

April 8, 2015

MINUTES**THE STATE MEDICAL BOARD OF OHIO****April 8, 2015**

Donald R. Kenney, Sr., President, called the meeting to order at 10:03 a.m. in the Administrative Hearing Room, 3rd Floor, the James A. Rhodes Office Tower, 30 E. Broad Street, Columbus, Ohio 43215, with the following members present: Michael L. Gonidakis, Vice-President; Kim G. Rothermel, M.D., Secretary; Bruce R. Saferin, D.P.M., Supervising Member; Anita M. Steinbergh, D.O.; Sushil Sethi, M.D.; Robert P. Giacalone; and Andrew P. Schachat, M.D. The following members did not attend: Krishnamurthi Ramprasad, M.D.; and Amol Soin, M.D.

Also present were: Anthony J. Groeber, Executive Director; Kimberly Anderson, Assistant Executive Director; Susan Loe, Assistant Executive Director, Human Resources and Fiscal; Michael Miller, Assistant Executive Director for Licensure and Renewal; Sallie J. Debolt, Senior Counsel; David Katko, Assistant Legal Counsel; Joan K. Wehrle, Education and Outreach Program Manager; Jonithon LaCross, Public Policy & Governmental Affairs Program Administrator; Rebecca Marshall, Chief Enforcement Attorney; Marcie Pastrick, Mark Blackmer, Cheryl Pokorny, Angela McNair, Greg Taposci, James Roach, and Kimberly Lee, Enforcement Attorneys; Kyle Wilcox, Melinda Snyder, and James Wakley, Assistant Attorneys General; R. Gregory Porter, Chief Hearing Examiner; Danielle Blue, Hearing Examiner; William Schmidt, Senior Counsel for Investigations; Gary Holben, Operations Administrator; Danielle Bickers, Compliance Supervisor; Annette Jones and Angela Moore, Compliance Officers; Mitchell Alderson, Chief of Licensure; Chantel Scott, Chief of Renewal; Christine Schwartz, Legal Services Contractor; Cathy Hacker, P.A. Program Administrator; Jacqueline A. Moore, Legal/Public Affairs Assistant; and Benton Taylor, Board Parliamentarian.

MINUTES REVIEW

Dr. Saferin moved to approve the draft minutes of the March 11, 2015, Board meeting, as written. Dr. Steinbergh seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Dr. Steinbergh	- aye
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye
	Dr. Sethi	- aye
	Mr. Giacalone	- aye
	Dr. Schachat	- aye

The motion carried.

APPLICANTS FOR LICENSURE

Dr. Steinbergh moved to approve for licensure, contingent upon all requested documents being received and approved in accordance with licensure protocols, the anesthesiologist assistant applicants listed in Exhibit "A," the genetic counselor applicants listed in Exhibit "B," the massage therapist applicants listed in Exhibit "C," the Oriental medical practitioner applicants listed in Exhibit "D," the physician assistant applicants listed in Exhibit "E," the physician applicants listed in Exhibit "F," and to approve the results of the August 2014 Cosmetic Therapy Examination on Exhibit "G" and to certify as passing and license those receiving a score of 75 or greater on their examination, and to certify as failing and deny licensure to those who received a score of less than 75 on the examination. Dr. Saferin seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Dr. Steinbergh	- aye
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye
	Dr. Sethi	- aye
	Mr. Giacalone	- aye
	Dr. Schachat	- aye

The motion carried.

REPORTS AND RECOMMENDATIONS

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

Mr. Kenney asked whether each member of the Board had received, read and considered the hearing records, the Findings of Fact, Conclusions of Law, Proposed Orders, and any objections filed in the matters of: William Michael Cox, M.D.; Douglas Allyn Dunham, D.O.; Thomas D. Kramer, Jr., M.D.; Su-Chiao Kuo, M.D.; Chad W. Ulmer, M.D.

A roll call was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Dr. Steinbergh	- aye
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye
	Dr. Sethi	- aye
	Mr. Giacalone	- aye
	Dr. Schachat	- aye

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

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Dr. Steinbergh	- aye
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye
	Dr. Sethi	- aye
	Mr. Giacalone	- aye
	Dr. Schachat	- aye

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

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

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

WILLIAM MICHAEL COX, M.D.

Mr. Kenney directed the Board's attention to the matter of William Michael Cox, M.D. No objections were filed. Ms. Blue was the Hearing Examiner.

Dr. Steinbergh moved to approve and confirm Ms. Blue's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of William Michael Cox, M.D. Dr. Sethi seconded the motion.

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

Dr. Steinbergh stated that the matter of Dr. Cox is before the Board today due to alleged violations of his August 2012 Step I Consent Agreement, based on his admission that he was convicted of unauthorized use of property, a misdemeanor, which constitutes a relapse of his kleptomania. The hearing record shows that Dr. Cox also violated his Consent Agreement by failing to submit Declarations of Compliance in June 2013, March 2014, June 2014, and Sept 2014; failing to attend personal appearances scheduled for July 9, 2013, and September 9, 2014; and failing to undergo psychiatric treatment from June 2013 to at least November 2014. Dr. Cox admitted that he had not been able to see his psychiatrist every two weeks due to scheduling conflicts and some financial constraints. Dr. Cox also admitted that he had not taken the medications prescribed for his psychiatric condition.

Dr. Steinbergh stated that she agrees with the Hearing Examiner that Dr. Cox violated his Consent

Agreement. Dr. Steinbergh stated that, although the Board can be sympathetic with the loss of health insurance, it cannot accept non-compliance with a Consent Agreement and cannot allow Dr. Cox to be involved with patient care until the Board is certain he is well enough to do so. Dr. Steinbergh agreed with the Proposed Order of non-permanent revocation of Dr. Cox's medical license.

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

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Steinbergh	- aye
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye
	Dr. Sethi	- aye
	Mr. Giacalone	- aye
	Dr. Schachat	- aye

The motion to approve carried.

DOUGLAS ALLYN DUNHAM, D.O.

Mr. Kenney directed the Board's attention to the matter of Douglas Allyn Dunham, D.O. Objections were filed and were previously distributed to Board members. Mr. Porter was the Hearing Examiner.

Dr. Steinbergh moved to approve and confirm Mr. Porter's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Douglas Allyn Dunham, D.O. Mr. Giacalone seconded the motion.

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

Mr. Kenney briefly reviewed Dr. Dunham's career, including his many years of service in the medical corps of the Pennsylvania Army National Guard. Dr. Dunham allowed his Ohio medical license to lapse in 2013 and it is currently inactive. On October 23, 2013, Dr. Dunham was charged with unlawfully selling pharmaceutical prescription drug samples. The court accepted Dr. Dunham's plea of guilty and sentenced him to one year of probation, 200 hours of community service, and a fine of \$5,000. In addition, the Pennsylvania State Board of Osteopathic Medicine accepted Dr. Dunham's voluntary permanent surrender of his Pennsylvania medical license in February 2014. Mr. Kenney noted that there is no evidence that Dr. Dunham's quality of care was compromised, that Dr. Dunham ever caused patient harm, or that Dr. Dunham has had prior complaints regarding patient care.

Mr. Kenney stated that there are substantial differences between the case of Dr. Dunham and other cases seen recently by the Medical Board in which physicians have purchased and administered medications from outside the United States that had not been approved by the Food and Drug Administration (FDA). Mr. Kenney stated that in Dr. Dunham's case the medication samples he sold had been FDA-approved.

Mr. Kenney asked the Board to consider amending the Hearing Examiner's Proposed Order from a permanent revocation to a non-permanent revocation of Dr. Dunham's medical license. Mr. Kenney stated that the rationales for the amendment are as follows:

- there is no evidence that Dr. Dunham harmed any patient
- Dr. Dunham has practiced medicine for over 40 years with no violations
- Dr. Dunham has served in the Army National Guard Medical Corps
- Dr. Dunham has already fulfilled all the requirements of the sentence handed down by the court

Mr. Kenney reiterated that Dr. Dunham's Ohio medical license has expired. Mr. Kenney stated that revoking Dr. Dunham's Ohio medical license will afford him an opportunity to reapply for a license in the future, perhaps after completing courses in professional and personal ethics. Mr. Gonidakis asked if the Board could reprimand Dr. Dunham's license and require him to take the courses suggested by Mr. Kenney, rather than revoking the license. Ms. Anderson stated that because Dr. Dunham's Ohio medical license has been expired for more than two years and there is no application to restore the license, the Board lacks the ability to grant restoration or to impose suspension or probationary terms. Ms. Anderson stated that it is within the Board's ability to reprimand, revoke, or permanently revoke Dr. Dunham's expired Ohio medical license.

Dr. Steinbergh disagreed with Mr. Kenney and stated that it is unethical and inappropriate for a physician to sell drug samples. Dr. Steinbergh stated that she does not favor a reprimand in this case. Mr. Giacalone agreed with Dr. Steinbergh, stating that the sale of drug samples is a criminal act. Mr. Giacalone further noted that Dr. Dunham sold the samples to his patients and therefore he took advantage of his patients. Mr. Giacalone also observed that Dr. Dunham was a guest lecturer for some of the pharmaceutical companies in question, so he was paid to promote the products that he sold as samples to his patient. Mr. Giacalone stated that this raises questions about whether Dr. Dunham sold the samples because he thought they were the best medications for his patients or if he did so just to make more money. Mr. Giacalone opined that these actions are indicative of Dr. Dunham's character.

The Board continued to discuss this matter thoroughly. Mr. Kenney asked the Board to consider that Dr. Dunham's criminal acts have already been addressed by the court. Mr. Kenney opined that the purview of the Board is to consider how Dr. Dunham's acts relate to the physician/patient relationship and whether he brought harm to his patients. Dr. Steinbergh commented that it is not known whether any of Dr. Dunham's patients came to harm as a consequence of Dr. Dunham's sale of samples. Dr. Steinbergh reiterated Mr. Giacalone's question of whether Dr. Dunham sold the samples because they were the best medications or his patients or if he did so for monetary reasons. Mr. Kenney pointed out that the medications Dr. Dunham had sold were FDA-approved; in contrast, recent cases involving the use of non-FDA approved medications have resulted in reprimands and not revocations. Mr. Giacalone questioned why Dr. Dunham chose to voluntarily surrender his Pennsylvania medical license instead of challenging such an action.

Mr. Gonidakis moved to amend the Proposed Order to a non-permanent revocation of Dr. Dunham's Ohio medical license and to adopt the rationale provided by Mr. Kenney. Dr. Steinbergh

seconded the motion.

Dr. Schachat found Mr. Kenney's comparison to previous cases involving non-FDA approved medication to be persuasive. Dr. Schachat stated that those previous cases involved both greed and safety, whereas the matter of Dr. Dunham seems to involve greed alone. Dr. Schachat supported the motion to amend the Proposed Order to a non-permanent revocation.

Dr. Steinbergh suggested that the amended Proposed Order be drafted to incorporate Mr. Kenney's comments as part of the rationale so that it can be better reviewed by the Board members. Mr. Kenney agreed.

Dr. Steinbergh moved to table this topic. Mr. Gonidakis seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Steinbergh	- aye
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye
	Dr. Sethi	- aye
	Mr. Giacalone	- aye
	Dr. Schachat	- aye

The motion to table carried.

THOMAS D. KRAMER, JR., M.D.

Mr. Kenney directed the Board's attention to the matter of Thomas D. Kramer, Jr., M.D. Objections have been filed and were previously distributed to Board members. Ms. Blue was the Hearing Examiner.

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

Dr. Kramer was represented by his attorney, Daniel Zinsmaster.

Mr. Zinsmaster stated that the allegations in this matter pertain to compliance with the urine screen requirements of Dr. Kramer's Consent Agreement. Mr. Zinsmaster stated that, as opposed to similar cases recently heard by the Board, Dr. Kramer has never failed to submit to a urine screen when selected. Mr. Zinsmaster stated that Dr. Kramer's Consent Agreement does not state that missed or late call-ins constitute a violation of the Agreement. Rather, the Consent Agreement requires Dr. Kramer to register for a call-in procedure, which he did. Mr. Zinsmaster also noted that refusal to submit to a urine screen when selected is a violation, but Dr. Kramer never refused to submit when selected. Mr. Zinsmaster further noted that Dr. Kramer has never submitted a positive urine screen and that Dr. Kramer has been sober since 2010.

Mr. Zinsmaster stated that although the explicit terms of the Consent Agreement were satisfied, the Hearing Examiner opined that Dr. Kramer violated an implied term of the Agreement. Mr. Zinsmaster stated that as a principle of contract law, vagueness and ambiguities should be ruled against the drafter of the agreement, which in this case was the Medical Board and not Dr. Kramer. Mr. Zinsmaster disagreed with the Hearing Examiner that breaching a term that is not written in the Agreement constitutes a violation.

Ms. Zinsmaster stated that since Dr. Kramer instituted certain safeguards in 2014 he has not missed any call-ins, according to testimony provided by the Board's Compliance Officer, Ms. Bickers.

Dr. Kramer acknowledged the failings of his prior call-in procedures. Dr. Kramer stated that he welcomes the Board's monitoring and he sees it as an extra pillar for his recovery. Dr. Kramer stated that he has taken steps to ensure that he calls in on a timely basis, such as narrowing his practice from two hospitals to one to reduce confusion in his life, setting alarms on his cell phone, and getting reminders from his wife and his mother. Dr. Kramer commented that he is easily distracted when he moves from task to task and he needs more reminders than most other people.

Dr. Kramer stated that he now has a good process in place and he gave assurance that he will not appear before the Board again for this issue.

Mr. Kenney asked if the Assistant Attorney General would like to respond. Mr. Wilcox stated that he would like to respond.

Mr. Wilcox reiterated that the Hearing Examiner was unpersuaded by the argument that Dr. Kramer's Consent Agreement has no specific requirement that he call in daily. Mr. Wilcox stated that the entire monitoring process revolves around the daily call-in procedure, without which the probationer cannot know if they have been selected to provide a urine sample that day. Mr. Wilcox noted the Agreement's language that "The screening process *shall* [emphasis added] require a daily call-in procedure." Mr. Wilcox stated that the claim that Dr. Kramer did not violate his Consent Agreement is not correct.

Dr. Steinbergh moved to approve and confirm Ms. Blue's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Thomas D. Kramer, Jr., M.D. Dr. Sethi seconded the motion.

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

Dr. Sethi briefly reviewed Dr. Kramer's career in emergency medicine. In 2012, Dr. Kramer entered into a Consent Agreement due to his addiction to narcotics and the fact that he had obtained Vicodin for self-use by prescribing in the name of a family member and in fictitious names.

Dr. Sethi continued that the Secretary and Supervising Member of the Board subsequently found that Dr. Kramer had failed to comply with his Consent Agreement and informed him of such deficiency in writing. Specifically, Dr. Kramer failed to call in to FirstLab seven times and called in late twice, including instances following notification of his non-compliance. Dr. Sethi commented that compliance with consent agreements is very important and is considered part of an impaired probationer's therapy. Dr.

Sethi opined that Dr. Kramer's failure to comply was a sign of disrespect for his Agreement and for the authority of the Board.

Dr. Sethi stated that the Hearing Examiner's Proposed Order would extend Dr. Kramer's probationary time by an additional 90 days, including time already added in the Board's April 2013 tolling letter. Dr. Sethi stated that he supports the Proposed Order.

Dr. Steinbergh noted that, according to Dr. Kramer's testimony and the statements of his sponsor, he has been sober for more than four years. Dr. Steinbergh also acknowledged that due to issues with distractibility, Dr. Kramer has instituted new strategies to stay in compliance with his call-in requirements. Dr. Steinbergh stated that at the Board's retreat last month, the Board members expressed support for suspending the licenses of non-compliant probationers rather than simply adding to the probationary time. However, Dr. Steinbergh stated that she will not seek a suspension today.

Dr. Steinbergh stated that Dr. Kramer is an intelligent physician and there is no reason that he cannot understand the terms of his Consent Agreement. Dr. Steinbergh agreed with the Proposed Order. Dr. Steinbergh added that she respected Dr. Kramer for having identified why he had missed call-ins.

Mr. Giacalone noted Mr. Zinsmaster's arguments regarding whether Dr. Kramer's Consent Agreement actually requires him to call FirstLab daily. Mr. Giacalone disagreed with Mr. Zinsmaster and stated that Paragraph 10 of the Consent Agreement outlines the procedure. Mr. Giacalone stated that if Mr. Zinsmaster's argument was taken to its logical conclusion, a probationer could avoid testing simply by refusing to call in, thus leaving the Board with no way to identify a relapse.

Mr. Giacalone reiterated that Dr. Kramer missed nine call-ins even after his receipt of the Board's tolling letter in April 2013. Mr. Giacalone appreciated that Dr. Kramer's wife and mother help remind him of his daily call-in obligation, but he was disturbed that Dr. Kramer needed such reminders about something as fundamental as keeping his professional license. Mr. Giacalone noted that Dr. Kramer is an emergency physician and hoped that he did not need reminders regarding procedures.

Mr. Giacalone stated that Dr. Kramer's non-compliance caused the Board to use its resources to hold a hearing and to consider the matter. Mr. Giacalone also asked what message the Board is sending regarding the importance of complying with Consent Agreements. Mr. Giacalone opined that Dr. Kramer's probationary period should be extended by at least 180 days.

Mr. Kenney agreed with Mr. Giacalone's comments and found it unbelievable that Dr. Kramer needs someone to remind him to call in to FirstLab, even after receiving the Board's tolling letter. Mr. Kenney strongly advised Dr. Kramer to not appear before the Board again under similar circumstances. Dr. Sethi agreed and opined that if Dr. Kramer continues to be non-compliant, the Board should consider suspension of his medical license.

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

ROLL CALL: Dr. Rothermel - abstain

Dr. Saferin	- abstain
Dr. Steinbergh	- aye
Mr. Gonidakis	- aye
Mr. Kenney	- aye
Dr. Sethi	- aye
Mr. Giacalone	- nay
Dr. Schachat	- aye

The motion to approve, having failed to obtain six affirmative votes, did not carry.

Mr. Giacalone moved to approve and confirm Ms. Blue's Findings of Fact and Conclusions of Law in the matter of Thomas D. Kramer, Jr., M.D., and to approve an amended Proposed Order specifying that Dr. Kramer shall not request termination of the October 2012 Consent Agreement before November 12, 2018. Mr. Gonidakis seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Steinbergh	- aye
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye
	Dr. Sethi	- aye
	Mr. Giacalone	- aye
	Dr. Schachat	- aye

The motion carried.

SU-CHIAO KUO, M.D.

Mr. Kenney directed the Board's attention to the matter of Su-Chiao Kuo. Objections have been filed and were previously distributed to Board members. Mr. Porter was the Hearing Examiner.

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

Dr. Kuo was represented by her attorney, Douglas E. Graff.

Mr. Graff stated that Dr. Kuo unfortunately purchased medications from a Texas-based company which subsequently either sold their account or moved to Canada. Dr. Kuo used these medications in her oncology practice. When the Food and Drug Administration (FDA) came to Dr. Kuo's office in 2009, she surrendered all of her medications to them. Mr. Graff stated that the medications have been destroyed by the government and were not tested. Mr. Graff stated that Dr. Kuo has not ordered any more of these medications since 2009. Mr. Graff continued that Dr. Kuo has entered into an agreement with government to pay back the money she made, plus a civil penalty. Dr. Kuo pleaded guilty to one misdemeanor count and paid a fine.

Mr. Graff stated that Dr. Kuo is remorseful for her actions and that she had not had any indication that what she was doing was wrong. Mr. Graff asked the Board to accept the Hearing Examiner's Proposed Order of reprimand.

Dr. Kuo stated that she has been treating cancer patients in her office for more than 25 years. About nine years ago, Dr. Kuo purchased medicine from a company located in Texas. Dr. Kuo stated that she was not aware that it was improper to continue purchasing medication from that company after it moved to Canada. When she was notified of the issue by the FDA, Dr. Kuo stopped ordering the medication immediately and has not ordered any since. Dr. Kuo stated that she cares about her patients very much and wished to continue providing them care without interruption.

Mr. Kenney asked if the Assistant Attorney General would like to respond. Mr. Wakley stated that he would like to respond.

Mr. Wakley stated that this case has a similar fact pattern to other recent cases, but differs from the others in that no FDA detainer notices were ever issued to Dr. Kuo. Mr. Wakley confirmed that Dr. Kuo stopped ordering the medications when she was notified by the FDA that it was illegal. Mr. Wakley stated that Dr. Kuo has paid double damages in restitution to Medicare in the amount of \$177,000, as well as a criminal restitution of \$5,000.

Mr. Wakley opined that Dr. Kuo was genuinely remorseful at her hearing and that she had not understood that ordering the medications was illegal. Mr. Wakley stated that he had no objections to the Proposed Order of reprimand.

Dr. Steinbergh moved to approve and confirm Mr. Porter's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Su-Chiao Kuo, M.D. Dr. Sethi seconded the motion.

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

Dr. Schachat stated that this case is based on Dr. Kuo's guilty plea to a misdemeanor committed in the course of practice, which involved purchasing and using oncology drugs from outside the United States that had not been approved by the FDA. As a result, Dr. Kuo was convicted of a misdemeanor and was sentenced to probation, which was immediately terminated upon her payment of a \$5,000 fine, and paid restitution of about \$170,000. Dr. Schachat stated that, according to testimony, the oncology drugs in question were produced by the usual drug companies and were simply priced lower.

Dr. Schachat stated that Dr. Kuo appears to be very remorseful and he opined that this problem is unlikely to recur. The Hearing Examiner has recommended a reprimand because there was no evidence of patient harm, she stopped purchasing the drugs immediately when she learned that it was illegal, she has paid significant fines, and she has been honest and forthcoming. Dr. Schachat agreed with the Proposed Order of reprimand.

Mr. Giacalone noted the following quote from Dr. Kuo's attorney during the hearing: "The evidence will

show that those drugs, though brought in from Canada, oftentimes are made in the same factories and at the same standards without FDA label-making ...” Mr. Giacalone disagreed with this statement and stated that the drugs could have been sourced anywhere or could have been counterfeit. Mr. Giacalone also noted Dr. Kuo’s testimony that “We don’t have time to look into the legal part, you know.” Mr. Giacalone stated that physicians do, in fact, have an obligation to ensure that they are practicing within the law. Mr. Giacalone stated that Dr. Kuo did cease this activity as soon as she was notified by the FDA, and therefore he supports the Proposed Order of reprimand.

Dr. Steinbergh stated that she also supports the Proposed Order. Dr. Steinbergh expressed concern, however, with the fact that Dr. Kuo was first visited by the FDA in 2009 but did not hear from them again until 2013 when she was charged with misbranding. Dr. Steinbergh stated that not hearing back from the government for four years must have caused considerable pressure and stress. Dr. Steinbergh opined that the government should have been able to resolve this case and appropriately communicate with Dr. Kuo in a shorter timeframe than four years. Mr. Kenney agreed.

A vote was taken on Dr. Steinbergh’s motion to approve:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Steinbergh	- aye
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye
	Dr. Sethi	- aye
	Mr. Giacalone	- aye
	Dr. Schachat	- aye

The motion to approve carried.

CHAD W. ULMER, M.D.

Mr. Kenney directed the Board’s attention to the matter of Chad W. Ulmer, M.D. No objections have been filed. Mr. Porter was the Hearing Examiner.

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

Dr. Ulmer was represented by his attorney, Stephen B. Yurik.

Mr. Yurik related Dr. Ulmer’s apologies for his violations of his Consent Agreement. Mr. Yurik explained that Dr. Ulmer stopped attending his Alcoholics Anonymous (AA) meetings for a period of five months because he had a fundamental philosophical difference with the 12-step approach that made it extremely uncomfortable for him to attend. Dr. Ulmer had failed to promptly disclose this to the Board because he feared that it could result in the end of his medical career. Mr. Yurik stated that the Hearing Examiner found multiple mitigating factors and no aggravating factors in Dr. Ulmer’s case. Among the mitigating

factors were that Dr. Ulmer has remained sober since 2010 and that he continued with his urine screen regime without interruption. Mr. Yurik stated that Dr. Ulmer attended AA for two-and-a-half years before he began missing meetings. Since that time Dr. Ulmer has resumed attendance at AA and has been attending for more than one-and-a-half years. Mr. Yurik noted the Hearing Examiner's opinion that Dr. Ulmer appeared to testify truthfully and sincerely about his reasons for not attending AA meetings.

Mr. Yurik stated that the 12-step approach is a God-centered and prayer-centered approach to rehabilitation. Mr. Yurik stated that Dr. Ulmer is not a religious man and he does not believe that he is powerless before alcohol without God. Mr. Yurik continued that Dr. Ulmer does not believe that his alcohol dependence is a character defect. Rather, Dr. Ulmer believes that it is a medical problem and, like any other medical problem, it is best treated with a scientific, evidence-based approach and not a prayer-based approach.

Mr. Yurik stated that the Hearing Examiner has recommended a reprimand and an extension of Dr. Ulmer's probation, but no suspension of Dr. Ulmer's medical license. The Hearing Examiner did not offer an opinion regarding Dr. Ulmer's request for approval of a variation of the 12-step program. Mr. Yurik stated that Dr. Ulmer has submitted a letter from Anne E. Croskey, Ph.D., L.I.S.W., a chemical dependency expert. Dr. Croskey opined in the letter that AA meetings are very stressful for Dr. Ulmer due to his philosophical disagreement, and therefore is counterproductive. Dr. Croskey has recommended that Dr. Ulmer attend agnostic AA meetings, but since those meetings are not frequent enough for Dr. Ulmer to attend 10 meetings per month as required, Dr. Croskey has recommended that Dr. Ulmer do additional activities such as meditation, regular exercise, and counseling sessions.

Mr. Yurik stated that when it comes to treating people for chemical dependency, one size does not fit all. Mr. Yurik stated that AA came into existence in the 1930's and much has been discovered since that time, which is addressed in the American Society of Addiction Medicine's Essential Principles. The hearing record also includes an article by Lance Dodes, M.D., about the pseudo-science of AA. Mr. Yurik added that an article was recently published in Atlantic Monthly about the irrationality of AA.

Mr. Yurik stated that AA works for many people, but it does not work for Dr. Ulmer because of its prayer-centered and God-centered approach. Mr. Yurik stated that allowing the alternative program recommended by Dr. Croskey would serve the Board's purpose of rehabilitation. Mr. Yurik asked the Board to adopt the Hearing Examiner's proposed order, as well as Dr. Croskey's recommendations.

Mr. Kenney asked if the Assistant Attorney General would like to respond. Ms. Snyder stated that she would like to respond.

Ms. Snyder stated that this case is not about Dr. Ulmer's religion. Rather, it is about Dr. Ulmer's failure to comply with the terms he agreed to in his Consent Agreement and his submission of false declarations that he was in compliance. Ms. Snyder stated that Dr. Ulmer is struggling to reconcile personal accountability with the AA tenet of being powerless over one's addiction. Ms. Snyder stated that, in fact, Dr. Ulmer had forfeited control over his rehabilitation because he did not have control over his drinking, and this is when he entered into the Consent Agreement.

Ms. Snyder stated that Dr. Ulmer has made a proposal to substitute another program in place of AA. Ms. Snyder read a portion of Dr. Ulmer's Consent Agreement: "Dr. Ulmer shall maintain participation in an alcohol and drug rehabilitation program such as AA, NA, CA, or caduceus, no less than three times per week. Substitution of any other specific program must receive *prior* [emphasis added] Board approval." Ms. Snyder stated that Dr. Ulmer did not receive prior approval. Ms. Snyder stated that it is up to the Board as to whether to allow Dr. Ulmer to substitute another program for AA. Ms. Snyder stated that the 12-step program is not religiously-based and that the Board has seen AA work for hundreds of impaired physicians.

Ms. Snyder stated that however the Board decides regarding Dr. Ulmer's suggested alternative program, it is not an excuse for his non-compliance with his Consent Agreement. Ms. Snyder therefore supported the Proposed Order.

Dr. Steinbergh moved to approve and confirm Mr. Porter's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Chad W. Ulmer, M.D. Dr. Sethi seconded the motion.

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

Mr. Giacalone briefly reviewed Dr. Ulmer's career. Mr. Giacalone noted that Dr. Ulmer entered into a Step I Consent Agreement with the Board in September 2010 based on his having completed a 28-day inpatient treatment for alcohol dependence, nicotine dependence, and depression. In April 2011 Dr. Ulmer entered into a Step II Consent Agreement with the Board which reinstated his license and imposed certain conditions, including the requirement that he maintain participation in an alcohol and drug rehabilitation program such as Alcoholics Anonymous (AA), Narcotics Anonymous (NA), Cocaine Anonymous (CA), or Caduceus, no less than three times per week and that substitution of any other specific program must receive prior Board approval. Mr. Giacalone noted that in August 2012, the Board granted Dr. Ulmer's request to reduce his rehabilitation meetings from three times per week to two times per week with a minimum of ten times per month.

Mr. Giacalone continued that at his hearing and in his responses to Board interrogatories, Dr. Ulmer acknowledged that he stopped attending AA meetings from June 1, 2013, through October 24, 2013 because he did not believe that AA is an appropriate treatment program for him. Dr. Ulmer also acknowledged that on his declarations of compliance submitted on July 8, 2013, and August 30, 2013, he did not inform the Board that he had stopped attending AA meetings. In his December 23, 2013 declaration of compliance, Dr. Ulmer advised the Board that he had missed all AA meetings in the timeframe discussed.

Mr. Giacalone stated that Dr. Ulmer raised numerous reasons to justify why he chose not to attend the required AA-type programs:

- Dr. Ulmer did not feel that AA is an appropriate treatment method for him
- As an atheist, Dr. Ulmer found that the AA program has a "certain religious component" which he personally found to be offensive

- Attending AA-type meetings made him feel “Just upset, just angry. I don't feel good walking out of there. I don't think it's a beneficial activity for me.”

Dr. Ulmer had testified that there is a fundamental conflict between his personal belief system and the methods of AA and that this conflict had made his attendance at the AA meetings almost unbearable. Nonetheless, Dr. Ulmer resumed attendance at AA meetings after he realized that “not attending was not an option.” Dr. Ulmer’s counselor, Anne Croskey, Ph.D., L.I.S.W., LCDC-III, stated in a letter to the Board, “It follows therefore that when Dr. Ulmer attends AA meetings he becomes angry, potentially tempting him to drink alcohol again.” Mr. Giacalone noted that, according to his testimony, Dr. Ulmer does not believe that he is an alcoholic and he no longer agrees with his diagnosis of alcohol dependence.

Mr. Giacalone agreed with Ms. Snyder that the issue before the Board is whether Dr. Ulmer complied with his Consent Agreement, not the efficacy of AA. Mr. Giacalone stated that Dr. Ulmer has not complied. Mr. Giacalone stated that if Dr. Ulmer had had an issue with attending AA, which he had willingly agreed to, he could have proposed an alternative for the Board’s consideration. However, an alternative to AA is only being offered now in response to Dr. Ulmer’s failure to comply.

Mr. Giacalone noted Mr. Yurik’s contention that the Board’s overall objective is that Dr. Ulmer stay sober and refrain from drinking. Mr. Yurik had asked the Board “... if there would be a way of lightening the load of those meetings, and more emphasis on some other things like the counseling sessions, and like a documented exercise program, that would be in the interest of helping him to maintain his sobriety.” Mr. Giacalone argued that the Board’s primary objective is, in fact, to protect the public and to ensure that practitioners with substance abuse problems whom this Board allows to reenter the practice adhere to the promises they made to the Board. Mr. Giacalone saw no reason to reward Dr. Ulmer for his non-compliance by “lightening” his load.

Based on the evidence and testimony, Mr. Giacalone suggested accepting the Hearing Examiner’s Findings of Fact and Conclusions of Law. Mr. Giacalone also suggested amending the Proposed Order in order to suspend Dr. Ulmer’s medical license for 15 days, extend Dr. Ulmer’s probationary time by 180 days, and require Dr. Ulmer to submit his alternative proposal for treatment through the Board’s established process for such requests.

Mr. Giacalone moved to amend the Proposed Order to suspend Dr. Ulmer’s medical license for 15 days, extend Dr. Ulmer’s probationary time under his April 2011 Consent Agreement by 180 days, and require Dr. Ulmer to submit his alternative proposal for treatment through the Board’s established process for such requests. Dr. Sethi seconded the motion.

Dr. Steinbergh agreed with Mr. Giacalone that there should be a suspension of Dr. Ulmer’s medical license. Dr. Steinbergh also agreed that the Board should not reward Dr. Ulmer by making things easier for him. Regarding the suggestions for alternative activities such as counseling sessions, meditation, and an exercise program, Dr. Steinbergh stated that these are activities that Dr. Ulmer can already do without the Board’s approval. Dr. Steinbergh stated that it would set a bad precedent to allow individuals to substitute alternative plans outside the Board’s normal process for approving such things.

Dr. Steinbergh stated that Dr. Ulmer knew his responsibilities when he signed his Consent Agreement and that it is necessary for his recovery. Dr. Steinbergh stated that Dr. Ulmer must, at some point, understand that he probably is not in control of his condition. However, Dr. Steinbergh acknowledged that Dr. Ulmer has maintained sobriety since August 2010 and commended him for that. Dr. Steinbergh commented that many probationers thank the Board for requiring them to attend AA and that the structure and responsibility have helped them get their lives back together.

Dr. Sethi opined that Dr. Ulmer's failure to comply with his Consent Agreement is a sign of disrespect. Dr. Sethi stated that just because Dr. Ulmer has not had alcohol for a number of years does not mean that he has recovered. Dr. Sethi stated that Dr. Ulmer must recognize that he is an alcoholic and needs treatment, part of which is compliance with the Consent Agreement that he signed. Dr. Sethi stated that Dr. Ulmer does not have to believe in a higher power and that AA is proven to be helpful. Dr. Sethi recommended that Dr. Ulmer follow the rules for his own safety and the safety of his patients.

Dr. Steinbergh stated that she supports Mr. Giacalone's proposed amendment, but asked for more time to read the language of the amended order.

Mr. Gonidakis moved to table this topic. Dr. Sethi seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Steinbergh	- aye
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye
	Dr. Sethi	- aye
	Mr. Giacalone	- aye
	Dr. Schachat	- aye

The motion to table carried.

THOMAS D. KRAMER, JR., M.D.

Ms. Anderson asked the Board, in an abundance of caution, to reconsider the matter of Thomas D. Kramer, Jr., M.D., in order to clarify a procedural issue, specifically the adoption of the proposed amended order.

Dr. Steinbergh moved to reconsider the matter of Thomas D. Kramer, Jr., M.D. Mr. Gonidakis seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Steinbergh	- aye
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye

Dr. Sethi - aye
Mr. Giacalone - aye
Dr. Schachat - aye

The motion to reconsider carried.

Mr. Giacalone moved to amend the Hearing Examiner's Proposed Order so that Dr. Kramer shall not request termination of the October 2012 Consent Agreement before November 12, 2018. Dr. Sethi seconded the motion. A vote was taken:

ROLL CALL:

Dr. Rothermel	- abstain
Dr. Saferin	- abstain
Dr. Steinbergh	- aye
Mr. Gonidakis	- aye
Mr. Kenney	- aye
Dr. Sethi	- aye
Mr. Giacalone	- aye
Dr. Schachat	- aye

The motion to amend carried.

Dr. Steinbergh moved to approve and confirm Ms. Blue's Findings of Fact, Conclusions of Law, and Proposed Order, as amended, in the matter of Thomas D. Kramer, Jr., M.D. Dr. Sethi seconded the motion. Dr. Schachat seconded the motion. A vote was taken:

ROLL CALL:

Dr. Rothermel	- abstain
Dr. Saferin	- abstain
Dr. Steinbergh	- aye
Mr. Gonidakis	- aye
Mr. Kenney	- aye
Dr. Sethi	- aye
Mr. Giacalone	- aye
Dr. Schachat	- aye

The motion to approve carried.

EXECUTIVE SESSION

Dr. Saferin moved to go into Executive Session to confer with the Medical Board's attorneys on matters of pending or imminent court action; for the purpose of deliberating on proposed consent agreements in the exercise of the Medical Board's quasi-judicial capacity; and for the purpose of considering the employment, dismissal, discipline, demotion, compensation, and investigation of charges against a public employee. Dr. Rothermel seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Dr. Steinbergh	- aye
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye
	Dr. Sethi	- aye
	Mr. Giacalone	- aye
	Dr. Schachat	- aye

The motion carried.

Pursuant to Section 121.22(G)(3), Ohio Revised Code, the Board went into executive session with Mr. Groeber, Ms. Anderson, Mr. Miller, Ms. Loe, Ms. Debolt, Mr. Katko, Ms. Wehrle, Ms. Marshall, the Enforcement Attorneys, the Assistant Attorneys General, Mr. Alderson, Ms. Scott, Ms. Moore, Ms. Schwartz, and Mr. Taylor in attendance. All staff except Mr. Groeber, Ms. Anderson, and Ms. Loe exited the meeting during the Executive Session.

The Board returned to public session.

RATIFICATION OF SETTLEMENT AGREEMENTS

YVONNE DALTON, M.D. – PERMANENT RETIREMENT OF CERTIFICATE TO PRACTICE MEDICINE AND SURGERY

Dr. Steinbergh moved to ratify the Proposed Permanent Retirement with Dr. Dalton. Dr. Sethi seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Steinbergh	- aye
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye
	Dr. Sethi	- aye
	Mr. Giacalone	- aye
	Dr. Schachat	- aye

The motion to ratify carried.

DAVID MILLER HEYDT, M.D. – PROBATIONARY CONSENT AGREEMENT

Dr. Steinbergh moved to ratify the Proposed Probationary Consent Agreement with Dr. Heydt. Dr. Sethi seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- abstain
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Dr. Saferin	- abstain
Dr. Steinbergh	- aye
Mr. Gonidakis	- aye
Mr. Kenney	- aye
Dr. Sethi	- aye
Mr. Giacalone	- aye
Dr. Schachat	- aye

The motion to ratify carried.

JAMES ARTHUR SIMS, M.D. – PERMANENT SURRENDER OF CERTIFICATE TO PRACTICE
MEDICINE AND SURGERY

Dr. Steinbergh moved to ratify the Proposed Permanent Surrender with Dr. Sims. Mr. Gonidakis seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Steinbergh	- aye
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye
	Dr. Sethi	- aye
	Mr. Giacalone	- aye
	Dr. Schachat	- aye

The motion to ratify carried.

EMMETT O’NEAL, M.D. – VOLUNTARY PERMANENT RETIREMENT FROM THE PRACTICE OF
MEDICINE AND SURGERY

Dr. Steinbergh moved to ratify the Proposed Voluntary Permanent Retirement with Dr. O’Neal. Mr. Gonidakis seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Steinbergh	- aye
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye
	Dr. Sethi	- aye
	Mr. Giacalone	- aye
	Dr. Schachat	- aye

The motion to ratify carried.

JOHN W. TEDROW, P.A. – STEP I CONSENT AGREEMENT

Dr. Steinbergh moved to ratify the Proposed Step I Consent Agreement with Mr. Tedrow. Mr. Gonidakis seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Steinbergh	- aye
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye
	Dr. Sethi	- aye
	Mr. Giacalone	- aye
	Dr. Schachat	- aye

The motion to ratify carried.

JOHN DAVID VANCE, M.D. – PERMANENT SURRENDER OF CERTIFICATE TO PRACTICE
MEDICINE AND SURGERY

Dr. Steinbergh moved to ratify the Proposed Permanent Surrender with Dr. Vance. Mr. Gonidakis seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Steinbergh	- aye
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye
	Dr. Sethi	- aye
	Mr. Giacalone	- aye
	Dr. Schachat	- aye

The motion to ratify carried.

HARRY F. HOWELL, II, L.M.T. – CONSENT AGREEMENT

Dr. Steinbergh moved to ratify the Proposed Consent Agreement with Dr. Howell. Mr. Gonidakis seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Steinbergh	- aye
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye
	Dr. Sethi	- aye

Mr. Giacalone - aye
 Dr. Schachat - aye

The motion to ratify carried.

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

BRIAN J. ALTMAN, D.P.M. – CITATION LETTER

At this time the Board read and considered the proposed Citation Letter in the above matter, a copy of which shall be maintained in the exhibits section of this Journal.

Dr. Steinbergh moved to send the Citation Letter to Dr. Altman. Mr. Giacalone seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Steinbergh	- aye
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye
	Dr. Sethi	- aye
	Mr. Giacalone	- aye
	Dr. Schachat	- aye

The motion to send carried.

MICAH SHAWN CROUSE, M.D. – CITATION LETTER

At this time the Board read and considered the proposed Citation Letter in the above matter, a copy of which shall be maintained in the exhibits section of this Journal.

Dr. Steinbergh moved to send the Citation Letter to Dr. Crouse. Dr. Sethi seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Steinbergh	- aye
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye
	Dr. Sethi	- aye
	Mr. Giacalone	- aye
	Dr. Schachat	- aye

The motion to send carried.

MICHAEL LEE HINES – CITATION LETTER

At this time the Board read and considered the proposed Citation Letter in the above matter, a copy of which shall be maintained in the exhibits section of this Journal.

Dr. Steinbergh moved to send the Citation Letter to Mr. Hines. Dr. Sethi seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Steinbergh	- aye
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye
	Dr. Sethi	- aye
	Mr. Giacalone	- aye
	Dr. Schachat	- aye

The motion to send carried.

MOHAN YADAV KARETI, M.D. – CITATION LETTER

At this time the Board read and considered the proposed Citation Letter in the above matter, a copy of which shall be maintained in the exhibits section of this Journal.

Dr. Steinbergh moved to send the Citation Letter to Dr. Kareti. Dr. Sethi seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Steinbergh	- aye
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye
	Dr. Sethi	- aye
	Mr. Giacalone	- aye
	Dr. Schachat	- aye

The motion to send carried.

KRISTEN GABRIELLE LANDRY, M.D. – CITATION LETTER

At this time the Board read and considered the proposed Citation Letter in the above matter, a copy of which shall be maintained in the exhibits section of this Journal.

Dr. Steinbergh moved to send the Citation Letter to Dr. Landry. Dr. Sethi seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Steinbergh	- aye
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye
	Dr. Sethi	- aye
	Mr. Giacalone	- aye
	Dr. Schachat	- aye

The motion to send carried.

FIRAS A. RABI, M.D. – CITATION LETTER

At this time the Board read and considered the proposed Citation Letter in the above matter, a copy of which shall be maintained in the exhibits section of this Journal.

Dr. Steinbergh moved to send the Citation Letter to Dr. Rabi. Mr. Gonidakis seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Steinbergh	- aye
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye
	Dr. Sethi	- aye
	Mr. Giacalone	- aye
	Dr. Schachat	- aye

The motion to send carried.

MICHELLE A. STOUT – CITATION LETTER

At this time the Board read and considered the proposed Citation Letter in the above matter, a copy of which shall be maintained in the exhibits section of this Journal.

Dr. Steinbergh moved to send the Citation Letter to Ms. Stout. Dr. Sethi seconded the motion. A vote was taken:

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

Dr. Steinbergh	- aye
Mr. Gonidakis	- aye
Mr. Kenney	- aye
Dr. Sethi	- aye
Mr. Giacalone	- aye
Dr. Schachat	- aye

The motion to send carried.

JILIAN ALTHEA WAITE, M.D. – CITATION LETTER

At this time the Board read and considered the proposed Citation Letter in the above matter, a copy of which shall be maintained in the exhibits section of this Journal.

Dr. Steinbergh moved to send the Citation Letter to Dr. Waite. Dr. Sethi seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Steinbergh	- aye
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye
	Dr. Sethi	- aye
	Mr. Giacalone	- aye
	Dr. Schachat	- aye

The motion to send carried.

The Board recessed at 12:08 p.m. and resumed the meeting at 1:10 p.m.

OPERATIONS REPORT

Human Resources: Mr. Groeber stated that a job offer has been made to fill the Deputy Director 5 position which has been tentatively accepted by the Honorable David W. Fais. Mr. Fais is retired as a judge on the Franklin County Court of Common Pleas and also has experience as a city attorney and a county prosecutor.

Mr. Groeber stated that the staff is working to fill other open positions as quickly as possible.

Budget: Mr. Groeber stated that the Board continues to see abnormally high expenses related to the delay in being billed for rent, which was collected into one bill at the end of the last fiscal year. Mr. Groeber stated that otherwise, the Board's finances look very good. Mr. Groeber reported that revenue is up by 3.6% from this time two years ago, essentially in line with the increase in licensure volume.

Information Technology: Mr. Groeber stated that the E-License 2.0 project continues to develop. Cost estimates are still unavailable, but a vendor has been tentatively selected. Mr. Groeber stated that the new system is likely to launch in late June or early July.

Mr. Groeber stated that, in response to concerns expressed at the last Board meeting, the staff is continuing to work on enhancements to the Board's phone system and voicemail messages so that callers can have a better expectation of when they can expect a return call.

Communications and Outreach: Mr. Groeber stated that the previous month has been very busy with regard to presentations and that Ms. Wehrle is currently working on 17 presentation projects.

Mr. Groeber stated that earlier this morning he had attended an Ohio Health Senior Leadership Meeting, along with the directors of other state agencies and some local business leaders. The meeting involved an informal discussion of the healthcare landscape and the continued pressures to reduce costs. Mr. Groeber stated that concerns were expressed about the quality of care and the roles played by other entities such as insurance and pharmaceutical companies. Mr. Groeber stated that new models will be tested over the next year that will hopefully improve the quality of care without significantly impacting costs.

Dr. Steinbergh stated that on April 1, she gave a presentation for medical students and residents at Doctors Hospital regarding applications for licenses and training certificates. The presentation was video-conferenced to multiple sites within the state.

Agency Operations: Mr. Groeber stated that the number of open complaints has fallen from about 3,200 in January to 2,480 as of March 31, thanks to the hard work of the staff. This has allowed the staff to focus its efforts on the remaining complaints and moving them through the process.

Mr. Groeber stated that the average days to process a new allopathic or osteopathic medical license is now down to an average of 50 days, representing a 41% reduction over the same time last year. Expedited licensure applications were processed in an average of 47 days, including two to three outliers that were unprocessed for a long period due to lack of proper documentation. Without including the outlying applications, the expedited licenses were processed in an average of just over 30 days.

Mr. Groeber continued that license verification, of which there are usually 6,000 to 6,500 per year, are on pace to reach 8,000 this year. At \$50 per verification, this will result in an additional \$100,000 in revenue from that source if the pace continues.

Mr. Groeber stated that the Licensure Section has started tracking when licensees renew their licenses in order to gain insight into not only when licensees renew, but also why they renew. Mr. Groeber stated that the goal is to make it more appealing for licensees to renew on a timely basis.

Speed and Ease Initiative: Mr. Groeber stated that time is being saved in the licensure process, largely thanks to the Bureau of Criminal Investigation (BCI) working with vendors to send fingerprint results electronically.

Mr. Groeber reported a new complaint triage protocol whereby an investigator can contact a Board attorney to discuss poorly-defined complaints and make a definitive decision on whether to close or to proceed, rather than putting the complaint in a holding queue.

Mr. Groeber stated that the complaint process for massage therapist applicants had been overly-complicated. Under a new procedure, Mr. Miller will review the complaints and assign them to the point in the process, such as Enforcement or Investigations, where action can be taken quickly. Mr. Groeber stated that his approach requires greater collaboration between sections, but the result is a faster resolution of the complaint.

Financial Disclosure Forms: Mr. Groeber reminded the Board members that their Financial Disclosure Forms are due at the Ohio Ethics Commission by April 15.

REPORTS AND RECOMMENDATIONS

DOUGLAS ALLYN DUNHAM, D.O.

Dr. Steinbergh moved to remove the subject of Douglas Allyn Dunham, D.O., from the table. Dr. Schachat seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Steinbergh	- aye
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye
	Dr. Sethi	- aye
	Mr. Giacalone	- aye
	Dr. Schachat	- aye

The motion carried.

Mr. Kenney stated that the language for the rationale of Mr. Gonidakis' proposed amendment has been drafted and distributed to Board members. Dr. Steinbergh noted that the amended Proposed Order is for a non-permanent revocation of Dr. Dunham's Ohio medical license.

Mr. Gonidakis wished to alter his motion to amend so that the rationale and the Order will read as follows:

AMENDED RATIONALE FOR THE PROPOSED ORDER

The evidence establishes that Dr. Dunham pleaded guilty to and was convicted of a felony offense in federal court for selling drug samples. He permanently surrendered his Pennsylvania medical license based upon that guilty plea. This is a serious matter. However, there is also strong mitigating evidence in Dr. Dunham's favor. He practiced for four

decades with no prior disciplinary action. His long practice included service in the medical corps of the armed forces. Moreover, there is no evidence of patient harm that resulted from Dr. Dunham's violation. Accordingly, this Board has determined that the Proposed Order of Permanent Revocation is too severe. Instead, Dr. Dunham's lapsed license will be revoked, and he will be able to apply for a new license at some time in the future. Finally, Dr. Dunham should be aware that, should he apply for and be granted a new Ohio medical license, the Board will likely impose a brief period of suspension and require him to complete courses on personal and professional ethics.

AMENDED PROPOSED ORDER

It is hereby ORDERED that:

The certificate of Douglas Allyn Dunham, D.O., to practice osteopathic medicine and surgery in the State of Ohio shall be REVOKED.

This Order shall become effective immediately upon the mailing of the notification of approval by the Board.

No Board member objected to the change in the motion to amend. The change in the motion to amend was accepted.

A vote was taken on Mr. Gonidakis' motion to amend:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Steinbergh	- aye
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye
	Dr. Sethi	- aye
	Mr. Giacalone	- aye
	Dr. Schachat	- aye

The motion to amend carried.

Dr. Steinbergh moved to approve and confirm Mr. Porter's Findings of Fact, Conclusions of Law, and Proposed Order, as amended, in the matter of Douglas Allyn Dunham, D.O. Mr. Gonidakis seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Steinbergh	- aye
	Mr. Gonidakis	- aye

Mr. Kenney	- aye
Dr. Sethi	- aye
Mr. Giacalone	- aye
Dr. Schachat	- aye

The motion to approve carried.

CHAD W. ULMER, M.D.

Dr. Steinbergh moved to remove the topic of Chad W. Ulmer, M.D., from the table. Mr. Gonidakis seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Steinbergh	- aye
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye
	Dr. Sethi	- aye
	Mr. Giacalone	- aye
	Dr. Schachat	- aye

The motion carried

Mr. Giacalone wished to change his motion to amend so that the Order will read as follows:

It is hereby ORDERED that:

- A. **SUSPENSION OF CERTIFICATE:** Commencing on the thirty-first day following the date on which this Order becomes effective, the certificate of Chad W. Ulmer, M.D., to practice medicine and surgery in the State of Ohio shall be SUSPENDED for a period of 15 days.
- B. **PROBATIONARY TERMS, CONDITIONS, AND LIMITATIONS OF APRIL 13, 2011 STEP II CONSENT AGREEMENT TO REMAIN IN EFFECT; TIME EXTENDED; TERM MODIFIED:** Dr. Ulmer's certificate shall remain subject to the terms, conditions, and limitations set forth in his April 13, 2011 Step II Consent Agreement with the Board, as modified by the Board at Dr. Ulmer's request in August 2012 for a period of at least five years and 180 days following the effective date of that consent agreement.

EFFECTIVE DATE OF ORDER: This Order shall become effective immediately upon the mailing of the notification of approval by the Board.

No Board member objected to the change in Mr. Giacalone's motion to amend. The change in the

motion to amend was accepted.

A vote was taken on Mr. Giacalone's motion to amend:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Steinbergh	- aye
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye
	Dr. Sethi	- aye
	Mr. Giacalone	- aye
	Dr. Schachat	- aye

Dr. Steinbergh moved to approve and confirm Mr. Porter's Findings of Fact, Conclusions of Law, and Proposed Order, as amended, in the matter of Chad W. Ulmer, M.D. Mr. Gonidakis seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Steinbergh	- aye
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye
	Dr. Sethi	- aye
	Mr. Giacalone	- aye
	Dr. Schachat	- aye

The motion carried.

REINSTATEMENT REQUEST

ALLAN W. BELCHER, D.O.

Mr. Giacalone moved to approve the request for the reinstatement of the license of Allan W. Belcher, D.O., effective immediately, subject to the probationary terms and conditions as outlined in the January 14, 2015 Board Order for a minimum of five year. Mr. Gonidakis seconded the motion.

Dr. Steinbergh stated that she does not oppose the reinstatement of Dr. Belcher's license. However, Dr. Steinbergh expressed concern with the letter written by Dr. Collins, who conducted Dr. Belcher's psychiatric and chemical dependency assessment. Specifically, Dr. Collins' letter included the following:

However, he did not report any spill or waste at the time, as protocol would have required. The Board's review of the fentanyl issue resulted in a conclusion that the fentanyl positive was an inadvertent environmental exposure, not a willful relapse.

Dr. Steinbergh stated that, in fact, the Board did not find that Dr. Belcher's fentanyl exposure was inadvertent. Ms. Bickers has contacted Dr. Collins, who stated that he had not seen the Board's Order but that this would not change his assessment of Dr. Belcher's ability to return to practice. Dr. Steinbergh stated that Ms. Bickers will obtain a corrected letter from Dr. Collins for the Board's records.

A vote was taken on Mr. Giacalone's motion:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Steinbergh	- aye
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye
	Dr. Sethi	- aye
	Mr. Giacalone	- aye
	Dr. Schachat	- aye

The motion carried.

MINIMUM DISCIPLINARY GUIDELINE FOR CASES OF NON-COMPLIANCE

Ms. Marshall stated that a modification of the Board's disciplinary guidelines for non-compliance with a Board Order or Consent Agreement, specifically regarding call-in and urine screen issues, is being proposed in response to the Board's discussion at its March 2015 retreat. The proposed modification, if accepted, will state that the minimum discipline is a definite suspension for a length of time the Board feels appropriate, followed by probation of at least three years or the length of time established by the existing Board Order or Consent Agreement, whichever is longer. Ms. Marshall emphasized that this would be the minimum discipline and that the Board could impose a harsher sanction if it so desired.

Dr. Steinbergh noted the proposed probation of a minimum of three years or the length of time already established, whichever is longer. Dr. Steinbergh questioned why the minimum time would need to be three years and opined that the Board should determine the appropriate length in each case. The Board discussed this point and determined that the minimum time of probation should be the time established by the prior existing Board Order or Consent Agreement.

Dr. Steinbergh moved to approve the proposed minimum disciplinary guideline for cases of non-compliance, except that the minimum time of probation will be the time established by the prior existing Board Order or Consent Agreement. Dr. Saferin seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Dr. Steinbergh	- aye
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye
	Dr. Sethi	- aye

Mr. Giacalone - aye
 Dr. Schachat - aye

The motion carried.

REPORTS BY ASSIGNED COMMITTEES

POLICY COMMITTEE

YOUTH SPORTS CONCUSSION AND HEAD INJURY RETURN-TO-PLAY GUIDELINES COMMITTEE

Mr. Gonidakis stated that Dr. Rothermel provided the Committee with a summary analysis of the Youth Sports Concussion Committee's final report. Mr. Gonidakis reported that many were not completely comfortable with the report. Mr. Gonidakis stated that the Policy Committee staff will review the language and report back on whether the Medical Board has a statutory commitment or responsibility to augment the new law.

PROPOSED AMENDMENTS TO RULE 4731-11-09

Ms. Anderson stated that Dr. Steinbergh, Dr. Schachat, and Ms. Debolt worked together to address some of the issues raised regarding physician assistants. In addition, many public comments were received on these proposed amendments. Ms. Anderson stated that a draft will be presented to the Policy Committee next month along with recommendations on addressing the comments. Ms. Anderson also asked the Board members to provide any input they may have.

APPROVAL OF CONTROLLED SUBSTANCE PRESCRIPTIONS FAQ'S

Dr. Steinbergh moved to approve the controlled substance prescriptions frequently asked questions (FAQ) document as drafted. Mr. Gonidakis seconded the motion. A vote was taken:

ROLL CALL:

Dr. Rothermel	- aye
Dr. Saferin	- aye
Dr. Steinbergh	- aye
Mr. Gonidakis	- aye
Mr. Kenney	- aye
Dr. Sethi	- aye
Mr. Giacalone	- aye
Dr. Schachat	- aye

The motion carried.

LEGISLATIVE UPDATES

Mr. Gonidakis stated that the legislature is currently on leave, and therefore the legislative update is unchanged from the previous month.

PHYSICIAN ASSISTANT/SCOPE OF PRACTICE COMMITTEE REPORTSPECIAL SERVICES REVIEWEASTSIDE DERMATOLOGY & SKIN CARE CENTER

Dr. Sethi stated that the Committee recommends denial of this request because it is prohibited by Chapter 4731-18 of the Ohio Administrative Code.

Dr. Sethi moved to deny the special services application of Eastside Dermatology & Skin Care Center for UVB Therapy. Dr. Saferin seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Dr. Steinbergh	- aye
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye
	Dr. Sethi	- aye
	Mr. Giacalone	- aye
	Dr. Schachat	- aye

The motion carried.

PHYSICIAN ASSISTANT FORMULARY REVIEW

Dr. Sethi stated that the Committee recommends adding Ampyra to the physician assistant formulary as “CPT may not prescribe” due to the relatively small potential benefits compared to the risks, such as an increased number of seizures even in patients that do not have seizures. The Committee also recommends moving the medication Lemtrada to the “CPT may not prescribe” category due to the potential for anaphylactic reaction.

Mr. Giacalone moved to approve the recommendations of the Physician Assistant/Scope of Practice Committee as discussed. Dr. Saferin seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Dr. Steinbergh	- aye
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye

Dr. Sethi - aye
Mr. Giacalone - aye
Dr. Schachat - aye

The motion carried.

Dr. Sethi stated that the Committee discussed two new types of insulin, Afrezza and Toujeo. Toujeo is a higher concentration of Lantus; since Lantus is already approved as “CPT may prescribe,” Toujeo will fall into the same category. Dr. Sethi stated that Afrezza is an inhaled insulin and could potentially pose a decrease in pulmonary function. The Committee recommends placing Afrezza in the “Physician Initiated” category.

Dr. Saferin moved to approve the recommendations of the Physician Assistant/Scope of Practice Committee as discussed. Mr. Giacalone seconded the motion. A vote was taken:

ROLL CALL:

Dr. Rothermel - aye
Dr. Saferin - aye
Dr. Steinbergh - aye
Mr. Gonidakis - aye
Mr. Kenney - aye
Dr. Sethi - aye
Mr. Giacalone - aye
Dr. Schachat - aye

The motion carried.

Dr. Sethi stated that the medication Duopa is for treatment of patients with advanced Parkinson’s disease and is infused over a 16-hour period. The Committee recommends placing Duopa into the “physician initiated” category.

Dr. Saferin moved to approve the recommendations of the Physician Assistant/Scope of Practice Committee as discussed. Mr. Giacalone seconded the motion. A vote was taken:

ROLL CALL:

Dr. Rothermel - aye
Dr. Saferin - aye
Dr. Steinbergh - aye
Mr. Gonidakis - aye
Mr. Kenney - aye
Dr. Sethi - aye
Mr. Giacalone - aye
Dr. Schachat - aye

The motion carried.

Dr. Sethi moved to approve the changes to the physician assistant formulary as discussed. Mr. Giacalone seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Dr. Steinbergh	- aye
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye
	Dr. Sethi	- aye
	Mr. Giacalone	- aye
	Dr. Schachat	- aye

The motion carried.

LICENSURE COMMITTEE

LICENSURE APPLICATION REVIEWS

SANDRA LYNN DURBIN, M.T.

Dr. Saferin moved to approve Ms. Durbin’s request for restoration of her license to practice massage therapy in Ohio, pending successful completion of the Massage and Bodywork Licensing Examination (MBLEX). Dr. Steinbergh seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Dr. Steinbergh	- aye
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye
	Dr. Sethi	- aye
	Mr. Giacalone	- aye
	Dr. Schachat	- aye

The motion carried.

BROOKE JOYCE FLINN, M.T.

Dr. Saferin moved to approve Ms. Flinn’s request for restoration of her license to practice massage therapy in Ohio, pending successful completion of the Massage and Bodywork Licensing Examination (MBLEX). Dr. Steinbergh seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Dr. Steinbergh	- aye

Mr. Gonidakis	- aye
Mr. Kenney	- aye
Dr. Sethi	- aye
Mr. Giacalone	- aye
Dr. Schachat	- aye

The motion carried.

STEVEN M. PAP, M.D.

Dr. Saferin moved to approve Dr. Pap's request for restoration of his license to practice medicine and surgery in Ohio. Upon restoration, Dr. Pap's license shall be restricted to a six-month preceptorship to include an initial month of observation and five subsequent months of weekly chart reviews. The preceptor shall provide a written report to the Board or its designee at the conclusion of the preceptorship indicating whether Dr. Pap has practiced satisfactorily and in accordance with the acceptable prevailing standards of care. Upon documentation that Dr. Pap has practiced satisfactorily, all limitations and restrictions related to the preceptorship shall terminate. Dr. Steinbergh seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Dr. Steinbergh	- aye
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye
	Dr. Sethi	- aye
	Mr. Giacalone	- aye
	Dr. Schachat	- aye

The motion carried.

DETERMINATION OF EQUIVALENT MILITARY EDUCATION FOR MASSAGE AND COSMETIC THERAPY

Mr. Miller stated that the Board is statutorily required to determine whether there is equivalency of education in the military for the difference professions that the Board licenses. Mr. Miller stated that this proposed rule reflects that, as far as can be determined, there are no military equivalences for massage therapy or cosmetic therapy education.

Dr. Saferin moved to approve the filing of proposed Rule 4731-1-25 with the Common Sense Initiative Office. Dr. Steinbergh seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Dr. Steinbergh	- aye

Mr. Gonidakis	- aye
Mr. Kenney	- aye
Dr. Sethi	- aye
Mr. Giacalone	- aye
Dr. Schachat	- aye

The motion carried.

MESSAGE THERAPY CONTINUING EDUCATION RULES

Mr. Miller stated that after a number of telephone conferences with interested parties, it was decided to propose rules to require massage therapists to complete 24 hours of continuing education over a two-year period as a condition of their biennial license renewal. Mr. Miller stated that this is on par with what is required of cosmetic therapists and with what most other states require of massage therapists. In addition, the proposal requires massage therapists to complete one hour of education dedicated to human trafficking awareness, one hour dedicated to Ohio law related to the practice of massage therapy, and one hour dedicated to professional ethics.

Mr. Gonidakis asked if courses are readily available for massage therapists to fulfill these requirements. Mr. Gonidakis also asked if the Board is required to approve these courses. Mr. Miller responded that the proposed rule includes recognition of courses offered by entities including national massage therapy associations or approved schools. Mr. Miller stated that the associations offer such courses and that the schools will most likely begin offering continuing education courses. Mr. Miller added that if a massage therapist holds another license, such as nursing or physical therapy, then continuing education required by those licenses will also count towards their massage therapy requirements.

Dr. Saferin moved to approve the filing of proposed rule 4731-1-24 with the Common Sense Initiatives Office. Dr. Steinbergh seconded the motion.

Mr. Kenney asked if the massage therapists will be able to take the continuing education courses online. Mr. Miller replied that that issue is unaddressed in the proposed rule, and therefore the option to take online courses would not be restricted. Mr. Kenney expressed concern that with online courses it is difficult to verify that the person completing the course is actually the licensee themselves and not someone completing it for them. Dr. Saferin noted that it is the same situation with physicians, who are currently able to take 100% of their continuing medical education courses online.

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

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Dr. Steinbergh	- aye
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye
	Dr. Sethi	- aye

Mr. Giacalone - aye
Dr. Schachat - aye

The motion carried.

FINANCE COMMITTEE

FISCAL REPORT

Ms. Loe stated that for February 2015, the Board's revenue was \$726,000 and expenditures were \$644,000. Compared to February of the last odd-numbered year, revenue had increased by 3.6%. Ms. Loe stated that there was a final close-out of old funds authorized for E-Licensure in March for \$124,000, which is not reflected in this report.

PUBLICATION

Mr. Kenney stated that the Committee discussed a possible way to upgrade the Board's communication efforts. Mr. Kenney noted that the Ohio Board of Nursing publishes a booklet that it sends to licensees and interested parties. The Nursing Board's booklet is of high quality and is supported by advertisements. Mr. Kenney asked the Board to consider publishing a similar booklet to be sent to doctor's offices, associations, legislators, and other interested parties. Mr. Kenney opined that, like the Nursing Board, the Medical Board's advertisers should be entities in the medical field such as hospitals. Mr. Kenney also stated that the content of the booklet would be developed by the Medical Board and the publication, which should be quarterly, would be handled by a vendor.

The Board discussed this matter thoroughly. Dr. Sethi expressed concerns that the Board's message may be lost in the advertisements. Dr. Steinbergh agreed and stated that she is opposed to including advertisements in a Medical Board publication. Dr. Steinbergh opined that having advertisers could create the appearance of a conflict of interest. Mr. Kenney stated that no advertiser would receive special treatment from the Board. Mr. Kenney opined that it is good to let others become part of the Board's structured organization.

Mr. Kenney asked the Board to continue considering this matter. Mr. Kenney stated that the Finance Committee will research details such as projected costs and how such a project would be managed.

FINING AUTHORITY

Mr. Kenney stated that the legislation to grant the Board fining authority has already been approved by the House and will be considered by the Senate when the legislature returns to session. Mr. Kenney speculated that measure will become law, whereupon the Board will need to begin determining how much fines should be for specific infractions.

COMPLIANCE COMMITTEE

Dr. Steinbergh stated that on March 11, 2015, the Compliance Committee met with Betsy L. Cornell, M.T.; Mary Jo-Ellen Erickson, M.D.; Matthew R. Harris, D.O.; Michael C. Macatol, M.D.; Kyle F. Mills, M.D.; and Dennis A. Patel, M.D., and moved to continue them under the terms of their respective Board actions. The Compliance Committee accepted Compliance staff's report of conferences on February 9th and 10th.

PROBATIONARY REQUESTS

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

Dr. Schacaht moved to accept the Compliance staff's Reports of Conferences and the Secretary and Supervising Member's recommendations, except for the modification to Dr. Nalluiri's request as discussed, as follows:

- **To grant Kevin Scott Balter, M.D.'s request for approval of Michael J. Sedlacek, M.D. to serve as the assessing and treating psychiatrist;**
- **To grant Steven F. Brezny, M.D.'s request for approval of DataBank Services to serve as the forensic data recovery firm;**
- **To grant Patrick L. Bruno, M.D.'s, request for approval of a new practice plan; approval of Christopher L. Adelman, M.D., to serve as the monitoring physician; and determination of the frequency and number of charts to be reviewed as all charts during residency;**
- **To grant Sean A. F. Buturla, M.D.'s request for reduction in drug and alcohol rehabilitation meeting attendance to two per week with a minimum of ten per month;**
- **To grant Clinton J. Cornell, P.A.'s request for approval of a personal and professional ethics course tailored by Donna Homenko, Ph.D.;**
- **To grant Mary Jo-Ellen Erickson, M.D.'s request for approval of the prescribing course *Intensive Course in Controlled Substance Prescribing: Pain, Anxiety, Insomnia*, offered by Case Western Reserve University, required for reinstatement;**
- **To grant Gregory Gene Johnson, M.D.'s request for discontinuance of the monitoring physician reports from Charles M. Misja, M.D.; and discontinuance of the chart review requirement;**
- **To grant Leigh Allison Judge, P.A.'s request for discontinuance of the drug log requirement;**
- **To grant Kavita A. Kang, D.O.'s request for approval of Heather A. Dlugosz, M.D., to serve as**

the new treating psychiatrist; and approval of Jennifer E. Ballman, L.P.C.C., to serve as the new treating psychotherapist;

- **To grant Mahendra K. Mahajan, M.D.’s request for discontinuance of psychotherapy treatment;**
- **To grant Robert J. Rosenstein, D.P.M.’s request for reduction in appearances from every three months to once per year; and**
- **To grant Terry L. Thomas, D.O.’s request for approval of Neal W. Rehberg, D.O., to serve as a new monitoring physician;**

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

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Steinbergh	- aye
	Mr. Kenney	- aye
	Dr. Sethi	- aye
	Mr. Giacalone	- aye
	Dr. Schachat	- aye

The motion carried.

FINAL PROBATIONARY APPEARANCES

CYNTHIA LYNN BROWN, M.D.

Dr. Brown was appearing before the Board pursuant to her request for release from the terms of her January 13, 2010 Consent Agreement. Ms. Bickers reviewed Dr. Brown’s history with the Board.

Dr. Steinbergh asked Dr. Brown to describe her current practice. Dr. Brown stated that she is currently working full-time in addiction medicine as a consultant. Dr. Brown also works for the Lorain County Alcohol and Drug Addiction Services. Dr. Brown stated that she works about 35 to 40 hours per week.

Dr. Steinbergh asked what medications Dr. Brown is currently taking. Dr. Brown replied that she is currently taking Neurontin, Wellbutrin, and trazadone for sleep, all prescribed by her psychiatrist who she sees quarterly.

Dr. Steinbergh asked about Dr. Brown’s goals for her continued recovery. Dr. Brown answered that she intends to continue her current recovery activities, noting that she has a home group, a sponsor, and she is a sponsor for someone. Dr. Brown stated that she will continue to make her personal health and well-being a priority. Dr. Brown stated that her family is also very supportive of her.

Dr. Steinbergh moved to release Dr. Brown from the terms of her January 13, 2010 Consent

Agreement, effective immediately. Dr. Schachat seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Steinbergh	- aye
	Mr. Kenney	- aye
	Dr. Sethi	- aye
	Dr. Soin	- aye
	Mr. Giacalone	- aye

The motion carried.

JEAN A. CAIRNS, M.D.

Dr. Cairns was appearing before the Board pursuant to his request for release from the terms of her April 10, 2013 Consent Agreement. Ms. Bickers reviewed Dr. Cairns' history with the Board.

Dr. Steinbergh asked if Dr. Cairns has a message for the medical students in attendance. Dr. Cairns stated that when she was a student it was commonplace to see physicians treating their family members and there was a general understanding that that was acceptable. Dr. Cairns explained that she had come to the attention of the Board for treating family members, including one of her practice partners. Dr. Cairns' care included surgeries, deliveries, illnesses, and prescribing medications. Dr. Cairns stated that one of the medications she had prescribed was a cough syrup which was a controlled substance. Dr. Cairns added that her documentation of this care was sometimes absent, particularly if the care occurred over a weekend. Dr. Cairns stated that she no longer provides care for her family members.

Dr. Steinbergh asked if the medical record-keeping course Dr. Cairns took was helpful to her in regards to her routine documentation. Dr. Cairns replied that the record-keeping course was very worthwhile.

Dr. Steinbergh moved to accept the Compliance staff's Report of Conference with Dr. Cairns from March 10, 2015, and to release Dr. Cairns from the terms of her April 10, 2013 Consent Agreement, effective April 10, 2015. Mr. Giacalone seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Steinbergh	- aye
	Mr. Kenney	- aye
	Dr. Sethi	- nay
	Mr. Giacalone	- aye
	Dr. Schachat	- aye

The motion carried.

NATALIE ANN MONDARY, M.D.

Dr. Mondary was appearing before the Board pursuant to her request for release from the terms of her April 10, 2013 Consent Agreement. Ms. Bickers reviewed Dr. Mondary's history with the Board.

Dr. Steinbergh asked if Dr. Mondary wished to share any thoughts with the medical students in attendance. Dr. Mondary stated that she agrees with Dr. Cairns' prior statements and that education on the inappropriateness of treating one's family members is lacking. Dr. Mondary stated that she and Dr. Cairns have been working on educating other physicians on this issue.

Dr. Steinbergh moved to accept the Compliance staff's Report of Conference with Dr. Mondary from March 10, 2015, and to release Dr. Cairns from the terms of her April 10, 2013 Consent Agreement, effective April 11, 2015. Mr. Giacalone seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Steinbergh	- aye
	Mr. Kenney	- aye
	Dr. Sethi	- nay
	Mr. Giacalone	- aye
	Dr. Schachat	- aye

The motion carried.

JOHN A. HEATHER, M.D.

Dr. Heather was appearing before the Board pursuant to his request for release from the terms of his April 10, 2013 Consent Agreement. Ms. Bickers reviewed Dr. Heather's history with the Board.

Dr. Steinbergh asked Dr. Heather's opinion on the course he had taken on prescribing controlled substances. Dr. Heather opined that all physicians should be required to take the course.

Dr. Steinbergh asked if Dr. Heather would share his experience with the medical students in attendance. Dr. Heather advised the students that from the day they start their residency and obtain the ability to prescribe medications they will be under pressure to prescribe for those who are not their patients. This pressure may come from family members, friends, or colleagues. Dr. Heather stated that he learned the hard way that all of his skills and judgment as a physician fail him when it comes to treating a family member. Dr. Heather stated that he has oftentimes seen very good physicians make the wrong diagnosis for one of their family members because they don't want the family member to have, for instance, schizophrenia. In such cases, the physician may diagnosis bipolar disorder and prescribe bipolar medications.

Dr. Heather continued that in his case he felt responsible for prescribing for his family member because she was having trouble passing her oral board examinations due to disorganization and related issues. Dr.

Heather prescribed Adderall, which the family member continued to use after her examinations so she could be a “supermom.” Dr. Heather’s family member eventually became addicted to Adderall. Dr. Heather stated that he did not keep records of these prescriptions and speculated that that was part of his denial of the situation. Dr. Heather commented that he has been attending Co-Dependents Anonymous (CoDA) meetings, which have been helpful.

Dr. Sethi asked what Dr. Heather’s basis for initially prescribing to his family member was. Dr. Heather replied that the family member had been treated for Attention Deficit Disorder in Chicago. When she relocated to Cleveland she did not have anyone to prescribe for her. Dr. Heather stated that Adderall had just entered the market at that time and many physicians did not realize how dangerous and addictive it was. Dr. Heather advised the medical students that when a new scheduled drug comes out and a pharmaceutical representative says it is not habit-forming, they should not believe it.

Dr. Sethi asked how the Board became aware of Dr. Heather’s prescribing. Dr. Heather did not know who had reported him, but he suspected it was a pharmacist. Dr. Heather stated that whoever had reported him to the Board, he wanted to thank that person and he wished he had been reported sooner.

Mr. Kenney asked what effect the Board’s action had on Dr. Heather’s practice. Dr. Heather replied that insurance companies, including Medicaid, dropped him from their provider list. Dr. Heather stated that being unable to treat Medicaid patients made him ineligible to be on a hospital medical staff. Dr. Heather stated that currently he is practicing full-time as a general psychiatrist.

Dr. Steinbergh moved to release Dr. Heather from the terms of his April 10, 2013 Consent Agreement, effective April 10, 2015. Dr. Sethi seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Steinbergh	- aye
	Mr. Kenney	- aye
	Dr. Sethi	- aye
	Mr. Giacalone	- aye
	Dr. Schachat	- aye

The motion carried.

APPOINTMENT OF DR. SETHI TO COMPLIANCE COMMITTEE

Mr. Kenney temporarily appointed Dr. Sethi to the Compliance Committee for its meeting following the Board meeting.

ADJOURNMENT

Dr. Steinbergh moved to adjourn the meeting. Dr. Saferin seconded the motion. All members voted

aye. The motion carried.

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Dr. Steinbergh	- aye
	Mr. Kenney	- aye
	Dr. Sethi	- aye
	Mr. Giacalone	- aye
	Dr. Schachat	- aye

The motion carried.

Thereupon, at 2:52 p.m., the April 8, 2015 session of the State Medical Board of Ohio was adjourned.

We hereby attest that these are the true and accurate approved minutes of the State Medical Board of Ohio meeting on April 8, 2015, as approved on May 13, 2015.



Donald R. Kenney, Sr., President



Kim G. Rothermel, M.D., Secretary

(SEAL)

