Notice of Opportunity for Hearing. No timely requests for hearing were received. The matters were reviewed by a Hearing Examiner, who prepared Proposed Findings and Proposed Orders, and they 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.

MAHMOUD ABOU EL SOUD, M.D.

Dr. Schottenstein moved to find that the allegations as set forth in the December 13, 2017 Notice of Opportunity for Hearing in the matter of Dr. Abou El Soud have been proven to be true by a preponderance of the evidence and to adopt Ms. Lee's Proposed Findings and Proposed Order. Dr. Soin seconded the motion.

Mr. Giacalone stated that he will now entertain discussion in the above matter.

Dr. Bechtel stated that the Board's proposed action is based on an allegation that Dr. Abou El Soud closed his medical practice without appropriate notice or communication to his patients or to key third-party individuals.

Dr. Bechtel continued that on July 1, 2017, Dr. Abou El Soud left the United States and traveled to Sydney, Australia, without notifying his patients, despite the statutory requirement to notify patients within 30 days that a physician is leaving a practice. Dr. Bechtel noted that Dr. Abou El Soud also did not inform his wife or his family that he was leaving the country. On July 5, 2017, Dr. Abou El Soud's wife filed a missing person report. According to Dr. Abou El Soud's wife and son, the doctor had been depressed and had threatened suicide, and he had been living in a hotel for an unspecified time prior to leaving the United States. Dr. Abou El Soud also stopped paying rent for his office space after leaving the United States.

Dr. Bechtel stated that although Dr. Abou El Soud has not requested a hearing in this matter, the Board has received emails from Dr. Abou El Soud. In an email dated January 2, 2018, Dr. Abou El Soud acknowledged that he left the United States on July 1, 2017, and traveled to Sydney, Australia. Dr. Abou El Soud claimed that he left the country after threats from family members and he commented that things were heading toward a serious confrontation.

Dr. Bechtel noted that Dr. Abou El Soud has made many conflicting statements in several emails. For example, Dr. Abou El Soud's first email to the Board stated that he had made arrangements with an ex-office worker to take care of his medical records. In a subsequent email, Dr. Abou El Soud commented that he felt guilty for having left some of the patients that he had treated for over 30 years without notice. In another subsequent email, Dr. Abou El Soud stated, "...I left my patients in the hands of my colleagues, which was arranged before I left and at their acceptance."

Dr. Bechtel stated that Dr. Abou El Soud failed to notify his patients within 30 days of leaving his practice and he did not arrange for another physician to continue their care. Dr. Bechtel stated that Dr. Abou El Soud's Ohio medical license is currently active, but he is living in Sydney, Australia and he has indicated

that he has no intention of returning to Ohio.

Dr. Bechtel stated that Dr. Abou El Soud did not request a hearing which may have explained some of the mitigating circumstances in this case, such as whether there actually were threats against him or if he had some psychiatric issues. Dr. Bechtel reiterated that Dr. Abou El Soud sent the Board conflicting emails and he has not shown remorse for his actions. The Hearing Examiner's Proposed Order would permanently revoke Dr. Abou El Soud's Ohio medical license and fine him \$5,000. Dr. Bechtel stated that there are no recent instances of the Board permanently revoking a physician's license for failing to provide 30-day notice to patients, though one physician's license was non-permanently revoked for closing her practice without notice and putting a sign on her office door stating that she had started a new business enterprise.

Dr. Bechtel opined that the Proposed Order should be amended to a non-permanent revocation of Dr. Abou El Soud's license, retaining the \$5,000 fine.

Dr. Bechtel moved to amend the Proposed Order to a non-permanent revocation of Dr. Abou El Soud's license to practice medicine and surgery in Ohio, with a fine of \$5,000. Dr. Schachat seconded the motion.

In response to questions from Dr. Edgin and Dr. Schottenstein, Dr. Bechtel stated that under the proposed amendment, Dr. Abou El Soud would be able to reapply for licensure. If Dr. Abou El Soud chose to reapply, the Board would have an opportunity to gather additional information and reevaluate the case.

Dr. Schottenstein stated that he appreciates the thought behind the proposed amendment, but he opined that Dr. Abou El Soud's abandonment of his practice was an egregious act. Dr. Schottenstein stated that Dr. Abou El Soud could have stayed within the Board's Rule, even if he felt he had to leave urgently, by notifying his patients after he had left. Dr. Abou El Soud made no such attempt to contact his patients. Dr. Schottenstein favored permanent revocation of Dr. Abou El Soud's medical license.

Mr. Giacalone agreed with Dr. Bechtel's proposed amendment. Mr. Giacalone stated that many questions about this case remain, including possible threats and the possibility of psychiatric issues. Mr. Giacalone opined that the Board should not permanently revoke Dr. Abou El Soud's license based on such limited information. Mr. Giacalone stated that if Dr. Abou El Soud reapplies for licensure, he can go through the hearing process and the Board can determine at that time whether he should be allowed to practice in Ohio again.

A vote was taken on Dr. Bechtel's motion to amend:

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

Ms. Montgomery - aye
Dr. Johnson - aye
Dr. Bechtel - aye

The motion to amend carried.

Dr. Soin moved to find that the allegations as set forth in the December 13, 2017 Notice of Opportunity for Hearing in the matter of Dr. Abou El Soud have been proven to be true by a preponderance of the evidence and to adopt Ms. Lee's Proposed Findings and Proposed Order, as amended. Dr. Schottenstein seconded the motion. A vote was taken:

ROLL CALL:

Dr. Rothermel	- abstain
Dr. Saferin	- abstain
Dr. Schottenstein	- aye
Dr. Soin	- aye
Dr. Schachat	- aye
Mr. Giacalone	- aye
Mr. Gonidakis	- aye
Dr. Edgin	- aye
Dr. Factora	- aye
Ms. Montgomery	- aye
Dr. Johnson	- aye
Dr. Bechtel	- aye

The motion to approve carried.

KIRSTEN NICOLE BRAY, M.D.

Dr. Schottenstein moved to find that the allegations as set forth in the February 14, 2018 Notice of Opportunity for Hearing in the matter of Dr. Bray have been proven to be true by a preponderance of the evidence and to adopt Ms. Shamansky's Proposed Findings and Proposed Order. Dr. Schachat seconded the motion.

Mr. Giacalone stated that he would now entertain discussion in the above matter.

Dr. Schottenstein stated that on or about January 20, 2016, Dr. Bray submitted an application for a license to practice medicine and surgery in Ohio, and that application remains pending. On the application, Dr. Bray answered "Yes" to questions regarding the denial of privileges to a healthcare facility and whether she had ever lost or been denied a board certification. Dr. Bray also answered "Yes" to questions about whether she had ever been notified of any other board's investigation of her practice and if she had ever been denied participation in a third-party reimbursement program.

In a statement attached to her application, Dr. Bray indicated that her attempts to pass the American Board of Family Practice specialty examination had not been successful and she had been denied privileges at several facilities as a result. Dr. Bray also disclosed concerns raised by one employer about her prescribing practices in pain management. Dr. Bray further disclosed a hospital's early release of her *locum tenens* position in February 2007 due to concerns about her ability to properly diagnose children's health conditions. In addition, there was an investigation into Dr. Bray's prescribing practices regarding

controlled substances by the North Carolina licensing board, which was ultimately dismissed.

Dr. Schottenstein stated that the Board sent its first set of interrogatories to Dr. Bray at her address of record on or about July 6, 2017; Dr. Bray signed for receipt of the interrogatories. The interrogatories were resent on or about October 25, 2017, and sent a third time on or about November 30, 2017. The Board never received a response from Dr. Bray. Dr. Schottenstein noted that the post office confirmed the receipt of all the mailings.

Dr. Schottenstein stated that the Board has made an allegation that Dr. Bray has failed to cooperate in an investigation conducted by the Board. Dr. Schottenstein noted that the Hearing Examiner appreciated the fact that Dr. Bray was forthcoming in her answers to the questions in her application. However, the Hearing Examiner also noted special concern regarding Dr. Bray's disclosures that her employer had been concerned about her prescribing practices practicing, as well as the North Carolina Board's investigation into her prescribing of controlled substances.

Dr. Schottenstein stated that, given the lack of cooperation by Dr. Bray and the Board's interest in protecting the public in light of the opioid epidemic, the Hearing Examiner has recommended denial of Dr. Bray's application for licensure. The Hearing Examiner also recommended that reapplication be discouraged until Dr. Bray is willing to cooperate with the Board's investigation. Dr. Schottenstein agreed with the Proposed Order.

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

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

The motion to approve carried.

JAMES R. TAYLOR, III, L.M.T.

Dr. Schottenstein moved to find that the allegations as set forth in the December 13, 2017 Notice of Opportunity for Hearing in the matter of Mr. Taylor have been proven to be true by a preponderance of the evidence and to adopt Mr. Porter's Proposed Findings and Proposed Order. Dr. Soin seconded the motion.

Mr. Giacalone stated that he would now entertain discussion in the above matter.

Mr. Gonidakis stated that the proposed action against Mr. Taylor's massage therapy license is based on

the allegation that Mr. Taylor had continued to practice massage therapy after his license was suspended due to being in default of a child support order, which constitutes a felony in Ohio.

Mr. Gonidakis continued that the Board had suspended Mr. Taylor's license in January 2017 after the Franklin after Franklin County Child Support Enforcement Agency informed the Board that Mr. Taylor was in default of his child support payments. Mr. Taylor's license was suspended from January 2017 to July 2017. On July 21, 2017, the Board notified Mr. Taylor that it had received a Notice to Reinstate/Reissue from the Franklin County Child Support Enforcement Agency and that it had reinstated his certificate to practice massage therapy.

Mr. Gonidakis noted that Mr. Taylor responded to the Board and admitted that he had practiced massage therapy from January 2017 through July 2017, seeing a handful of clients per week. The Proposed Order would suspend Mr. Taylor's license indefinitely, but not less than one year, levy a fine of \$500, require Mr. Taylor to take professional and personal ethics courses, and fulfill other conditions for reinstatement.

Mr. Gonidakis stated that he supports the Proposed Order. Mr. Gonidakis opined that a suspension of Mr. Taylor's license is better than a non-permanent revocation because a suspension provides the Board with some control. Mr. Gonidakis stated that under the Proposed Order, it is clear what Mr. Taylor will be expected to do if he chooses to reinstate his license.

Dr. Schottenstein noted that Mr. Taylor's license has been suspended before, and he had ignored the suspension. Dr. Schottenstein stated that Mr. Taylor was explicitly warned that practicing massage therapy without a license would be a violation of the law, but he continued to practice anyway. Since the first suspension did not seem to make an impression on Mr. Taylor, Dr. Schottenstein opined that another suspension felt ineffectual to him.

Dr. Schottenstein opined that practicing massage therapy with a suspended license in violation of a Board Order is an egregious act. Dr. Schottenstein stated that an active massage therapy license is a privilege and serves the public interest by informing the public that a practitioner is competent and ethical. Dr. Schottenstein stated that the public needs to be able to rely on the mechanism of licensure so that there is trust in the massage therapy profession. Dr. Schottenstein stated that an effort by a licensee to circumvent a Board-ordered suspension is arguably egregious because it facilitates the breakdown of the trust that the public has in the profession. Dr. Schottenstein further stated that a less-than-resolute response by the Board will lead to an erosion in its ability to maintain the confidence in the ethical standards of its practitioners.

Dr. Schottenstein suggested that the Board non-permanently revoke Mr. Taylor's license, while keeping the \$500 fine in place. Dr. Schottenstein stated that this would allow Mr. Taylor to reapply for his license in the future. Dr. Schottenstein opined that this would make more of a statement than the Proposed Order because it would require Mr. Taylor to reapply for a new license and would more substantially make the point that the Board takes it very seriously when a licensee practices in violation of a Board-ordered suspension.

Dr. Schottenstein stated that he would also encourage Mr. Taylor to take the ethics course included in the Proposed Order prior to reapplying for licensure.

Dr. Schottenstein moved to amend the Proposed Order to a revocation of Mr. Taylor's license to practice massage therapy in Ohio, while maintaining the \$500 civil penalty. Dr. Sojin seconded the

motion. A vote was taken:

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

The motion to amend did not carry.

A vote was taken on Dr. Schottenstein's original motion to approve the Proposed Order:

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

The motion to approve carried.

FINDINGS, ORDERS, AND JOURNAL ENTRIES

Mr. Giacalone stated that in the following matter, the Board issued a Notice of Opportunity for Hearing, and documentation of Service was received. There was no timely request for hearing filed, and more than 30 days have elapsed since the mailing of the Notice. This matter is therefore before the Board for final disposition. This matter is non-disciplinary in nature, and therefore all Board members may vote.

ANNA MARIE BOWERS, M.T.

Mr. Giacalone stated that Ms. Bowers has applied for restoration of her Ohio massage therapy license. The Board notified Ms. Bowers that it proposed to approve her application, pending successful completion of the Massage and Bodywork Licensing Examination (MBLEX) due to the fact that she has not engaged in the active practice of massage therapy for more than two years.

Dr. Saferin moved to find that the allegations set forth in the June 13, 2018 Notice of Opportunity for Hearing have been proven to be true by a preponderance of the evidence, and that the Board enter an Order, effective immediately upon mailing, approving Ms. Bowers' application for restoration of her Ohio massage therapy license, pending successful completion of the MBLEX within six months of the mailing of the Notice of Opportunity for Hearing. Dr. Schottenstein seconded the motion. A vote was taken:

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

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
	Dr. Soin	- aye
	Dr. Schachat	- aye
	Mr. Giacalone	- aye
	Mr. Gonidakis	- aye
	Dr. Edgin	- aye
	Dr. Factora	- aye
	Ms. Montgomery	- aye
	Dr. Johnson	- 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, Ms. Loe, Ms. Debolt, Ms. Marshall, Mr. Roach, the Enforcement Attorneys, the Assistant Attorneys General, Ms. Murray, Mr. Smith, Ms. Moore, Mr. DePew, and Mr. Taylor in attendance.

The Board returned to public session.

RATIFICATION OF SETTLEMENT AGREEMENTS

STEPHEN LEE MOORE, D.O. – PERMANENT SURRENDER OF CERTIFICATE TO PRACTICE OSTEOPATHIC MEDICINE AND SURGERY

Dr. Schottenstein moved to ratify the proposed Permanent Surrender with Dr. Moore. Dr. Soin seconded the motion. A vote was taken:

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

The motion to ratify carried.

VIKAS KASHYAP, M.D. – VOLUNTARY PERMANENT RETIREMENT

Dr. Schottenstein moved to ratify the proposed Voluntary Permanent Retirement with Dr. Kashyap. Dr. Soin seconded the motion. A vote was taken:

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

The motion to ratify carried.

KRISHAN KUMAR AGGARWAL, M.D. – CONSENT AGREEMENT

Dr. Schottenstein moved to ratify the proposed Consent Agreement with Dr. Aggarwal. Dr. Soin seconded the motion. A vote was taken:

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

The motion to ratify carried.

HARRY DRIEDGER, M.D. – VOLUNTARY PERMANENT RETIREMENT

Dr. Schottenstein moved to ratify the proposed Voluntary Permanent Retirement with Dr. Driedger. Dr. Soin seconded the motion. A vote was taken:

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

The motion to ratify carried.

MARVIN MERCADO BAULA, M.D. – CONSENT AGREEMENT

Dr. Schottenstein moved to ratify the proposed Consent Agreement with Dr. Baula. Dr. Soin seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Schottenstein	- aye

Dr. Soin	- aye
Dr. Schachat	- aye
Mr. Giacalone	- aye
Mr. Gonidakis	- aye
Dr. Edgin	- aye
Dr. Factora	- aye
Ms. Montgomery	- aye
Dr. Johnson	- aye
Dr. Bechtel	- aye

The motion to ratify carried.

GREGORY B. SHANKMAN, M.D. – PERMANENT RETIREMENT/SURRENDER OF CERTIFICATE TO PRACTICE MEDICINE AND SURGERY

Dr. Schottenstein moved to ratify the proposed Permanent Retirement/Surrender with Dr. Shankman. Dr. Soin seconded the motion. A vote was taken:

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

The motion to ratify carried.

JEFFREY D. CAHILL, R.C.P. – PERMANENT SURRENDER OF CERTIFICATE TO PRACTICE AS A RESPIRATORY CARE PROFESSIONAL

Dr. Schottenstein moved to ratify the proposed Permanent Surrender with Mr. Cahill. Dr. Soin seconded the motion. A vote was taken:

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

Ms. Montgomery	- aye
Dr. Johnson	- aye
Dr. Bechtel	- abstain

The motion to ratify carried.

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

JOHN KAVLICH, M.D. – NOTICE OF SUMMARY SUSPENSION AND OPPORTUNITY FOR HEARING

At this time the Board read and considered the proposed Notice of Summary Suspension and Opportunity for Hearing in the above matter, 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 John Kavlich, M.D., in accordance with Section 4731.22(G), Ohio Revised Code, and to issue the Notice of Summary Suspension and Opportunity for Hearing. Dr. Soin seconded the motion. A vote was taken:

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

The motion to approve carried.

Dr. Schottenstein moved to send the Notices of Opportunity for Hearing to Franklin Donald Demint, D.O.; and Atul S. Goswami, M.D. Dr. Soin seconded the motion. A vote was taken:

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

Dr. Johnson - aye
Dr. Bechtel - abstain

The motion to approve carried.

Dr. Schottenstein moved to send the Notices of Opportunity for Hearing to Asad Syed Ali, M.D.; Felix Brizuela, Jr., D.O.; and Jacob Osterhues, L.M.T. Dr. Soin seconded the motion. A vote was taken:

ROLL CALL:

Dr. Rothermel	- abstain
Dr. Saferin	- abstain
Dr. Schottenstein	- aye
Dr. Soin	- aye
Dr. Schachat	- aye
Mr. Giacalone	- aye
Mr. Gonidakis	- aye
Dr. Edgin	- aye
Dr. Factora	- aye
Ms. Montgomery	- aye
Dr. Johnson	- aye
Dr. Bechtel	- aye

The motion carried.

The Board recessed at 12:05 p.m. The meeting resumed at 1:05 p.m.

EXECUTIVE SESSION

Dr. Rothermel moved to go into Executive Session for the purpose of preparing for, conducting, or reviewing negotiations or bargaining sessions with public employees concerning their compensation or other terms and conditions of their employment; and to consider the appointment, employment, dismissal, discipline, promotion, demotion, or compensation of a public employee or official. Dr. Saferin seconded the motion. A vote was taken:

ROLL CALL:

Dr. Rothermel	- aye
Dr. Saferin	- aye
Dr. Schottenstein	- aye
Dr. Soin	- aye
Dr. Schachat	- aye
Mr. Giacalone	- aye
Mr. Gonidakis	- aye
Dr. Edgin	- aye
Dr. Factora	- aye
Ms. Montgomery	- aye
Dr. Johnson	- 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 Ms. Loe in attendance.

The Board returned to public session.

RULES AND POLICIES

RULES 4731-28-02 THROUGH 4731-28-05

Ms. Debolt stated that the proposed Rules, which will establish a confidential monitoring program for Medical Board licensees who are under investigation concerning a mental or physical illness, are ready for office adoption by the Board.

Dr. Schottenstein moved that proposed Rules 4731-28-02, 4731-28-03, 4731-28-04, and 4731-28-04 be adopted, with an effective date of August 31, 2018. Dr. Bechtel seconded the motion. All members voted aye. The motion carried.

CONFIDENTIAL MONITORING PROGRAM PARTICIPATION AGREEMENT

Dr. Schottenstein moved that the proposed Participation Agreement be implemented, contingent upon Rules 4731-28-02 through 4731-28-05, Ohio Administrative Code, becoming effective. Dr. Saferin seconded the motion. All members voted aye. The motion carried.

OPERATIONS REPORT

Human Resources: Mr. Groeber stated that an administrative professional position has been posted to assist in the Hearing Unit, as well as an intermittent position.

Mr. Groeber stated that two candidates had been identified for hire for as attorneys in the Enforcement Section. However, both candidates accepted positions elsewhere. Mr. Groeber stated that the positions will be reposted.

Mr. Groeber stated that there has been a retirement in the Licensure Section and that position is being kept open for the time being. Mr. Groeber commented that Mr. Turek is doing a very good job driving process efficiencies in response to the vacant position.

Investigator Firearms: Mr. Groeber stated that the Board staff is continuing to work with the union to implement the changes directed by the Board. Management has continued to work with the union to prepare for the return of firearms should the Board vote to rescind investigator authority to carry firearms at the September 2018 meeting. Mr. Groeber stated that until such time as the Board takes a formal vote, the Board will maintain the investigators' authority to carry firearms.

Agency Operations: Mr. Groeber stated that the number of open cases dropped last month.

Mr. Groeber stated that Licensure has shown a 16% increase over last year. Mr. Groeber stated that the processing of licensure applications is 35% faster month-to-month and 24% faster year-to-year, with a 16% increase year-to-date.

Ad Hoc ICD-10 Data Review Committee: Mr. Groeber noted that the Board has adopted rules requiring that all prescriptions for controlled substances include an ICD-10 code. Mr. Groeber suggested that the Board form an *ad hoc* committee to review the data resulting from this rule so that more narrow guidance of controlled substance prescribing can be developed. Mr. Groeber stated that the data to be reviewed by the committee would be de-identified and would not include any individual data.

Dr. Soin, Dr. Schottenstein, and Dr. Johnson agreed to serve on the *ad hoc* ICD-10 Data Review Committee.

Physician Assistant Policy Committee: Mr. Groeber asked if any Board member would be willing to serve as member of the Physician Assistant Policy Committee (PAPC) for the September 10 meeting of that committee. Dr. Rothermel replied that she should be able to attend that meeting.

Mr. Groeber noted that the PAPC will not meet in October or November due to holidays. Dr. Schottenstein has already volunteered to attend the December 10 PAPC meeting.

DIETETICS ADVISORY COUNCIL REPORT

Mr. Smith stated that the Dietetics Advisory Council met for the second time yesterday. The meeting centered around the issue of therapeutic diet order writing and privileging. Mr. Smith stated that dietitians gave a presentation on the history of this issue in Ohio. The Council will next meet on October 9.

Ms. Montgomery asked if the members of the Council feel that the Board is listening to them. Mr. Smith replied that the Council does feel that the Board listens to them and that the Council members had a chance to be heard on the issue. Mr. Groeber commented that the Council meetings are more formal than the meetings of the former Dietetics Board and the Council members have confidence that their concerns will be addressed and resolved.

REPORTS BY ASSIGNED COMMITTEES

FINANCE COMMITTEE

FISCAL UPDATE

Dr. Schottenstein stated that for June 2018, the Board's revenue was \$1,624,126, which is a record month for the Board. Dr. Schottenstein stated that this is a 13% increase in revenue year-to-date, which is another record. Dr. Schottenstein stated that the Board's total revenue for Fiscal Year 2018 was \$11,037,250, which is yet another record. The Board's cash balance is \$4,869,161.

Dr. Schottenstein stated that the Board will submit a proposed budget for Fiscal Years 2020 and 2021 to the Office of Budget Management, and that proposal is due on September 12. Dr. Schottenstein stated that the Board is not asking for new programs or expansions in the budget. Dr. Schottenstein stated that the Board's revenue will likely go down due to the one-time nature of these infusions of revenue. Dr. Schottenstein stated that the Board is allowed to ask for 100% of its current spending authority, and will likely ask for a small increase beyond that due to projections of increased salary for staff.

Regarding expenditures, Dr. Schottenstein stated that the 6.1 % increase year-to-date is consistent with

the typical yearly increase expenditure in payroll, plus the addition of extra staff from the merger with the Dietetics Board and the Respiratory Care Board. The total expenditure for Fiscal Year 2018 will likely approach \$9,500,000, which is still substantially under the \$10.1 million allotment that the Board was authorized to spend by the legislature.

ACCOUNTS RECEIVABLE

Dr. Schottenstein stated that since the last Board meeting, the Board has collected fine payments totaling \$21,000. Of that amount, \$17,500 were fine payments and \$3,500 was from non-disciplinary fines for continuing medical education (CME) penalties. For Fiscal Year 2018, the Board has received about \$222,000 in fine revenue, substantially more than the \$35,000 amount from Fiscal Year 2017. Dr. Schottenstein commented that about \$200,000 per year in fine payment may represent a plateau in terms of what the Board can expect, especially given the recent fine reductions that the Board has contemplated.

COMMUNICATIONS UPDATE

Dr. Schottenstein stated that, as requested by Licensure Committee, the Board's July 2018 E-News contained the first installment of the "Did You Know ...?" article, which reminds licensees of the regulations they need to follow in Ohio. The first topic focused on prescribers' required actions with regard to the need to include ICD-10 codes on all controlled substance prescriptions. The "Did You Know ...?" segments will be compiled into a single article for the quarterly magazine.

Dr. Schottenstein stated that the Communications Section has created and disseminated a survey about license renewal fees. The goal of the survey was to determine if a reduction in renewal fees would provide more benefit to the individual licensees or to their employer. The results of the survey showed that 82% of respondents pay their own renewal fee.

CONFERENCE ROOM FURNITURE FOR ROOM 336

Dr. Saferin moved to approve the purchase of new furniture for Medical Board meeting/hearing room #336 in the amount of \$23,253. Dr. Edgin seconded the motion. All members voted aye. The motion carried.

FEDERATION OF STATE MEDICAL BOARDS OPIOID RX RESOLUTION – TRAVEL APPROVAL

Dr. Saferin moved to give standing approval of Mr. Giacalone, Dr. Schottenstein, Mr. Groeber, and Ms. Anderson to attend meetings with the Federation of State Medical Boards (FSMB) that are related to the Board's approved resolution on acute opioid prescribing. Dr. Saferin further moved that any travel that takes place on this subject will be reported back to the Finance Committee, and this approval may be rescinded by the Committee, or by the full Board, at any time. Dr. Saferin further moved that any travel expenses incurred will be paid by the Medical Board in accordance with the state travel policy. Dr. Saferin further moved that the attendance at these meetings is in connection with the attendees' duties as, and is related to their positions as, members or staff of the State Medical Board of Ohio. Dr. Edgin seconded the motion. All members voted aye, except Mr. Giacalone and Dr. Schottenstein, who abstained. The motion carried.

HOURLY RATE INCREASE FOR MR. GIACALONE

Dr. Saferin moved to approve a 4% raise for Mr. Giacalone, to be effective the date of his reappointment, and subject to the approval of the director of the Department of administrative services. Dr. Edgin seconded the motion. All members voted aye, except Mr. Giacalone, who abstained. The motion carried.

APPROVAL OF AD HOC ELICENSE SYSTEM DEVELOPMENT RESOURCE

Dr. Saferin moved to approve the purchase of up to \$49,500 for the purchase of *ad hoc* IT system development services for the State's ELicense system. Dr. Edgin seconded the motion. All members voted aye. The motion carried.

CONDITIONAL APPROVAL OF FISCAL YEAR 2020-2021 BUDGET REQUEST

Dr. Saferin moved to conditionally approve the methodology and submission filing of the Fiscal Years 2020 - 2021 biennial budget request. Dr. Edgin seconded the motion. All members voted aye. The motion carried.

POLICY COMMITTEELEGISLATIVE REVIEW

Dr. Soin stated that Mr. LaCross provided the Policy Committee with an update on pending legislation, including the physician assistant bill. Mr. LaCross reported that the physician assistants have rescinded their request that physician assistants be allowed to intubate patients.

RULE REVIEW UPDATE

Ms. Anderson stated that the Board's proposed rules on chronic and subacute pain are still pending with the Common Sense Initiative (CSI). Ms. Anderson stated that after the Board hears from CSI, the rules will be sent to the Joint Committee on Agency Rule Review (JCARR).

BOARD METRICS – INTERNAL MANAGEMENT RULES

Ms. Anderson stated that the Policy Committee discussed the Board's internal management rules, and proposed changes are being circulated for initial review. Based on the Committee's discussion, the following changes were made to the proposed amendments:

- The definitions rule is revised to include dietetics and respiratory care.
- Rule 4731-30-02 will say "median and/or average" so that median can be used when appropriate if the Board has a system that will allow expeditious calculation of a median.
- The complaints section will show how long complaints have been open.

In addition, Mr. Groeber discussed the internal steps in place to deal with aged cases

Ms. Anderson noted that because these are internal management rules, the Board may adopt them

following public comment without involving the Common Sense Initiative (CSI) or the Joint Committee on Agency Rule Review (JCARR)

LICENSURE COMMITTEE

MASSAGE THERAPIST CURRICULUM REQUIREMENTS RULE

Dr. Saferin stated that the proposed Rule 4731-1-16, concerning massage therapist curriculum requirements, had been circulated to interested parties for comment. The proposed Rule would eliminate the nine-month minimum requirement for a school to receive a Certificate of Good Standing. 25 comments were received on the proposed Rule. Dr. Saferin stated that the majority of commenters were massage therapists.

Dr. Saferin continued that slightly more than half of the commenters were opposed to the elimination of the nine-month requirement. Those commenters expressed concern that it would be difficult for massage therapists to be properly trained in the curriculum in less than nine months. Many of the commenters advocated for a one-year minimum. Approximately 11 of the commenters were strongly in favor of the proposed elimination of the nine-month minimum requirement.

Dr. Bechtel moved to approve sending the proposed Rule to the Common Sense Initiative (CSI) for review. Dr. Sojn seconded the motion. All members voted aye. The motion carried.

RESPIRATORY CARE CONTINUING EDUCATION COURSE APPROVAL

PRESENTATION: "APPLYING CRITICAL THINKING TO AN ETHICAL DILEMMA"

Dr. Saferin moved that the presentation "Applying Critical Thinking to an Ethical Dilemma" be approved for one contact hour of respiratory care continuing education on Ohio respiratory care law for professional ethics, pursuant to the provisions of chapter 4761-9 of the Ohio Administrative Code. Dr. Sojn seconded the motion. All members voted aye. The motion carried.

PRESENTATION: "THE HELL OF THE IRREVOCABLE: REASONS FOR CAUTION WITH GENETIC TESTING"

Dr. Bechtel moved that the presentation "The Hell of the Irrevocable: Reasons for Cautions with Genetic Testing" be approved for one contact hour of respiratory care continuing education Ohio respiratory care law or professional ethics, pursuant to the provisions of chapter 4761-9 of the Ohio Administrative Code. Dr. Schottenstein seconded the motion. All members voted aye. The motion carried.

DIETETICS CONTINUING EDUCATION PORTFOLIOS

Dr. Bechtel moved that the continuing education portfolios for the identified ten licensees be approved for the period of July 1, 2013 – June 30, 2018 pursuant to 4759-4-04 of the Ohio Administrative Code. Dr. Sojn seconded the motion. All members voted aye. The motion carried.

LICENSURE APPLICATION REVIEWSSHYAMALA BHEEMISSETTY, M.D.

Dr. Saferin stated that Dr. Bheemisetty is applying for a license and has requested a waiver of the USMLE ten-year rule based on OAC 4731-6-14(C)(3)(b)(ii), which states the Board may grant a good-cause waiver to any applicant that “demonstrates good cause, as determined by the board, for not having passed all three steps or levels within the ten year period, and otherwise meets the requirements set forth in paragraph (C)(3)(a) of this rule.”

Dr. Saferin stated that Dr. Bheemisetty passed Step 1 of United States Medical Licensing Examination (USMLE) in 2007, Step 2 (CK) in 2008, Step 2 (CS) in 2010 and Step 3 in 2017. Dr. Saferin noted that Dr. Bheemisetty took only one month longer than the 10-year requirement, having passed Step 1 in September 2007 and Step 3 in October 2017.

Dr. Saferin stated that the Committee has recommended approval of Dr. Bheemisetty’s request.

Dr. Saferin moved to approve the good-cause exception of the 10-year rule as outlined in 4731-6-14(C)(3)(b)(ii), and accepting the examination sequence so that Dr. Bheemisetty can be granted a license. Dr. Edgin seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Dr. Schottenstein	- aye
	Dr. Sojn	- aye
	Dr. Schachat	- aye
	Mr. Giacalone	- aye
	Mr. Gonidakis	- aye
	Dr. Edgin	- aye
	Dr. Factora	- aye
	Ms. Montgomery	- aye
	Dr. Johnson	- aye
	Dr. Bechtel	- aye

The motion carried.

CAROL STANDRIDGE PRYCHODNIK

Dr. Saferin stated that Ms. Prychodnik is applying for restoration of her massage therapy license. Ms. Prychodnik has not held active license in massage therapy since her license expired in April 2014. The Licensure Committee recommends approval of Ms. Prychodnik’s request.

Dr. Schottenstein moved to approve Ms. Prychodnik’s request for Ohio licensure, pending successful completion of the Massage and Bodywork Licensing Examination (MBLEX) within six months of the date of mailing of the Notice of Opportunity for Hearing. Dr. Sojn seconded the motion. A vote was taken:

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

The motion carried.

HOLLY JEAN SORENSON

Dr. Saferin stated that Ms. Sorenson is applying for restoration of her massage therapy license. Ms. Sorenson has been a licensed esthetician in Indiana since December 2003; Ms. Sorenson has not held an active massage therapy license since her Ohio license expired in August 2003. The Licensure Committee recommends approval of Ms. Sorenson's request.

Dr. Schottenstein moved to approve Ms. Sorenson's request for Ohio licensure, pending successful completion of the Massage and Bodywork Licensing Examination (MBLEX) within six months of the date of mailing of the Notice of Opportunity for Hearing. Dr. Soin seconded the motion. A vote was taken:

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

The motion carried.

PHYSICIAN ASSISTANT/SCOPE OF PRACTICE COMMITTEE

PROPOSED RULE, MASSAGE THERAPIST SCOPE OF PRACTICE

Dr. Schachat stated that chiropractors, under the rules of the Chiropractic Board, are allowed to delegate certain procedures to unlicensed persons, including ultrasound, diathermy, and electrical neuromuscular stimulation. However, massage therapists practicing in chiropractic offices cannot perform those

procedures due to the rules of the Medical Board. The proposed changes to the Medical Board's rule would allow massage therapists to perform those procedures or substantially similar modalities, provided that the treatment is under the direction or supervision of a physician or podiatric physician, physician assistant, chiropractor, advanced practice registered nurse, or physical therapist who is acting within the scope of their professional license.

Dr. Schachat stated that after some discussion, the Committee decided to recommend approval of the proposed rule.

The Board engaged in a thorough discussion of this matter and the appropriateness of massage therapists performing these modalities under the direction of a chiropractor or other healthcare professional. Ms. Debolt noted that massage therapists and all licensees must deliver any service within the minimal standard of care, which requires training, education, and some expertise in the procedure.

Mr. Giacalone acknowledged the Board members' concerns, which were also echoed by the Committee members. Mr. Giacalone reiterated that under current law and Chiropractic Board rule, unlicensed persons can be delegated these procedures. Mr. Giacalone opined that it makes little sense to bar massage therapists from these procedures when they are more educated than laypersons who are able to perform them.

Dr. Rothermel asked if, under this proposed rule, massage therapists could perform these procedures outside of a chiropractor's office. Ms. Debolt replied that the proposed rule states that massage therapists can perform the procedures "under the supervision or direction of" the listed healthcare professionals. Ms. Debolt stated that this language could be interpreted to include a referral from a healthcare professional and not direct supervision.

Mr. Groeber suggested that this topic be tabled so that Board members can consider the possible implications of the proposed rule. Mr. Groeber encouraged the Board members to contact Ms. Debolt with any further questions or concerns about the proposed rule. Mr. Giacalone opined that the language of the proposed rule should mirror that of the Chiropractic Board rule, if it does not already. Mr. Giacalone agreed that this topic should be tabled for now.

Dr. Saferin moved to table this topic until next month. Dr. Schottenstein seconded the motion. All members vote aye. The motion to table carried.

COMPLIANCE COMMITTEE

Dr. Schottenstein stated that on July 11, 2018, the Compliance Committee met with John R. Capurro, M.D.; and Rebecca T. Cirino, D.O., and moved to continue them under the terms of their respective Board actions. The Compliance Committee also accepted Compliance staff's report of conferences on June 11 & 12, 2018.

PROBATIONARY REQUESTS

Mr. Giacalone advised that at this time he would like the Board to consider the probationary requests on today's consent agenda. Mr. Giacalone asked if any Board member wished to discuss a probationary request separately. No Board member wished to discuss a probationary request separately.

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

- To grant Malak S. Adib, M.D.'s request for approval of the course *Intensive Course in Medical Documentation: Clinical, Legal and Economic Implications for Healthcare Providers*, offered by Case Western Reserve University, to fulfill the medical records course requirement;
- To grant Kirstin D. Felumlee, M.T.'s request for release from the terms of her December 9, 2015 Consent Agreement;
- To grant David J. Fishman, M.D.'s request for release from the terms of his August 12, 2015 Consent Agreement;
- To grant John K. Krebs, M.D.'s request for approval of Matthew E. Levy, M.D. to serve as the monitoring physician; and determination of the frequency and number of charts to be reviewed at 10 charts per month;
- To grant Andrew J. Kuntzman, M.T.'s request for approval of *A Holistic Model for Ethical Practice; Dealing with Ethical Gray Areas in Massage Therapy; Ethics and the Power Differential; and Self-Evaluation for an Ethical Practice* online courses administered by the American Massage Therapy Association to fulfill the ethics course requirement;
- To grant Muyuan Ma, M.D.'s request for approval of Thomas J. Thysseril, M.D. to serve as the treating psychiatrist; approval of *Intensive Course in Medical Ethics, Boundaries and Professionalism*, offered by Case Western Reserve University, to fulfill the professional ethics course requirement; approval of *Intensive Course in Managing Difficult Communications in Medical Practice: Controlling Anger, Avoiding Outbursts, Communicating Appropriately*, offered by Case Western Reserve University, to fulfill the disruptive physician course requirement;
- To grant Adam C. Maier, D.O.'s request for approval of Chuck C. Cho, M.D., to serve as the new monitoring physician;
- To grant James A. Marsh, Jr., D.O.'s request for reduction in personal appearances from every three months to every six months; and approval of request to reduce drug and alcohol rehabilitation meeting attendance to two per week with a minimum of ten per month;
- To grant Cassandra R. Parrott, D.O.'s request for reduction of the drug testing requirement to two per month;
- To grant David A. Tracy, M.D.'s request for approval of Charles L. Emerman, M.D., to serve as the new monitoring physician;
- To grant Aubrey D. Winkler, P.A.'s request for approval of Rakesh Ranjan, M.D. to serve as the physician preceptor; and approval of the submitted practice plan; and
- To grant Peter C. Johnson, M.D.'s request for approval of his request to not attend psychotherapy sessions while his psychiatrist is out of the office, with the understanding that the doctor will be seen by the covering psychiatrist if urgent care is required.

Dr. Soin seconded the motion. A vote was taken:

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

The motion to approve carried.

REINSTATEMENT REQUEST

SAUL I. BLECHER, M.D.

Dr. Schottenstein moved that the request for the reinstatement of the license of Saul I. Blecher, M.D., be approved, effective immediately, subject to the probationary terms and conditions as outlined in the June 14, 2017 Board Order for a minimum of three years, with the permanent restriction detailed in the Board Order remaining in place. Dr. Soin seconded the motion. A vote was taken:

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

The motion carried.

ADJOURN

Dr. Soin moved to adjourn the meeting. Dr. Schottenstein seconded the motion. All members voted aye. The motion carried.

Thereupon, at 2:15 p.m., the August 8, 2018 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 August 8, 2018, as approved on September 12, 2018.



Robert P. Giacalone, President



Kim G. Rothermel, M.D., Secretary

(SEAL)



State Medical Board of Ohio

PHYSICIAN ASSISTANT/SCOPE OF PRACTICE COMMITTEE MEETING

August 8, 2018

30 E. Broad St., Columbus, OH Room 345

<p>Members: Andrew P. Schachat, M.D., Chair Mark A. Bechtel, M.D.</p> <p>Member absent: Robert P. Giacalone</p> <p>Other Board members attending: Kim G. Rothermel, M.D. Bruce R. Saferin, D.P.M. Michael Schottenstein, M.D. Ronan M. Factora, M.D.</p>	<p>Staff: Sallie Debolt, Senior Counsel</p>
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Dr. Schachat called the meeting to order at 7:30 a.m.

MINUTES REVIEW

Dr. Bechtel moved to approve the draft minutes of July 11, 2018. Mr. Giacalone seconded the motion. The motion carried.

PROPOSED RULE, MASSAGE THERAPIST SCOPE OF PRACTICE

Ms. Debolt stated that this proposed amendment to the massage therapist scope of practice rule has been circulated to interested parties for comment. Ms. Debolt stated that she was surprised at some of the comments against the proposed amendment, particularly the comments that say that the amendment does not change the current rule. Ms. Debolt stated that the proposed amendment would, in fact, change the current rule.

Dr. Bechtel wished to clarify for the record that under the rules of the Chiropractic Board, a chiropractor can delegate to a layperson to perform ultrasound, diathermy, electrical neuromuscular stimulation, or substantially similar modalities, but cannot delegate these procedures to a massage therapist. Ms. Debolt acknowledged that under chiropractic law, a chiropractor can have an unlicensed person perform those procedures. Ms. Debolt stated that under Medical Board rules, physicians may not delegate these procedures to an unlicensed person because they are procedures and not tasks.

Dr. Bechtel noted that the public comments included concerns about the lack of education in the massage therapy curriculum for performing these procedures. However, Dr. Bechtel pointed out that unlicensed individuals can do them if delegated by a chiropractor. Mr. Giacalone commented that this is akin to penalizing a massage therapist for having more education than a layperson.

Dr. Bechtel noted that under law, the definition of the scope of practice of massage therapists includes "external application of water, heat, cold, topical preparations, and mechanical devices." Dr. Bechtel noted that according to some comments, this definition was originally developed due to competing stakeholders who wanted to prevent massage therapists from performing certain procedures like

those under discussion today. Ms. Debolt stated that her research did not uncover any information to support that assertion. Ms. Debolt stated that members of the Medical Board had worked to develop the rules to exclude these procedures from the massage therapist scope of practice, led by Timothy Jost, a law professor and consumer member of the Board at that time.

Ms. Debolt stated that the phrase "external manipulation" in the rule is adjunctive to manipulation of the soft tissue and has been interpreted as being something that mimics the hands and what can be done with the hands. Ms. Debolt stated that procedures such as electronic neuromuscular stimulation do not mimic the hands. Dr. Schachat and Dr. Bechtel expressed uncertainty about whether that statement is accurate.

Dr. Schachat stated that the problem is that the Committee disagrees with the Chiropractic Board's rule, but the Medical Board has no control over the Chiropractic Board's rules. Dr. Bechtel agreed. Dr. Schachat wondered if these problems could be resolved by requiring massage therapists to remove the badge identifying them as a massage therapist if they are performing one of these procedures under the delegation of a chiropractor. Ms. Debolt stated that under the proposed amendment, these procedures would be part of the massage therapist scope of practice if they are delegated the procedure. Mr. Giacalone opined that it should be the massage therapist's choice whether to remove their badge since a layperson is allowed to perform the procedures.

Ms. Debolt commented that a massage therapist must meet the minimal standards of care for any service they provide, meaning that they must have education and training in that service.

Following further discussion, the Committee opined reluctantly that the proposed amendment should be accepted.

Dr. Bechtel moved to recommend that the Board accept the proposed amendment to be filed with the Common Sense Initiative (CSI). Mr. Giacalone seconded the motion. All members voted aye. The motion carried.

DISCUSSION OF THE PHYSICIAN ASSISTANT POLICY COMMITTEE

The Committee engaged in a brief discussion of the Physician Assistant Policy Committee (PAPC), the problems that committee has had in forming quorums for a meeting, and the fact that PAPC cannot discuss new drugs for the physician assistant formulary unless one of the committee's pharmacist members is present.

MINUTES REVIEW

Dr. Bechtel moved to adjourn the meeting. Mr. Giacalone seconded the motion. The motion carried.

The meeting adjourned at 7:50 a.m.

Andrew P. Shachat, M.D.
Chair

blt

LICENSURE COMMITTEE MEETING
August 8th, 2018
30 E. Broad St., Columbus, OH Room 318

Members: Bruce R. Saferin, D.P.M. Richard Edgin, M.D. Kim G. Rothermel, M.D. Ronan M. Factora, M.D. Other Board members present: Michael Schottenstein, M.D.	Staff: Joseph Turek, Deputy Director of Licensure/Renewal Mitchell Alderson, Chief of Physician Licensure Chantel Scott, Chief of Allied Licensure and Renewal Colin DePew, Assistant Attorney
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Dr. Saferin calls meeting to order at 8:01 a.m.

MINUTES REVIEW

Dr. Rothermel moved to approve the draft minutes for June and July 2018. Dr. Factora second the motion. The motion carried.

MESSAGE THERAPIST CURRICULUM REQUIREMENTS RULE

Mrs. Anderson stated that in June the licensure committee approved a rule for the certificate of good standing for massage therapy schools and MT curriculum eliminating the nine-month rule requirement and sent it out for circulation. Mrs. Anderson stated that 25 comments had been received and majority were not in favor for the change. Mrs. Anderson stated that some wanted to see the curriculum minimum increased to a one-year requirement while some were generally in favor of the change. Mrs. Anderson stated the reason why the board wanted to make the change are still good reasons. Mrs. Anderson stated that if a change is not made to the rule, the board could still have applicants in the same situation as Ms. Katie Wolterman.

Dr. Factora stated that he didn't see comments on the number of hours. Dr. Factora stated that if someone can achieve the of contact hours in a shorter time than you would achieve all the competences for that discipline. Dr. Schottenstein stated that the concern would be rushing the hours and compacting them into a smaller time frame which may result in dumbing down the program and not being able to understand it. Dr. Factora stated there is precedent for individuals who study independently and retain large amounts knowledge in a short time and still do well. Dr. Factora stated that the

minimum standard would still have to be met with schools and testing. Mrs. Anderson stated that the MBLEX would still have to be taken and passed.

Dr. Schottenstein stated that nothing stops schools from extending the curriculum on their own. Dr. Saferin stated that the committee was discussing additional abilities for Massage Therapists at the same time as the Scope of Practice committee. Dr. Saferin stated that he was not in favor of changing the hours and that he agrees that they should be able to get their education in a particular time frame. Dr. Saferin suggested that Massage Therapists will need more training if others want them to add more to their scope. Dr. Factora stated that the board will have to allow for flexibility for those who are able to retain knowledge and not force them to wait if they have achieved all requirements. Dr. Factora stated that maybe contact hours should be increased to achieve this instead of increasing time.

Dr. Factora moved to approve eliminating the nine-month rule requirement change to Rule 4731-1-16(a)1(b) regarding massage therapy curriculum requirements to file with CSI. Dr. Edgin seconded the motion. The motion carried.

RESPIRATORY CARE CONTINUING EDUCATION COURSE APPROVAL

Dr. Saferin stated that the organizer of Mount Carmel's Summer Symposium is requesting that its presentation "Applying Critical Thinking to an Ethical Dilemma" be approved for one contact hour of RCCE on Ohio respiratory care law or professional ethics.

Dr. Rothermel moved that the presentation be approved for one contact hour of Respiratory Care Continuing Education on Ohio respiratory care law or professional pursuant to the provisions of chapter 4761-9 of the Ohio Administrative Code. Dr. Edgin seconded the motion. The motion carried.

Dr. Saferin stated that the organizer of Cleveland Clinic Akron General's 24th Robert Wilson Memorial Lecture: Advancements in Respiratory Care, is requesting that this presentation "The Hell of the Irrevocable: Reasons for Caution with Genetic Testing" be approved for one contact hour of RCCE on Ohio respiratory care law or professional ethics.

Dr. Edgin inquired what genetic testing had to do with Respiratory care. Dr. Rothermel stated at first, she had the same question then when she read in detail it discusses how certain diseases involve genetics causal pathways.

Dr. Factora moved that the presentation be approved for one contact hour of Respiratory Care Continuing Education on Ohio respiratory care law or professional pursuant to the provisions of chapter 4761-9 of the Ohio Administrative Code. Dr. Rothermel seconded the motion. The motion carried.

DIETETICS CONTINUING EDUCATION PORTFOLIOS

Dr. Saferin stated that Rule 4759-4-04 of the Ohio Administrative Code provides that licensed dietitians who are not registered dietitians (non-RD) must comply with the continuing education

standards set forth by the commission on dietetic registration. Non-RD licensed dietitians were grandfathered into licensure in 1987 and were not required to be registered. Non-RD licensees must submit evidence of continuing education activities every five years. The current cycle for review is July 1, 2013 – June 30, 2018. Dr. Saferin stated that ten portfolios were reviewed by staff.

Dr. Rothermel stated that if four of ten portfolios that were reviewed needed additional documentation and one of the ten had hours that needed to be denied, did they all meet the requirements. Mrs. Morrison stated she felt it was necessary and the one that was denied hours was one of the audited portfolios. Dr. Rothermel asked what additional documentation did they have to submit and was it about the courses. Mrs. Morrison stated that if they had a high number of hours she asked for verification of completed courses and had discussions with them about if she had questions. Dr. Rothermel inquired if they had not submitted documentation that they attended meetings. Mrs. Morrison stated that when they submit their hours, they aren't required to submit back up documentation unless they are audited. Dr. Saferin inquired if they all fulfilled their hours. Mrs. Morrison stated yes.

Dr. Edgin moved that the continuing education portfolios for the identified ten licensees be approved for the for the period of July 1, 2013 – June 30, 2018 pursuant to 4759-4-04 of the Ohio Administrative Code. Dr. Factora seconded the motion. The motion carried.

LICENSE APPLICATION REVIEW

Dr. Rothermel move to approve Shyamala Bheemisetty, M.D. for the good cause exception of the 10-year rule as outlined in 4731-6-14(C)(3)(b)(ii) and accepting the examination sequence to be granted a license Dr. Factora seconded the motion. The motion carried.

Dr. Factora moved to approve Carol Prychodnik, M.T., request for Ohio licensure pending successful completion of the MBLEX within six months from the date of mailing the Notice of Opportunity for a Hearing. Dr. Rothermel seconded the motion. The motion carried.

Dr. Saferin stated Holly Sorenson, M.T., is applying for restoration of her MT license in Ohio. She has been a licensed Esthetician in Indiana since December 2003 and it remains active. Ms. Sorenson has not held an active license in Massage Therapy since the Ohio license expired on August 31, 2003. Dr. Schottenstein stated unlike others who take a break from practice then come back to restore their license and they take the MBLEX, Ms. Sorenson had an active license in Indiana, should she still take and pass the MBLEX. Dr. Saferin clarified that she holds an active Esthetician license in Indiana.

Dr. Factora moved to approve Ms. Sorenson's request for Ohio licensure pending successful completion of the MBLEX within six months from the date of mailing of the Notice of Opportunity for a Hearing. Dr. Rothermel seconded the motion. The motion carried.

ADJOURN

Dr. Edgin moved to adjourn the meeting. Dr. Factora second the motion. The motion carried.

The meeting adjourned at 8:25 a.m.

Bruce R. Saferin, D.P.M.

Chair

rsb

State Medical Board of Ohio

POLICY COMMITTEE MEETING

August 8, 2018

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

<p>Members: Andrew P. Schachat, MD Robert Giacalone Mark. A. Bechtel, MD Betty Montgomery Amol Soin, MD</p> <p>Other Board Members present: Kim G. Rothermel, MD Michael Schottenstein, MD Sherry Johnson, DO</p>	<p>Staff: A.J. Groeber, Executive Director Kimberly Anderson, Chief Legal Counsel Sallie J. Debolt, Senior Counsel Nathan Smith, Senior Legal and Policy Attorney Rebecca Marshall, Chief Enforcement Attorney Tessie Pollock, Director of Communication Joan Wehrle, Education & Outreach Program Manager Jonithon LaCross, Director of Public Policy and Government Affairs</p>
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Dr. Soin called the meeting to order at 9:15 a.m.

MEETING MINUTES REVIEW

Dr. Soin reported that the draft minutes of the July 11, 2018 meeting had been distributed to the committee and were included in the agenda materials. Ms. Montgomery noted that the wording in the last sentence in the third to last paragraph on page 11-7 needed corrected as “in enforcing” should be “enforcing.”

Dr. Bechtel moved to approve the draft minutes as amended of the July 11, 2018 Policy Committee meeting. Mr. Giacalone seconded the motion. Motion carried.

LEGISLATIVE REPORT

Mr. LaCross reported that the legislature is not in session, but we continue to work on the PA bill. There are a few minor technical corrections to the bill that we can do on the floor, but we are trying to get the amendment over to the House. This may be all that goes forward in the fall. The fall legislative schedule is not yet decided, but he will send the information when it is available.

We are working on some potential amendments to add to the PA bill that are essentially clean-up language. These items are still being worked on internally and will be shared with the Board when they are ready. There are no big policy changes just items to help the board operationally to function at a higher pace.

Mr. LaCross reported the CME change and the full licensure approval for the Board are being considered. We are waiting for an LSC meeting to discuss how we would do that. No changes will be made at this time.

Mr. Groeber clarified that the licensure approval issue is an initiative to find a mechanism to approve complete licensure applications throughout the month, rather than having applications approved by the

Board once a month. Mr. LaCross said we are trying to figure out how to make the change operationally.

Ms. Montgomery asked about the first bullet point of the legislative analysis of Senate Bill 259, Physician Assistant Regulation. She asked what the Board's position was regarding eliminating the PA formulary. The analysis seems to imply that the PA is not limited to prescribing within the formulary.

Mr. LaCross reported that currently PA's may only prescribe per the formulary. The PAPC reviews requests for additions to the formulary and makes a recommendation to the full Board. If the Board approves the recommendation of the PAPC, the drug is added to the PA formulary.

When we revamped PA practice a few years ago we put the PA practice scope under the supervising physician's scope of practice. The supervising physician may limit the PA's scope through the supervision agreement. Current law requires the supervising physician to submit the PA supervision agreement to the Board. It is almost like a collaboration agreement with an advanced practice registered nurse that says what they can and cannot do.

When we changed the PA scope of practice to match that of the supervising physician, the advanced practice nurses recently had an expansion as well that rolled back their formulary which created a more robust prescribing authority for APRNs. The PAs requested similar prescriptive authority, which is something the Medical Board has been considering for a while. So, the supervising physician will have full responsibility for whatever that PA is prescribing. The Medical Board will no longer determine every drug a PA could prescribe. Mr. LaCross noted that the Board may restrict practice if there is a good reason, such as a public health crisis.

Dr. Bechtel asked the status of the ability of PAs to intubate. Mr. LaCross reported that this provision was removed from the bill. Dr. Sojin commented that a patient may be on the brink of death when intubation is required. Mr. LaCross said he believed it was OSMA that brought in a physician who does intubations every day who stated he is still not comfortable doing it. The Senator was understanding of the physician's position, so intubation was removed from the bill.

RULES REVIEW REPORT

Ms. Anderson said that the rule review update is provided for the information of the committee. She said that several rules were at CSI including the chronic and sib-acute prescribing rules. We hope to receive a letter from CSI soon so that we can file the rules with JCARR.

MEDICAL BOARD METRICS – INTERNAL MANAGEMENT RULES

Ms. Anderson reported that the Internal Management Rules are due for the five-year rule review in 2019. The rules guide us in preparing the Board's annual report.

While preparing the annual report for this fiscal year, several changes were identified as being needed because the Board's IT systems have changed.

Rule 4731-30-01 Definitions: We do need to add 4759 and 4761 to list of ORC chapters in paragraphs B, C, G, and H. These sections reference dietitians and respiratory care professionals

Rule 4731-30-02 Board Metrics: The proposed revisions include:

- (1) Change measurements using median numbers to average numbers throughout the rule as it is easier to calculate;
- (2) 4730-30-02 (A)(3): Eliminate the requirement to measure the number of license applications falling one standard deviation above and below the median because these now need to be hand calculated. Ms. Anderson noted that this reflects measurements that were put in place years ago when we had different systems and processes.

Dr. Schachat referenced the proposed change to use average instead of median numbers. He asked where median numbers were used. Ms. Anderson replied that it is in several measurements. Dr. Schachat commented that outliers skew average numbers but have little impact on median numbers.

Mr. Groeber said that another reason to change the calculation from median to average was that average is used in the monthly operations report statistics.

He reported that the elicense system does not easily allow us to calculate the median. For overall operational efficiency and time spent on compiling the annual report, which he believes is full of good content, it would be better for staff to use average numbers.

Dr. Schachat said that he would support the change, but suggested we put it on a wish list for the elicense system that we develop the capability to calculate the median.

Mr. Groeber suggested changing the language to “either average or median” which would provide flexibility for the agency. The committee agreed. Dr. Schachat asked that it remain on the elicense wish list.

Mr. Groeber also stated that there are systematic and procedural challenges in reporting the number of days outstanding within the individual groups within the office -- understanding how long it takes the triage staff to get complaints triaged, how long for investigations staff to complete investigations, and how long for enforcement to complete case dispositions.

The systematic issue is that we are trying to work through the assignments within the system of a case. We are tracking those so that as a complaint moves from triage review to an investigator that is a point in time. It then gets updated when it moves from an investigator to an enforcement attorney, which is another point in time. Previously the system has been challenging in trying to mark those handoffs which makes it difficult to calculate the ownership time.

Mr. Groeber reported that he receives and reviews the “red” list triannually which identifies open cases and who owns them based on specific criteria. For example, any case assigned to investigation greater than 270 days old is reviewed. This timeline for investigation was set by the Secretary and Supervising Member.

Mr. Groeber said that three times a year staff provides him a status report on each of the open cases identified on the “red” list. This is how we have accountability and manage those time frames internally. Again, for the annual report it becomes problematic to take a holistic view for a one time a year snapshot, unless you wanted to have a stat in the annual report that said “at the time of the annual report how many cases do you have that were XXX days old.” Mr. Groeber said it is further complicated because an investigation may be forwarded to enforcement, but it may later be returned to investigation to obtain additional information needed by enforcement. He said standards review

cases may also have had a part in the review of the case. He said it is really a matrix environment and looking at linear measurement in a matrix environment is problematic.

Ms. Montgomery had questioned why we were eliminating 4731-30-02 (B)(4) and (C)(6). Ms. Anderson said they are similar, one deals with the number of calendar days from the date a case was referred back to investigation for follow up investigation until the date the subsequent investigative report was filed. The other deals with the number of calendar days from the date a case is referred to enforcement until the date the case is completed.

Ms. Montgomery commented that a citizen looking at the annual report is not getting into the weeds as the staff does which is critical for following a case from the time of referral to the time of settlement. But for a citizen reading the report, it is important for them to have a general sense of how long it takes a case to be processed.

Ms. Anderson said that we have that information in the overall complaint measurement in 4731-30-02 Section F (D) on page 11-29. "The average number of calendar days from the date that each complaint was received by the board until the date that the complaint was closed." Mr. Groeber explained that closure includes cases closed by protocol as well as those that were closed with Board Orders.

Mr. Groeber asked if the committee would like to change "average" to "either average or median." The committee agreed.

Ms. Anderson presented additional proposed changes to the rule:

4731-30-02 (A)(3): Ms. Anderson said that 100% of license renewals are processed online so we can eliminate this measurement since we no longer need to calculate the percentage of online renewals.

4731-30-02 (A) (4): Eliminate the measurement of the number of late renewals processed as this measurement is included in the fiscal report as part of the reinstatement fee.

4731-30-02 (G)(4) Regarding fiscal metrics, clarify that the Board's reimbursements refer to travel reimbursements.

Ms. Anderson explained that this an internal management rule. The proposed rule will be sent to interested parties for feedback and comments received will be brought back to the committee for review. The proposed rule will then go to the full Board for review and approval. The approved rule will then be filed with LSC and the Secretary of State. CSI and JCARR review are not required for an internal management rule.

Dr. Schottenstein said he appreciated the discussion regarding median and average. He suggested that the language be "average and/or median." The committee agreed with Dr. Schottenstein's revision.

Dr. Bechtel move to approve the Board Metrics – Internal Management Rules as amended for circulation to interested parties. Dr. Schachat seconded the motion. Motion carried.

ADJOURN

Dr. Schachat moved to adjourn the meeting. Dr. Bechtel seconded the motion. Motion carried.
The meeting adjourned at 9:35 a.m.

jkw

FINANCE COMMITTEE MEETING
August 8th, 2018
30 E. Broad St., Columbus, OH Room 318

Members: Michael Schottenstein, M.D., Chair Bruce R. Saferin, D.P.M. Michael Schottenstein, M.D. Richard A. Edgin, M.D.	Staff: A.J. Groeber, Executive Director Susan Loe, Director of Fiscal and Human Resources Tessie Pollock, Director of Communications
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Dr. Schottenstein called the meeting to order at 8:32 a.m.

MINUTES REVIEW

Dr. Edgin moved to approve Finance Committee July 11th, 2018 meeting minutes. Dr. Saferin second the motion. The motion carried.

FISCAL UPDATE

Dr. Schottenstein stated the revenue for June 2018 was \$1,624,126. That is a record month for the board and a 13% increase in revenue year-to-date is another record. The \$11,037,250 total revenue for fiscal year 2018 is yet another record. Dr. Schottenstein stated that the board benefited from the fact that the final quarter of an even numbered fiscal year was one of the largest groups of physician renewals. Training certificates, respiratory care, and dietetics renewals also substantially contributed. The respiratory care and dietetics renewals are not staggered, so the board will not see another infusion of revenue from them until two years from now, when renewals are due again.

The new 2019 fiscal year began on July 1, 2018. The Medical Board has a cash balance of \$4,869,161. That is on the high end of the range, but not quite a record. The cash balance shows that the board can afford the funding that is being requested. Work on the budget, and projections of future cash balance amounts are pending. Dr. Schottenstein stated the Medical Board will submit budgets for fiscal years 2020 and 2021 to the office of budget management, and that is due on September 12th, 2018. Dr. Schottenstein stated the Office of Budget Management weighs in, then the Governor's office looks at it, it goes to the legislature, and then it is approved in June 2019.

Dr. Schottenstein stated the Board will not be asking for new programs or expansions in the budget. Therefore, revenue will likely go down, due to the one-time nature of these infusions of revenue. Dr. Schottenstein stated that finances are peaking right now and will likely spend this down. In that respect, the Medical Board is allowed to ask for 100% of the current spending authority and will likely ask for a small increase beyond that, due to projections of increased salary for staff. Payroll is really the only planned increase at this time, there are no other plans for more staff or equipment or operational expenses.

The Medical Board continues to under-spend the authorized amount. Dr. Schottenstein stated the board will soon project revenue and expenditures for another 5 or 6 years, and it looks like the balance is creeping up instead of down, then the board might contemplate another reduction in licensing fees. Dr. Schottenstein recalled the reduction in initial licensure fees for physicians recently. Currently, Physician Assistants pay \$500 to for an initial license, where Physicians pay \$305. That is likely a function of the fact that Physician Assistants used to have to pay a separate fee for a license to prescribe medication, and when that policy ended, the fees were combined. Dr. Schottenstein stated the Board could turn its attention to that group with regard to possible fee reductions and try to make

them more in line with the other healthcare specialties. Dr. Schottenstein stated that this would make Ohio a more attractive place for PAs to practice, especially combined with some of the changes that the legislature is contemplating with regard to PAs. The Medical Board will make projections to make sure it can afford the Physician Assistant fee reduction.

Dr. Schottenstein stated he wanted to point out that for fiscal year 2018, revenue from board licenses funded the Physician Loan Repayment Program in the amount of almost \$400,000. Dr. Schottenstein stated the program assists physicians with loan repayments in exchange for their working in underserved areas.

FINES EXPENDITURES AND ALLOCATIONS

With regard to expenditures, Dr. Schottenstein stated the 6.1% increase year-to-date is consistent with the typical yearly increase expenditure in payroll, plus the addition of two in the headcount from absorbing respiratory care and dietitian staff members, bringing the staff total to 85. The total expenditure for fiscal year 2018 will likely approach around \$9.5 million, which is still substantially under the \$10.1 million allotment that we are authorized to spend by the legislature. Dr. Schottenstein stated there is nothing else really remarkable about the board's expenditures right now.

ACCOUNTS RECEIVABLE

Dr. Schottenstein stated the board has collected fine payments since our last meeting totaling \$21,000. \$17,500 of that are fine payments, and \$3500 of that is in CME payments. The Medical Board received about \$222,000 in fine revenue for fiscal year 2018, which is substantially more than the \$35,000 amount from fiscal year 2017. But especially given the recent fine reductions that have been contemplated, about \$200,000 per year may represent a plateau in terms of what can be expected on a yearly basis going forward from the board's fining authority.

EDUCATION AND OUTREACH

Ms. Pollock stated that as requested by the Licensure Committee, the July 2018 eNews contained the first installment of "Did You Know?" which is aimed at reminding licensees of the regulations they need to follow in Ohio. The first topic focused on prescribers' required actions; specifically, the requirement to include ICD-10 codes on all controlled substance prescriptions. The monthly Did You Know segments will be compiled into a single article for the quarterly magazine, HealthScene Ohio. Ms. Pollock then shared that the communications team created and disseminated a survey about license renewal fees at the request of Finance Committee. The goal of the survey is to determine if a reduction in renewal fees would provide more benefit to the individual licensees or their employer. The survey was disseminated on July 31. Within 24 hours we received nearly 5,000 responses. Survey summary: 54% of respondents were physicians; 82% of respondents say they pay their own renewal fee; the largest age group for respondents was 55-64 (28%).

NEW FURNITURE

The Medical Board has worked with DAS to exchange its current hearing room #225 for the larger room #336 on the 3rd floor. DAS will be removing the furniture currently in the room, and we are required to purchase our own. The quote attached follows all DAS procurement requirements and is meant to mirror the style and quality of the furniture currently in the room. A vote on the expenditure is required, and if approved, will go to the full board for a vote. Dr. Saferin inquired if there was a used furniture option. Mr. Groeber stated that no, DAS doesn't have that option.

Dr. Saferin moved to approve the purchase of new furniture for the Medical Board meeting hearing room #336 in the amount of \$23,253, and to send it to the full board for consideration. Dr. Edgin seconded the motion. The motion carried.

Dr. Schottenstein asked Ms. Pollock for an update regarding the search for companies to provide online learning content to our licensees. Mrs. Pollock stated she started looking for companies who are already on state term contract with the State of Ohio. Mrs. Pollock stated that she found two companies who are on state term contracts which means we would have to go through a bidding process. She started looking into the services they offer and wants to reach out to the State Agencies who have used them as vendors to get a review on their services. Mrs. Pollock stated that she would like to also reach out to the two companies to start conversations with them about a potential project.

INVESTIGATOR VEHICLE PROGRAM

Dr. Schottenstein asked Mr. Groeber for an annual update regarding investigator vehicle program. Mr. Groeber stated that this committee approved moving towards a full fleet for Medical Board investigators. He stated that in the past, some investigators used their own vehicles and some used state-issued vehicles. Mr. Groeber stated that Board would reimburse mileage for those investigators whom used their own vehicles versus investigators who used state-issued vehicles where car, gas and insurance were paid by the board which was a fixed cost.

Mr. Groeber stated that the Finance Committee decided to go towards a straight leased vehicle program for all investigators with the idea that low mileage cars will be used over high mileage cars. Mrs. Loe stated that cars are swapped around between investigators and Mr. Groeber stated this is to ensure one vehicle isn't getting excessive mileage versus the other vehicles during the six-year lease program. Mr. Groeber stated that Mr. Holben notified him that the annual price had a minor change after the report was produced. Mr. Groeber stated the change was due to mileage reimbursement which was a couple hundred dollars. Mr. Groeber stated that it was \$33,000 cheaper a year to utilize state-issued vehicles. Mr. Groeber stated that from a process standpoint it's one less thing for Mrs. Loe's group to process the mileage reimbursement.

Mr. Gonidakis inquired if vehicles are assigned to an investigator or do the vehicles stay on state property. Mr. Groeber stated vehicles are assigned to investigators. Mrs. Loe stated that the vehicles are rotated around to the Medical Board investigators and once issued they sit at their individual properties since they work from their homes. While the vehicles are not assigned to a board investigator, they sit at the State's Surface Rd. property. Mr. Groeber stated that if there are any concerns about vehicle usage after hours, the state runs a program that compares mileage to and from destinations they report to. Dr. Schottenstein inquired about which staff member oversees this program for the board. Mr. Groeber stated that Mr. Holben oversees it and works with DAS.

TRAINING COLLABORATION with CLEAR

Dr. Schottenstein stated in collaboration with the Council on Licensure Enforcement and Regulation, the Medical Board is close to finalizing an agreement for training of the board's investigators on de-escalation and safety training. This is anticipated to be a three- to four-hour training provided by teleconference. Dr. Schottenstein asked for the final estimate. Mr. Groeber stated the quote received from CLEAR was a flat rate of \$5,000 for three- to four-hour virtual training that includes touch points to make sure participants are engaged including response questions. The participant would need a 90 percent to pass the training.

Mr. Groeber stated Mrs. Loe looked at the agenda for the program and it satisfies the concerns for additional training in case the board decides to not continue firearm usage. Mr. Groeber stated that CLEAR has been contacted in regards to refining the content if needed. Mr. Groeber stated he would like to see pepper spray training included since Medical Board investigators can carry it. Dr. Saferin inquired if the amount would cover all investigators and Mr. Groeber stated yes. Mr. Groeber stated he would also like to see management staff added to the training as well. Mr. Groeber stated that the amount is within his spending authority so there wouldn't need to be a full board vote on it.

Dr. Schottenstein stated when the training discussions started, the amount was mentioned to be \$14,000, he inquired if it was the same program due to the lower cost. Mrs. Loe stated that the program was modified from several full days to half-day and was tailored to focus more on safety. Mr. Groeber stated that next year AIM (Administrators in Medicine) would like to host their certified medical board investigator training in Ohio and they were curious how many people the Ohio board would send to the training. Mr. Groeber stated that AIM is an affiliate to FSMB and its members are Medical Boards' Executive Directors from across the country. Mr. Groeber stated that he would like to revisit the spending either this fiscal year or next as the training gets closer.

Dr. Schottenstein stated Ms. Loe had been approved to go to a CLEAR conference to assess the program. Mrs. Loe said it was next month. Mrs. Loe said the board would like to develop a relationship with CLEAR because they offer a lot of trainings and discounts to its members.

ACUTE OPIOID PRESCRIBING PRACTICES

Dr. Schottenstein stated at the FSMB meeting in April 2018, the State Medical Board of Ohio put forth a resolution to work collaboratively with other states and the FSMB to draft and adopt acute opioid prescribing practices. The final, approved resolution has an initial focus on data collection, although subsequent discussions with the FSMB indicate that data sharing and collaboration may be possible. Mr. Groeber floated the idea of some in-person meetings to establish survey criteria, data points requested, and best practice sharing, to which the FSMB was receptive. Dr. Schottenstein stated the dates, timing, and number of possible meetings is not set, but it would be of value for the finance committee and full board to consider standing approval of travel for these meetings, with follow-up to the finance committee after the actual travel takes place.

Mr. Groeber stated at FSMB meeting, a resolution was floated and it ended up being watered down by their rules and regulations committee. The goal was to have a robust data sharing and collaboration program around acute opioid prescribing. Mr. Groeber stated the FSMB wanted a less aggressive collaborative program. Mr. Groeber stated it seems as if there is an opportunity to push these data points out there for sharing with other states. Mr. Groeber stated he has been in discussion with FSMB policy staff to organize meetings in DC with himself and other Medical Board staff to explain what is going on in Ohio to guide them on their process. Mr. Groeber stated he talked with Mrs. Loe and it was possible for standing travel approval for multiple meetings instead of coming to the board for each meeting. Mrs. Loe said travel could be approved and report could be given to the board to update costs. Mr. Groeber stated he included Mr. Giacalone, Mrs. Anderson, Dr. Schottenstein and himself in on the motion however Dr. Schottenstein couldn't vote due to it being his resolution.

Mr. Gonidakis asked who makes the final decision on how many people can attend these meetings. Mr. Groeber stated he thinks it should be situational, but he would like to send no more than two attendees unless it's a final meeting with President and Vice President approval on a weekly phone call. Mr. Groeber stated he would also be happy to come to the finance committee each month for approval. Mr. Gonidakis inquired if Mr. Groeber has ultimate authority and Mr. Groeber stated the

committee would be able to rescind if needed but it still has to come across the Executive Director's desk for approval.

Dr. Saferin moved to give standing approval of Mr. Giacalone, Dr. Schottenstein, Mr. Groeber, and Mrs. Anderson to attend meetings with the Federation of State Medical Boards that are related to the board's approved resolution on acute opioid prescribing. Any travel that takes place on this subject will be reported back to the finance committee, and this approval may be rescinded by the committee, or by the full board, at any time. Any travel expenses incurred will be paid by the Medical Board in accordance with state travel policy. The attendance at these meetings is in connection with the attendees' duties as, and is related to their positions as, members or staff of the State Medical Board of Ohio. Mr. Gonidakis seconded the motion. The motion carried.

NEW FISCAL MATTERS

Dr. Saferin moved to approve a 4% raise for Mr. Giacalone, to be effective the date of his reappointment, and subject to the approval of the Director of the Department of Administrative Services. Mr. Gonidakis seconded the motion. The motion carried.

AD HOC IT SYSTEM DEVELOPMENT

Dr. Schottenstein stated in fiscal year 2018 the State Medical Board finance committee and full board approved the purchase of ad hoc IT development services for the state's Elicense system. This purchase provided a resource to perform system enhancements outside of normal DAS channels that may have delays in development. The board utilized this resource heavily in the past year, but did not use the full amount of \$49,500 that was allotted. IT staff would request the same amount as last year in the event a significant development is required with short time frames.

Dr. Edgin inquired how short of the amount of \$49,500 the board was. Mr. Miller stated there are 185 hours left on the contract and this resource serves as a single point of contact for Elicense system help. Mr. Miller stated it gives the board the ability to have the same person solving issues and speeds up the process of ticket resolution. Mr. Miller stated last month this system was able to resolve 16 tickets. Dr. Schottenstein inquired how much has been spent thus far out of the \$49,500 and Mr. Miller stated around \$31,000.

Dr. Saferin moved to approve the purchase of up to \$49,500 for the purchase of ad hoc IT system development services for the states Elicense system, and to send to the full board for consideration and approval. Mr. Gonidakis seconded the motion. The motion carried.

2020-2021 Biennial Budget Forecast

Mrs. Loe stated the budget is due the same day as the September board meeting. She stated she wanted to share the methodology with Board Members' for developing this budget. She stated there will be no additional increases or new programs, but just looking at the payroll projections unless Board Members ask for additional items. Mrs. Loe stated there will be a jump in 2020 in payroll due to the amount of pay periods in 2020 versus a one percent jump in 2021. Mrs. Loe stated that every ten years there are 27 pay periods instead of 26. Mrs. Loe stated that there should be an estimated three to five million in the fund over the next three years. Mrs. Loe stated this was a preview of how the budget is formulated. Mr. Groeber stated the only thing the Medical Board anticipates spending money on that would lead to increases is state mandated salary increases which has already been negotiated with the union and increased benefit costs.

Mr. Gonidakis inquired if there would be impact in what is submitted depending on the new administration. Mrs. Loe stated that OBM already gave guidance stating that non GRF agencies can ask for up to 100 percent plus anything else that can be afforded if the agency can show a sufficient cash balance.

Dr. Edgin moved to conditionally approve the methodology and submission filing of the fiscal year 2020 – 2021 biennial budget request, and to send to the full board for consideration and approval. Mr. Gonidakis seconded the motion. The motion carried.

ADJOURN

Dr. Edgin moved to adjourn meeting. Mr. Gonidakis seconded the motion.

The meeting adjourned at 9:02pm

Michael Schottenstein, M.D.
Chair

rsb

State Medical Board of Ohio

COMPLIANCE COMMITTEE MEETING

August 8, 2018

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

<p>Members: Michael Schottenstein, M.D., Chair Robert Giacalone Amol Soin, M.D. Ronan M. Factora, M.D.</p> <p>Other Board members present: Kim G. Rothermel, M.D. Bruce R. Saferin, D.P.M. Richard Edgin, M.D.</p>	<p>Staff: Alexandra Murray, Managing Attorney Annette Jones, Compliance Officer Angela Moore, Compliance Officer Benton Taylor, Board Parliamentarian</p>
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Dr. Schottenstein called the meeting to order at 2:22 p.m.

APPROVAL OF REPORTS OF CONFERENCES

Mr. Giacalone moved to approve the Compliance Staff's Reports of Conferences for July 9 & 10, 2018. Dr. Soin seconded the motion. The motion carried.

MINUTES REVIEW

Mr. Giacalone moved to approve the draft minutes from July 11, 2018. Dr. Soin seconded the motion. The motion carried.

INITIAL PROBATIONARY APPEARANCES

Michael J. Howkins, D.O.

Dr. Howkins is making his initial appearance before the Committee pursuant to the terms of his May 9, 2018 Consent Agreement. Dr. Schottenstein reviewed Dr. Howkins' history with the Board.

In response to questions from Dr. Schottenstein, Dr. Howkins stated that he did not know what had originally prompted his hospital to ask him to take a breathalyzer test and a urine screen. Dr. Howkins stated that there had been no complaints in terms of his patient care. Dr. Howkins stated that he had procured the cocaine he had used from outside the medical setting. Dr. Howkins stated that he never went to work intoxicated and he never abused any of the anesthetic gases from the operating room. Dr. Howkins stated there are no legal charges pending against him.

Dr. Schottenstein asked how Dr. Howkins' program is going. Dr. Howkins replied that he has spent 56 days at Glenbeigh Hospital up to this point. Dr. Howkins has also done 20 days in intensive outpatient treatment (IOP). Dr. Howkins added that he is currently staying at a sober house and he has a sponsor. Dr. Howkins commented that he is taking his recovery program very seriously.

Responding to further questions, Dr. Howkins stated that his stay at the sober house is not mandatory, but he is there because he does not like to be by himself and he does not want to isolate. Dr. Howkins plans to be at the sober house for at least 90 days. Dr. Schottenstein asked if Dr.

Howkins has support from family and friends. Dr. Howkins answered that he has a very strong support group. Dr. Howkins stated that he completed step 5 of the 12-step program at Glenbeigh Hospital and he is currently going through the steps with his sponsor. Dr. Howkins stated that he has a great relationship with his sponsor, calling him daily and meeting with him weekly. Dr. Howkins commented that he and his sponsor will attend an Alcoholics Anonymous conference together in North Canton in August.

Dr. Schottenstein asked how Dr. Howkins is currently spending his time now that he is not practicing. Dr. Howkins replied that he had been in an IOP program until last Friday, so that had taken up a large part of his day. Dr. Howkins has started attending weekly aftercare meetings and he also attends mandatory meetings at the sober house. Dr. Schottenstein asked if Dr. Howkins had any mental health issues that predisposed him to using substances. Dr. Howkins answered that he had no such mental health issues.

Dr. Soin asked about Dr. Howkins' long-term career goals. Dr. Howkins stated that his long-term goal is to return to work as an anesthesiologist. Dr. Soin asked if Dr. Howkins had any concerns about working in that environment with potential exposure to controlled substances. Dr. Howkins replied that he had no such concerns and that abuse of those substances had never been an issue with him. Dr. Soin asked what kind of work Dr. Howkins had done in the past. Dr. Howkins answered that he had primarily supervised certified registered nurse aestheticians (CRNA) and anesthesiology residents. Dr. Soin asked if that was the kind of work Dr. Howkins planned to return to in the future. Dr. Howkins responded that is not necessarily what he will do in the future and he would see what is available when that time comes.

Mr. Giacalone moved to continue Dr. Howkins under the terms of his May 9, 2018 Consent Agreement, with future appearances before the Board's Secretary or Designee. Dr. Soin seconded the motion. The motion carried.

Daniel W. Palmer, M.D.

Dr. Palmer is making his initial appearance before the Committee pursuant to the terms of his May 9, 2018 Consent Agreement. Dr. Schottenstein reviewed Dr. Palmer's history with the Board.

Responding to questions from Dr. Soin, Dr. Palmer stated that he had come to be charged with forgery because he had been presigning prescriptions for use by a physician assistant while practicing in Indiana. Dr. Palmer stated that he does not intend to return to Indiana, but he plans to stay in Ohio long-term. Dr. Palmer stated that his practice is mostly internal medicine outpatient care with some allergy care.

Dr. Soin asked if Dr. Palmer plans to prescribe controlled substances in his future practice. Dr. Palmer replied that he would prefer to not prescribe controlled substances, but it may be necessary at times. Dr. Soin advised Dr. Palmer to be aware of the Medical Board's rules and guidelines with regard to controlled substances in order to avoid disciplinary action in the future. Dr. Soin stated that the Medical Board's website is a great resource, particularly the "Prescriber Resources" section. Dr. Palmer stated that he will review the website and thanked Dr. Soin for the information.

Dr. Soin asked where Dr. Palmer saw his career going in the long-term. Dr. Palmer replied that he will probably be doing outpatient care, though he would practice allergy medicine if he could find such work.

Dr. Soin asked if Dr. Palmer understood the impact of presigning prescriptions. Dr. Palmer replied affirmatively. Dr. Soin asked if Dr. Palmer planned to use electronic medical records (EMR) for prescribing in the future. Dr. Palmer stated that he would probably not e-prescribe unless he had to. Dr. Soin stated that e-prescribing would mitigate Dr. Palmer's ability to presign prescriptions again, and also mitigate fraud from people stealing paper prescriptions. Dr. Soin recommended that Dr. Palmer consider using e-prescribing.

Dr. Soin asked if Dr. Palmer had any questions about his Consent Agreement. Dr. Palmer replied that he had no questions.

Dr. Schottenstein asked Dr. Palmer to clarify that the charge of forgery in Indiana referred solely to his presigning of prescriptions. Dr. Palmer replied that that was correct.

Dr. Schottenstein asked if Dr. Palmer has recertified with the American Board of Medical Specialties. Dr. Palmer answered that he was unable to recertify due to his legal issues, but he did take the Special Purpose Examination (SPEX).

Dr. Schottenstein asked if Dr. Palmer's prison sentence had been commuted. Dr. Palmer replied that the sentence was commuted to two years of community correction.

Dr. Soin moved to continue Dr. Palmer under the terms of his her May 9, 2018 Consent Agreement, with future appearances before the Board's Secretary or Designee. Mr. Giacalone seconded the motion. The motion carried.

Shannon Lee Swanson, D.O.

Dr. Swanson is making her initial appearance before the Committee pursuant to the terms of her April 11, 2018 Consent Agreement. Dr. Schottenstein reviewed Dr. Swanson's history with the Board.

Mr. Giacalone asked Dr. Swanson to describe her current practice environment. Dr. Swanson responded that she has spent the last several years practicing at Lake Erie Correctional Facility treating incarcerated patients.

Mr. Giacalone asked Dr. Swanson to describe the events that have brought her before the Board and the Compliance Committee. Dr. Swanson related that in 2013 she identified a nurse who was forging prescriptions under Dr. Swanson's Drug Enforcement Administration (DEA) number. During that investigation, it was discovered that Dr. Swanson had written prescriptions for coworkers without keeping a medical record. Dr. Swanson stated that these prescriptions were refills of Ambien and some diet pills. That led to Dr. Swanson's first Consent Agreement with the Board.

Dr. Swanson continued that she later looked up the nurse and her husband on the Ohio Automated Rx Reporting System (OARRS). Dr. Swanson commented that the nurse's husband was a police officer who had also been obtaining prescriptions under Dr. Swanson's name. Since neither the nurse nor her husband was Dr. Swanson's patient's, it had been improper to look them up on OARRS. This led to Dr. Swanson's second Consent Agreement with the Board. Dr. Swanson was also charged with misdemeanors for this incident.

Dr. Swanson continued that as part of her probationary period, she was not allowed to prescribe controlled substances. Dr. Swanson was later reported to the Board for refilling prescriptions for phenobarbital for two of her inmate patients for their long-term seizures. Dr. Swanson stated that the patients were on several medications and she had refilled all of their prescriptions without realizing

that one of the prescriptions was for a controlled substance. Dr. Swanson added that the refill prescriptions were done under the direction of her regional manager, who actually approved the refills.

Mr. Giacalone asked what Dr. Swanson has learned from all this. Dr. Swanson replied that she has learned to be more careful and to focus on not making mistakes. Dr. Swanson stated that she only has one inmate patient out of 1,800 who is currently on a controlled substance, recommended by a neurologist for the patient's tremors. Dr. Swanson stated that she checks OARRS as required.

Mr. Giacalone asked if Dr. Swanson has ever told other practitioners about her experience. Dr. Swanson replied that she has shared her experience with her group and her emergency medicine residents.

Dr. Soin moved to continue Dr. Swanson under the terms of her April 11, 2018 Consent Agreement, with future appearances before the Board's Secretary or Designee. Mr. Giacalone seconded the motion. The motion carried.

Jerome B. Yokiel, M.D.

Dr. Yokiel is making his initial appearance before the Committee pursuant to the terms of his May 9, 2018 Consent Agreement. Dr. Schottenstein reviewed Dr. Yokiel's history with the Board.

Responding to questions from Dr. Factora, Dr. Yokiel stated that he has a back condition that required fusion, in addition to diabetic neuropathy in his legs. Dr. Yokiel stated that his private practice as a pain management physician, which had involved doing many procedures and using a lead apron, causing additional pain in his legs. At that time, Dr. Yokiel felt that he was unable to take time off from work to get treated and his diabetes interfered with epidural injections. Consequently, Dr. Yokiel self-treated with alcohol and also used alcohol to help him sleep.

Dr. Factora asked how Dr. Yokiel's pain is controlled currently. Dr. Yokiel stated that physicians at Glenbeigh put him on Topamax, which he is able to tolerate better than some previous medications. Dr. Yokiel stated that the Topamax controls his pain quite well and he has not had any cravings for alcohol.

Dr. Factora asked how Dr. Yokiel's practice had been affected when he was self-medicating. Dr. Yokiel stated that he had not self-medicated during the day when he was practicing, but only at night. Dr. Yokiel stated that he did experience daytime fatigue because he was not sleeping well. Dr. Yokiel stated that he was subsequently diagnosed with sleep apnea. Dr. Yokiel now uses a CPAP machine, which has helped his sleep. Dr. Yokiel added that he had surgery in May 2018 for ulnar neuropathy. Dr. Factora asked if Dr. Yokiel required any additional pain medication for his ulnar neuropathy surgery. Dr. Yokiel replied that he had been given a prescription for tramadol, but he did not fill it and he only took Tylenol. Dr. Yokiel added that he had been given a block in his elbow that lasted almost 36 hours.

Dr. Factors noted that Dr. Yokiel is anticipating having surgery on his back this Fall. Dr. Yokiel stated that he may or may not have that surgery. Dr. Factora asked if Dr. Yokiel has considered how he will control any pain related to the surgery, if he has it. Dr. Yokiel replied that he would speak with the anesthesiologist, but he may have an epidural for a few days. Dr. Yokiel commented that if he is given a small amount of pain medication, he would let his wife control it and dispense it to him in an appropriate manner.

Dr. Factora asked if Dr. Yokiell has a sponsor. Dr. Yokiell answered that he speaks with his sponsor almost daily and meets with him weekly. Dr. Factora asked about other support, and Dr. Yokiell stated that his family, his wife, and his children are very supportive.

Dr. Factora asked if Dr. Yokiell planned to continue practicing pain management. Dr. Yokiell responded that he is currently speaking with a group about doing interventional pain management. Dr. Yokiell stated that he does not want to be in a full-time pain management clinic like he was before, and he does not want to be prescribing narcotics to people who need chronic pain management without interventional procedures. Dr. Yokiell has also considered doing peer-to-peer reviews from his home. Dr. Factora asked if these practices would allow Dr. Yokiell access to controlled substances. Dr. Yokiell replied that he does not think he would have access to controlled substances, though he would have the ability to prescribe them.

Dr. Soin asked if Dr. Yokiell has a drug problem. Dr. Yokiell replied that he does not have a drug problem.

Dr. Soin noted that Dr. Yokiell had earlier stated that his pain had been so severe that he would self-medicate and that he could hardly function. However, Dr. Yokiell also stated that he may not need pain medication following surgery because he is functional. Dr. Soin asked Dr. Yokiell to clarify if he is functional or not functional. Dr. Yokiell stated that he is functional now and that the Topamax helped him quite a bit. Dr. Yokiell added that he has also done a lot of exercising and physical therapy. Dr. Yokiell stated that his pain is under much better control now than it was before, when he was working ten to twelve hour days and would come home exhausted with throbbing legs.

Dr. Soin expressed concern that Dr. Yokiell may not have situational awareness of a potential drug problem. Dr. Soin commented that Dr. Yokiell's pain had been so severe that he was taking drugs, and now he has had what appears to be a miraculous recovery without drugs. Dr. Soin wanted to make sure that Dr. Yokiell does not relapse and that he continues to be vigilant with his recovery program. Dr. Yokiell stated that he is very serious about his recovery. Dr. Yokiell commented that drugs had not been a big problem for him. Dr. Yokiell acknowledged that he had used Propofol occasionally to get better sleep, but he did not use it daily. Dr. Yokiell stated that the pain medication he had tried did not become an issue because they did not work for him. Dr. Yokiell stated that his big problem had been his use of alcohol at night for pain and for sleep.

Dr. Soin commented that the Board has seen relapse in physicians often and it can be very disruptive to one's career. Dr. Soin encouraged Dr. Yokiell to maintain vigilance and self-awareness. Dr. Yokiell thanked Dr. Soin for the advice and acknowledged that he does have an alcohol problem. Dr. Yokiell further acknowledged that drug problems often go along with alcohol problems.

Mr. Giacalone asked if Dr. Yokiell is certified in pain management. Dr. Yokiell replied that he is certified in pain management through the American Society of Anesthesiologists and is currently working on his recertification. Mr. Giacalone pointed out that there is an opioid issue in this state and this country. Mr. Giacalone stated that if Dr. Yokiell is going to be practicing pain management, he must be up-to-date on current rules and regulations. Mr. Giacalone stated that if Dr. Yokiell has to come before the Board again, it will not be pleasant for him. Dr. Yokiell stated that he understands and that he has no intention of coming back before the Board.

Dr. Schottenstein noted that the Board had just reviewed a case involving an anesthesiologist who went outside of his area of expertise and practiced pain management, leading to minimal standards issues and action by the Board. Dr. Schottenstein stated that it is important for physicians to be well-versed in whatever area they choose to practice in.

Dr. Schottenstein expressed concern about Dr. Yokiel's sense that he does not have a drug problem. Dr. Schottenstein stated that if Dr. Yokiel was self-medicating with drugs, especially something like Propofol, then that seems like a drug problem. Dr. Schottenstein advised Dr. Yokiel to be hesitant about ever going into an operating room again because of the substances available there. Dr. Schottenstein stated that people with a history of a drug problem have died after re-exposing themselves to that environment. Dr. Yokiel stated that he has no intention of returning to the operating room or practicing anesthesiology.

Dr. Schottenstein stated that Topamax can have an anti-alcohol craving effect, and this may be happening with Dr. Yokiel's use of Topamax. Dr. Schottenstein asked Dr. Yokiel to keep that in mind if he ever tapers off of Topamax. Dr. Yokiel agreed.

Dr. Yokiel clarified that when he stated that he does not have any problems with drugs right now, he does not mean that he does not have a drug problem. Dr. Yokiel acknowledged that he does have a drug problem and that is why he is going to rehabilitation and recovery meetings. Dr. Yokiel understood that he has a problem and will always have a problem, but he is not involved in drugs or alcohol right now and he is getting treatment.

Dr. Schottenstein asked if Dr. Yokiel has any questions for the Committee. Dr. Yokiel replied that he has no questions.

Mr. Giacalone moved to continue Dr. Yokiel under the terms of his May 9, 2018 Consent Agreement, with future appearances before the Board's Secretary or Designee. Dr. Soin seconded the motion. The motion carried.

ADJOURN

Dr. Soin moved to adjourn the meeting. Dr. Factora seconded the motion. The motion carried.

The meeting adjourned at 2:58 p.m.

Michael Schottenstein, M.D.
Chair

blt