

Mr. Giacalone	- aye
Dr. Soin	- aye
Mr. Gonidakis	- aye
Mr. Kenney	- aye
Dr. Schachat	- aye
Dr. Factora	- aye
Dr. Edgin	- aye
Dr. Bechtel	- aye

The motion carried.

PROPOSED FINDINGS AND PROPOSED ORDERS

Dr. Soin stated that in the following matters, the Board issued Notices of Opportunity for Hearing. No timely request for hearing was received. The matters were reviewed by Hearing Examiners, who prepared Proposed Findings and Proposed Orders for each, and are now before the Board for final disposition. These matters are disciplinary in nature, and therefore the Secretary and Supervising Member cannot vote. In these matters, Dr. Rothermel served as Secretary and Dr. Saferin served as Supervising Member. In addition, Dr. Bechtel served as Secretary and/or Supervising member in the matter of Dr. Derakhshan.

IRAJ DERAKHSHAN, M.D.

Dr. Schottenstein moved to find that the allegations as set forth in the May 11, 2016 Notice of Opportunity for Hearing in the matter of Dr. Derakhshan 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.

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

Dr. Schottenstein stated that in May 2016 the Medical Board issued a citation to Dr. Derakhshan based on the allegation that on January 28, 2016, the West Virginia Board of Medicine issued a Final Order in which Dr. Derakhshan was reprimanded and his West Virginia medical license was suspended for three years. The Medical Board issued another citation in July 2016 based on the allegation that on April 21, 2016, in the United States District Court for the Southern District of West Virginia, Dr. Derakhshan pleaded guilty to, and was found guilty of, a felony offense. The Board further alleged that the West Virginia Board revoked Dr. Derakhshan's West Virginia medical license based on the felony conviction. Dr. Schottenstein briefly reviewed Dr. Derakhshan's medical training and career.

Dr. Schottenstein continued that Dr. Derakhshan's practice in Charleston, West Virginia, was focused on the treatment of chronic migraines with daily scheduled opioid therapy. Dr. Derakhshan entered into three consent orders with the West Virginia Board between 2005 and 2014. In the July 2005 Consent Order, Dr. Derakhshan agreed to stop advising patients to cut time-released medication in half with a pill cutter and to cease examining more than 25 patients in a 24-hour period. In the July 2010 Consent Order, Dr. Derakhshan was reprimanded based on an incorrect answer on a license renewal application. In the September 2016 Consent Order, Dr. Derakhshan was reprimanded for using an altered release form to obtain a former patient's medical records from subsequent medical providers without the patient's consent.

Dr. Schottenstein stated that the West Virginia actions were based partially on Dr. Derakhshan's failure to maintain proper medical records with respect to ten patients. Specifically, Dr. Derakhshan had kept his medical records in the form of raw audio recordings that were of inconsistent quality and were not regularly transcribed to be incorporated into the patient chart. Dr. Derakhshan was also found to have improperly discharged one patient to whom he had been prescribing continuous opioid therapy for treatment of migraine headaches and who had reportedly developed an addiction to opioids. Finally, Dr. Derakhshan was found to have given two patients contradictory verbal and written instructions regarding the dose and/or quantity of oxycodone prescribed to the patients.

Dr. Schottenstein stated that in April 2016, in U.S. District Court for the Southern District of West Virginia, Dr. Derakhshan pleaded guilty to, and was found guilty of, a felony violation. In his plea, Dr. Derakhshan stipulated to the fact that prior to June 18, 2015, he had issued a fentanyl prescription which was filled by Patient A. Patient A then returned an unused portion of the medication to Dr. Derakhshan's office after having had an adverse reaction. Dr. Derakhshan further stipulated that on or About June 18, 2015, he dispensed a quantity of fentanyl to Patient B. The dispensing of the fentanyl was not lawful because it was not done by an authorized written prescription and it was therefore untraceable and unrecordable by the West Virginia Board of Pharmacy. Dr. Derakhshan knowingly and intentionally failed to report and record material information regarding the dispensed fentanyl as he was required to do pursuant to Federal drug law. As part of his plea, Dr. Derakhshan agreed to permanently surrender his Drug Enforcement Administration (DEA) registration. On May 16, 2016, the West Virginia Board of Medicine issued an order of revocation of Dr. Derakhshan's medical license in that state, based solely on his felony conviction.

Dr. Schottenstein stated that Dr. Derakhshan has had a long history of disciplinary issues with the West Virginia Board of Medicine, including multiple reprimands, a suspension, and finally a revocation. Since Dr. Derakhshan did not request a hearing in Ohio, he has made no attempt to make a case for mitigating circumstances in defense of his Ohio medical license. Dr. Schottenstein agreed with the Proposed Order of permanent revocation of Dr. Derakhshan's medical license.

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

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

The motion to approve carried.

BARBARA VANWYE SIMPSON, L.M.T.

Dr. Schottenstein moved to find that the allegations as set forth in the June 8, 2016 Notice of

Opportunity for Hearing in the matter of Ms. VanWye Simpson 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.

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

Mr. Kenney stated Ms. VanWye Simpson provided massage therapy services to Patient 1 from 2006 to 2016. Mr. Kenney stated as far back as 2008, there had been conversations between Ms. VanWye Simpson and Patient 1 regarding Patient 1's sexual performance within his marriage. In 2009, Ms. VanWye Simpson agreed that she could help Patient 1 with erectile dysfunction. Beginning in June 2008, Ms. VanWye Simpson and Patient 1 met outside the office at various restaurants. Ms. VanWye Simpson has admitted that from September 2012 to February 2015 she engaged in sexual misconduct with Patient 1 on six occasions at her massage therapy studio. Ms. VanWye Simpson has denied engaging in such behavior with any other patient.

Mr. Kenney stated that it is clear that Section 4731.22(B)(20), Ohio Revised Code, was violated in this case and that there was a departure from and failure to conform with minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established. Based on these facts, Mr. Kenney agreed with the Hearing Examiner's Proposed Order to revoke Ms. VanWye Simpson's massage therapy license. Mr. Kenney also wished to add a requirement that Ms. VanWye Simpson must complete a professional boundaries course prior to any Board consideration of an application to grant Ms. VanWye Simpson a new license.

Ms. Anderson stated that when a license is revoked, there is legal uncertainty as to whether the Board can, as part of the order of revocation, require an educational course as a condition for consideration of a new license. However, Ms. Anderson pointed out that the Board discussion of this matter will be memorialized in the meeting minutes and the Board can make clear in its discussion what it would like to see prior to any application for re-licensure. Dr. Soin agreed with Mr. Kenney's comments and stated that the Board would expect Ms. VanWye to complete a professional boundaries course prior to any consideration of an application for re-licensure.

Dr. Bechtel commented that patients of massage therapist are very vulnerable. Dr. Bechtel stated that he has seen people who have been sexually assaulted by massage therapists, resulting in lingering psychological issues. Mr. Kenney agreed with Dr. Bechtel's comments, but stated that the relationship between Ms. VanWye Simpson and Patient 1 went on for years and appears to have been consensual. Dr. Bechtel agreed. Dr. Schottenstein added that there is a distinction between a physical relationship being non-traumatizing and a physical relationship being consensual. Dr. Schottenstein stated that the balance of power in a relationship between a medical professional and a patient makes it non-consensual by definition. Dr. Schottenstein agreed that the relationship was not traumatizing.

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

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

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

The motion to approve carried.

APPLICATION FOR CERTIFICATE OF GOOD STANDING AS A TREATMENT PROVIDER

Dr. Schottenstein moved to approve the application for a Certificate of Good Standing as a Treatment Provider for Impaired Physicians from The Woods at Parkside. Dr. Saferin seconded the motion. A vote was taken:

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

The motion carried.

EXECUTIVE SESSION

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

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

The motion carried.

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

The Board returned to public session.

EXECUTIVE SESSION

Dr. Schottenstein moved to go into Executive Session for discussion with the Board's attorney concerning matters that are the subject of pending or imminent court action and to consider matters involving the employment of or investigation of charges or complaints against a public employee. Mr. Giacalone seconded the motion. A vote was taken:

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

The motion carried.

Pursuant to Section 121.22(G)(3), Ohio Revised Code, the Board went into executive session with Mr. Groeber, Ms. Anderson, and Mr. Wilcox in attendance. Mr. Wilcox exited the meeting during the Executive Session.

The Board returned to public session.

RATIFICATION OF SETTLEMENT AGREEMENTS

LEE C. LANEY, M.D. – PERMANENT SURRENDER

Dr. Schottenstein moved to ratify the Proposed Permanent Surrender with Dr. Laney. Mr. Giacalone seconded the motion. A vote was taken:

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

Dr. Schachat	- aye
Dr. Factora	- aye
Dr. Edgin	- aye
Dr. Bechtel	- abstain

The motion to ratify carried.

MICHAEL THEODORE BANGERT, M.D. – STEP II CONSENT AGREEMENT

Dr. Schottenstein moved to ratify the Proposed Step II Consent Agreement with Dr. Bangert. Mr. Giacalone seconded the motion. A vote was taken:

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

The motion to ratify carried.

PAUL MATTHEW BOLGER, M.D. – PERMANENT SURRENDER

Dr. Schottenstein moved to ratify the Proposed Permanent Surrender with Dr. Bolger. Mr. Giacalone seconded the motion. A vote was taken:

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

The motion to ratify carried.

DANICA GINEMAN, L.M.T. – CONSENT AGREEMENT

Dr. Schottenstein moved to ratify the Proposed Consent Agreement with Ms. Gineman. Mr.

Giacalone seconded the motion. A vote was taken:

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

The motion to ratify carried.

WON GEEL SONG, M.D. – PERMANENT SURRENDER/RETIREMENT

Dr. Schottenstein moved to ratify the Proposed Permanent Surrender/Retirement with Dr. Song.
Mr. Giacalone seconded the motion. A vote was taken:

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

The motion to ratify carried.

AUBREY D. WINKLER, P.A. – CONSENT AGREEMENT

Dr. Schottenstein moved to ratify the Proposed Consent Agreement with Ms. Winkler. **Mr. Giacalone seconded the motion.** A vote was taken:

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

Dr. Factora	- aye
Dr. Edgin	- aye
Dr. Bechtel	- aye

The motion to ratify carried.

W.L.W., M.D. – CONSENT AGREEMENT

Mr. Kenney moved to ratify the Proposed Consent Agreement with W.L.W., M.D. Dr. Edgin seconded the motion. A vote was taken:

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

Having failed to obtain at least six affirmative votes, the motion to ratify did not carry.

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

Ms. Marshall briefly reviewed the proposed citations before the Board today. In response to a question from Dr. Schottenstein, Ms. Marshall stated that proposed Citation #6 is not a Summary Suspension because the practitioner has already had extensive inpatient treatment and his Kentucky medical license has already been reinstated, and therefore it was felt that immediacy of harm could not be shown in support of a Summary Suspension.

At this time the Board read and considered the proposed Notice of Summary Suspension and Opportunity for Hearing in the matter of Robert Raymond Daiber, M.D., a copy of which shall be maintained in the exhibits section of this Journal.

Dr. Schottenstein moved to enter an Order of Summary Suspension in the matter of Robert Raymond Daiber, M.D., in accordance with Section 4731.22(G), Ohio Revised Code, and to issue the Notice of Summary Suspension and Opportunity for Hearing. Mr. Giacalone seconded the motion. A vote was taken:

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

Mr. Gonidakis	- aye
Mr. Kenney	- aye
Dr. Schachat	- aye
Dr. Factora	- aye
Dr. Edgin	- aye
Dr. Bechtel	- abstain

The motion to approve carried.

Dr. Schottenstein moved to send the Notice of Opportunity for Hearing to Borko Djordevic, M.D.; Stephen Lee Moore, D.O.; Douglas John Morin, M.D.; Atma Prakash Nayak, M.D.; and Laurie Anne Quattro, P.A. Mr. Giacalone seconded the motion. A vote was taken:

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

The motion to send carried.

Dr. Schottenstein moved to send the Notices of Opportunity for Hearing to Roy L. Donnerberg, M.D.; Mitchum Allen Hissong, L.M.T.; Perry Michael Kalis, M.D.; and Thong Gia Truong, M.D. Mr. Giacalone seconded the motion. A vote was taken:

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

The motion to send carried.

RULES AND POLICIESPROPOSED RULES 4731-11-01 AND 4731-11-09

Dr. Saferin moved to amend Rule 4731-11-01, rescinded rule 4731-11-09, and new rule 4731-11-09 be final filed on March 13, 2017, with an effective date of March 23, 2017, contingent upon their approval by the Joint Commission on Agency Rule Review (JCARR). Dr. Schottenstein seconded the motion. A vote was taken:

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

The motion carried.

OPERATIONS REPORT

Human Resources: Mr. Groeber stated that the Board recently hired Nate Smith, who will work as an attorney in the Board's Legal Section. The Board is also working to fill a number of investigator positions.

Fiscal: Mr. Groeber stated that the Board's revenue has increased by 11% and costs have increased by 3% from the previous year.

Information Technology: Mr. Groeber stated that development of the eLicense system continues. The release of the new system is scheduled for June 2017.

Communications and Outreach: Mr. Groeber stated that the Board's communications and outreach activities and presentations are listed in the Operations Report.

Agency Operations: Mr. Groeber stated that the total number of open cases/complaints has dropped 2% from last month. In response to questions from Board members, Mr. Groeber stated that he and the Board's staff have worked through a process by which to resolve the more aged cases that are still pending and to ensure that future cases are handled in a more timely manner. Mr. Groeber stated that the Board will see some older cases in the coming months as these processes take effect.

Mr. Groeber stated that the licensure statistics reports to the Board continue to be refined. Mr. Groeber commented that the licensure figures are good compared to the same time last year.

Mr. Groeber stated that as part of his preparation for budget testimony, he and the staff analyzed how much value the Board has added through improvements in the time for standard licensure as well as

expedited licensure, which is about 21 days faster than standard licensure. Mr. Groeber reported that the Board had approximately 240 expedited licensure applications in 2016. Mr. Groeber stated that those physicians who used expedited licensure cumulatively saw about 200,000 extra patients, worked about 10,000 more days, added about \$40,000,000 in revenue for their employers, made about \$6,000,000 more than they would have otherwise, and paid about \$200,000 more in state taxes than they would have otherwise. Mr. Groeber stated that reducing the time for standard licensure by four days from 2015 to 2016 resulted in another 200,000 patients being seen. Mr. Groeber stated that the legislature reacted well to his message. Mr. Groeber stated that the more physicians and allied health professionals are working in Ohio, the more patients are seen and that these licensure initiatives are an economic driver. Dr. Schachat agreed that these figures are very positive, but commented that most of those extra patients would have been seen by other physicians. Mr. Groeber agreed.

OARRS Letters: Mr. Groeber stated that the Board continues to send letters to physicians regarding proper use of the Ohio Automated Rx Reporting System (OARRS). Mr. Groeber stated that there seems to be a sense amongst the public that the Medical Board is targeting good physicians who simply make occasional prescribing mistakes. Mr. Groeber outlined and clarified the OARRS letter process for the benefit of the Board members, as follows:

- The Ohio Board of Pharmacy reviews OARRS data and identifies any patient who was not checked on OARRS prior to being prescribed a controlled substance. Mr. Groeber noted that there are circumstances in which the physician is not required to check OARRS, such as for palliative care.
- The Medical Board takes the data from the Board of Pharmacy and sees if any physician had checked the patient on OARRS within the previous 90 days. Any patient who was checked by any physician within that timeframe is excluded from the list.
- The Board of Pharmacy makes certain that there was no integration directly to OARRS through the physician's employer. If there is such integration, those patients are excluded from the list.
- The resulting list is examined statistically and only those physicians in the very highest number of patients not checked on OARRS are contacted. Mr. Groeber commented that most of those contacted fall into one of the exceptions, and they are therefore removed from the list. Mr. Groeber further commented that no physician with fewer than 100 unchecked patients has been visited by an investigator.

Dr. Soin thanked Mr. Groeber for offering this perspective on how the OARRS data is used. Dr. Soin opined that a physician who is not checking OARRS for that many patients should be probably be contacted the sake of public protection. Dr. Soin stated that the Medical Board is about protecting the public, not prosecuting physicians for no reason.

Mr. Groeber continued that the OARRS letters sent to physicians encourage them to examine their prescribing processes. Mr. Groeber stated that if a physician informs the Board that they only see patients who fall into one of the exceptions, they are removed from the list. Mr. Groeber stated that the goal of this project is to encourage prescribers to check OARRS when it is appropriate and required by law.

Mr. Groeber stated that the results of the project have been significant. Mr. Groeber stated that in August 2016 the average number of patients checked on OARRS daily was approximately 80,000; that figure is currently over 200,000. Mr. Groeber further stated that in August 2016 there were approximately 52,000,000 pills dispensed to patients who had not been checked on OARRS; that figure is currently 7,000,000. Mr. Groeber thanked Ohio's prescribers who have adopted these practices.

Board members and open investigations: Mr. Groeber stated that on occasion Board members are contacted by individuals who are the subject of an ongoing investigation. Mr. Groeber read the following statement to the Board members:

Occasionally staff is made aware of situations where a licensee under Board investigation contacts a Board member. Sometimes these are just simple "heads-up" while others may be a more direct plea for assistance. In either case, it is inappropriate for the licensee to be contacting you. In the event that you are contacted, please notify the licensee that you cannot discuss the matter, nor can you review any communication or documentation. Doing so jeopardizes both your ability to vote on the matter and it presents a potential risk for the licensee themselves.

Mr. Groeber stated that if a Board member is contacted in this fashion, they should inform Mr. Groeber or Ms. Anderson, the Board's Chief Legal Counsel. Mr. Groeber cautioned that contacting someone other than himself or Ms. Anderson could jeopardize that person's involvement as well.

Budget Testimony: Mr. Groeber stated that he gave budget testimony at the Ohio House of Representatives two weeks ago. Most of the questions asked of Mr. Groeber concerned the proposed Board consolidation which has been introduced into legislation. That legislation, if approved, would merge the Ohio Board of Dietetics and the Ohio Respiratory Care Board into the Medical Board. Mr. Groeber testified that the Board could enforce the standard of medical care of those professions with the aid and insight of an advisory committee, especially considering the Medical Board's resources to hire experts to review medical records. Mr. Groeber also testified that the merger, in his opinion, would drive efficiencies. Mr. Groeber felt that, based on the other two boards' licensee volume, their staff is not fully utilized as they would be in the Medical Board.

Medical Board Retreat: Mr. Groeber stated that the Medical Board retreat is scheduled for April 13. Mr. Groeber will circulate an agenda among the Board members in the coming weeks.

Financial Disclosure Forms: Mr. Groeber reminded the Board members that financial disclosure forms must be filed at the Ohio Ethics Commission no later than May 15, 2017.

Executive Director Annual Review: Mr. Groeber stated that it is time for his review as the Board's Executive Director. Mr. Groeber stated that Ms. Loe will work with Dr. Soin to appoint a committee for the review.

REPORTS BY ASSIGNED COMMITTEESFINANCE COMMITTEEFISCAL REPORT

Ms. Loe stated that in January the Board had \$881,000 in revenue and \$735,000 in expenses, with \$3,100,000 in the cash fund. Ms. Loe noted that expenditures increased 3% over the same time two years ago, mostly due to a 2.5% pay increase which was mandated for employees and the filling of vacant positions. Ms. Loe further noted that revenue increased by 11% over the same time two years ago, which is higher than expected. Ms. Loe believed that the unexpected increase is due to expedited licensure, as well as people renewing their licenses earlier.

Ms. Loe stated that both of the administrative fines approved by the Board last month have been received from the respondents. Ms. Loe stated that both fines were for \$500 and were levied on massage therapists who had practiced beyond the expiration of their licenses.

POLICY COMMITTEELEGISLATIVE UPDATE

Mr. LaCross stated that the pending budget bill contains language to reduce the initial physician licensure fee from \$335 to \$305; redefine certificates as licenses while keeping minor certificates intact; and moves the Physician Assistant Policy Committee from a full-employer structure to a reimbursement structure.

Mr. LaCross stated that amendments regarding the Clinical Research Faculty Certificate and the Administrative Medicine License may be put into the budget bill. The Board is currently working with interested parties to determine the best way to proceed with that.

Mr. LaCross noted that due to a change made in the last General Assembly, cosmetic therapists are no longer required to post their certificate when they are working in a salon setting. However, cosmetic therapists must have the certificate electronically in case a Board investigator asks for it.

Mr. LaCross stated that legislation regarding the one-bite reporting exemption is moving forward with Representative Huffman as a sponsor and possibly Representative Johnson as a co-sponsor. Mr. LaCross expected the bill to move quickly.

MEDICAL MARIJUANA RULES

Ms. Anderson stated that the staff has been made aware of an error in Proposed Rule 4731-32-02, Paragraph C, regarding continuing medical education (CME). That error has been corrected with new language.

Ms. Anderson continued that the Board of Pharmacy is using its rules to define a patient with a terminal illness as a patient with a life expectancy of six months or less. The Board of Pharmacy rule provides an expedited process for registration of such patients. Ms. Anderson stated that for cases in which the patient's life extends for longer than six months, the physician must provide confirmation that the illness continues and whether it should continue to be designated as a terminal illness. The Board of Pharmacy

has made changes to its patient caregiver rules to reflect this physician confirmation.

Dr. Soin stated that Section (B)(7) regarding standard medical treatment being attempted or considered will remain in the proposed Rule. Dr. Soin stated that the Board's expectation is that standard medical treatment will be attempted prior to use of medical marijuana. Dr. Soin stated that in cases where standard medical treatment is not appropriate, the physician must document why it is not appropriate.

Dr. Schottenstein moved to send the proposed Rule to the Common Senses Initiative Office, as discussed. Dr. Saferin seconded the motion. A vote was taken:

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

The motion carried.

HEARING RULES

Ms. Debolt stated that the Policy Committee has recommended amendments to the proposed hearing rules to reflect comments that have been received from interested parties. Specifically, the phrase "other designee" has been replaced with "Vice President if the President be unavailable..." Also, any language that would give a *pro se* respondent an advantage in some circumstances has been removed.

Dr. Schottenstein noted that the proposed Rule provides for a three-day period for a response to motions that have been filed. However, there does not seem to be a time limit on the motions themselves. Ms. Anderson replied that there has typically not been a problem with the timeframe for filing motions. Ms. Anderson stated that the rule is designed to shorten the timeframe for responses to motions to strike from objections. By shortening this timeframe, the Board President can rule on the motion more quickly and the objections can be delivered to the Board members in a more timely manner.

Dr. Saferin moved to approve the proposed Rules for filing with the Common Sense Initiative Office, as recommended by the Policy Committee. Dr. Schottenstein seconded the motion. A vote was taken:

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

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

The motion carried.

NON-DISCIPLINARY TRACK FOR MENTAL OR PHYSICAL ILLNESS

Ms. Marshall commented that working on this initiative has been an enjoyable and satisfying project. Ms. Marshall thanked Mr. Giacalone, Dr. Schottenstein, and Dr. Rothermel for helping to bring this issue forward so quickly.

Ms. Marshall stated that the goal of this project is to create a mechanism for the Board to monitor practitioners who have mental or physical illnesses without using a public disciplinary process, which mars their record for something which is not their fault. The proposal creates a confidential monitoring program which will operate under the Board's investigative authority and be overseen by the Board's Secretary and Supervising Member. The Board would establish specific criteria through its rule-making authority about who would be eligible for the program and the mechanisms that will return a participant to the public disciplinary process in cases of non-compliance. Individuals would be able to participate in the program as many times as needed, provided that they are fully compliant each time. A monitoring period would be set by the Secretary and Supervising Members on a case-by-case basis which cannot be shorter than two years. Ms. Marshall continued that a participant with a significant progressive disease such as primary dementia, Alzheimer's, or schizophrenia would have to agree to career-long monitoring so long as they have a legal mechanism to retain a medical license or to regain a license in the future.

Ms. Marshall stated that if this concept is approved by the Board, it will be sent to the Legal Section to begin the formal rule promulgation process.

Dr. Schottenstein and Mr. Giacalone thanked Ms. Marshall for her work on this project. Dr. Bechtel opined that this is a very positive step and he commended Ms. Marshall for her efforts, as well as those Board members who were involved in the project.

Dr. Schottenstein moved to approve Ms. Marshall's proposal, as outlined in the memo. Dr. Rothermel seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Dr. Schottenstein	- aye
	Mr. Giacalone	- aye
	Dr. Sojn	- aye
	Mr. Gonidakis	- nay
	Mr. Kenney	- nay
	Dr. Schachat	- nay
	Dr. Factora	- aye
	Dr. Edgin	- aye
	Dr. Bechtel	- aye

The motion carried.

RULE ON CONTINUING EDUCATION FOR MASSAGE THERAPISTS

Dr. Schottenstein moved to approved proposed Rule 4731-1-24 for re-submission to the Common Sense Initiative Office, with amendments approved by the Policy Committee. Mr. Giacalone seconded the motion. A vote was taken:

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

The motion carried.

LICENSURE COMMITTEE

Dr. Saferin stated that the Licensure Committee discussed several items which will be brought to the Board's attention at a later time.

COMPLIANCE COMMITTEE

Dr. Soin stated that on February 8, 2017, the Compliance Committee met with Joseph C. Carver, M.D.; Ross Rosario Lentini, M.D.; Joshua D. Palmer, M.D.; and Aly M. A. Zewail, M.D.; and moved to continue them under the terms of their respective Board actions. The Compliance Committee also voted to recommend approval of the application for a Certificate of Good Standing as a Treatment Provider for Impaired Practitioners from the Woods at Parkside. The Board accepted that recommendation earlier in today's meeting. The Compliance Committee accepted Compliance staff's report of conferences on January 9 & 10, 2017.

PROBATIONARY REQUESTS

Dr. Soin advised that at this time he would like the Board to consider the probationary requests on today's consent agenda. Dr. Soin asked if any Board member wished to discuss a probationary request separately. Dr. Schottenstein stated that he would like to discuss the probationary request of Nabilia Babar, M.D.

Dr. Schottenstein noted that Dr. Babar is requesting that her Consent Agreement be terminated early for reasons of employment and financial difficulty, but no other compelling reason. Dr. Schottenstein further noted that the Secretary and Supervising Members are not in support of Dr. Babar's request. Mr.

Giacalone opposed granting Dr. Babar's request, noting that Dr. Babar entered into the Consent Agreement freely and had been represented by counsel. Mr. Giacalone opined that the Board would set a bad precedent if it began truncating consent agreements based on alleged hardship. Dr. Soin agreed.

Ms. Murray stated that William K. Basedow, D.O. has requested approval of a submitted practice plan. Ms. Murray noted pointed out that Dr. Basedow has submitted an amendment clarifying that the practice plan also includes the additional restrictions recommended by the educational courses he has taken pursuant to his Board Order.

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

- **To deny Nabilia S. Babar, M.D.'s request for early release from the terms of her February 10, 2016 Consent Agreement;**
- **To grant Robert M. Cook, M.D.'s request for approval of *intensive Course in Medical Ethics, Boundaries and Professionalism*, offered by Case Western Reserve University, to fulfill the professional ethics course requirement;**
- **To grant Clinton J. Cornell, P.A.'s request for approval of *E&M Documentation and Coding for Physician/Non-Physician Providers*, offered by the Ohio State Medical Association; approval of *Transitioning to Alternative Payment Models*, offered by the Massachusetts Medical Society; approval of *Payer Audits and Payment Recoupments*, offered by the Massachusetts Medical Society; approval of *Understanding Clinical Documentation Requirement for ICD-10*, offered by the Massachusetts Medical Society; approval of *Physician Employment Contracting Basics*, offered by the Massachusetts Medical Society; and approval of *Financial Management of Practice Case Studies (3 Modules)*, offered by the Massachusetts Medical Society, to fulfill the office management/medical billing course requirement.;**
- **To grant Robert K. Finley, III, M.D.'s request for release from the terms of the March 14, 2012 Consent Agreement;**
- **To grant James T. Lutz, M.D.'s request for approval of David S. Williams, M.D., to serve as an additional monitoring physician; and determination of the frequency and number of charts to be reviewed at five charts per week for the doctor's CCAT patients and 5 charts per week for the doctor's immigration examination patients;**
- **To grant Michael C. Macatol, M.D.'s request for approval to reduce personal appearances to every six months;**
- **To grant David R. Mandel, M.D.'s request for approval to reduce personal appearances to annually;**
- **To grant Nicholas L. Pesa, M.D. request for approval to reduce personal appearances to every six months;**
- **To grant Donna Porter, M.T.'s request for approval of the online courses *Ethics: A Guide to Ethics in Massage & Bodywork* and *Ethics for the Real World: Part 1, Part 2, Part 3, Part 4, Part 5*,**

and Part 6, administered by Associated Bodywork and Massage Professionals (ABMP);

- **To grant Giridhar Singh, M.D.'s request for approval of *Intensive Course in Medical Boundaries and Professionalism*, administered by Case Western Reserve University, to fulfill the personal/professional ethics course requirement;**
- **To grant Onyinyechi Rose Uradu, M.D.'s request for approval of *SAFE Opioid Prescribing: Strategies, Assessment, Fundamentals, Education* online course administered by PriMed; the online course *ASAM Pain and Addiction: Common threads XVII*, administered by ASAM E-Learning Center; approval of the online course *Understanding the New Federal Regulation to Increase Buprenorphine Patient Limits*, administered by Providers Clinical Support System for Medical Assisted Treatment (PCSS-MAT); approval of the online course *Treatment of Prescription opioid Dependence; Long Term Outcomes*, administered by PCSS-MAT; approval of the online course *Improving MAT Access and Quality Through Collaborative Care: The CoOp Model*, administered by PCSS-MAT; approval of the online course *Managing Acute & Chronic Pain with Opioid Analgesics in Patients on Medical Assisted Treatment (MAT)*, administered by PCSS-MAT; and approval of *Medical Assistant Treatment of Opioid Use Disorders: Progress and Challenges*, administered by PCSS-MAT, to fulfill the controlled substances prescribing course requirement;**
- **To grant Frank Welsh, M.D.'s request for approval of *Intensive Course in Medical Ethics, Boundaries and Professionalism*, administered by Case Western Reserve University, to fulfill the professional ethics course requirement;**
- **To grant Mary A. Zielinski, M.T.'s request for approval of the online course *Professional Ethics* online course, administered by the Center for Massage Therapy Continuing Education; and the online course *Ethical Gray Areas in Massage Therapy*, administered by the American Massage Therapy Association, to fulfill the professional ethics course requirement; and**
- **To grant William K. Basedow, D.O.'s request for approval of the submitted practice plan, as amended; approval of Pacifico D. Dorado, M.D., to serve as the monitoring physician; and determination of the number and frequency of charts to be reviewed at 10 charts per week.**

Mr. Giacalone seconded the motion. A vote was taken:

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

The motion carried.

The Board took a recess at 11:45 a.m. and resumed the meeting at 1:00 p.m.

FINAL PROBATIONARY APPEARANCES

STANLEY BEEKMAN, D.P.M., L.M.T.

Dr. Beekman was appearing before the Board pursuant to his request for release from the terms of the Board's Order of January 8, 2014. Dr. Soin reviewed Dr. Beekman's history with the Board.

In response to questions from Dr. Soin, Dr. Beekman stated that he consults on podiatry cases, as well as some massage therapy in his home. Dr. Beekman stated that he is also working on compiling a book on how tensors and acupuncture points affect the foot. Dr. Beekman commented that he has regained some of his insurance privileges in his practice.

Dr. Soin asked how the Board's action affected Dr. Beekman's practice. Dr. Beekman answered that he lost all of his insurance plans, as well as his malpractice insurance, when his probationary terms began. Dr. Beekman stated that when he is released from his probationary terms he will be able to apply for Medicaid and CareSource. Dr. Beekman stated that he has been offered a job as a podiatrist at his old practice.

Dr. Schottenstein moved to release Dr. Beekman from the terms of the Board's Order of January 8, 2014, effective March 9, 2017. Mr. Giacalone seconded the motion. All members voted aye. The motion carried.

ROBERT J. ROSENSTEIN, D.P.M.

Dr. Rosenstein was appearing before the Board pursuant to his request for release from the terms of his March 12, 2014 Consent Agreement. Dr. Soin reviewed Dr. Rosenstein's history with the Board.

In response to questions from Mr. Giacalone, Dr. Rosenstein stated that he has lost his practice and is currently working as a medical director and a medical scribe for another corporation. Dr. Rosenstein stated that he still sees self-pay patients. Dr. Rosenstein stated that after 36 years of practice, it is difficult to start over, but he will start over and begin applying for insurance companies.

Mr. Giacalone asked if Dr. Rosenstein would address the medical students in attendance regarding his situation and to share words of wisdom. Dr. Rosenstein agreed.

Dr. Rosenstein advised the students take responsibility for themselves and not trust others to make sure everything is alright. Dr. Rosenstein further advised the students to make certain that attorneys review any contract they sign and make sure there are no hidden clauses. Dr. Rosenstein stated that if the students love medicine, they should continue to practice medicine and not look for other options to generate income. Dr. Soin agreed with Dr. Rosenstein's advice and stated that physicians must be very careful of solicitations that claim they can increase the physician's revenue. Dr. Soin noted that in Dr. Rosenstein's case, he lost his practice and it was very disruptive to his life.

Dr. Rosenstein stated that the 90-day suspension of his podiatric medical license gave him the opportunity to take a hard look at himself and find out what he loved. In the end, Dr. Rosenstein found that he loved the practice of medicine.

Dr. Schottenstein moved to release Dr. Rosenstein from the terms of his March 12, 2014 Consent Agreement, effective March 12, 2017. Mr. Giacalone seconded the motion. All members voted aye. The motion carried.

ADJOURN

Mr. Gonidakis moved to adjourn the meeting. Mr. Kenney seconded the motion. All members voted aye. The motion carried.

Thereupon, at 1:10 p.m., the March 8, 2017 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 March 8, 2017, as approved on April 12, 2017.



Amol Soin, M.D., President



Kim G. Rothermel, M.D., Secretary

(SEAL)

