

**MINUTES****THE STATE MEDICAL BOARD OF OHIO****May 10, 2017**

Amol Soin, M.D., President, called the meeting to order at 9:50 a.m. in the Administrative Hearing Room, 3<sup>rd</sup> Floor, the James A. Rhodes Office Tower, 30 E. Broad Street, Columbus, Ohio 43215, with the following members present: Robert P. Giacalone, 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.; Michael L. Gonidakis; Andrew P. Schachat, M.D.; Michael Schottenstein, M.D.; Richard Edgin, M.D.; Ronan M. Factora, M.D.; and Mark A. Bechtel, M.D.

Also present were: Anthony J. Groeber, Executive Director; Kimberly Anderson, Assistant Executive Director; David Fais, Assistant Executive Director; Sallie Debolt, Senior Counsel; Susan Loe, Director of Human Resources and Fiscal; Teresa Pollock, Director for Communications; Joan K. Wehrle, Education and Outreach Program Manager; Rebecca Marshall, Chief Enforcement Attorney; Mark Blackmer, Cheryl Pokorny, Angela McNair, James Roach, Gregory Tapocsi, and Kimberly Lee, Enforcement Attorneys; Teri Meyer, Investigator; Kyle Wilcox, Melinda Snyder, and Emily Pelphrey, Assistant Attorneys General; R. Gregory Porter, Chief Hearing Examiner; Danielle Blue, Hearing Examiner; Nathan Smith, Senior Legal and Policy Counsel; Mitch Alderson, Chief of Licensure; Annette Jones and Angela Moore, Compliance Officers; Colin DePew, Legal and Policy Staff Attorney; Jacqueline A. Moore, Legal/Public Affairs Assistant; and Benton Taylor, Board Parliamentarian.

MINUTES REVIEW

**Dr. Saferin moved to approve the draft minutes of the April 12 & 13, 2017, Board meetings, as written. Dr. Factora seconded the motion. A vote was taken:**

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

APPLICANTS FOR LICENSURE

**Dr. Saferin moved to approve for licensure, contingent upon all requested documents being received and approved in accordance with licensure protocols, the acupuncturist applicants listed**

in Exhibit "A," the genetic counselor applicants listed in Exhibit "B," the massage therapist applicants listed in Exhibit "C," the Oriental medicine practitioner applicants listed in Exhibit "D," the physician assistant applicants listed in Exhibit "E," and the physician applicants listed in Exhibit "F," and to approve the results of the April 24, 2017 Cosmetic Therapy Examination and to certify as passing and license those receiving a score of 75 or greater on their examination, as listed in the Agenda Supplement . Dr. Steinbergh seconded the motion. A vote was taken:

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

#### REPORTS AND RECOMMENDATIONS

Dr. Soin announced that the Board would now consider the Reports and Recommendations appearing on its agenda.

Dr. Soin 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: Arun Aggarwal, M.D. A roll call was taken:

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

Dr. Soin 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. Schottenstein	- aye
Dr. Steinbergh	- 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

Dr. Soin 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.

Dr. Soin 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.

ARUN AGGARWAL, M.D.

Dr. Soin directed the Board's attention to the matter of Arun Aggarwal, M.D. Objections to Ms. Blue's Report and Recommendation have been filed and were previously distributed to Board members.

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

Dr. Aggarwal was represented by his attorney, James Fleisher.

Mr. Fleisher noted that the Hearing Examiner has recommended that Dr. Aggarwal's Ohio medical license be permanently revoked, despite his heretofore stellar record, on the bases of two allegations. Mr. Fleisher stated that it would be a grave and manifest injustice to accept the Hearing Examiner's recommendation.

Mr. Fleisher continued that Dr. Aggarwal came to the United States from India over a decade ago with the dream of becoming a physician in this country. Dr. Aggarwal practiced in his residency and fellowship in New York for six years with no complaints and no allegations of negligence or misconduct. Dr. Aggarwal then came to the Dayton, Ohio, area to practice in an underserved population as part of an H1B Visa program. Mr. Fleisher stated that Dr. Aggarwal has essentially seen thousands of patients in the Dayton area without any incident.

Mr. Fleisher stated that Patient 1's allegation, the first allegation in Dr. Aggarwal's career, was brought a month after the alleged incident by Patient 1's mother, who did not seek to have the allegation pursued at that time. Patient 1 reported that while she had seen Dr. Aggarwal on several prior occasions without

incident, in December 2013 Dr. Aggarwal asked Patient 1's mother and grandmother to step out of the room so that he could ask Patient 1 questions as part of a HEADSS (Home, Education, Activities, Drugs, Smoking, Sexual activity) examination. Patient 1 testified that she initially did not think this was unusual. Mr. Fleisher stated that Dr. Aggarwal conducted the HEADSS examination, though Patient 1 indicates that no such examination was performed. Patient 1 further indicated that she did not understand why Dr. Aggarwal made any mention of sexual activity on her part. Mr. Fleisher stated that he had attempted to cross-examine Patient 1 regarding a very important issue in her background, but he had been prohibited from doing so. Mr. Fleisher stated that as a consequence, he was not to test Patient 1's credibility by virtue of evidence by virtue of evidence he was not permitted to use. Mr. Fleisher submitted that Patient 1's allegations are inaccurate and were motivated by a desire to hide the fact that that Dr. Aggarwal performed the HEADSS examination.

Mr. Fleisher stated that Patient 2's allegations are also not credible. Mr. Fleisher stated that Patient 2 and her mother initially reported that Dr. Aggarwal's alleged misconduct occurred on Patient 2's first visit. Mr. Fleisher stated that the allegation later change so that the alleged misconduct occurred on subsequent visits. Mr. Fleisher stated that there is no explanation for why these incidents were not reported by Patient 2 or her mother at that time. Mr. Fleisher further stated that there is no explanation for why a physician who is committing sexual misconduct with a patient would do so with the patient's mother in the room sitting next to them. Mr. Fleisher noted that Dr. Aggarwal referred Patient 2 to an obstetrician/gynecologist and a breast surgeon. Mr. Fleisher stated that a physician who commits sexual misconduct and performs an examination for other than legitimate medical purposes would not refer the patient for fear of the patient reporting the misconduct to the new physician.

Dr. Soin asked if the Assistant Attorney General wished to respond. Ms. Pelphrey stated that she wished to respond.

Ms. Pelphrey noted the importance that the Board places on properly addressing cases of sexual misconduct. Ms. Pelphrey stated that, though sexual misconduct cases are difficult to prove absent direct visual proof of the alleged incident, this difficulty should not deter the Board or any organization from properly investigating such matters. Ms. Pelphrey stated that the evidence in this case includes medical records, as well as testimony from current and former employees of Dayton Children's Hospital, law enforcement, and Patient 1 and Patient 2. Ms. Pelphrey asked the Board to reflect on the strength and courage it took for Patient 1 and Patient 2 to testify in a roomful of strangers, recall in detail what had happened to them, and subject themselves to cross-examination. Ms. Pelphrey also commended the Hearing Examiner for producing a very thorough Report and Recommendation.

Ms. Pelphrey continued that both Patient 1 and Patient 2 were deemed honest, reliable, and credible. Conversely, the Hearing Examiner described Dr. Aggarwal's accounts of the incidents as contradictory, disingenuous, illogical, insincere, uncorroborated, not credible, and defying common sense. Ms. Pelphrey asked how the two patients, who do not know each other, could have similar stories about Dr. Aggarwal and make the same gestures on video to the Dayton Police Department about what happened to them. Ms. Pelphrey stated that the only answer is that the alleged incidents actually happened as described by the patients. Ms. Pelphrey stated that the probability of two strangers making up the same story in the same circumstances is nonexistent. Ms. Pelphrey further noted that both patients followed up with their families immediately after the incidents, both were cooperative with law enforcement, and both appeared at Dr. Aggarwal's hearing to testify.

Ms. Pelphrey stated that this matter now lies with the State Medical Board of Ohio. Ms. Pelphrey asked

the Board to adopt the Hearing Examiner's Report and Recommendation.

**Dr. Steinbergh moved to approve and confirm Ms. Blue's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Arun Aggarwal, M.D. Dr. Schottenstein seconded the motion.**

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

Dr. Edgin briefly reviewed Dr. Aggarwal's medical career. Dr. Edgin stated that Dr. Aggarwal is alleged to have engaged in behavior constituting sexual misconduct with Patient 1 and Patient 2. In September 2013 Dr. Aggarwal was hired by Wright State Physicians as a pediatric gastroenterologist for Dayton Children's Hospital. Due to the investigation into these allegations, Dr. Aggarwal was placed on administrative leave in June 2015.

Dr. Edgin stated that at the time of the alleged incidents, Dayton Children's Hospital had policies for examining female patients. Specifically, a new patient would usually be given a gown and it was expected that a chaperone would be present when a young female patient was examined. Dr. Edgin noted that follow-up patients were usually not given a gown and they presented in their street clothes. Dr. Aggarwal testified that about one-fourth of his patients refused to have a gown. Dr. Aggarwal further testified that he had performed some breast examinations during his training and on other patients prior to these incidents.

Dr. Edgin stated that in December 2013, Patient 1 presented to Dr. Aggarwal following a visit to the emergency department concerning chest wall pain. Dr. Aggarwal performed a chest wall examination and an abdominal examination; neither examination noted any pain. Dr. Edgin stated that a breast examination was also apparently undertaken, though there was no real description of that examination. Dr. Edgin noted that there is disagreement in the testimony as to whether the breast examination actually occurred. Dr. Edgin observed that there were many discrepancies in the testimony regarding this examination. For instance, there is testimony that Dr. Aggarwal told another physician that he performed the examination, there is testimony that Dr. Aggarwal denied speaking with Patient 1's mother following the examination, and there is testimony that Dr. Aggarwal did speak with Patient 1's mother and apologized for his behavior.

Dr. Edgin stated that there are also discrepancies regarding the examination of Patient 2 and whether Patient 2 had asked Dr. Aggarwal to look at a scar she had between her breasts from a prior excision. Patient 2 testified that Dr. Aggarwal instructed her to remove her bra and he then started touching her breasts and squeezing her nipple, which produced discharge. Dr. Edgin noted that none of this is mentioned in the medical record. There was testimony that Dr. Aggarwal referred Patient 2 to a breast surgeon, but there is no documentation of such a referral. The treating surgeon stated there was nothing wrong with Patient 2's breasts and that some discharge from the nipple would occur at that age if one pressed hard enough. Dr. Edgin further noted that Dr. Aggarwal testified that Patient 2's mother was standing beside him during the examination and could see everything he did. However, Patient 2's mother testified that she was behind Dr. Aggarwal and could not see what he was doing.

Dr. Edgin stated that Patient 1's mother discussed this matter with members of Dayton Children's Hospital administrative staff, including the director of the gastroenterology department, the medical director of the hospital, and ultimately the President and Chief Executive Officer (CEO) of the hospital. Dr. Edgin found it interesting that following the first incident, the director of gastroenterology, the medical director, and members of his own staff told Dr. Aggarwal that he should have a chaperone when examining female

patients. Following the second incident, the President and CEO also stated that Dr. Aggarwal should have a chaperone. Dr. Edgin opined that the hospital medical staff seemed to drag their feet and did not investigate these allegations very heavily, though the administrative staff seemed to have tried to do the right thing. According to testimony from the nursing staff, Dr. Aggarwal consistently resisted using any chaperone.

Dr. Edgin questioned whether there had been any need to perform these breast examinations. Dr. Edgin further opined that breast examination is outside the scope of pediatric gastroenterology. Dr. Edgin emphasized that Dr. Aggarwal regarding whether he performed a breast examination or how he may have conducted such an examination. Dr. Edgin stated that because Dr. Aggarwal repeated these actions, this constitutes a pattern of behavior and possibly predatory behavior.

Dr. Edgin read the following from the Discussion of Proposed Order in the Report and Recommendation:

It is undisputed that Dr. Aggarwal violated the Board's rules concerning physician/patient boundaries and the standard of care. As evidenced by the patients' medical records and testimonies, as well as Dr. Aggarwal's own testimony, Dr. Aggarwal engaged in sexual misconduct with Patients 1 and 2.

There is no dispute that Dr. Aggarwal abused his position of trust with Patients 1 and 2 by engaging in predatory behavior to satisfy some prurient need. Because of his predatory behavior, Dr. Aggarwal has forfeited his right to practice medicine in Ohio.

Dr. Edgin stated that based on the findings, he agrees with the Proposed Order of permanent revocation.

Dr. Schottenstein reiterated that the two patients in this case do not know each other, yet the actions they describe are remarkably similar and are so specific that it is not plausible that it is simply a coincidence. Dr. Schottenstein stated there is only the rarest justification for a gastroenterologist to perform a breast examination. Dr. Schottenstein further stated that there is no justification for manipulating the nipple in such a way as to provoke pain and discharge during an examination. Dr. Schottenstein added that it was not plausible that a gastroenterologist would perform a breast examination without extensively documenting the reason for the examination and the findings. Dr. Schottenstein stated that one may not document the examination in order to hide it, and one would wish to hide it presumably because it was inappropriate for the examination to have occurred. Dr. Schottenstein found it difficult to imagine that a gastroenterologist would not want a chaperone during an examination in order to ensure the comfort of the patient.

Dr. Schottenstein noted that Dr. Aggarwal's attorney has suggested that Patient 1 invented this story in order to get attention from her mother, and also to hide her prior sexual activity from her parents. However, Dr. Schottenstein asked how Patient 1's supposed lie could match Patient 2's story so substantially. Dr. Schottenstein also found it distasteful and unfair to bring up Patient 1's sexual history or her parents' divorce as an explanation of why she would lie about Dr. Aggarwal. Dr. Schottenstein stated that this felt like an attack on Patient 1's character and it was reminiscent of retaliation and intimidation. Dr. Schottenstein opined that this is why many victims of sexual misconduct by a physician do not come forward for fear that their reputation will be impugned, that they will not be believed, and that they will not be able to get the treatment they need.

Dr. Schottenstein continued that the Medical Board has always made a priority of protecting the public

from sexual misconduct by practitioners. Dr. Schottenstein stated that there have been times when the Board has judged a practitioner's issues to be treatable and the practitioner is allowed a second chance, with treatment and monitoring. However, like in the case of Dr. Aggarwal, there are times when a practitioner's conduct is predatory in nature. Dr. Schottenstein noted that the administration at Dayton Children's Hospital eventually felt it necessary to implement a special policy for Dr. Aggarwal so that he would have a chaperone in the room when examining female patients 10 years old or older. Dr. Schottenstein respectfully suggested that if a policy must be created to guard against a specific physician's inappropriate behavior with underage girls, then common sense dictates that the physician should not be practicing at all. Dr. Schottenstein further suggested that common sense, as well as duty under the law, dictates that the physician should be reported to the Medical Board and the appropriate legal authorities. Dr. Schottenstein commented that if there have to be meetings about whether something should be reported, then it should be reported.

Dr. Schottenstein stated that it is a tragedy that Patient 2 has vowed to never again see a male physician, which is the kind of avoidant behavior one sees in patients who have been traumatized. Dr. Schottenstein stated that Dr. Aggarwal's concern about these patients' health was secondary to his concern for his own personal gratification. Dr. Schottenstein stated that Dr. Aggarwal should never again be given the chance to abuse the trust that patients inherently have for their physicians. Dr. Schottenstein supported the Proposed Order of permanent revocation.

Dr. Steinbergh stated that she agrees with the comments of Dr. Edgin and Dr. Schottenstein. Dr. Steinbergh reiterated that if a gastroenterologist chooses to perform a breast examination for medical reasons, then he or she would document that in the medical record. Dr. Steinbergh agreed with earlier comments that the examination may not have been documented in an effort to hide it. Dr. Steinbergh stated that patients should wear a gown every time when doing a breast examination; otherwise, the patient will need to remove portions of their clothing to allow for certain aspects of the examination, and this is both awkward and inappropriate. Dr. Steinbergh allowed that it may be commonplace in some places for the patient to not have a gown for this type of repeat GI examination. However, Dr. Steinbergh stated that once the physician makes the decision to go farther than the abdomen to examine the patient, the patient should be given a gown to hide those body parts that should not be exposed. Dr. Steinbergh found Dr. Aggarwal's actions in lifting up the patients' bra above the breast rather than offering a gown to be both crude and vulgar.

Dr. Steinbergh expressed disappointment in the way these incidents were handled by Dr. Aggarwal's practice and Dayton Children's Hospital. Dr. Steinbergh stated that the hospital's medical staff bylaws should have specified what actions should take place in regard to these complaints. However, the medical staff bylaws are not mentioned anywhere in the hearing testimony and the bylaws were apparently not followed in this situation. Dr. Steinbergh stated that the medical staff was obligated to investigate these complaints and make certain that the doctor is remediated.

Dr. Steinbergh stated that she supports the Findings of Fact, Conclusions of Law, and the Proposed Order of permanent revocation.

Mr. Giacalone agreed with the previous comments of his fellow Board members. Mr. Giacalone noted that both of the alleged incidents concerning Patient 1 and Patient 2 were almost identical. Mr. Giacalone further stated that if the first incident had truly been a misunderstanding or error, one would expect Dr. Aggarwal to be hypersensitive and very meticulous to ensure that such a situation did not occur again. However, this was not the case and Dr. Aggarwal tried to avoid having a chaperone on numerous

subsequent occasions. Mr. Giacalone stated that Dr. Aggarwal's actions were reprehensible and unacceptable. Mr. Giacalone opined that Dr. Aggarwal's actions would be vindicated if the Board were to issue an order less than permanent revocation.

Dr. Bechtel stated that Dr. Aggarwal's actions with the breast examination were unwarranted, unprofessional, and predatory. Dr. Bechtel stated that, having cared for adolescents who had been sexually abused, he knows that the psychological impact of such actions on these patients is lifelong. Dr. Bechtel supported the Proposed Order of permanent revocation.

Dr. Schachat echoed the concerns previously expressed about Dr. Aggarwal's inappropriate sexual behavior. Dr. Schachat asked if permanent revocation has been the Board's consistent sanction for inappropriate sexual behavior, or if it is considered an illness that can be address and remediated. Dr. Schottenstein replied that something less than permanent revocation may be appropriate in cases in which the physician takes responsibility for their actions, shows appropriate remorse, and is seeking help. Dr. Schottenstein added that the Board may also consider the situation differently if the physician had acted out due to a mental health condition. However, Dr. Schottenstein felt that Dr. Aggarwal's case seemed more random, more predatory, and more like a crime of opportunity. Dr. Schottenstein stated that Dr. Aggarwal has not shown any acceptance of responsibility, remorse, or anything that would indicate a good prognosis for intervention. Dr. Schottenstein stated that for these reasons, he is comfortable with the permanent revocation in this case.

Dr. Steinbergh agreed with Dr. Schottenstein and she thanked Dr. Schachat for bringing up this topic. Dr. Steinbergh stated that she had considered advocating for a long suspension with required psychiatric evaluations and education, rather than permanent revocation. However, she believed that permanent revocation is appropriate for all the reasons previously stated. Dr. Steinbergh noted that Dr. Aggarwal never wanted a chaperone during examinations, which indicated to her that Dr. Aggarwal did not really care about the situation. Dr. Steinbergh questioned how a physician, who is supposed to take care of patients, could make the decision to do this type of thing.

Mr. Giacalone stated that Dr. Aggarwal has shown no responsibility or remorse. Mr. Giacalone stated that the hearing transcript is replete with Dr. Aggarwal's denial, repudiation, and attacking of the witnesses. Mr. Giacalone stated that rehabilitation starts with acceptance of responsibility. Mr. Giacalone noted that Dr. Aggarwal reported apologized to Patient 1's mother following the first incident, but Mr. Giacalone opined that Dr. Aggarwal mostly regretted having been caught. Mr. Giacalone opined that if the Board merely suspended Dr. Aggarwal's medical license and put him through rehabilitation, it would constitute putting a predator back into practice for young girls to have to deal with in the future. Dr. Schottenstein recalled that Dr. Aggarwal later contended that his apology to Patient 1's mother was an apology for a misunderstanding, not an admission of having done something wrong.

Regarding the issue of chaperones, Dr. Schottenstein noted that at one point Dr. Aggarwal had told someone he was using chaperones when, in fact, he was not, according to a nurse. Therefore, not only was Dr. Aggarwal resistant to using a chaperone, he was apparently being deceptive about his compliance with that recommendation.

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

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

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

The motion to approve carried.

#### EXECUTIVE SESSION

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

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Dr. Schottenstein	- aye
	Dr. Steinbergh	- 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. Snyder, Ms. Pelphrey, Mr. DePew, Ms. Moore, and Mr. Taylor in attendance.

Mr. Gonidakis exited the meeting during the Executive Session.

The Board returned to public session.

#### EXECUTIVE SESSION

**Dr. Steinbergh moved to go into Executive Session for the purpose of deliberating on proposed citations in the exercise of the Medical Board's quasi-judicial capacity. Dr. Factora seconded the motion. A vote was taken:**

ROLL CALL:

Dr. Rothermel	- aye
Dr. Saferin	- aye
Dr. Schottenstein	- aye
Dr. Steinbergh	- aye
Mr. Giacalone	- aye
Dr. Soin	- 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. Snyder, Ms. Pelphrey, Mr. DePew, Ms. Moore, and Mr. Taylor in attendance.

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

The Board returned to public session.

#### DISCUSSION OF SETTLEMENT AUTHORITY IN CASES OF FAILURE TO CHECK OARRS

Dr. Soin stated that he wished to discuss the topic of the Secretary and Supervising Member's settlement authority in cases of physicians who fail to check the Ohio Automated Rx Reporting System (OARRS) in accordance with rule and statute. Dr. Soin opined that this is a short-term problem as more physicians come into compliance in response to the Board's cautionary letters and other efforts.

Dr. Soin stated that the Board began enforcing the new OARRS law late last year by sending letters to physicians who may have missed required OARRS checks. More recently, the Board has begun to issue citations to some physicians for failing to adhere to the OARRS law. Dr. Soin noted the following concerns about these citations:

- The OARRS law began being enforced by the Board very recently. Dr. Soin felt that the physicians had the opportunity to use the information in the caution letters to change their practices.
- The complaints are generated through the OARRS computer system when it detects a non-check, rather than a complaint filed by an individual.
- Physicians are not informed of which patients they had failed to check. Dr. Soin questioned how a physician can rectify their behavior if they do not know which patients were missed.
- All OARRS reports include the statement that "The State of Ohio does not warrant the above information to be complete or accurate."

Dr. Soin questioned if physicians should be cited when they may have already changed their behavior

accordingly. Dr. Soin agreed that all physicians should be checking OARRS properly at this point, but he struggled with the concept of citing those who may not have been completely in compliance at the time that the Board's enforcement began.

The Board discussed this matter thoroughly. Dr. Steinbergh commented that it had been her sense that the cases that had been recently cited for failure to adhere to the OARRS statute had been closely evaluated by the Secretary and Supervising Member and whose problems with OARRS had been long-standing. Dr. Rothermel commented that many physicians who had had high numbers of non-checks of OARRS have reduced their non-checks significantly since the cautionary letters were sent, from hundreds of non-checks per month to a single-digit number. Dr. Rothermel further commented that she and Dr. Saferin, as Secretary and Supervising Member, feel that some who have reduced their non-checks significantly but not completely may warrant simply a caution letter stating that the Board appreciates their continued efforts. Dr. Rothermel added that she and Dr. Saferin feel that those physicians who continue to have more than 100 non-checks per month may warrant reprimand and fine, and that an appropriate fine would be something around \$7,500.

Dr. Soin stated that he agrees with Dr. Rothermel's comments. Dr. Soin stated that he had been concerned about citing those who may have already corrected their behavior, but he agreed with the process as described by Dr. Rothermel. Dr. Schottenstein commented that bringing some physicians to the Board's offices for an office conference may also be an effective course of action short of formal discipline. Dr. Rothermel agreed and stated that she and Dr. Saferin have been working with Ms. Marshall to develop guidelines for when to require an office conference so that there is consistency in that process. Dr. Rothermel further stated that an office conference can be an opportunity to provide the physician with educational materials. Dr. Soin agreed.

#### RATIFICATION OF SETTLEMENT AGREEMENTS

##### RICHARD J. BLACKBURN, D.O. – PERMANENT SURRENDER

**Dr. Steinbergh moved to ratify the Proposed Permanent Surrender with Dr. Blackburn. Dr. Schottenstein seconded the motion. A vote was taken:**

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

ROBERT LINDNER, L.M.T. – CONSENT AGREEMENT

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

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

RICK D. ST. ONGE, M.D. – PERMANENT SURRENDER OF CERTIFICATE TO PRACTICE MEDICINE AND SURGERY

**Dr. Steinbergh moved to ratify the Proposed Permanent Surrender with Dr. St. Onge. Dr. Schottenstein seconded the motion. A vote was taken:**

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

CARLOS ANTONIO PEREZ, M.D. – PERMANENT SURRENDER OF CERTIFICATE TO PRACTICE MEDICINE AND SURGERY

**Dr. Steinbergh moved to ratify the Proposed Permanent Surrender with Dr. Perez. Dr. Schottenstein seconded the motion. A vote was taken:**

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

DEBORAH L. ROSE, M.D. – CONSENT AGREEMENT

**Dr. Steinbergh moved to ratify the Proposed Consent Agreement with Dr. Rose. Dr. Schottenstein seconded the motion.**

Dr. Steinbergh stated that she will vote to ratify this proposed Consent Agreement, despite some concerns she has. Dr. Steinbergh opined that if this physician comes back to Ohio and applies for a medical license, the Board ought to consider the physician's past history in determining whether the physician should be licensed.

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

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

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

Ms. Marshall briefly reviewed the proposed citations on today's agenda.

Mr. Giacalone stated that the subject of one proposed citation, Munawar Siddiqi, M.D., is alleged to have run a pill mill in Kentucky. Mr. Giacalone noted that, despite the allegation, the proposed citation is not a

summary suspension of Dr. Siddiqi's Ohio medical license. Mr. Giacalone opined that the citation should be a summary suspension, based on Dr. Siddiqi's proximity to Ohio and the action by the Kentucky Board of Medical Licensure's truncating Dr. Siddiqi's ability to prescribe controlled substances in that state. Mr. Giacalone also opined that Dr. Siddiqi is an immediate threat to Ohio. Because the proposed citation does not summarily suspend Dr. Siddiqi's Ohio medical license, Mr. Giacalone stated that he intends to vote "nay" on that citation.

**Dr. Steinbergh moved to send the Notice of Opportunity for Hearing to Morris Lamar Brown, M.D. Dr. Schottenstein seconded the motion. A vote was taken:**

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

The motion to send carried.

**Dr. Steinbergh moved to send the Notices of Opportunity for Hearing to Gregory Allan Parker, M.D.; and Amir Zia, M.D. Dr. Schottenstein seconded the motion. A vote was taken:**

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Schottenstein	- aye
	Dr. Steinbergh	- 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. Steinbergh moved to send the Notices of Opportunity for Hearing to Munawar Siddiqi, M.D. Dr. Schottenstein seconded the motion. A vote was taken:**

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

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

The motion to send carried.

**Dr. Steinbergh moved to table the topic of citations for any potential; additional citations for the Board's consideration. Dr. Schottenstein seconded the motion. A vote was taken:**

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

## RULES AND POLICIES

### UPDATE ON MEDICAL MARIJUANA RULES

Ms. Anderson stated that the Board's proposed rules on medical marijuana were submitted for public comment through the Common Sense Initiative (CSI) process and those comments have been provided to the Board members for their review. Once feedback is received from CSI, the Board will be able to file the proposed rules with the Joint Committee on Agency Rule Review (JCARR). Ms. Anderson stated that in order to stay on schedule, the proposed rules will need to be submitted to JCARR prior to the Board's next meeting on June 14. Ms. Anderson asked the Board to authorize Dr. Soin to approve the filing of the proposed rules with JCARR before June 14. Ms. Anderson stated that the Board can ratify Dr. Soin's approval on June 14.

**Dr. Saferin moved to authorize Dr. Soin to approve the filing of the Board's proposed rules on medical marijuana with JCARR, subject to ratification by the Board at the June 14, 2017 Board meeting. Dr. Steinbergh seconded the motion. A vote was taken:**

ROLL CALL:

Dr. Rothermel	- aye
Dr. Saferin	- aye
Dr. Schottenstein	- aye
Dr. Steinbergh	- 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.

#### RULES HEARING REPORT

Ms. Debolt stated that the Board had a hearing on May 3, 2017, for the proposed rules on podiatric licensure and pain management clinics. These rules continue to be considered by the Joint Committee on Agency Rule Review (JCARR) and will return to the Board for formal adoption.

#### OPERATIONS REPORT

**Human Resources:** Mr. Groeber stated that one nurse has left the Board's employment in order to move closer to her family, and two other employees have move on to other job opportunities. Mr. Groeber noted that three new investigators will begin on Monday and another investigator should start shortly thereafter.

**Investigator Firearms:** Mr. Groeber noted that at the Board Retreat in April, the Board demonstrated a desire to explore actions to end the policy allowing investigators to carry firearms. Mr. Groeber stated that there was a meeting with the Office of Collective Bargaining to prepare for a meeting of the Labor-Management Committee, which met yesterday. Mr. Groeber stated that, barring any objections, Board management will begin the process of revising investigator job classifications and descriptions, which must occur before the Board formally votes to rescind investigators' authorization to carry firearms.

Mr. Groeber commented that at the Labor-Management meeting, there was a feeling among investigators that the Board may not understand the full scope of the risks that investigators face as part of their job. Mr. Groeber stated that the investigators would like to provide additional comments for the Board's consideration. The Board agreed that it would be appropriate for investigators to submit written comments for the Board's consideration. Mr. Groeber asked if the Board feels comfortable with the volume of information is has regarding the risks of carry a firearm. The Board indicated that it is comfortable with the information.

Ms. Loe briefly outlined the process of changing the policy on firearms, including negotiations with the union and the process for the union to contest revisions to the investigators job descriptions and classification. In response to questions from Mr. Kenney, Ms. Loe explained that the investigator's job descriptions currently state that the position is dangerous, and so the authorization to carry firearms cannot be rescinded until that portion of the job description is changed. Ms. Loe stated that that process

involves the union and could possibly go to arbitration. Ms. Anderson added that as union employees, the investigators have grievance rights regarding changes in the job description.

Mr. Kenney stated that the Board should be able to vote to voice its opinion on this subject. Mr. Kenney reiterated his reasons for opposing firearms for investigators. Mr. Groeber stated that when the Board authorized investigator firearms a structure was put into place to make that possible. Mr. Groeber continued that now that the Board has expressed a desire to change that policy, that structure must be undone in such a way that there will not be unintended consequences in the future. Mr. Groeber further commented that a failure to approach this matter appropriately could potentially prolong the process of ending the policy.

**Agency Operations:** Mr. Groeber stated that Licensure statistics continue to look good. Mr. Groeber observed that the American Medical Association (AMA) reports that Ohio now ranks #1 in the nation for prescription monitoring program (PMP) queries. Mr. Groeber stated that 24,000,000 out of 136,000,000 queries in the United States in 2016 were done in Ohio, far more than any other state. Mr. Groeber thanked Ohio's practitioners who made this possible.

**Financial Disclosure Forms:** Mr. Groeber stated that Financial Disclosure Forms are due from the Board members at the Ohio Ethics Commission on May 15.

**Public Worker Appreciation Week:** Mr. Groeber noted that this is Public Worker Appreciation Week. Mr. Groeber thanked all the Board Members for their public service and tireless efforts in serving on the Medical Board. Mr. Groeber also thanked the Board staff for all their efforts. Mr. Kenney commented that the Board's staff does a terrific job.

## REPORTS BY ASSIGNED COMMITTEES

### FINANCE COMMITTEE

#### FISCAL REPORT

Ms. Loe reported that in March the Board had almost \$1,200,000 in revenue and about \$600,000 in expenses. Ms. Loe stated that the increase in revenue is most likely due to many licensees renewing their licenses early based on notices that the Board's new licensing system, which could potentially have some bugs at first, will go online in June.

#### ACCOUNTS RECEIVABLE

Ms. Loe stated that the Board received its first fine payment via credit card in March.

#### TRI-REGULATOR SYMPOSIUM

Mr. Groeber stated that he has been invited to attend the Tri-Regulator Symposium, which involves the governing boards of the Federation of State Medical Boards (FSMB), the National Association of Boards of Pharmacy (NABP), and the National Council of State Boards of Nursing (NCSBN). The meeting will take place in Chicago, Illinois, on July 25-26, 2017. Mr. Groeber noted that representatives from the Ohio Board of Nursing and the Ohio Board of Pharmacy will also attend the meeting.

**Dr. Saferin moved to approve Mr. Groeber's travel to the Tri-Regulator Symposium meeting in Chicago, Illinois, and that Mr. Groeber's attendance at the meeting is in connection with his responsibilities and related to his position as Executive Director of the Medical Board. Dr. Schachat seconded the motion.** All members voted aye, except Mr. Gonidakis, who abstained. The motion carried.

### POLICY COMMITTEE

#### LEGISLATIVE UPDATE

Mr. LaCross stated that the budget bill continues to move through the Legislature. Mr. LaCross stated that the following amendments related to the Medical Board have been added to the bill:

- Provisions for a podiatric clinical research faculty certificate;
- Alignment of the physician license renewal schedule with the continuing medical education (CME) requirements;
- Language to combine the license restoration and reinstatement fees with the renewal fee.

Mr. LaCross added that additional amendments are currently being drafted, which will be subject to Board approval before being submitted to the Legislature. These proposed amendments are as follows:

- Requirement for physicians to complete 50 hours of Category I CME each renewal cycle, and eliminating the requirement for Category II CME;
- Provision to charge physician assistant and other allied professional a \$50 fee for licensure verification, matching the fee paid by physicians;
- Alignment the physician assistant license renewal cycle with the CME cycle;
- Change to the physician assistant formulary to a negative formulary or an exclusionary formulary.

Responding to questions from Dr. Soin, Mr. LaCross stated that he has been told that Representative Huffman will focus more on the One-Bite Reporting Exemption legislation as the budget bill moves into the Senate. Mr. LaCross stated that the One-Bite Reporting Exemption has an emergency clause and should be a top priority. Mr. LaCross expected the legislation to be introduced into a committee before the end of this month.

### ACUTE OPIOID PRESCRIBING RULES

Dr. Soin stated that the Policy Committee had a very robust discussion of the proposed acute opioid prescribing rules. Dr. Soin stated that the proposed Rules provide for a limit of 30 MED (Morphine Equivalent Dose) per day for seven days, but also allows for freedom for prescribers to use their discretion in some extreme cases.

Dr. Soin stated that the Committee discussed one proposed change to these Rules which would require physicians to document their reasons for exceeding the 30 MED limit if they chose to do so. The Committee also discussed adding a sentence to the Rule about the need to use the lowest effective dose.

Dr. Edgin stated that he has heard many comments from surgeons regarding these proposed rules. Specifically, the surgeons expressed concern about the extra documentation that will be required if they want to give a patient more than a few pills or more than a seven-day supply following a procedure. Dr. Soin noted that the rules contain some exclusions, particularly for patients who have extreme surgery like limb lengthening, amputation, and other major orthopedic procedures. Dr. Soin stated that some additional documentation will be required, even by entities other than the Medical Board. Dr. Soin stated that it is very challenging to craft a rule that will make everyone happy and that the Board is trying to solve the problem as best it can. Dr. Soin further noted that as a rule and not a statute, it will be easier to change if need be.

Dr. Soin continued that the Board received many public comments regarding these proposed rules and those comments were taken into consideration. Dr. Soin commented that the current draft rules are very different from the first draft and more responsive to the concerns that Dr. Edgin brought up. Dr. Edgin opined that the Board members and staff did a good job taking all the public comments into consideration and drafting a rule that will be effective.

**Dr. Steinbergh moved to approve the changes to the proposed acute opioid prescribing rules as discussed by the Policy Committee, and the additional change just discussed by the Board, and to file them with the Common Sense Initiative (CSI) office. Dr. Schottenstein seconded the motion. A vote as taken:**

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

The motion carried.

In response to questions from Dr. Steinbergh, Mr. Gonidakis stated that he voted against the proposed changes because they would create a loophole in the rule. Mr. Kenney agreed. Mr. Gonidakis stated that the creation of this loophole is not in accordance with prior statements made with the Governor to get tough on this issue.

Dr. Soin commented that these proposed rules represent a significant change and opined that the Board is being tough on this issue.

Dr. Steinbergh commented that physicians must be able to make decisions about patient care and there may be times when physicians cannot comply 100% if the rule is too restrictive. Dr. Steinbergh expressed concern about the amount of required documentation and other things that may get in the way

of appropriate patient care. Dr. Steinbergh stated that extreme rules may cause physicians, out of fear, to not use analgesics appropriately.

Mr. Giacalone stated that the nuance provided for in these proposed changes is very narrow and deals specifically with a subset, namely major orthopedic surgery, that everyone would probably agree needs some latitude. Mr. Giacalone hoped that the rule will not result in negative unintended consequences, but if that is the case then the rule can be changed accordingly. Mr. Giacalone opined that the proposed rule and the proposed changes, though disliked by many in the physician community and the public, gets to the root cause of the issue.

Dr. Soin thanked the Board members for their comments.

#### LICENSURE COMMITTEE

#### LICENSURE APPLICATION REVIEWS

#### KATHLEEN COULING HOWELL, M.D.

Dr. Saferin stated that Dr. Howell has applied for restoration of her medical license. Dr. Howell has not engaged in the clinical practice of medicine since October 2004.

**Dr. Saferin moved that the application of Kathleen Couling Howell, M.D. for restoration of her license to practice medicine and surgery in the State of Ohio be approved, pending successful passage of the Special Purpose Examination (SPEX) or specialty board recertification examination. Dr. Saferin further moved that upon restoration, the license of Dr. Howell shall be restricted to a six-month preceptorship to include an initial three-month period of direct observation and supervision, followed by a three-month period of weekly chart reviews of ten charts per week. Dr. Saferin further moved that the preceptor shall provide a written report to the Board or its designee at the conclusion of the preceptorship indicating acceptable and prevailing standards of care. Dr. Saferin further moved that upon documentation that Dr. Howell has practiced satisfactorily and in accordance with restrictions, the preceptorship shall terminate. Dr. Steinbergh seconded the motion. A vote was taken:**

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

STEVEN JOSEPH ERNST, M.T.

Dr. Saferin stated that Mr. Ernst has applied for restoration of his massage therapy license. Mr. Ernst has not practiced massage therapy since 2009.

**Dr. Saferin moved to approve Mr. Ernst's request for restoration of his license to practice massage therapy in Ohio, pending successful completion of the Massage and Bodywork Licensing Examination (MBLEX) within six months following the board meeting. Dr. Steinbergh seconded the motion. A vote was taken:**

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

HUGH KELLEY RILEY, M.D.

Dr. Saferin stated that Dr. Riley has applied for initial licensure in Ohio. Dr. Riley has not engaged in the clinical practice of medicine since 2007. Dr. Saferin briefly reviewed Dr. Riley's education and career. Dr. Saferin stated that Dr. Riley continues to meet all necessary Maintenance of Certification (MOC) and has an active status in General Pediatrics with the American Board of Pediatrics. Dr. Riley has indicated that he would like to pursue an administrative medical license.

**Dr. Saferin moved that the application of Hugh Kelley Riley, MD for a certificate to practice medicine and surgery in Ohio is granted and immediately limited and restricted to the practice of administrative, non-clinical medicine. Dr. Saferin further moved that all limitations and restrictions shall terminate upon evidence acceptable to the Board or its designee that Dr. Riley has successfully recertified his American Board of Medical Specialties Certification in Pediatrics and completed a Board-approved preceptorship. Dr. Steinbergh seconded the motion. A vote was taken:**

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

#### COSMETIC THERAPY EXAMINATION

Dr. Saferin reported that the Licensure Committee is clarifying the rules for the cosmetic therapy licensure examination. Ms. Debolt is drafting proposed changes to the rules, which will be reviewed by Dr. Saferin and Dr. Schottenstein before being circulated to interested parties for comment.

#### LOSS OF ACCREDITATION OF PHYSICIAN ASSISTANT PROGRAM

Dr. Saferin stated that Cuyahoga Community College has requested that the Board clarify what happens to current students when a physician assistant education program loses its accreditation. Dr. Saferin stated that this topic has been tabled because there is currently nothing to indicate that Cuyahoga Community College has lost its accreditation.

#### MEDICAL BOARD BRIDGE PROGRAM

Ms. Pollock stated that as part of the Board's expanded outreach, Board staff is beginning to visit medical school training programs across Ohio. Ms. Pollock stated that there have been discussions with associate deans about how the Board can support curriculum. Ms. Pollock stated that the goal of this outreach is to make the process of having students apply for training certificates and then full licenses as smooth as possible.

#### PHYSICIAN ASSISTANT/SCOPE OF PRACTICE COMMITTEE

#### PHYSICIAN ASSISTANT FORMULARY

Dr. Steinbergh stated that the Physician Assistant Policy Committee (PAPC) and the Physician Assistant/Scope of Practice Committee, have recommended the following changes to the physician assistant formulary:

- Adding Lartruvo, an antineoplastic agent for soft tissue sarcoma, to the formulary in the May Not Prescribe category;
- Adding Zinplava, used in conjunction with anti-bacterial medications for clostridium difficile infection, to the formulary in the Physician-Initiated category;
- Adding Eucrisa, an ointment used in treatment of atopic dermatitis, to the formulary in the May Prescribe category;
- Adding Spinraza, a specific medication used intravenously or intrathecally for treatment of spinal muscular atrophy in pediatric and adult patients, to the formulary in the May Not Prescribe category due to its specificity;

- Adding Trulance, a medication for treatment of chronic idiopathic constipation, to the formulary in the May Prescribe category.

Dr. Steinbergh stated that the Committee also discussed the medication Intrarosa, used in the treatment of moderate to severe dyspareunia due to menopause. However, this medication is not yet on the market, and therefore discussion of the medication has been tabled.

Dr. Steinbergh stated that Jeremy Groll, M.D., a reproductive endocrinologist, has requested the following changes to the physician assistant formulary:

- Requested that Femara, a hormonal oncologic, be moved from the Physician-Initiated category to the May Prescribe category. The Committee recommends keeping Femara in the Physician-Initiate category, noting that the request is for off-label use;
- Requested the Dostinex, which is commonly used for hyperprolactinemia, be moved from the May Not Prescribe category to the May Prescribe category. The Committee recommends moving it to the Physician-Initiated category, which would be done by protocol;
- Requested that Ganirelix be moved from the May Not Prescribe category to the Physician-Initiated category. The Committee recommends granting this request so that the physician assistant would be able to initiate treatment by protocol when the supervising physician is not available;
- Requested that Cetrotide, used in invitro fertilization (IV) protocols, be moved from the May Not Prescribe category to the Physician-Initiated category. The Committee recommends granting this request and moving Cetrotide to the Physician-Initiated category in a protocol;
- Requested that Somatropin, a growth hormone used to treat growth hormone deficiency, be moved from the May Not Prescribe category to the Physician-Initiated category. The Committee, noting that this would be an off-label use, recommends keeping Somatropin in the May Not Prescribe category;
- Requested that Lupron, mainly used for advanced prostatic cancer, be moved from the May Not Prescribe category to the Physician-Initiated category. The Committee, noting that Lupron puts patients into menopause among other effects, recommends that it remain in the May Not Prescribe category.

**Dr. Bechtel moved to approve the Committee's recommendations. Dr. Schottenstein seconded the motion.** A vote was taken:

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

#### PRESCRIBING BUPRENORPHINE FOR OTHER THAN MEDICATION-ASSISTED TREATMENT

Ms. Debolt stated that physician assistants are now able to get a DATA 2000 Waiver from the Drug Enforcement Administration (DEA), which allows the holder to prescribe buprenorphine for medication-assisted treatment (MAT) of addiction. Ms. Debolt stated that the Physician Assistant/Scope of Practice Committee discussed the ability of physician assistants who do not have a DATA 2000 Waiver to prescribe buprenorphine for purposes other than MAT. Currently, physician assistants may administer buprenorphine for purposes other than MAT if it is ordered by a physician. However, Ohio physician assistants may only order such treatment, which would have to be by administration and not prescription under federal regulations, if buprenorphine is included on the physician assistant formulary.

Mr. Giacalone suggested that the Board adopt a policy that mirrors the federal requirements. The Board indicated agreement with Mr. Giacalone's suggestion. Dr. Steinbergh stated that the Physician Assistant Policy Committee will reconsider this matter in light of the Board's position.

#### ACUTE OPIOID PRESCRIBING RULES

Dr. Steinbergh stated that the Committee discussed the rules limited the prescribing of opioid analgesics for acute pain. Dr. Steinbergh stated that the Committee did not have any significant concerns. The discussion will continue next month.

#### LOSS OF ACCREDITATION OF PHYSICIAN ASSISTANT PROGRAM

Dr. Steinbergh stated that the Committee discussed what happens when a physician assistant education program loses its accreditation. This topic has been tabled.

#### COMPLIANCE COMMITTEE

Dr. Steinbergh stated that on April 12, 2017, the Compliance Committee met with Rezik Abdul Aziz Saqer, M.D.; William K. Basedow, D.O.; Freeda J. Flynn, M.D.; and Yi Xiong, D.O., and moved to continue them under the terms of their respective Board actions. The Compliance Committee also accepted the Compliance staff's report of conferences on March 6 & 7, 2017.

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

**Dr. Schachat moved to remove the topic of citations from the table. Dr. Saferin seconded the motion.** All members voted aye. The motion carried.

**Dr. Steinbergh moved to send the Notice of Immediate Suspension and Opportunity for Hearing to Stephen Bernie, M.D. Dr. Schottenstein seconded the motion.** A vote was taken:

ROLL CALL: Dr. Rothermel - abstain

Dr. Saferin	- abstain
Dr. Schottenstein	- aye
Dr. Steinbergh	- 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.

#### FEDERATION OF STATE MEDICAL BOARDS ANNUAL MEETING, 2017

Dr. Schottenstein stated that he attended the April 20-22, 2016 Annual Meeting of the Federation of State Medical Boards (FSMB) as a voting delegate.

Dr. Schottenstein stated that at the time of the meeting, 18 states had enacted the interstate licensure compact and it was under consideration by eight other states. Dr. Schottenstein commented that it appeared that the compact had been enacted by smaller states with smaller populations. Dr. Schottenstein opined that the FSMB did not seem mindful of the obstacles that could potentially develop from the compact, such as different rules and different scopes of practice among the participating states, as well as the pitfalls of investigators crossing state lines and potentially disrupting other state investigations.

Dr. Schottenstein stated that the FSMB has a work group for the subject of physician wellness and burnout. Dr. Schottenstein volunteered to be of service to the work group since the topic is of great interest to him.

Dr. Schottenstein stated that the meeting included a review of FSMB services, such as the Federation Credentials Verification Service (FCVS), the United States Medical Licensing Examination (USMLE) and the Special Purpose Examination (SPEX).

Dr. Schottenstein stated that there was also a discussion of evidence-based regulation. Dr. Schottenstein stated that the Louisiana State Board of Medical Examiners did a study and found that the less post-graduate training a physician had, the greater the risk that the physician would be the subject of a disciplinary action. The study also showed that licensees who are not board-certified are also at greater risk of disciplinary action. Dr. Schottenstein suggested that the Ohio Board examine its own data at some point to see if it matches the findings in Louisiana and, if so, to then consider adopting a stricter standard for how much training someone needs in order to get a full medical license.

Dr. Steinbergh commented that an interesting finding of the Louisiana study was that the risk of disciplinary action between those who completed two years of post-graduate training and those with only one year was not significant. Dr. Schottenstein agreed and noted interestingly that there was even some indication that those with two years were worse off than those with one year, though both these groups were worse off than those with three years. Dr. Rothermel stated that she and Dr. Saferin have discussed

this topic and feel that the Board should consider requiring three years of post-graduate training to get a full medical license.

Dr. Schottenstein stated that there was a presentation on assisted dying. Dr. Schottenstein stated that several states, including Oregon, California, Vermont, and Washington have statutes that allow physicians to assist terminally ill adults in ending their lives by prescribing lethal doses of medication. In Oregon, since 1998 there have been 12 letters of concern sent to the medical board but no disciplinary actions were taken. Also in Oregon, 1,145 patients had been prescribed lethal doses between 1998 and 2015, resulting in 991 patient deaths.

Dr. Schottenstein stated that the meeting also discussed the opioid crisis, telemedicine, license portability, continuing medical education, and the duty to report. Dr. Schottenstein stated that Dr. Steinbergh spoke about the case of Dr. Geiger in Ohio as it pertained to the duty to report.

The Board recessed at 12:50 p.m. and resumed at 1:40 p.m.

#### 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. Steinbergh and Dr. Schottenstein each wanted to discuss a probationary request separately.

#### NABILIA S. BABAR, M.D.

Dr. Steinbergh noted that Dr. Babar is requesting to be released early from the terms of her Consent agreement, a request that is not supported by the Secretary and Supervising Member. Dr. Schottenstein noted that Dr. Babar had recently made the same request, which was denied by the Board. Dr. Steinbergh stated that this request must be denied, but she felt that Dr. Babar will persist in her requests for early release. Dr. Steinbergh opined that Dr. Babar should appeal to Ohio Medicaid to resolve her issues. Dr. Steinbergh asked if the Board is able to permanently deny this request.

Ms. Marshall stated that there is no mechanism for the Board to permanently deny a probationary request. However, Ms. Marshall stated that the Board can make it clear in the minutes that no request for early release from probation will be approved. Ms. Marshall observed that when Dr. Babar's first request was considered by the Board, Dr. Schottenstein noted she was asking for early release for financial reasons and there was no compelling reason to release her. Mr. Giacalone also noted at that time that early release from probation would set a bad precedent.

Ms. Marshall suggested that if Dr. Babar persists with her requests for early release, the Board and point out that under the language of her Consent Agreement she cannot request termination for at least two years. Ms. Marshall stated that it is the Board staff's interpretation that a request to be released from all probationary terms is equivalent to asking for termination. Dr. Steinbergh agreed. Ms. Marshall further noted that each time Dr. Babar's request is denied, it is reported to the National Practitioner Databank.

#### ALY M. A. ZEWAİL, M.D.

Dr. Schottenstein noted that Dr. Zewail had been having a difficult time finding employment. Dr. Zewail's

probationary request is to approve the continuation of Dr. Zewail's Consent Agreement while he is residing in Louisiana. Dr. Schottenstein asked if Dr. Zewail has found employment in Louisiana. Ms. Jones replied and Dr. Zewail had found employment in Louisiana and has moved there. Dr. Schottenstein was very pleased the Dr. Zewail found employment.

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

- **To grant Devender K. Batra, M.D.'s request for release from the terms of the May 11, 2016 Consent Agreement.**

**Dr. Factora seconded the motion.** A vote was taken:

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

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

- **To deny Nabila S. Babar, M.D.'s request for early release from the terms of the February 10, 2016 Consent Agreement;**
- **To grant Casey D. Darrah, M.D.'s request for approval of Michael Apostolis, M.D., to serve as the new monitoring physician;**
- **To grant Jagprit S. Dhillon, D.O.'s request for discontinuance of the Vivitrol requirement;**
- **To grant Gary Allan Dunlap, D.O.'s request for approval of Gerald J. McKenna, M.D., to serve as the treating psychiatrist;**
- **To grant James T. Lutz, M.D.'s request for discontinuance of the psychiatric treatment requirement;**
- **To grant Maneesh L. Mehra, M.D.'s request for approval of David W. Stroom, M.D., to serve as the new treating psychiatrist;**

- To grant Jerry G. Purvis, Jr., M.D.'s request to make his final probationary appearance in July 2017, with the release to be effective after the Board's approval at the August 2017 meeting;
- To grant Srinivas Perugu Reddy, M.D.'s request for approval to continue under the terms of the March 12, 2014 Board Order while residing in Arizona; and approval of request to make personal appearances via electronic means;
- To grant Justin M. Rodebaugh, M.D.'s request for approval to continue under the terms of the November 4, 2015 Board Order while residing in Virginia;
- To grant Bernard J. Rose, M.D.'s request for permission to travel from Ohio to Michigan until October without prior permission;
- To grant Siraj A. Siddiqui, M.D.'s request for approval of Ajay Chawla, M.D., to serve as the new monitoring physician; and
- To grant Aly M. A. Zewail, M.D.'s request for approval of David W. Stroom, M.D., to serve as the new treating psychiatrist; approval of Dirk T. Rainwater, M.D., to serve as the monitoring physician; determination of the frequency and number of charts to be reviewed at 10 charts per month; and approval to continue under the terms of the December 14, 2016 Consent Agreement while residing in Louisiana.

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

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

#### FINAL PROBATIONARY APPEARANCES

##### JAMES E. BREIDENSTEIN, D.O.

Dr. Breidenstein was appearing before the Board pursuant to his request for release from the terms of his May 9, 2012 Consent Agreement. Dr. Soin reviewed Dr. Breidenstein's history with the Board.

Dr. Steinbergh asked if Dr. Breidenstein would address the medical residents in attendance regarding his situation. Dr. Breidenstein agreed. Dr. Breidenstein stated that while practicing as a family practitioner he

saw a new patient, a young woman who had been referred by another patient. The patient complained of back pain and, at Dr. Breidenstein's suggestion, she consented to osteopathic manipulation. During the treatment, the patient became "very sexual." The patient thrust her hips, made moaning sounds, and even briefly grabbed Dr. Breidenstein's buttocks. Dr. Breidenstein stated that he should have left the room or have a nurse come in as soon as this behavior began, but instead he continued with the treatment. At one point, the patient exposed her breasts and Dr. Breidenstein briefly touched her breasts for one or two seconds. At that time, Dr. Breidenstein went to his desk and began writing his notes as if nothing had happened.

Dr. Breidenstein continued that at the end of the visit, the patient asked him for a refill of her 10 mg Percocet, a strong narcotic, as well as an anxiolytic medication. As a new patient, Dr. Breidenstein had not yet received her prior medical records. Dr. Breidenstein commented that he very seldom prescribes narcotics, and never for the high doses that the patient was requesting. As the patient became very adamant that she needed the medication, Dr. Breidenstein finally agreed to prescribe Percocet at a lower dose than the patient was requesting and only a few tablets. Dr. Breidenstein also agreed to prescribe the anxiolytic medication, also at a lower dose than requested and only a few tablets. The patient seemed satisfied with this.

Dr. Breidenstein stated that the following day, the patient left a phone message saying that Dr. Breidenstein's prescription was not strong enough and she needed something stronger. Dr. Breidenstein refused the patient's request. The next business day, the patient came to the office teary-eyed and accused Dr. Breidenstein of molesting her. The patient again asked for stronger medication, and Dr. Breidenstein refused. Dr. Breidenstein eventually agreed to change the patient's Percocet to a different medication at a relatively low dose and a small number of tablets. Dr. Breidenstein also changed the anxiolytic medication in a similar fashion. The patient seemed satisfied with this and left.

Dr. Breidenstein stated that a week later, he received a letter from someone claiming to be the patient's attorney stating that Dr. Breidenstein had molested his client and that he would report him to the Medical Board and the police if he did not pay \$100,000. Dr. Breidenstein contacted his practice's attorney at that point. In the resulting investigation by the police and the Medical Board, Dr. Breidenstein shared his story but denied having touched the patient's breasts, but he eventually admitted to having touched her breasts briefly.

Dr. Breidenstein stated that he had made a mistake and he should have had someone come into the room with him and the patient. Dr. Breidenstein stated that when a physician makes a mistake, it hurts his or her patients, family, and profession. Dr. Breidenstein advised the residents to always have someone with them as a witness. Dr. Breidenstein also advised the residents that the practice of medicine can be very consuming and they must take good care of themselves by getting good sleep, having good eating and exercise habits, and taking vacation.

Mr. Giacalone noted that according to Dr. Breidenstein's Notice of Opportunity for Hearing, he had been convicted of offensive sexual contact with two female patients. Dr. Breidenstein explained that another woman came forward and claimed that he had touched her. Dr. Breidenstein stated that he had never touched this woman. Dr. Breidenstein stated that he pleaded guilty to this incident because his attorney advised him that pleading guilty to two incidents instead of one would not increase his sentence and he simply wanted the entire matter to go away.

Dr. Steinbergh asked if Dr. Breidenstein learned anything about himself following his psychiatric

evaluation. Dr. Breidenstein answered that he learned about the importance of boundaries in medicine, both physical boundaries and personal boundaries. Dr. Breidenstein stated that boundaries are for the protection of both the patient and the physician. Dr. Breidenstein commented that during that time he was in a very unhappy marriage which had had no intimacy for many years. Dr. Breidenstein further commented that he had not been taking good care of himself and was working 80 to 100 hours per week, not eating properly, and not exercising. Dr. Breidenstein stated that shortly after these events, he was diagnosed with severe sleep apnea. Dr. Breidenstein stated that he is not making excuses, but he opined that his defenses may have been down at that time.

Responding to further questions from Dr. Steinbergh, Dr. Breidenstein stated that for the past two years he has been working in a phase-one clinical trial center and he finds the work exciting because they are working on medications to help curb the opioid epidemic. Prior to that, Dr. Breidenstein worked in a laser hair removal center. Prior to that, Dr. Breidenstein was unemployed. Dr. Breidenstein stated that he would like to return to the practice of family medicine.

Dr. Breidenstein stated that he does not currently hold specialty-board certification and, to his understanding, he cannot be certified while there is any restriction on his license. Dr. Breidenstein commented that it is very difficult to find employment without board certification. Dr. Steinbergh noted that Dr. Breidenstein has a permanent restriction on his license requiring him to have a chaperone when interacting with female patients. Dr. Steinbergh stated that Dr. Breidenstein could appeal the specialty board's decision and note that the Medical Board already requires physicians to offer chaperones to patients and to provide one if requested. Mr. Giacalone noted that Dr. Breidenstein is also required to register as a sexual offender, and opined that this will be a bigger obstacle to future employment than the Board's license restriction. Mr. Giacalone further opined that, based on what Dr. Breidenstein pleaded guilty to, he was fortunate not to have his medical license revoked.

Dr. Schottenstein asked how Dr. Breidenstein is holding up under the stresses in his life. Dr. Breidenstein commented that his wife left him and he is currently battling cancer. However, Dr. Breidenstein's children and father are very supportive. Dr. Breidenstein is also engaged and is working through the visa process so that his fiancé can travel to the United States from Poland. Dr. Schottenstein asked if Dr. Breidenstein has sought help professionally beyond his psychiatric assessment. Dr. Breidenstein replied that he has not seen a psychiatrist except for the Board-ordered assessment and one follow-up visit, but he did see a psychologist on multiple visits.

Dr. Schottenstein commented that Dr. Breidenstein's story holds lessons all physicians to be vigilant with their patients. Dr. Schottenstein suspected that Dr. Breidenstein's patient had an agenda in going to see him. Dr. Schottenstein stated that the vast majority of patients are decent people, but physicians must be vigilant and be able to say "no" when asked to write prescriptions that they are not comfortable with.

**Dr. Steinbergh moved to release Dr. Breidenstein from the terms of his May 9, 2012 Consent Agreement, effective immediately. Dr. Schottenstein seconded the motion.** All members vote aye. The motion carried.

CLINTON J. CORNELL, P.A.

Mr. Cornell was appearing before the Board pursuant to his request for release from the terms of the Board's Order of October 14, 2015. Dr. Soin reviewed Mr. Cornell's history with the Board.

Dr. Steinbergh opined that Mr. Cornell wrote a very thoughtful report on his required educational courses and that she had learned a lot from it. Dr. Steinbergh asked about Mr. Cornell's current work. Mr. Cornell replied that after having his physician assistant license reinstated, he initially practiced at an urgent care group. Since Mr. Cornell had been excluded from Medicare, he was limited on what he could do. Mr. Cornell stated that he and a physician colleague began to discuss the concept of direct primary care and they ultimately formed a direct primary care practice. Mr. Cornell stated that he has been working at the direct primary care practice for about six months and it is going very well. Mr. Cornell stated that it is very different from the insurance-based fee-for-service model and he is able to spend an hour with a patient if he needs to. Dr. Steinbergh asked if Mr. Cornell intends to apply for a certificate to prescribe in the future. Mr. Cornell responded that he would like to apply for the certificate, though it has been nice not to have that issue to deal with.

Dr. Schottenstein noted that in his report on the ethics course, Mr. Cornell discussed the changes in the anti-kickback law which eliminated the requirement to show proof of intent. Dr. Schottenstein had a sense the Mr. Cornell felt that that would have made a difference in his case and that he had essentially been a victim of a miscarriage of justice. Mr. Cornell agreed with Dr. Schottenstein's statement. Mr. Cornell also wished that the training the he took recently had been available during his initial education as a physician assistant 17 years ago. Mr. Cornell stated that we are all responsible for the contracts we engage in and for being able to judge those we work with and work for, regardless of intent. Mr. Cornell commented that that was a hard lesson for him to accept.

**Dr. Steinbergh moved to release Mr. Cornell from the terms of the Board's Order of October 14, 2015, effective immediately. Dr. Schottenstein seconded the motion.** All members voted aye. The motion carried.

MICHAEL S. GRINBLATT, M.D.

Dr. Grinblatt was appearing before the Board pursuant to his request for release from the terms of his April 11, 2012 Consent Agreement. Dr. Sojn reviewed Dr. Grinblatt's history with the Board.

Responding to questions from Dr. Schottenstein, Dr. Grinblatt stated that he currently works in a private cardiology practice in Cleveland with two other partners. Dr. Grinblatt stated that he does some hospital work, but he mostly practices in the office. Dr. Grinblatt plans to continue with his current practice situation until he retires. Dr. Grinblatt stated that his recovery is going well and he has a strong recovery program and good relationship with his sponsor. Dr. Grinblatt stated that he does not currently have any sponsees, but has had sponsees in the past. Dr. Grinblatt stated that he has a great home group that includes reading from the 24-Hour-a-Day Book or Daily Reflections, followed by medication for 15 minutes.

Mr. Giacalone noted that Dr. Grinblatt first came to the Board's attention due to his abuse of cocaine and marijuana. Mr. Giacalone asked if Dr. Grinblatt would address the medical students and residents in attendance regarding his situation. Dr. Grinblatt agreed.

Dr. Grinblatt stated that he comes from a privileged background and was very successful in his medical practice. Consequently, Dr. Grinblatt felt entitled and he thought that since his patients included judges and police officers, he would be protected and that he did not have to follow any rules. Dr. Grinblatt stated that he got caught in a very self-centered lifestyle and felt that he deserved everything he got, including cocaine and marijuana.

Dr. Grinblatt continued that he learned the hard way that he does, in fact, have to follow the rules. Dr. Grinblatt stated that his behavior could have resulted in his death or, worse, he could have killed someone else. Dr. Grinblatt stated that his use of substances brought him to the Board, but it was his ego, pride, and privilege that brought him to the substances. Dr. Grinblatt encouraged the students and residents to have God, or some kind of spirituality, in their lives to help keep them on an even keel.

**Dr. Steinbergh moved to release Dr. Grinblatt from the terms of his April 11, 2012 Consent Agreement, effective immediately. Dr. Schottenstein seconded the motion.** All members voted aye. The motion carried.

BRIAN D. HESLER, M.D.

Dr. Hesler was appearing before the Board pursuant to his request for release from the terms of his May 9, 2012 Consent Agreement. Dr. Soin reviewed Dr. Hesler's history with the Board.

In response to questions from Dr. Soin, Dr. Hesler stated that he has left the field of anesthesiology altogether and is in re-training in psychiatry and addiction medicine. Dr. Hesler stated that he is entering the final year of his psychiatry residency as chief resident. Dr. Soin opined that Dr. Hesler made a very good decision to leave anesthesiology, where he would be tempted by his access to controlled substances. Dr. Steinbergh agreed.

Responding to questions from Dr. Steinbergh, Dr. Hesler stated that he is currently training in Chicago and he plans to stay in Chicago following his residency. Dr. Hesler stated that he has the support of his family in Chicago, as well as his home group. Dr. Hesler stated that his colleagues have also been very supportive of his recovery.

Mr. Giacalone asked if Dr. Hesler would address the medical students and residents in attendance regarding his situation. Dr. Hesler agreed. Dr. Hesler explained that in the beginning of his fourth year as an anesthesiology resident and senior resident, he was under a great deal of pressure and was not sleeping. While on call, Dr. Hesler attempted to nap in the on-call room but he could not sleep. Dr. Hesler had a vial of sevoflurane, an inhaled anesthetic, in his pocket and he decided to take a small amount to help him sleep. Fortunately, a fellow resident went to Dr. Hesler with a question and found him basically anesthetized. Following this event, Dr. Hesler took a leave of absence from his residency and entered the field of research. During that time, Dr. Hesler decided to change his career from anesthesiology to psychiatry.

Dr. Schottenstein, noting the high rate of relapsed among impaired physicians in anesthesiology, asked if there had been any consideration of a permanent limitation on Dr. Hesler's license restricting him from anesthesiology when his Consent Agreement was being negotiated. Dr. Hesler recalled that there was some discussion of such a limitation, but the psychiatrist who assessed Dr. Hesler opined that it was not necessary. Dr. Hesler opined that it was more meaningful that he made the decision to leave anesthesiology himself rather than being required to do so and perhaps holding resentment for the Board for that. Dr. Schottenstein asked if Dr. Hesler was ever on any medication like naltrexone. Dr. Hesler replied that he had been taking naltrexone for about two years as a precautionary measure, but he never felt any urges to use drugs.

**Dr. Steinbergh moved to release Dr. Hesler from the terms of his May 9, 2012 Consent Agreement,**

**effective immediately. Dr. Schottenstein seconded the motion.** All members voted aye. The motion carried.

ANTHONY M. RUFFA, D.O.

Dr. Ruffa was appearing before the Board pursuant to his request for release from the terms of his May 8, 2013 Consent Agreement. Dr. Soin reviewed Dr. Ruffa's history with the Board.

Dr. Ruffa asked if he could briefly address the Board. Dr. Ruffa expressed his appreciation for the Board, and particularly for Ms. Jones on the Compliance staff. Dr. Ruffa stated that Ms. Jones has been extremely responsive, efficient, and helpful throughout this difficult process. Dr. Ruffa thanked the Board for allowing him to enter into a voluntary probation so that he could practice in Conneaut, Ohio. Dr. Ruffa stated that in a 2-and-a-half-year period he built his new practice from nothing to 1,800 patients and, though he lives in Erie, Pennsylvania, he has been named Conneaut's only honorary citizen.

Dr. Schottenstein asked if Dr. Ruffa could share his story with the medical students and residents in attendance. Dr. Ruffa agreed. Dr. Ruffa explained that his son had a sarcoma right after Dr. Ruffa graduated from medical school. Dr. Ruffa's son had a bone marrow transplant at the age of 2 and was given a less than 1% chance of survival. Fortunately, Dr. Ruffa's son is alive today and is 26 years old.

Dr. Ruffa continued that he coped with his son's illness by working, and he worked five to six jobs and about 100 hours per week. Several years later, Dr. Ruffa went into a very severe depression. Dr. Ruffa stated that some of the people in the room probably suffer from depression and it is nothing to be ashamed about. Dr. Ruffa stated that depression is the largest disease in the world. Dr. Ruffa stated that he was able to get help and get on the right medications. Since that time, Dr. Ruffa has established his practice and taken a teaching position. Dr. Ruffa also currently works for a veteran's hospital and considered it a tremendous privilege to serve those in the military. Dr. Ruffa stated that people must have a spiritual base in life, whatever the faith or higher power. Dr. Ruffa commented that he personally is a Christian. Dr. Ruffa stated that a spiritual base not only helps physicians support themselves and their families, but also help with their patients. Dr. Ruffa stated that the students and residents should not hesitate to seek help if needed.

Dr. Schottenstein noted that Dr. Ruffa was initially diagnosed with depression instead of bipolar disorder. Dr. Schottenstein stated that it is very common to misdiagnose a bipolar patient with depression because they do not complain to their physicians about their high moods. However, if anti-depressants, which are designed to make one's mood higher, are prescribed to a person whose mood is already prone to being too high, it is akin to putting gasoline on a fire. Dr. Schottenstein commented that this is what Dr. Ruffa's experience was. Dr. Ruffa agreed that he was initially misdiagnosed with depression and prescribed anti-depressants, which made him hypomanic. Dr. Ruffa's hypomania was followed by a severe low. Dr. Ruffa stated that he was eventually diagnosed with bipolar disorder and put on appropriate medication. Dr. Ruffa stated that he learned that whenever a patient is tested for depression, they should also be tested for bipolar disorder.

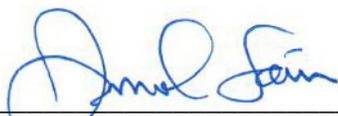
**Dr. Steinbergh moved to release Dr. Ruffa from the terms of his May 8, 2013 Consent Agreement, effective immediately. Dr. Schottenstein seconded the motion.** All members voted aye. The motion carried.

ADJOURN

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

Thereupon, at 2:45 p.m., the May 10, 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 May 10, 2017, as approved on June 14, 2017.



Amol Soin, M.D., President



Kim G. Rothermel, M.D., Secretary

(SEAL)

