



POLICY COMMITTEE MEETING
January 8, 2019
30 East Broad Street, Columbus, OH 43215, Room 336

<p>Members: Mark Bechtel, MD Betty Montgomery Sherry Johnson, DO Robert Giacalone</p> <p>Other Board Members present: Bruce Saferin, DPM Kim Rothermel, MD Richard Edgin, MD Michael Schottenstein, MD Jonathon Feibel, MD Harish Kakarala, MD</p>	<p>Staff: Stephanie Loucka, Executive Director Jill Reardon, Deputy Director Strategic Services Kim Anderson, Chief Legal Counsel Rebecca Marshall, Chief Enforcement Attorney Jonithon LaCross, Director of Public Policy and Government Affairs Joe Turek, Director of Licensure and Licensee Services Nate Smith, Senior Legal and Policy Counsel Jerica Stewart, Communication & Outreach Administrator</p>
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Mr. Giacalone called the meeting to order at 9:03 a.m.

Meeting Minutes Review

Mr. Giacalone reported that the draft minutes of the December 11, 2019 meeting had been distributed to the committee and were included in the agenda materials.

Ms. Montgomery moved to approve the draft minutes of the Policy Committee meeting on December 11. Dr. Bechtel seconded the motion. All in favor. The motion carried.

Rules Review Update

2020 Schedule

Ms. Anderson provided an update. She directed the committee's attention to the 2020 schedule. She observed the schedule is light and that they are looking at rules that are initially being brought to Policy committee and the rules that are up for their five-year review in 2021. The board is also anticipating new legislation that will require rules. The schedules lists radiology assistant rules in February, personal information systems rules in March, hearing rules in April and universal precautions rules in May. The intent of the schedule is to keep the board on track for the five-year rule review, but other rules will also be addressed throughout the year.

CSI Determination on Light-Based Medical Device Rules

Ms. Anderson shared in 2017 or 2018, the board made amendments to the light-based medical device rules and received comments indicating possible anti-trust concerns. The board sent the rules to CSI for an anti-trust review and the board has now received them back with the finding

that the rules as drafted do not raise anti-trust issues. The rules will now move forward and will be sent back to CSI for the business impact analysis and small business review hopefully before the end of the month. After it passes, it will be filed with JCARR.

Legislative Update

HB 263 (Occupational License-Criminal Convictions Bill)

Mr. LaCross shared his memos with the board. The Medical Board has been working with the other health care boards to put together a summary of the concerns in desired amendments. The bill has been submitted but is in an unknown stage, though leadership is reviewing it. The health care boards are waiting for an IP meeting presumably to be scheduled within the next month.

Mr. Giacalone asked about Mr. LaCross' statement "board staff concerns did not impact the representative's position on the legislation."

Mr. LaCross explained the first conversation occurred between Ms. Anderson, Mr. Turek and the representative. The representative was not overly receptive to the Medical Board's individual concerns. However, once he heard the combined concerns from the boards, the message was better received. Mr. LaCross stated he is not sure if the bill has the traction to pass.

HB 432 Occupational licenses reciprocity bill

Mr. LaCross stated there are companion bills in the House and the Senate. The house bill is currently sitting because it was not an initial priority.

Ms. Loucka added the Medical Board will be working with the other boards to address the bill as well.

House State and Local Government Occupational Licensure Recommendations

Senate bill 255 requires a six-year review of all state occupational licenses. In 2019, Executive Director Groeber testified to the house and received initial feedback that the Medical Board would likely not see changes. However, the Senate and House have both focused on making licensing in Ohio easier. The House evaluated a few of the board's license types and recommended eliminating the cosmetic therapists, genetic counselors and acupuncturist/oriental medicine licenses. The recommendation identifies these three as licenses that provide a personal preference instead of a medical necessity and the practitioners can be certified through a national registry if they choose. The associations for the license types are in opposition to the bill. If the professions are no longer licensed, the board could no longer regulate or discipline them. Other license types do have national certifications; however, the board still regulates the licensees.

Ms. Montgomery asked how many of the occupations are dangerous to the public without local regulation.

The committee discussed.

Mr. LaCross shared the house staff informed him they had reviewed data from other states before providing this recommendation. Mr. LaCross expressed concern over national certification that the national standard can differ from Ohio.

Mr. Turek shared between the three license types; the board probably issues less than 100 new licenses a year. There are approximately 175 licensed cosmetic therapists and though he did not have an estimate for the genetic counselors and acupuncturists he acknowledged they also have low numbers. He also stated the genetic counselors and acupuncturists already have national certification as a requirement of licensure.

CME

Recently, the board changed the CME requirement from 40 to 50 hours of category 1. The one-third volunteer opportunity for CME was decreased to 3 hours. Representative Butler proposed increasing the volunteer CME credit to 10 hours. After speaking with Dr. Schottenstein the representative instead proposed implementing a category 2 of 20 to 25 hours physicians could use to volunteer. This would require a statute change.

Dr. Saferin expressed his opposition with re-implementing category 2 after four years of working to eliminate category 2. Category 2 could not be audited or verified. He is in favor of maintaining 3 hours or increasing to a maximum of 5 hours.

Dr. Rothermel shared Mr. Turek's data showed since volunteer hours were implemented, no audited physicians have used it. There is also a lot of paperwork required. She stressed physicians will volunteer because they want to and don't need an incentive.

The committee came to a consensus that 3 volunteer hours is sufficient.

Dr. Johnson suggested asking physicians how many hours they are volunteering during their renewal process.

HB224 Nurse Anesthetists (CRNA bill)

The nurse anesthetists cannot practice without physician supervision.

HB452 Occupational Regulations

In accordance with HB255 (reviews every six years). This could be the placeholder bill for the recommendations.

HB 455 surgical assistants

They are taking a registry approach instead of a license request at this time. Mr. LaCross will take the board's recommendations. The bill appears to propose a registry which will just be a list that surgical assistants will be on for the board but will not allow it to regulate.

Dr. Feibel stated surgical assistants want registration to be able to bill at higher rates. He recommended Mr. LaCross inform the legislature creating a registry would increase the cost of health care.

Mr. Giacalone stated the board should take a negative position on the registration.

Mr. LaCross stated surgical assistant positions are seen as an entry position in the field. Creating a registry could act as a barrier.

The committee discussed.

Dr. Saferin stated if the surgical assistants want to be a part of the Medical Board they should be licensed and become able to be disciplined.

Mr. Giacalone instructed Mr. LaCross to get an understanding of the scope of practice for surgical assistances before the board makes any decisions or takes a position.

SB 250 physicians using radiation equipment

The bill regards the authority of a physician to operate radiation equipment for the purpose of patient medical treatment but only if the equipment is not capable of generating energy of a level that does not exceed 200 kilovolts. The board will have to create rules and work with the Department of Health and other boards. Right now, it's referred to Health and Human Services.

Dr. Bechtel explained there's an evolution of new radiation oncology equipment that can be used in an office and not a hospital setting. Many times, it can be used for skin cancer and similar situations. There are states that allow it but there are patient safety and employee safety issues associated with its use.

FAQs for prescribing to patients after a sudden office closure

Last month the board had a statement regarding prescribing to patients after office closure and it was recommended to be developed into FAQs. There are now two documents. The FAQs illuminate the Medical Board's prescribing rules. It also informs prescribers that the board will not initiate a disciplinary action for prescribers following an appropriate weaning program that brings the patient in compliance within six months. It also states this response only applies to those situations where prescribers are undertaking care of a patient following an office closure. The FAQs provides resources instead of providing a written response for MAT.

Dr. Rothermel asked how Dr. Soin responded to the six-month time limit.

Ms. Anderson explained Dr. Soin agreed it was an appropriate time, but also noted some exceptions to the six months.

Mr. Giacalone suggested adding in a reference to qualified substance abuse treatment providers where appropriate.

HB224 Nurse Anesthetists (CRNA bill)

Ms. Anderson explained the verbiage is not coming from the bill. There are three states that may have recognized an optional title of nurse anesthesiologist for a CRNA.

- The American Association of Nurse Anesthetists has provided a paper about this issue. The AMA has issued a brief indicating allowing CRNAs to use the title anesthesiologists is misleading and confusing and doesn't further the mission of protecting the safety and welfare of citizens of the state.
- New Hampshire Board of Nursing issued a position statement that nurses can be referred to nurse as anesthesiologists, but the New Hampshire Board of Medicine issued a position statement that the word "anesthesiologist" cannot be used to refer to a nurse.
- Florida has a pending bill that makes several types of physician specialties available only to physicians including anesthesiologist.

Ms. Anderson and Ms. Loucka have spoken with Board of Nursing leadership. Their leadership has indicated they are not planning to promote nurse anesthetists using the title of

anesthesiologist. In the other states, medical boards seem to be reacting to their nursing boards' endorsements.

Ms. Montgomery asked even if the Ohio Board of Nursing doesn't promote the title, if it would discipline licensees who used it.

Ms. Anderson and Ms. Loucka agreed they had not asked that question.

Ms. Anderson reiterated the Board of Nursing has indicated it has no interest in issuing a position statement to endorse the nurse anesthesiologist title. The national council of nurses reviewed the issue a few years ago and took no further action.

Ms. Anderson suggested the committee has three choices:

- 1) Continue to work with the Board of Nursing to gather information and determine if it is an issue in Ohio
- 2) Pursue legislation similar to Florida
- 3) Adopt a position similar to the AMA position statement

Ms. Montgomery proposed pursuing options 1 and 3.

Mr. Giacalone proposed approaching the Board of Nursing to inform them of the Medical Board's intent to take a position (1 and 3).

Dr. Schottenstein proposed option 1 because he did not see the purpose of creating a problem that didn't yet exist. He suggested waiting to see if there is a problem with the use of the title or an issue with the Board of Nursing the other options will still be available to take action.

Dr. Feibel stated he'd rather be proactive.

Dr. Edgin pointed out the growing idea of nurse practitioners becoming independent from physicians and noted it seems similar to this issue. He suggested the title of nurse anesthesiologist implies they are independent.

Mr. Giacalone stated the title nurse anesthesiologist is ambiguous and may confuse patients. He suggested the board issue a joint statement with the Board of Nursing.

The committee members agreed.

Ms. Montgomery moved to approve the development and issuance of a collaborative position statement with the Board of Nursing to discourage the use of the title "nurse anesthesiologist" by nurse anesthetists. Dr. Bechtel seconded the motion. All in favor, the motion carried.

Adjourn

Dr. Bechtel moved to adjourn the meeting. Ms. Montgomery seconded the motion. All in favor, the motion carried.

The meeting adjourned at 10:01 a.m.

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MEMORANDUM

TO: Amol Soin, M.D. Chair, Policy Committee
Members, Policy Committee

FROM: Kimberly C. Anderson, Chief Legal Counsel

RE: Rule Review Update

DATE: February 6, 2020

Attached please find the Rule Review Schedule and Spreadsheet.

Action Requested: No Action Needed

Rule Number	Rule Description	Sent for Initial Comment	Board Approval to File with CSI	CSI filing	CSI recommendation	JCARR filing	Rules Hearing	JCARR Hearing	Board Adoption	New Effective Date	Current Review Date	Notes
4730-1-01	Regulation of Physician Assistants - Definitions		06/12/19	07/16/19	11/07/19					09/30/18	09/30/23	
4730-1-05	Quality Assurance System		06/12/19	07/16/19	11/07/19					08/07/18	08/07/23	
4730-1-06	Licensure as a physician assistant	03/22/19	06/12/19	12/04/19						09/30/18	09/30/23	
4730-1-06.1	Military provisions related to certificate to practice as a physician assistant	03/22/19	06/12/19	12/04/19						09/30/15	09/30/20	
4730-1-07	Miscellaneous Provisions		06/12/19	07/16/19	11/07/19					09/30/18	09/30/23	
4730-1-08	Physician assistant delegation of medical tasks and administration of drugs		06/12/19	07/16/19	11/07/19					07/31/16	07/31/21	
4730-2-01	Physician Delegated Prescriptive Authority - Definitions		06/12/19	07/16/19	11/07/19					9/30/18	09/15/19	extension granted from 3/19/19. Need another if not filed by 9-15-19
4730-2-04	Period of on-site supervision of physician-delegated prescriptive authority		06/12/19	07/16/19	11/07/19					11/30/18	11/15/23	
4730-2-05	Addition of valid prescriber number after initial licensure		06/12/19	07/16/19	11/07/19					11/30/18	11/15/23	
4730-2-06	Physician Assistant Formulary		06/12/19	07/16/19	11/07/19					06/30/14	12/27/19	extension granted from 6/30/19
4730-2-07	Standards for Prescribing		06/12/19	07/16/19	11/07/19					9/30/18	12/27/19	extension granted from 6/30/19
4730-2-10	Standards and Procedures for use of OARRS		06/12/19	07/16/19	11/07/19					09/30/18	09/30/23	
4730-4-01	Definitions									04/30/19	04/30/24	
4730-4-03	Office Based Treatment for Opioid addiction									04/30/19	04/30/24	
4730-4-04	Medication assisted treatment using naltrexone									04/30/19	04/30/24	
4731-1-01	Limited Practitioners - Definition of Terms									03/30/20	03/30/25	
4731-1-02	Application of Rules Governing Limited Branches of Medicine or Surgery									07/31/19	07/31/24	
4731-1-03	General Prohibitions										08/31/23	
4731-1-04	Scope of Practice: Mechanotherapy									12/31/18	12/31/23	
4731-1-05	Scope of Practice: Massage Therapy				04/24/19	Refiled 8/20/19 4/29/19	06/05/19		10/16/19	11/05/19	11/05/24	
4731-1-06	Scope of Practice: Naprapathy									08/31/18	08/31/23	

Rule Number	Rule Description	Sent for Initial Comment	Board Approval to File with CSI	CSI filing	CSI recommendation	JCARR filing	Rules Hearing	JCARR Hearing	Board Adoption	New Effective Date	Current Review Date	Notes
4731-1-07	Eligibility of Electrologists Licensed by the Ohio State Board of Cosmetology to Obtain Licensure as Cosmetic Therapists Pursuant to Chapter 4731 ORC and Subsequent Limitations									12/31/18	12/31/23	
4731-1-08	Continuing Cosmetic Therapy Education Requirements for Registration or Reinstatement of a License to Practice Cosmetic Therapy									09/30/19	09/30/24	
4731-1-09	Cosmetic Therapy Curriculum Requirements										08/31/23	
4731-1-10	Distance Education									01/31/19	01/31/24	
4731-1-11	Application and Certification for certificate to practice cosmetic therapy									03/30/20	03/30/25	
4731-1-12	Examination									11/30/16	11/30/21	
4731-1-15	Determination of Standing of School, College or Institution									12/31/18	12/31/23	
4731-1-16	Massage Therapy curriculum rule (Five year review)									01/31/19	11/30/21	
4731-1-17	Instructional Staff									05/31/19	05/31/24	
4731-1-18	Grounds for Suspension, Revocation or Denial of Certificate of Good Standing, Hearing Rights									03/30/20	03/30/25	
4731-1-19	Probationary Status of a limited branch school									03/30/20	03/30/25	
4731-1-24	Massage Therapy Continuing Education	03/09/16		10/26/16	04/24/19	04/29/19	06/05/19			Withdrawn 8/30/19		
4731-1-25	Determination of Equiv. Military Educ. For CT/MT	03/22/19	06/12/19	12/04/19						12/31/15	12/31/20	
4731-2-01	Public Notice of Rules Procedure									12/07/17	12/07/22	
4731-4-01	Criminal Records Checks - Definitions									09/30/19	09/30/24	
4731-4-02	Criminal Records Checks									09/30/19	09/30/24	
4731-5-01	Admission to Examinations									06/09/17	06/09/22	
4731-5-02	Examination Failure; Inspection and Regrading									06/09/17	06/09/22	
4731-5-03	Conduct During Examinations									06/09/17	06/09/22	
4731-5-04	Termination of Examinations									06/09/17	06/09/22	
4731-6-01	Medical or Osteopathic Licensure: Definitions									07/31/19	07/31/24	
4731-6-02	Preliminary Education for Medical and Osteopathic Licensure									07/31/19	07/31/24	
4731-6-04	Demonstration of proficiency in spoken English									06/09/17	06/09/22	
4731-6-05	Format of Medical and Osteopathic Examination									07/31/19	07/31/24	
4731-6-14	Examination for physician licensure									07/31/19	07/31/24	

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4731-6-15	Eligibility for Licensure of National Board Diplomats and Medical Council of Canada Licentiates									07/31/19	07/31/24	
4731-6-21	Application Procedures for Certificate Issuance; Investigation; Notice of Hearing Rights									07/31/19	07/31/24	
4731-6-22	Abandonment and Withdrawal of Medical and Osteopathic Licensure Applications									07/31/19	07/31/24	
4731-6-30	Training Certificates									07/31/19	07/31/24	
4731-6-31	Limited Preexamination Registration and Limited Certification									07/31/19	07/31/24	
4731-6-33	Special Activity Certificates									07/31/19	07/31/24	
4731-6-34	Volunteer's Certificates									07/31/19	07/31/24	
4731-6-35	Processing applications from service members, veterans, or spouses of service members or veterans.			12/04/19						07/31/19	07/31/24	
4731-7-01	Method of Notice of Meetings									07/31/19	07/31/24	
4731-8-01	Personal Information Systems	02/20/19								04/21/16	04/21/21	
4731-8-02	Definitions									04/21/16	04/21/21	
4731-8-03	Procedures for accessing confidential personal information									04/21/16	04/21/21	
4731-8-04	Valid reasons for accessing confidential personal information									04/21/16	04/21/21	
4731-8-05	Confidentiality Statutes									07/31/16	07/31/21	
4731-8-06	Restricting & Logging access to confidential personal information									04/21/16	04/21/21	
4731-9-01	Record of Board Meetings; Recording, Filming, and Photographing of Meetings									09/15/19	06/17/24	
4731-10-01	Definitions									02/02/18	02/02/23	
4731-10-02	Requisite Hours of Continuing Medical Education for License Renewal or Reinstatement									05/31/18	05/31/23	
4731-10-03	CME Waiver									05/31/18	05/31/23	
4731-10-04	Continuing Medical Education Requirements for Restoration of a License									05/31/18	05/31/23	
4731-10-05	Out-of-State Licensees									05/31/18	05/31/23	
4731-10-06	Licensure After Cutoff for Preparation of Registration Notices									05/31/18	05/31/23	
4371-10-07	Internships, Residencies and Fellowships									05/31/18	05/31/23	
4371-10-08	Evidence of Continuing Medical Education									05/31/18	05/31/23	

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4731-10-09	Continuing Medical Education Requirement for Mid-term Licensees									05/31/18	05/31/23	
4731-10-10	Continuing Medical Education Requirements Following License Restoration									05/31/18	05/31/23	
4731-10-11	Telemedicine Certificates									05/31/18	05/31/23	
4731-11-01	Controlled substances; General Provisions Definitions				11/14/19					12/23/18	12/07/22	
4731-11-02	Controlled Substances - General Provisions	07/26/19								04/30/19	12/31/20	
4731-11-03	Schedule II Controlled Substance Stimulants	07/26/19								12/31/15	12/31/20	
4731-11-04	Controlled Substances: Utilization for Weight Reduction	07/26/19								02/29/16	02/28/21	
4731-11-04.1	Controlled substances: Utilization for chronic weight management	07/26/19								12/31/15	12/31/20	
4731-11-07	Research Utilizing Controlled Substances	07/26/19								09/30/15	09/30/20	
4731-11-08	Utilizing Controlled Substances for Self and Family Members									08/17/16	08/17/21	
4731-11-09	Prescribing to persons the physician has never personally examined.									03/23/17	03/23/22	
4731-11-11	Standards and procedures for review of "Ohio Automated Rx Reporting System" (OARRS).	07/26/19								12/31/15	12/31/20	
4731-11-13	Prescribing of Opioid Analgesics for Acute Pain									08/31/17	08/31/22	
4731-11-14	Prescribing for subacute and chronic pain			3/21/19	11/14/19					12/23/18	12/23/23	
4731-12-01	Preliminary Education for Licensure in Podiatric Medicine and Surgery									06/30/17	06/30/22	
4731-12-02	Standing of Colleges of Podiatric Surgery and Medicine									06/30/17	06/30/22	
4731-12-03	Eligibility for the Examination in Podiatric Surgery and Medicine (see note below)									04/19/17	04/19/22	
4731-12-04	Eligibility of Licensure in Podiatric Medicine and Surgery by Endorsement from Another State									06/30/17	06/30/22	
4731-12-05	Application Procedures for Licensure in Podiatric Medicine and Surgery, Investigation, Notice of Hearing Rights.									06/30/17	06/30/22	
4731-12-06	Visiting Podiatric Faculty Certificates									06/30/17	06/30/22	
4731-12-07	Podiatric Training Certificates									06/30/17	06/30/22	

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4731-13-01	Conduct of Hearings - Representative; Appearances									07/31/16	07/31/21	
4731-13-02	Filing Request for Hearing									07/31/16	07/31/21	
4731-13-03	Authority and Duties of Hearing Examiners									09/30/18	07/31/21	
4731-13-04	Consolidation										04/21/21	
4731-13-05	Intervention										04/21/21	
4731-13-06	Continuance of Hearing									09/30/16	09/30/21	
4731-13-07	Motions									09/30/18	04/21/21	
4731-13-07.1	Form and page limitations for briefs and memoranda									09/30/18	09/30/23	
4731-13-08	Filing									07/31/16	07/31/21	
4731-13-09	Service									07/31/16	07/31/21	
4731-13-10	Computation and Extension of Time									07/31/16	07/31/21	
4731-13-11	Notice of Hearings									07/31/16	07/31/21	
4731-13-12	Transcripts									07/31/16	07/31/21	
4731-13-13	Subpoenas for Purposes of Hearing	05/09/19	06/12/19							07/31/16	07/31/21	
4731-13-14	Mileage Reimbursement and Witness Fees										04/21/21	
4731-13-15	Reports and Recommendations									07/31/16	07/31/21	
4731-13-16	Reinstatement or Restoration of Certificate									07/31/16	07/31/21	
4731-13-17	Settlements, Dismissals, and Voluntary Surrenders									04/21/16	04/21/21	
4731-13-18	Exchange of Documents and Witness Lists									07/31/16	07/31/21	
4731-13-20	Depositions in Lieu of Live Testimony and Transcripts in place of Prior Testimony									07/31/16	07/31/21	
4731-13-20.1	Electronic Testimony									07/31/16	07/31/21	
4731-13-21	Prior Action by the State Medical Board									04/21/16	04/21/21	
4731-13-22	Stipulation of Facts									04/21/16	04/21/21	
4731-13-23	Witnesses									09/14/16	09/30/21	
4731-13-24	Conviction of a Crime									04/21/16	04/21/21	
4731-13-25	Evidence									07/31/16	07/31/21	
4731-13-26	Broadcasting and Photographing Administrative Hearings									04/21/16	04/21/21	
4731-13-27	Sexual Misconduct Evidence									04/21/16	04/21/21	
4731-13-28	Supervision of Hearing Examiners									04/21/16	04/21/21	
4731-13-30	Prehearing Conference									04/21/16	04/21/21	
4731-13-31	Transcripts of Prior Testimony									04/21/16	04/21/21	
4731-13-32	Prior Statements of the Respondent									04/21/16	04/21/21	
4731-13-33	Physician's Desk Physician									04/21/16	04/21/21	
4731-13-34	Ex Parte Communication									07/31/16	07/31/21	
4731-13-35	Severability									04/21/16	04/21/21	

Rule Number	Rule Description	Sent for Initial Comment	Board Approval to File with CSI	CSI filing	CSI recommendation	JCARR filing	Rules Hearing	JCARR Hearing	Board Adoption	New Effective Date	Current Review Date	Notes
4731-13-36	Disciplinary Actions									07/31/16	07/31/21	
4731-14-01	Pronouncement of Death									06/30/16	06/30/21	
4731-15-01	Licensee Reporting Requirement; Exceptions									11/17/17	11/17/22	
4731-15-02	Healthcare Facility Reporting Requirement									11/17/17	11/17/22	
4731-15-03	Malpractice Reporting Requirement									11/17/17	11/17/22	
4731-15-04	Professional Society Reporting									11/17/17	11/17/22	
4731-15-05	Liability; Reporting Forms; Confidentially and Disclosure									11/17/17	11/17/22	
4731-16-01	Rules governing impaired physicians and approval of treatments programs - Definitions									11/17/17	11/17/22	
4731-16-02	General Procedures in Impairment Cases									11/17/17	11/17/22	
4731-16-04	Other Violations									11/17/17	11/17/22	
4731-16-05	Examinations									11/17/17	11/17/22	
4731-16-06	Consent Agreements and Orders for Reinstatement of Impaired Practitioners									11/17/17	11/17/22	
4731-16-07	Treatment Provider Program Obligations									11/17/17	11/17/22	
4731-16-08	Criteria for Approval									11/17/17	11/17/22	
4731-16-09	Procedures for Approval									11/17/17	11/17/22	
4731-16-10	Aftercare Contracts									11/17/17	11/17/22	
4731-16-11	Revocation, Suspension, or Denial of Certificate of Good Standing									11/17/17	11/17/22	
4731-16-12	Out-of-State Impairment Cases									11/17/17	11/17/22	
4731-16-13	Patient Consent; Revocation of Consent									11/17/17	11/17/22	
4731-16-14	Caffeine, Nicotine, and Over-The Counter Drugs									11/17/17	11/17/22	
4731-16-15	Patient Rights									11/17/17	11/17/22	
4731-16-17	Requirements for the one-bite program									01/31/19	01/31/24	
4731-16-18	Eligibility for the one-bite program									01/31/19	01/31/24	
4731-16-19	Monitoring organization for one-bite program									01/31/19	01/31/24	
4731-16-20	Treatment providers in the one-bite program									01/31/19	01/31/24	
4731-16-21	Continuing care for the one-bite program									01/31/19	01/31/24	
4731-17-01	Exposure-Prone Invasive Procedure Precautions - Definitions									12/31/16	12/31/21	
4731-17-02	Universal Precautions									11/30/16	11/30/21	
4731-17-03	Hand Washing										08/17/21	
4731-17-04	Disinfection and Sterilization									12/31/16	12/31/21	

Rule Number	Rule Description	Sent for Initial Comment	Board Approval to File with CSI	CSI filing	CSI recommendation	JCARR filing	Rules Hearing	JCARR Hearing	Board Adoption	New Effective Date	Current Review Date	Notes
4731-17-05	Handling and Disposal of Sharps and Wastes										08/17/21	
4731-17-06	Barrier Techniques										08/17/21	
4731-17-07	Violations									11/09/16	11/30/21	
4731-18-02	Use of Light Based Medical Devices	01/17/18	03/14/18							05/31/02	06/30/05	
4731-18-03	Delegation of the Use of Light Based Medical Devices	01/17/18	03/14/18							06/30/00	06/30/05	
4731-18-04	Delegation of the Use of Light Based Medical Devices; Exceptions	01/17/18	03/14/18							05/31/02	05/31/07	
4731-20-01	Surgery Privileges of Podiatrist - Definition of Foot									05/31/18	05/31/23	
4731-20-02	Surgery: Ankle Joint									05/31/18	05/31/23	
4731-22-01	Emeritus Registration - Definitions									08/31/17	08/31/22	
4731-22-02	Application									08/31/17	08/31/22	
4731-22-03	Status of Registrant									05/12/17	05/12/22	
4731-22-04	Continuing Education Requirements									05/12/17	05/12/22	
4731-22-06	Renewal of Cycle of Fees									05/12/17	05/12/22	
4731-22-07	Change to Active Status									08/31/17	08/31/22	
4731-22-08	Cancellation of or Refusal to Issue an Emeritus Registration									05/12/17	05/12/22	
4731-23-01	Delegation of Medical Tasks - Definitions									11/30/16	11/30/21	
4731-23-02	Delegation of Medical Tasks									11/30/16	11/30/21	
4731-23-03	Delegation of Medical Tasks: Prohibitions									08/17/16	08/17/21	
4731-23-04	Violations									08/17/16	08/17/21	
4731-24-01	Anesthesiologist Assistants - Definitions									07/31/19	07/31/24	
4731-24-02	Anesthesiologist Assistants; Supervision									07/31/19	07/31/24	
4731-24-03	Anesthesiologist Assistants; Enhanced Supervision									07/31/19	07/31/24	
4731-24-05	Military Provisions Related to Certificate to Practice as an Anesthesiologist Assistant			12/04/19						07/31/19	07/31/24	
4731-25-01	Office-Based Surgery - Definition of Terms										03/01/23	
4731-25-02	General Provisions									05/31/18	05/31/23	
4731-25-03	Standards for Surgery Using Moderate Sedation/Analgesia									05/31/18	08/31/23	
4731-25-04	Standards for Surgery Using Anesthesia Services									05/31/18	05/31/23	
4731-25-05	Liposuction in the Office Setting									03/01/18	03/01/23	
4731-25-07	Accreditation of Office Settings									05/31/18	05/31/23	
4731-25-08	Standards for Surgery									09/30/19	09/30/24	

Rule Number	Rule Description	Sent for Initial Comment	Board Approval to File with CSI	CSI filing	CSI recommendation	JCARR filing	Rules Hearing	JCARR Hearing	Board Adoption	New Effective Date	Current Review Date	Notes
4731-26-01	Sexual Misconduct - Definitions									06/30/16	06/30/21	
4731-26-02	Prohibitions									06/14/16	06/14/21	
4731-26-03	Violations; Miscellaneous									06/30/16	06/30/21	
4731-27-01	Definitions									02/04/19	02/02/24	
4731-27-02	Dismissing a patient from the medical practice									05/31/19	05/31/24	
4731-27-03	Notice of termination of physician employment or physician leaving a practice, selling a practice, or retiring from the practice of medicine									05/31/19	05/31/24	
4731-28-01	Mental or Physical Impairment									08/31/17	08/31/22	
4731-28-02	Eligibility for confidential monitoring program									08/31/18	08/31/23	
4731-28-03	Participation in the confidential monitoring program									08/31/18	08/31/23	
4731-28-04	Disqualification from continued participation in the confidential monitoring program									08/31/18	08/31/23	
4731-28-05	Termination of the participation agreement for the confidential monitoring program									08/31/18	08/31/23	
4731-29-01	Standards and procedures for operation of a pain management clinic.									06/30/17	06/30/22	
4731-30-01	Internal Management Definitions									09/23/18	09/23/23	
4731-30-02	Internal Management Board Metrics	07/26/19								09/23/18	09/23/23	
4731-30-03	Approval of Licensure Applications									10/17/19	10/17/24	
4731-31-01	Requirements for assessing and granting clearance for return to practice or competition. (concussion rule)					04/10/19	05/13/19			11/30/19	11/30/24	
4731-32-01	Definition of Terms									09/08/17	09/08/22	
4731-32-02	Certificate to Recommend Medical Marijuana									09/08/17	09/08/22	
4731-32-03	Standard of Care									09/08/17	09/08/22	
4731-32-04	Suspension and Revocation of Certificate to Recommend									09/08/17	09/08/22	
4731-32-05	Petition to Request Additional Qualifying Condition or Disease									09/08/17	09/08/22	
4731-33-01	Definitions	05/09/19								04/30/19	04/30/24	
4731-33-02	Standards and procedure for withdrawal management for drug or alcohol addiction	05/09/19										
4731-33-03	Office-Based Treatment for Opioid Addiction									04/30/19	04/30/24	

Rule Number	Rule Description	Sent for Initial Comment	Board Approval to File with CSI	CSI filing	CSI recommendation	JCARR filing	Rules Hearing	JCARR Hearing	Board Adoption	New Effective Date	Current Review Date	Notes
4731-33-04	Medication Assisted Treatment Using Naltrexone									04/30/19	04/30/24	
4731-34-01	Standards and Procedures to be followed by physicians when prescribing a dangerous drug that may be administered by a pharmacist by injection.									07/31/19	07/31/24	
4731-35-01	Consult Agreements	01/18/19		03/21/19	11/14/19							
4731-35-02	Standards for managing drug therapy	01/18/19		03/21/19	11/14/19							
4731-36-01	Military provisions related to education and experience requirements for licensure	03/22/19	06/12/19	12/04/19								
4731-36-02	Military provisions related to renewal of license and continuing education	03/22/19	06/12/19	12/04/19								
4731-36-03	Processing applications from service members, veterans, or spouses of service members or veterans.	03/22/19	06/12/19	12/04/19								
4759-2-01	Definitions	04/19/18	07/11/18	09/25/18						11/30/19	11/30/24	
4759-4-01	Applications	04/19/18	07/11/18	09/25/18						11/30/19	11/30/24	
4759-4-02	Preprofessional experience	04/19/18	07/11/18	09/25/18							08/28/24	
4759-4-03	Examination	04/19/18	07/11/18	09/25/18						11/30/19	11/30/24	
4759-4-04	Continuing Education	08/27/19								11/30/19	11/30/24	
4759-4-08	Limited permit	8/27/19 4/19/18	07/11/18	09/25/18						11/30/19	11/30/24	
4759-4-09	License certificates and permits	04/19/18	07/11/18	09/25/18						11/30/19	11/30/24	
4759-4-12	<i>Consideration of military experience, education, training and term of service</i>	03/22/19	06/12/19	12/04/19						11/30/19	11/30/24	
4759-4-13	<i>Temporary license for military spouse</i>	03/22/19	06/12/19	12/04/19						11/30/19	11/30/24	
4759-5-01	Supervision of persons claiming exemption									08/28/19	08/28/24	
4759-5-02	Student practice exemption	04/19/18	07/11/18	09/25/18						11/30/19	11/30/24	
4759-5-03	Plan of treatment exemption	04/19/18	07/11/18	09/25/18						11/30/19	11/30/24	
4759-5-04	Additional nutritional activities exemption										07/01/24	
4759-5-05	Distribution of literature exemption										07/01/24	
4759-5-06	Weight control program exemption										07/01/24	
4759-6-01	Standards of practice innutrition care	04/19/18	07/11/18	09/25/18						11/30/19	11/30/24	
4759-6-02	Standards of professional performance	04/19/18	07/11/18	09/25/18							12/18/17	
4759-6-03	Interpretation of standards	04/19/18	07/11/18	09/25/18						11/30/19	11/30/24	
4759-9-01	Severability	04/19/18	07/11/18	09/25/18						11/30/19	11/30/24	
4759-11-01	Miscellaneous Provisions	04/19/18	07/11/18	09/25/18						11/30/19	11/30/24	
4761-2-03	Board Records									02/28/19	02/28/24	
4761-3-01	Definition of terms									02/28/19	02/28/24	
4761-4-01	Approval of educational programs									02/28/19	02/28/24	

Rule Number	Rule Description	Sent for Initial Comment	Board Approval to File with CSI	CSI filing	CSI recommendation	JCARR filing	Rules Hearing	JCARR Hearing	Board Adoption	New Effective Date	Current Review Date	Notes
4761-4-02	Monitoring of Ohio respiratory care educational programs									02/28/19	02/28/24	
4761-4-03	Recognition of military educational programs for active duty military members and/or military veterans			12/04/19						11/15/18	11/15/23	
4761-5-01	Waiver of licensing requirements pursuant to division (B) of section 4761.04 or the Revised Code	04/23/19	06/12/19	11/06/19	01/10/20					04/24/13	04/24/18	
4761-5-02	Admission to the Ohio credentialing examination	04/23/19	06/12/19	11/06/19	01/10/20					05/06/10	05/06/15	
4761-5-04	License application procedure	04/23/19	06/12/19	11/06/19	01/10/20					08/12/13	08/15/18	
4761-5-06	Respiratory care practice by polysomnographic technologists	04/23/19	06/12/19	11/06/19	01/10/20					12/31/16	12/31/17	
4761-6-01	Limited permit application procedure	04/23/19	06/12/19	11/06/19	01/10/20					02/28/19	02/28/24	
4761-7-01	Original license or permit, identification card or electronic license verification									02/28/19	02/28/24	
4761-7-03	Scope of respiratory care defined										11/15/23	
4761-7-04	Supervision			11/06/19	01/10/20						11/15/23	
4761-7-05	Administration of medicines										11/15/23	
4761-8-01	Renewal of license or permits	03/22/19	06/12/19	12/04/19							08/15/18	
4761-9-01	Definition of respiratory care continuing education			11/06/19	01/10/20						02/28/24	
4761-9-02	General RCCE requirements and reporting mechanism	03/22/19	06/12/19	12/04/19							05/06/15	
4761-9-03	Activities which do not meet the Ohio RCCE requirements									02/28/19	02/28/24	
4761-9-04	Ohio respiratory care law and professional ethics course criteria			11/06/19	01/10/20						02/28/24	
4761-9-05	Approved sources of RCCE			11/06/19	01/10/20						02/28/24	
4761-9-07	Auditing for compliance with RCCE requirements			11/06/19	01/10/20						05/06/15	
4761-10-01	Ethical and professional conduct									02/28/19	02/28/24	
4761-10-02	Proper use of credentials										11/15/23	
4761-10-03	Providing information to the Board	04/23/19	06/12/19	11/06/19	01/10/20						05/06/15	
4761-12-01	Initial application fee			12/04/19						06/04/14	05/06/15	
4761-15-01	Miscellaneous Provisions									02/28/19	02/28/24	
4762-1-01	Military Provisions Related to Certificate to Practice Acupuncture or Oriental Medicine	03/22/19	06/12/19	12/04/19						12/31/15	12/31/20	
4774-1-01	Definitions									12/31/16	12/31/21	
4774-1-02	Application for Certificate to Practice									11/30/16	11/30/21	
4774-1-02.1	Military Provisions related to Certificate to Practice as a Radiologist Assistant	03/22/19	06/12/19	12/04/19						09/30/15	09/30/20	

Legal Dept. Rules Schedule

As of 02/06/2020

RULES AT CSI

Comment Deadline 7/31/19

4731-13-13

Comment deadline 11/22/19

4761-8-01

4761-9-02

Comment Deadline 12/2/19

4731-33-01 4731-33-02

4730-4-01 4730-4-02

Comment Deadline 12/20/19

Military Rules for all license types

Approved to File with CSI

4731-11-02 4731-11-03 4731-11-04

4731-11-04.1 4731-11-07 4731-11-11

4731-18 – Light Based Medical Device Rules

RULES AT JCARR

Ready To File with JCARR

4731-11-01 4731-35-01 4761-5-01

4731-11-14 4731-35-02 4761-5-02

4761-5-04 4761-5-06 4761-6-01

4761-7-04 4761-9-01 4761-9-04

4761-9-05 4761-9-07 4761-10-03

4730 Chapters 1, 2, and 3

RULES FOR REVIEW 2020

February

4774-1-01 through -04

Radiologist Assistants

March

4731-8-01 through -06

Personal Information Systems

April

4731-13-01 through -36

Hearing Rules

May

4731-17-01 through -07

Exposure-Prone Invasive Procedures and Precautions



Legislation Status Report

HB224 Nurse Anesthetists (Rep. Cross, Rep. Wilkins)

Regarding the practice of certified nurse anesthetists.

ORC Sections: Am. 4723.43, 4729.01, and 4761.17 of the Revised Code and to amend the version of section 4729.01 of the Revised Code that is scheduled to take effect March 22, 2020

Bill Summary

- With supervision and in the immediate presence of a physician, podiatrist, or dentist, a certified nurse anesthetist may administer anesthesia and perform anesthesia induction, maintenance, and emergence.
- With supervision, a certified nurse anesthetist may obtain informed consent for anesthesia care and perform preanesthetic preparation and evaluation, postanesthetic preparation and evaluation, post-anesthesia care, and clinical support functions.

Status: 1/29/2020 - PASSED BY HOUSE; Vote 94-2

See separate briefing memo to the board.

Medical Board position: None taken

Medical Board staff communications to legislature: None

HB263 Occupational Licensing – Criminal Convictions (Rep. Koehler)

To revise the initial occupational licensing restrictions applicable to individuals convicted of criminal offenses.

Bill Summary

- Requires, within 180 days after the bill's effective date, a state licensing authority to adopt a list of specific criminal offenses for which a conviction, judicial finding of guilt, or plea of guilty may disqualify an individual from obtaining a license.
 - Allows a state licensing authority to consider a listed offense when deciding whether an individual is disqualified from receiving an initial license, provided the state licensing authority considers the offense in light of specific factors supported by clear and convincing evidence.
 - Prohibits a state licensing authority from considering a listed disqualifying offense when the offense occurred outside of time periods specified in the bill.
-

- Prohibits a state licensing authority from refusing to issue an initial license to an individual based solely on being charged with or convicted of a criminal offense or a nonspecific qualification such as “moral turpitude” or lack of “moral character.”

Status: 12/11/2019 02/05/2020 REPORTED OUT AS AMENDED

Amendment: An Legislative Service Commission (LSC) staffer explained the amendment which includes some reporting requirements for the licensing boards to the Department of Administrative Services (DAS) regarding, among other data, information about the number of licenses granted and denied; a list of criminal offenses reported by individuals who were granted a license and a list for those denied. The amendment also gives the licensing boards the authority to consider past disciplinary action against the individual by them or by boards in other states.

- The amendment also reduces the "look back" period from 10 to five years.
- Policy Matters Ohio, the ACLU gave proponent testimony and the Buckeye Institute gave interested party testimony.
- Medical Board staff collaborated with the Ohio Board of Pharmacy, Nursing Board, Chiropractic Board, Dental Board, and the Veterinary Medical Licensing Board to draft an amendment to Representative Koehler’s office to address joint concerns.
- The bill sponsor rejected the multi-board recommendations.

See separate briefing memo to board.

HB341 Addiction Treatment Drugs (Rep. Ginter)

Regarding the administration of drugs for addiction treatment.

ORC Sections: 4723.52, 4729.45, 4729.553, 4730.56, 4731.83

BILL SUMMARY

- Authorizes a pharmacist to administer by injection any long-acting or extended-release drug prescribed by a physician to treat drug addiction, instead of limiting the pharmacist’s authority to the administration of opioid antagonists as under current law.
- Exempts places in which addiction treatment drugs are directly administered by prescribers, rather than self-administered by patients, from the State Board of Pharmacy’s office-based opioid treatment licensure.
- Provides that a patient whose addiction treatment drugs are directly administered by a prescriber is not to be counted when determining whether an office-based opioid treatment provider is required to be licensed by the Board.

Status: 01/14/2020 **REPORTED OUT** of House Health

Amendment: Two amendments offered and accepted. AM1449x1 would remove silos to allow better sharing of information and limited access by federal agencies. AM1604 would replace certain language regarding addiction treatment drugs for consistency.

Medical Board position: None taken

Medical Board staff communications to legislature: None

HB374 Massage Therapy License (Rep. Plummer, Rep. Manchester)

To make changes to the massage therapy licensing law.

ORC Sections: 2927.17, 4731.04, 4731.15, 4731.41, 503.40, 503.41, 503.411, 503.42, 503.43, 503.44, 503.45, 503.46, 503.47, 503.48, 503.49, 503.50, 715.61

Bill Summary

- Standardizes, for purposes of regulation by the State Medical Board, townships, and municipal corporations, terminology regarding massage therapy and individuals authorized to perform massage therapy.
- As part of that standardization:
 - Eliminates a township's authority to issue licenses to individuals who perform massage therapy;
 - Requires that if a township opts to regulate massage establishments, the regulations must require all massage therapy to be performed only by specified state-licensed professionals or massage therapy students;
 - Purports to require a municipal corporation that opts to regulate massage establishments to require all massage therapy to be performed by a state-licensed professional or a student, similar to township regulation.
- Regarding a township's authority to regulate massage establishments, eliminates a permit requirement and otherwise modifies permit application procedures.

Status: 12/11/2019 House Commerce and Labor, (First Hearing, Sponsor testimony given)

Medical Board position: None taken

Medical Board staff communications to legislature: None

HB388 Regarding Out-Of-Network Care (Rep. Holmes)

Regarding out-of-network care.

ORC Sections: 3902.50, 3902.51, 3902.52

Bill Summary

- Requires an insurer to reimburse an out-of-network provider for unanticipated out-of-network care provided at an in-network facility.
- Requires an insurer to reimburse an out-of-network provider or emergency facility for emergency services provided at an out-of-network emergency facility.
- Prohibits a provider from balance billing a patient for unanticipated or emergency care as described above when that care is provided in Ohio. Establishes negotiation and arbitration procedures for disputes between providers and insurers regarding unanticipated or emergency out-of-network care.
- Requires a provider to disclose certain information to patients regarding the cost of other out-of-network services.

Status: 12/12/2019 House Finance, (Fifth Hearing)

Medical Board position: None taken

Medical Board staff communications to legislature: None

HB432 Occupational License Reciprocity (Rep. Powell, Rep. Lang)

To require an occupational licensing authority to issue a license or government certification to an applicant who holds a license, government certification, or private certification or has satisfactory work experience in another state under certain circumstances.

Status: 1/29/2020 - House State and Local Government, (Second Hearing)

See separate briefing memo to board.

HB455 Surgical Assistants (Rep. Smith, Rep. Kelly)

To regulate the practice of surgical assistants.

ORC Sections: 4731.07, 4731.071, 4731.10, 4785.01, 4785.02, 4785.03, 4785.04, 4785.05, 4785.06, 4785.07

Bill Summary

- Creates a registration with the State Medical Board of Ohio for surgical assistants
- A surgical assistant must meet the following requirements:
 - Is at least eighteen years of age;
 - Has attained a high school degree or equivalent;
 - Is credentialed as a surgical assistant by the national board of surgical technology and surgical assisting or national commission for certification of surgical assistants.
- An applicant is eligible for a registration if:

- The applicant practiced as a surgical assistant at a hospital or ambulatory surgical facility located in this state during any part of the six months that preceded the effective date of the bill;
- The applicant successfully completed a training program for surgical assistants operated by a branch of the United States armed forces.
- If the state medical board determines that an applicant meets the requirements for a registration to practice as a surgical assistant, the secretary board shall issue the registration to the applicant.
- The registration shall be valid for a two-year period unless revoked or suspended, shall expire on the date that is two years after the date of issuance, and may be renewed for additional two-year periods.
- An individual who holds a current, valid registration to practice as a surgical assistant may assist a physician in the performance of surgical procedures by engaging in one or more of the following activities:
 - Providing exposure; Maintaining hemostasis; Performing one or more of the following tasks: Making incisions; Closing or suturing surgical sites; Manipulating or removing tissue; Implanting surgical devices or drains; Suctioning surgical sites; Placing catheters; Clamping or cauterizing vessels or tissues; Applying dressings to surgical sites; Injecting or administering anesthetics; Any other tasks as directed by the physician.
- An individual may practice as a surgical assistant without holding a current, valid registration if all of the following apply:
 - The hospital or ambulatory surgical facility at which the individual practices or intends to practice has submitted to the state medical board, on behalf of its current and prospective employees, an application for a waiver from the requirement that surgical assistants be registered with the board;
 - As part of the application, the hospital or facility submits evidence that it is located in an area of the state that experiences special health problems and physician practice patterns that limit access to surgical care;
 - After receiving and reviewing the application, the board grants to the hospital's or facility's employees a waiver from the registration requirements;
 - If the individual practices only at a hospital or ambulatory surgical facility that has been granted a waiver.
- The state medical board shall adopt rules establishing standards and procedures for the regulation of surgical assistants and shall do all of the following:
 - Establish application procedures and fees for the registration of surgical assistants; Establish registration renewal procedures and fees; Specify the reasons for which the board may refuse to issue or renew, suspend, or revoke a registration; Establish procedures for waiver applications submitted.
- The board may adopt any other rules it considers necessary. The rules may require applicants for registration or renewal to complete criminal records checks and continuing education hours.

Status: 01/28/2020 Referred to Health Committee

Medical Board position: None taken

Medical Board staff communications to legislature: None

HB486 Define Crime/Civil Action – Assisted Reproduction (Rep. Powell)

To create the crime of fraudulent assisted reproduction and civil actions for an assisted reproduction procedure without consent.

ORC Sections: 2901.13, 2305.117, 2907.13, 4731.86, 4731.87, 4731.871, 4731.88, 4731.881, 4731.89, 4731.90

Bill Summary

- An action for an assisted reproduction procedure performed without consent shall be brought within ten years after the procedure was performed.
- An action that would otherwise be barred may be brought not later than five years after the earliest date that any of the following occurs:
 - 1) The discovery of evidence based on deoxyribonucleic acid analysis sufficient to bring the action against the health care professional.
 - 2) The discovery of a recording providing evidence sufficient to bring the action against the health care professional.
 - 3) The health care professional confesses.
- Adds that a prosecution shall be barred unless it is commenced within the following periods after an offense is committed when a prosecution of a violation of section 2907.13 of the Revised Code shall be barred unless it is commenced within ten years after the offense is committed.
- No health care professional shall purposely or knowingly use human reproductive material from a donor while performing an assisted reproduction procedure if the person receiving the procedure has not expressly consented to the use of the material from that donor.
- Whoever violates is guilty of fraudulent assisted reproduction, a felony of the third degree.

Status: 02/04/2020 Referred to Criminal Justice Committee

Medical Board position: None taken

HB492 Physician Assistants (Rep. Wiggam, Rep. Miller)

To Modify the laws regarding physician assistants.

ORC Sections: 1.64, 2108.61, 2133.211, 3701.351, 3727.06, 4730.02, 4730.03, 4730.04, 4730.05, 4730.06, 4730.07, 4730.08, 4730.11, 4730.14, 4730.19, 4730.20, 4730.201, 4730.203, 4730.21, 4730.22, 4730.25, 4730.26, 4730.32, 4730.41, 4730.411, 4730.42, 4731.22, 4761.17, 4773.02, 5122.01, 5122.10; 4730.204; and to repeal sections 4730.111 and 4730.44

Bill Summary:

- Decouples national accreditation from licensure.
- Renames the PA/physician “supervision agreement” to “collaborative agreement” to more accurately represent the relationship between practitioners.
- Eliminates physician liability for the actions of a physician assistant.
- Allows a physician assistant to “pink-slip” a patient.
- Allows physician assistant’s to perform fluoroscopy.
- Permits a physician assistant to perform rapid intubation and procedural sedation, order rapid intubation and procedural sedation, and order drugs needed to perform rapid intubation and procedural sedation in a health care facility.
- Other technical corrections.

Status: 02/04/2020 Introduced

Medical Board position: None taken.

Medical Board staff communications to legislature: None taken at this time.

SB61 Nurse Anesthetists (Sen. Burke)

Regarding the authority of certified registered nurse anesthetists to select, order, and administer certain drugs.

ORC Sections: 4723.43, 4729.01, 4761.17, 4723.433, 4723.434, 4723.435

Bill Summary

- With supervision and in the immediate presence of a physician, podiatrist, or dentist, a certified nurse anesthetist may administer anesthesia and perform anesthesia induction, maintenance, and emergence.
- With supervision, a certified nurse anesthetist may obtain informed consent for anesthesia care and perform preanesthetic preparation and evaluation, postanesthetic preparation and evaluation, post-anesthesia care, and clinical support functions.

Status: 01/22/2020 **SUBSTITUTE BILL ACCEPTED**

SB105 Massage Therapy Licensing (Sen. Brenner)

To make changes to the massage therapy licensing law.

ORC Sections: 2927.17, 4731.04, 4731.15, 4731.41, 503.40, 503.41, 503.411, 503.42, 503.43, 503.44, 503.45, 503.46, 503.47, 503.48, 503.49, 503.50, 715.61

BILL SUMMARY

- Standardizes, for purposes of regulation by the State Medical Board, townships, and municipal corporations, terminology regarding massage therapy and individuals authorized to perform massage therapy.
- As part of that standardization:
 - Eliminates a township's authority to issue licenses to individuals who perform massage therapy;
 - Requires that if a township opts to regulate massage establishments, the regulations must require all massage therapy to be performed only by specified state-licensed professionals or massage therapy students;
 - Purports to require a municipal corporation that opts to regulate massage establishments to require all massage therapy to be performed by a state-licensed professional or a student, similar to township regulation;
- Regarding a township's authority to regulate massage establishments, eliminates a permit requirement and otherwise modifies permit application procedures.

Status: 09/18/2019 Senate Health, Human Services and Medicaid, (Second Hearing)

Medical Board position: None taken.

Medical Board staff communications to legislature:

- Reviewed legislative drafts.
- Advised Senator Brenner on the effects of the legislation on Massage Therapy regulation and licensure.

SB178 Podiatrists (Sen. Schuring)

Regarding the authority of podiatrists to administer influenza vaccinations

ORC Sections: 4731.512

Bill Summary

- Authorizes podiatrists to administer influenza vaccinations to individuals seven or older.

Status: 1/29/2020 - REPORTED OUT

Medical Board position: None taken

Medical Board staff communications to legislature: None

SB246 Occupational License Reciprocity (Sen. Roegner, McColley) Companion HB432

To require an occupational licensing authority to issue a license or government certification to an applicant who holds a license, government certification, or private certification or has satisfactory work experience in another state under certain circumstances.

Status: 02/05/2020 Senate General Government and Agency Review, (Third Hearing)

See separate briefing memo to Board on companion bill HB 432.



MEMORANDUM

TO: Dr. Soin, Chair, Policy Committee
Members, Policy Committee

FROM: Jonithon LaCross, Legislative Liaison

RE: Massage Therapy Advisory Council

DATE: February 12, 2020

The Massage Therapist Association has proposed language to create the Massage Therapy Advisory Council under the State Medical Board. The council will be tasked with advising the board on issues relating to the practice of massage therapy.

The council shall be appointed by the board and will comprise of the following:

- One physician member of the board;
- One massage therapy educator;
- One consumer member who is not affiliated with any health care profession.

The American Massage Therapy Association and the Associated Bodywork and Massage Professionals may each nominate not more than 3 members to be considered by the board for appointment.

The terms of appointment are for three years and will serve without compensation; they will be reimbursed for actual and necessary expenses incurred.

The council will meet at least four times a year and submit recommendations to the board concerning the following:

- Requirements for issuing a license to practice licensed massage therapy;
 - Existing and proposed rules pertaining to the practice of massage therapy;
 - Policies related to the issuance and renewal of licensure; • Standards and practices for ethical conduct;
 - Scope of practice and minimal standards.
-



MEMORANDUM

TO: Dr. Soin, Chair, Policy Committee
Members, Policy Committee

FROM: Jonithon LaCross, Legislative Liaison

RE: State Licensure Requirements

DATE: February 12, 2020

Licensure Reciprocity bills HB432 and SB246, as drafted, will require the State Medical Board of Ohio to issue a license to an applicant who holds an out-of-state occupational license. Due to this requirement, board staff has taken a comprehensive look at the licensure eligibility requirements for physicians, physician assistants, massage therapists, respiratory care, and dietetics. As a starting point, we created a comparison chart for the for the following states: OH, AZ, CA, FL, IN, KY, MI, NY, NC, PA, TX, WV, WI.

Of note, the following licensure requirements are different from Ohio:

- **Physicians:**
 - No IMG Requirement: CA, FL, KY, MI, PA, WV, WI
- **Physician Assistant:**
 - No requirement of current NCCPA Certification: FL, MI, NY, NC
- **Massage Therapist:**
 - Voluntary Certification: California
 - Certification: Indiana
 - Educational hours lower in all states except NY
- **Respiratory Care:**
 - No RRT Credential: FL, IN, KY, MI, NY, NC, PA, TX, WV, WI
- **Dietetics:**
 - No Licensure: AZ, MI
 - Certified: IN, NY, WI
 - Registration: CA

Physicians

<u>Jurisdiction</u>	<u>Minimum Post Graduate Training Required</u>	<u>Number of Attempts at Licensing Exam</u>	<u>Time Limit for Completing Licensing Examination Sequence</u>	<u>FCVS</u>
Ohio	1 year/ 2 years IMG	An applicant for licensure has a total of 5 attempts (or 5 times to fail) a USMLE Step or COMLEX Level. The applicant must have passed on the 6th attempt.	10 years to complete USMLE or COMLEX (possible waiver good cause if over 10 years)	Requires FCVS
Arizona	1 year/ 3 years IMG	No Limit on USMLE	7 years to complete USMLE if initial licensure/ No limit if already licensed	Accepts FCVS
California	1 year/ 2 years IMG	4 attempts at USMLE Step 3	Passing scores on a written/computerized exam shall be valid for a period of 10 years from the month of the examination	Limited Acceptance of FCVS
California – Osteopathic	1 year	No limit on COMLEX	No limit on COMLEX	Limited Acceptance of FCVS
Florida	1 year/ 2 years IMG	No limit on USMLE	No limit on USMLE	Highly recommends FCVS
Florida - Osteopathic	1 year in an AOA-approved program	N/A	No limit on COMLEX	Highly recommends FCVS
Indiana	1 year/ 2 years IMG	3 attempts per USMLE Step/ 5 attempts per COMLEX Level	10 years to complete USMLE/ 7 years to complete COMLEX	Accepts FCVS

Kentucky	2 years	Step or Level 1-4 attempts/ Step or Level 2 CK-4 attempts/ Step or Level 2 CS-4 attempts/ Step or Level 3-4 attempts	No limit on USMLE or COMLEX	Requires FCVS
Michigan	2 years	3 attempts at each USMLE Step	Must pass all Steps of the USMLE within 7 years from the date of first passing any Step of the exam. Must pass Step 3 within 4 years of the first attempt at Step 3 or must complete 1 year of post-graduate training before making additional attempts at Step 3.	Accepts FCVS
Michigan - Osteopathic	1 year in AOA approved program	6 attempts total for each examination	Pass all components of the COMLEX-USA within 7 years from the date you first passed any component of the COMLEX-USA	Accepts FCVS
New York	Domestic 1 year/ IMG 3 years	No limit on USMLE or COMLEX	No limit on USMLE or COMLEX	Accepts FCVS for domestic graduates/ IMGs-FCVS required
North Carolina	1 year/ 3 years IMG	3 attempts per USMLE Step/ 3 attempts per COMLEX Level	No time limit for passing all 3 steps	Doesn't require FCVS unless previously established a profile
Pennsylvania	2 years/ 3 years IMG	No limit on USMLE	7 years to complete USMLE	Accepts FCVS
Pennsylvania - Osteopathic	1 year	No limit on COMLEX	No limit on COMLEX	Accepts FCVS

Texas	1 year/ 2 years IMG	3 attempts at each USMLE Step or COMLEX Level. (Exceptions may apply for applicants who held a Texas Physician in Training permit on or before September 1, 2005 or who have been licensed in good standing in another state for 5 years.	7 years+ to complete the USMLE or COMLEX. (Exceptions may apply for applicants who are especially board certified or who completed combined MD/PhD programs, or who exceed the time limit but are willing to accept a limited license to practice exclusively in an MUA or HPSA.	Accepts FCVS
West Virginia	1 year/ 3 years IMG	6 attempts per USMLE Step or Step component	10 years to complete USMLE	Accepts FCVS
West Virginia - Osteopathic	1 year	No limit on COMLEX	No limit on COMLEX	Accepts FCVS
Wisconsin	2 years	3 attempts at each USMLE step/COMLEX level	USMLE Step 3 shall be passed within 10 years of the date of passing Step 1/ N/A on COMLEX	Accepts FCVS

Physician Assistants

<u>Jurisdiction</u>	<u>Graduation from Accredited PA Program</u>	<u>Passage of NCCPA Exam</u>	<u>Current NCCPA Certification</u>	<u>Renewal</u>
Ohio	Yes + Master's Degree	Yes	Yes	NCCPA + CME for Rx
Arizona	Yes	Yes	Yes	CME
California	Yes	Yes	No	NCCPA or CME
Florida (Osteopathic)	Yes	Yes	No	CME
Indiana	Yes	Yes	Yes	NCCPA
Kentucky	Yes	Yes	Yes	NCCPA
Michigan	Yes	Yes	No	None
New York	Yes	Yes	No	New York requires infection control training as a condition before licensure and then every four years after initial licensure
North Carolina	Yes	Yes	No	CME
Pennsylvania	Yes + baccalaureate degree	Yes	Yes	NCCPA
Texas	Yes	Yes	Yes	CME
West Virginia	Yes + and a baccalaureate or master's degree from said PA program or graduated	Yes	Yes	CME

	from an approved program of instruction in primary health care or surgery prior to July 1, 1994; or was certified by the Board as a "Type B" PA prior to July 1, 1983			
Wisconsin	Yes	Yes	Yes	None

Massage Therapists

<u>Jurisdiction</u>	<u>License</u>	<u>Liability Insurance</u>	<u>Educational Hours</u>	<u>CME</u>	<u>Exam</u>	<u>Additional Requirement</u>
Ohio	Yes	No	750	0	MBLEx	Background Check
Arizona	Yes	No	700	24/2	MBLEx or NCBTMB	Background Check
California	Voluntary Certification/Local Requirements	No	500	0	MBLEx or NCBTMB	Background Check
Indiana	Certification (CMT)	Prior to Certification	625	0	MBLEx or NCBTMB	Background Check/Licensing Law Passed but Not Yet Effective
Kentucky	Yes	No	600	24/2	MBLEx or NCBTMB	Background Check
Michigan	Yes	No	625	18/3	MBLEx or NCBTMB	Background Check
New York	Yes	No	1000	36/3	NY State	CPR and CE
North Carolina	Yes	No	500	24/2 or 12/2	MBLEx	Background Check
Pennsylvania	Yes	No	600	24/2	MBLEx or NCBTMB	Background Check, CPR
Texas	Yes	No	500	12/2	MBLEx or NCBTMB	Background, Jurisprudence Exam, CPR
West Virginia	Yes	No	500	24/2	MBLEx or NCBTMB	
Wisconsin	Yes	Prior to License	600	24/4	MBLEx or NCBTMB or NCCAOM	AED/CPR/First Aid, Jurisprudence Exam

Respiratory Care Therapist

<u>Jurisdiction</u>	<u>License</u>	<u>Educational Requirement</u>	<u>Professional Exam</u>	<u>RRT Credential Entry</u>	<u>CME</u>	<u>Good Moral Character</u>
Ohio	Yes	Associate Degree is required (from an accredited academic institution or similarly recognized situation)	Yes	Yes	Limited: 10 / RCP: 20	Yes
Arizona	Yes	Associate Degree is required (from an accredited academic institution or similarly recognized situation)	Yes	Yes	12	No
California	Yes	Associate Degree is required (from an accredited academic institution or similarly recognized situation)	Yes	Yes	12	No
Florida	Yes	Associate Degree is required (from an accredited academic	Yes	No	24	No

		institution or similarly recognized situation)				
Indiana	Yes	Associate Degree is required (from an accredited academic institution or similarly recognized situation)	Yes	No	15	No
Kentucky	Yes	Associate Degree is required (from an accredited academic institution or similarly recognized situation)	Yes	No	24	No
Michigan	Yes	Associate Degree is required (from an accredited academic institution or similarly recognized situation)	Yes	No	0	No
New York	Yes	Associate Degree is required (from an accredited academic institution or similarly recognized situation)	Yes	No	RRT: 30 / CRT: 24	Yes

North Carolina	Yes	Associate Degree is required (from an accredited academic institution or similarly recognized situation)	Yes	No	12	Yes
Pennsylvania	Yes	Associate Degree is required (from an accredited academic institution or similarly recognized situation)	Yes	No	30	Yes
Texas	Yes	Associate Degree is required (from an accredited academic institution or similarly recognized situation)	Yes	No	0	No
West Virginia	Yes	Associate Degree is required (from an accredited academic institution or similarly recognized situation)	Yes	No	20	No
Wisconsin	Yes	Associate Degree is required (from an	Yes	No	0	No

		accredited academic institution or similarly recognized situation)				
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Dietetics

<u>Jurisdiction</u>	<u>Licensure</u>	<u>Registration</u>	<u>Education</u>	<u>Supervision</u>	<u>Exam</u>	<u>CME</u>
Ohio	Yes	No	Bachelor's or graduate degree from a regionally accredited college or institution that is consistent with the academic standards for dietitians according to the Academy of Nutrition and Dietetics	1200	Commission on Registered Dietitians (CDR) Exam	75/5
Arizona	No	No	N/A	N/A	N/A	N/A
California	No	Yes	Baccalaureate or higher degree from a college or university accredited by the Western Association of Schools and Colleges or other regional accreditation agency	Minimum of 900 hours	Commission on Registered Dietitians (CDR) Exam	75/5
Florida	Yes	No	Bachelor's degree with a major course of study in human nutrition, food and nutrition, dietetics, or food management	Minimum 900 hours	Commission on Registered Dietitians (CDR) Exam	30 Hours
Indiana	Certified	No	Completion of dietitian education that is accredited by the Accreditation	Minimum of 900 hours in supervised experience	Commission on Registered Dietitians (CDR) Exam	30/2

			Council on Education in Nutrition and Dietetics (ACEND) of the Commission on Dietetic Registration (CDR) is required in order to earn Registered Dietitian (RD) status.			
Kentucky	Yes	No	Accreditation Council for Education in Nutrition and Dietetics (ACEND)- approved course of study, resulting in a bachelor's degree or higher.	900 hours	Commission on Registered Dietitians (CDR) Exam	15 Hours
Michigan	No	No	N/A	N/A	N/A	N/A
New York	Certification	No	Bachelor's degree, or its equivalent as determined by the department, in dietetics/nutrition or an equivalent major course of study/ associates degree in dietetics or nutrition acceptable to the department	Completed a planned, continuous, experience component, in accordance with the commissioner's regulations, in dietetic or nutrition practice under the supervision of a certified dietitian or certified nutritionist or a dietitian or nutritionist/ Completed ten years of experience and	Pass an examination satisfactory to the board and in accordance with the commissioner's regulations	

				education in the field of dietetics or nutrition/ Obtained the endorsement of three dietitians or nutritionists		
North Carolina	Yes	No	Baccalaureate degree from a regionally accredited college or university that meets the competency requirements of an ACEND accredited didactic program in dietetics	1000 Hours	Commission on Registered Dietitians (CDR) Exam	
Pennsylvania	Yes	No	Bachelor's degree or higher from a Board-approved, regionally accredited college or university, with a major course of study in: human nutrition, food nutrition, dietetics, or food system management	1200 Hours	Commission on Registered Dietitians (CDR) Exam	3
Texas	Yes/ No Title Exclusivity	No	Bachelor's degree (or higher) with a major course of study in human nutrition, food and nutrition, nutrition education dietetics, or food systems management/ Equivalent course of study	900	Commission on Registered Dietitians (CDR) Exam	12

West Virginia	Yes	No	Bachelor's degree (or higher) with a major course of study in human nutrition, food and nutrition, nutrition education dietetics, or food systems management/ Equivalent course of study	900	Commission on Registered Dietitians (CDR) Exam	20
Wisconsin	Certification	No	Bachelor's degree (or higher) with a major course of study in human nutrition, food and nutrition, nutrition education dietetics, or food systems management/ Equivalent course of study	1200	Commission on Registered Dietitians (CDR) Exam	75/5

Ohio Healthcare Regulatory Boards (OHRB) – Comments on Proposed ORC 9.79 in SB 246 and HB 432

Ohio's Healthcare Regulatory Boards (OHRBs) have a responsibility to safeguard some of Ohio's most vulnerable citizens. As such, the following boards are submitting comments and proposed changes to proposed section ORC 9.79 (HB 432/SB 246):

- *State of Ohio Board of Pharmacy (ORC 4729, 3796)*
- *Ohio Board of Nursing (ORC 4723)*
- *Ohio State Dental Board (ORC 4715)*
- *State Medical Board of Ohio (ORC 4730, 4731, 4759, 4760, 4761, 4762, 4774, 4778)*
- *Ohio Speech and Hearing Professionals Board (ORC 4744, 4753)*
- *Ohio Veterinary Medical Licensing Board (ORC 4741)*
- *Occupational Therapy, Physical Therapy, and Athletic Trainers Board (ORC 4755, 4779)*
- *Counselors, Social Workers, and Marriage & Family Therapist Board (ORC 4757)*
- *Ohio Board of Psychology (ORC 4732, 4783)*
- *Ohio Chiropractic Board (ORC 4734)*
- *Ohio Vision Professionals Board (ORC 4725)*

#1. Proposed ORC 9.79(B)(4) [Lines 185-190] severely limits what an OHRB considers when reviewing applicants.

As drafted, 9.79(B)(4) requires that "the applicant has not surrendered or had revoked a license, out of state occupational license, or government certification because of negligence or intentional misconduct related to the applicant's work in the same profession, occupation, or occupational activity for which the applicant is applying in this state."

This proposed language is too narrow in scope and **fails to capture several disciplines** rendered as a basis for denying an applicant. Specifically, as drafted, an OHRB could not consider:

- Previously issued indefinite and/or definite suspensions;
- Previously imposed limitations on practice;
- Previously issued probation with conditions such as drug screens, drug treatment, completion of training or coursework;
- **Previous suspension by an out-of-state licensing board for sexual misconduct or inappropriate prescribing**, among other serious offenses.

Under proposed 9.79(B)(4), an OHRB also **can't consider prior history** with: substance abuse/impairment; inability to practice due to reason of mental illness or physical illness; fitness to practice due to absence from active practice or education; frequent and sizeable malpractice claims and liability; adverse action by a federal agency (such as Medicare), branch of the United State military, etc.

Additionally, the use of the phrase "same profession" fails to take into account previous actions that may have occurred for individuals who have switched professions. Many people encounter disciplinary measures in a primary profession and subsequently switch career paths into a different one. A Board needs to be able to consider discipline in another profession when making a decision to issue a license.

Suggested Amendment: In order to protect the public, restore the ability of OHRBs to deny licensure based upon the current provisions in each Board's statute and change the phrase in the bill to incorporate "any profession" rather than just "the same profession."

#2. Proposed ORC 9.79(B)(6) [Lines 194-199] does not allow most OHRBs to deny based upon criminal convictions and prohibits those that do from making decisions based upon individual circumstance.

The proposed ORC 9.79(B)(6) states "the applicant is not disqualified from obtaining the license or government certification because of a conviction, judicial finding of guilt, or plea of guilty to a disqualifying criminal offense specified on the list the licensing authority made available pursuant to ORC 9.78(C).

For a majority of the OHRBs, there are no automatic disqualifying criminal convictions pursuant to ORC 9.78(C). When an OHRB receives information regarding a criminal history, a thorough investigation is conducted into the conviction and a decision is made to approve or deny the application based on individual circumstances.

Since most boards have no automatic disqualifiers, the language essentially strips an OHRB of the ability to deny licensure based upon criminal offenses.

Suggested Amendment: Restore the ability of OHRBs to deny licensure based upon the current criminal conviction provisions in each Board's statute.

#3. Proposed ORC 9.79(E) [Starting on Line 229] and 9.79(M) [Starting on Line 287] make it unclear if an OHRB will be able to deny an applicant based on an open investigation by an out-of-state board or an unresolved criminal charge.

As drafted, ORC 9.79(E) and ORC 9.79(M) appear to be in conflict. ORC 9.79(E) states that "if an applicant is the subject of a complaint, allegation or investigation that relates to unprofessional conduct or an alleged crime pending before a court, administrative agency, or entity that regulates a license, out of state occupational license, or government certification, a licensing authority shall not issue or deny a license or government certification to the applicant under this section until after the complaint, allegation or investigation is resolved."

ORC 9.79(M) does not refer to ORC 9.79(E) and states "a licensing authority shall provide an applicant with a written decision to issue or reject a license or government certification under this section within sixty days after receiving a complete application".

Suggested Amendment: Clarify that the timeline in ORC 9.79(M) does not apply under the circumstances listed in ORC 9.79(E) or if the individual has a previous conviction that requires further investigation by the licensing agency.

#4. Proposed ORC 9.79(B)(5) [Lines 193-195] will result in an overall loss of revenue.

As drafted, ORC 9.79(B)(5) states that a reciprocity applicant must only pay "a fee equal to the renewal fee required for license or government certification holders under the applicable law to the licensing authority."

Board budgets and fees are based on licensure volume and appropriations are made well in advance with OBM to ensure an agency can maintain operations. Allowing a person to pay a renewal fee has no rational basis. As proposed, licensing boards will experience revenue losses that may impact overall operations.

Suggested Amendment: Restore current reciprocity fees as they exist in each Board's statute.

#5. Proposed ORC 9.79(B)(1)(a) [Lines 163-167] does not clearly define “same practice level”

As drafted, “an out-of-state occupational license that authorizes the applicant to engage in the same profession, occupation, or occupational activity, and **at the same practice level**, as the license or government certification for which the applicant is applying in this state.”

“Same practice level” is mentioned multiple times throughout the bill. This is a confusing term. Very rarely do any other states have the exact same scope of practice. Who is meant to determine this term? Is this left to Board rule?

Suggested Amendment: Authorize boards to define practice levels via administrative rule.

#6. Proposed ORC 9.79(B)(2) [Lines 174-180] one-year requirement for reciprocity is arbitrary and may unnecessarily restrict individuals from reciprocating to the state

As drafted, an applicant that wishes to reciprocate into Ohio must have “held the out-of-state occupational license or government certification for at least one year...”

It is unknown how the one-year requirement was chosen and whether it has a rational basis. Should focus on the amount of time spent working within the practice, and not the amount of time having a license. Some Boards currently require more time, per the decision of the Board based on factors from the profession. The legislation should accommodate professional differences by allowing the Board to determine the length of time. Some Board do not require any amount of time, and in this case, their current reciprocity schemes should remain as is within their practice acts.

Suggested Amendment: Provide OHRBs the flexibility to determine time frame via administrative rule and set a maximum cap of no more than three years. Also change the requirement from holding a license to actively practicing avoiding someone applying who has had a five- or ten-year break in experience.

This should also be applied to similar provisions for individuals holding private certifications (ORC 9.79 [Lines 204-211]).

#7. Proposed ORC 9.79(C) [Starting on Line 200] private certification language for healthcare professionals should meet a higher standard

As drafted, a licensing agency will have to grant a license to “an applicant [that] holds a private certification and has at least two years of work experience in the same profession, occupation, or occupational activity, and at the same practice level, as the license or government certification for which the applicant is applying in this state in a state that does not issue an out-of-state occupational license or government certification for the respective profession, occupation, or occupational activity.”

As written, this could lead to a race to the bottom for healthcare professionals. Assuming some states move to private certification, OHRBs should be permitted to adopt standards to ensure that individuals treating the most vulnerable are properly trained.

Suggested Amendment: Grant permissive authority to OHRBs to recognize private certification agencies for the purpose of reciprocity.

#8 Proposed ORC 9.79(K)(2)(3) does not exempt medical marijuana employees

As drafted, the following are exempt from the reciprocity requirements “medical marijuana retail dispensary licenses and employees issued under section 3796.10 of the Revised Code.”

As medical marijuana employees must be employed by an existing Ohio dispensary, cultivator, processor, or testing lab to receive a license to work at those facilities, it does not make sense to include them as part of a reciprocity agreement.

Additionally, federal guidance governing the operation of state medical marijuana programs requires certain review of all employees and owners involved in each operation. Therefore, this provision would put Ohio at odds with federal policy.

Suggested Amendment:

(K)

~~(2) — Medical marijuana cultivator licenses issued under section 3796.09 of the Revised Code;~~

~~(3) — Medical marijuana retail dispensary licenses and employees issued under section 3796.10 of the Revised Code;~~

(2) Medical marijuana licenses issued under chapter 3796. of the Revised Code and rules adopted thereunder.

#9 Proposed ORC 9.79(B)(3) does not provide clarity on meeting minimum requirements

As drafted, a reciprocity applicant is required to “satisfy minimum education, training, or experience requirements or pass an examination to receive the out-of-state occupational license or government certification.”

This provision raises a significant question for licensing boards. If the applicant passed an examination, does the applicant not have to satisfy minimum education, training, or experience requirements or vice versa?

Suggested Amendment: Recommend making this an “and, if applicable,” provide flexibility for the Boards to make the determination.



MEMORANDUM

TO: Amol Soin, M.D. Chair, Policy Committee
Members, Policy Committee

FROM: Kimberly C. Anderson, Chief Legal Counsel

RE: Rules for Initial Circulation

DATE: February 6, 2020

Rules for Radiologist Assistants are up for the five-year rule review in November 2021. Attached are the current rules. Please review and let me know if you have any suggested changes before the rules are circulated for initial circulation.

Action Requested: Approve for Initial Circulation

Chapter 4774-1 Radiologist Assistants Certification

4774-1-01 Definitions.

(A) "Board" means the state medical board of Ohio.

(B) For purposes of Chapter 4774. of the Revised Code, the following definitions apply:

(1) "General Anesthesia" means a drug-induced loss of consciousness during which patients are not arousable, even by painful stimulation. The ability to independently maintain ventilatory functions is often impaired. Patients often require assistance in maintaining a patent airway, and positive pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function. Cardiovascular function may be impaired.

(2) "Deep sedation" means a drug-induced depression of consciousness during which patients cannot be easily aroused but respond purposefully following repeated or painful stimulation. The ability to independently maintain ventilatory function may be impaired. Patients may require assistance in maintaining a patent airway and spontaneous ventilation may be inadequate. Cardiovascular function is usually maintained.

(3) "Moderate sedation" means a drug-induced depression of consciousness during which patients respond purposefully to verbal commands, either alone or accompanied by light tactile stimulation. Reflex withdrawal from a pain stimulus is not a purposeful response. No interventions are required to maintain a patent airway, and spontaneous ventilation is adequate. Cardiovascular function is maintained.

(4) "Minimal sedation" means a drug-induced state during which patients respond normally to verbal commands. Although cognitive function and coordination may be impaired, ventilatory and cardiovascular functions are unaffected. Sedation achieved through intravenous administration of drugs is not a form of minimal sedation.

Effective: 12/31/2016

Five Year Review (FYR) Dates: 08/16/2016 and 12/31/2021

Promulgated Under: [119.03](#)

Statutory Authority: [4774.11](#)

Rule Amplifies: [4774.11](#)

Prior Effective Dates: 2/28/09

4774-1-02 Application for a certificate to practice.

(A) An applicant for an initial certificate to practice or a restored certificate to practice as a radiologist assistant shall file an application under oath in the manner provided in section [4774.03](#) of the Revised Code, and provide such other facts and materials as the board requires.

(B) No application shall be considered filed, and shall not be reviewed, until the non-refundable application fee of two hundred dollars has been received by the board.

(C) All application materials submitted to the board by applicants may be thoroughly investigated. The board may contact individuals, agencies, or organizations for recommendations or other information about applicants as the board deems necessary. Applicants may be requested to appear before the board or a representative thereof as part of the application process.

(D) An application shall be considered to be complete when all of the following requirements are met:

(1) The application fee required pursuant to paragraph (B) of this rule has been received by the board;

(2) The applicant has complied with the requirements of paragraph (A) of rule [4774-2-02](#) of the Administrative Code and the board has received the results of the criminal records checks and any other forms required to be submitted pursuant to paragraph (A) of rule [4774-2-02](#) of the Administrative Code;

- (3) Verification of the applicant's current licensure as a radiographer has been received directly from the "Ohio Department of Health."
- (4) Verification of the applicant's current certification has been received by the board directly from the "American Registry of Radiologic Technologists;"
- (5) All information required by division (B) of section [4774.03](#) of the Revised Code, including such other facts and materials as the board requires, has been received by the board; and
- (6) The board is not conducting an investigation, pursuant to section [4774.14](#) of the Revised Code, of evidence appearing to show that the applicant has violated section [4774.13](#) of the Revised Code or applicable rules adopted by the board.
- (E) If the application is not complete within six months of the date the application is filed with the board because required information, facts, or other materials have not been received by the board, the board may notify the applicant by certified mail that it intends to consider the application abandoned if the application is not completed.
- (1) The written notice shall:
- (a) Specifically identify the information, facts, or other materials required to complete the application; and
- (b) Inform the applicant that the information, facts, or other materials must be received by the deadline date specified; that if the application remains incomplete at the close of business on the deadline date the application may be deemed to be abandoned and no further review of the application will occur; and that if the application is abandoned the submitted fees shall neither be refundable or transferrable to a subsequent application.
- (2) If all of the information, facts, or other materials are received by the board by the deadline date and the application is deemed to be complete, the board shall process the application and may require updated information as it deems necessary.

Effective: 11/30/2016

Five Year Review (FYR) Dates: 08/16/2016 and 11/30/2021

Promulgated Under: [119.03](#)

Statutory Authority: [4774.11](#)

Rule Amplifies: [4774.03](#), [4774.031](#), [4774.04](#), [4774.11](#)

Prior Effective Dates: 2/28/09

[4774-1-02.1 Military provisions related to certificate to practice as a radiologist assistant.](#)

(A) Definitions

- (1) "Armed forces" means any of the following:
- (a) The armed forces of the United States, including the army, navy, air force, marine corps, and coast guard;
- (b) A reserve component of the armed forces listed in paragraph (A)(1)(a) of this rule;
- (c) The national guard, including the Ohio national guard or the national guard of any other state;
- (d) The commissioned corps of the United States public health service;
- (e) The merchant marine service during wartime;
- (f) Such other service as may be designated by Congress; or
- (g) The Ohio organized militia when engaged in full-time national guard duty for a period of more than thirty days.

(2) "Board" means the state medical board of Ohio.

(B) Eligibility for licensure

For the purposes of section [5903.03](#) of the Revised Code, the board has determined that there are no military programs of training, military primary specialties, or lengths of service that are substantially equivalent to or exceed the educational and experience requirements for licensure as a radiologist assistant.

(C) Renewal of an expired license

An expired license to practice as a radiologist assistant shall be renewed upon payment of the biennial renewal fee provided in section [4774.06](#) of the Revised Code and without a late fee or re-examination if the holder meets all of the following three requirements

(1) The licensee is not otherwise disqualified from renewal because of mental or physical disability;

(2) The licensee meets the requirements for renewal under section [4774.06](#) of the Revised Code;

(3) Either of the following situations applies:

(a) The license was not renewed because of the licensee's service in the armed forces, or

(b) The license was not renewed because the licensee's spouse served in the armed forces, and the service resulted in the licensee's absence from this state.

(4) The licensee or the licensee's spouse, whichever is applicable, has presented satisfactory evidence of the service member's discharge under honorable conditions or release under honorable conditions from active duty or national guard duty within six months after the discharge or release.

(D) For purposes of sections [5903.12](#) and [5903.121](#) of the Revised Code, radiologist assistants are not required to report continuing education coursework to the board.

Effective: 9/30/2015

Five Year Review (FYR) Dates: 09/30/2020

Promulgated Under: [119.03](#)

Statutory Authority: [5903.03](#), [4774.11](#)

Rule Amplifies: [5903.03](#); [5903.12](#), [5903.121](#)

[4774-1-03 Renewal of a certificate to practice.](#)

(A) Renewal, reinstatement, or restoration of a certificate to practice as a radiologist assistant shall be in the manner and according to the requirements of section [4774.06](#) of the Revised Code.

(1) An applicant for renewal, reinstatement, or restoration of a certificate to practice as a radiology assistant shall file an application under oath in the manner required by the board.

(2) An application for renewal, reinstatement, or restoration of a certificate to practice shall not be considered filed, and shall not be reviewed, until the board has received the nonrefundable renewal application fee of two hundred dollars.

(B) An application for renewal or reinstatement of a certificate to practice shall be considered complete upon the following:

(1) The board has received the renewal fee specified in paragraph (A) of this rule;

(2) For reinstatement, the monetary penalty required for reinstatement of a certificate to practice has been received by the board; and

(3) The board has received all information required by division (B) of section [4774.06](#) of the Revised Code.

(C) An application for restoration of a certificate to practice as a radiologist assistant shall be considered complete upon the following:

(1) The board has received the renewal fee specified in paragraph (A) of this rule;

(2) The monetary penalty required for restoration of a certificate to practice has been received by the board;

(3) The board has received all information required by division (B) of section [4774.06](#) of the Revised Code; and

(4) The applicant has complied with the requirements of paragraph (A) of rule [4774-2-02](#) of the Administrative Code and the board has received the results of the criminal records checks and any other forms required to be submitted pursuant to paragraph (A) of rule [4774-2-02](#) of the Administrative Code.

(D) To be considered as having appropriately filed an application for purposes of section [119.06](#) of the Revised Code, an applicant shall have filed, on or before January thirty-first of the even-numbered year in which the current certificate to practice will expire, a renewal application that is complete in accordance with the requirements of paragraph (B) of this rule.

Effective: 11/30/2016

Five Year Review (FYR) Dates: 08/16/2016 and 11/30/2021

Promulgated Under: [119.03](#)

Statutory Authority: [4774.11](#)

Rule Amplifies: [4774.04](#), [4774.06](#), [4774.11](#)

Prior Effective Dates: 2/28/09

[4774-1-04 Miscellaneous provisions.](#)

For purposes of Chapter 4774. of the Revised Code and rules promulgated there under:

(A) An adjudication hearing held pursuant to the provisions of Chapter 119. of the Revised Code shall be conducted in conformance with the provisions of Chapter 4731-13 of the Administrative Code.

(B) The provisions of Chapters 4731-13, 4731-14, 4731-15, 4731-16, 4731-17, 4731-19, 4731-26, and 4731-28 of the Administrative Code are applicable to the holder of a certificate to practice as a radiologist assistant issued pursuant to Chapter 4774. of the Revised Code, as though fully set forth in Chapter 4774-01 or 4774-02 of the Administrative Code.

Five Year Review (FYR) Dates: 08/17/2016 and 08/17/2021

Promulgated Under: [119.03](#)

Statutory Authority: [4774.11](#)

Rule Amplifies: [4774.11](#), [4774.13](#), [4774.14](#)

Prior Effective Dates: 2/28/09



MEMORANDUM

TO: Amol Soin, M.D. Chair, Policy Committee
Members, Policy Committee

FROM: Kimberly C. Anderson, Chief Legal Counsel

RE: Proposed Rules for Temporary Expedited Licensure for Members of the Military and Spouses who are Licensed in Another Jurisdiction

DATE: February 5, 2020

On January 27, 2020, SB 7 was signed into law and it becomes effective 90 days after signing. The bill requires licensing agencies to offer expedited licensure for members of the military and their spouses who are licensed in another jurisdiction. The law gives licensing agencies rule authority and requires that fees for licensure be waived.

Attached please find draft rule 4731-36-04 which establishes temporary, expedited licensure for members of the military and their spouses who are licensed in another jurisdiction. The temporary license is valid for up to two years and the holders of the temporary license may apply for a full license at any time. The rule will apply to all license types.

Since a new license type is established, internal management rule 4731-30-03, Ohio Administrative Code, also needs to be amended to allow for the Board to delegate approval of this type of license to the Deputy Director of Licensure or designee.

This rule needs to be effective as close as possible to the effective date, which is on or around April 27, 2020. After discussion with the Board president, the draft rules were circulated to interested parties to obtain input to share with the Policy Committee.

Action Requested: Approve Rule 4731-36-04 for filing with Common Sense Initiative and for filing internal management rule 4731-30-03.



Proposed new rule 4731-36-04, Ohio Administrative Code, authorized by Section 4743.041(H), Ohio Revised Code, sets forth the Medical Board's rule on expedited licensure for members of the military and spouses who are licensed in another jurisdiction.

The rule creates a temporary expedited license for members of the military and spouses who are licensed in another jurisdiction. The rule waives all fees associated with the issuance of the temporary license, which is valid for two years.

Proposed amended rule 4731-30-03(C)(17), Ohio Administrative Code, which allows the Board to delegate approval of the expedited temporary licenses issued pursuant to 4731-36-04.

4731-36-04 Temporary licensure for members of the military and spouses who are licensed in another jurisdiction

- (A) "Military duty" has the same meaning as in section 4743.041 of the Revised Code.
 - (B) Pursuant to section 4743.041 of the Revised Code, the state medical board of Ohio shall issue a temporary license or certificate to practice the professions governed by Chapters 4730., 4731., 4759., 4761., 4762., 4774., and 4778. if the individual demonstrates to the satisfaction of the board all the following:
 - (1) The individual holds a valid license or certificate to practice the profession issued by any other state or jurisdiction
 - (2) The individual is in good standing in the state or jurisdiction of licensure or certification
 - (3) The individual or the individual's spouse is on military duty in this state.
 - (C) An applicant for a temporary license or certificate must certify that, to the best of the applicant's knowledge, the applicant is not under investigation by the licensing agency of any state or jurisdiction.
 - (D) No application submitted to the board shall be considered complete until the applicant has complied with the requirements of paragraph (A) of rule 4731-4-02 of the Administrative Code and the board has received the results of the criminal records checks.
 - (E) If an applicant for a temporary license or certificate fails to complete the application process within six months of initial application filing, the board may notify the applicant in writing of its intention to consider the application abandoned. If no response to that notice is received by the board within thirty days, the board shall consider the application as abandoned and no further processing shall be undertaken with respect to that application.
 - (F) The board shall issue a temporary license or certificate within fourteen days of having received the results of a criminal records check, provided that the application is
-

otherwise complete, and the applicant is not under investigation by the licensing agency of any state or jurisdiction.

(G) A temporary license or certificate issued under this section shall be valid for a two-year period unless revoked or suspended. A temporary license or certificate may not be renewed and a new temporary license may not be issued.

(H) A holder of a temporary license or certificate may apply for licensure under Chapters 4730., 4731., 4759., 4761., 4762., 4774., and 4778 of the Revised Code at any time before or after expiration of the temporary license. A holder or previous holder of a temporary license or certificate must meet all requirements for licensure under the applicable chapter of the Revised Code and rules adopted thereunder.

4731-30-03 Approval of Licensure Applications

(A) For purposes of this rule, routine authorization means issuance of a license or certificate to an individual pursuant to an application that meets the following criteria:

- (1) The applicant meets eligibility requirements for the license or certificate under the applicable provisions of the Revised Code and Administrative Code
- (2) The applicant is not seeking a waiver of, or a determination of equivalency to, any eligibility requirement, as may be provided for under the applicable provisions of the Revised Code and Administrative Code
- (3) The applicant is not required to demonstrate fitness to resume practice due to inactivity under the applicable provisions of the Revised Code and Administrative Code
- (4) The application presents no grounds for discipline under the applicable provisions of the Revised Code or Administrative Code.

(B) The board authorizes the secretary and supervising member of the board to issue the following routine authorizations under the provisions of the Revised Code and Administrative Code, without prior consultation or approval by the board:

- (1) Certificate of conceded eminence pursuant to section 4731.297 of the Revised Code;
- (2) Clinical research faculty certificate pursuant to section 4731.293 of the Revised Code;
- (3) Visiting clinical professional development certificate pursuant to section 4731.298 of the Revised Code;
- (4) Special activity certificate pursuant to section 4731.294 of the Revised Code;

- (5) Special activity license to practice as a genetic counselor pursuant to section 4778.09 of the Revised Code.
 - (6) Expedited license to practice medicine and surgery or osteopathic medicine and surgery by endorsement pursuant to section 4731.299 of the Revised Code;
 - (7) Certificate to recommend medical use of marijuana pursuant to section 4731.30 of the Revised Code;
- (C) The board authorizes the deputy director of licensure, or the deputy director's designee, to issue the following routine authorizations under the provisions of the Revised Code and Administrative Code, without prior consultation or approval by the board:
- (1) License to practice as a physician assistant pursuant to section 4730.12 of the Revised Code;
 - (2) License to practice medicine and surgery or osteopathic medicine and surgery pursuant to section 4731.14 of the Revised Code;
 - (3) License to practice limited branch of medicine pursuant to section 4731.17 of the Revised Code;
 - (4) Training certificate pursuant to section 4731.291 of the Revised Code;
 - (5) Volunteer's certificate pursuant to section 4731.295 of the Revised Code;
 - (6) License to practice podiatric medicine and surgery pursuant to section 4731.56 of the Revised Code;
 - (7) Visiting podiatric faculty certificate pursuant to section 4731.572 of the Revised Code;
 - (8) Podiatric training certificate pursuant to section 4731.573 of the Revised Code;
 - (9) License to practice dietetics and limited permit to practice dietetics pursuant to section 4759.06 of the Revised Code;
 - (10) Certificate to practice as an anesthesiologist assistant pursuant to section 4760.04 of the Revised Code;
 - (11) License to practice respiratory care and limited permit to practice respiratory care pursuant to section 4761.05 of the Revised Code;
 - (12) Certificate to practice as an oriental medicine practitioner pursuant to section 4762.03 of the Revised Code;
 - (13) License to practice as an acupuncturist pursuant to section 4762.03 of the Revised Code;

- (14) License to practice as a radiologist assistant pursuant to section 4774.04 of the Revised Code;
- (15) License to practice as a genetic counselor pursuant to section 4778.05 of the Revised Code;
- (16) Supervised practice license as a genetic counselor pursuant to section 4778.08 of the Revised Code; and
- (17) Temporary expedited license for members of the military and spouses who are licensed in another jurisdiction pursuant to section 4743.04.

(D) An application for a license or certificate that is ineligible for routine authorization under this rule will be referred to the board for determination of whether an applicant shall be granted a license. An affirmative vote of not fewer than six members of the board is necessary for issuance of a license or certificate pursuant to an application that is not eligible for routine authorization.

(E) Notwithstanding the provisions of this rule, the board may designate the referral of any class of applications to the board for approval. The secretary, supervising member and deputy director for licensure may refer any individual application to the board for approval.



MEMORANDUM

TO: Amol Soin, M.D. Chair, Policy Committee
Members, Policy Committee

FROM: Kimberly C. Anderson, Chief Legal Counsel

RE: Policy Statement: Use of the Title Nurse Anesthesiologist

DATE: February 6, 2020

In the January Policy Committee meeting, information was provided regarding activity in other states regarding Certified Registered Nurse Anesthetists using the alternative title of Nurse Anesthesiologist. It was determined that a policy statement should be prepared for the Board's approval expressing the Board's concerns that use of the alternative title of nurse anesthesiologist could be confusing to patients, and that anesthesiologist refers to a physician specialty. The Board asked staff to reach out to the Ohio Board of Nursing to determine if a joint regulatory statement on this issue could be developed. Executive Director Loucka reached out to Executive Director Houchen and it was determined that the Ohio Board of Nursing is not interested in pursuing a joint regulatory statement on this issue.

Attached for your review is a draft Policy Statement.

Requested Action: Adopt the Policy Statement as is or with corrections, if needed.



Policy Statement: Use of the Title Anesthesiologist by Non-Physicians

Adopted: February 12, 2020

A non-physician should not use the term “anesthesiologist” in his or her title. The Board is aware that some Certified Registered Nurse Anesthetists (“CRNA”) are using the title of nurse anesthesiologist. Use of the term “anesthesiologist” is misleading to patients who may not understand that a CRNA using the title of nurse anesthesiologist is not a physician. Patients today encounter health care professionals with varying levels of education and training, and it is important for healthcare professionals to use titles that clearly identify their profession and that are easily recognizable to patients.



MEMORANDUM

TO: Amol Soin, M.D. Chair, Policy Committee
Members, Policy Committee

FROM: Kimberly C. Anderson, Chief Legal Counsel

RE: Podiatry Scope of Practice

DATE: February 5, 2020

On February 4, 2020, Dr. Schottenstein received a letter from the several healthcare associations expressing concerns with the Board's decision in June 2019 related to podiatry scope of practice. The associations signing the letter included the American Medical Association, The Academy of Medicine of Cleveland and Northern Ohio, the American Orthopaedic Foot and Ankle Society, the Ohio Orthopaedic Society and the Ohio State Medical Association.

The letter states that the associations' members are concerned with the decisions that the Board made with respect to the following:

Bone Marrow Aspirate Harvest from the Proximal Tibia

- Harvesting bone marrow aspirate from the proximal tibia to be used for foot and ankle surgery is within the scope of practice of an appropriately trained podiatric physician.

Supramalleolar Osteotomy of the Tibia or Fibula to Correct a Deformity

- The State Medical Board of Ohio confirmed that a supramalleolar osteotomy of the tibia or fibula constitutes ankle surgery, as defined in Rule 4731-20-02, OAC, and is within the podiatric scope of practice of an appropriately trained podiatric physician

The associations contend that the Board erred in determining that these procedures are within the scope of practice for podiatrists and request that the Board open Rules 4731-20-01 and 4731-20-02 for proposed amendment, review and comment.

In September, 2019, the Board recommended a referral of its determination to the Common Sense Initiative for anti-trust review. The referral was filed on October 9, 2019 and remains pending at CSI.

Action Requested: Determine whether to open Rules 4731-20-01 and 4731-20-02 for proposed amendment, review and comment.



February 4, 2020

Michael Schottenstein, MD
President
State Medical Board of Ohio
30 East Broad Street, 3rd Floor
Columbus, Ohio 43215

Dear Dr. Schottenstein:

As you are aware, our members have expressed great concerns over the board's determination last year that certain podiatric surgical services were within a podiatrist's scope of practice. The issue at hand deals with the opinion letter that the board approved and subsequently sent to Dr. Daniel Logan, an Ohio licensed podiatrist. While we commend Dr. Logan for seeking the board's opinion before proceeding with these procedures, we disagree with the board's determination that these procedures are within an Ohio licensed podiatrist's scope of practice.

To be clear, the following determinations made by the board are in question:

Bone Marrow Aspirate Harvest from the Proximal Tibia

- Harvesting bone marrow aspirate from the proximal tibia to be used for foot and ankle surgery is within the scope of practice of an appropriately trained podiatric physician.

Supramalleolar Osteotomy of the Tibia or Fibula to Correct a Deformity

- The State Medical Board of Ohio confirmed that a supramalleolar osteotomy of the tibia or fibula constitutes ankle surgery, as defined in Rule 4731-20-02, OAC, and is within the podiatric scope of practice of an appropriately trained podiatric physician.

Our members contend that these procedures are outside the limitations placed on podiatry surgery by both the Ohio Revised Code and the Ohio Administrative Code.

According to the June 12, 2019 minutes of the board's Licensure Committee (pg. 3-4), when the board first held discussions regarding Dr. Logan's inquiries, the medical board's then-General Counsel, Sallie Debolt opined that according to Supreme Court case law and soon-to-be laws regarding the interpretation of opinion letters as laws, the board's determination on this issue could be construed as a rule change that didn't go through the proper rule change procedures. Ms. Debolt clearly stated that the "proposed rule will go out for interested party comment, then the comments will be reviewed. At that point, the proposed language will go to the Common Sense Initiative Office for another comment period, then finally to the Joint Committee on Agency Rule Review (JCARR)..."

The minutes go on to state that Licensure Committee member, Dr. Michael Schottenstein asked if Dr. Logan would have to wait for rules to be established before practicing the procedures in question. Ms. Debolt confirmed that, yes, Dr. Logan would have to wait until the rules were finalized before commencing the procedures.

Following the Licensure Committee's discussion earlier that morning, the full medical board met on June 12, 2019 and the Licensure Committee's scope determination was part of their agenda. The minutes of that meeting reflect that Dr. Bruce Saferin, Chair of the Licensure Committee, made a motion "to approve commencement of rule-making to incorporate the approved procedures as listed in the draft response to Dr. Logan's inquiry." The motion was discussed and, after much discussion about how going through the formal rule-making process "is long and arduous", Dr. Saferin decided to withdraw his motion.

It is important to note that the minutes point out that the medical board's Chief Legal Counsel, Ms. Kimberly Anderson, noted that "a new statute that takes effect at the end of August grants the Joint Commission on Agency Rule Review (JCARR) jurisdiction to order agencies to create rules if there are complaints that the agency is doing things that essentially affect the entire population of practitioners through policy and not through rule." Even after Ms. Anderson's clarification of upcoming law, the medical board voted to forego the formal rule-making process and proceed with sending the opinion letter to Dr. Logan.

It is our contention that the medical board was in error when it decided to disregard the warnings given by both the board's General Counsel and Chief Legal Counsel that an opinion given in letter form has the potential to be construed as a rule change that did not go through the proper rule review steps.

Based on the information provided in this letter, and our collective concern that podiatrists in Ohio may be practicing outside of their statutorily-directed scope of practice, we ask the medical board to open Ohio Administration Code Chapter 4731-20-01, Definition of foot, and Chapter 4731-20-02 Surgery: ankle joint, for proposed amendment, review, and comment.

It is our belief that opening the rules for review and comment will allow all interested parties and the proper state agencies an opportunity to carefully evaluate whether the procedures in question are within the scope of practice of an Ohio podiatrist.

We thank you for your consideration of this request.

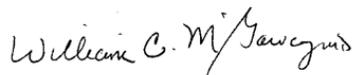
Sincerely,



Patrice A. Harris, M.D., M.A
President, American Medical Association



Michael T. Archdeacon, M.D
Ohio Orthopaedic Society



William C. McGarvey, MD
President, American Orthopaedic Foot & Ankle Society®



Mehrun Elyaderani, M.D.
President, The Academy of Medicine of Cleveland & Northern Ohio



Susan Hubbell, MD
President, Ohio State Medical Association



MEMORANDUM

TO: Michael Schottenstein, M.D., President
Members of the Board

FROM: Kimberly C. Anderson, Chief Legal Counsel

RE: DPM Scope of Practice Inquiry

DATE: September 5, 2019

On March 25, 2019, the Medical Board received an inquiry from Daniel Logan, DPM, requesting responses to five questions regarding podiatric scope of practice.¹ On June 12, 2019, the Licensure Committee voted to approve Questions 1, 3, 4, and 5 through the rule-making process. The Medical Board considered the Licensure Committee recommendation at its meeting later that day. The agenda materials and the minutes are attached. The Board discussed the draft response and that there were concerns with proceeding via the rule-making process. After a thorough discussion, the Board voted to send the draft response via a letter to Dr. Logan. This was approved by all Board members present at the June 12, 2019 meeting. A copy of the letter sent to Dr. Logan is attached.

The Board has received letters from the following associations, which were previously provided to you and are attached: American Orthopaedic Foot & Ankle Society, American Academy of Orthopaedic Surgeons, Ohio State Medical Association, Ohio Orthopaedic Society, and the Ohio Foot and Ankle Medical Association. Four of the letters expressed concerns that the Board's decision with respect to questions 1 and 3 of Dr. Logan's letter has the potential to expand the podiatrist's scope of practice beyond what is permitted under Ohio law and that allowing podiatrists to perform a supramalleolar osteotomy of the tibia or fibula to correct a deformity or to harvest bone marrow aspirate from the proximal tibia could pose risk to Ohio's patients. The four associations request that the Board reconsider the matter or stay the effectiveness of its opinion pending additional investigation and public comment. The Ohio Foot and Ankle Medical Association, representing podiatric physicians in Ohio, expresses support for the Board's decision and indicates that reconsideration or a stay of that decision will cause severe disruption to podiatrists across the state. The Ohio Foot and Ankle Medicine Association also contests

¹ 1. Is it permissible for a podiatrist in Ohio to perform a supramalleolar osteotomy of the tibia or fibula to correct a deformity?
2. Is it permissible for a podiatrist in Ohio to harvest bone graft from the proximal tibia to be used for foot or ankle surgery?
3. Is it permissible for a podiatrist in Ohio to harvest bone marrow aspirate from the proximal tibia?
4. Is it permissible in Ohio for a podiatrist to surgically remove ingrown nails from the hands?
5. Is it permissible in Ohio for a podiatrist in Ohio to surgically excise warts from the hands?

the assertion that allowing podiatrists to perform the two procedures creates an increased risk of harm to patients, stating that podiatric physicians have been treating ankles for over twenty years with no reported incidents of patient harm.

The Board has several options available.

1. Determine not to reconsider the June 12, 2019 decision and let the position letter stand.
2. Obtain an anti-trust review at CSI of any proposed action.
 - a. Reverse the June 12, 2019 decision by promulgating a rule that would indicate that the two procedures are not within a podiatrist's scope of practice.
 - b. Reverse the June 12, 2019 decision by issuing a position letter to Dr. Logan.
 - c. Reconsider the June 12, 2019 decision and promulgate a rule which would incorporate the information in the position statement regarding a podiatrist's scope of practice.

In addition, the Board can decide to gather more information by requesting public comments from interested parties.



FOOT & ANKLE SPECIALISTS OF CENTRAL OHIO

*Scott D. Gurwin, D.P.M., F.A.C.F.A.S.
Daniel B. Logan, D.P.M., F.A.C.F.A.S.
Amanda L. Quisno, D.P.M., F.A.C.F.A.S.
Cherreen H. Tawancy, D.P.M.
Andrew J. Pierre, D.P.M.*

March 25, 2019

State Medical Board
30 E. Broad Street, 3rd Floor
Columbus, OH 43215-6127

State Medical Board,

I am the Chair of my hospital Podiatric Medicine and Surgery Department. I am revising our delineation of privileges and I have some important questions.

1. Is it permissible for a podiatrist in Ohio to perform a supramalleolar osteotomy of the tibia or fibula to correct a deformity?
2. Is it permissible for a podiatrist in Ohio to harvest bone graft from the proximal tibia to be used for foot or ankle surgery?
3. Is it permissible for a podiatrist in Ohio to harvest bone marrow aspirate from the proximal tibia?
4. Is it permissible in Ohio for a podiatrist to surgically remove ingrown nails from the hands?
5. Is it permissible in Ohio for a podiatrist in Ohio to surgically excise warts from the hands?

I appreciate your consideration and response to this matter.

Sincerely,

Daniel Logan DPM

MEDICAL BOARD

MAR 27 2019

www.ohiofootandankle.com

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Daniel Logan, D.P.M.
Foot & Ankle Specialists of Central Ohio
426A Beecher Road
Gahanna, OH 43230

Dear Dr. Logan:

This letter is in response to yours inquiring whether five procedures are within the scope of practice of an Ohio licensed podiatric physician. A copy of your March 25, 2019 letter is enclosed. You inquire as follows:

1. Is it permissible for a podiatrist in Ohio to perform a supramalleolar osteotomy of the tibia or fibula to correct a deformity?
2. Is it permissible for a podiatrist in Ohio to harvest a bone graft from the proximal tibia to be used for foot and ankle surgery?
3. Is it permissible for a podiatrist in Ohio to harvest bone marrow aspirate from the proximal tibia?
4. Is it permissible in Ohio for a podiatrist to surgically remove ingrown nails from the hands?
5. Is it permissible in Ohio for a podiatrist to surgically excise warts from the hands?

At its June 12, 2019 meeting, the State Medical Board of Ohio approved the following response to your inquiry.

The scope of practice of podiatry is set out in Section 4731.51, Ohio Revised Code ("ORC"), and Rules 4731-20-01 and 4731-20-02, Ohio Administrative Code ("OAC") as follows:

Section 4731.51, ORC:

- The medical, mechanical, and surgical treatment of ailments of the foot, the muscles and tendons of the leg governing the functions of the foot; and superficial lesions of the hand other than those associated with trauma. Podiatrists are permitted the use of such preparations, medicines, and drugs as may be necessary for the treatment of such ailments.
- Treatment of the local manifestations of systemic diseases as they appear in the hand and foot, but the patient shall be concurrently referred to a doctor of medicine or a doctor of osteopathic medicine and surgery for the treatment of the systemic disease itself.
- General anaesthetics may be used under this section only in colleges of podiatric medicine and surgery in good standing with the state medical board and in hospitals approved by the joint commission or the American osteopathic association.
- Hyperbaric oxygen therapy may be ordered by a podiatrist to treat ailments within the scope of practice of podiatry as set forth in this section and, in accordance with section 4731.511 of the Revised Code, the podiatrist may supervise hyperbaric oxygen therapy for the treatment of such ailments.

Rule 4731-20-01, OAC, defines "foot" as follows:

"Foot," as used in section 4731.51 of the Revised Code, means the terminal appendage of the lower extremity and includes the ankle joint which consists of

the tibial plafond, its posterolateral border (posterior malleolus), the medial malleolus, distal fibula (lateral malleolus) and the talus.

Rule 4731-2-02, OAC, authorizes a podiatric physician to perform surgery on the ankle joint in compliance with the rule.

Applying the statute and rules to your specific questions results in the following determinations:

1. Performance of a supramalleolar osteotomy of the tibia or fibula to correct a deformity

The tibial plafond forms the articular surface of the distal tibia. The distal tibia and fibula act as the socket for the talus. Accordingly, a supramalleolar osteotomy of the tibia or fibula constitutes ankle surgery, as defined in Rule 4731-20-02, OAC, and is within the podiatric scope of practice of an appropriately trained podiatric physician when performed in compliance with Rule 4731-20-02, OAC, and within the minimal standards of care. Finally, whether a podiatrist may perform the surgeries at a specific hospital or ambulatory surgical center is solely a matter of credentialing and privileging decisions.

2. Harvest of a bone graft from the proximal tibia to be used for foot and ankle surgery

The above statute and rules provide that a podiatric physician may perform surgical treatment of the ailments of the foot, which includes the ankle, and may use such preparations, medicines, and drugs as may be necessary. The proximal tibia is not within the definition of "foot." In addition, a bone graft requires an incision at the donor site so that bone may be removed at the donor site. This minor surgical procedure at the proximal tibia also does not constitute the use of a preparation, medicine, or drug for the surgical treatment of the foot. Accordingly, harvesting of a bone graft from the proximal tibia to be used for foot and ankle surgery is not within the podiatric scope of practice as defined in the Ohio Revised Code and Ohio Administrative Code.

3. Harvest of bone marrow aspirate from the proximal tibia

Although the inquiry did not specify, this response is based upon the assumption that the bone marrow would be used for foot and ankle surgery. The harvesting of bone marrow aspirate does not require an incision but is performed by insertion of a needle into the cortex. The aspirate is typically mixed with an anticoagulant to prevent clotting and allow for concentration of the desired components or could be mixed with products such as bone chips to comprise an autograft equivalent.¹ The Medical Board understands that the harvesting of bone marrow aspirate is a component of podiatric training, whether in podiatric medical school, residency, or continuing education.

It is clear that an appropriately trained podiatrist may aspirate bone marrow from the foot. The expertise and skills needed to aspirate bone marrow are not dependent upon the donor site because the same skills and principles must be applied whether the site is on the foot or proximal tibia. Accordingly, harvesting bone marrow aspirate from the proximal tibia to be used for foot and ankle surgery is within the scope of practice of an appropriately trained podiatric physician. The podiatric physician must perform the procedure in conformance with the minimal standards of care of similar practitioners under the same or similar circumstances. Finally,

whether a podiatrist may perform the surgeries at a specific hospital or ambulatory surgical center is solely a matter of credentialing and privileging decisions.

4. Surgical removal of ingrown nails from the hands

Section 4731.51, ORC, states that a podiatrist may treat superficial lesions of the hand other than those associated with trauma. Accordingly, the surgical removal of ingrown nails from the hands is within the scope of practice of a podiatric physician when the ingrown nail did not result from trauma. The podiatric physician must perform the surgery in conformance with the minimal standards of care of similar practitioners under the same or similar circumstances. Finally, whether a podiatrist may perform the surgery at a specific hospital or ambulatory surgical center is solely a matter of credentialing and privileging decisions.

5. Surgical excise of warts from the hands

Section 4731.51, ORC, states that a podiatrist may treat superficial lesions of the hand other than those associated with trauma. Warts are caused by viruses, not trauma. Accordingly, the surgical removal of warts from the hands is within the scope of practice of an appropriately trained podiatric physician when the ingrown nail did not result from trauma. The podiatric physician must perform the surgery in conformance with the minimal standards of care of similar practitioners under the same or similar circumstances. Finally, whether a podiatrist may perform the surgery at a specific hospital or ambulatory surgical center is solely a matter of credentialing and privileging decisions.

Thank you for your inquiry. Should you have questions concerning this response, please contact Sallie Debolt, Senior Counsel at Sallie.Debolt@med.ohio.gov.

Respectfully,

xxxxxx

¹ “Bone Marrow Aspirate: Science and Application in Foot and Ankle Surgery,” McGlamry, Michael C., DPM, http://www.podiatryinstitute.com/pdfs/Update_2012/2012_22.pdf.

BONE MARROW ASPIRATE: Science and Application in Foot and Ankle Surgery

Michael C. McGlamry, DPM

Bone marrow aspirate (BMA) has been used as an adjunct in bone and soft tissue healing throughout the body. Specifically there have been numerous publications in recent history analyzing its application in foot and ankle surgery. In a recent article published by Hatzokos and colleagues, their analysis illustrated just how significant the healing potential of BMA may be. In the study, the group looked retrospectively at the historically problematic docking site with bone transport. They compared compression to debridement and autogenous iliac crest bone grafting, to debridement and grafting with BMA concentrate mixed with fiber-based demineralized bone matrix (DBM) putty and found the greatest success with the BMA DBM group.

In its simplest iteration BMA is harvested percutaneously from a cancellous-rich site such as the iliac crest, proximal tibia, or calcaneus utilizing a bone marrow needle and large-gauge syringe. Typically the BMA is mixed with an anticoagulant to prevent clotting and allow for further enhancement by concentration of active desired components such as mesenchymal stem cells (MSCs), hematopoietic stem cells (HSCs) and endothelial progenitor cells (EPCs) using one of the available systems for BMA concentration. The surgeon should have a clear understanding of the yield from different devices as well as recognize which systems ultimately give the greatest number of viable cells. The systems available will concentrate anywhere from 3-8 times baseline and may actually separate via different methods with varying results.

It has been shown that the relative number of available stem cells is highest centrally in locations such as the iliac crest. Jia, Peters, and Schon found that the concentration at the proximal tibia level has been shown to be approximately 40% of the level found in the iliac crest however the growth factor concentration was similar. However, a high quality concentrate may still be obtained with numerous small aspirations and multiple repositionings of the aspiration needle in the proximal tibial metaphysis.

The number of stem cells has been noted to decrease with patient age, but without statistically significant deviation between men and women. Hernigou et al established the importance of achieving a concentration of $>1,500$ progenitor cells/ml in achieving successful consolidation of

established nonunions and noted that without concentration this level was rarely seen in the baseline aspirate.

Concentration of the desired stem cells is accomplished most commonly by processing with a 2 stage centrifugation system. This process yields a low volume high concentration product that can be directly administered by injection to a defect or nonunion site, or mixed with other products such as DBM, bone chips, or other carriers to generate a relative autograft equivalent.

TECHNIQUE

To obtain the greatest available concentration of MSC's within the author's scope, without the necessity of going to the iliac crest, the proximal tibia has been most frequently utilized (Figure 1). In most patients this has been able to yield 30-40 cc of BMA with little difficulty.

Several tips for a good aspiration should be observed. First the BMA should be obtained at the beginning of the case, prior to inflation of the tourniquet and prior to incision or other insult that would initiate the inflammatory cascade, which might attract desired cells away from the aspiration site. This allows the BMA concentrate (BMAC) to be processed and ready to use when that point of the procedure is reached. Some surgeons have expressed concern over the delay between aspiration/processing and



Figure 1. Bone marrow aspirate needle being driven through the cortex to start the aspiration procedure. This is performed prior to the start of the reconstructive procedure.

use. Although the concern is logical, the BMAC has been shown to be viable and stable for longer than 4 hours

Once the cortex of the harvest site has been penetrated, the harvesting procedure is begun. For the aspiration itself, it is best to use a negative plunging method of 3-4 plunges per location prior to repositioning the tip of the needle so as to limit the amount of venous blood pulled into the sample (Figure 2). Volume at each level should ideally be limited to no greater than 2 mls. This ultimately prevents dilution of the MSCs with peripheral venous blood. Muschler et al demonstrated that increasing the local aspirate volume from 1 to 4 mls ultimately resulted in a 50% decrease in the overall number of alkaline phosphatase positive colonies, which was correlated with a decrease in the number of osteoblast progenitor cells present.

Various techniques have been described of either driving the trochar/needle into deep position and then withdrawing with serial aspirations or the opposite with initial aspiration after penetrating the cortex followed by tapping the needle progressively deeper for follow-up aspirations. The technique utilized as well as the degree of repositioning necessary will be affected by the aspiration needle selection, i.e., a needle with a single opening at the tip may require less angular reorientation while a needle with an open tip and side fenestrations will more easily draw the desired volume at each repositioning but will require greater angular reorientation to reach fresh or untapped marrow (Figure 3). Ultimately the needle utilized is based on surgeon preference and availability.

After the aspirate has been obtained, the syringe is passed off to the technician for processing. The concentration process typically takes about 30 minutes and generally yields about 10% of the original volume as BMAC (Figure 4). For the typical draw of 35 ccs (40 ccs total less the 5 ccs ACDA) the process typically yields about 4 ccs.

APPLICATIONS

The use of BMAC has been widely published in recent literature with applications ranging from percutaneous treatment of nonunions and unicameral bone cysts to open surgical applications where BMA is used independently at closure or combined with other carriers such as DBM's, allograft blocks, autograft, or synthetic bone graft substitutes, in efforts to manipulate the biology of the local healing environment (Figures 5, 6, 7).

In summary BMAC is a simple, technologically-sound method of enhancing the healing in procedures where biology is compromised such as Charcot reconstruction or even in isolated ankle fusion procedures in compromised hosts such as diabetic patients or smokers.



Figure 2. Aspiration of the proximal tibial bone marrow. Negative plunging is evidenced by the vacuum space above the BMA in the syringe.



Figure 3. After the first series of aspirations, the needle is withdrawn and is now being reinserted about 30 degrees off of the initial aspiration track. Care should be taken when reorienting proximally as seen here, to be keenly aware of the proximity to the knee joint so as to avoid inadvertent violation of the knee.



Figure 4. BMAC after the platelet poor fraction has been aspirated.



Figure 5. BMAC is combined with autologous milled cortical bone and fiber DBM with corticocancellous chips thus delivering all desirable graft properties in a high risk revision Charcot ankle/hindfoot fusion.

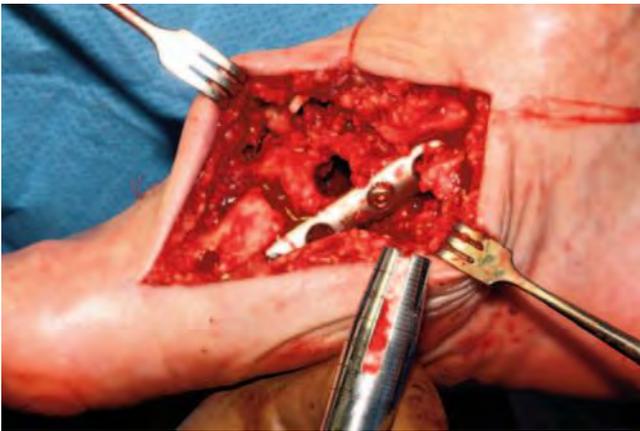


Figure 7. Midfoot Charcot reconstruction with all fixation in place and BMAC soaked synthetic allograft composite dowel about to be delivered to enhance midfoot arthrodesis biology.



Figure 6. Postoperative radiograph with BMA and DBM in place around final hardware construct.

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LICENSURE COMMITTEE MEETING
June 12, 2019 - Room 336

<p>Committee Members Present: Bruce R. Saferin, D.P.M, Chair Kim G. Rothermel, M.D. Richard Edgin, M.D.</p> <p>Other Board Members Present: Michael Schottenstein, M.D. Mark A. Bechtel, M.D. Harish Kakarala, M.D</p>	<p>Staff Present: Joseph Turek, Director of Licensure & Licensee Services Colin Depew, Assistant Attorney Kim Anderson, Legal Director Sallie Debolt, Assistant Attorney Don Davis, Program Administrator Jerica Stewart, Communication & Outreach Administrator Jonithon Lacross, Director, Public Policy & Government Affairs</p>
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Dr. Saferin called the meeting to order at **8:00 am**.

MINUTES REVIEW

Dr. Rothermel moved to approve the draft minutes of May 8, 2019. Dr. Edgin seconded the motion. All members voted aye. The motion carried.

LICENSURE APPLICATION REVIEWS

Desiraa Cramblett – Allied Licensure Restoration Application

Ms. Cramblett is applying for restoration of her Ohio Respiratory Care Professional (RCP) license. Ms. Cramblett's license was originally issued on June 27, 2013 and expired on June 30, 2016. Ms. Cramblett has been the caregiver for a terminally ill parent and a stay at home mom since April of 2015. She completed the Law and Ethics course on April 13, 2019 and has submitted documentation of thirty-nine hours of respiratory care continuing education (RCCE).

Ms. Cramblett's CRT/RRT lapsed on July 31, 2018. In a telephone conversation with staff, she advised she has not yet contacted the National Board for Respiratory Care regarding reinstatement and has not taken the TMC examination.

Dr. Edgin moved to approve Ms. Cramblett's application for restoration of her Ohio license contingent on successful completion of the Therapist Multiple-Choice Examination (TMC) within six months from the date of mailing of the Notice of Opportunity for a Hearing. Dr. Rothermel seconded the motion. All voted aye. Motion carried.

Laura Fox – Allied Licensure Restoration Application

Ms. Fox is applying for restoration of her Ohio license to practice dietetics. Ms. Fox's license was originally issued on October 21, 2005 and expired on June 30, 2011. Ms. Fox shares in her application that she allowed her license to lapse in 2011, when her family moved out of the state, and that she has been a stay-at-home parent since that time. Considering that Ms. Fox's dietetic registration is current, staff recommends that her license be restored.

Dr. Edgin moved to approve Ms. Fox's application for restoration of her Ohio license as presented. Dr. Rothermel seconded the motion. All voted aye. Motion carried.

Dr. Rothermel asked if there was a re-licensure exam for dietitians.

Mr. Turek confirmed his team has previously reached out to CDR and was told there is not an exam offered for that purpose.

Mr. Davis stated that in his 10-year experience, he had never seen the former Dietetics Board require an applicant to take a re-licensure exam to ensure their competency in license restoration.

Dr. Rothermel pointed out that the Board requires applicants of every other license type to have their clinical competency updated.

Mr. Davis stated he thought the previous board considered the applicant's continued education maintenance as the indication of clinical competency to return to practice.

Harold Ickes, MD – Physician Licensure Application

Dr. Ickes is applying for a license and has requested a waiver of the USMLE ten-year rule.

Dr. Ickes passed Step 1 in 2006, Step 2 (CS) and (CK) in 2008, and Step 3 in 2018, each on his first attempt.

Dr. Ickes received his medical degree from the Case Western Reserve University School of Medicine (August of 2008). He took an authorized leave from March to August 2003, pursuing math credits he would need to enter a PhD program in physics. He took an authorized one-year leave following his second year, intending to further pursue his PhD, as Case Western does not offer a dual degree program in medicine and physics. His parent's ill health distracted him from that goal during the year.

Following graduation from medical school, Dr. Ickes entered a PhD program in physics at Clemson University. Unfortunately, his parents' declining health forced him to leave that program in March of 2010. From then until shortly before the beginning of his residency in 2016, he served as their primary caregiver.

Dr. Rothermel move 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 to be granted a license. Dr. Edgin seconded. All voted aye. Motion carried.

Beth Longenecker, DO – Physician Licensure Restoration Application

Dr. Longenecker is applying for restoration of her license but has not practiced clinical medicine in the last two years. Dr. Longenecker obtained Board Certification from the American Osteopathic Board of Emergency Medicine in 2000 and is current with Osteopathic Continuous Certification (OCC). Her AOA CME Summary shows 316 hours of Category 1A credit applied during the 2016-2018 triennial cycle, along with a combined 153 hours of Category 1B, 2A and 2B credit.

Dr. Longenecker has been in academic medicine since 2002. Since 2015, Dr. Longenecker has served as associate dean for clinical education and assistant professor of emergency medicine at Midwestern University/Chicago College of Osteopathic Medicine.

Dr. Longenecker is scheduled to become Dean of Ohio University, Heritage College of Osteopathic Medicine (Athens Campus) on June 1, 2019. In that role, she intends to become medical director of the college's free clinic and medical outreach to the underserved.

Dr. Edgin moved to approve Dr. Longenecker's request for Ohio licensure as presented. Dr. Rothermel seconded. All voted aye. Motion carried.

Dr. Schottenstein mentioned the physician answered several questions "yes" regarding legal concerns and asked if the Licensure team had any concerns with the applicant.

Mr. Turek confirmed the application was vetted and there were no concerns.

Dr. Saferin asked if there were any question of Ms. Longenecker taking the COMLEX since she had not practiced for an extended period.

Dr. Rothermel stated it is a difficult situation because of her position. Dr. Longenecker has kept up with her CME and board certification but has not had recent clinical experience and does plan to practice clinical medicine. Instead she is teaching with standardized patients. She proposed the board grant her a license.

Rebecca Thornburg – Allied Licensure Restoration Application

Ms. Thornburg is applying for restoration of her Ohio Respiratory Care Professional (RCP) license. Ms. Thornburg's license was originally issued on October 14, 1994 and expired on June 30, 2014. Ms. Thornburg was employed as a hospice consultant in sales and marketing, for an Indiana hospice company beginning in 2014, and has not practiced as an RCP since then. She is currently employed by an oxygen supply company. She has submitted documentation of sixty hours of respiratory care continuing education (RCCE), exceeding requirements by twenty hours.

Dr. Edgin moved to approve Ms. Thornburg's application for restoration of her Ohio license contingent on successful completion of the Therapist Multiple-Choice Examination (TMC) within six months from the date of mailing of the Notice of Opportunity for a Hearing. Dr. Rothermel seconded. All voted aye. Motion carried.

OTHER ITEMS

DPM Scope of Practice Inquiry

Daniel Logan, D.P.M., submitted a letter seeking guidance on whether the performance of five procedures or surgeries are within the scope of practice of a podiatric physician.

Ms. Debolt stated the five procedures were listed in the materials with a draft response. She asked the committee to decide if they agree with the responses to the inquiries and then direct a rule to be created. Supreme Court case law and soon-to-be laws establish whether a rule is issued in a rule form or letter, it is still a rule because it has an application and clarification. The new rule would allow podiatrists to perform procedures without the risk of being outside of their scope of practice. Ms. Debolt suggested the board review the five procedures individually

Procedures:

1. *Supramalleolar osteotomy*

Dr. Saferin stated the supramalleolar osteotomy is a part of the ankle and that podiatrists have ankle privileges; therefore, it is a part of ankle surgery.

2. *To harvest bone graft from the proximal tibia*

Dr. Saferin stated the board previously determined it was not within the scope because it is high on the tibia.

3. To aspirate bone marrow from the proximal tibia

Dr. Saferin stated it was not surgery, just aspirating. He emphasized podiatrists already put frames on legs where they are required to drill into the tibia and that taking an aspirate is not an increased privilege.

4. Remove ingrown nails from hands

Dr. Saferin mentioned the board discussed this point in the past. They decided podiatrists can perform laser surgery of nails, which is the same kind of procedure.

5. Remove warts form the hands

Dr. Saferin stated it is a superficial lesion which qualifies under what is currently in the law.

Dr. Saferin stated the legal team believes each procedure needs to be individually included in the law.

Dr. Schottenstein asked why aspirating bone marrow from the proximal tibia is within the scope of practice but harvesting bone graft from the proximal from the tibia is not.

Dr. Saferin stated in the past, people have worried about going very proximal. He and Ms. Debolt agree it is not within the scope. He felt it was consistent.

Dr. Rothermel agreed.

Dr. Bechtel added that over the years, podiatrists have done a lot of work on nails and superficial lesions of the hands with lasers and so the request is consistent with previous policy. He informed the committee that podiatry is actively involved in wound centers across Ohio and often deal with ulcerations on legs. He stated sometimes a biopsy is necessary to preclude aggressive malignancy.

First motion: Dr. Rothermel moved to approve the draft response to Dr. Logan's inquiry. Dr. Edgin seconded the motion. All in favor. Motion carried.

Ms. Debolt stated the proposed rule will go out for interested party comment, then the comments will be reviewed. At that point, the proposed language will go to the Common Sense Initiative Office for another comment period, then finally to the Joint Committee on Agency Rule Review (JCARR).

Second motion: Dr. Edgin approved the four draft responses (excluding harvesting bone graft from the proximal tibia) for the rule making process. Dr. Rothermel seconded. All in favor. Motion carried.

Dr. Edgin proposed Dr. Bechtel provide the definition of a *superficial lesion* and Dr. Saferin provide the definition of the *ankle*.

Dr. Rothermel asked if Dr. Logan will get a response from the board before the rule process is initiated. Ms. Debolt confirmed.

Dr. Schottenstein asked if Dr. Logan would have to wait for the rule to be established in order to practice the four procedures. Ms. Debolt confirmed.

Ms. Debolt stated the rule making process is estimated at a minimum of six months but sometimes takes longer.

Allied Application Question Alignment

Staff proposes to develop one set of background questions for all Allied licensure applications.

Dr. Rothermel moved to approve that the background questions on the Allied licensure applications be amended. Dr. Edgin seconded. All in favor. Motion carried.

Dr. Schottenstein asked if the first question included schools as “institutions”.

Mr. Turek responded that it was not included in the first one. He mentioned he was trying to not change the actual questions in the background section. The revised question is from the current physician licensure application and he would like to align them as best as possible.

Dr. Schottenstein questioned why the phrase “certificate of registration” was removed in several questions but remained in the third question. He also questioned why the second page regarding legal action and case of claim history was removed.

Mr. Turek responded that his team used the physician licensure application questions for consistency. The licensure team gets an NPDB with the license applications for physicians. The licensure team does not see a lot of malpractice with other license types and does not ask for claims history from carriers.

ADJOURN

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

The meeting adjourned at 8:29 a.m.

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

js/jt

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Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Bechtel	Y

The motion carried.

Rebecca Thornburg, RCP

Dr. Saferin stated that Ms. Thornburg is applying for restoration of her Ohio Respiratory Care Professional (RCP) license. The Committee recommends approving Ms. Thornburg’s application, contingent on successful completion of the Therapist Multiple-Choice Examination (TMC).

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

Motion	Dr. Saferin
2 nd	Dr. Kakarala
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Bechtel	Y

The motion carried.

Mr. Gonidakis returned to the meeting at this time.

Podiatric Scope of Practice Inquiry

Dr. Saferin stated that Daniel Logan, D.P.M., submitted a letter seeking guidance on whether the performance of five procedures or surgeries are within the scope of practice of a podiatric physician. A draft response has been provided to Board members,

Motion to approve and send the draft response to Dr. Logan’s inquiry:

Motion	Dr. Saferin
2 nd	Dr. Edgin
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Johnson	Y
Dr. Kakarala	Y

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Dr. Bechtel	Y
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The motion carried.

Dr. Saferin stated that the Legal department has suggested that the Board commence with the rule-making process to incorporate the approved procedures, as discussed.

Motion to approve commencement of rule-making to incorporate the approved procedures as listed in the draft response to Dr. Logan’s inquiry:

Motion	Dr. Saferin
2 nd	Dr. Soin

Mr. Giacalone noted that engaging in the rule-making process in response to such an inquiry is a departure from the Board’s usual processes, which is to simply issue a guidance document. Ms. Anderson explained that a new statute that takes effect at the end of August grants the Joint Commission on Agency Rule Review (JCARR) jurisdiction to order agencies to create rules if there are complaints that the agency is doing things that essentially affect the entire population of practitioners through policy and not through rule. Consequently, the Board can expect more oversight in that area.

The Board discussed this matter thoroughly. Mr. Giacalone, noting that the rule-making process is long and arduous, expressed concern that the Board will spend a great deal of time and effort if it tries to put everything that is interpretive into a rule. Mr. Giacalone worried about the precedent of trying to put everything into a rule and predicted that the Board will be taken to task whenever something interpretive is not in a rule. Mr. Giacalone stated that the Board can engage in rule-making in particular instances if directed to do so by JCARR.

Following thorough discussion, Dr. Saferin agreed with Mr. Giacalone and wished to withdraw his motion.

Dr. Saferin withdrew his motion regarding the rule-making process. No Board member objected to withdrawing the motion. The motion was withdrawn.

Motion to continue with the Board’s previous processes and to not engage in the rule-making process with regard to Dr. Logan’s inquiries:

Motion	Mr. Giacalone
2 nd	Dr. Bechtel

Dr. Rothermel asked if the letter outlining the Board’s position will be posted to the Board’s website. Ms. Debolt stated that the Ohio Foot and Ankle Physicians Association will put it on their website and podiatrists will look for it there.

Vote on Mr. Giacalone’s motion:

Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Johnson	Y

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Dr. Kakarala	Y
Dr. Bechtel	Y

The motion carried.

Allied Application Questions

Motion to amend the background questions on allied licensure applications, as outlined in the staff memo.

Motion	Dr. Saferin
2 nd	Dr. Bechtel
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Bechtel	Y

The motion carried.

Finance Committee Report

Fiscal Report

Dr. Schottenstein stated that revenue in April 2019 was \$942,906, slightly down from March 2019. Dr. Schottenstein noted that license renewals had been due in March, but no such renewals were due in April, and therefore the April numbers are surprisingly good, probably due in part to an influx of training certificates totaling approximately \$100,000.

Dr. Schottenstein stated that revenue is up 5% year-to-date and noted that anything in the 2% to 4% range is considered good. Net positive revenue in April 2019 was \$234,143 and the fiscal year-to-date net revenue was \$391,752. The Board's cash balance is very substantial at \$4,982,348, which is close to a record. Expenditures are up 10.5% year-to-date, which is substantially a function of large invoices that the Board recently paid for the e-License system. Routine spending is unremarkable and the Board remains well under its spending authority.

Dr. Schottenstein stated that the Board had projected revenue of \$9,500,000 for the fiscal year; that number should be reached in May, well before the end of the fiscal year on June 30. Dr. Schottenstein stated that there will be a net positive revenue for this fiscal year, which is especially compelling because odd-numbered fiscal years tend to have lower revenue.

The Medical Board collected \$5,000 in disciplinary fines and \$4,500 in Continuing Medical Education (CME) fines since the last report.

Communications Update

Dr. Schottenstein stated that the communications team is developing a campaign to educate patients and licensees about appropriate sexual boundaries. Videos and fact sheets will be produced to educate patients



June 12, 2019

Daniel Logan, D.P.M.
Foot & Ankle Specialists of Central Ohio
426A Beecher Road
Gahanna, OH 43230

Dear Dr. Logan:

This letter is in response to yours inquiring whether five procedures are within the scope of practice of an Ohio licensed podiatric physician. A copy of your March 25, 2019 letter is enclosed. You inquire as follows:

1. Is it permissible for a podiatrist in Ohio to perform a supramalleolar osteotomy of the tibia or fibula to correct a deformity?
2. Is it permissible for a podiatrist in Ohio to harvest a bone graft from the proximal tibia to be used for foot and ankle surgery?
3. Is it permissible for a podiatrist in Ohio to harvest bone marrow aspirate from the proximal tibia?
4. Is it permissible in Ohio for a podiatrist to surgically remove ingrown nails from the hands?
5. Is it permissible in Ohio for a podiatrist to surgically excise warts from the hands?

At its June 12, 2019 meeting, the State Medical Board of Ohio approved the following response to your inquiry.

The scope of practice of podiatry is set out in Section 4731.51, Ohio Revised Code ("ORC"), and Rules 4731-20-01 and 4731-20-02, Ohio Administrative Code ("OAC") as follows:

Section 4731.51, ORC:

- The medical, mechanical, and surgical treatment of ailments of the foot, the muscles and tendons of the leg governing the functions of the foot; and superficial lesions of the hand other than those associated with trauma. Podiatrists are permitted the use of such preparations, medicines, and drugs as may be necessary for the treatment of such ailments.
- Treatment of the local manifestations of systemic diseases as they appear in the hand and foot, but the patient shall be concurrently referred to a doctor of medicine or a doctor of osteopathic medicine and surgery for the treatment of the systemic disease itself.
- General anaesthetics may be used under this section only in colleges of podiatric medicine and surgery in good standing with the state medical board and in hospitals approved by the joint commission or the American osteopathic association.
- Hyperbaric oxygen therapy may be ordered by a podiatrist to treat ailments within the scope of practice of podiatry as set forth in this section and, in accordance with section

4731.511 of the Revised Code, the podiatrist may supervise hyperbaric oxygen therapy for the treatment of such ailments.

Rule 4731-20-01, OAC, defines "foot" as follows:

"Foot," as used in section [4731.51](#) of the Revised Code, means the terminal appendage of the lower extremity and includes the ankle joint which consists of the tibial plafond, its posterolateral border (posterior malleolus), the medial malleolus, distal fibula (lateral malleolus) and the talus.

Rule 4731-2-02, OAC, authorizes a podiatric physician to perform surgery on the ankle joint in compliance with the rule.

Applying the statute and rules to your specific questions results in the following determinations:

1. Performance of a supramalleolar osteotomy of the tibia or fibula to correct a deformity

The tibial plafond forms the articular surface of the distal tibia. The distal tibia and fibula act as the socket for the talus. Accordingly, a supramalleolar osteotomy of the tibia or fibula constitutes ankle surgery, as defined in Rule 4731-20-02, OAC, and is within the podiatric scope of practice of an appropriately trained podiatric physician when performed in compliance with Rule 4731-20-02, OAC, and within the minimal standards of care. Finally, whether a podiatrist may perform the surgeries at a specific hospital or ambulatory surgical center is solely a matter of credentialing and privileging decisions.

2. Harvest of a bone graft from the proximal tibia to be used for foot and ankle surgery

The above statute and rules provide that a podiatric physician may perform surgical treatment of the ailments of the foot, which includes the ankle, and may use such preparations, medicines, and drugs as may be necessary. The proximal tibia is not within the definition of "foot." In addition, a bone graft requires an incision at the donor site so that bone may be removed at the donor site. This minor surgical procedure at the proximal tibia also does not constitute the use of a preparation, medicine, or drug for the surgical treatment of the foot. Accordingly, harvesting of a bone graft from the proximal tibia to be used for foot and ankle surgery is not within the podiatric scope of practice as defined in the Ohio Revised Code and Ohio Administrative Code.

3. Harvest of bone marrow aspirate from the proximal tibia

Although the inquiry did not specify, this response is based upon the assumption that the bone marrow would be used for foot and ankle surgery. The harvesting of bone marrow aspirate does not require an incision but is performed by insertion of a needle into the cortex. The aspirate is typically mixed with an anticoagulant to prevent clotting and allow for concentration of the desired components or could be mixed with products such as bone chips to comprise an autograft equivalent.¹ The Medical Board understands that the harvesting of bone marrow aspirate is a component of podiatric training, whether in podiatric medical school, residency, or continuing education.

It is clear that an appropriately trained podiatrist may aspirate bone marrow from the foot. The expertise and skills needed to aspirate bone marrow are not dependent upon the donor site because the same skills and principles must be applied whether the site is on the foot or proximal tibia. Accordingly, harvesting bone marrow aspirate from the proximal tibia to be used for foot and ankle surgery is within the scope of practice of an appropriately trained podiatric physician. The podiatric physician must perform the procedure in conformance with the minimal standards of care of similar practitioners under the same or similar circumstances. Finally, whether a podiatrist may perform the surgeries at a specific hospital or ambulatory surgical center is solely a matter of credentialing and privileging decisions.

4. Surgical removal of ingrown nails from the hands

Section 4731.51, ORC, states that a podiatrist may treat superficial lesions of the hand other than those associated with trauma. Accordingly, the surgical removal of ingrown nails from the hands is within the scope of practice of a podiatric physician when the ingrown nail did not result from trauma. The podiatric physician must perform the surgery in conformance with the minimal standards of care of similar practitioners under the same or similar circumstances. Finally, whether a podiatrist may perform the surgery at a specific hospital or ambulatory surgical center is solely a matter of credentialing and privileging decisions.

5. Surgical excise of warts from the hands

Section 4731.51, ORC, states that a podiatrist may treat superficial lesions of the hand other than those associated with trauma. Warts are caused by viruses, not trauma. Accordingly, the surgical removal of warts from the hands is within the scope of practice of an appropriately trained podiatric physician when the wart did not result from trauma. The podiatric physician must perform the surgery in conformance with the minimal standards of care of similar practitioners under the same or similar circumstances. Finally, whether a podiatrist may perform the surgery at a specific hospital or ambulatory surgical center is solely a matter of credentialing and privileging decisions.

Thank you for your inquiry. Should you have questions concerning this response, please contact Sallie Debolt, Senior Counsel at Sallie.Debolt@med.ohio.gov.

Respectfully,



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

The information in this letter should not be interpreted as being all inclusive or exclusive. The Medical Board will review all possible violations of the Medical Practices Act and/or rules promulgated there under on a case by case basis.

¹ "Bone Marrow Aspirate: Science and Application in Foot and Ankle Surgery," McGlamry, Michael C., DPM, http://www.podiatryinstitute.com/pdfs/Update_2012/2012_22.pdf.

June 27, 2019

State Medical Board of Ohio
30 E. Broad Street, 3rd floor
Columbus, OH 42315

Dear Members of the State Medical Board of Ohio:

I am writing on behalf of the 2,320 members of the American Orthopaedic Foot and Ankle Society ("AOFAS"), 43 of whom are licensed physicians in the State of Ohio. We would like to comment on the attached June 12, 2019 letter written by Bruce R. Saferin, D.P.M. on behalf of the State Medical Board of Ohio ("Board") to Daniel Logan, D.P.M. We believe that two of the five responses expand podiatry scope of practice beyond what is allowed by the Ohio Administrative Code, and request that the Board reconsider these opinions for the reasons set forth below and in the interest of patient safety.

Question #2:

We agree with the Board's ruling with respect to question #2:

The proximal tibia is not within the definition of "foot." In addition, a bone graft requires an incision at the donor site so that bone may be removed at the donor site. This minor surgical procedure at the proximal tibia also does not constitute the use of a preparation, medicine, or drug for the surgical treatment of the foot. Accordingly, harvesting of a bone graft from the proximal tibia to be used for foot and ankle surgery is not within the podiatric scope of practice as defined in the Ohio Revised Code and Ohio Administrative Code.

However, we would disagree with the Board's characterization of proximal tibial bone graft harvesting as a "minor surgical procedure" as potential complications include osteomyelitis, fracture, wound dehiscence and infection, and nerve injury.

Questions #4 and 5:

With respect to the Board's ruling on questions #4 and 5, while we do not believe that the hand should be considered within podiatry scope of practice by any anatomic definition, we agree that the rulings are consistent with the Ohio Administrative Code.

Question #1:

We disagree with the Board's ruling with respect to question #1:

The tibial plafond forms the articular surface of the distal tibia. The distal tibia and fibula act as the socket for the talus. Accordingly, a supramalleolar osteotomy of the tibia or fibula constitutes ankle surgery, as defined in Rule 4731-20-02, OAC, and is within the podiatric scope of practice of an appropriately trained podiatric physician when performed in compliance with Rule 4731-20-02, OAC, and within the minimal standards of care.

A “supramalleolar osteotomy” is an osteotomy of the tibia or fibula ***above or proximal*** to the malleolus. (<https://medical-dictionary.thefreedictionary.com/supramalleolar>). Rule 4731-20-01, Ohio Administrative Code, states:

"Foot," as used in section 4731.51 of the Revised Code, means the terminal appendage of the lower extremity and includes the ankle joint which consists of the tibial plafond, its posterolateral border (posterior malleolus), the medial malleolus, distal fibula (lateral malleolus) and the talus.

While the Ohio Administrative Code defines the ankle joint as including the medial, lateral and posterior malleoli as well as the tibial plafond, it clearly does ***not include*** the tibial and fibular bone proximal to the malleoli, which is the location where supramalleolar osteotomy surgery is performed. Noting that the tibial plafond forms the articular surface of the distal tibia and that the distal tibia and fibular act as the socket for the talus does not change the anatomical facts.

Question #3:

We disagree with the Board’s ruling with respect to question #3:

The harvesting of bone marrow aspirate does not require an incision but is performed by insertion of a needle into the cortex. The aspirate is typically mixed with an anticoagulant to prevent clotting and allow for concentration of the desired components or could be mixed with products such as bone chips to comprise an autograft equivalent.¹ The Medical Board understands that the harvesting of bone marrow aspirate is a component of podiatric training, whether in podiatric medical school, residency, or continuing education. It is clear that an appropriately trained podiatrist may aspirate bone marrow from the foot. The expertise and skills needed to aspirate bone marrow are not dependent upon the donor site because the same skills and principles must be applied whether the site is on the foot or proximal tibia. Accordingly, harvesting bone marrow aspirate from the proximal tibia to be used for foot and ankle surgery is within the scope of practice of an appropriately trained podiatric physician.

1. http://www.podiatryinstitute.com/pdfs/Update_2012/2012_22.pdf

First , proximal tibial bone marrow aspirate harvest typically involves a small skin incision, which decreases the risk of inadvertently inserting skin contaminants into the tibial bone with needle insertion. After making the skin incision and spreading down to tibial bone, the bone trochar/ needle, which needs to be sturdy enough to penetrate the hard proximal tibial bone and have a wide enough lumen to allow the bone marrow to flow out, is brought directly against bone. To further illustrate, Figures 1 and 2 in the attached article by Michael McGlamry, DPM (referenced in footnote 1 of the Board’s decision) clearly shows that an incision has been made and Figures 1 and 3 shows the “needle” being driven in with a mallet with the figure legend warning about inadvertent violation of the knee joint. The Ohio Administrative Code does not allow podiatrists to make incisions or perform surgery in anatomical areas outside those defined in Section 4731.51, Ohio Revised Code, and Rules 4731-20-01 and 4731-20-02, Ohio Administrative Code.

Second, surgical procedures can be performed percutaneously without a knife making a skin incision, using just a needle to aspirate or cut tissue (i.e., carpal tunnel release with an ultrasound guided percutaneous needle <https://www.ncbi.nlm.nih.gov/pubmed/22922613>). Similar to the harvesting of

proximal tibial bone graft, in bone marrow aspirate, the skin, subcutaneous tissue, and tibial bone cortex are penetrated and autologous tissue removed for reimplantation in another part of the body. Using a different surgical technique to harvest proximal tibial bone marrow cells from an anatomical area outside podiatry scope of practice does not change the legislative intent or meaning of Section 4731.51, Ohio Revised Code, and Rules 4731-20-01 and 4731-20-02, Ohio Administrative Code.

Third, the expertise and skills needed to aspirate bone marrow are dependent upon the donor site. An appropriately trained podiatrist can dissect down to the foot or ankle to place the trochar or needle against the calcaneus, tibial plafond, or malleolus. Even if the procedure was performed with a needle directly through the skin, an appropriately trained podiatrist can address any acute or secondary complications in the foot and ankle secondary to the procedure including fracture, infection, and bleeding. This is not the case for the proximal tibia per the Ohio Administrative Code. It is also not the case for other potential bone marrow aspiration sites such as the iliac crest and vertebral body, which are all outside the scope of practice for podiatry. However, applying the Board's reasoning, bone marrow aspirate from the iliac crest, vertebral body, and any other bone in the body would be within Ohio podiatry scope of practice. We do not believe this result is consistent with the Ohio Administrative Code.

Finally, the expertise and skills required to perform a surgical procedure are also dependent on the site. The expertise and skills required to surgically fix a fracture involving the knee, the femoral shaft, the pelvis, or the shoulder differ in many ways, including relevant anatomy and biomechanics, than for a fracture of the foot. We believe performance of such surgical procedures without the requisite expertise and skill and understanding of the relevant anatomy and biomechanics of those surgical sites, poses a risk to patients.

Summary:

For the above reasons, we ask the Board to reconsider its conclusions, or at the minimum, stay the effectiveness of its opinion that it is permissible for podiatrists in Ohio to perform supramalleolar osteotomies of the tibia or fibula and harvest proximal tibial bone aspirate, pending additional investigation and public comment. We are concerned that these decisions are inconsistent with the Ohio Administrative Code and may have the practical effect of putting patients at risk.

Sincerely,



J. Chris Coetzee, MD
President, American Orthopaedic Foot & Ankle Society

cc. Ohio State Medical Association
Ohio Orthopaedic Society

July 5, 2019

State Medical Board of Ohio
30 E. Broad Street, 3rd floor
Columbus, OH 42315

Dear Members of the State Medical Board of Ohio:

On behalf of the 34,000 orthopaedic surgeons and residents represented by the American Association of Orthopaedic Surgeons (AAOS), I am writing you today regarding your response to the attached June 12th, 2019 letter to Daniel Logan, D.P.M. We are concerned the response expands podiatry scope of practice beyond what is allowed by the Ohio Administrative Code. To this end, the AAOS would like to echo the attached comments made recently by the American Orthopaedic Foot and Ankle Society in a June 27th, 2019 letter.

The AAOS is concerned that a scope of practice expansion, as potentially represented by this decision, would have the practical effect of putting Ohio patients at risk due to lack of podiatric training. Should you have any questions or additional concerns, please contact Catherine Hayes at Hayes@aaos.org.

Sincerely,



Kristy L. Weber, MD
President, American Association of Orthopaedic Surgeons

cc. Joseph A. Bosco, III, MD, AAOS First Vice-President
Daniel K. Guy, MD, AAOS Second Vice-President
Thomas E. Arend, Jr., Esq., CAE, AAOS Chief Executive Officer
William Shaffer, MD, AAOS Medical Director
Graham Newson, AAOS Director of Government Relations

June 27, 2019

State Medical Board of Ohio
30 E. Broad Street, 3rd floor
Columbus, OH 42315

Dear Members of the State Medical Board of Ohio:

I am writing on behalf of the 2,320 members of the American Orthopaedic Foot and Ankle Society ("AOFAS"), 43 of whom are licensed physicians in the State of Ohio. We would like to comment on the attached June 12, 2019 letter written by Bruce R. Saferin, D.P.M. on behalf of the State Medical Board of Ohio ("Board") to Daniel Logan, D.P.M. We believe that two of the five responses expand podiatry scope of practice beyond what is allowed by the Ohio Administrative Code, and request that the Board reconsider these opinions for the reasons set forth below and in the interest of patient safety.

Question #2:

We agree with the Board's ruling with respect to question #2:

The proximal tibia is not within the definition of "foot." In addition, a bone graft requires an incision at the donor site so that bone may be removed at the donor site. This minor surgical procedure at the proximal tibia also does not constitute the use of a preparation, medicine, or drug for the surgical treatment of the foot. Accordingly, harvesting of a bone graft from the proximal tibia to be used for foot and ankle surgery is not within the podiatric scope of practice as defined in the Ohio Revised Code and Ohio Administrative Code.

However, we would disagree with the Board's characterization of proximal tibial bone graft harvesting as a "minor surgical procedure" as potential complications include osteomyelitis, fracture, wound dehiscence and infection, and nerve injury.

Questions #4 and 5:

With respect to the Board's ruling on questions #4 and 5, while we do not believe that the hand should be considered within podiatry scope of practice by any anatomic definition, we agree that the rulings are consistent with the Ohio Administrative Code.

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We disagree with the Board's ruling with respect to question #1:

The tibial plafond forms the articular surface of the distal tibia. The distal tibia and fibula act as the socket for the talus. Accordingly, a supramalleolar osteotomy of the tibia or fibula constitutes ankle surgery, as defined in Rule 4731-20-02, OAC, and is within the podiatric scope of practice of an appropriately trained podiatric physician when performed in compliance with Rule 4731-20-02, OAC, and within the minimal standards of care.

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While the Ohio Administrative Code defines the ankle joint as including the medial, lateral and posterior malleoli as well as the tibial plafond, it clearly does ***not include*** the tibial and fibular bone proximal to the malleoli, which is the location where supramalleolar osteotomy surgery is performed. Noting that the tibial plafond forms the articular surface of the distal tibia and that the distal tibia and fibular act as the socket for the talus does not change the anatomical facts.

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We disagree with the Board’s ruling with respect to question #3:

The harvesting of bone marrow aspirate does not require an incision but is performed by insertion of a needle into the cortex. The aspirate is typically mixed with an anticoagulant to prevent clotting and allow for concentration of the desired components or could be mixed with products such as bone chips to comprise an autograft equivalent.¹ The Medical Board understands that the harvesting of bone marrow aspirate is a component of podiatric training, whether in podiatric medical school, residency, or continuing education. It is clear that an appropriately trained podiatrist may aspirate bone marrow from the foot. The expertise and skills needed to aspirate bone marrow are not dependent upon the donor site because the same skills and principles must be applied whether the site is on the foot or proximal tibia. Accordingly, harvesting bone marrow aspirate from the proximal tibia to be used for foot and ankle surgery is within the scope of practice of an appropriately trained podiatric physician.

1. http://www.podiatryinstitute.com/pdfs/Update_2012/2012_22.pdf

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Second, surgical procedures can be performed percutaneously without a knife making a skin incision, using just a needle to aspirate or cut tissue (i.e., carpal tunnel release with an ultrasound guided percutaneous needle <https://www.ncbi.nlm.nih.gov/pubmed/22922613>). Similar to the harvesting of

proximal tibial bone graft, in bone marrow aspirate, the skin, subcutaneous tissue, and tibial bone cortex are penetrated and autologous tissue removed for reimplantation in another part of the body. Using a different surgical technique to harvest proximal tibial bone marrow cells from an anatomical area outside podiatry scope of practice does not change the legislative intent or meaning of Section 4731.51, Ohio Revised Code, and Rules 4731-20-01 and 4731-20-02, Ohio Administrative Code.

Third, the expertise and skills needed to aspirate bone marrow are dependent upon the donor site. An appropriately trained podiatrist can dissect down to the foot or ankle to place the trochar or needle against the calcaneus, tibial plafond, or malleolus. Even if the procedure was performed with a needle directly through the skin, an appropriately trained podiatrist can address any acute or secondary complications in the foot and ankle secondary to the procedure including fracture, infection, and bleeding. This is not the case for the proximal tibia per the Ohio Administrative Code. It is also not the case for other potential bone marrow aspiration sites such as the iliac crest and vertebral body, which are all outside the scope of practice for podiatry. However, applying the Board's reasoning, bone marrow aspirate from the iliac crest, vertebral body, and any other bone in the body would be within Ohio podiatry scope of practice. We do not believe this result is consistent with the Ohio Administrative Code.

Finally, the expertise and skills required to perform a surgical procedure are also dependent on the site. The expertise and skills required to surgically fix a fracture involving the knee, the femoral shaft, the pelvis, or the shoulder differ in many ways, including relevant anatomy and biomechanics, than for a fracture of the foot. We believe performance of such surgical procedures without the requisite expertise and skill and understanding of the relevant anatomy and biomechanics of those surgical sites, poses a risk to patients.

Summary:

For the above reasons, we ask the Board to reconsider its conclusions, or at the minimum, stay the effectiveness of its opinion that it is permissible for podiatrists in Ohio to perform supramalleolar osteotomies of the tibia or fibula and harvest proximal tibial bone aspirate, pending additional investigation and public comment. We are concerned that these decisions are inconsistent with the Ohio Administrative Code and may have the practical effect of putting patients at risk.

Sincerely,



J. Chris Coetzee, MD
President, American Orthopaedic Foot & Ankle Society

cc. Ohio State Medical Association
Ohio Orthopaedic Society



June 12, 2019

Daniel Logan, D.P.M.
Foot & Ankle Specialists of Central Ohio
426A Beecher Road
Gahanna, OH 43230

Dear Dr. Logan:

This letter is in response to yours inquiring whether five procedures are within the scope of practice of an Ohio licensed podiatric physician. A copy of your March 25, 2019 letter is enclosed. You inquire as follows:

1. Is it permissible for a podiatrist in Ohio to perform a supramalleolar osteotomy of the tibia or fibula to correct a deformity?
2. Is it permissible for a podiatrist in Ohio to harvest a bone graft from the proximal tibia to be used for foot and ankle surgery?
3. Is it permissible for a podiatrist in Ohio to harvest bone marrow aspirate from the proximal tibia?
4. Is it permissible in Ohio for a podiatrist to surgically remove ingrown nails from the hands?
5. Is it permissible in Ohio for a podiatrist to surgically excise warts from the hands?

At its June 12, 2019 meeting, the State Medical Board of Ohio approved the following response to your inquiry.

The scope of practice of podiatry is set out in Section 4731.51, Ohio Revised Code ("ORC"), and Rules 4731-20-01 and 4731-20-02, Ohio Administrative Code ("OAC") as follows:

Section 4731.51, ORC:

- The medical, mechanical, and surgical treatment of ailments of the foot, the muscles and tendons of the leg governing the functions of the foot; and superficial lesions of the hand other than those associated with trauma. Podiatrists are permitted the use of such preparations, medicines, and drugs as may be necessary for the treatment of such ailments.
- Treatment of the local manifestations of systemic diseases as they appear in the hand and foot, but the patient shall be concurrently referred to a doctor of medicine or a doctor of osteopathic medicine and surgery for the treatment of the systemic disease itself.
- General anaesthetics may be used under this section only in colleges of podiatric medicine and surgery in good standing with the state medical board and in hospitals approved by the joint commission or the American osteopathic association.
- Hyperbaric oxygen therapy may be ordered by a podiatrist to treat ailments within the scope of practice of podiatry as set forth in this section and, in accordance with section

4731.511 of the Revised Code, the podiatrist may supervise hyperbaric oxygen therapy for the treatment of such ailments.

Rule 4731-20-01, OAC, defines "foot" as follows:

"Foot," as used in section [4731.51](#) of the Revised Code, means the terminal appendage of the lower extremity and includes the ankle joint which consists of the tibial plafond, its posterolateral border (posterior malleolus), the medial malleolus, distal fibula (lateral malleolus) and the talus.

Rule 4731-2-02, OAC, authorizes a podiatric physician to perform surgery on the ankle joint in compliance with the rule.

Applying the statute and rules to your specific questions results in the following determinations:

1. Performance of a supramalleolar osteotomy of the tibia or fibula to correct a deformity

The tibial plafond forms the articular surface of the distal tibia. The distal tibia and fibula act as the socket for the talus. Accordingly, a supramalleolar osteotomy of the tibia or fibula constitutes ankle surgery, as defined in Rule 4731-20-02, OAC, and is within the podiatric scope of practice of an appropriately trained podiatric physician when performed in compliance with Rule 4731-20-02, OAC, and within the minimal standards of care. Finally, whether a podiatrist may perform the surgeries at a specific hospital or ambulatory surgical center is solely a matter of credentialing and privileging decisions.

2. Harvest of a bone graft from the proximal tibia to be used for foot and ankle surgery

The above statute and rules provide that a podiatric physician may perform surgical treatment of the ailments of the foot, which includes the ankle, and may use such preparations, medicines, and drugs as may be necessary. The proximal tibia is not within the definition of "foot." In addition, a bone graft requires an incision at the donor site so that bone may be removed at the donor site. This minor surgical procedure at the proximal tibia also does not constitute the use of a preparation, medicine, or drug for the surgical treatment of the foot. Accordingly, harvesting of a bone graft from the proximal tibia to be used for foot and ankle surgery is not within the podiatric scope of practice as defined in the Ohio Revised Code and Ohio Administrative Code.

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Although the inquiry did not specify, this response is based upon the assumption that the bone marrow would be used for foot and ankle surgery. The harvesting of bone marrow aspirate does not require an incision but is performed by insertion of a needle into the cortex. The aspirate is typically mixed with an anticoagulant to prevent clotting and allow for concentration of the desired components or could be mixed with products such as bone chips to comprise an autograft equivalent.¹ The Medical Board understands that the harvesting of bone marrow aspirate is a component of podiatric training, whether in podiatric medical school, residency, or continuing education.

It is clear that an appropriately trained podiatrist may aspirate bone marrow from the foot. The expertise and skills needed to aspirate bone marrow are not dependent upon the donor site because the same skills and principles must be applied whether the site is on the foot or proximal tibia. Accordingly, harvesting bone marrow aspirate from the proximal tibia to be used for foot and ankle surgery is within the scope of practice of an appropriately trained podiatric physician. The podiatric physician must perform the procedure in conformance with the minimal standards of care of similar practitioners under the same or similar circumstances. Finally, whether a podiatrist may perform the surgeries at a specific hospital or ambulatory surgical center is solely a matter of credentialing and privileging decisions.

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Thank you for your inquiry. Should you have questions concerning this response, please contact Sallie Debolt, Senior Counsel at Sallie.Debolt@med.ohio.gov.

Respectfully,



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

The information in this letter should not be interpreted as being all inclusive or exclusive. The Medical Board will review all possible violations of the Medical Practices Act and/or rules promulgated there under on a case by case basis.

¹ "Bone Marrow Aspirate: Science and Application in Foot and Ankle Surgery," McGlamry, Michael C., DPM, http://www.podiatryinstitute.com/pdfs/Update_2012/2012_22.pdf.

BONE MARROW ASPIRATE: Science and Application in Foot and Ankle Surgery

Michael C. McGlamry, DPM

Bone marrow aspirate (BMA) has been used as an adjunct in bone and soft tissue healing throughout the body. Specifically there have been numerous publications in recent history analyzing its application in foot and ankle surgery. In a recent article published by Hatzokos and colleagues, their analysis illustrated just how significant the healing potential of BMA may be. In the study, the group looked retrospectively at the historically problematic docking site with bone transport. They compared compression to debridement and autogenous iliac crest bone grafting, to debridement and grafting with BMA concentrate mixed with fiber-based demineralized bone matrix (DBM) putty and found the greatest success with the BMA DBM group.

In its simplest iteration BMA is harvested percutaneously from a cancellous-rich site such as the iliac crest, proximal tibia, or calcaneus utilizing a bone marrow needle and large-gauge syringe. Typically the BMA is mixed with an anticoagulant to prevent clotting and allow for further enhancement by concentration of active desired components such as mesenchymal stem cells (MSCs), hematopoietic stem cells (HSCs) and endothelial progenitor cells (EPCs) using one of the available systems for BMA concentration. The surgeon should have a clear understanding of the yield from different devices as well as recognize which systems ultimately give the greatest number of viable cells. The systems available will concentrate anywhere from 3-8 times baseline and may actually separate via different methods with varying results.

It has been shown that the relative number of available stem cells is highest centrally in locations such as the iliac crest. Jia, Peters, and Schon found that the concentration at the proximal tibia level has been shown to be approximately 40% of the level found in the iliac crest however the growth factor concentration was similar. However, a high quality concentrate may still be obtained with numerous small aspirations and multiple repositionings of the aspiration needle in the proximal tibial metaphysis.

The number of stem cells has been noted to decrease with patient age, but without statistically significant deviation between men and women. Hernigou et al established the importance of achieving a concentration of $>1,500$ progenitor cells/ml in achieving successful consolidation of

established nonunions and noted that without concentration this level was rarely seen in the baseline aspirate.

Concentration of the desired stem cells is accomplished most commonly by processing with a 2 stage centrifugation system. This process yields a low volume high concentration product that can be directly administered by injection to a defect or nonunion site, or mixed with other products such as DBM, bone chips, or other carriers to generate a relative autograft equivalent.

TECHNIQUE

To obtain the greatest available concentration of MSC's within the author's scope, without the necessity of going to the iliac crest, the proximal tibia has been most frequently utilized (Figure 1). In most patients this has been able to yield 30-40 cc of BMA with little difficulty.

Several tips for a good aspiration should be observed. First the BMA should be obtained at the beginning of the case, prior to inflation of the tourniquet and prior to incision or other insult that would initiate the inflammatory cascade, which might attract desired cells away from the aspiration site. This allows the BMA concentrate (BMAC) to be processed and ready to use when that point of the procedure is reached. Some surgeons have expressed concern over the delay between aspiration/processing and



Figure 1. Bone marrow aspirate needle being driven through the cortex to start the aspiration procedure. This is performed prior to the start of the reconstructive procedure.

use. Although the concern is logical, the BMAC has been shown to be viable and stable for longer than 4 hours

Once the cortex of the harvest site has been penetrated, the harvesting procedure is begun. For the aspiration itself, it is best to use a negative plunging method of 3-4 plunges per location prior to repositioning the tip of the needle so as to limit the amount of venous blood pulled into the sample (Figure 2). Volume at each level should ideally be limited to no greater than 2 mls. This ultimately prevents dilution of the MSCs with peripheral venous blood. Muschler et al demonstrated that increasing the local aspirate volume from 1 to 4 mls ultimately resulted in a 50% decrease in the overall number of alkaline phosphatase positive colonies, which was correlated with a decrease in the number of osteoblast progenitor cells present.

Various techniques have been described of either driving the trochar/needle into deep position and then withdrawing with serial aspirations or the opposite with initial aspiration after penetrating the cortex followed by tapping the needle progressively deeper for follow-up aspirations. The technique utilized as well as the degree of repositioning necessary will be affected by the aspiration needle selection, i.e., a needle with a single opening at the tip may require less angular reorientation while a needle with an open tip and side fenestrations will more easily draw the desired volume at each repositioning but will require greater angular reorientation to reach fresh or untapped marrow (Figure 3). Ultimately the needle utilized is based on surgeon preference and availability.

After the aspirate has been obtained, the syringe is passed off to the technician for processing. The concentration process typically takes about 30 minutes and generally yields about 10% of the original volume as BMAC (Figure 4). For the typical draw of 35 ccs (40 ccs total less the 5 ccs ACDA) the process typically yields about 4 ccs.

APPLICATIONS

The use of BMAC has been widely published in recent literature with applications ranging from percutaneous treatment of nonunions and unicameral bone cysts to open surgical applications where BMA is used independently at closure or combined with other carriers such as DBM's, allograft blocks, autograft, or synthetic bone graft substitutes, in efforts to manipulate the biology of the local healing environment (Figures 5, 6, 7).

In summary BMAC is a simple, technologically-sound method of enhancing the healing in procedures where biology is compromised such as Charcot reconstruction or even in isolated ankle fusion procedures in compromised hosts such as diabetic patients or smokers.

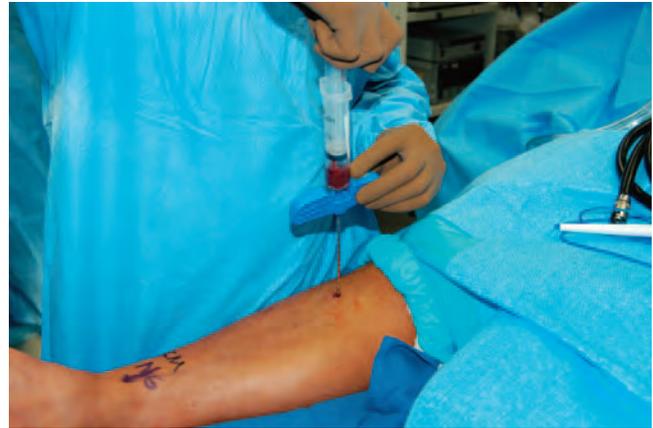


Figure 2. Aspiration of the proximal tibial bone marrow. Negative plunging is evidenced by the vacuum space above the BMA in the syringe.



Figure 3. After the first series of aspirations, the needle is withdrawn and is now being reinserted about 30 degrees off of the initial aspiration track. Care should be taken when reorienting proximally as seen here, to be keenly aware of the proximity to the knee joint so as to avoid inadvertent violation of the knee.



Figure 4. BMAC after the platelet poor fraction has been aspirated.



Figure 5. BMAC is combined with autologous milled cortical bone and fiber DBM with corticocancellous chips thus delivering all desirable graft properties in a high risk revision Charcot ankle/hindfoot fusion.

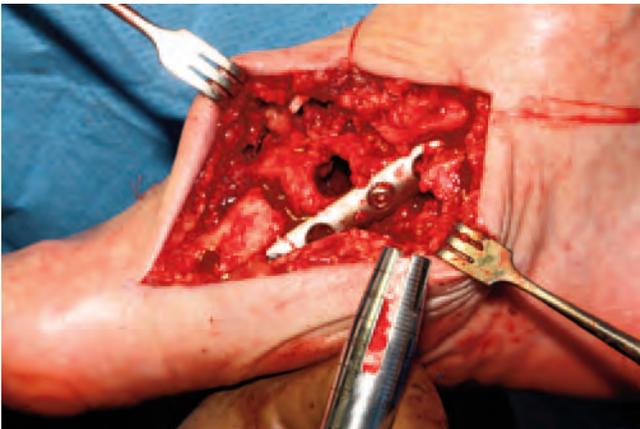


Figure 7. Midfoot Charcot reconstruction with all fixation in place and BMAC soaked synthetic allograft composite dowel about to be delivered to enhance midfoot arthrodesis biology.



Figure 6. Postoperative radiograph with BMA and DBM in place around final hardware construct.

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*Bringing physicians together
for a healthier Ohio*

July 9, 2019

Michael Schottenstein, MD
President
State Medical Board of Ohio
30 East Broad Street, 3rd Floor
Columbus, Ohio 43215

Dear Dr. Schottenstein:

The Ohio State Medical Association (OSMA), on behalf of approximately 15,000 Ohio physicians, would like to address the board's recent letter to Daniel Logan, DPM that clarified an Ohio podiatrist's scope of practice.

Since the board's publication of the letter, the OSMA has heard from several physician members and various representatives from national medical associations who are concerned that the medical board's interpretation of Ohio law has the potential to expand a podiatrist's scope of practice beyond the intent of Ohio law. Most importantly, those who have commented to the OSMA feel that the board's decision to allow a podiatrist to perform a supramalleolar osteotomy of the tibia or fibula and the harvesting of bone marrow from the proximal tibia could pose a risk to Ohio's patients.

It has come to our attention that the board's licensure committee discussed this matter without input from the orthopedic physician member of the medical board. The OSMA feels that in order to have a robust and unbiased discussion of this issue, both the podiatrist member of the board and the orthopedic surgeon member of the board should have had the opportunity to voice any support or concerns before the full board voted on the matter.

The OSMA requests that the board reconsider this matter and, at the very least, allow discussion from all members of the board who have experience in this area of medicine.

We appreciate your consideration of this issue. If you have any questions, please contact Jennifer Hayhurst, the OSMA's Director of Regulatory Affairs, at 614-527-6766.

Sincerely,

Susan L. Hubbell, MD
President
Ohio State Medical Association

C: Todd Baker, CEO, Ohio State Medical Association
OSMA Council
Steve Landerman, Executive Director, Ohio Orthopaedic Society

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OHIO PODIATRIC MEDICAL ASSOCIATION, DBA
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July 30, 2019

Dr. Michael Schottenstein, President
State Medical Board of Ohio
30 East Broad Street, 3rd Floor
Columbus, OH 43215

MEDICAL BOARD

JUL 31 2019

Dear Dr. Schottenstein:

The Ohio Foot and Ankle Medical Association ("OHFAMA"), which represents 660 Ohio podiatric physician members, would like to address a recent letter from Susan L. Hubbell, M.D., President of the Ohio State Medical Association ("OSMA"), regarding podiatrist scope of practice matters.

At the June 12, 2019 Board meeting, the Board's Licensure Committee consisting of both allopathic and podiatric physicians debated and *unanimously* approved a response to an inquiry submitted by Daniel Logan, D.P.M., asking whether five procedures are within the scope of practice of an Ohio-licensed podiatrist.

The Licensure Committee's public agenda was distributed in advance of the June 12 meeting to allow for ample opportunity for either in-person or written testimony from stakeholders. Nonetheless, the Licensure Committee was not provided with any in-person or written testimony in opposition of the Board's response. Representatives of OHFAMA were in attendance to answer any questions that were to arise, including a current attending physician/former residency director at Grant Hospital who was present at the Licensure Committee meeting for the express purpose of providing expert input if needed. However, such expertise was not required as the committee members debated the Board's response and came to their unanimous conclusion.

Later during the June 12, 2019, Board meeting, the full Board followed the Licensure Committee's lead and *unanimously* approved the Board's response to Dr. Logan's inquiry. Despite having abundant chances to comment prior to the Board's vote, OSMA now asks the Board to revisit Dr. Logan's inquiry. Such an action would involve the Board reopening a matter that was previously decided upon by the entire Board in a unanimous fashion months earlier. This request is not based on any legal precedent and would contradict years of established Board policy and procedure. Moreover, OSMA's proposed action would call into question all matters voted upon by the full Board because each decision could be subject to another review at some undetermined point in the future.

OSMA's position will also cause severe disruption to podiatrists across the State of Ohio. After the Board approved the response to Dr. Logan's inquiry, OHFAMA informed its entire membership of the Board's response by sending a copy of the actual response to all OHFAMA members. Not only have some OHFAMA members begun to incorporate these procedures into their practices, but our members have started listing the procedures approved by the Board in applications for credentials and malpractice insurance.

Furthermore, OSMA's statement regarding risk to patients if podiatrists perform the listed procedures is incorrect. In 1996, Ohio podiatric physicians received ankle privileges from the Board with no reported incidents of patient harm to date. Additionally, podiatric physicians must successfully complete four years of graduate medical school, followed by successful completion of a three-year residency program exclusively in foot and ankle medicine and surgery. Thus, podiatric physicians have seven years of integrated foot and ankle training. Podiatrists are also credentialed in forefoot or rear foot and ankle by the American Board of Foot and Ankle Surgeons (ABFAS). To further demonstrate the knowledge and training podiatric physicians receive concerning the procedures noted in OSMA's letter, I would also draw the Board's attention to enclosed correspondence from Duane J. Ehredt, Jr., D.P.M., Associate Professor at the Kent State College of Podiatric Medicine, and Kathryn A. Schramm, D.P.M., Program Director for the Podiatric Medicine and Surgery Residency at MercyHealth.

In summary, further reconsideration is not required. We appreciate the Board's *timely unanimous decision* to address Dr. Logan's questions. If you have any questions, please contact Jimelle Rumberg, Ph.D., the OHFAMA executive director at 614.457.6269 or jrumberg@ohfama.org.

With professional regard,

A handwritten signature in black ink, appearing to read 'T. Loftus', written in a cursive style.

Todd Loftus, DPM
President

C. OHFAMA Board of Trustees

Bruce R. Saferin, DPM, Licensure Committee Chair



July 25, 2019

Letter of Clarification for OHFAMA

Dear OHFAMA Executive Director:

There has been recent clarification at the state level pertaining to the podiatric surgeon's scope of practice. Of particular interest are the clarifications regarding bone grafting and harvesting of bone marrow aspirate (BMA) from the proximal tibia. It has come to my attention that the state has questioned whether these types of techniques are taught to the podiatric medical student/resident. This letter is written to help clarify the podiatric medical student/resident's formal education and experience with these techniques.

I currently serve as a full-time faculty member at the Kent State University College of Podiatric Medicine as well as teaching faculty of both St. Vincent Charity Medical Center and University Hospital's podiatric surgery residency programs. Bone grafting techniques including percutaneous harvest of BMA is formally taught within the Intro to Podiatric Surgery and Podiatric Surgery II courses. Additionally, students and residents are exposed to these techniques within the surgical theatre and cased-based lectures/presentations. Podiatric Surgical residents perform these procedures under the direct supervision of both board-certified podiatric surgeons and orthopedic surgeons.

If per chance you have any specific questions, please feel free to call me directly at my office 216-916-7450, or email at dehredt@kent.edu.

Very Respectfully,

A handwritten signature in black ink, appearing to read "Duane J. Ehredt Jr.", written over a white background.

Duane J. Ehredt Jr., DPM, FACFAS
Associate Professor, Division of Foot/Ankle Surgery and Biomechanics
Kent State University College of Podiatric Medicine
Fellow American College of Foot and Ankle Surgeons

Podiatric Surgeon and Teaching Faculty
Saint Vincent Charity Medical Center
University Hospitals Richmond Medical Center

Lieutenant United States Navy Reserve
Medical Service Corps
EMF Great Lakes Detachment A

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St. Anne Hospital
St. Charles Hospital
St. Vincent Medical Center
Children's Hospital
Defiance Hospital
Tiffin Hospital
Willard Hospital

July 30, 2019

Jimelle Rumberg, Ph.D., CAE
Ohio Foot and Ankle Medical Association
1960 Bethel Road, Suite 140
Columbus, OH 43220

Dear Dr. Rumberg,

I am writing in support of the recent unanimous vote by the State Medical Board of Ohio that affirms bone marrow aspiration from the proximal tibia and supramalleolar osteotomy of the tibia or fibula to correct a deformity as procedures that are included within our DPM scope of practice. The podiatric community has been surgically treating ankle pathology for over twenty years and the procedures mentioned above have increased our ability to provide for our patients.

Current applications of bone marrow aspiration include augmentation of grafts used at fusion sites, comminuted fractures, and hindfoot deformity corrections. The faculty members at Mercy Health – St. Vincent Medical Center provide residents with the hands-on education and training that produces podiatric physicians able to integrate bone marrow aspiration into their daily practice.

Regarding supramalleolar osteotomy of the tibia or fibula to correct a deformity:

- Residency training at our institution is comprehensive. Our residents rotate with Orthopedic Surgery and are exposed to osteotomies and deformity corrections throughout the body.
- Podiatry is the primary specialty involved in Charcot reconstruction. By permitting podiatrists to perform supramalleolar osteotomy, patients are provided continuous and comprehensive treatment of their deformity.
- In addition to Mercy Health's training program, podiatrists also complete education and training for such procedures via professional organizations and board certifications.

The Board's recent action ensures that patients will continue to receive the benefit of these procedures from trained, expert podiatrists. Please do not hesitate to share this letter with Board representatives or other interested parties, because this issue is of the utmost importance to the podiatry profession.

Best regards,

A handwritten signature in blue ink that reads "Kathryn A. Schramm DPM".

Kathryn A. Schramm, DPM
Program Director, Podiatric Medicine and Surgery Residency



**State Medical Board of Ohio Meeting Minutes
September 11, 2019**

Michael Schottenstein, M.D., President, called the meeting to order at 9:50 am in the Administrative Hearing Room, 3rd floor of the Rhodes Office Tower, 30 East Broad Street, Columbus, Ohio 43215 with the following members present: Richard Edgin, M.D., Vice President; Kim G. Rothermel, M.D., Secretary; Bruce R. Saferin, D.P.M., Supervising Member; Michael Gonidakis, Esq.; Amol Soin, M.D.; Robert P. Giacalone, R.Ph., J.D.; Mark A. Bechtel, M.D.; Betty Montgomery; Sherry Johnson, D.O.; Harish Kakarala, M.D.; and Jonathan Feibel, M.D.

Dr. Soin was not present when the meeting commenced.

MINUTES REVIEW

Motion to approve the minutes of the August 14, 2019 Board meeting, as drafted.

Motion	Dr. Bechtel
2 nd	Dr. Kakarala
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Mr. Gonidakis	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

APPLICANTS FOR LICENSURE

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

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

Motion	Dr. Edgin
2 nd	Dr. Saferin
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y

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Dr. Johnson	Y
Dr. Kakarala	Y
Mr. Gonidakis	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

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

Motion	Dr. Saferin
2 nd	Dr. Kakarala
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Mr. Gonidakis	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

REPORTS AND RECOMMENDATIONS

Dr. Schottenstein asked the Board to consider the Reports and Recommendations appearing on the agenda. He asked if each member of the Board received, read and considered the Hearing Record; the Findings of Fact, Conclusions and Proposed Orders; and any objections filed in the matters of: Roger Todd Adler, M.D.; Asad Syed Ali, M.D.; Muhammed Nasher-Alneam, M.D. and Steven Zizzo, M.D. A roll call was taken:

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

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

State Medical Board of Ohio Meeting Minutes – September 11, 2019

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

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

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

Roger Todd Adler, M.D.

Dr. Schottenstein directed the Board's attention to the matter of Roger Todd Adler, M.D. No objections have been filed. Ms. Lee was the Hearing Examiner.

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

Motion	Dr. Kakarala
2 nd	Dr. Edgin

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

Dr. Schottenstein stated that Dr. Adler acknowledges the behavior for which he has been cited, but there are multiple mitigating factors:

- Dr. Adler does not have a prior disciplinary record.
- Dr. Adler did not have a dishonest or selfish motive.
- This is an isolated incident that is unlikely to recur.
- Dr. Adler has made full and free disclosure to the Board.
- Dr. Adler has been compliance with his Consent Order from the Illinois Department of Financial and Professional Regulation
- Dr. Adler has expressed remorse.
- There was no adverse impact of Dr. Adler's conduct on others.
- The New York State Department of Health decided to take no further action against Dr. Adler.

State Medical Board of Ohio Meeting Minutes – September 11, 2019

Dr. Schottenstein opined that the Proposed Order is similar to the Illinois order and is a fair response to Dr. Adler's behavior.

Ms. Montgomery agreed with Dr. Schottenstein's comments. Ms. Montgomery noted that there was a ten-month gap between the issuance of Dr. Adler's Notice of Opportunity for Hearing and the time that his hearing was actually held. Ms. Anderson stated that while she was not familiar with the scheduling details of this particular case, the Board does have case management schedules and timeframes for each type of case. Ms. Anderson stated that she can provide the case management schedule documents for Ms. Montgomery's review. Ms. Montgomery commented that the Board should move with appropriate haste and the Board has a responsibility to handle cases in a timely fashion.

Vote on Dr. Kakarala's motion to approve and confirm:

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

The motion carried.

Asad Syed Ali, M.D.

Dr. Schottenstein directed the Board's attention to the matter of Asad Syed Ali, M.D. Objections have been filed and were previously distributed to Board members. Mr. Porter was the Hearing Examiner.

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

Dr. Ali was represented by his attorney, Elizabeth Collis.

Ms. Collis stated that in 20 years of an otherwise unblemished career, Dr. Ali made two errors four-and-a-half years ago. First, Dr. Ali pre-signed prescriptions that he maintained in his home and his car. Second, on one occasion when contacted by a pharmacist, Dr. Ali authorized a prescription that he had not written. Ms. Collis stated that Dr. Ali fully cooperated with the Board's investigators and testified throughout the hearing that he had had no idea that his ex-girlfriend, who was also the mother of his child, had been stealing his prescriptions and obtaining medications for herself until he was contacted by a pharmacist and a Medical Board investigator. Ms. Collis noted that in closing arguments, both she and the Assistant Attorney General observed similarities with the case of Matthew Colflesh, M.D., in which the Board imposed a reprimand and probation. Ms. Collis asked the Board to impose a sanction that would allow Dr. Ali to continue to practice medicine in Ohio.

Dr. Ali stated that in his 20 years of practice, he never would have envisioned himself being called before the Medical Board and it has been a humbling experience. Dr. Ali stated that throughout his career he has always prided himself on his strong work ethic and he appreciates the accolades he has received from colleagues and patients. However, Dr. Ali admitted that he has not always made the best choices in his personal life.

State Medical Board of Ohio Meeting Minutes – September 11, 2019

Dr. Ali continued that in 2006 he entered into a relationship with a nurse, Lindsay Gleckler. Ms. Gleckler became pregnant and although Dr. Ali wanted to make it work, the relationship was strained. Dr. Ali stated that he stayed in the relationship for his son, but things did not work out. Dr. Ali stated that he knew little about addiction at that time, but he has learned a great deal about it in the last several years. Dr. Ali stated that when you are in a relationship with an addict, you do not see the extent of it and you lose perspective. Dr. Ali had thought that when Ms. Gleckler sought treatment, she was cured. Dr. Ali had wanted to believe the Ms. Gleckler was clean.

Dr. Ali stated that through counseling, he has come to understand his role in what took place. Dr. Ali learned that he had used rationalization and avoidance to deal with Ms. Gleckler, and he compartmentalized things to help cope with the situation. Dr. Ali had believed many of Ms. Gleckler's lies because he had not wanted to cause problems in the relationship. Things got worse when Dr. Ali and Ms. Gleckler separated in 2014.

Dr. Ali continued that in his zeal to be efficient, he began pre-signing prescriptions. Dr. Ali stated that this was wrong and he took full responsibility for not securing his prescriptions and leaving them in his home and his car. Dr. Ali stated that he never suspected or expected that Ms. Gleckler would relapse and steal his prescriptions. Dr. Ali stated that when he received a call from a pharmacist, he erred by authorizing the prescription. Dr. Ali stated that this was wrong and he should have advised the pharmacist that he had not written the prescription. Dr. Ali stated that he felt sick when he got that call, but he panicked and all he could think about was his son's safety. Dr. Ali had simply wanted to get off the phone as quickly as possible so he could make sure his child was safe and question Ms. Gleckler about the situation.

Dr. Ali stated that when he was contacted by the pharmacist, that was the first time he realized there was a problem. Dr. Ali had never received calls in the past about fraudulent prescriptions, and he had not realized the number of fraudulent prescriptions Ms. Gleckler had used until he met with a Medical Board investigator a few weeks later.

Dr. Ali wished he could turn back time and do things differently, but he has learned many valuable lessons from this unfortunate experience. Dr. Ali admitted that he had pre-signed prescriptions and on one occasion he authorized a prescription for Ms. Gleckler when contacted by a pharmacist. Dr. Ali stated that until that call, he had no idea that his prescriptions were being used by Ms. Gleckler.

Dr. Ali stated that many people depend on him, noting that he supports his parents, his two children from a previous marriage, and his son. Dr. Ali asked for leniency and asked the Board to impose a sanction that would allow him to continue to practice medicine and provide for his family.

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

Ms. Snyder stated that 118 of Dr. Ali's pre-signed prescriptions were filled within one year, which is an average of about ten fraudulent prescriptions per month. The prescriptions add up to over 10,000 tablets of oxycodone 30 mg, 900 tablets of Adderall, and 240 tablets of oxycontin, averaging about 800 pills per month. Ms. Snyder observed that State's Exhibit 4 includes at least four different notes from pharmacists who contacted Dr. Ali and Dr. Ali instructed them to fill the prescription, even though it was for someone who was not his patient.

Ms. Snyder stated that that much medication being pumped into the community is reckless and Dr. Ali did it knowingly. Dr. Ali testified that he approved a fraudulent prescription for 120 oxycodone 30 mg for his ex-girlfriend, who was a drug addict. Dr. Ali never reported this action, never investigated, and never checked the Ohio Automated Rx Reporting System (OARRS). Ms. Snyder commented that it is difficult to believe Dr. Ali's claims of ignorance because not only had he known for years that his ex-girlfriend was an addict, but he was also a hospitalist who works nights and was well-aware of signs of drug-seeking behavior.

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Ms. Snyder stated that upon reviewing her closing arguments at Dr. Ali's hearing, she was bothered by two things. First, Ms. Snyder commented that it was difficult during the hearing to reconcile the egregious facts of this case with the character witnesses who testified that Dr. Ali was a great physician. Ms. Snyder had stated in the closing arguments that Dr. Ali was a fabulous physician. Ms. Snyder stated that Dr. Ali is not a fabulous physician because a fabulous physician does not allow this to happen. Second, Ms. Snyder had referenced the case of Matthew Colflesh, M.D. Dr. Colflesh had been working in comfort care and had been pre-signing prescriptions to allow his nurses to use them in a hospice setting. Ms. Snyder stated that in contrast to the Dr. Colflesh case, Dr. Ali had enabled a woman for a year and she lost her freedom, her child, and her career.

Ms. Snyder opined that the Board would be justified in accepting the Proposed Order to permanently revoke Dr. Ali's license and levy a fine of \$17,000. Ms. Snyder felt that if the Board chooses to deviate from the Proposed Order, Dr. Ali at least deserved some sort of suspension

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

Motion	Dr. Feibel
2 nd	Dr. Kakarala

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

Dr. Feibel stated that this case disturbed him, noting that Dr. Ali pre-signed prescriptions and did not secure them. As a result of this year-long process, 10,000 tablets of oxycodone, 900 tablets of Adderall, and 240 tables of oxycontin were distributed inappropriately. Dr. Feibel was more disturbed that Dr. Ali had lied to a pharmacist and given authorization for a fraudulent prescription that had been presented by Dr. Ali's girlfriend who had a history of addiction. Dr. Ali also failed to record his authorization of the prescription. Dr. Feibel stated that this brings Dr. Ali's moral fiber into judgment. Dr. Feibel stated that while the first time could have been an innocent mistake, the second is an egregious act and constitutes a willful act to break the law no matter the explanation.

Dr. Feibel stated that the fact that Dr. Ali authorized a fraudulent prescription for a known addict leads him to agree with the Proposed Order of permanent revocation. Dr. Feibel opined that the case of Matthew Colflesh, M.D., which had been referenced by both the Assistant Attorney General and the defense counsel, had a completely different set of facts from Dr. Ali's case and was not relevant to Dr. Ali's case.

Ms. Montgomery stated that Dr. Ali seems to be a doctor who avoids conflict and, when confronted with difficulties, hides himself in work. Ms. Montgomery agreed with Dr. Feibel's comments, but she was unsure if permanent revocation was the appropriate sanction. Ms. Montgomery felt that a suspension of a substantial length, plus other requirements, may be more appropriate.

Mr. Giacalone agreed with Ms. Montgomery, stating that he had struggled with permanent revocation given the facts of Dr. Ali's case. Mr. Giacalone also agreed that this case is not the same as Dr. Colflesh's case and it deserves more than just a reprimand. Mr. Giacalone stated that prescriptions pre-signed by Dr. Ali were unintentionally diverted, but it involved someone he personally knew and was somewhat different from providing the prescriptions to strangers who then sell them on the streets. Mr. Giacalone stated that the quantities involved are significant and warrant a substantial sanction, but he questioned if permanent revocation was appropriate when other cases with a somewhat similar fact pattern have not resulted in permanent revocation. Mr. Giacalone suggested the possibility of a non-permanent revocation or a significant suspension.

Dr. Schottenstein, noting that Dr. Ali acknowledges the alleged behavior, stated that this case comes down to weighing mitigating and aggravating circumstances. Dr. Schottenstein observed the following mitigating circumstances:

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- Dr. Ali has no prior disciplinary history.
- Dr. Ali did not have a dishonest or selfish motive.
- Dr. Ali's behavior is very unlikely to recur.
- Dr. Ali has been cooperative and has made full and free disclosure to the Board.
- Dr. Ali has completed remedial coursework.
- Dr. Ali has expressed remorse.
- The conduct is remote in time.
- Dr. Ali corrected his misconduct after recognizing it.

However, Dr. Schottenstein appreciated the point that Dr. Ali should have reported his misconduct.

Dr. Schottenstein also observed the following aggravating circumstances:

- There were multiple violations of bad behavior.
- There were victims of Dr. Ali's behavior.
- Dr. Ali enabled and arguably worsened the addiction of his ex-girlfriend with his irresponsible choices and turned a blind eye to her issues by throwing himself into work.

Dr. Schottenstein noted that Dr. Ali's ex-girlfriend suffered incarceration and the loss of her nursing license, in addition to consequences suffered by Dr. Ali's family. Dr. Schottenstein stated that there are other victims, unnamed in our society at large, because a substantial quantity of controlled substances was diverted which arguably perpetuated the problem of addiction in society and caused societal harm. Dr. Schottenstein added that Dr. Ali's behavior was arguably reckless because he had known he should not be pre-signing blank prescriptions but did it anyway. Dr. Schottenstein further added that Dr. Ali had known that he should not have authorized the prescription that the pharmacist called about, but he did so anyway.

Based on the preceding, Dr. Schottenstein agreed with Ms. Montgomery and Mr. Giacalone, opining that the degree of mitigation is substantial enough to lead him to disagree with the Proposed Order of permanent revocation. Dr. Schottenstein disagreed with the defense counsel's recommendation of a reprimand because harm was done to known individuals and to society at large, and they deserved a measure of justice. Dr. Schottenstein suggested that an indefinite suspension of not less than six months or longer would be appropriate, along with a repeat of the controlled substance and documentation courses and probation to send upon completion of those courses. Mr. Giacalone suggested that a suspension of at least one year would be more appropriate, noting for perspective that Dr. Ali's ex-girlfriend had her nursing license suspended for two years. Dr. Schottenstein stated that he could agree to a minimum one-year suspension. Dr. Kakarala also agreed with Mr. Giacalone.

Dr. Feibel stated he was not comfortable with a suspension of only one year, citing the egregiousness of the case. Dr. Feibel reiterated that Dr. Ali knowingly authorized a fraudulent prescription and stated that Dr. Ali could have reported it after making sure his child was safe. Dr. Feibel stated that he would have trouble supporting anything short of permanent revocation, but he certainly would not support a suspension of only one year. Dr. Feibel felt that a suspension should be at least two years to match the suspension of his ex-girlfriend's nursing license, though Dr. Feibel was uncertain if he could support even that. Mr. Giacalone stated that he could support a two-year suspension. Mr. Giacalone stated that he does not defend Dr. Ali's actions, but noted that it may not have been so simple to report it considering the strong personal relationship involved between Dr. Ali and his ex-girlfriend who was also the mother of his child.

Dr. Soin entered the meeting at this time.

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Ms. Montgomery commented that the Board cannot order personal counseling in this case. However, Ms. Montgomery highly recommended that Dr. Ali seek personal counseling. Ms. Montgomery also noted that the investigation of this case began in 2015, which affected what witnesses could remember. Ms. Montgomery questioned why it took this case so long to reach the Board. Ms. Montgomery stated that if the delay was due to the Board not having enough hearing officers or enough investigators, then the Board should do something about that situation.

Motion to amend the Proposed Order to a minimum two-year suspension with conditions for reinstatement or restoration to include remedial courses in controlled substance prescribing and medical record-keeping, a five-year probationary period, and reduction of the fine to \$10,000:

Motion	Mr. Giacalone
2 nd	Dr. Kakarala
Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Soin	Abstain
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Abstain
Dr. Kakarala	Y
Mr. Gonidakis	Y
Ms. Montgomery	Y
Dr. Feibel	N
Dr. Bechtel	Y

The motion to amend carried.

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

Motion	Dr. Kakarala
2 nd	Mr. Giacalone
Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Soin	Abstain
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Abstain
Dr. Kakarala	Y
Mr. Gonidakis	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

Ms. Anderson, noting that Dr. Soin has entered the meeting, recommended that she ask Dr. Soin the two questions that the other Board members answered prior to consideration of the Reports and Recommendations. Dr. Schottenstein agreed.

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Ms. Anderson asked if Dr. Soin had received, read and considered the Hearing Record; the Findings of Fact, Conclusions and Proposed Orders; and any objections filed in the matters of: Muhammed Nasher-Alneam, M.D. and Steven Zizzo, M.D. Dr. Soin answered affirmatively.

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

Muhammed Nasher-Alneam, M.D.

Dr. Schottenstein directed the Board's attention to the matter of Muhammed Nasher-Alneam, M.D. No objections have been filed. Ms. Shamansky was the Hearing Examiner.

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

Motion	Dr. Johnson
2 nd	Dr. Kakarala

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

In the matter of Dr. Nasher-Alneam, Dr. Schottenstein stated that he appreciates that defense counsel's legal arguments, but he does not find them persuasive. The Board's statute, 4731.22(B)(22), Ohio Revised Code, only requires a formal action by another state medical board to trigger a bootstrap action. Dr. Schottenstein noted that there has clearly been a formal action by the West Virginia Board of Medicine and that formal action clearly resulted in a limitation on Dr. Nasher-Alneam's West Virginia medical license. Consequently, Dr. Schottenstein felt that the Board was well within its rights to take action on Dr. Nasher-Alneam's Ohio license.

Dr. Schottenstein opined that the Proposed Order, which would suspend Dr. Nasher-Alneam's Ohio license indefinitely until there is evidence of unrestricted licensure in West Virginia, is appropriate and reasonable.

Vote on the motion to approve and confirm:

Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Mr. Gonidakis	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

Steven Zizzo, M.D.

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Dr. Schottenstein directed the Board's attention to the matter of Steven Zizzo, M.D. No objections have been filed. Mr. Porter was the Hearing Examiner.

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

Motion	Dr. Soin
2 nd	Dr. Johnson

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

Dr. Schottenstein felt that Dr. Zizzo is a very sympathetic figure, so it was with regret that he intended to vote against approving Dr. Zizzo's license. Dr. Schottenstein stated that unlike other situations that have come before the Board, there is no provision for the Board to grant equivalency in this matter and the Board would be violating its own rule to approve licensure. Dr. Schottenstein expressed concern that if the Board makes an exception for Dr. Zizzo, it may open the door to making exemptions such that the rule becomes meaningless, leading to the loss of standardization and consistency. Dr. Schottenstein stated that, with regret, he will vote to approve the Proposed Order to deny Dr. Zizzo's application for licensure.

Mr. Giacalone agreed with Dr. Schottenstein, but suggested that the Board should consider seeking a statutory change to allow the Board to consider granting equivalency in such situations. Dr. Schottenstein agreed that that is something the Board can consider in the future. Dr. Soin also agreed with consideration, but observed that this particular case involves a telemedicine license and patient interactions in telemedicine are generally less robust than face-to-face visits. Mr. Giacalone noted that as of October 16, 2019, Section 4731.296, Ohio Revised Code, will be rescinded and all telemedicine licenses will be converted to regular medical licenses.

Vote on the motion to approve and confirm:

Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Mr. Gonidakis	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

PROPOSED FINDINGS AND PROPOSED ORDERS

Dr. Schottenstein stated that in the following matters, the Board issued Notices 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. 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 these matters, Dr. Rothermel served as Secretary and Dr. Saferin served as

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Supervising Member. In addition, Dr. Bechtel served as Secretary and/or Supervising Member in the matters of Dr. Manuel and Dr. Syed.

Kara Gottschalk, L.M.T

Motion to find that the allegations as set forth in the March 13, 2019 Notice of Opportunity for Hearing in the matter of Ms. Gottschalk have been proven to be true by a preponderance of the evidence and to adopt Ms. Lee's Proposed Findings and Proposed Order:

Motion	Dr. Johnson
2 nd	Dr. Kakarala

Dr. Schottenstein stated that he will now entertain discussion in the matter of Ms. Gottschalk.

Dr. Schottenstein stated that he agrees with the Proposed Order to revoke Ms. Gottschalk's massage therapy license. Dr. Schottenstein recommended that if Ms. Gottschalk is inclined to submit a reapplication in the future, she should first complete courses in ethics and in boundaries. Also, since Ms. Gottschalk has not practiced massage therapy since December 2017 and her license expired on January 1, 2019, Dr. Schottenstein felt it would be reasonable for her to retake the Massage and Bodywork Licensing Examination (MBLEx). Dr. Schottenstein further opined that if the Board chooses to restore Ms. Gottschalk's license in the future, it would be appropriate to place her on probation at that point for a couple of years. Mr. Giacalone agreed with Dr. Schottenstein.

A vote was taken on Dr. Johnson's motion:

Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Mr. Gonidakis	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

Timothy Scott Manuel, M.D.

Motion to find that the allegations as set forth in the June 13, 2018 Notice of Immediate Suspension and Opportunity for Hearing in the matter of Dr. Manuel have been proven to be true by a preponderance of the evidence and to adopt Ms. Shamansky's Proposed Findings and Proposed Order:

Motion	Dr. Kakarala
2 nd	Dr. Soin

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

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Mr. Giacalone agreed with the Proposed Order to permanently revoke Dr. Manuel's Ohio medical license, noting that Dr. Manuel has been convicted of Aggravated Trafficking in Drugs.

A vote was taken on Dr. Kakarala's motion:

Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Mr. Gonidakis	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Abstain

The motion carried.

Thomas Paul Splan, M.D.

Motion to find that the allegations as set forth in the December 12, 2018 Notice of Opportunity for Hearing in the matter of Dr. Splan have been proven to be true by a preponderance of the evidence and to adopt Ms. Lee's Proposed Findings and Proposed Order:

Motion	Dr. Johnson
2 nd	Dr. Kakarala

Dr. Schottenstein stated that he will now entertain discussion in the matter of Dr. Splan. No Board member offered discussion in this matter.

A vote was taken on Dr. Johnson's motion:

Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Mr. Gonidakis	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

Mohsin Mazhar Syed, M.D.

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Motion to find that the allegations as set forth in the June 13, 2018 Notice of Automatic Suspension and Opportunity for Hearing in the matter of Dr. Syed have been proven to be true by a preponderance of the evidence and to adopt Ms. Shamansky's Proposed Findings and Proposed Order:

Motion	Dr. Johnson
2 nd	Dr. Soin

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

Mr. Giacalone agreed with the Proposed Order to permanently revoke Dr. Syed's Ohio medical license, noting that Dr. Syed has been convicted of Sexual Assault.

A vote was taken on Dr. Johnson's motion:

Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Mr. Gonidakis	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Abstain

The motion carried.

FINDINGS, ORDERS, AND JOURNAL ENTRIES

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

Roozbeh Badii, M.D.

Dr. Schottenstein stated that Dr. Badii has applied for a certificate to recommend medical marijuana. The Board has proposed to deny Dr. Badii's application because he has previously been subject to disciplinary action by a licensing entity that was based, in whole or in part, on the applicant's inappropriate prescribing, personally furnishing, dispensing, diverting, administering, supplying or selling a controlled substance or other dangerous drug.

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

Motion	Dr. Saferin
2 nd	Dr. Edgin
Dr. Rothermel	Y
Dr. Saferin	Y

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Mr. Giacalone	Y
Dr. Soin	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Mr. Gonidakis	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

Desiraa Anna-Marie Cramblett, R.C.P.

Dr. Schottenstein stated that Ms. Cramblett has applied for restoration of her certificate to practice as a respiratory care professional. The Board has proposed to approve Ms. Cramblett’s application provided that she take and pass the Therapist Multiple Choice (TMC) examination, due to the fact that Ms. Cramblett has not engaged in the active practice of respiratory care for more than two years.

Motion to find that the findings set forth in the June 12, 2019 Notice of Opportunity for Hearing have been proven to be true by a preponderance of the evidence, and that the Board enter an Order, effective immediately upon mailing, approving the restoration of Ms. Cramblett’s certificate to practice respiratory care, provided that she passes the TMC examination:

Motion	Dr. Bechtel
2 nd	Dr. Edgin
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Mr. Gonidakis	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

Tonie Lynn Perez, R.C.P.

Dr. Schottenstein stated that Ms. Perez has applied for restoration of her certificate to practice as a respiratory care professional. The Board has proposed to approve Ms. Perez’s application provided that she take and pass the Therapist Multiple Choice (TMC) examination, due to the fact that Ms. Perez has not engaged in the active practice of respiratory care for more than two years.

Motion to find that the facts set forth in the July 10, 2019 Notice of Opportunity for Hearing have been proven to be true by a preponderance of the evidence, and that the Board enter an Order, effective immediately upon

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mailing, approving the restoration of Ms. Perez's certificate to practice respiratory care provided that she passes the TMC exam:

Motion	Dr. Saferin
2 nd	Dr. Bechtel
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Mr. Gonidakis	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

Rebecca A. Thornburg, R.C.P.

Dr. Schottenstein stated that Ms. Thornburg has applied for restoration of her certificate to practice as a respiratory care professional. The Board has proposed to approve Ms. Thornburg's application provided that she take and pass the Therapist Multiple Choice (TMC) examination, due to the fact that Ms. Thornburg has not engaged in the active practice of respiratory care for more than two years.

Motion to find that the facts set forth in the June 12, 2019 Notice of Opportunity for Hearing have been proven to be true by a preponderance of the evidence, and that the Board enter an Order, effective immediately upon mailing, approving the restoration of Ms. Thornburg's certificate to practice respiratory care provided that she passes the TMC exam:

Motion	Dr. Bechtel
2 nd	Dr. Saferin
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Mr. Gonidakis	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

EXECUTIVE SESSION I

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

Motion	Dr. Saferin
2 nd	Dr. Edgin
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Mr. Gonidakis	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

The Board went into Executive Session at 10:37 a.m. and returned to public session at 10:52 a.m.

SETTLEMENT AGREEMENTS

Oliver H. Jenkins, M.D.

Motion to ratify the proposed Permanent Surrender with Oliver H. Jenkins, M.D.:

Motion	Dr. Kakarala
2 nd	Dr. Soin
Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Mr. Gonidakis	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Abstain

The motion carried.

Jeremy G. Fisher, M.D.

Motion to ratify the proposed Consent Agreement with Jeremy G. Fisher, M.D.:

Motion	Dr. Kakarala
2 nd	Dr. Edgin
Dr. Rothermel	Abstain

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Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Mr. Gonidakis	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

Soaman Dizechi, D.O.

Motion to ratify the proposed Consent Agreement with Soaman Dizechi, D.O.:

Motion	Dr. Kakarala
2 nd	Dr. Soin
Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Mr. Gonidakis	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

Matthew Christian Grothaus, M.D.

Motion to ratify the proposed Consent Agreement with Matthew Christian Grothaus, M.D.:

Motion	Mr. Giacalone
2 nd	Dr. Kakarala
Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	N
Dr. Soin	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Mr. Gonidakis	Y
Ms. Montgomery	Y

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Dr. Feibel	N
Dr. Bechtel	N

The motion carried.

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

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

1. Angela Dawn Bovia, R.C.P.: Based on allegations of failure to comply with the terms of her December 12, 2018 Step I Consent Agreement.
2. Peter Zavell, M.D.: Based on allegations that the physician pleaded guilty to, and was found guilty of, Willfully Making and Subscribing a False Tax Return; and being subject to formal action by the Texas Medical Board.
3. Roozbeh Badii, M.D.: Based on allegations of being excluded from Medicare, Medicaid, and all Federal health care programs; and failure to cooperate with a Board investigation.
4. Laurence Kobina Ensuah, M.D.: Based on allegations of failure to conform to minimal standards of care; and being subject to formal action by the State of Maine Board of Licensure in Medicine.
5. Deepak Raheja, M.D.: Based on allegations of failure to conform to minimal standards of care; and failure to maintain minimal standards applicable to the selection or administration of drugs.
6. Freeda J. Flynn, M.D.: Based on allegations that the physician executed a Surrender For Cause of Drug Enforcement Administration (DEA) Certificate of Registration of Controlled Substances Privileges.

Motion to approve and issue proposed Citations #1, #2, and #3:

Motion	Dr. Bechtel
2 nd	Dr. Kakarala
Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Mr. Gonidakis	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

Motion to approve and issue proposed Citations #4, #5, and #6:

Motion	Dr. Edgin
2 nd	Dr. Kakarala
Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y

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Dr. Soin	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Mr. Gonidakis	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Abstain

The motion carried.

EXECUTIVE SESSION II

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

Motion	Dr. Saferin
2 nd	Dr. Johnson
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Mr. Gonidakis	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

The Board went into Executive Session at 10:58 a.m. and returned to public session at 11:45 a.m.

The Board meeting recessed at 11:45 a.m. and resumed at 12:45 p.m.

REPORTS AND RECOMMENDATIONS

Asad Syed Ali, M.D.

Dr. Schottenstein stated that since voting on the Order in the matter of Asad Syed Ali, M.D., the Board has learned that the conduct that gave rise to the Order occurred prior to September 2015 when the Board gained fining authority. Accordingly, the matter needs to be reconsidered so that the \$10,000 fine can be removed from the Order.

Motion for reconsideration in the matter of Asad Syed Ali, M.D.:

Motion	Ms. Montgomery
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2 nd	Mr. Gonidakis
Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Mr. Gonidakis	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion to reconsider carried.

Motion to issue an Order for a minimum two-year suspension with conditions for reinstatement or restoration to include remedial courses in controlled substance prescribing and medical record-keeping, a five-year probationary period, and no fine:

Motion	Dr. Edgin
2 nd	Mr. Giacalone
Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Soin	Abstain
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Mr. Gonidakis	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

Ms. Montgomery asked what practical consequences a five-year probationary period could have on a physician. Dr. Schottenstein responded that a physician under probation may not be able to sit for a specialty board examination and may lose specialty board certification. Probation may also affect a physician's ability to be a provider under Medicare or Medicaid. In addition, it may be generally more difficult for a physician to find employment or obtain hospital privileges while on probation. Ms. Montgomery stated that she would lean toward a probation that can be ended when the Board feels it is appropriate, rather than a minimum of five years. Ms. Anderson stated that any change in the Order just issued by the Board would require another reconsideration.

Motion to reconsider in the matter of Asad Syed Ali, M.D.:

Motion	Ms. Montgomery
2 nd	Dr. Kakarala

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Mr. Giacalone opined that Dr. Ali will complete the two required courses within two years, which could result in a probationary period of less than two years under Ms. Montgomery’s suggestion. Mr. Giacalone commented that the Order was not issued based on the convenience of Dr. Ali, and the Board gave Dr. Ali a break by not accepting the Proposed Order of permanent revocation. Mr. Giacalone favored keeping the Order as it is.

Dr. Feibel stated that being on probation does not completely prevent a physician from practicing. Dr. Feibel commented that he once had a partner on probation and he was able to get back on insurance plans and similar things, though process was more difficult and involved more scrutiny. Dr. Feibel understood why Dr. Ali’s Order had to be reconsidered initially due to the fine issue, but he felt it was very unusual to further reconsider an Order without the respondent present. Dr. Feibel favored keeping the Order that has been issued.

Vote on motion to reconsider:

Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	N
Dr. Soin	Abstain
Dr. Edgin	Y
Dr. Schottenstein	N
Dr. Johnson	N
Dr. Kakarala	N
Mr. Gonidakis	Y
Ms. Montgomery	Y
Dr. Feibel	N
Dr. Bechtel	Y

The motion to reconsider did not carry.

RULES & POLICIES

Rules for Adoption

Motion to adopt, amend, and rescind the rules as described in the August 27, 2019 memorandum from Ms. Anderson and to assign each rule action the effective date of September 30, 2019 for all rules, except the cosmetic therapy examination rules (Rule 4731-1-01, Rule 4731-1-11, Rule 4731-1-13, Rule 4731-1-18 and Rule 4731-1-19) which will have an effective date of March 30, 2020:

Motion	Dr. Saferin
2 nd	Dr. Edgin
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Mr. Gonidakis	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y

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The motion carried.

OPERATIONS REPORT

Human Resources: Dr. Schottenstein stated that the Board still has a number of vacancies, but the Office of Management and Budget (OMB) has recently given clearance to begin filling some positions. The Board will post an additional enforcement attorney position soon, which will bring the total number of enforcement attorneys to ten. A candidate has been identified to fill the vacant Senior Legal Counsel position, pending a background check and reclassification of the position to unclassified exempt status. A final candidate for the Montgomery County investigator position has been selected the onboarding process should begin soon. Candidates will also be interviewed for the central area investigator position.

Agency Operations: Dr. Schottenstein stated that the Board saw a minor uptick in the number of open complaints, primarily driven by an increase in cases in Standards Review and Intervention. As the Board has shifted investigative techniques around allegations of sexual misconduct, a large number of cases are being sent for nurse review and for assessment for possible remedial education. The Board staff will continue to monitor the volume of work in this area and will assess whether additional staff is needed in Standards Review. Otherwise, the flow of complaints seems to be running smoothly. Dr. Schottenstein noted that Chief of Investigations James Roach has done a very nice job reducing non-law enforcement aged cases in Investigations. Compliance continues to refine and normalize its reporting numbers and there has been a minor drop in the number of probationers compared to this time last year.

Dr. Schottenstein stated that the total number of licenses issued last month increased 47% compared to last year. Year-to-Date, the total number of new licenses issued is up 7%. The staff has investigated the reasoning behind the 12% increase in average time to issue licenses, from 28 days last year to 31 days this year. Dr. Schottenstein stated that as new continuous licensing is implemented in October, license issuance times are expected to drop significantly, but the Board wishes to make should the processes are sound ahead of that transition.

Governor's Workgroup on Dr. Richard Strauss Investigation: Dr. Schottenstein stated that the Governor's Workgroup on the Dr. Richard Strauss investigation has reviewed the Board's 1996 handling of a complaint against Dr. Richard Strauss. The Board is grateful for the input and insight of Governor Dewine's workgroup and values the group's recommendations. Using those recommendations, a rough draft of a project plan has been created for the Board members' review.

Dr. Schottenstein reviewed Section 1 of the report, dealing with licensees' duty to report. Dr. Schottenstein felt that the Board should identify any licensees who did not report what they saw or knew in the Dr. Strauss matter or in any sexual assault cases. Dr. Schottenstein stated that the staff is currently working on identifying current licensees who failed to report and the Board needs to investigate whether there have been any cases in which the Board has pursued action against offending physicians but did not investigate those who failed to report. Dr. Schottenstein stated that if investigators, in the course of an investigation, uncover information that licensees failed to report, that information should be submitted to a supervisor.

Regarding the anonymous hotline, Dr. Schottenstein felt that the Board should publicize it in the e-newsletter and feature it on the Board website. Dr. Schottenstein also felt that the Licensure Committee should consider a continuing medical education (CME) requirement with a focus on the duty to report. Dr. Schottenstein had reviewed North Carolina House Bill 228, which was referenced by the workgroup and requires licensees in that state to report suspected sexual misconduct within 30 days. Dr. Schottenstein opined that it is a good law for the Board to review and it could inform any actions the Board takes in this regard.

Dr. Schottenstein stated that he would like to see a checkbox on initial and renewal license applications signifying the licensee's acknowledgement of the duty to report. Dr. Schottenstein would also like to see a

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second checkbox requiring disclosure of conduct prohibited by Medical Board rules regarding sexual misconduct and impropriety. Dr. Schottenstein stated that these items can be further discussed by the Licensure Committee.

Dr. Schottenstein stated that the Board is grateful for the communication it's received from the Ohio State University (OSU), and any additional communication from the university directly identifying the licensees in its report would be appreciated. Dr. Schottenstein elaborated that some parts of the OSU report refers to a licensee, but not by name. In response to a question from Mr. Gonidakis, Dr. Schottenstein stated that the Board had asked OSU to identify the licensees at least a month ago. Ms. Montgomery emphasized that physicians confronted with an abuse situation that is not sexual in nature are also required to report. Dr. Schottenstein agreed.

Mr. Gonidakis asked if there is a standard of review that the Board staff is using to determine if there was sexual impropriety, so that everyone is using the same standard of consistency. Dr. Schottenstein stated that the Board can develop such criteria. Ms. Montgomery stated that a victim advocate who is trained to deal with victim issues should be involved in the final decision of whether to report.

Ms. Montgomery asked if the staff will prepare a proposal for the Board's review regarding CME requirements and legislative changes. Dr. Schottenstein answered affirmatively. Dr. Schottenstein, Mr. Gonidakis, Mr. Giacalone, and Ms. Montgomery volunteered for an *ad hoc* committee to review proposals. Dr. Schottenstein asked other Board members to let him know if they are interested in joining the committee.

Dr. Bechtel stated that the Board is making it a priority to reeducate physicians in Ohio about the duty to report, which is under the radar for many physicians. Dr. Bechtel stated that the duty to report is an individual responsibility and not something to be left to the administration of a facility or institution. Dr. Bechtel also noted that there are protections under the law for those making a report. Dr. Schottenstein agreed, so long as the report is made in good faith. Dr. Schottenstein stated that the duty to report sexual abuse should be elevated to the level of reporting child abuse or elder abuse, which all physicians know they have a duty to report.

Ms. Montgomery stated that it is a priority for the Board to review old cases to find any other failures. Dr. Schottenstein agreed and stated that the staff is looking at about 2,000 cases going back to 1979. Dr. Schottenstein stated that this exhaustive review should take about six months. Ms. Montgomery suggested that this be added to the draft document as Section 1H. Dr. Schottenstein agreed.

Dr. Schottenstein moved on to Section 2 concerning law enforcement. Dr. Schottenstein thought that members of law enforcement could be invited to meet with Board members and staff, including Board investigators. Dr. Schottenstein felt that unless there is a reason not to, the Board should contact law enforcement in all such cases. Mr. Giacalone agreed, but noted that oftentimes when law enforcement is involved in a case, they ask the Board to hold on its investigation and impedes the Board's efforts to remove the physician from practice. Consequently, a physician may continue to harm patients while they are still practicing. Mr. Giacalone stated that this is something the Board can discuss with members of law enforcement. The Board agreed.

Dr. Schottenstein moved on to Section 3 concerning quality assurance. Dr. Schottenstein was in favor of regular auditing, stating that it is healthy for the Board and adds value. Dr. Schottenstein also favored regular review of decisions to close cases and to have victim advocates involved in the process. Dr. Schottenstein stated that Board members should be involved regularly with de-identified information. Dr. Feibel agreed and stated that the Board should review a de-identified summary of each case. Dr. Schottenstein stated that de-identified information could also be put on the Board's website. Dr. Schottenstein stated that other Board members reviewing a case with the Secretary and Supervising Member would have to recuse from the Board's final consideration of the case. This could also apply to closed cases since closed cases could be reopened. Dr. Schottenstein suggested that these cases could have a rotating third Board member involved.

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Dr. Schottenstein moved on to the next section, concerning confidentiality and transparency. Dr. Schottenstein agreed with all the recommendations in this section, saying that they would add to the Board's culture of openness while still allowing the Board to do its job. Dr. Schottenstein stated that the promise of confidentiality for complainants is critical to what the Board does, but it cannot be so exhaustive for the agency to avoid embarrassment. Dr. Schottenstein also stated that every closed case should have a rationale for closing; such a rationale was absent in the Strauss case.

Ms. Montgomery expressed some concern about the proposal for a time limit on confidentiality in some cases. Ms. Montgomery stated that loss of confidentiality could result in an air of suspicion around physicians who had been accused with no justification and who have been exonerated from any allegations. Dr. Schottenstein stated that the Board should be mindful of patient protection and also of any damage to reputations.

Dr. Schottenstein moved on to the next section on Board staff structure and processes. Dr. Schottenstein stated that he favors a review of the mechanics of the Board and comparison to other state boards to foster a collaborative work environment. Dr. Schottenstein would like to know if law enforcement is involved on others boards.

Dr. Schottenstein favored continuing the Board's current plan for including victim advocates on sexual impropriety cases. Dr. Schottenstein appreciated the recommendations for changes to the investigator manual. Dr. Schottenstein also favored amending 2921.22, Ohio Revised Code, regarding the reasonable person standard, but he would like to have a conversation about due process. Regarding the proposal to pull a medical license based solely on an indictment, Ms. Montgomery noted that the Board already has a summary suspension process.

Ms. Montgomery stated that there can be a discussion about the proposal to add more consumer members to the Board. Dr. Schottenstein commented that he appreciates consumer members, but felt that the Board had an appropriate number of members now and that fundamental restructuring of the Board was not needed. Dr. Schottenstein stated that the Board should be able to fine licensees who do not complete the non-disciplinary review and education. Dr. Schottenstein added that the Board should have access to peer review information regarding sexual misconduct matters, stating that peer review should not be a shield in these matters. Dr. Feibel agreed that there should be statutory changes with regard to peer review, stating the peer review is good for open conversations between physicians but it has unintended consequences.

Dr. Schottenstein stated that the Board's report to the workgroup is due by October 1. The Board will keep the workgroup and the Governor's office regularly updated. Staff can circulate a plan with a couple of weeks for provide public updates on the Board's website. Dr. Feibel stated that sexual misconduct cases must be moved expeditiously while retaining due process.

Responding to a question from Ms. Montgomery, Dr. Rothermel stated that currently sexual misconduct cases are given first priority in enforcement and investigation, but time is required for appropriate investigation. Dr. Saferin agreed, stating that egregious cases are moved very quickly. Dr. Rothermel noted that Board investigations cannot occur until something is reported to the Board. In the case of Dr. Strauss, nothing was reported to the Board until almost 20 years after the misconduct had started.

REPORTS BY ASSIGNED COMMITTEES

Medical Marijuana Expert Review Committee

Approval of August 14, 2019 committee minutes

Motion to approve the August 14, 2019 minutes of the Medical Marijuana Expert Review Committee as drafted:

Motion	Dr. Saferin
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2 nd	Dr. Feibel
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Mr. Gonidakis	Abstain
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

Petition Approval or Rejection for Qualifying Conditions

Dr. Schottenstein stated that the Committee has recommended rejecting the petitions to allow the use of medical marijuana to treat anxiety disorder and autism. The Board can now choose to reject or to accept the petitions.

Mr. Giacalone stated that the Committee gave these petitions significant consideration and consulted with experts, and the final decision was not an easy one. The Committee understands that there are individuals who believe medical marijuana will benefit them. In weighing the pros and cons as well as the information which was, at best, anecdotal, it seems that the risks of using medical marijuana for these conditions outweighed the benefits.

Dr. Bechtel stated that one of the big challenges the Board will have moving forward with recommendations on marijuana therapy is the fact that very few of the conditions that have already been approved by the legislature is supported by robust or significant double-blind clinical studies or trials. Dr. Bechtel stated that in these matters, the Board will continue to consider efficacy and patient safety and will rely heavily on expert witnesses. Dr. Feibel agreed that the Board must move cautiously, particularly where children are involved. Dr. Schottenstein agreed, noting that the Board does not have the ability to approve the use of medical marijuana for adults only and not children. Dr. Schottenstein stated that the Board makes these considerations because marijuana is not healthy for the developing brain, something even proponents of marijuana do not disagree with.

Dr. Schottenstein understood that there are families and patients who are truly suffering from effects of anxiety and autism, and many patients have minimal improvement and side effects from conventional treatments. Dr. Schottenstein stated that he would never lightly reject a petition because many have held out hope that medical marijuana is the solution for them. Dr. Schottenstein also wanted to be careful that in his concern for those who are suffering, he does not approve medical marijuana for conditions for which there is little evidence of benefit and substantial risk of side effects. Dr. Schottenstein stated that he would favor approving a petition if the benefits outweigh the risks and is as good or better than conventional treatments.

Dr. Schottenstein stated that the Committee spoke with experts, some of whom felt that marijuana for anxiety or autism has no scientific basis and could be potentially dangerous. These experts opined that marijuana does not improve anxiety in the long run and it is potentially dangerous in the brains of adolescent children. The experts further noted that there are already effective medications and treatment for this condition. There was also concern that marijuana could make cognitive function worse in patients with autism. While the

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experts noted that there may be some potential benefit, there has not been adequate studies to determine safety.

Dr. Schottenstein stated that the Committee also heard from other experts who believe the evidence is adequate to justify approval of medical marijuana for these conditions. Dr. Schottenstein respected these opinions, but felt that approval was premature at this time. Dr. Schottenstein felt that there should be a consensus among respected medical authorities prior to approval. Dr. Schottenstein added that some of the feedback received by the Board expressed alarm at the prospect of approving the petitions. Dr. Schottenstein stated that under the law as written, once a condition is approved for treatment with medical marijuana it cannot be reversed if it is later found to be counter-productive.

Dr. Schottenstein stated that the petition process renews every year and the Board accepts new information on conditions.

Anxiety Disorder

Motion to approve the petition to add Anxiety Disorder as a qualifying condition to Ohio's Medical Marijuana Control Program:

Motion	Dr. Kakarala
2 nd	Dr. Saferin
Dr. Rothermel	N
Dr. Saferin	N
Mr. Giacalone	N
Dr. Soin	N
Dr. Edgin	N
Dr. Schottenstein	N
Dr. Johnson	N
Dr. Kakarala	N
Mr. Gonidakis	Abstain
Ms. Montgomery	N
Dr. Feibel	N
Dr. Bechtel	N

The motion did not carry.

Autism Spectrum Disorder

Motion to approve the petition to add Autism Spectrum Disorder as a qualifying condition to Ohio's Medical Marijuana Control Program:

Motion	Dr. Kakarala
2 nd	Dr. Saferin
Dr. Rothermel	N
Dr. Saferin	N
Mr. Giacalone	N
Dr. Soin	N
Dr. Edgin	N
Dr. Schottenstein	N
Dr. Johnson	N
Dr. Kakarala	N
Mr. Gonidakis	Abstain

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Ms. Montgomery	N
Dr. Feibel	N
Dr. Bechtel	N

The motion did not carry.

Dr. Schottenstein stated that there is always a chance that the Board will review these conditions at a later date if additional studies or evidence are brought forth in the petition process. The next window for petitions will be November 1, 2019, to December 31, 2019.

Approval of 2020 Condition Petition Window

Motion to approve November 1, 2020 through December 31, 2020 as the window to accept petitions requesting additional qualifying conditions or disease be added to Ohio's Medical Marijuana Control Program:

Motion	Dr. Johnson
2 nd	Dr. Saferin
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Mr. Gonidakis	Abstain
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

Compliance Committee Report

Dr. Schottenstein stated that when the Compliance Committee last met on August 14, 2019, there were no initial probationary appearances. The Compliance Committee approved the Reports of Conferences for July 8 and 9, 2019, and followed that with a vote approving the minutes of the Committee's July 10, 2019 meeting.

The Compliance Committee also met this morning and the meeting was very similar to the August meeting. The Committee approved the Reports of Conferences for August 12 and 13, 2019, and then approved the minutes from the August 14, 2019 meeting.

Dietetics Advisory Council Report

Ms. Montgomery asked if the Ohio Academy of Nutrition and Dietetics consulted in the selection of the new consumer member of the Dietetics Advisory Council. Mr. Smith stated that in accordance with statute, the Board contacted the Ohio Academy of Nutrition and Dietetics and asked them for nominations, but they declined to make any nominations.

Motion to appoint David Reiersen to the consumer seat of the Dietetics Advisory Council to fill the remainder of the term ending April 11, 2020:

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Motion	Dr. Bechtel
2 nd	Dr. Edgin
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Mr. Gonidakis	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

Finance Committee Report

Fiscal Report

Dr. Schottenstein stated that revenue for July 2019 was \$900,355, a 107% increase over July 2017. Dr. Schottenstein noted that in 2017 the Board was implementing the e-License system and had encouraged licensees to renew early in the months of May and June 2017. Consequently, the July 2017 number is artificially low. The Board had a net fiscal revenue for July 2019 of \$277,264. The Board's current cash balance is \$4,863,586.

Expenses for July 2019 were \$623,091. The Board's allotted expenditures are down 31.7% for July 2019, as compared to one year ago. Dr. Schottenstein stated that since the Board is just starting the fiscal year, the year-to-date numbers for revenue and expenditure will start trending toward more historical values as additional months of data are factored into the calculations.

Dr. Schottenstein stated that allotted spending for 2020 is \$10,862,471, which is down from over \$11,000,000 for Fiscal Year 2019. The allotment for 2020 was reduced because the Board did not approach its allotment for 2019.

The Board received \$8,500 in disciplinary fine payments and \$5,255 from collections during the last month.

Communications update

Dr. Schottenstein stated that all required filming has been completed for the Cultural Competency Education Video. The first draft is due to project manager Jerica Stewart on September 5 and the final draft is due on October 3.

Ohio Translation Services has provided preliminary draft videos for the Human Trafficking videos for the Board staff to review. After receiving edits, the vendor will update the videos and return a final draft by October 3.

Spanish versions of the "public records request instructions" and "how to file a complaint" documents are now available on the Board's website.

The patient and licensee sexual boundaries videos and handouts were disseminated for Board member review. Dr. Schottenstein noted that good feedback has been received thus far.

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A Partners in Professionalism presentation was made to second years students at the Ohio State University on September 3, introducing the class to Medical Board functions.

Dr. Schottenstein stated that the Committee had a conversation about the sexual boundaries videos, strengthening the parts about the duty to report, and possibly making it obligatory viewing for those who are renewing their licenses.

Costs Associated with Governor's Strauss Workgroup Recommendations

Dr. Schottenstein stated that as the Board implements the recommendations from the Governor's Workgroup on the Dr. Richard Strauss investigation, the Board may encounter additional expenditures related to additional contracted services, legal assistance, and operational help. To date, the Board has encumbered \$20,000 in outside counsel fees from Isaac Wiles. Dr. Schottenstein stated that the counsel provided by Mark Troutman and Shawn Judge has been valuable, and the Board may seek additional funding as it continues to work with the Workgroup.

Motion to approve up to \$20,000 in funding for continuing outside counsel representation by Isaac Wiles on matters related to the Strauss Workgroup:

Motion	Dr. Edgin
2 nd	Dr. Saferin
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Mr. Gonidakis	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

Policy Committee Report

Mr. Giacalone stated that Ms. Anderson updated the Committee on the rule review process. The controlled substance prescribing rules were addressed and the Committee decided to make no changes to them. Obesity drugs will be discussed by the Committee next month.

Motion to file the Rules 11-02, 11-03, and 11-07 as no change rules with the Common Sense Initiative (CSI), and to file OARRS rule 4731-11-11 with one amendment suggested by the Board of Pharmacy with CSI:

Motion	Dr. Bechtel
2 nd	Dr. Saferin
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Soin	Y

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Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Mr. Gonidakis	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

Licensure Committee Report

Licensure Application Reviews

David Barbour-White

Dr. Saferin stated that Mr. Barbour-White has applied for restoration of his Ohio massage therapy license. He has not practiced massage therapy in the last two years.

Motion to approve Mr. Barbour-White’s application for restoration of his Ohio license contingent on his passing of the MBLEx within six months from the date of mailing of the Notice of Opportunity for a Hearing:

Motion	Dr. Rothermel
2 nd	Dr. Johnson
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Mr. Gonidakis	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

Brandy Brooks

Dr. Saferin stated that Ms. Brooks has applied for restoration of her Ohio massage therapy license. Ms. Brooks has not practiced massage therapy within the past two years. Ms. Brooks passed the Massage and Bodywork Licensing Examination (MBLEx) on August 22, 2017.

Motion to approve Ms. Brooks’ application for restoration of her Ohio license:

Motion	Dr. Johnson
2 nd	Dr. Edgin
Dr. Rothermel	Y
Dr. Saferin	Y

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Mr. Giacalone	Y
Dr. Soin	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Mr. Gonidakis	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

Andrew Crapser, MD

Dr. Saferin stated that Dr. Crapser has applied for a medical license. Dr. Crapser took longer than ten years to complete his United States Medical Licensing Examination (USMLE) sequence.

Motion to approve the good cause exception to the 10-year rule as outlined in OAC 4731-6-05 (C)(2), and accept the examination sequence to be granted a license:

Motion	Dr. Johnson
2 nd	Dr. Rothermel
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Mr. Gonidakis	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

Lisa Herman

Dr. Saferin stated that Ms. Herman has applied for restoration of her Ohio Respiratory Care Professional license. Ms. Herman has not practice respiratory care in the last two years.

Motion to approve Ms. Herman's application for restoration of her Ohio license contingent on successful completion of the Therapist Multiple-Choice Examination (TMC) within six months from the date of mailing of the Notice of Opportunity for a Hearing:

Motion	Dr. Johnson
2 nd	Dr. Soin
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y

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Dr. Soin	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Mr. Gonidakis	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

David Miller

Dr. Saferin stated that Mr. Miller has applied for restoration of his Ohio massage therapy license. Mr. Miller has not practiced massage therapy in the last two years. Mr. Miller passed the Massage and Bodywork Licensing Examination (MBLEx) on May 9, 2019.

Motion to approve Mr. Miller’s application for restoration of his Ohio license:

Motion	Dr. Edgin
2 nd	Dr. Soin
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Mr. Gonidakis	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

Michael Riley

Dr. Saferin stated that Mr. Riley has applied for restoration of his Ohio massage therapy license. Mr. Riley has not practiced massage therapy within last two years.

Motion to approve Mr. Riley’s application for restoration of his Ohio license contingent on his passing of the Massage and Bodywork Licensing Examination (MBLEx) within six months from the date of mailing of the Notice of Opportunity for a Hearing:

Motion	Dr. Johnson
2 nd	Dr. Rothermel
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Soin	Y

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Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Mr. Gonidakis	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

Respiratory Care Course Approval

Motion to approve the presentation for one contact hour of Respiratory Care Continuing Education on Ohio respiratory care law or professional ethics, pursuant to the provisions of chapter 4761-9 of the Ohio Administrative Code:

Motion	Dr. Johnson
2 nd	Dr. Edgin
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Mr. Gonidakis	Abstain
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

American Medical Association and American Osteopathic Association Profiles

Dr. Saferin stated that in an effort to continue streamlining the application process, licensure staff has proposed to eliminate the current requirement for allopathic and osteopathic medical applicants to submit a copy of an American Medical Association (AMA) or American Osteopathic Association (AOA) physician profile. Licensure staff believes that the information presented on these profiles is redundant to that available via other means, rendering this requirement unnecessary.

Motion to eliminate the existing requirement for allopathic and osteopathic medical applicants to submit a copy of an AMA or AOA physician profile:

Motion	Dr. Johnson
2 nd	Dr. Rothermel
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Edgin	Y

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Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Mr. Gonidakis	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

PROBATIONARY REQUESTS

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

- a) Stewart I. Adam, III, M.D.: Approval of Daniel S. Taylor, M.D. to serve as the monitoring physician; and determination of the frequency and number of charts to be reviewed at ten charts per week.
- b) Stephanie N. Adams, M.T.: Approval of request for release from the terms of the March 9, 2016 Consent Agreement.
- c) Allen M. Amorn, M.D.: Approval of Paul E. Keck, Jr., M.D., to serve as the treating psychiatrist; and approval of Teri Role-Warren, Ph.D., to serve as the treating psychologist.
- d) Danica Gineman, M.T.: Approval of request for release from the terms of the March 8, 2017 Consent Agreement.
- e) Muyuan Ma, M.D.: Approval of Thomas J. Misny, M.D. to serve as the monitoring physician; determination of the frequency and number of charts to be reviewed at ten charts per week; and approval of practice plan allowing the doctor to work at Cleveland Therapy Center, Inc.
- f) Richard Ray Mason, D.O.: Approval of request to discontinue the drug log requirement.
- g) Paul J. Schwartz, M.D.: Approval of *Personal and Professional Ethics in Medicine*, tailored for the doctor by Donna F. Homenko, PhD., to fulfill the Personal/Professional Ethics Course requirement.
- h) Randy M. Smith, D.O.: Approval of *Intensive Course in Medical Ethics, Boundaries and Professionalism*, administered by Case Western Reserve University.
- i) Melissa L. Verchio, M.D.: Approval of James M. Alford, M.D., to serve as the monitoring physician; and determination of the frequency and number of charts to be reviewed at ten charts per month.
- j) Scott R. Welden, M.D.: Approval of Bethany Campbell, M.D., to conduct the psychiatric assessment and subsequent treatment, if any.
- k) Aubrey D. Winkler, P.A.: Approval of request to discontinue the chart review requirement.
- l) Jerome B. Yokiel, M.D.: Approval of request to reduce personal appearances to every six months; and approval of request to reduce drug and alcohol rehabilitation meetings to two meetings per week with a minimum of ten meetings per month.

Motion	Dr. Kakarala
2 nd	Dr. Soin
Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Edgin	Y

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Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Mr. Gonidakis	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Abstain

The motion carried.

PODIATRIC SCOPE OF PRACTICE

Dr. Schottenstein stated that at the June Board meeting, the Licensure Committee and full Board considered five questions regarding podiatric scope of practice that were submitted by Daniel Logan, DPM. The Board sent a letter to Dr. Logan indicating that it was within the podiatrist's scope of practice to perform four of the five procedures.

After that decision, the Board received letters from five associations. Four of the associations (the Ohio State Medical Association (OSMA), the American Orthopaedic Foot & Ankle Society, American Academy of Orthopaedic Surgeons, and Ohio Orthopaedic Society) expressed concerns with the Board's decision related to two of the procedures: Supramalleolar osteotomy of the tibia or fibula to correct a deformity; and harvesting bone marrow aspirate from the proximal tibia. The Ohio Foot and Ankle Medical Association expressed support for the Board's decision.

Dr. Schottenstein stated that there are several options open to the Board:

- Decide whether or not to reconsider.
- If the Board decides to reconsider, decide whether to reverse the decision of June 12, 2019.
- If the Board decides not to reverse the June 12, 2019 decision, decide whether to promulgate a rule after obtaining Common Sense Initiative (CSI) anti-trust review.
- If the Board decides to reverse the June 12, 2019 decision, decide whether to promulgate a rule or issue a position letter after obtaining CSI anti-trust review.

Motion to reconsider the Board's June 12, 2019 decision regarding podiatric scope of practice related to supramalleolar osteotomy of the tibia or fibula to correct a deformity and harvesting bone marrow aspirate from the proximal tibia:

Motion	Dr. Feibel
2 nd	Dr. Kakarala

Dr. Feibel provided handouts to the Board members for their reference. Dr. Feibel felt that in June 2019 the Board did not have all the information necessary to adequately make this decision. Dr. Feibel believed that the new information provided by the four associations who wrote in opposition to the decision, combined with new information that Dr. Feibel will provide today, will make it clear that the decision should be revisited and reversed. Dr. Feibel stated that this is clear and not open to interpretation otherwise. Dr. Feibel stated that as an orthopedic foot and ankle specialist, he has particular expertise on this issue. Dr. Feibel had been unable to attend the Board's June 2019 meeting and was therefore unable to give his opinion at the time.

Dr. Feibel continued that statute always trumps rule and rules must conform to statute. Dr. Feibel quoted from the statute at issue in this matter, Section 4731.51:

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The medical, mechanical, and surgical treatment of ailments of the foot, the muscles and tendons of the leg governing the functions of the foot; and superficial lesions of the hand other than those associated with trauma. Podiatrists are permitted the use of such preparations, medicines, and drugs as may be necessary for the treatment of such ailments.

Dr. Feibel stated that in 1997, the Board defined the term “foot” by promulgating Rule 4731-20-01. Dr. Feibel quoted from Rule 4731-20-01:

“Foot,” as used in section 4731.51 of the Revised Code, means the terminal appendage of the lower extremity and includes the ankle joint which consists of the tibial plafond, its posterolateral border (posterior malleolus), the medial malleolus, distal fibula (lateral malleolus) and the talus.

Dr. Feibel observed that the Board had been very careful in this rule to exactly and precisely define what podiatrists are able to operate on; the Rule mentions anatomic structures exactly and did not leave it open to interpretation.

The letter that the Board sent to Dr. Logan states that Rule 4731-2-02 authorized podiatrists to operate on the ankle joint in compliance with the rule. Dr. Feibel stated that the letter to Dr. Logan correctly states, “The tibial plafond forms the articular surface of the distal tibia. The distal tibia and fibula act as the socket for the talus.” However, Dr. Feibel pointed out that the next sentence states, “Accordingly, a supramalleolar osteotomy of the tibia or fibula constitutes ankle surgery ...” Dr. Feibel did not agree with this statement.

Dr. Feibel stated that his handouts to the Board members include an image of a typical supramalleolar osteotomy with the medial malleolus, lateral malleolus, and tibial plafond or ankle joint labeled. Dr. Feibel noted that the posterior malleolus is directly behind the tibial plafond, but it is not visible on that image. Dr. Feibel stated that this image leaves the average person, and certainly a medical professional, to conclude that a supramalleolar osteotomy is above the three malleoli. Dr. Feibel noted that Merriam Webster’s Dictionary defines the prefix “supra-” as “above,” and therefore it is clear that “supramalleolar” describes a procedure that is above the malleoli. Dr. Feibel stated that this indicates that a supramalleolar osteotomy is outside the scope of the rule and outside the scope of practice for podiatric physicians. Dr. Feibel add that this is unambiguous and not open to other interpretations.

Dr. Feibel stated that Rule 4731-2-02 authorizes podiatrists to perform surgery on the ankle joint, which involves the tibial plafond and is well below the supramalleolar area. Dr. Feibel commented that if a surgeon or podiatrist was asked on a test where the supramalleolar area of the tibia was, the answer would not be at the level of the ankle joint, but above the ankle joint and above the malleoli mentioned in the rule.

Dr. Feibel observed that item #2 in the letter to Dr. Logan correctly stated that the proximal tibia, which is near the knee joint, is not within the definition of “foot.” However, item #3 of the same letter states that podiatrists are allowed to aspirate bone marrow from the proximal tibia. Dr. Feibel opined that the letter to Dr. Logan contradicts itself in this matter.

Dr. Feibel referenced the article authored by McGlamry that was also included as a reference in the Logan letter from the Board. Dr. Feibel stated that aspiration of bone marrow at the proximal tibia is not a minor procedure. Rather, it is a surgical procedure that involves the use of a mallet to hammer a large bore device through the bone and redirection of the bore device 30 degrees towards the knee, with special caution to avoid inadvertent violation of the knee joint. Dr. Feibel stated that the proximal tibia is clearly outside the definition of “foot.” Dr. Feibel commented that the same logic that would allow this procedure would also allow podiatrists to aspirate marrow from the pelvis, the humerus, or anywhere else on the body.

Dr. Feibel noted that according to the June 2019 Board minutes, the Licensure Committee had recommended that the procedures mentioned in the letter to Dr. Logan go through the rule-making process, which would have

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allowed the State to rule that it was outside the podiatrist scope of practice as defined in statute. Unfortunately, there was no obvious debate by the full Board about whether the procedure was allowable by statute and the only debate centered on the long and arduous nature of the rule-making process. Dr. Feibel opined that if the debate had centered on whether the procedure was allowable, the vote would have been different.

Dr. Feibel commented that in the letter to the Board from the Ohio Foot and Ankle Medical Association and other letters of support from the podiatric community, there seems to be a notion that if a certain procedure is taught in a podiatric residency then that determines whether the procedure is within the scope of practice. Dr. Feibel stated that the mere fact that the procedure is taught is irrelevant to the question of whether it violates statute. Likewise, though the procedure must be performed within the minimal standards of care, it is statute that determines if a procedure is allowed and not whether it can be performed within minimal standards.

Dr. Feibel continued that this issue has come up in other states, noting that Connecticut and Texas both ruled that the term “foot” cannot be interpreted as the ankle. Dr. Feibel stated that if a medical professional taking a test was asked to point to the foot and they pointed to the ankle or the proximal tibia, they would be wrong. Dr. Feibel stated that this brings into question the 1997 rule that allows podiatrists to operate on the ankle, and emphasizes why the Medical Board in this case should now not allow “foot” to now mean above the ankle. Dr. Feibel stated that if the letter to Dr. Logan is legally challenged, a court could easily determine that the 1997 rule expanded the scope of podiatry beyond the initial intent of the legislature and return podiatrists to only operating on the foot, as courts in Connecticut and Texas have opined.

Dr. Feibel stated that when he was appointed to the Medical Board, he agreed to uphold the laws of Ohio and protect the citizens of Ohio to the best of his ability. Dr. Feibel stated that he takes this duty very seriously and he believed every other Board member feels the same way. Dr. Feibel stated that this is his only motivation in bringing this issue before the Board. Dr. Feibel believed that the Board should revisit this decision promptly to comply with the statute. Dr. Feibel intended to make a motion to revise portions of the letter to Dr. Logan and tell podiatrists that the procedures are outside their scope of practice because they are outside the statute, and therefore not open for the Medical Board to allow. Dr. Feibel also opined that the Board should ask for an expedited review by CSI to make sure there are no anti-trust issues associated with the decision. Dr. Feibel felt that any other decision would be an overreach of the authority of the Medical Board. Dr. Feibel did not feel this should be sent through the rule-making process because it would take a very long time during which podiatrists would continue to perform procedures that are outside their scope of practice.

The Board discussed this matter thoroughly. Dr. Kakarala commented that non-surgeon such as hematologist/oncologists often perform bone marrow aspirations. Dr. Feibel replied that there is no statutory prohibition on a hematologist doing a bone marrow aspiration on a pelvis, but this is a statutory prohibition on podiatrists doing so.

Dr. Soin opined that Dr. Feibel’s argument is predicated on legalese, definitions, and Dr. Feibel’s perception of how something is written. Dr. Soin asked what harm there is to the public of podiatrists performing these procedures, in Dr. Feibel’s opinion. Dr. Feibel responded that his concern is that the Board is obligated to follow the law. Dr. Feibel stated that he has personal concerns that he would rather not voice, but he did note a Columbus Dispatch article that states that one of the individuals who pushed for the 1997 rule was the subject of about 30 lawsuits and had to surrender his medical license in lieu of further investigation of wrongdoing. Dr. Feibel stated that there can be issues if these procedures are not done correctly. Dr. Feibel commented that under a scenario where there is no worry about legalese or verbiage, podiatrists should be given privileges to do whatever they feel they are qualified to do. Dr. Soin stated that he is not advocating that.

Dr. Soin stated that he wished to make sure that the public of Ohio has the ability to get the best care, noting that a book chapter on this procedure was written by a podiatrist. Dr. Soin commented that if he had to have a procedure, he would like to have it done by someone who wrote a book chapter on it and obviously has a lot of

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experience with it. Dr. Soin did not wish to restrict the public's choices just because of a procedure definition of how something is written. Dr. Soin stated that he is interested in providing the public of Ohio with the best care and that he would be interested in hearing a more compelling argument other than a legalese definition.

Dr. Saferin noted that he will have no personal gain from any of these procedures because he does not perform these procedures in his office or in the hospital. Dr. Saferin stated that podiatrists have been performing these procedures for more than 20 years and have been granted privileges in hospitals across Ohio to do these procedures. The procedures are also taught at the Kent State University College of Podiatric Medicine and at podiatric medicine schools across the country. Dr. Saferin stated that podiatrists in Ohio were granted privileges to perform ankle surgery in 1997 and there have been no complaints about podiatrists performing any of these procedures since he has been on the Board reviewing complaints, nor have there been a lawsuit from any hospital or medical board. Dr. Saferin opined that this matter is nothing more than a "turf war" between podiatrists and orthopedists.

Dr. Saferin opined that the Board should not reconsider this decision, stating that the Board has never revisited a decision before and that the Board voted unanimously 9-0 in favor of this decision. Dr. Saferin stated that to reconsider this would open the Board to reconsider everything anytime a Board member is unable to attend and does not favor a decision that the Board made in his or her absence. Dr. Saferin stated that if the orthopedic community feels that it needs to pursue this, it should go through the court system.

Dr. Saferin stated that Dr. Logan's letter was a clarification letter and did not increase the podiatric scope of practice. Dr. Saferin stated that podiatrists perform significant surgeries, such as drilling holes in the tibia and fibula to hold a frame that can hold a foot that has collapsed. Podiatrists perform major bone surgery and also take skin and muscle flaps to cover major defects, and they do so within the law and within their scope of practice. Dr. Saferin stated that inserting a small needle or trocar to draw bone marrow is not outside the podiatric scope of practice.

Mr. Gonidakis, noting that Dr. Feibel's interpretation is that the Board voted 9-0 in June to do something that was outside the bounds of the law without any of the attorney present voicing an objection, asked Ms. Anderson to comment. Ms. Anderson responded that this matter falls within the Board's expertise to decide. Ms. Anderson stated that in June it did not seem like there were any issues, but Dr. Feibel has raised issues of anatomy and surgical procedure that the Board can consider. The Board also received four letters of concern from four associations following the decision, as well as one letter from an association in support of the decision. Ms. Anderson stated that whether these procedures are within the podiatric scope of practice is an interpretation issue.

In response to a question from Dr. Bechtel, Dr. Saferin reiterated that podiatrists all over Ohio have been performing these procedures and have been privileged by hospitals to perform them for 20 years. Dr. Saferin acknowledged that some hospitals in Columbus had questioned granting the privileges because Dr. Feibel had tried to change some of the privileges, but ultimately no changes were made.

Dr. Saferin continued that when one makes a supramalleolar cut with a saw, one goes right above the malleolus and it is still within the ankle joint because one would be even with the tibial plafond. Referencing the picture of the supramalleolar osteotomy provided by Dr. Feibel, Dr. Saferin stated that one would still be within the ankle region because it can be right at the tibial plafond and one has to do that if one is going to put in an ankle replacement. Other actions are taken, including the angle of cuts, to make sure the ankle replacement will work, that it will put the foot in the correct position, and that the patient will be able to walk correctly. Dr. Saferin stated that podiatrists are not breaking any laws or rules in performing these actions.

Dr. Schottenstein commented that if podiatrists have been doing these procedures for 20 years, then, ironically, an anti-trust problem would have arisen if the Board had voted to reject the ability of podiatrists to continue them. Dr. Schottenstein opined that the Board has been dodging bullets with these scope of practice problems for a long time, and he intended to be much more careful about these issues going forward.

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Dr. Kakarala stated that a practical consideration is that in some locations a podiatrist may be the only nearby option for performing these procedures. Dr. Feibel responded that following that logic, if podiatrists begin fixing tibial plateau fractures or tibial shaft fractures and do so for years without anyone's knowledge, then the Board should turn a blind eye to it. Dr. Soin stated that no one is making that argument. Dr. Feibel stated that the Board must follow the statute and one should not argue that the statute is irrelevant. Dr. Soin agreed that the statute is not irrelevant, but stated that his interpretation of the statute differs from Dr. Feibel's interpretation. Dr. Feibel opined that a court would find that these procedures fall outside the statute, just as courts in Connecticut and Texas found.

Dr. Edgin stated that if hospitals privilege these procedures for podiatrists, the someone came up with that list of procedures for privileging. Dr. Edgin agreed with Dr. Saferin that this is a "turf battle." Dr. Edgin commented that if someone has already been doing something for 20 years, there is probably no way to overturn that.

Mr. Giacalone referenced rules 4731-20-01 and 4731-20-02, adopted by the Board in 1997, which allows podiatrist to perform procedures on the ankle joint. Mr. Giacalone noted that these rules were most recently reviewed in May 2018 and there was no mention of these issues at that time. Mr. Giacalone stated that if the rules are found to be incorrect under the statute, that will greatly impact many people who have made decisions based on those rules. Mr. Giacalone commented that the prospect of telling podiatrists that they cannot perform procedures on the ankle anymore give him pause. Dr. Feibel stated that he does not advocate barring podiatrists from performing procedures on the ankle. Dr. Feibel stated that Rule 4731-20-01 defines the ankle as follows:

...the ankle joint which consists of the tibial plafond, its posterolateral border (posterior malleolus), the medial malleolus, distal fibula (lateral malleolus) and the talus.

Dr. Feibel stated that this rule defines the limitation of the ankle joint and that the Board at that time did not want podiatrists to operate above that because it was not within their scope. Mr. Giacalone stated that Dr. Feibel makes a fair argument, but expressed concern that everything outside that scope would be taken from podiatrists. Dr. Feibel stated that podiatrists chose to do the procedures in question on their own and not under statute, and that should not be the litmus test the Board uses.

Dr. Feibel noted that many people believe this is a "turf battle," but he stated that this is actually a legal argument. Dr. Feibel stated that he has a peer-reviewed study showing that podiatrist quality on ankle fractures is not as good, but he has not brought that up because it is not germane to this matter. Dr. Feibel stated that if the statute allows podiatrists to perform these procedures, then they should do so as long as they are within the minimal standards of care. However, the Board should not authorize procedures outside the statute and this is why Dr. Feibel believes the courts will look unkindly on the Board.

Dr. Feibel stated that there is precedent for the Board to reconsider previous decisions, noting that a matter was brought up for reconsideration earlier in this meeting, though it was a matter that had been discussed previously in the same meeting. Dr. Feibel disagreed with the idea that something cannot be revisited when new information comes to light. Dr. Feibel opined that the Board's decision will be challenged in court and will make the Medical Board look bad. Dr. Feibel suggested that if podiatrists wish to perform these procedures, they should go to the legislature and ask for the privilege rather than using the Medical Board to expand their scope.

Dr. Saferin stated that podiatrists are not expanding their privileges and they also do not want their privileges retracted. Dr. Saferin stated that taking a bone graft from the proximal tibia is not within the podiatric scope of practice, but the other procedures are and have been within the scope. Dr. Saferin stated that podiatrists are not breaking any statutes or rules when performing those procedures. Dr. Saferin agreed that the Board did reconsider a matter early today, only because the Board had fined someone who it could not fine and therefore the matter had to be reconsidered in order to remove the fine. Dr. Saferin opined that reconsidering this matter

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is wrong and opens the door to reconsidering everything. Dr. Feibel opined that when new information becomes available, things should be reconsidered.

Dr. Schottenstein stated that when he first reviewed this issue, he had the sense that the supramalleolar osteotomy was ankle surgery and within the podiatric scope of practice. Dr. Schottenstein had also appreciated the argument that the proximal tibia aspiration was consistent with what podiatrists had already been doing. The letters from the orthopedic societies gave Dr. Schottenstein pause because he appreciated the distinction between the two arguments, one based on legality and the other based on safety concerns. With those two concerns raised, Dr. Schottenstein felt it was appropriate for the Board to discuss.

Dr. Schottenstein appreciated Dr. Feibel's point that there is a difference between scope of practice and skill, and commented that it is possible to get too far afield from statute or rule. However, it seems that this has been going on for years and to disallow it now seems retroactive. Dr. Schottenstein felt that the Board should be mindful going forward that it does not grant additional scope because it feel consistent. Dr. Schottenstein stated that scope of practice should be grounded in statute and rule, but these procedures have been going on for a long period of time it he had the sense that it would be punitive to disallow it when there has not been any patient safety concerns. However, Dr. Schottenstein was sympathetic to Dr. Feibel's argument.

Dr. Feibel urged the Board to at least send the letter to Dr. Logan to CSI for the rule-making process so that it can determine whether it is within statute or not. Mr. Giacalone asked if the letter could be sent to CSI for review without going through the rule-making process. Dr. Soin was uncertain if fear of a lawsuit is a good reason to send something to CSI. Dr. Soin further commented that the Board should close attention to these issues because they will continue to come up since the Board includes a foot and ankle surgeon and a podiatrist who are both motivated to protect their professions' scope of practice. Dr. Saferin disagreed with sending the letter to CSI if the Board does not vote to reconsider the issue. Mr. Giacalone stated that sending the letter to CSI for an anti-trust review is a precautionary measure.

Ms. Montgomery commented that the proper venue for this matter is the legislature, where the podiatric associations and orthopedic associations can testify and the legislators can clarify the law and/or change the scope of practice if that is warranted.

Mr. Giacalone asked if the Board members could be personally liable if CSI identifies any anti-trust concerns. Ms. Snyder stated that she discussed this issue with Jenny Pratt, the Chief of the Attorney General's anti-trust office. Based on that discussion, Ms. Snyder stated that there is very low risk of the Board members being personally liable with treble damages regardless of what the Board decides.

Mr. Giacalone asked if the Board can still vote to send the letter to CSI for anti-trust review even if it votes against reconsideration of the topic. Ms. Anderson replied that the Board can send the letter to CSI for review regardless of the vote to reconsider.

Motion to reconsider the Board's June 12, 2019 decision regarding podiatric scope of practice related to supramalleolar osteotomy of the tibia or fibula to correct a deformity and harvesting bone marrow aspirate from the proximal tibia:

Dr. Rothermel	N
Dr. Saferin	N
Mr. Giacalone	N
Dr. Soin	N
Dr. Edgin	N
Dr. Schottenstein	N
Dr. Johnson	N
Dr. Kakarala	N
Mr. Gonidakis	N

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Ms. Montgomery	N
Dr. Feibel	Y
Dr. Bechtel	Abstain

The motion did not carry.

Motion to send the Board’s June 12, 2019 letter to Dr. Logan to the Common Sense Initiative for an anti-trust review:

Motion	Mr. Giacalone
2 nd	Mr. Gonidakis

Dr. Saferin asked what purpose sending the letter to CSI would serve. Mr. Giacalone replied that sending the letter to CSI would protect the Board and the Board members. Dr. Soin commented that CSI could find that the letter is inappropriate. Dr. Feibel stated that if that occurs, then the Board has done something wrong. Mr. Giacalone stated that CSI will review the letter solely from an anti-trust point of view.

Vote on the motion to send the Board’s June 12, 2019 letter to Dr. Logan to the Common Sense Initiative for an anti-trust review:

Dr. Rothermel	Y
Dr. Saferin	N
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Edgin	Abstain
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Mr. Gonidakis	Y
Ms. Montgomery	N
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

ADJOURN

Motion to adjourn:

Motion	Mr. Johnson
2 nd	Dr. Kakarala
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Edgin	Y
Dr. Schottenstein	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Mr. Gonidakis	Y
Ms. Montgomery	Y
Dr. Feibel	Y

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Dr. Bechtel	Y
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The motion carried.

The meeting adjourned at 3:30 p.m.

We hereby attest that these are the true and accurate approved minutes of the State Medical Board of Ohio meeting on September 11, 2019, as approved on October 16, 2019.



Michael Schottenstein, M.D., President



Kim G. Rothermel, M.D., Secretary



(SEAL)