

MINUTES**THE STATE MEDICAL BOARD OF OHIO****December 9, 2015**

Donald R. Kenney, Sr., President, called the meeting to order at 9:53 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.; Amol Soin, M.D.; Sushil Sethi, M.D.; Robert P. Giacalone; Andrew P. Schachat, M.D.; and Michael Schottenstein, M.D. The following member did not attend the meeting: Richard Edgin, M.D.

Also present were: Anthony J. Groeber, Executive Director; Kimberly Anderson, Assistant Executive Director; Michael Miller, Assistant Executive Director for Licensure and Renewal; David Fais, Assistant Executive Director; Sallie J. Debolt, Senior Counsel; William Schmidt, Chief of Investigations; David Katko, Assistant Legal Counsel; Joan K. Wehrle, Education and Outreach Program Manager; Rebecca Marshall, Chief Enforcement Attorney; Marcie Pastrick, Mark Blackmer, Cheryl Pokorny, Gregory 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; Danielle Bickers, Compliance Supervisor; Annette Jones and Angela Moore, Compliance Officers; Alexandra Murray, Managing Attorney for Standards Review, Experts, and Intervention; Mitchell Alderson, Administrative Officer; Chantel Scott, Chief of Renewal; Christine Schwartz, Legal and Policy Staff Attorney; Jacqueline A. Moore, Legal/Public Affairs Assistant; and Benton Taylor, Board Parliamentarian.

MINUTES REVIEW

Dr. Steinbergh moved to approve the draft minutes of the November 4, 2015, Board meeting, as written. Dr. Sethi seconded the motion. A vote was taken:

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

The motion carried.

APPLICANTS FOR LICENSURE

Dr. Saferin moved to approve for licensure, contingent upon all requested documents being received and approved in accordance with licensure protocols, the acupuncturist listed in Exhibit “A”, the genetic counselor applicants listed in Exhibit “B,” the massage therapist applicants listed in Exhibit “C,” the Oriental medicine practitioners listed in Exhibit “D,” and the physician and physician assistant applicants listed in Exhibit “E.” as listed in the agenda supplement and handout. Dr. Steinbergh seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Mr. Giacalone	- aye
	Dr. Steinbergh	- aye
	Mr. Kenney	- aye
	Dr. Sethi	- aye
	Dr. Soin	- aye
	Dr. Schachat	- aye
	Dr. Schottenstein	- 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: Fonda Lynn Blacker; Kimberly Jo Cull, M.D.; Juan M. Hernandez, M.D.; Bruce David Smith, M.D.; and Haylee Williams:

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

FONDA LYNN BLACKER

Mr. Kenney directed the Board's attention to the matter of Fonda Lynn Blacker. No objections have been filed. Mr. Decker was the Hearing Examiner.

Dr. Steinbergh moved to approve and confirm Mr. Decker's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Fnda Lynn Blacker. Dr. Soin seconded the motion.

Mr. Wilcox noted that Ms. Blacker is present in the meeting and may wish to address the Board, though she did not make a written request to do so.

Dr. Steinbergh moved to allow Ms. Blacker to address the Board. Dr. Soin seconded the motion. A vote was taken:

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

Dr. Soin - aye
Dr. Schachat - aye
Dr. Schottenstein - aye

The motion carried.

Mr. Kenney stated that five minutes will be allowed for Ms. Blacker's address.

Ms. Blacker stated that she had read and agreed with the Hearing Examiner's Report and Recommendation.

Mr. Kenney asked if the Assistant Attorney General would like to respond. Mr. Wilcox stated that he did not wish to make a response.

Mr. Kenney stated that he will now entertain discussion in the matter of Ms. Blacker.

Dr. Sethi stated that Ms. Blacker was initially licensed to practice massage therapy in Ohio in 2005 and renewed her license every two years until 2011. Dr. Sethi stated that Ms. Blacker's husband, who managed Ms. Blacker's online license renewal, changed their e-mail address without notifying the Board. Consequently, Ms. Blacker did not receive a reminder to renew her license in 2011. Ms. Blacker did not apply for license renewal or pay any fees to renew her license. Despite the lapse of her massage therapy license, Ms. Blacker continued to practice massage therapy until December 2014 when the owner of Vandalia Massager, her employer, informed her of her license status.

Dr. Sethi continued that Ms. Blacker truthfully reported on her December 2014 license restoration application that she had been practicing massage therapy without a license. Since learning that her license was expired, Ms. Blacker has limited herself to only relaxation massage and has referred all other clients to her co-workers. Dr. Sethi stated that Ms. Blacker has expressed appropriate regret for this incident and has taken full responsibility.

Dr. Sethi stated that by practicing massage therapy without a license, Ms. Blacker engaged in conduct that constitutes a felony under Ohio law. Dr. Sethi noted that at the hearing, the Assistant Attorney General recommended requiring Ms. Blacker to take a course in personal and professional ethics. However, Dr. Sethi did not see the necessity of such a course for Ms. Blacker. Dr. Sethi opined that Ms. Blacker's misconduct was somewhat less serious than similar cases the Board has considered in the past. Dr. Sethi stated that the period of Ms. Blacker's unauthorized practice was shorter than that of Betsy Cornell, M.T., or Candy Hope, M.T. Also unlike those two cases, Ms. Blacker quickly responded to the situation as soon as she discovered her mistake. Dr. Sethi added that unlike the matter of Erica Forney, M.T., there was no evidence of falsehood in Ms. Blacker's application for license restoration.

Dr. Sethi stated that Ms. Blacker underwent some family difficulties from 2011 to 2014, including donating a kidney to a cousin. Dr. Sethi stated that Ms. Blacker's medical difficulties have been unfortunate, painful, and quite distracting. Dr. Sethi stated that Ms. Blacker has expressed appropriate regret for her oversight and she understands her obligation to keep her license active. Dr. Sethi stated that

although he believes Ms. Blacker's actions to have been unintentional, she was negligent in failing to keep her email address current with the Board and in practicing for more than three years without a license. Dr. Sethi agreed with the Hearing Examiner's Proposed Order to grant Ms. Blacker's application for restoration, immediately suspend the license for 90 days, and impose probationary terms, conditions, and limitations for a period of two years.

Mr. Giacalone agreed with Dr. Sethi's comments and speculated that it may be more appropriate to fine Ms. Blacker rather than suspend her license. Ms. Anderson stated that since Ms. Blacker's unlicensed practice took place prior to September 29, 2015, the Board is not able to fine Ms. Blacker. Mr. Giacalone still questioned the propriety of suspending Ms. Blacker's license, noting that her actions were unintentional, she immediately self-reported when she discovered her mistake, and she has shown good character.

Dr. Steinbergh stated that she favors the Proposed Order, including the 90-day suspension, and stated that it is consistent with other cases in which massage therapists have practiced after the expiration of their license. Dr. Schottenstein agreed that the consistency of the Board's actions is important. Dr. Schottenstein noted that in the prior matter of Ms. Hope, her massage therapy license was suspended for only 60 days even though she had continued to practice for months following her application for restoration.

Dr. Steinbergh stated that a physician practicing medicine without a license would be serious and that massage therapists also have a responsibility to maintain licensure so that the Board can assure the public that the massage therapist is appropriate. Mr. Giacalone stated that Dr. Steinbergh has a valid point, but opined that there should be a distinction between physicians and massage therapists due to their respective degrees of responsibility. Dr. Steinbergh stated that she does not disagree with Mr. Giacalone, but reiterated that responsibility to one's licensure is important.

Mr. Giacalone opined that a suspension of 30 days rather than 60 days would be appropriate in this matter.

Mr. Giacalone moved to amend the Proposed Order so that the suspension of Ms. Blacker's restored massage therapist license will be for 30 days. Dr. Schottenstein seconded the motion. A vote was taken:

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

The motion to amend carried.

Dr. Steinbergh moved to approve and confirm Mr. Decker's Findings of Fact, Conclusions of Law, and Proposed Order, as amended, in the matter of Fonda Lynn Blacker. Mr. Giacalone seconded the motion. A vote was taken:

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

The motion to approve carried.

KIMBERLY JO CULL, M.D.

Mr. Kenny directed the Board's attention to the matter of Kimberly Jo Cull, M.D. Ms. Blue was the hearing examiner. Objections were timely filed and were previously distributed to Board members.

Mr. Kenney stated that an objections addendum was not timely filed and the Board will need to vote on whether to accept the addendum.

Dr. Steinbergh moved to accept the addendum. Mr. Gonidakis seconded the motion. A vote was taken:

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

The motion carried.

Mr. Kenney stated that a request to address the Board has been timely filed by Dr. Cull and that five

minutes would be allowed for that address.

Dr. Cull was represented by Greg Hickman, her attorney.

Dr. Cull expressed her remorse and shame for her actions. She stated that lack of finances, not lack of willingness, is the reason she couldn't comply with the Board's previous order. Dr. Cull explained that the current recommendation is based on an incident in 2011. As a result of that event, she explained that she discovered she had PTSD - a result of repressed memories of sexual abuse as a teen. She explained that PTSD was the factor in all of her questionable behaviors. Dr. Cull stated that she no longer considers herself a victim but a survivor. She added that she attends group and individual therapy 3 hours a week which she began this year. She also stated that she has completed a 70-day intensive outpatient program recommended by Dr. Noffsinger.

Dr. Cull explained that PTSD is common among those who have been subjected to sexual abuse or abuse of any kind. She added that alcohol and drug abuse issues are often triggered by PTSD. She explained that the event in 2011 was not the adult Dr. Cull, or the physician driving the car, but a younger version of herself responding to the PTSD triggers. She acknowledged that the Board, however, would look at her as a doctor who must pay for these mistakes again. Dr. Cull added that this is disheartening to face since her perpetrators are living their lives unaffected.

Dr. Cull explained her worst mistake was not realizing she needed help, thus not getting the treatment in time to avoid these events and consequences. She added that it took three days in jail and several years of soul-searching to realize why this took place. Dr. Cull explained that as a result of these insights and recent therapy, she has changed dramatically. She stated that she doesn't feel that fearful burden and internal angst anymore. She added that she is now able to tell her story without fear of judgement.

Dr. Cull continued that she tells people that you can't fix what you can't face, and that repressed negative emotions always get out somehow. She explained that this is what happened to her which resulted in jail, a record, jobless, without a profession, broke and broken. Dr. Cull explained that the last 5 years have been a struggle for her but being a full-time mom was the best thing she could have done. She explained that she needed time away to heal, get back on track and figure out her future. She further explained that she needed to get her invention commercialized and she is very close to that. Dr. Cull stated that she is getting stronger all the time, and has a strong need to get back to helping others now that she is on the mend.

Dr. Cull acknowledged that it is a privilege to be a physician and asked the Board to give her a second chance. She explained that she would do anything the Board required.

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 the PTSD issue is really a small part of the case. She explained that Dr. Cull's license was revoked in 2010 for chemical impairment; she had a diagnosis of cocaine abuse; and she lied to the Board about a DUI so there was fraud involved in the revocation. Ms. Snyder further stated that the Board told Dr. Cull not to return until she completed 28 days of treatment which is a statutory requirement.

Ms. Snyder added that in 2013 Dr. Cull applied for licensure without completing the treatment.

Ms. Snyder stated that since the revocation Dr. Cull has had several felony convictions. Ms. Snyder explained that in the 2011 incident Dr. Cull smashed cars, including a marked police car, smashed the computer on the dash of the police car and led police on a high-speed chase. Ms. Snyder further explained that when police caught up with her, Dr. Cull lied about her identity using a patient's name, social security number, and date of birth – having memorized it for such an occasion.

Ms. Snyder explained that the PTSD is a small piece of the puzzle but as a result Dr. Cull has a mental impairment diagnosis from Dr. Noffsinger. Ms. Snyder stated that currently there is an untreated chemical impairment diagnosis, a mental impairment diagnosis, and several felony convictions. Ms. Snyder stated that the most troubling part of this case is Dr. Cull's chronic dishonesty. She explained that Dr. Cull lied to the police, she lied to Dr. Whitney and Dr. Noffsinger about the cocaine and she lied in the hearing. Ms. Snyder stated that even if the Board believes she may improve with treatment of her diagnoses, it would be difficult to trust Dr. Cull with her patients.

Dr. Steinbergh moved to approve and confirm Ms. Blue's Finding of Fact, Conclusions of Law, and Proposed Order in the matter of Kimberly Jo Cull, M.D. Dr. Schottenstein seconded the motion.

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

Dr. Soin stated he is in support of the permanent denial recommended in the Report and Recommendation. He stated that Dr. Cull was born in 1960, received her medical degree from OSU in 1991, and did an internship and residency in OB/GYN at OSU. In 2010 the Board revoked her certificate to practice due to her cocaine use. Dr. Soin added that Dr. Cull had her privileges revoked at three hospitals; underwent two mental health evaluations at the request of her employers; had several run-ins with the Powell police; had a DUI which she failed to disclose to the board; was diagnosed with cocaine abuse; and filed for bankruptcy. Dr. Soin acknowledged Dr. Cull's testimony of past struggles and her PTSD. However, Dr. Soin pointed out that she also has alcohol use disorder and cocaine use disorder. He added that Dr. Noffsinger stated that Dr. Cull is not capable of practicing due to these diagnoses. Dr. Soin explained that in February 2011, Dublin police confronted Dr. Cull after hearing her cursing at an unknown person. He stated that she left the building and vandalized the windows of four cars, one of which was a police cruiser. Dr. Soin continued that Dr. Cull fled the scene and when the police finally apprehended her the officers noticed a smell of alcohol and her eyes were glassy. He stated that when the officers arrested Dr. Cull, she identified herself as one of her patients using the name, date of birth, address and social security number. Dr. Soin stated that based on this along with other incidents already discussed, he supports the recommendation of permanent denial.

Dr. Steinbergh stated that she also supports the recommendation. She added that there are too many inappropriate social behavioral issues. Dr. Steinbergh stated that Dr. Cull has not practiced in over five years adding that remediation under these circumstances – impairment, felony convictions and bad judgement – would be extremely difficult. Dr. Steinbergh opined that the Board should permanently deny Dr. Cull's application.

Dr. Schottenstein stated that the diagnoses that Dr. Cull presents are treatable. He added that PTSD has a moderately good prognosis as do substance abuse diagnoses. Dr. Schottenstein stated that there have been other physicians before the board who have had substance abuse issues and have lied. Dr. Schottenstein added that when Dr. Cull first came before the Board, there was a non-permanent revocation with required treatment. He suggested the option of a similar action today – continuing the non-permanent revocation and requiring the 28-day treatment, probation, treatment by a psychiatrist or therapist. Dr. Schottenstein suggested that this would give Dr. Cull a chance to prove herself.

Dr. Schottenstein reminded the Board of Dr. Rodebaugh's situation before the board last month. He explained that the assistant attorney general opined that this was the worst case of alcohol-related behavior he had ever seen, but his license was not permanently revoked. Dr. Schottenstein explained that he was thinking about consistency with the mental/substance disorders, and questioned if it would be good to give Dr. Cull an opportunity to do better.

Mr. Gonidakis stated that Dr. Cull was already given the time to get the treatment and questioned if giving her extra time would change anything based on the record the Board has.

Dr. Schottenstein responded that finances prevented Dr. Cull from getting treatment and there have been no incidents since 2011. He added that Dr. Cull demonstrated her willingness to move forward by getting the treatment she did receive even though it was not what the Board ordered.

Mr. Giacalone agreed that Dr. Schottenstein raised good points but these were egregious events. He added that this is about protecting the public. Mr. Giacalone added that Dr. Cull had her opportunities and the most telling piece for him was that she lied about not being under the influence of cocaine and alcohol while practicing medicine. Mr. Giacalone added that many people have financial issues but they show up and deliver what the Board required. He stated that Dr. Cull not only failed to deliver but compounded it with additional actions. Mr. Giacalone stated that he can't support licensure.

Dr. Steinbergh stated that 2011 wasn't Dr. Cull's last offense. Dr. Steinbergh explained that in 2012 Dr. Cull was convicted and found guilty and was sentenced to jail for three days, paid a fine and had her license suspended for 180 days. Dr. Steinbergh stated that she supported the order as this is an egregious case.

Dr. Sethi stated that he agreed with Dr. Schottenstein and that the Board shouldn't throw away all of Dr. Cull's education. He added that this is a disease and should be treated as such, and such a punitive action is not called for.

A roll call vote was taken on the motion to approve:

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

Mr. Gonidakis	- aye
Mr. Kenney	- aye
Dr. Sethi	- nay
Dr. Soin	- aye
Dr. Schachat	- aye
Dr. Schottenstein	- nay

The motion carried.

JUAN M. HERNANDEZ, M.D.

Mr. Kenney directed the Board's attention to the matter of Juan M. Hernandez, M.D. No objections have been filed. Mr. Porter was the Hearing Examiner.

Dr. Schottenstein moved to approve and confirm Mr. Porter's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Juan M. Hernandez, M.D. Dr. Steinbergh seconded the motion.

Mr. Kenney stated that he will now entertain discussion in the matter of Dr. Hernandez.

Mr. Gonidakis briefly reviewed Dr. Hernandez's career. Mr. Gonidakis noted that the Medical Board summarily suspended Dr. Hernandez's medical license on September 9, 2015, and the Board of Pharmacy summarily suspended Dr. Hernandez's license as a terminal distributor of dangerous drugs on September 23, 2015.

Mr. Gonidakis stated that in September 2012 two undercover investigators for the Bureau of Workers Compensation (BWC) posed as Patient 1 and Patient 6 at Dr. Hernandez's clinic. Patient 1 claimed that he had left knee pain, but Dr. Hernandez never examined or even touched his knee. Dr. Hernandez performed fraudulent examinations on Patient 1 and wrote extensive false reports. Based on his cursory review, Dr. Hernandez prescribed Naproxen and Vicodin on that initial visit. Subsequent visits by Patient 1 lasted only minutes and the questions asked by Dr. Hernandez were generic, such as name and age. Mr. Gonidakis stated that without any real evaluation Dr. Hernandez continued to prescribe drugs and later began prescribing medication patches. Patient 1 was never weighed and no vital signs were ever taken or recorded.

Mr. Gonidakis continued that at one point, Dr. Hernandez instructed Patient 1 to cut the patches, presumably for additional strength, in direct violation of warnings from the Food and Drug Administration (FDA). Dr. Hernandez also told Patient 1 to share his patches with Patient 6, who was also an undercover BWC investigator who was posing as Patient 1's girlfriend. Mr. Gonidakis stated that Patient 6 had claimed to have shoulder pain. Dr. Hernandez once again performed a non-existent examination and cursory review before prescribing her medications. Mr. Gonidakis stated that the review of systems documents for Patient 1 and Patient 6 are virtually identical to each other, with the only differences being the patients' names.

At his hearing, Dr. Hernandez testified that all of his reports were true and accurate and that he had never instructed patients to share medications. Mr. Gonidakis stated that Dr. Hernandez's claims were false, as shown by the recordings made by the BWC undercover investigators. Dr. Hernandez stated that he continues the practice in the same manner and admitted that he prescribed medications, including Suboxone, to other patients without proper medical examinations. Dr. Hernandez was the only physician in his practice and he had three employees, all of whom were members of his family. Mr. Gonidakis stated that the staff members never had a criminal background check and there was no quality assurance program, both of which are required by the Ohio Administrative Code.

In his written defense, Dr. Hernandez claims that he is qualified, credentialed, and has taught continuing legal education (CLE) courses for attorneys. Dr. Hernandez also included some letters of support. Dr. Hernandez claims that he never received education in medical school on taking proper medical notes, though he has recently taken a medical documentation course. Dr. Hernandez also defends instructing patients to cut medication patches.

The Hearing Examiner's Proposed Order is to permanently revoke Dr. Hernandez's medical license and to fine him \$5,000. Mr. Gonidakis agreed that Dr. Hernandez's medical license should be permanently revoked, stating that this case is egregious. However, Mr. Gonidakis disagreed with the suggested fine amount of \$5,000. Mr. Gonidakis noted the Hearing Examiner's statement that "the recommended fine is considerably less than the maximum allowable fine of \$20,000, however, because it appears that Dr. Hernandez's financial situation is strained." Mr. Gonidakis noted that when the Medical Board was pursuing its general fining authority, it represented to interested parties that a physician's real or perceived financial state would not dictate the amounts of the fines imposed. Though the fine in this case is based on authority granted by House Bill 93 and not by the Board's recently-acquired general fining authority, Mr. Gonidakis opined that the same principle should apply and that the fine should be based on the facts of the case, not on the physician's financial situation. Based on the facts of the matter of Dr. Hernandez, Mr. Gonidakis opined that the fine should be for the maximum \$20,000.

Mr. Gonidakis moved to amend the Proposed Order so that the fine is \$20,000. Mr. Giacalone seconded the motion.

Dr. Steinbergh noted that in his written defense, Dr. Hernandez stated that he graduated from medical school in 1984 and that he hadn't been educated on how to prepare medical records. Dr. Steinbergh found this claim to be ludicrous. Dr. Steinbergh noted the following statement from Dr. Hernandez's written defense:

I treat people, not records. Doctors [sic] notes are just that, they are notes written by me that I can use for future reference. During my medical school education, my classmates and I never received any formal education in "legal" doctor notes. It has only been since insurers, "third party payers," began requiring copies of doctors [sic] notes in order for payment to be issued due to regulations in this area that have arisen.

Dr. Steinbergh stated that Dr. Hernandez is correct in the sense that medical records are used by physicians

for future reference. However, Dr. Steinbergh also stated that if another physician must provide care to the patient in Dr. Hernandez's absence, that physician must be able to look at the medical record and determine the appropriate treatment. Dr. Steinbergh stated that physicians must also be concerned with legal matters and ensure that medical records are appropriate if they are taken into a court of law. Dr. Steinbergh added that she graduated from medical school before Dr. Hernandez and she learned the proper way to develop medical records.

Dr. Steinbergh stated that she agrees that Dr. Hernandez's medical license should be permanently revoked. Dr. Steinbergh stated that she will await further discussion on the matter of the amount of Dr. Hernandez's fine.

Dr. Soin stated that he also agrees with permanently revoking Dr. Hernandez's medical license. Dr. Soin noted several aspects of Dr. Hernandez's case which he found disturbing. Dr. Hernandez admitted that after he obtains an initial Ohio Automated Rx Reporting System (OARRS) report on a patient, he does not obtain further periodic reports as required unless the patient's urine drug screen indicates illicit drug use. Dr. Soin stated that this statement demonstrates a lack of understanding of why urine drug screens are necessary for patients on chronic opioids. Dr. Soin stated that an OARRS report would indicate if a patient is "doctor shopping" and obtaining more of the prescribed medications from other physicians. Dr. Soin further noted that a urine drug screen that shows neither illicit drugs nor the prescribed medication would indicate that the prescribed medication is being either diverted or taken all at once and abused.

Regarding the Butrans medication patch, Dr. Soin stated that the FDA issued a warning that patients should not apply a patch that has been cut. Dr. Soin stated that Dr. Hernandez's lengthy defense of instructing patients to cut the patch shows a clear lack of understanding of how the patch works. Dr. Soin stated that the patch contains seven days of medicine, and therefore the integrity of the patch cannot be compromised.

Dr. Soin opined that it is reasonable to impose the maximum fine of \$20,000 on Dr. Hernandez because he violated multiple provisions of House Bill 93. Specifically, Dr. Hernandez failed to run background checks on employees, did not maintain adequate billing records, and did not have a structured quality assurance program for a pain management practice.

Mr. Giacalone commented that Dr. Hernandez's staff took the time to make detailed records of his fraudulent examinations. Mr. Giacalone also agreed with Dr. Soin that Dr. Hernandez's commentary about Butrans patches is unsupported by the facts. Mr. Giacalone questioned Dr. Hernandez's assertion that he contacted the pharmaceutical company and was told that he could cut the patch. Dr. Giacalone agreed with Mr. Gonidakis' motion to amend the fine to \$20,000.

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

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

Mr. Gonidakis	- aye
Mr. Kenney	- aye
Dr. Sethi	- aye
Dr. Soin	- aye
Dr. Schachat	- aye
Dr. Schottenstein	- 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 Juan M. Hernandez, M.D. Dr. Schachat seconded the motion.

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

The motion to approve carried.

BRUCE DAVID SMITH, M.D.

Mr. Kenney directed the Board's attention to the matter of Bruce David Smith, M.D. No objections have been filed. Ms. Shamansky was the Hearing Examiner.

Ms. Anderson stated that Dr. Smith had filed a request to address the Board. However, this morning Dr. Smith informed the Board that neither he nor his attorney would be present to address the Board. Ms. Anderson stated that the Assistant Attorney General, Mr. Wakley, may wish to address the Board.

Dr. Steinbergh moved to approve the Assistant Attorney General's request to address the Board. Dr. Schottenstein seconded the motion. A vote was taken:

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

Dr. Sethi - aye
Dr. Soin - aye
Dr. Schachat - aye
Dr. Schottenstein - aye

The motion carried.

Mr. Kenney stated that the Assistant Attorney General will have five minutes to address the Board.

Mr. Wakley stated that Dr. Smith has been disciplined in multiple states based on conduct which occurred within a brief time period in Mississippi while he was serving as a *locum tenens* physician at a weight loss clinic. Dr. Smith, a radiologist by training, testified during his hearing how he got in over his head at a weight loss clinic in Mississippi.

At the end of Dr. Smith's hearing, Mr. Wakley had recommended that the Board take no further action in this matter because Dr. Smith has already been subject to a series of disciplinary actions in the numerous other states in which he is licensed. Mr. Wakley also believed Dr. Smith's testimony that he has no intention of practicing weight loss medicine in the future. Mr. Wakley further stated that he does not believe Dr. Smith will return to Ohio and that he is largely retired in his home state of Texas. Mr. Wakley opined that it would not be a wise use of the Board's resources to impose a suspension or probationary terms on Dr. Smith's Ohio license.

Mr. Wakley acknowledged that the Secretary and Supervising Member of the Board had asked the Attorney General's office to seek the same restrictions that had been imposed on Dr. Smith's other medical licenses in other states. Mr. Wakley opined that the Secretary and Supervising Member's suggestion is appropriate, but stated that he stands by his original recommendation of no further action for the reasons he has outlined. Mr. Wakley asked the Board to accept the Hearing Examiner's Proposed Order of no further action.

Dr. Steinbergh moved to approve and confirm Ms. Shamansky's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Bruce David Smith, M.D. Dr. Schachat seconded the motion.

Mr. Kenney stated that he will now entertain discussion in the matter of Dr. Smith.

Dr. Schottenstein stated that on or about April 3, 2014, Dr. Smith executed a voluntary surrender of his Drug Enforcement Administration (DEA) certificate to prescribe controlled substances, based on his alleged failure to comply with federal requirements.

Dr. Schottenstein continued that Dr. Smith became board certified in radiology in 1977 and worked as a radiologist in various states until about November 2011. As he neared retirement at that time, Dr. Smith took a position doing health assessments for an insurance company; this was the first time in many years that Dr. Smith practiced outside radiology.

After completing this assignment in September 2013, Dr. Smith was asked by a recruiter if he would be interested in serving as a physician at a weight loss clinic in Mississippi. Dr. Smith reviewed the laws of Mississippi and concluded there were no special rules for weight loss clinics. Dr. Schottenstein noted that Dr. Smith did not consult an attorney or contact the Mississippi State Board of Medical Licensure at that time. When Dr. Smith asked to speak to another physician working in the same capacity, he was instead directed to the owner of the weight loss clinic. The owner explained that the clinic treated its patients with phentermine, a controlled substance. Dr. Smith had never heard of phentermine at that time, but the owner's explanation of the clinic protocol made sense to him.

Dr. Smith began working at the weight loss clinic in September 2013. Dr. Smith testified that he was surprised when he arrived for his first day of work and found that it was the clinic's first day of operation and that there were no other physicians or nurses. When Dr. Smith asked the owner if the operation was legal, she replied that it "definitely" was. Dr. Smith was also concerned that the clinic had no medical equipment. Dr. Schottenstein stated that despite these red flags, Dr. Smith proceeded to practice at the clinic.

Dr. Schottenstein stated that although Dr. Smith reviewed patient medical histories and information about their medications, he did not perform any physician examinations, check laboratory tests, or obtain body mass indexes (BMI). After practicing at the clinic for 13 days, the recruiter called Dr. Smith and instructed him not to return to the clinic because the owner had not paid the recruiter. Dr. Schottenstein stated that had Dr. Smith not received that call, he may still be practicing there today. Dr. Smith returned to his home in Texas the next morning and never returned to the clinic.

Eventually, Dr. Smith contacted the Mississippi Board and learned that there were, in fact, regulations concerning weight loss practices which he had not been compliant with. Dr. Smith also learned that the clinic did not have a business license and was not being operated in a legal manner. Shortly after contacting the Mississippi Board, Dr. Smith was visited by a representative from the Mississippi Board and two DEA agents. According to Dr. Smith's testimony, the DEA agents convinced him that his DEA number had been compromised and that he should relinquish it. Without consulting an attorney, Dr. Smith signed a form in which he agreed to voluntarily surrender his DEA certificate.

Dr. Schottenstein continued that on September 4, 2014, Dr. Smith signed a Consent Order with the Mississippi Board which reprimanded his Mississippi medical license and prohibited him from owning or operating a weight loss clinic or treating a patient for purposes of weight loss or weight control in Mississippi. Dr. Smith was also prohibited from applying to the DEA for a certificate to prescribe, administer, or dispense controlled substances in Mississippi. Further, if Dr. Smith practices medicine in Mississippi his practice would be subject to periodic surveillance and would be limited to the practice of radiology.

In addition to the actions on Dr. Smith's Mississippi medical license, Dr. Smith also became subject to the following state actions:

- On November 13, 2014, the Illinois Department of Financial and Professional Regulation issued an Order that Dr. Smith's Illinois medical license will not be renewed, based on

the voluntary surrender of his DEA certificate and the actions of the Mississippi Board.

- On April 10, 2015, Dr. Smith signed an Agreed Order with the Texas Medical Board which issued a public reprimand, required Dr. Smith to surrender his controlled substance certificates from the DEA and the Texas Department of Public Safety, and prohibited Dr. Smith from working in a weight loss clinic in Texas or delegating prescriptive authority to a physician assistant or advanced practice nurse.
- On March 18, 2015, Dr. Smith entered into a Consent Order with the Michigan Board of Medicine which fined him \$500.
- Following a hearing in July 2015, the Pennsylvania State Board of Medicine issued an Order publicly reprimanding Dr. Smith's Pennsylvania medical license, limiting Dr. Smith's practice to radiology, and requiring him to undergo a skills assessment to ensure his ability to practice safely if he ever applies to renew his Pennsylvania medical license.

Dr. Schottenstein stated that Dr. Smith last practiced medicine in Ohio in 1995. Dr. Schottenstein stated that Dr. Smith had practiced medicine throughout the United States for nearly 50 years and had an unblemished career until this incident. Dr. Schottenstein further noted that Dr. Smith was fully cooperative with the DEA and all licensing boards that investigated him and he made no attempt to conceal his actions.

Dr. Schottenstein stated that the Hearing Examiner agrees with the Assistant Attorney General and Dr. Smith's counsel that Dr. Smith has already been sufficiently sanctioned by other states and that he should be permitted to retire with dignity without additional unnecessary action against his medical license. Dr. Schottenstein observed that Dr. Smith is largely retired and is not planning to return to Ohio or return to the practice of weight loss medicine.

Dr. Schottenstein stated that while he appreciated the sentiments of the Hearing Examiner and the Assistant Attorney General, he was concerned that Dr. Smith made a series of errors in judgment. Given Dr. Smith's pattern of poor judgement, Dr. Schottenstein opined that it would not be excessive or needlessly punitive to implement additional sanctions. Dr. Schottenstein stated that the citizens of Ohio do not deserve less protection than the citizens of the other states which sanctioned Dr. Smith.

Dr. Schottenstein proposed an amendment to the Proposed Order which would reprimand Dr. Smith's Ohio medical license and limit him to the practice of radiology. Copies of Dr. Schottenstein's proposed amendment were provided to the Board members.

Dr. Schottenstein moved to amend the Proposed Order to reprimand Dr. Smith's medical license and to permanently limit him to the practice of radiology. Mr. Giacalone seconded the motion.

Dr. Steinbergh stated that she agrees with Dr. Schottenstein's proposed amendment. Dr. Steinbergh opined that if Dr. Smith returned to Ohio to practice radiology, there would be protective measures in terms of credentialing from his employer.

Dr. Steinbergh stated that the Medical Board has reviewed many cases in which the DEA asks a physician to sign a form surrendering their DEA certificate. Dr. Steinbergh stated that she has become alarmed at the number of physicians who tell the Board that they did not understand what they were signing. In Dr. Smith's case, he signed the document with no legal advice because he thought it was the right thing to do since he had been told that his DEA number was compromised. Dr. Steinbergh opined that the DEA did not treat Dr. Smith fairly and did not accord him due process. Dr. Steinbergh opined that physicians should never sign such documents until they can obtain legal advice.

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

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

The motion to amend carried.

Dr. Steinbergh moved to approve and confirm Ms. Shamansky's Findings of Fact, Conclusions of Law, and Proposed Order, as amended, in the matter of Bruce David Smith, M.D. Mr. Giacalone seconded the motion.

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

The motion to approve carried.

HAYLEE WILLIAMS

Mr. Kenney directed the Board's attention to the matter of Haylee Williams. No objections have been filed. Ms. Blue was the Hearing Examiner.

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

Ms. Williams was represented by her attorney, Eric A. Jones.

Mr. Jones stated that Ms. Williams was initially granted a license to practice massage therapy in Ohio in 2008 when she was only 21 years old. In 2009 Ms. Williams allowed her license to lapse because she was not practicing massage therapy at that time. When Ms. Williams accepted a position as a massage therapist in January 2013 she thought that she only had to send a check to the Medical Board to restore her license. In March 2013 Ms. Williams applied for restoration of her massage therapy license, which the Board conditionally approved pending her successful completion of the Massage and Bodywork Licensing Examination (MBLEX) by November 2013. However, Ms. Williams did not take the MBLEX until June 21, 2014, which she passed. In July 2014 Ms. Williams submitted a new application for restoration of her license and disclosed on the application that she had been practicing massage therapy without a license.

Mr. Jones stated that Ms. Williams had been very young and immature. Mr. Jones stated that Ms. Williams had accepted a job when she thought restoring her license would be a simple matter. Mr. Jones stated that when Ms. Williams discovered it was not a simple matter to restore her license, she did not have the maturity to do the right thing and she was dishonest. Mr. Jones stated that since the Board approached Ms. Williams about this matter she has been fully forthright, open, and honest. Mr. Jones opined that this is a situation in which Ms. Williams was very immature and had many family and other issues in her life at that time.

Ms. Williams stated that when she took the massage therapy job in question she had recently moved from Columbus to Sandusky and was hoping to go to school to become a physical therapist. At that time when Ms. Williams had personal and financial problems and no job, she met someone who asked her to work in her massage practice. Ms. Williams accepted the offer and thought it would be a simple matter to reinstate her massage therapy license.

Ms. Williams stated that at the time of these events she was young and had not been responsible with her mail or her bills. Ms. Williams stated that she is now 28 years old and back in school with hopes of going into physical therapy or a similar occupation. Ms. Williams stated that she enjoys taking care of people, noting that her past employment outside massage therapy includes working at a chiropractic clinic and a physical therapy clinic as an aide and receptionist. Ms. Williams stated that the effects of her past irresponsibility with finances and paperwork have led her to be more responsible, driven, and focused.

Ms. Williams expressed remorse for her mistakes and stated that she had not appreciated the severity of practicing without an active license. Ms. Williams stated that she had not respected her license as much as she should have, but she has a greater respect now that she has been working more in the medical field. Ms. Williams asked that this matter not affect her future career goals.

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 is not about practicing massage therapy without a license. Rather, it is about Ms. Williams' repeated dishonesty to the Board, her employer, and her insurance company. Mr. Wakley stated that Ms. Williams had endangered the business of her employer, Maria Berardi-Nainee, by claiming to be licensed to practice massage therapy and continually making excuses for not providing a copy of her license.

Mr. Wakley stated that one cannot repeatedly lie about the same thing without consequences. Mr. Wakley did not accept Ms. Williams' explanation that she had been young and immature. Mr. Wakley stated that this is the worst case of practicing without a license that he has seen and opined that the only appropriate consequence of Ms. Williams' ongoing deceptions is permanent revocation.

Dr. Steinbergh moved to approve and confirm Ms. Blue's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Haylee Williams. Mr. Giacalone seconded the motion.

Mr. Kenney stated that he will now entertain discussion in the matter of Ms. Williams.

Dr. Schottenstein stated that Ms. Williams allegedly failed to disclose on her application for license restoration that she had been practicing massage therapy without a valid license. Dr. Schottenstein noted that Ms. Williams was first licensed to practice massage therapy in Ohio on July 11, 2008 and the license expired on August 31, 2009 due to non-renewal. Ms. Williams has explained that she failed to renew because she is bad at attending to paperwork and that she procrastinates.

Dr. Schottenstein continued that from January 2013 to August 2013 Ms. Williams was employed as a massage therapist at Sandusky Massotherapy. Ms. Berardi-Nainee, the owner of Sandusky Massotherapy, indicated that Ms. Williams told her she could not provide a copy of her license in January 2013 because the Medical Board was correcting a misspelling of her name. However, this was a fabrication and Ms. Williams never provided Ms. Berardi-Nainee with her license despite being asked on a monthly basis. Ms. Berardi-Nainee eventually grew suspicious and contacted the Medical Board in August 2013. When Ms. Berardi-Nainee confronted Ms. Williams with the fact that she was unlicensed, Ms. Williams said she was "Trying to fix the broken base before Mom got home."

Dr. Schottenstein stated that in April 2013, while continuing to practice at Sandusky Massotherapy, Ms. Williams submitted an application to restore her license to practice massage therapy in Ohio. In July 2013 the Board conditionally approved Ms. Williams' application, contingent upon her passing the MBLEX within six months of May 10, 2013. Dr. Schottenstein observed that Ms. Williams was attempting to restore her license before it became known that she had been practicing without one. At her hearing, when asked why she had answered "no" to the question on her application asking whether she had ever practiced massage therapy in Ohio without a valid license, Ms. Williams had replied that she had just wanted to get her license back. Ms. Williams also testified that she did not disclose her employment at Sandusky Massotherapy because she did not want to hurt her chances to restore her license.

On January 9, 2015, Ms. Williams provided a written statement to a Board investigator in which she acknowledged that she accepted the position at Sandusky Massotherapy knowing that her license was not

valid. The statement further acknowledged that Ms. Williams never disclosed to the Board that she was practicing massage therapy without a license until she was approached by a Board representative.

Dr. Schottenstein stated that Ms. Williams has expressed remorse for putting Ms. Berardi-Nainee's business at risk. Ms. Williams' counsel has asked the Board to consider her age, immaturity, and remorse when deciding this matter. However, the Hearing Examiner found that these factors do not outweigh Ms. Williams' actions in knowingly practicing massage therapy without a valid license for approximately seven months. Ms. Williams also repeatedly misrepresented her status as a massage therapist to her employer and to the Board. Dr. Schottenstein stated that it is clear that Ms. Williams minimized the seriousness of practicing massage therapy without a license and opined that she did so again today before the Board.

Dr. Schottenstein agreed with Mr. Wakley that this case is not simply about practicing massage therapy without a license. Dr. Schottenstein stated that Ms. Williams continually lied to the Board, to her employer, and to her insurance company with full knowledge that she was misrepresenting herself. Therefore, Dr. Schottenstein agreed with the Proposed Order of permanent revocation.

Dr. Steinbergh noted that during the time that Ms. Williams' massage therapy license was inactive she secured employment as a physical therapy aide, a therapy technician, and a chiropractic assistant. Dr. Steinbergh expressed concern that Ms. Williams may have obtained these positions in medical-related fields by holding herself out as a massage therapist, though Dr. Steinbergh stated that there is no evidence in the hearing record that she did so. Dr. Steinbergh stated that she agrees with the Hearing Examiner's Proposed Order because Ms. Williams is not trustworthy.

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

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

The motion to approve carried.

Mr. Gonidakis exited the meeting at this time.

PROPOSED FINDINGS AND PROPOSED ORDERS

Mr. Kenney stated that in the following matters, the Board issued a Notice of Opportunity for Hearing. No

timely requests for hearing were received. The matters were reviewed by a Hearing Examiner, who prepared Proposed Findings and Proposed Orders, and are now before the Board for final disposition. These items are disciplinary in nature, and therefore the Secretary and Supervising Member cannot vote. In these matters, Dr. Rothermel served as Secretary and Dr. Saferin served as Supervising Member.

ANITA CHRISTINE DEPLANTY

Dr. Steinbergh moved to find that the allegations as set forth in the May 13, 2015 Notice of Opportunity for Hearing in the matter of Ms. DePlanty have been proven to be true by a preponderance of the evidence and to adopt Ms. Blue's Proposed Findings and Proposed Order. Mr. Giacalone seconded the motion.

Mr. Kenney stated that he will now entertain discussion in the matter of Ms. DePlanty.

Mr. Giacalone stated that in January 2015 Ms. DePlanty submitted an application for a license to practice massage therapy in Ohio. In October 2009, Ms. DePlanty was found guilty in U.S. District Court for the Southern District of Texas of importing approximately 3.8 kilograms of cocaine. Ms. DePlanty was sentenced to 37 months of imprisonment, fined \$1000, and given three years of supervision following release.

Mr. Giacalone continued that since about November 2013, Ms. DePlanty has been operating and/or working at a business called Enchanted Hands Massage where she advertise massage therapy services despite the fact that she did not have a massage therapy license. Mr. Giacalone noted that when a Board investigator interviewed Ms. DePlanty in April 2015, the investigator found that Ms. DePlanty was giving a massage to a client and that certain information and items present within Ms. DePlanty's establishment supported the view that she was providing massage therapy services. The investigator further found that Ms. DePlanty's website set forth various claims stating that she provided massage therapy services, including but not limited to her offering "Swedish Massage – Relaxation and Deep Tissue"; and, "Therapeutic Massage and Pain Management – Myo-fascial and Neuro-muscular Therapies"

Ms. DePlanty told the investigator that she was unaware that it was a legal offense to practice massage therapy without a license. Ms. DePlanty added that she only provided relaxation massage for friends and family. Two days later Ms. DePlanty informed the investigator that she had deleted from her website anything that could be mistakenly interpreted as promoting herself as a massage therapist.

Mr. Giacalone stated that he supports the Hearing Examiner's Proposed Order to permanently deny Ms. DePlanty's application for a license to practice massage therapy. Mr. Giacalone based his decision on the following factors:

- Ms. DePlanty falsely answered "no" on her application to the question, "Have you ever practiced, advertised, announced yourself as practicing or conducted an office for practicing massage therapy while not holding a valid license from the State Medical Board of Ohio or from any other licensing agency?"

- Ms. DePlanty's Resume of Activities, which she submitted with her application, conspicuously failed to include the fact that she had been operating and/or working at Enchanted Hands Massage since about November 2013.
- While Ms. DePlanty stated that she was unaware that it was a legal offense to practice massage therapy without a license, she proceeded to do so in spite of the fact that she had stated to the Board investigator that, "They made it very clear at school that we are not allowed to do massage therapy until we have that license from the state."
- Ms. DePlanty had been previously convicted of a felony for importing approximately 3.8 kilograms of cocaine from Mexico into the United States.

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

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

The motion to approve carried.

JOSEPH M. WEST, M.T.

Dr. Steinbergh moved to find that the allegations as set forth in the February 11, 2015 Notice of Opportunity for Hearing in the matter of Mr. West have been proven to be true by a preponderance of the evidence and to adopt Ms. Mosbacher's Proposed Findings and Proposed Order. Dr. Schottenstein seconded the motion.

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

Dr. Schachat stated that in January 2014 Mr. West signed a Step I Consent Agreement with the Board. Dr. Schachat stated that since that time, Mr. West has allegedly violated his Consent Agreement by failing to do the following:

- Abstain from alcohol
- Enter into a contract for drug testing, failing to undergo drug testing
- Submit quarterly declarations of compliance, failing to make personal appearances before the Board or its designee

- Participate in a rehabilitation program at least three times per week
- Submit documentary evidence of compliance.

In response to interrogatories by the Board, Mr. West admitted that he continued to consume alcohol after entering into his Consent Agreement. Dr. Schachat stated that Mr. West is either unwilling or unable to comply with the terms of his Consent Agreement. Dr. Schachat agreed with the Hearing Examiner's Proposed Order of revocation.

Dr. Steinbergh found Mr. West's total disregard for his Consent Agreement and the Board's need to monitor to be egregious. Dr. Steinbergh stated that she would not disagree if someone proposed to permanently revoke Mr. West's license, but she will support the Proposed Order of a non-permanent revocation.

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

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

The motion to approve carried.

FINDINGS, ORDERS, AND JOURNAL ENTRIES

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

KIMBERLY ANN GRAHAM, M.T.

Mr. Kenney stated that Kimberly Ann Graham, M.T., has applied for restoration of her license to practice massage therapy in Ohio. The Board notified Ms. Graham that it proposed to approve her application, provided that she take and pass the Massage and Bodywork Licensing Examination (MBLEX) due to the fact that Ms. Graham has not engaged in the active practice of massage therapy for more than two years.

Dr. Steinbergh moved to find that the allegations set forth in the October 15, 2015 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, granting Ms. Graham's application for restoration, provided that she takes and passes the Massage and Bodywork Licensing Examination within six months of October 15, 2015. Dr. Saferin seconded the motion. A vote was taken:

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

The motion carried.

EXECUTIVE SESSION

Dr. Saferin moved to go into Executive Session to confer with the Medical Board's attorneys on matters of pending or imminent court action, and for the purpose of deliberating on proposed consent agreements in the exercise of the Medical Board's quasi-judicial capacity. Dr. Steinbergh seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Mr. Giacalone	- aye
	Dr. Steinbergh	- aye
	Mr. Kenney	- aye
	Dr. Sethi	- aye
	Dr. Soin	- aye
	Dr. Schachat	- aye
	Dr. Schottenstein	- 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, Mr. Schmidt, Ms. Marshall, the Enforcement Attorneys, the Assistant Attorneys General, Ms. Schwartz, Ms. Murray, and Mr. Taylor in attendance.

Mr. Gonidakis returned to the meeting during the Executive Session.

The Board returned to public session.

The Board took a brief recess at 12:03 p.m. and returned at 1:20 p.m. Dr. Sethi was not present when the meeting resumed.

RATIFICATION OF SETTLEMENT AGREEMENTS

FREDRIC JOEL COHEN, M.D. – PERMANENT WITHDRAWAL OF APPLICATION FOR MEDICAL LICENSURE AND PERMANENT WITHDRAWAL OF APPLICATION FOR TRAINING CERTIFICATE

Dr. Steinbergh moved to ratify the Proposed Permanent Withdrawals with Dr. Cohen. Dr. Soin seconded the motion. A vote was taken:

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

The motion to ratify carried.

MICHAEL ALLEN DORSCH, P.A.-C. – PERMANENT WITHDRAWAL OF APPLICATION FOR PHYSICIAN ASSISTANT CERTIFICATE TO PRACTICE

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

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

The motion to ratify carried.

KIRSTIN DAWN FELUMLEE, L.M.T. – CONSENT AGREEMENT

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

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

The motion to ratify carried.

MOUHAMED K. KAMEL, M.D. – PERMANENT SURRENDER OF CERTIFICATE TO PRACTICE MEDICINE AND SURGERY

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

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

The motion to ratify carried.

HUI LI, L.M.T. – PERMANENT SURRENDER OF CERTIFICATE TO PRACTICE MASSAGE THERAPY

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

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

Dr. Steinbergh	- aye
Mr. Gonidakis	- aye
Mr. Kenney	- aye
Dr. Soin	- aye
Dr. Schachat	- aye
Dr. Schottenstein	- aye

The motion to ratify carried.

GRETCHEN LAYNE WEBER, M.D. – CONSENT AGREEMENT

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

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

The motion to ratify carried.

GLENN ALLAN IBEN, M.D. – PERMANENT SURRENDER

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

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

The motion to ratify carried.

JAMES T. LUTZ, M.D. – CONSENT AGREEMENT

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

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

The motion to ratify carried.

DAVID R. MANDEL, M.D. – CONSENT AGREEMENT

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

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

The motion to ratify carried.

JUDITH ANN MARIOTTI-BOYER – CONSENT AGREEMENT

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

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

Mr. Kenney	- aye
Dr. Soin	- aye
Dr. Schachat	- aye
Dr. Schottenstein	- aye

The motion to ratify carried.

NARINDER N. KHOSLA, M.D. – PERMANENT SURRENDER OF CERTIFICATE TO PRACTICE
MEDICINE AND SURGERY

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

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

The motion to ratify carried.

JOSEPH PETER BURICK, D.O. – CONSENT AGREEMENT

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

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

The motion to ratify carried.

CARL E. SHARP, D.P.M. – PERMANENT SURRENDER OF CERTIFICATE TO PRACTICE
PODIATRIC MEDICINE AND SURGERY

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

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

The motion to ratify carried.

JOHN A ROSS, M.D. – CONSENT AGREEMENT

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

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

The motion to ratify carried.

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

Dr. Steinbergh moved to send the Notices of Opportunity for Hearing to the following: David M. Burkons, M.D.; Robert Michael Cook, M.D.; Paul W. Craig, II, M.D.; Christopher Lou Demas, M.D.; Everett Linn Jones, M.D.; Gordon J. Korby, D.O.; Rodney Howard Poling, D.O.; Giridhar Singh, M.D.; and Frank Welsh, M.D. Dr. Soin seconded the motion. A vote was taken:

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

The motion to send carried.

Dr. Steinbergh moved to send the Notice of Summary Suspension and Opportunity for Hearing to James Andrew Williams, D.O. Dr. Soin seconded the motion. A vote was taken:

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

The motion to send carried.

DISMISSAL OF NOTICE OF OPPORTUNITY FOR HEARING

EDWARD ARTHUR CUTLER, D.O.

Mr. Kenney stated that on October 14, 2015, the Board ordered that Dr. Cutler's license to practice osteopathic medicine and surgery be summarily suspended based upon a presumption of an admission of inability to practice due to mental or physical illness. In addition, the Board approved issuance of a Notice of Opportunity for a Hearing for Dr. Cutler's failure to appear at a Board-ordered examination. The Board has received notice that Dr. Cutler died on October 20, 2015. Accordingly, the Order of Summary Suspension should be vacated and the Notice of Opportunity for Hearing dismissed as Moot.

Dr. Steinbergh moved to vacate the Order of Summary Suspension and to dismiss as Moot the Notice of Opportunity for Hearing in the matter of Dr. Cutler. Dr. Soin seconded the motion. A vote was taken:

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

Dr. Steinbergh - aye
Mr. Gonidakis - aye
Mr. Kenney - aye
Dr. Soin - aye
Dr. Schachat - aye
Dr. Schottenstein - aye

The motion to send carried.

RULES & POLICIES

PUBLIC RULES HEARING

Dr. Steinbergh moved to approve the Findings of Order for rescinding current Rules 4731-11-02, 4731-11-03, 4731-11-05, and 4731-11-11, and adopting Rules 4731-1-25, 4731-11-02, 4731-11-03, 4731-11-04.1, 4731-11-11, and 4762-1-01 as new rules, and Rule 4731-7-01 as amended. Dr. Steinbergh further moved that the adopted rules be final filed with an effective date of December 31, 2015. Dr. Saferin seconded the motion. A vote was taken:

ROLL CALL:

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

The motion carried.

ELECTION OF OFFICERS, 2016

Dr. Steinbergh moved to elect Mr. Gonidakis as President, Dr. Soin as Vice President, Dr. Rothermel as secretary, and Dr. Saferin as Supervising Member for terms beginning on January 1, 2016, and ending December 31, 2016. Mr. Giacalone seconded the motion. A vote was taken:

ROLL CALL:

Dr. Rothermel - aye
Dr. Saferin - aye
Mr. Giacalone - aye
Dr. Steinbergh - aye
Mr. Gonidakis - aye
Mr. Kenney - aye
Dr. Soin - aye

Dr. Schachat - aye
Dr. Schottenstein - aye

The motion carried.

REPORTS BY ASSIGNED COMMITTEES

FINANCE COMMITTEE

FISCAL REPORT

Ms. Loe stated that in October 2015 the Board had \$669,000 in revenue and \$606,000 in expenses, with a cash balance at the end of October of \$4,300,000.

Ms. Loe stated that at the Board's request, the Office of Budget and Management (OMB) granted additional spending authority to cover the cost of staff raises and personnel increases. Mr. Kenney emphasized that the OMB did not give the Board more money; rather, the OMB granted the Board authorization to spend additional funds that it already has.

MEDICAL BOARD PUBLICATION

Mr. Kenney stated that the first edition of the Medical Board's new quarterly publication will be issued in a couple of months. Advertising on the back cover of the issue has been sold to Buckeye Health Plan, a Medicaid-managed plan. Mr. Kenney stated that the publication will spotlight different physicians in different areas of Ohio and will be produced at no cost to the Board.

OPERATIONS REPORT

Human Resources: Mr. Groeber stated that a candidate will be selected soon for one of the open investigator positions and interviews are being scheduled to fill the other two open investigator positions.

Mr. Groeber stated that he is working with Human Resources to reclassify the Deputy Director 5 position into a strategic services role which may also encompass Communications.

Budget: Mr. Groeber asked the Board members to contact him or Ms. Loe if they have any questions about the fiscal report included in the Operations Report. Mr. Groeber noted that revenue continues to outstrip costs.

Information Technology: Mr. Groeber stated that the further development of E-License 3.0 is continuing. Physician assistant licensure and renewal is currently being incorporated into the system, as well as complaint management. Mr. Groeber credited Mr. Miller with keeping the roll-out of the new system on schedule. Mr. Groeber stated that the Ohio Office of Information Technology (OIT) has been contracted to work with the vendor, Deloitte, to accelerate the development of the complaint management portion of the system across all license types to improve overall efficiency of Board operations and to

allow for future integration with other systems such as the Ohio Automatic Rx Reporting System (OARRS). Mr. Groeber stated that the project will cost about \$418,000 and is expected to be complete by April or May 2016.

Mr. Groeber stated that the SharePoint site has been deployed to Board investigators and will allow investigators to file reports from the field in a much more timely and efficient manner.

Communications and Outreach: Mr. Groeber stated that the Board's communication and outreach items for the previous month are included on the Operations Report. Mr. Groeber noted that the Board spoke with virtually every medical association regarding the First Occurrence Recovery (FOR) program.

Agency Operations: Mr. Groeber stated that most categories of the agency operations report showed improvement over the previous month. Mr. Groeber noted that the number of complaints in the triage queue has increased, though the number of days each complaint spends in the queue is down considerably. Mr. Groeber further noted that the total number of complaints is now at 2,070 and he hoped to have the number below 2,000 before the end of December.

Mr. Groeber stated that there was a 1% drop in the number of physician licenses issues versus last year due to the abnormally large number of applications that were processed last year. Mr. Groeber noted that the figures from two years ago are consistent with approximately a 3% annual gain. Overall, licenses are being issued about 27% faster.

Mr. Groeber stated that at the request of a Board member, he has produced a year-in-review document. This document also correlates with Mr. Groeber's first year as the Board's Executive Director. The year-in-review document shows the allopathic and osteopathic physician licenses are being issued 32% faster and expedited licenses are being routinely issued in 20 to 25 days with no increase in staff. Mr. Groeber credited Mr. Miller and the Licensure staff for their hard work.

Mr. Groeber continued that in the previous year complaints have fallen from 3,200 to 2,070 and the median days open for the complaints is down significantly. Mr. Groeber noted that the number of complaints open more than two years has fallen by 57%. Mr. Groeber further noted the list of recent and current projects included in the report.

Mr. Gonidakis asked Mr. Groeber's opinion on which of these accomplishments has had the most impact. Mr. Groeber replied that enabling physicians to be licensed faster benefits everyone, as does appropriately resolving complaints faster. Mr. Groeber stated that he is very proud of the work of the staff.

Mr. Kenney commented that Mr. Groeber has done an excellent job in his first year as Executive Director.

Federation of State Medical Boards: Mr. Groeber stated that the Annual Meeting of the Federation of State Medical Boards (FSMB) will be held April 28-30, 2016. The Board's recent policy states that two non-scholarship attendees from the Board and two from the staff can be approved to attend. Mr. Groeber asked the Board members to let him know if they are interested in attending.

REPORTS BY ASSIGNED COMMITTEESPOLICY COMMITTEEFIRST OCCURRENCE RECOVERY PROGRAM

Mr. Gonidakis stated that the Policy Committee had a robust discussion of the First Occurrence Recovery (FOR) program. Mr. Gonidakis stated that the goal is to continue to move forward on the program in a methodical and transparent manner. Mr. Gonidakis stated that a state representative may request of meeting regarding the FOR program for interested parties; if such a meeting is scheduled, Board members will be welcome to attend at the representative's invitation.

Dr. Steinbergh expressed disappointment in the level of communication among Board members regarding the proposed FOR program. Dr. Steinbergh stated that it is important that the physician members of the Medical Board are involved with developing the program. Dr. Steinbergh stated that thus far most of the input has come from the Board's non-physician members, though Dr. Rothermel has been asked to attend some meetings. Mr. Gonidakis stated that all Board members have always been welcome at the discussions and that no Board members have been excluded. Dr. Steinbergh stated that she has not always been notified when meetings on this topic have been scheduled. Dr. Steinbergh further stated that some meetings have been set with as little as two hours of notice, making it essentially impossible for a Board member who is a practicing physician to attend. Mr. Kenney stated that he has watched the process closely as Board President as meetings have been held with medical associations. Mr. Kenney stated that he has been receiving proper notification of meetings and he hoped all other Board members were as well. Mr. Groeber stated that he believes all Board members are receiving invitations to meetings but he will follow-up to make certain. Mr. Gonidakis stated that his sole purpose is to facilitate the conversation in a manner that allows anyone who wishes to participate to do so.

Regarding the FOR program, Dr. Steinbergh commented that she opposes having physicians in the FOR program register with the Board because it may discourage impaired physicians from seeking early and appropriate medical care. Dr. Steinbergh also opined that the Board's guidelines for assessors should be rigid and consistent and that the Board should have a formal agreement with the Ohio Physicians Health Program or a similar organization.

Dr. Rothermel stated that if the proposed FOR program will be sent to the Legislature soon, then the Board should have an in-depth discussion on the topic before the planned March 10, 2016 Board Retreat. However, if the proposed program will not go to the Legislature in the next few months, then it would be appropriate for the Board to discuss it on March 10. Dr. Schachat commented that it would be helpful to have a list of five to ten key principles for the Board discussion. Mr. Kenney agreed and opined that there could be as few as three key principles to guide the discussion.

TELEMEDICINE RULES

Ms. Anderson stated that the Legislature is expected to pass legislation concerning telemedicine and prescribing to patients not seen. If the legislation is passed, the Board will have one year from the law's

effective date to promulgate the appropriate rules. Ms. Anderson had provided the Policy Committee with a rough timeline for getting the rules in place by March 2017.

Ms. Anderson stated that if the Board members agree, she would like to set aside time in the February 2016 Board meeting for interested groups and individuals and discuss these matters with the Board and to answer the Board's questions. Depending on the volume of people who wish to attend, Ms. Anderson envisioned the each group or individual would be limited to ten-minute oral presentations plus time for questions from the Board. Ms. Anderson opined that setting aside a two-hour block of time during the Board meeting would be sufficient.

PHYSICIAN ASSISTANT/SCOPE OF PRACTICE COMMITTEE

PROVISIONAL CERTIFICATE TO PRESCRIBE APPLICATION REVIEW

MILDRED ROACH, P.A.-C.

Dr. Steinbergh moved to approve Ms. Roach's application for a provisional certificate to prescribe based upon meeting the requirements of Section 4730.46(B)(2), Ohio Revised Code. Dr. Saferin seconded the motion. A vote was taken:

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

The motion carried.

DRAFT RULES

Ms. Debolt stated that the PA/Scope of Practice Committee continues to review the physician assistant rules so that they can be amended to reflect recent changes in legislation.

LICENSURE COMMITTEE

LICENSURE APPLICATION REVIEWS

PATTI JO BEARLEY, D.O.

Dr. Saferin moved to approve Dr. Bearley's request for restoration of her license to practice

osteopathic medicine and surgery in Ohio as presented. Dr. Steinbergh seconded the motion. A vote was taken:

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

The motion carried.

DIANE KAY GLAZE, M.T.

Dr. Saferin stated that Ms. Glaze is applying for restoration of her license to practice massage therapy in Ohio, which has been inactive since August 2007. Ms. Glaze has not actively practiced massage therapy since March 2013 in New Mexico. The Licensure Committee recommends granting Ms. Glaze's request as presented.

Dr. Saferin moved to approve Ms. Glaze's request for Ohio licensure as presented. Dr. Rothermel seconded the motion.

Dr. Steinbergh noted that Ms. Glaze has not practiced massage therapy for more than two years. Dr. Steinbergh stated that typically when a massage therapy restoration applicant has not practiced in more than two years, the Board requires the applicant to pass the Massage and Bodywork Licensing Examination (MBLEX) as a condition for restoration. Dr. Saferin stated that the Licensure Committee felt that approving the application as presented would be appropriate since the time since Ms. Glaze's active practice is only slightly more than two years. Dr. Steinbergh observed that it has been nearly three years since March 2013.

Dr. Steinbergh moved to amend the motion so that the restoration of Ms. Glaze's Ohio massage therapy license will be contingent upon her taking and passing the MBLEX. Mr. Giacalone seconded the motion.

Dr. Steinbergh stated that the Board has the responsibility of ensuring that massage therapists are competent. Dr. Steinbergh stated that Ohio law states that if someone has not practiced for more than two years then it may require the successful completion of an examination, though the Board is not required to do so. Dr. Steinbergh asked why the Board should step away from its usual practice in this matter. Dr. Saferin replied that the Committee took into account the small amount of time beyond two years since Ms. Glaze's last practice and that very little has changed in the field of massage therapy in the last two years.

Dr. Steinbergh stated that when a physician is out of practice for more than two years, the Board usually requires an examination to ensure competency. Mr. Giacalone stated that he is amenable to granting Ms. Glaze's request as presented, so long as the Board is consistent. Mr. Giacalone opined that there is a distinction between massage therapists and physicians in regards to education and level of responsibility. Dr. Soin agreed with Mr. Giacalone and stated that the Board can exercise discretion in certain cases.

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

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

The motion to amend did not carry.

A vote was taken on Dr. Saferin's motion to approve as presented:

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

The motion carried.

HEATHER TUTT-ROBINSON, M.T.

Dr. Saferin moved to approve Ms. Tutt-Robinson'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. Soin seconded the motion. A vote was taken:

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

Mr. Gonidakis - aye
Mr. Kenney - aye
Dr. Soin - aye
Dr. Schachat - aye
Dr. Schottenstein - aye

The motion carried.

MARINA FRANCIS DAMIS, M.D.

Dr. Saferin moved to approve Dr. Damis' request for Ohio licensure as presented. Dr. Steinbergh seconded the motion. A vote was taken:

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

The motion carried.

COMPLIANCE COMMITTEE

Dr. Steinbergh stated that on November 4, 2015, the Compliance Committee met with Mark L. Allen, M.D.; Paul P. Chu, M.D.; Holly C. Kotlin, M.T.; Ben Lomas, M.D.; John A. Ross, M.D.; Suman C. Vellanki, M.D.; and Aly Mohamed Aly Zewail, M.D., and moved to continue them under the terms of their respective Board actions. The Compliance Committee also accepted Compliance staff's report of conferences on October 13th and 15thth, 2015.

TREATMENT PROVIDER APPLICATION REVIEW

SIERRA TUCSON

Dr. Steinbergh moved to approve the Application for Certificate of Good Standing as a Treatment Provider for Impaired Practitioners from Sierra Tucson. Dr. Saferin seconded the motion.

Dr. Sethi returned to the meeting at this time.

Dr. Schottenstein commented that the Board had previously discussed reducing the number of treatment providers because physicians are being dispersed among too many different locations. Dr. Steinbergh

stated that the Board should discuss this as it considers the proposed FOR program. Dr. Steinbergh stated the Board will need to approve some treatment providers outside Ohio because many physicians want to leave the state to get treatment.

Mr. Kenney asked how the Board approves treatment providers without inspecting the facility to ensure a clean and quality atmosphere. Ms. Bickers replied that facilities applying to be Board-approved treatment providers must have accreditation by the Joint Commission, the Commission on Accreditation of Rehabilitation Facilities (CARF), or the Ohio Department of Mental Health and Addiction. Ms. Bickers stated that those accrediting organizations inspect the locations.

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

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

The motion carried.

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

- **To grant Martin P. Ambrose, M.D.'s request for permission to travel between Ohio and Michigan without prior approval;**
- **To grant Joseph E. Baus, M.D.'s request for semi-annual electronic appearances while residing in Nebraska;**
- **To grant Theodore R. Cubbison, D.O.'s, request for reduction in recovery meetings to two per week with a minimum of 10 per month; and reduction in personal appearances to every six months;**
- **To grant Philicia S. Duncan, M.D.'s request for approval of Eric R. Schumacher, D.O., to serve**

as the new monitoring physician; and determination of the frequency and number of charts to be reviewed at 10 charts per month;

- To grant Shane R. Hanzlik, M.D.'s request for approval of the Reliant Behavioral Health (RBH), Oregon's monitoring program, to conduct the monitoring and drug testing while he resides and practices in Oregon; and approval of RBH to conduct the quarterly meetings in lieu of personal appearances in Ohio;
- To grant Elise R. Hoff, M.D.'s request for approval of Anita-Lynn Santiago Tamayo-Reyes, M.D., to serve as the treating psychiatrist;
- To grant Peter C. Johnson, M.D.'s request for approval of Kipp Low, M.C. J., to serve as the polygraph technician; and approval of the first polygraph session to be conducted in January 2016;
- To grant Matthew D. Kellems, M.D.'s request for approval of Jason M. Jerry, M.D., to serve as the new treating psychiatrist;
- To grant John R. Kerns, D.O.'s request for reduction in personal appearances to every six months;
- To grant John K. Krebs, M.D.'s request for approval of David W. Stroom, M.D., to serve as the new treating psychiatrist;
- To grant Nicholas L. Pesa, M.D.'s request for approval of *Intensive Course in Medical Ethics, Boundaries, and Professionalism*, administered by Case Western Reserve University;
- To grant William Popovich, M.D.'s request for approval of Jason M. Jerry, M.D., to serve as the new treating psychiatrist;
- To grant Margo H. Roca, M.D.'s request for release from the terms of her September 12, 2012 Consent Agreement;
- To grant Joseph P. Sitarik, D.O.'s request for discontinuance of the chart review requirement; and
- To grant Shannon Lee Swanson, D.O.'s request for approval of *Intensive Course in Medical Documentation: Clinical, Legal and Economic Implications for Healthcare Providers*, administered by Case Western Reserve University, to fulfill the medical record keeping course requirement;

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

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

Mr. Gonidakis - aye
Mr. Kenney - aye
Dr. Sethi - aye
Dr. Soin - aye
Dr. Schachat - aye
Dr. Schottenstein - aye

The motion to send carried.

FINAL PROBATIONARY APPEARANCE

WAYNE MARSHALL WILLIAMS, M.D.

Dr. Williams was appearing before the Board pursuant to his request for release from the terms of his December 8, 2010 Consent Agreement. Ms. Bickers reviewed Dr. Williams' history with the Board.

Dr. Steinbergh asked Dr. Williams to describe his current practice. Dr. Williams answered that he practices as an urgent care physician and a primary care physician.

Dr. Steinbergh asked about Dr. Williams' recovery and his plans following release from his Consent Agreement. Dr. Williams replied that his recovery is going well and that his recovery activities will not change following his release. Dr. Williams stated that he had previously practiced emergency medicine for 30 years, but he is happy now in urgent care. Regarding his licensure status in his home state of Georgia, Dr. Williams stated that he has completed the terms of his probation in that state but he will continue to provide random urines and other tests for Georgia's Physician Health Program. Dr. Williams stated that it is important to have an outside structure to continue validating the fact that he is sober.

Dr. Soin asked if Dr. Williams plans to ever again work in an emergency department in a hospital. Dr. Williams replied that he has no such plans, but he has not completely ruled it out either. Dr. Williams stated that if he returns to emergency medicine it will be at a very low volume. Responding to further questions from Dr. Soin, Dr. Williams stated that he has not had issues with any substances other than alcohol.

Mr. Giacalone asked Dr. Williams if he would address the medical students in attendance regarding his situation. Dr. Williams stated that he appreciates the opportunity to address the students.

Dr. Williams advised the students to not take anything for granted because practicing medicine is a privilege. Dr. Williams stated that the bar is held high for physicians and they must be responsible. Dr. Williams stated that a certain percentage of the students will have troubles with drugs, alcohol, personal issues, or stress. Dr. Williams stated that there are proper ways and improper ways to deal with stress and life issues. Dr. Williams stated that there are resources available to help the students deal with some of these issues and that they should not hesitate to reach out for help.

Mr. Kenney noted that it has taken Dr. Williams several years to deal with his alcohol problem. Dr.

December 9, 2015

Steinbergh stated that Dr. Williams was first cited by the Board in 2009, but he had probably been ill for some time before that. Dr. Williams agreed.

Dr. Steinbergh moved to release Dr. Williams from the terms of his December 8, 2010 Consent Agreement, effective immediately. Mr. Gonidakis seconded the motion. A vote was taken:

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

The motion carried.

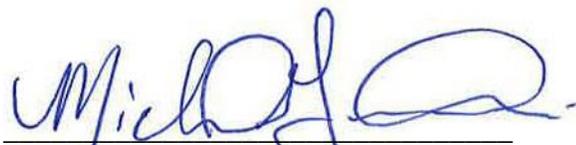
APPRECIATION FOR MR. KENNEY'S SERVICE AS PRESIDENT

Mr. Groeber stated that he is pleased and honored to have served his first full year as the Board's Executive Director with Mr. Kenney as President. In appreciation for his service as Board President, Mr. Groeber presented Mr. Kenney with a commemorative gavel inscribed with the phrase, "With gratitude for your service as president of the State Medical Board of Ohio in 2015."

Mr. Kenney stated that it has been a pleasure to serve as President of the Board. The Board members and staff gave Mr. Kenney a round of applause.

Thereupon, at 2:43 p.m., the December 9, 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 December 9, 2015, as approved on January 13, 2016.



Michael L. Gonidakis, President



Kim G. Rothermel, M.D., Secretary

(SEAL)

