

MINUTES**THE STATE MEDICAL BOARD OF OHIO****November 9, 2016**

Michael L. Gonidakis, President, called the meeting to order at 9:58 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: Amol Soin, M.D., Vice President; Kim G. Rothermel, M.D., Secretary; Bruce R. Saferin, D.P.M., Supervising Member; Anita M. Steinbergh, D.O.; Donald R. Kenney, Sr.; Andrew P. Schachat, M.D.; Michael Schottenstein, M.D.; Richard Edgin, M.D.; and Ronan M. Factora, M.D. The following member was absent: Robert P. Giacalone.

Also present were: Anthony J. Groeber, Executive Director; Kimberly Anderson, Assistant Executive Director; David Fais, Assistant Executive Director; Susan Loe, Director of Human Resources and Fiscal; Sallie J. Debolt, Senior Counsel; William Schmidt, Chief of Investigations; Teresa Pollock, Deputy Director for Communications; Joan K. Wehrle, Education and Outreach Program Manager; Gary Holben, Operations Manager; Jonithon LaCross, Public Policy & Governmental Affairs Program Administrator; Rebecca Marshall, Chief Enforcement Attorney; Marcie Pastrick, Mark Blackmer, Cheryl Pokorny, Angela McNair, Gregory Tapocsi, James Roach, and Kimberly Lee, Enforcement Attorneys; Kyle Wilcox and Melinda Snyder, Assistant Attorneys General; R. Gregory Porter, Chief Hearing Examiner; Danielle Blue, Hearing Examiner; Alexandra Murray, Managing Attorney for Standards Review, Experts, and Intervention; Annette Jones and Angela Moore, Compliance Officers; Mitchell Alderson, Administrative Officer; Chantel Scott, Chief of Renewal; Julie Williams, Public Information Officer; Judy Rodriguez, Public Services Manager; Jacqueline A. Moore, Legal/Public Affairs Assistant; and Benton Taylor, Board Parliamentarian.

MINUTES REVIEW

Dr. Steinbergh moved to approve the draft minutes of the October 19, 2016, Board meeting, as written. Dr. Saferin seconded the motion. A vote was taken:

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

The motion carried.

APPLICANTS FOR LICENSURE

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

received and approved in accordance with licensure protocols, the acupuncturists listed in Exhibit "A," the anesthesiologist assistants listed in Exhibit "B," the genetic counselor applicants listed in Exhibit "C," the massage therapist applicants listed in Exhibit "D," the physician assistant applicants listed in Exhibit "E," and the physician applicants listed in Exhibit "F" as listed in the agenda supplement and handout. Dr. Soin seconded the motion. A vote was taken:

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

The motion carried.

REPORTS AND RECOMMENDATIONS

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

Mr. Gonidakis 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: Christopher Lou Demas, M.D.; and Christiana M. Lietzke, M.D. A roll call was taken:

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

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

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

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

Mr. Gonidakis 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. Gonidakis 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.

CHRISTOPHER LOU DEMAS, M.D.

Mr. Gonidakis directed the Board's attention to the matter of Christopher Lou Demas, M.D. Objections have been filed to Mr. Porter's Report and Recommendation and were previously distributed to Board members.

Dr. Soin moved to approve and confirm Mr. Porter's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Christopher Lou Demas, M.D. Dr. Steinbergh seconded the motion.

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

Dr. Steinbergh briefly reviewed Dr. Demas' medical career. Dr. Demas was cited by the Medical Board for prescribing medications to eight patients during a time when his Ohio medical license was suspended. At his hearing, Dr. Demas confirmed that he had not practiced medicine since his license was suspended in 2013. However, Dr. Demas admitted that for the eight prescriptions in question he had directed his staff to call in or have prescriptions issued in the e-prescription system under the name of a *locum tenens* physician, despite the fact that the patients had not been examined by the *locum tenens* physician and the *locum tenens* physician had not authorized the prescriptions. Dr. Steinbergh noted that the prescriptions were refills of prescriptions that had been previously issued to the patients by Dr. Demas for medical conditions that he had diagnosed and treated when his license was active.

Dr. Steinbergh recounted that the Board suspended Dr. Demas' medical license in late 2013 for an indefinite time, but not less than one year. The Board's action was based on Dr. Demas' conviction on multiple felony counts of forgery. Dr. Demas' license was suspended from June 8, 2013, to September 10, 2014. Dr. Steinbergh stated that the refill prescriptions included opioids and benzodiazepines and were mostly for six months or longer. Dr. Steinbergh opined that Dr. Demas somehow did not understand that once his license was suspended, he was unable to practice medicine in any form. Dr. Steinbergh further commented that Dr. Demas now understands that what he did was wrong.

Dr. Steinbergh observed that Dr. Demas' attorney has argued in his objections that the Proposed Order of permanent revocation of Dr. Demas' Ohio medical license is not supported by the evidence and is not

warranted because there was no harm to patients due to substandard care. However, Dr. Steinbergh argued that anytime a person practices medicine without a license, it is substandard care and can result in the greatest harm to patients. Dr. Demas' attorney had also commented that the eight prescriptions were refills for pre-existing patients of Dr. Demas' practice. Dr. Steinbergh stated that she may have understood this argument if the refill prescriptions had only been for a few days until the *locum tenens* physician was available. Dr. Steinbergh pointed out that the eight prescriptions were, in fact, significant refills that ranged from a month to over six months. Dr. Steinbergh stated that when Dr. Demas' license was suspended he should have referred his patients to other physicians or to an urgent care center or similar facility. Dr. Steinbergh opined that Dr. Demas made these decisions principally in order to keep the patients in his practice.

Dr. Steinbergh continued that Dr. Demas has demonstrated an egregious pattern of behavior. Dr. Steinbergh stated that the 2013 conviction on seven felony counts of forgery was based on his having instructed CVS Pharmacy, where he was a collaborating physician over advanced practice nurses, to forge the names of other physicians on five certified nurse practitioner standard care agreements with CVS MinuteClinic, and to forge the name of a physician on a disclosure questionnaire. Dr. Steinbergh stated that these actions enabled Dr. Demas to see more patients in the MinuteClinic, which consequently increased his salary. At that time the State argued, and the Board agreed, that Dr. Demas had been dishonest, had failed to exercise good judgment, and had been motivated by greed.

Dr. Steinbergh stated that, although Dr. Demas states that he is taking responsibility, it is clear that the Board will never be able to trust Dr. Demas again. Dr. Steinbergh noted that to fulfill one of the conditions for restoration of his license from the previous Board action, Dr. Demas took a professional/personal ethics course and he submitted a report to the Board on what he had learned in the course. However, Dr. Steinbergh stated that it is clear that Dr. Demas never really learned. Dr. Steinbergh agreed with the Hearing Examiner's Findings of Fact, Conclusions of Law, and Proposed Order to permanently revoke Dr. Demas' medical license.

Dr. Soin agreed with Dr. Steinbergh's comments. Dr. Soin noted that Dr. Demas' attorney has contended that there had been no demonstrable harm to patients. However, Dr. Soin identified several areas of concern regarding Dr. Demas' patient care. Dr. Soin stated that Patient 7 was prescribed 240 50 mg tablets of tramadol. While Dr. Soin agreed that some patients may be outliers and require such quantities of tramadol, he stated that the such patients must be monitored closely due to concerns of lowering the seizure threshold. Dr. Soin could not conceive of how Patient 7 was being monitored since the prescription was written with eleven refills. Dr. Soin noted that since that time, new laws have made it impossible for physicians to prescribe this much tramadol.

Dr. Soin continued that Patient 8 received Vicodin, 7.5/750 mg, four times per day. Dr. Soin opined that this is an excessive amount because it represents 3,750 mg of acetaminophen per day affecting Patient 8's liver. Dr. Soin observed that this prescription had five refills and he questioned how Patient 8's condition was being monitored while taking a medication which is toxic to the liver.

Dr. Soin argued that Dr. Demas' prescribing patterns, in terms of dosage and the number of refills, were irresponsible and harmful to his patients. Dr. Soin acknowledged that current law is different from the laws in effect in 2013, but he stated that a physician in 2013 should have had situational awareness of what is being prescribed.

Dr. Schottenstein agreed with the comments of Dr. Steinbergh and Dr. Soin. Dr. Schottenstein noted that

Dr. Demas' attorney argued that a permanent revocation of a license should only be imposed in the most egregious circumstances. The attorney cited practice below the minimum standards of care as an example of something worthy of permanent revocation. Dr. Schottenstein found the attorney's assertion surprising because practice below the minimum standards of care clearly occurred in Dr. Demas' case. Dr. Schottenstein stated that directing medical assistants to send out six months' to a year's worth of prescription refills for controlled substances without the authorization of a licensed physician clearly constitutes practicing below the minimum standards of care. Dr. Schottenstein stated that this case involves either practicing medicine without a license or practicing below the minimum standards of care, and both possibilities are egregious.

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

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

The motion to approve carried.

CHRISTIANA M. LIETZKE, M.D.

Mr. Gonidakis the Board's attention to the matter of Christiana M. Lietzke, M.D. Objections to Mr. Porter's Report and Recommendation have been filed and were previously distributed to Board members.

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

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

Dr. Schottenstein stated that the Board has alleged that Dr. Lietzke had been found guilty of a misdemeanor offense of Evading Arrest in the General Sessions Court of Jefferson County, Tennessee. The Board has further alleged that Dr. Lietzke's certifications and applications to practice medicine in several other states have been disciplined by the medical boards of those states.

Dr. Schottenstein continued that during her testimony at her hearing, Dr. Lietzke referred to her 2012 divorce and what she described as a subsequent attack against her as a mother and physician, including allegations of sexual abuse and drug abuse. Dr. Lietzke testified that she has not seen her children since 2013 and that she does not know who is taking care of them. Dr. Lietzke also testified that after a custody battle, custody was taken away from her and awarded to the children's father. Dr. Lietzke reported that the court ordered that she have no contact with her children, but she did not know the reason for the court's order.

Dr. Schottenstein stated that on April 5, 2014, Dr. Lietzke was driving in Jefferson County, Tennessee, at 4:22 a.m. when a police officer recorded her speed at 76 M.P.H. in a 45 M.P.H. speed zone. Although the officer pursued Dr. Lietzke with active lights and siren, Dr. Lietzke refused to stop and, in fact, accelerated. After Dr. Lietzke stopped, she exited her vehicle and attempted to enter her residence, but she was apprehended and arrested. Though Dr. Lietzke was initially charged with a felony count of Evading Arrest, she was later convicted of an amended charge of Evading Arrest as a Class A misdemeanor. Dr. Lietzke was sentenced to 11 months and 29 days of jail, with all but 2 days of the sentence suspended, and she was given credit for time served.

Dr. Schottenstein stated that, by way of explanation for her actions, Dr. Lietzke testified that she had simply been out for a drive, having lost a lot of sleep over the allegations against her as a mother and a physician. Dr. Lietzke further indicated that she had been perplexed that, despite the fact that she had been evaluated and cleared by multiple professionals, no one had arranged a phone call or visit with her children. Dr. Lietzke testified that she decided to not pull over for the police officer because she did not have confidence in how cases regarding child abuse allegations were being managed in her community. Dr. Schottenstein observed that the Assistant Attorney General repeatedly asked Dr. Lietzke to explain why she did not stop, and Dr. Lietzke repeatedly referenced her lack of confidence in the management of child abuse allegations. Dr. Lietzke stated that she had been very angry at the time and she felt that it would be safer to go home and have a discussion with the police officer in that setting. When asked if a lack of confidence in law enforcement would cause her to behave similarly in Ohio, Dr. Lietzke replied that it would depend on how the particular community handles child custody cases.

Dr. Schottenstein stated that, in the interest of time, he will review only a few of the decisions of other state medical boards:

- Although Dr. Lietzke stated in her testimony that she retired her Tennessee medical license, the Utah Board's order stated that she had surrendered her Tennessee medical license.
- The South Dakota Board ordered Dr. Lietzke to complete a fitness-to-practice program. When asked by the South Dakota Board to provide a detailed description of the events that led to her arrest in Tennessee, Dr. Lietzke offered a different explanation than the one she gave to the Ohio board. Specifically, Dr. Lietzke told the South Dakota Board, "I have speeding tickets. We have drugs in our legal system. An officer has gone into a pharmacy and shooting was done. I sped home to my house. They do not do drug screening in the hospitals, on the nurses either who use drugs. We have drug epidemic here and it is our legal system. I want to work somewhere else." The South Dakota Board order stated, in part, "Dr. Lietzke has left messages which were rambling in content and focused on helping with the investigation of people who are coming over the southern border of the United States."
- The Montana Board indefinitely suspended Dr. Lietzke's medical license and recommended the advocacy of the Montana Professional Assistance Program. At a meeting with the Montana Board, Dr. Lietzke stated that she had fled from the pursuing officer because that area of Tennessee had been heavily influenced by drug trafficking and she feared that the police officer pursuing her could have been involved in the drug world. When a representative of the Montana Professional Assistance Program reached Dr. Lietzke by telephone, she indicated that Dr. Lietzke was defensive, angry, and accusatory. Dr. Lietzke also refused to provide a release with which the Montana Professional Assistance Program could gather information, asserting that such information was classified. Dr. Lietzke did not appear at a

subsequent Screening Panel meeting to offer any response or explanation for her behavior.

Dr. Schottenstein stated that in Ohio, the State argued that Dr. Lietzke's conduct in Tennessee placed the police officer in danger, as well as anyone else who may have been on the road at the time of the high-speed chase. Dr. Schottenstein stated that this is clearly true. The State also argued that Dr. Lietzke's behavior violated the accepted moral standards of the community. The Hearing Examiner agreed with the State's position and cited Dr. Lietzke's Tennessee conviction as an example of her very poor judgment. The Hearing Examiner also felt that it was apparent from testimony that Dr. Lietzke could behave similarly if she came to Ohio. Dr. Schottenstein stated that the Hearing Examiner's Proposed Order is to deny Dr. Lietzke's application for licensure.

Dr. Schottenstein commented that as he reviewed this matter, he kept reminding himself that this case does not involve an allegation of violation of Section 4731.22(B)(19), Ohio Revised Code, that no Eastway waiver has been granted, and that Dr. Lietzke did not have legal representation. Dr. Schottenstein stated that he wants to do his best to ensure that he is protecting Dr. Lietzke's rights by being mindful of these issues. Having stated this, Dr. Schottenstein made the following comments and observations.

Dr. Schottenstein stated that it is clear that Dr. Lietzke was convicted in Tennessee and that the other state medical boards took their respective actions. Dr. Schottenstein opined that most people would be mortified if they had engaged in this kind of behavior, would feel ashamed of it, and would apologize for it. However, Dr. Lietzke's reaction was very different. Dr. Schottenstein stated that Dr. Lietzke appears to feel that her behavior is justified and that she does not take ownership of her actions or show evidence of remorse. Dr. Schottenstein stated that Dr. Lietzke rationalizes her behavior through alternating explanations that are clearly illogical and unreasonable. Dr. Schottenstein noted that at one point Dr. Lietzke indicated that she did not trust the police officer who attempted to pull her over because of the difficulties she had encountered in her custody dispute. However, at another point Dr. Lietzke's explanation was that she was concerned about drug trafficking within the police department. Dr. Schottenstein expressed concern with Dr. Lietzke's rationalizations and justifications for her behavior.

Dr. Schottenstein continued that he was also concerned that in her testimony and in examples given in other state board orders, Dr. Lietzke's speech is sometimes circumstantial and includes a great deal of irrelevant detail with frequent diversions even though she remains focused on the broad topic. Dr. Schottenstein stated that there are also times when Dr. Lietzke's thought process is more tangential and she wanders from the topic without ever returning to it. As an example, Dr. Schottenstein read the following from Dr. Lietzke's filed objections to the Report and Recommendation:

Thank you for the legal notice. My objective in obtaining an Ohio MD license was to learn German in an immersion cultural environment. I also like to travel and speak Spanish. Conditions are hostile in east Tennessee toward female physicians. I have experienced a slander attack. P.S. the traffic is bad.

Dr. Schottenstein stated that anyone could understand the anger and hurt of having one's children taken away, and he regretted the pain that Dr. Lietzke must feel. However, Dr. Schottenstein stated that Dr. Lietzke has displaced her anger onto an entire community of people, specifically the community of law enforcement. Dr. Schottenstein stated that Dr. Lietzke does not seem to have learned, or has even attempted to learn, a lesson from this experience. Dr. Schottenstein reiterated Dr. Lietzke's testimony that she would decide whether to pull over for law enforcement on a case-by-case basis. Dr.

Schottenstein questioned if Dr. Lietzke could medically treat a police officer or a police officer's family member if asked to do so. Dr. Schottenstein also asked how someone who has exercised such poor judgment and has such a questionable thought process could have the ability to practice medicine in a way that is not a threat to public safety.

Dr. Schottenstein stated that the Proposed Order would deny Dr. Lietzke's application for an Ohio medical license, but would not permanently deny it. Dr. Schottenstein stated that he could support the proposed denial if he could justify it based on cautious optimism that things will move in the right direction. However, based on Dr. Lietzke's testimony, Dr. Schottenstein did not have confidence that she will exercise good judgment. Dr. Schottenstein stated that he saw no reason to believe that this will be different in a year, or even in five years. Dr. Schottenstein opined that in a situation like this, a non-permanent denial would be like kicking the can down the road. Dr. Schottenstein proposed that the denial of Dr. Lietzke's application be permanent.

Dr. Schottenstein moved to amend the Proposed Order so that Dr. Lietzke's application for a license to practice medicine and surgery in Ohio would be permanently denied. Dr. Steinbergh seconded the motion.

Dr. Schachat stated that he agrees that Dr. Lietzke's explanations and rationalizations seem very strange. Dr. Schachat opined that they were so strange that he assumed there was some kind of impairment. Dr. Schachat stated that if there is impairment in this case, then the denial of Dr. Lietzke's application should not be permanent so that she can potentially seek treatment and apply again. Dr. Schottenstein stated that he very much appreciates Dr. Schachat's statements. However, Dr. Schottenstein reiterated that Dr. Lietzke has not been charged with a (B)(19) violation. Dr. Schottenstein stated that he has confined his analysis strictly to what is included in the hearing record.

Ms. Anderson agreed with Dr. Schottenstein and stated that Dr. Lietzke was only charged with violation of 4731.22(B)(13) and (B)(22) for the misdemeanor charge and the actions of other medical boards, respectively. Ms. Anderson stated that Dr. Lietzke has not been charged with impairment and that the Board needs to base its decision on the charges that were brought.

Dr. Steinbergh stated that, though it is difficult to permanently deny an application, she agrees with the proposal to permanently deny Dr. Lietzke's application. Dr. Steinbergh stated that she has grave concerns about Dr. Lietzke's attitudes towards law enforcement and whether she could provide medical care to someone in law enforcement. Dr. Steinbergh stated that she could not see Dr. Lietzke being licensed in this state.

Dr. Factora reiterated Dr. Schachat's concern that Dr. Lietzke may have a treatable condition and that treatment could improve her chances of practicing medicine. Dr. Factora observed that some of the other medical boards have suggested that Dr. Lietzke take certain classes or be assessed for professional activities. Dr. Factora also noted the North Carolina Board's conclusion that Dr. Lietzke is not receiving treatment for her medical condition. Dr. Factora stated that Dr. Lietzke has had opportunity to have her underlying causes assessed and addressed, but she has failed to do so to the satisfaction of those boards. Dr. Factora stated that the question before the Ohio Board is whether to give Dr. Lietzke a chance in Ohio when she has already been given chances elsewhere. Dr. Factora stated that, based on the hearing record, it does not appear that Dr. Lietzke has actually gotten better.

Dr. Schottenstein commented that if there had been any indication in the hearing record that Dr. Lietzke

had insight, understood the situation, took ownership, and was inclined to proceed in a healthy direction, he would have found that compelling. However, Dr. Schottenstein saw no indication that Dr. Lietzke had moved in the right direction or that this would change in the future. Dr. Schottenstein stated that Dr. Lietzke has not been receptive to opportunities from other state medical boards to rectify the situation.

Dr. Schachat stated that, having heard the comments of Dr. Factora and Dr. Schottenstein, he will support permanent denial of Dr. Lietzke's application.

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

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Steinbergh	- aye
	Dr. Soin	- nay
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye
	Dr. Schachat	- aye
	Dr. Schottenstein	- aye
	Dr. Edgin	- aye
	Dr. Factora	- 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 Christiana M. Lietzke, M.D. Dr. Schottenstein seconded the motion. A vote was taken:

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

The motion to approve carried.

EXECUTIVE SESSION

Dr. Steinbergh 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. Saferin seconded the motion. A vote was taken:

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

Dr. Saferin	- aye
Dr. Steinbergh	- aye
Dr. Soin	- aye
Mr. Gonidakis	- aye
Mr. Kenney	- aye
Dr. Schachat	- aye
Dr. Schottenstein	- aye
Dr. Edgin	- aye
Dr. Factora	- aye

The motion carried.

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

The Board returned to public session.

RATIFICATION OF SETTLEMENT AGREEMENTS

SUNMI YUN AUH, M.D. – VOLUNTARY PERMANENT RETIREMENT

Dr. Steinbergh moved to ratify the Proposed Voluntary Permanent Retirement with Dr. Auh. Dr. Soin seconded the motion. A vote was taken:

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

The motion to ratify carried.

S.I.B., M.D. – CONSENT AGREEMENT

Dr. Soin moved to ratify the Proposed Consent Agreement with S.I.B., M.D. Mr. Kenney seconded the motion. A vote was taken:

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

Mr. Kenney	- aye
Dr. Schachat	- aye
Dr. Schottenstein	- nay
Dr. Edgin	- aye
Dr. Factora	- nay

Having failed to achieve six affirmative votes, the motion to ratify did not carry.

EVAN MARCUS LAVON KILL, L.M.T. – CONSENT AGREEMENT

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

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

The motion to ratify carried.

JOSHUA DAVID PALMER, M.D. – CONSENT AGREEMENT

Dr. Steinbergh moved to ratify the Proposed Consent Agreement with Dr. Palmer. Dr. Soin seconded the motion. A vote was taken:

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

The motion to ratify carried.

ERNEST L. SUTTON, M.D. – CONSENT AGREEMENT

Dr. Soin moved to ratify the Proposed Consent Agreement with Dr. Sutton. Mr. Kenney seconded the motion. A vote was taken:

ROLL CALL:

Dr. Rothermel	- abstain
Dr. Saferin	- abstain
Dr. Steinbergh	- nay
Dr. Soin	- aye
Mr. Gonidakis	- aye
Mr. Kenney	- aye
Dr. Schachat	- aye
Dr. Schottenstein	- nay
Dr. Edgin	- aye
Dr. Factora	- aye

The motion to ratify carried.

FRANK WELSH, M.D. – CONSENT AGREEMENT

Dr. Steinbergh moved to ratify the Proposed Consent Agreement with Dr. Welsh. 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. Schachat	- aye
Dr. Schottenstein	- aye
Dr. Edgin	- aye
Dr. Factora	- aye

The motion to ratify carried.

GREGORY ALLAN PARKER, M.D. – SUPERSEDING STEP I CONSENT AGREEMENT

Dr. Steinbergh moved to ratify the Proposed Superseding Step I Consent Agreement with Dr. Parker. Dr. Soin seconded the motion. A vote was taken:

ROLL CALL:

Dr. Rothermel	- abstain
Dr. Saferin	- abstain
Dr. Steinbergh	- aye
Dr. Soin	- aye
Mr. Gonidakis	- aye
Mr. Kenney	- aye
Dr. Schachat	- aye
Dr. Schottenstein	- aye
Dr. Edgin	- aye
Dr. Factora	- 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 Michael Garber, M.D.; Anthony Michael Letizio, II, D.O.; Deborah Lyn Rose, M.D.; and Aubrey Dawn Winkler, P.A. Dr. Soin seconded the motion. A vote was taken:

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

The motion to send carried.

RULES AND POLICIES

ADOPTION OF RULES

Dr. Steinbergh moved to rescind current Rules 4731-1-12, 4731-19-01, 4731-19-02, 4731-19-03, 4731-19-04, 4731-19-05, 4731-19-06, and 4731-19-07; adopt new Rule 4731-1-12; and adopt amended Rules 4731-1-16, 4731-17-02, 4731-17-07, 4731-23-01, 4731-23-02, 4774-1-02, 4774-1-03, and 4774-2-02. Dr. Steinbergh further moved that the Rules be final filed with an effective date of November 30, 2016. Dr. Soin seconded the motion. A vote was taken:

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

The motion carried.

RULES TO BE FILED WITH JCARRRULES 4731-11-01 AND 4731-11-09

Dr. Steinbergh moved to ratify the filing of Rules 4731-11-01 and 4731-11-09, Ohio Administrative Code, as discussed, with the Joint Committee on Agency Rule Review (JCARR). Dr. Saferin seconded the motion. A vote was taken:

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

The motion carried.

FINANCIAL DISCLOSURE STATEMENTS

Ms. Debolt stated that the Ohio Ethics Commission has submitted a list of addresses for the Board's required Financial Disclosure Statement filers. Ms. Debolt provided each Board member with their respective listed address so they can insure that the Ethics Commission has the correct addresses.

OPERATIONS REPORT

Human Resources: Mr. Groeber stated that Joseph Turek has accepted the position of Deputy Director of Licensure and will begin on November 27. Mr. Turek comes to the Board from the Public Utilities Commission of Ohio, where he was very highly regarded by his peers. Mr. Turek also has backgrounds in commercial licensing, management, and information technology.

Mr. Groeber stated that applicants for the position of Attorney 2 in the Legal Department are currently being interviewed. The position of Attorney 4, also in the Legal Department, will be posted soon to aid in recent legislative initiatives and other projects.

Mr. Groeber stated that the position of Investigator Supervisor, North Area, will be filled soon and will likely cause a vacancy in an Investigator position.

Budget: Mr. Groeber stated that the Board's current cash balance is \$4,900,000. Mr. Groeber stated that the Board will pay a fee this month for its share of the developing E-License system, but no problems are anticipated with absorbing that cost.

Information Technology: Mr. Groeber stated that the E-License development project is continuing without any major disruptions.

Communications and Outreach: Mr. Groeber noted that two small cameras have been positioned in the meeting room as part of the Board's efforts to video record portions of the Board meetings.

Mr. Groeber stated that he and other staff met with the Ohio Council of Medical School Deans regarding the Board's efforts to engage with medical students and residents on a more routine basis and expanding the Partners in Professionalism program. Mr. Groeber stated that Ms. Pollock is working with the Wright State University School of Medicine to develop a program for that institution.

Ms. Pollock stated that Board meetings are now being recorded for educational purposes and work will continue over the next few months to render it into a usable format that will be consumable by medical students.

Ms. Pollock stated that media calls in the last month have been focused on prescribing and the Ohio Automated Rx Reporting System (OARRS), in addition to inquiries on individual actions taken against licensees. Ms. Pollock stated that the Atlanta Journal-Constitution will soon issue grades on all state medical boards for addressing sexual misconduct by physicians. Ms. Pollock stated that the Atlanta Journal-Constitution will give the Ohio Board an opportunity to correct any information they have prior to publication.

Ms. Pollock stated that a second letter regarding prescribing practices and the use of the OARRS system was sent to specific physicians on November 3. This letter resulted in approximately 200 e-mails from physicians requesting clarification or additional information. Ms. Pollock stated that the Board worked with Ohio's medical associations in responding to the e-mails. Ms. Pollock stated that the Board will continue to send these letters and that the Ohio State Medical Association is cooperating in this effort. Mr. Groeber commented that sending the letters is already having a positive impact on prescribing practices in Ohio.

In response to questions from the Board, Ms. Pollock stated that the letter was sent to physicians, podiatric physicians, and physician assistants. Ms. Pollock stated that efforts are underway to improve the reporting capabilities of OARRS so that it can be a better tool for prescribers. Dr. Schottenstein commented that with proper reporting from the system, practitioners will be able to appropriately self-monitor and correct any issues of this nature. Dr. Edgin commented that OARRS is not user-friendly. Dr. Soin agreed and opined that efficiencies could be built into it. Mr. Groeber stated that he will discuss these issues with Dr. Edgin and Dr. Soin and take their concerns to the Board of Pharmacy, which operates OARRS.

Dr. Soin stated that a great deal of progress has been made with outreach regarding OARRS. Dr. Soin observed that the standard letter includes a sentence stating that the physician may be receiving the letter because they are providing palliative care, which is exempted from the regulations. Based on feedback from colleagues, Dr. Soin suggested that that language be expanded and clarified. Mr. Groeber stated that any physician who feels that they are included on the mailing list due to palliative care should contact the Board in order to be excluded from future mailings.

Agency Operations: Mr. Groeber stated that the total number of open cases in October increased somewhat, partially due to a number of complaints associated with Ohio Automated Rx Reporting System (OARRS) data.

Mr. Groeber stated that the total number of licenses issued is up 12% for the year, while processing time

is down by 10%.

Mr. Groeber stated that representatives from the Federation of State Medical Boards will be at the Board's December 14, 2016 meeting and will give a 30-minute presentation.

Mr. Groeber stated that ethics training must be completed by December 15, 2016.

Fining Authority: Mr. Groeber stated that the Board's staff would like feedback from the Board regarding the inclusion of fines in settlement agreements. Ms. Marshall stated when the Board adopted the current fining guidelines, there was a brief discussion that fines would not be obtainable when negotiating a voluntary permanent surrender of a license. At that time, the Board determined that having no fine in a permanent surrender was acceptable in exchange for getting the practitioner out of practice immediately with a non-appealable settlement, as well as avoiding spending Board resources on an administrative hearing. Ms. Marshall opined that if fines are associated with permanent surrenders, it may become impossible to negotiate such surrenders. Based on comments made at last month's Board meeting, Ms. Marshall asked for clarification of the Board's expectations in these matters.

The Board discussed this matter thoroughly. Mr. Kenney stated that permanent surrender agreements are based on some action by the licensee; Mr. Kenney opined that fines based on that action should be included in the agreements, according to the fining guidelines agreed to by the Board. Mr. Gonidakis stated that the Board should always put public protection first, as Mr. Kenney always has as a Board member. Mr. Gonidakis opined that the benefits of permanently removing a bad physician from practice outweigh the benefits of a fine. Dr. Steinbergh agreed that a fine should not be placed on a physician who is permanently surrendering their license and are removed from practice. Mr. Kenney stated that this matter is not about the money received in the payment of a fine, but is about the fact that the Board worked hard to gain fining authority and it therefore should be used.

Dr. Rothermel stated that as she and Dr. Saferin, as the Secretary and Supervising Member, review cases and make decisions, patient safety is paramount. Dr. Rothermel stated that in most cases getting the practitioner out of practice as soon as possible is the most important thing for patient safety. Dr. Rothermel noted that a negotiated permanent surrender is different from a Board-ordered permanent revocation; Dr. Rothermel felt that it is appropriate to include a fine as part of a permanent revocation.

Dr. Soin stated that he sees the value to having a potential fine available as a possible permanent surrender is negotiated. However, Dr. Soin opined that included a fine in all permanent surrenders is not practical. Dr. Soin stated that the reason a practitioner pays a fine is to maintain their license, which is not an option with a permanent surrender. Dr. Soin therefore questioned why a practitioner would agree to a fine as a provision of a permanent surrender. Dr. Soin stated that if a practitioner cannot regain their license, the only incentive to pay a fine is to preserve their credit score. Mr. Kenney stated that failure to pay a fine does more than affect the practitioner's credit score. Mr. Kenney stated that the Attorney General's office can file for a judgment in a court against the practitioner's property or worth, and therefore the fine is payable regardless of whether the practitioner has a license.

Dr. Saferin recommended that the issue of fining with permanent revocation should continue as it is, with the Secretary and Supervising Member having discretion in whether to pursue a fine when negotiating a possible permanent surrender. Dr. Saferin stated that all agreements must still be ratified by the full Board, which can reject any settlement it deems inappropriate. Dr. Saferin stated that if the Board votes to never include fines in permanent surrenders, then it is lost as a negotiating tool. Mr. Kenney agreed

with Dr. Saferin.

Mr. Groeber stated that the staff would also like clarification of another fine-related circumstance.

Ms. Marshall asked the Board for guidance in cases of relapse in certain situations. Ms. Marshall stated that because relapse is part of the disease of addiction, the fining guidelines indicate that there should be no fine. However, the fining grid also indicates that a violation of the terms of a Board order or settlement agreement does trigger a fine. Ms. Marshall asked what the Board's expectations is regarding a fine if a probationer relapses and there is no other violation of their probation.

Mr. Kenney opined that a relapse constitutes a violation of probationary terms and should be fined as such. Dr. Rothermel stated that the Board has decided that fines will not be levied for impairment. Dr. Rothermel opined that because relapse is part of impairment, there should not be a fine if there are no other violations.

The Board discussed this matter thoroughly. Mr. Kenney stated that relapse is not something that happens in isolation. Rather, relapse is the result of an action, such as taking a drink of alcohol. Mr. Kenney stated that he would not fine someone for being impaired, but he favored fining for the action leading to relapse. Dr. Saferin disagreed and stated that relapse is included in the impairment process.

Dr. Schottenstein agreed with Mr. Kenney that a relapse is a violation of probationary terms. Dr. Schottenstein stated that the question before the Board is whether the practitioner should be fined in addition to the other ways in which the violation is addressed. Dr. Schottenstein opined that a relapse is part of impairment, and therefore he would not favor fining it. Dr. Schottenstein agreed that if there is any other behavior surrounding a relapse that is additionally a violation, then it would be fair to fine based on that additional violation. Dr. Rothermel agreed.

Dr. Rothermel moved that if a probationer violates the terms of his or her probationary terms by relapsing, and there is no other violation of probationary terms, then there will be no fine. Dr. Saferin seconded the motion. A vote was taken:

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

The motion carried.

Mr. Gonidakis stated that Ms. Marshall has also asked for clarification in instances when there are violations of probationary terms in addition to relapse. Mr. Kenney agreed to make a motion in this regard.

Mr. Kenney moved that if a probationer relapses and also commits some other act that violates the terms of his or her probationary terms, then the additional action or actions are subject to fine. Dr. Steinbergh seconded the motion. A vote was taken:

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

The motion carried.

PROPOSED BOARD MEETING DATES, 2018

Dr. Saferin moved to approve the proposed Board meeting dates for the calendar year 2018, as listed in the Agenda Materials. Mr. Kenney seconded the motion. All members voted aye. The motion carried.

REPORTS BY ASSIGNED COMMITTEES

FINANCE COMMITTEE

Ms. Loe stated that the Board received slightly over \$1,000,000 in revenue in September due to a large group of physicians renewing their licenses. Expenditures for September were \$646,000. The Board's cash balance at the end of September was \$4,900,000.

Ms. Loe stated that as of the end of September, which concluded the first quarter of the fiscal year, the Board has spent roughly 25% of its annual budget, so the Board is about where it should be financially.

POLICY COMMITTEE

Dr. Soin stated that this morning the Policy Committee received updates on the one-bite reporting exemption and medical marijuana. Regarding a non-disciplinary option in cases of mental or physical illness, the staff will gather more information and provide an update at a future meeting.

LEGISLATIVE UPDATE

Mr. LaCross stated that there are four amendments being worked on in the current session of the legislature. One amendment concerns the supervision of hyperbaric oxygen therapy by podiatric physicians, which Dr. Steinbergh has been instrumental in crafting. Mr. LaCross stated that this amendment will be paired with the amendment reducing initial physician licensure fees from \$335 to \$305. Mr. LaCross stated that these two amendments will be included in another bill for passage.

Mr. LaCross continued that the effective date of the amendment regarding physician assistant supervision agreements has been pushed to January 31, 2018, in order to allow renewal between August 1, 2017, and January 31, 2018. Mr. LaCross stated that this will also help the Board administratively.

Mr. LaCross stated that the fourth amendment concerns the ability of physician assistants with master's degrees who are authorized to prescribe in another state. Mr. LaCross stated that there does not seem to be any opposition to this amendment.

Mr. LaCross stated that when the language for the four amendments is available, he will send it to the Board members.

LICENSURE COMMITTEE

LICENSURE APPLICATION REVIEW

MOLLY AMALIA LIZETTE FREY, M.T.

Dr. Saferin stated that Ms. Frey, who has not practiced massage therapy since 2005, has applied for restoration of her massage therapy license. The Licensure Committee has recommended approving Ms. Frey's request, pending successful completion of the Massage and Bodywork Licensing Examination (MBLEX) within six months.

Dr. Saferin moved to approve Ms. Frey's request for restoration of her license to practice massage therapy in Ohio, pending successful completion of the Massage and Bodywork Licensure Examination (MBLEX) within six months following this Board meeting. 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. Schachat	- aye
	Dr. Schottenstein	- aye
	Dr. Edgin	- aye
	Dr. Factora	- aye

The motion carried.

CE BROKER, CONTINUING EDUCATION TRACKING SYSTEM

Dr. Saferin stated that the Licensure Committee entertained a very interesting presentation by CE Broker, which provides services tracking continuing education. Dr. Saferin stated that CE Broker can provide a system into which practitioners can upload their continuing education (CE) credits. Dr. Saferin stated that this system would allow the Board to audit 100% of its licensees to ensure compliance with CE requirements. Dr. Saferin stated that those without the required CE credits can be prevented from renewing their license, just as physician assistants cannot currently renew their license without current

certification from the National Commission for Certification of Physician Assistants. Dr. Saferin added that CE Broker can offer these service without charge to the licensees, the associations, or the State.

Dr. Schachat commented that uploading CE credits into a system would mean more work for physicians, who often already have to upload CE credits into other systems for their employer and/or association. Dr. Schachat stated that these differing system should be linked so that the CE credits need only be uploaded once.

Dr. Schachat also commented that nothing is free and he asked how the company is profitable. Dr. Saferin replied that there may be advertising on the site when credits are uploaded. Dr. Saferin stated that the company makes its money by offering three levels of service. The basic plan is completely free. The professional level costs \$29 per year and provides help in uploading the credits, which is particularly useful to those not technically inclined. The concierge level costs \$99 per year and is designed for people with multiple licenses. Dr. Saferin stated that the concierge level will track the different requirements for each license to ensure that all requirements are being met. Dr. Saferin stated the CE Broker makes its money from the professional and concierge levels, with the majority of users utilizing the basic level and paying nothing.

Dr. Saferin stated that the Committee continues to explore this option.

COMPLIANCE COMMITTEE

Dr. Steinbergh stated that on October 19, 2016, the Compliance Committee met with Jagprit S. Dhillon, M.D.; Robert S. Haber, M.D.; James A. Marsh, Jr., D.O.; Donna Porter, M.T.; and Matthew R. Steiner, 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 September 12 & 13, 2016.

PHYSICIAN ASSISTANT/SCOPE OF PRACTICE COMMITTEE

Dr. Steinbergh stated that the Physician Assistant/Scope of Practice Committee considered the following medications for the physician assistant formulary:

- Xiidra, an anti-inflammatory agent and ophthalmologic medication. The Physician Assistant Policy Committee (PAPC) recommended placing this medication in the "CPT May Prescribe" category. However, the Physician Assistant/Scope of Practice Committee tabled the matter and referred it back to the PAPC.
- Photrexa, an ophthalmologic drop used for treatment of corneal estasia following refractive surgery. The PAPC recommended placing this medicine in the "CPT May Not Prescribe" category due to side-effects. The Physician Assistant/Scope of Practice Committee agreed with this recommendation.
- Adlyxin, a medication administered by subcutaneous injection for outpatient management of type 2 diabetes. The Physician Assistant/Scope of Practice Committee agreed with the PAPC's recommendation to put this in the "CPT May Prescribe" category, where almost all anti-diabetic medications are placed.
- Exondys 51, a medication for treatment of Duchenne muscular dystrophy. The PAPC

recommended placing this in the “Physician-Initiated” category. However, the Physician Assistant/Scope of Practice Committee felt that it should be in the “CPT May Not Prescribe” category. The Physician Assistant/Scope of Practice Committee tabled this topic for future discussion.

Dr. Saferin moved to approve the Physician Assistant/Scope of Practice Committee’s recommendations concerning the medications Photrexa and Adlyxin. Dr. Schachat seconded the motion. All members voted aye. The motion carried.

Dr. Steinbergh stated that last month the Board tabled the matter of the medication Epclusa, a gastrointestinal medicine, following discussion with Dr. Edgin. The initial recommendation was to place Epclusa in the “Physician-Initiated” category. However, Dr. Edgin opined, based on experience in his practice, that Epclusa should be in the “CPT May Prescribe” category. After further discussion, the PAPC agreed with Dr. Edgin and recommended placing Epclusa in the “CPT May Prescribe” category.

Dr. Steinbergh stated that it was discovered that contraceptives had mistakenly been placed under “miscellaneous” on the physician assistant formulary. Dr. Steinbergh stated that the Physician Assistant/Scope of Practice Committee has recommended placing contraceptives in the “CPT May Prescribe” category under “hormones.”

Dr. Schottenstein moved to place Epclusa into the “CPT May Prescribe” category of the physician assistant formulary. Dr. Schottenstein further moved to move contraceptives to the “CPT May Prescribe” category under “hormones.” Dr. Soin seconded the motion. All members voted aye. The motion carried.

Dr. Steinbergh stated that the PAPC continues to consider the use of a negative formulary, much like the formulary used by advanced nurse practitioners. Ms. Debolt remarked that a negative formulary would provide supervising physicians with more direct control over what physician assistants may prescribe. The PAPC is considering how a negative formulary for physician assistants would be implemented.

COSMETIC THERAPIST SCOPE OF PRACTICE

Dr. Steinbergh stated that cosmetic therapists have concerns regarding their scope of practice and patient safety in laser hair removal. Dr. Steinbergh stated that representatives from the Cosmetic Therapy Association of Ohio (CTAO) are present to address the Board. Dr. Steinbergh welcomed Kelly Wert, C.T., George Dunigan, and Cynthia Odens, C.T., President of the CTAO.

Ms. Wert stated that the majority of the CTAO’s concerns can be addressed by the Medical Board’s staff. However, Ms. Wert asked the Board to address the Rule concerning adequate training for use of light-based devices. Ms. Wert stated that, while cosmetic therapists have clear direction for off-site supervision and training for light-based devices, such direction is not specified for others who are delegated this task. Ms. Wert asked that the term “adequate training” be defined. Ms. Wert opined that training from the device manufacturer does not constitute adequate training. Ms. Wert emphasized that patients can be burned by light-based devices and that some medications contraindicate the use of such devices. Ms. Wert stated that adequate training, and not just manufacturer training, will help ensure patient safety.

Dr. Steinbergh thanked Ms. Wert for addressing the Board on this matter as the Board considers the appropriate rules. Ms. Wert offered the CTAO’s help in crafting Rule language for the Board’s

consideration.

PROBATIONARY REQUESTS

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

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

- **To grant Thomas B. Benz, M.D.'s request for reduction in appearances to every six months; and permission to administer, possess, and furnish controlled substances;**
- **To grant Linda J. Dennis, M.D.'s request for approval of Pat Ahl, L.P.C.C., to serve as the treating counselor; and approval of Richard Minter, M.D., to serve as the treating psychiatrist;**
- **To grant Muyuan Ma, M.D.'s request for approval of Wayne Forde, M.D., and Sheng Liu, M.D., to serve as the new monitoring physicians;**
- **To grant Bruce J. Merkin, M.D.'s request for discontinuance of the polygraph testing requirement; and discontinuance of the chart review requirement;**
- **To grant Carla M. Myers, D.O.'s request for reduction in personal appearances to every six months;**
- **To grant Nicholas L. Pesa, M.D.'s request for reduction in the drug and alcohol testing requirement from four per month to two per month;**
- **To grant David A. Tracy, M.D.'s request for approval of John A. Tafuri, M.D., to serve as the new monitoring physician; and determination of the number and frequency of charts to be review at 10 charts per month;**
- **To grant Gretchen L. Weber, M.D.'s request for reduction in personal appearances to every six months; and discontinuance of the controlled substances log requirement; and**
- **To grant Mark Aaron Weiner, D.O.'s request for reduction on personal appearances to every six months; and reduction in drug and alcohol rehabilitation meeting attendance to two per week with a minimum of ten per month.**

Dr. Soin seconded the motion. All members voted aye. The motion carried.

REINSTATEMENT REQUEST

MARVIN H. RORICK, M.D.

Dr. Steinbergh moved that the request for the reinstatement of the license of Marvin H. Rorick, M.D., be approved, effective immediately, subject to the probationary terms and conditions as

outlined in the **September 9, 2015 Board Order for a minimum of two years. 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. Schachat	- aye
	Dr. Schottenstein	- aye
	Dr. Edgin	- aye
	Dr. Factora	- aye

The motion carried.

Dr. Steinbergh stated the Dr. Rorick did a very good job on his report to the Board on his required educational courses.

FINAL PROBATIONARY APPEARANCES

MUHAMMAD N. AKHTAR, M.D.

Dr. Akhtar was appearing before the Board pursuant to his request for release from the terms of his February 9, 2011 Consent Agreement. Mr. Gonidakis reviewed Dr. Akhtar's history with the Board.

In response to questions from Dr. Steinbergh and Dr. Soin, Dr. Akhtar stated that he is currently working for the Ohio Department of Rehabilitation and Correction. Dr. Akhtar stated that in this position he is not doing the billing and his malpractice insurance is provided by the State. Dr. Akhtar stated that he also practices in a private office on two half-Fridays per month, in addition to working 40 hours per week for the Department of Rehabilitation and Corrections. Dr. Soin asked how billing is handled in Dr. Akhtar's private office. Dr. Akhtar replied that he only accepts one private insurance carrier and the rest of his patients are self-pay patients.

Dr. Steinbergh moved to release Dr. Akhtar from the terms of his February 9, 2011 Consent Agreement, effective immediately. Dr. Schottenstein n seconded the motion. All members voted aye. The motion carried.

RICHARD KINCAID, M.D.

Dr. Kincaid was appearing before the Board pursuant to his request for release from the terms of the Board's Order of February 11, 2015. Mr. Gonidakis reviewed Dr. Kincaid's history with the Board.

In response to questions from Dr. Steinbergh, Dr. Kincaid stated that his health is great and his recovery program is very strong. Dr. Kincaid stated that he attends three rehabilitation meetings per week, some of which he chairs, and he has a sponsor. Dr. Kincaid also attends caduceus meetings almost weekly. Dr. Kincaid stated that he is currently planning to work at a chemical dependency treatment center beginning December 1, 2016 and he is working on developing protocols for treatment with Suboxone, in addition to

other things. Dr. Kincaid stated that he plans to work at the treatment center about 20 hours per week. Dr. Kincaid stated that he no longer works in emergency medicine. Dr. Kincaid stated that he feels good about his current work and he finds it fulfilling.

In response to questions from Dr. Schottenstein, Dr. Kincaid stated that he does not practice addiction medicine and he intends to only be the medical director at the new clinic. Dr. Kincaid stated that he does not have formal plans to pursue formal training in addiction medicine at this time. Dr. Schottenstein stated that he asked this question because sometimes physicians go outside their area of training and make mistakes because they do not have a full appreciation of their new field.

In response to further questions from Dr. Schottenstein, Dr. Kincaid stated that he is currently working the 12-step program and that he practices steps 10, 11, and 12 on a daily basis.

Dr. Soin moved to release Dr. Kincaid from the terms of the Board's Order of February 11, 2015, effective November 13, 2016. Dr. Edgin seconded the motion. All members voted aye. The motion carried.

JAMES M. DESANTIS, M.D.

Dr. DeSantis was appearing via electronic means before the Board pursuant to his request for release from the terms of the Board's Order of July 9, 2014. Mr. Gonidakis reviewed Dr. DeSantis' history with the Board.

In response to questions from Dr. Soin, Dr. DeSantis stated that he has been working with an emergency medicine group in Georgia for the last two years. Dr. DeSantis currently practices at a small rural hospital and works three 24-hour shifts per week. Dr. DeSantis is currently licensed to practice medicine in Georgia, Tennessee, and Texas, and he has no current plans to return to Ohio to practice. Dr. DeSantis had no questions regarding the release from his Board Order.

In response to questions from Dr. Schottenstein, Dr. DeSantis stated that his sobriety is going well and he has not had a drink since September 27, 2012. Dr. DeSantis stated that he sees a Board-approved monitor twice per month and undergoes random drug and alcohol screening. Dr. DeSantis is also prescribed Antabuse daily without side-effects. Dr. Schottenstein asked if Dr. DeSantis understands that drinking while taking Antabuse is potentially dangerous. Dr. DeSantis replied that he understands the consequences of drinking while on Antabuse. Dr. DeSantis stated that he is not attending Alcoholics Anonymous or any other 12-step program because it was not required by the Board. Dr. DeSantis stated that he does not have any craving for alcohol.

Dr. Steinbergh moved to release Dr. DeSantis from the terms of the Board's Order of July 9, 2014, effective immediately. Dr. Schachat seconded the motion. All members voted aye. The motion carried.

The Board took a brief recess at 12:45 p.m. and returned at 1:05 p.m.

DAVID C. KIRKWOOD, M.D.

Dr. Kirkwood was appearing before the Board pursuant to his request for release from the terms of his November 13, 2013 Consent Agreement. Mr. Gonidakis reviewed Dr. Kirkwood's history with the Board.

In response to questions from Dr. Soin, Dr. Kirkwood stated that he currently does not hold a Drug Enforcement Administration (DEA) certificate, and consequently he cannot get credentialed with insurance companies. Therefore, Dr. Kirkwood has been primarily seeing self-pay patients on home-visits. Dr. Kirkwood stated that he prescribes non-controlled substances such as blood pressure and diabetics medications. Dr. Kirkwood stated that any patient who requires a controlled substance is referred to a specialist.

Dr. Soin asked about the medical records and prescribing courses Dr. Kirkwood took at Case Western Reserve University. Dr. Kirkwood replied that they were excellent courses and he wished he had taken them earlier. Regarding his future plans, Dr. Kirkwood stated that he hopes to find work in which he does not need to prescribed controlled substances, such as a prison facility.

Dr. Steinbergh moved to release Dr. Kirkwood from the terms of his November 13, 2013 Consent Agreement, effective November 13, 2016. Dr. Edgin seconded the motion. All members voted aye. The motion carried.

ADJOURN

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

Thereupon, at 1:09 p.m., the November 9, 2016 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 November 9, 2016, as approved on December 16, 2016.


Michael L. Gonidakis, President


Kim G. Rothermel, M.D., Secretary

(SEAL)

