

**MINUTES****THE STATE MEDICAL BOARD OF OHIO****June 14, 2017**

Amol Soin, M.D., President, called the meeting to order at 9:45 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: 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.; and Mark A. Bechtel, M.D. The following members did not attend: Robert P. Giacalone, Vice President; Richard Edgin, M.D.; and Ronan M. Factora, 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; Joseph Turek, Deputy Director for Licensure; Joan K. Wehrle, Education and Outreach Program Manager; Gary Holben, Operations Manager; Rebecca Marshall, Chief Enforcement Attorney; Mark Blackmer, Cheryl Pokorny, Angela McNair, James Roach, Gregory Tapocsi, and Kimberly Lee, Enforcement Attorneys; 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; Alexandra Murray, Managing Attorney for Standards Review, Experts, and Intervention; 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. Steinbergh moved to approve the draft minutes of the May 10, 2017, Board meetings, as written. Dr. Schottenstein seconded the motion. A vote was taken:**

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

The motion carried.

**APPLICANTS FOR LICENSURE**

**Dr. Steinbergh moved to approve for licensure, contingent upon all requested documents being received and approved in accordance with licensure protocols, the acupuncturist applicants listed in Exhibit "A," the anesthesiologist assistant applicants listed in Exhibit "B," the genetic counselor applicants listed in Exhibit "C," the massage therapist applicants listed in Exhibit "D,"**

**the Oriental medicine practitioner applicants listed in Exhibit “E,” the physician assistant applicants listed in Exhibit “F,” and the physician applicants listed in Exhibit “G,” as listed in the Agenda Supplement . Dr. Schottenstein seconded the motion. A vote was taken:**

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Dr. Schottenstein	- aye
	Dr. Steinbergh	- aye
	Dr. Soin	- aye
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye
	Dr. Schachat	- 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: Saul I. Blecher, M.D.; and Sean Patrick Hammond, L.M.T. A roll call was taken:

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

SAUL I. BLECHER, M.D.

Dr. Soin directed the Board's attention to the matter of Saul I. Blecher, M.D. No objections have been filed. Mr. Porter was the Hearing Examiner.

Dr. Soin stated that a request to address the Board has been filed on behalf of Dr. Blecher. However, the request was not filed in a timely manner. Therefore, the Board must determine whether to allow Dr. Blecher to address the Board.

**Dr. Steinbergh move to allow Dr. Blecher to address the Board. Dr. Schottenstein seconded the motion.** A vote was taken:

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

The motion carried.

Dr. Soin stated that five minutes will be allowed for Dr. Blecher's address.

Dr. Blecher told the Board that he has learned from his mistakes and errors in judgment. Dr. Blecher stated that he began taking corrective actions from the onset of the Board's investigation, including registering with and using the Ohio Automated Rx Reporting System (OARRS) and taking medical education courses in controlled substance prescribing and medical record-keeping. Dr. Blecher stated that he does not plan to prescribe controlled substances any longer unless there is an urgent situation.

Dr. Blecher asked the Board, when deciding on its disciplinary action, to consider that he has not practiced family medicine for nine months. Dr. Blecher further stated that if his ability to prescribe controlled substances is permanently limited then it will be very difficult for him to find a position as a family practice physician, even if he does not intend to prescribe controlled substances, since most

employers will not consider someone who has any restrictions on their license. Dr. Blecher also noted that he is currently certified to prescribe buprenorphine to treat opiate addiction and he would like to continue to do so following his suspension.

Dr. Blecher asked the Board for guidance regarding what activities he would be permitted to engage in when his medical license is under suspension. Specifically, Dr. Blecher asked if he would be able to 1) teach medical professionals and/or patients without performing direct hands-on care, prescribing, or making treatment decisions, 2) perform duties in a medical office that are permitted to be done by non-licensed individuals, such as giving free consultations to prospective patients and explaining what is done at the hormone replacement center, or 3) review medical histories with patients for documentation in their medical record.

Dr. Soin asked if the Assistant Attorney General wished to respond. Mr. Wilcox stated that he did not wish to respond.

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

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

Dr. Bechtel stated that this case involves Dr. Blecher's care of nine patients and his use of controlled substances for weight reduction and treatment of intractable pain, as well as Dr. Blecher's failure to utilize the Ohio Automated Rx Reporting System (OARRS). Dr. Bechtel stated that from 2002 to September 2016, Dr. Blecher worked as a primary care physician in northern Kentucky. Dr. Blecher also worked from March 2009 to late 2016 at Nova HRT (Hormone Replacement Therapy) in Fairfield, Ohio, and this is where his treatment of the nine patients occurred. Dr. Bechtel noted that Dr. Blecher resigned from Nova HRT in late 2016 when he informed his employers that he was being investigated by the Medical Board. Dr. Bechtel also noted that Dr. Blecher was the subject of a prior action by the Board when he was reprimanded based upon an action taken by the New York State Office of Professional Medical Conduct. Dr. Bechtel stated that he is not aware of what violation occurred in New York which led to that action.

Dr. Bechtel stated that from 2005 to August 2015 Dr. Blecher was involved in the care of Patients 1, 3 through 7, and 9, with a primary focus on weight loss. Dr. Bechtel made the following observations on Dr. Blecher's treatment of these patients:

- Dr. Blecher failed to document adequate patient histories, physical examinations, review of previous medical records, or whether the patients had made good-faith efforts to lose weight through exercise and caloric restriction.
- Dr. Blecher failed to document that the patients were free of signs of drug or alcohol abuse.
- Dr. Blecher failed to document any potential contraindications to the use of controlled substances.
- In Patients 5 through 7 and 9, Dr. Blecher failed to determine if the patient had a body mass index (BMI) of at least 30, or at least 27 with comorbidities.
- In Patients 1, 3, 6, and 9, Dr. Blecher failed to meet face-to-face with the patients at least once every 30 days, as required by the Board's rules.

- In Patients 1, 3, 4, and 9, Dr. Blecher prescribed Adipex, a Schedule IV medication for weight loss, for more than 12 weeks.
- Dr. Blecher failed to discontinue Adipex for Patient 3 after it was thought that the patient may be taking the drug inappropriately. Dr. Blecher also failed to discontinue Adipex after a patient failed to show evidence of weight loss from the treatment.
- Patient 6, who was being prescribed Adderall by her psychiatrist, asked Dr. Blecher to prescribe her Adderall and take over that portion of her care. Dr. Blecher agreed to prescribe Adderall without contacting Patient 6's psychiatrist or reviewing records.

Dr. Bechtel stated that Dr. Blecher's treatment of the weight-loss patients show a trend of failure to document, failure to review records of previous treatment, failure to follow guidelines, and extending care beyond the time indicated.

Dr. Bechtel continued that Dr. Blecher also treated Patients 2, 7, and 8 for chronic pain between January 2007 and July 2015. Dr. Bechtel made the following observations concerning Dr. Blecher's treatment of these pain patients:

- Dr. Blecher failed to perform adequate histories or physical examinations, failed to establish a medical diagnosis for treatment, failed to document individualized treatment plans, failed to have the patients evaluated by a specialist, and failed to review previous treatment records.
- Dr. Blecher treated patients with methadone without documenting diagnostic studies or reviewing previous records.
- Dr. Blecher did not document a diagnosis for Patient 7 until the Medical Board and the Board of Pharmacy began investigating, whereupon a diagnosis of chronic back pain was documented. Again, Dr. Blecher did not document diagnostic studies, a history, or a physical examination for Patient 7.
- Dr. Blecher treated Patient 8's chronic back pain with opioids, along with prescribing of methadone.
- Dr. Blecher treat Patient 2 with methadone in the hopes of treating both his chronic pain and his previous history of addiction to Vicodin. Dr. Bechtel noted that Dr. Blecher is not certified to prescribe methadone for addiction purposes.

Dr. Bechtel stated that, again, Dr. Blecher exhibited a trend of failure to obtain adequate histories, perform physical examinations, or review previous records. In addition, there are multiple examples of Dr. Blecher failing to document his prescribing of controlled substances or evaluating OARRS. Dr. Blecher testified that he has no formal training in pain management or weight loss and that he is not certified to prescribe methadone for addiction treatment.

Dr. Bechtel stated that it is important for the Board to consider the remedial measures that Dr. Blecher has taken. Dr. Bechtel noted that Dr. Blecher registered for OARRS immediately after being investigated by the Board. Dr. Blecher has also taken intensive courses in medical record-keeping and controlled substance prescribing from Case Western Reserve University. Dr. Bechtel stated that Dr. Blecher seemed remorseful, honest, and open in his testimony. Dr. Blecher has indicated that he would like to continue practice medicine and to avoid any permanent restrictions on his ability to prescribe.

Dr. Bechtel stated that Dr. Blecher has violated multiple laws and Board rules, as shown in the Hearing Examiner's Report and Recommendation. In light of the mitigating factors, the Proposed Order will not permanently revoke Dr. Blecher's medical license. Instead, the Proposed Order will suspend Dr. Blecher's license for a minimum of one year, followed by at least three years of probationary terms, including requirements for a Board-approved practice plan and monitoring physician. The Proposed Order would also permanently restrict Dr. Blecher from prescribing, ordering, administering, or furnishing controlled substances.

Dr. Steinbergh stated that she, like Dr. Blecher, is a primary care physician. Dr. Steinbergh expressed surprise at the number of times Dr. Blecher recertified with the American Board of Family Medicine during the time period that he was practicing and prescribing inappropriately. Dr. Steinbergh also opined that Dr. Blecher fits the criteria of a physician who can be remediated, as shown by his efforts to recertify and to proactively take courses in prescribing and record-keeping. However, Dr. Steinbergh stated that there are consequences for such behavior and that the Board has very good reason to permanently limit Dr. Blecher's prescribing authority.

Regarding Dr. Blecher's questions about what activities he can engage in while his license is suspended, Dr. Steinbergh stated that Dr. Blecher will not be able to practice medicine or do anything that requires his medical degree. Dr. Steinbergh elaborated that Dr. Blecher cannot go into a medical office, take a history, interface with patients or his staff, or do anything that he would do as a licensed physician. Dr. Steinbergh stated that Dr. Blecher would be able to teach, provided that the position does not require him to be licensed physician. Dr. Steinbergh opined that the Board's staff should review the Order with Dr. Blecher since he does not have counsel. Dr. Steinbergh recommended that Dr. Blecher review and understand the Ohio Medical Practices Act. Dr. Steinbergh also recommended that Dr. Blecher review the new rules regarding opioid prescribing, even though he will be restricted from prescribing those medications. Dr. Steinbergh stated that she supports the Proposed Order.

Dr. Schottenstein stated that the exhibits and the Board's Notice of Opportunity for Hearing had given him the impression of someone who was not practicing medicine. Dr. Schottenstein stated that, given the absence of informed consent, physical examinations, diagnoses, treatment plans, documentation of progress, OARRS checks, documentation of controlled substance prescriptions, referrals to specialists, and diagnostic testing, as well as the treatment of addiction with methadone, Dr. Schottenstein had been concerned that this was a pill mill situation or that there was a lack of competency to practice medicine. Dr. Schottenstein stated that he had wondered whether Dr. Blecher could be remediated. However, Dr. Schottenstein continued the Report and Recommendation, the testimony, and the exhibits, have address these concerns. Dr. Schottenstein opined that this was not a pill mill situation and that there is not a competency issue preventing Dr. Blecher from practicing medicine.

Dr. Schottenstein stated that Dr. Blecher had a substantial lack of knowledge of the rules for weight loss and the treatment of chronic pain. Dr. Schottenstein stated that Dr. Blecher was never formally educated in these areas and it had been his responsibility to educate himself more substantially if he intended to treat these serious issues. Dr. Schottenstein stated that Dr. Blecher took responsibility for his actions, did not make excuses, and expressed remorse in his testimony. Dr. Schottenstein opined that Dr. Blecher was truthful when he testified that he did not sell or give away controlled substances, that he had not intended to violate Ohio rules or laws, that his lack of documentation was not an attempt to deceive, and that he had felt that his prescriptions had been for legitimate medical reasons. Dr. Schottenstein also noted that Dr. Blecher essentially admitted to all the allegations in the Notice of Opportunity for Hearing.

Dr. Schottenstein opined that the Proposed Order is fair and reasonable. Dr. Schottenstein noted Dr. Blecher's testimony that he would prefer to practice without prescribing controlled substances and that is too difficult to keep track of the prescribing guidelines. Dr. Schottenstein also opined that the Proposed Order is reasonable because one could make a case for permanent revocation of Dr. Blecher's medicine license.

Dr. Schachat asked for clarification of what activities Dr. Blecher could engage in while his license is under suspension, noting that it is not unusual for technicians and medical assistants to take a patient history that is later reviewed by a physician. Ms. Anderson opined that Dr. Steinbergh had given a good description earlier of what could be under while a license was suspended. Ms. Anderson stated that the Board's Compliance Section can offer further guidance to Dr. Blecher on this question.

Dr. Steinbergh commented that when a physician walks into a medical office, the perception is that he is the physician. Dr. Steinbergh opined that as a physician, Dr. Blecher would not be able to take a patient history without giving an opinion or leaving the impression that he is the physician. Dr. Steinbergh opined that while his medical license is suspended, Dr. Blecher will have to walk away from his office and not be there. Dr. Schachat noted that it is not unusual for foreign medical graduates who are medically licensed outside Ohio to work as a technician or a research coordinator in Ohio without seeing patients. Dr. Schachat stated that such individuals are working as non-medical doctors. Dr. Steinbergh agreed that a non-licensed physician could work in research that does not require any clinical care or teach anatomy or physiology in college. Dr. Steinbergh stated that the key is to avoid any sort of clinical care. Dr. Steinbergh stated that the Board staff can provide further guidance to Dr. Blecher on this matter.

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

The motion to approve carried.

SEAN PATRICK HAMMOND, L.M.T.

Dr. Soin directed the Board's attention to the matter of Sean Patrick Hammond, L.M.T. No objections have been filed. Ms. Blue was the Hearing Examiner.

**Dr. Steinbergh moved to approve and confirm Ms. Blue's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Sean Patrick Hammond, L.M.T. Dr. Schottenstein seconded the motion.**

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

Dr. Schachat stated that Mr. Hammond was initially licensed as a massage therapist in 2012, but that license is currently suspended. In May 2016, Mr. Hammond was indicted for a controlled substance violation involving oxycodone and he ultimately pleaded guilty to one possession count. Mr. Hammond was granted intervention in lieu of conviction and was placed on probation for one year. In September 2016 Mr. Hammond was indicted on an aggravated possession charge related to fentanyl. Mr. Hammond pleaded guilty to this charge in November 2016 and he was sentenced to 18 months of community control.

Dr. Schachat continued that at his hearing, Mr. Hammond testified that he first used marijuana at the age of 14. At age 25, Mr. Hammond switched to opiates for pain management problems and this led to his addiction issues. Dr. Schachat stated the one pill of oxycodone was found in Mr. Hammond's car during a traffic stop. Dr. Schachat stated that Mr. Hammond later began using heroin because it was less expensive than oxycodone pills. In November 2016, Mr. Hammond overdosed on carfentanil and was revived. Mr. Hammond went to jail for two weeks and then entered a treatment program.

Dr. Schachat stated that, according to his testimony, Mr. Hammond's sobriety date is November 14, 2016 and his recovery is going well. Mr. Hammond further testified that he intends to continue attending Narcotics Anonymous (NA) and Alcoholics Anonymous (AA) meetings. Mr. Hammond has indicated that he is willing to work with the Board to prove his sobriety, though he is concerned about the cost of monitoring.

Dr. Schachat stated that he agrees with the Proposed Order, which would fine Mr. Hammond \$500 and suspend his massage therapy license for an indefinite period with standard monitoring requirements. Dr. Schachat noted that the fine of \$500 is considerably lower than the minimum provided by the Board's guidelines. Mr. Hammond would be able to apply for reinstatement or restoration of his license once he can demonstrate compliance with the Order and his ability to resume practice, whereupon a period of probation would begin.

Mr. Kenney questioned why the proposed fine, as noted by Dr. Schachat, is lower than what would be indicated from the Board's guidelines. Dr. Schottenstein stated that he also questioned the fine amount. Dr. Schottenstein noted, based on previous cases that have involved massage therapists, that there seems to be a determination that \$500 is a legitimate standard fine for massage therapists. Mr. Kenney commented that the Board's guidelines determine legitimate minimum, maximum, and standard fines.

Mr. Kenney speculated that \$500 may have become a standard fine for massage therapists because of the conception that members of that profession generally cannot afford a higher fine. However, Mr. Kenney stated that affordability has nothing to do with the Board's fines because the Board does not know respondents' financial situations. Mr. Kenney suggested, based on the Board's guidelines, that a fine of \$3,000 would be appropriate in this case.

**Mr. Kenney moved to amend the Proposed Order to change the fine to \$3,000. Dr. Steinbergh seconded the motion.** A vote was taken:

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

Mr. Gonidakis	- aye
Mr. Kenney	- aye
Dr. Schachat	- nay
Dr. Bechtel	- aye

The motion to amend carried.

**Dr. Steinbergh moved to approve and confirm Ms. Blue's Findings of Fact, Conclusions of Law, and Proposed Order, as amended, in the matter of Sean Patrick Hammond, L.M.T. Dr. Schottenstein seconded the motion. A vote was taken:**

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

The motion to approve carried.

Ms. Anderson commented for purposes of clarification that the Board only amended the amount of the fine in the Proposed Order and left the rest of the Proposed Order stand. The Board agreed.

#### 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. Bashir.

#### JAVOID MOHAMMAD BASHIR, M.D.

**Dr. Steinbergh moved to find that the allegations as set forth in the October 14, 2015 Notice of Opportunity for Hearing in the matter of Dr. Bashir have been proven to be true by a preponderance of the evidence and to adopt Ms. Blue's Proposed Findings and Proposed Order. Dr. Schottenstein seconded the motion.**

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

Dr. Steinbergh briefly reviewed Dr. Bashir's medical education and career, noting that his Ohio medical license expired in July 2013. Dr. Steinbergh stated that the Board has alleged that on April 10, 2015, the Michigan Medical Board revoked Dr. Bashir's medical license in that state and fined him \$50,000. The

Michigan Board's action was based on Dr. Bashir's September 17, 2014 conviction for Conspiracy to Pay and Receive Healthcare Kickbacks, in violation of federal law. The Board further alleged that the Virginia Board of Medicine suspended Dr. Bashir's privilege to renew his medical license in that state, based on the action taken in Michigan.

Dr. Steinbergh reviewed the factual basis of Dr. Bashir's guilty plea and conviction. In or about September 2010 Dr. Bashir entered into an agreement with a pharmacist who owned and controlled multiple pharmacies in the Detroit, Michigan, area. Dr. Bashir agreed to refer prescriptions to the pharmacies in exchange for a monthly cash kickback. The pharmacist made such payments, directly or indirectly, to Dr. Bashir on a regular basis between September 2010 and August 2011, when the pharmacist was arrested in connection with this case. As a result of their illegal kickback relationship, Dr. Bashir caused an improper gain of approximately \$180,000, funded by Medicare program, to be conferred upon the pharmacist's criminal organization. The U.S. District Court sentenced Dr. Bashir to 24 months of probation and ordered him to pay a \$100 assessment and \$180,000 in restitution.

Dr. Steinbergh stated that the Proposed Order is to permanently revoke Dr. Bashir's Ohio medical license. Dr. Steinbergh, noting that Dr. Bashir had the ability to regain his Michigan license and may be able to regain his Virginia license, stated that she had considered whether to support permanent revocation or non-permanent revocation. However, Dr. Steinbergh expressed great concern about the amount of narcotics the pharmacy organization was distributing, including Schedule II drugs by oxycodone, Schedule III hydrocodone, Schedule IV benzodiazepines, and Schedule V cough syrups with codeine. Dr. Steinbergh was not certain if the prescriptions sent by Dr. Bashir involved controlled substances. However, because of the fact that Dr. Bashir was referring patients to this pharmacy and must have known what the organization was doing, she saw Dr. Bashir as essentially an arm of the organization. Therefore, Dr. Steinbergh supported the Proposed Order of permanent revocation.

Dr. Schottenstein commented that he also supported the Proposed Order, based on Dr. Bashir's egregious behavior.

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
	Dr. Soin	- aye
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye
	Dr. Schachat	- aye
	Dr. Bechtel	- abstain

The motion to approve carried.

JOSHUA LENNON BROWN, D.O.

**Dr. Schottenstein moved to find that the allegations as set forth in the September 14, 2016 Notice of Opportunity for Hearing in the matter of Dr. Brown have been proven to be true by a preponderance of the evidence and to adopt Ms. Blue's Proposed Findings and Proposed Order.**

**Mr. Gonidakis seconded the motion.**

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

Dr. Soin briefly reviewed Dr. Brown's medical education and career. Prior to the Board's summary suspension of his training certificate, he was a third-year obstetrics and gynecology resident in Columbus, Ohio. Dr. Brown began using methamphetamine and gamma-hydroxybutyric acid (GHB) after trying both drugs at a party in January 2015. Within approximately one month from that date, according to Dr. Brown, he began consuming both methamphetamine and GHB daily either when he first woke up or after returning home from work. Dr. Brown further admitted that his drug use caused him to arrive late for work and, as a result, he was referred to his employer's physician health program, at which time he disclosed his drug use.

Dr. Soin continued that in April 2016, Dr. Brown began treatment for chemical dependency at Shepherd Hill Hospital and he completed the treatment in June 2016. However, Dr. Brown relapsed on methamphetamine and GHM a few days after his release and he was readmitted to Shepherd Hill Hospital on about June 13, 2016 for further inpatient treatment. Dr. Brown was released a second time on or about July 28, 2016 and he began intensive outpatient treatment at that time. Dr. Brown relapsed a second time on methamphetamine and GHB on or about August 8, 2016.

Dr. Soin stated that, as the evidence shows, Dr. Brown failed to successfully complete the recommended course of treatment at Shepherd Hill and is impaired in his ability to practice medicine according to acceptable and prevailing standards of care. The Hearing Examiner agreed with Richard Whitney, M.D., of Shepherd Hill, that because Dr. Brown never completed his treatment, he was never in true recovery. Therefore, this should be considered a continuation of Dr. Brown's initial impairment and not a relapse. Accordingly, the Hearing Examiner's Proposed Order is revocation of Dr. Brown's training certificate. Dr. Soin stated that it is possible that Dr. Brown will reenter inpatient treatment in the future and successfully complete it.

Dr. Schottenstein stated that he agrees with the Proposed Order. Dr. Schottenstein noted that the record indicates a history of clinical depression. Dr. Schottenstein stated if Dr. Brown ever reapplies for licensure, it would be preferable for him to have psychiatric care and counseling in place in addition to demonstration of prolonged sobriety and commitment to a substance abuse treatment program. Dr. Schottenstein added that it would also be beneficial to see letters from mental health professionals attesting to Dr. Brown's fitness to practice. Dr. Schottenstein commented that treatment of the comorbid mental health issue should significantly improve Dr. Brown's odds of maintaining his sobriety. Dr. Soin agreed with Dr. Schottenstein's comments.

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

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

Dr. Bechtel - aye

The motion to approve carried.

CALLIE YIP, L.M.T.

**Dr. Steinbergh moved to find that the allegations as set forth in the September 14, 2016 Notice of Opportunity for Hearing in the matter of Ms. Yip have been proven to be true by a preponderance of the evidence and to adopt Ms. Blue's Proposed Findings and Proposed Order. Dr. Schottenstein seconded the motion.**

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

Mr. Kenney stated that the allegations against Ms. Yip are based on a felony conviction. In June 2014 Ms. Yip pleaded No Contest to, and was found guilty of, Complicity to Commit Extortion. Ms. Yip was sentenced to 18 months in prison, ordered to pay restitution, and was placed on post-release control for three years. Ms. Yip disclosed her conviction on her application to renew her massage therapy license, submitted in November 2015. On her renewal application, Ms. Yip denied that she was guilty and stated that when her new roommate did not pay his share of rent, a friend took matters into his own hands. Regardless, Mr. Kenney stated that Ms. Yip was found guilty in a court of law.

Mr. Kenney stated that Ms. Yip's offense had nothing to do with the practice of massage therapy and there are no allegations of harm to patients. Mr. Kenney further stated that Ms. Yip has paid her debt to society through the court. Mr. Kenney disagreed with the Proposed Order of permanent revocation and opined that a non-permanent revocation would be more appropriate. Mr. Kenney commented that, if his proposed amendment is accepted, Ms. Yip should not apply for another license for at least six months.

**Mr. Kenney moved to amend the Proposed Order to a revocation of Ms. Yip's license to practice massage therapy in Ohio. Mr. Gonidakis seconded the motion.**

Dr. Schottenstein stated that he would have been glad to hear any mitigating circumstances if Ms. Yip had been inclined to request a hearing in order to testify or provide additional facts in the statement she included with her renewal application. However, Ms. Yip did not request a hearing or present any defense of herself, and Dr. Schottenstein found her statement to be underwhelming. Dr. Schottenstein expressed concern about the severity of the allegation against Ms. Yip. Consequently, Dr. Schottenstein agreed with the Proposed Order of permanent revocation.

Mr. Kenney stated that he had had the same thoughts expressed by Dr. Schottenstein. Nevertheless, Mr. Kenney opined that if Ms. Yip's actions did not put patients at risk and she has fulfilled the requirements of the courts, then it should not be an issue for the Board. Mr. Kenney acknowledged, however, the Ms. Yip did commit a felony. Mr. Kenney also agreed that Ms. Yip should have responded to the Board's Notice of Opportunity for Hearing.

Dr. Steinbergh agreed with Dr. Schottenstein's comments. Dr. Steinbergh stated that, because Ms. Yip did not request a hearing to defend herself or present all the evidence, the only thing the Board can base its decision on is Ms. Yip's felony conviction. Dr. Steinbergh stated that there is not enough evidence to support the notion that Ms. Yip is an ethical and moral individual. Dr. Steinbergh further noted that the Medical Board is obligated to protect the patient. Dr. Steinbergh commented that if her massage therapy

license was important to her, Ms. Yip should have come to a hearing and presented evidence. Dr. Steinbergh stated that she does not have enough evidence to say whether Ms. Yip is appropriate to practice massage therapy in Ohio. Dr. Steinbergh opined that Ms. Yip should not practice without coming to a hearing. Dr. Steinbergh supported the Proposed Order of permanent revocation.

Mr. Kenney stated that he agrees with Dr. Steinbergh's thoughts. However, Mr. Kenney noted that there is also not enough evidence to indicate that Ms. Yip is not appropriate to practice massage therapy. Mr. Kenney reiterated his view that Ms. Yip has already been punished for her actions. Mr. Kenney commented that he does not agree with permanent revocation, but he does agree with Dr. Steinbergh and Dr. Schottenstein in principle.

Dr. Steinbergh stated that an Order could be crafted that would suspend Ms. Yip's license and establish stipulations for reinstatement, such as providing certain documentation. Ms. Anderson agreed that the Board could issue such an Order, though it typically does not for a Proposed Finding and Proposed Order. Mr. Kenney could not see how the Board could require such documentation as a condition for practice. Dr. Steinbergh asked if the Board could require Ms. Yip to make a presentation before the Board or to attend a hearing. Ms. Anderson replied that the Board cannot require someone to ask for a hearing.

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

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

The motion to amend carried.

**Mr. Kenney moved to find that the allegations as set forth in the September 14, 2016 Notice of Opportunity for Hearing in the matter of Ms. Yip have been proven to be true by a preponderance of the evidence and to adopt Ms. Blue's Proposed Findings and Proposed Order, as amended. Mr. Gonidakis seconded the motion.** A vote was taken:

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

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

Mr. Taylor stated that if the Board wished to continue discussion of this matter, the original Proposed Order should be placed back before the Board to be either approved or amended.

**Dr. Schottenstein moved to find that the allegations as set forth in the September 14, 2016 Notice of Opportunity for Hearing in the matter of Ms. Yip have been proven to be true by a preponderance of the evidence and to adopt Ms. Blue's Proposed Findings and Proposed Order. Dr. Steinbergh seconded the motion.** A vote was taken:

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

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

**Dr. Steinbergh moved to table the matter of Callie Yip, L.M.T. Mr. Gonidakis seconded the motion.** All members voted aye. The motion carried.

#### FINDINGS, ORDERS, AND JOURNAL ENTRIES

Dr. Soin stated that in the following matter, the Board issued a Notice of Opportunity for Hearing, and documentation of Service was received. There was no timely request for hearing filed, and more than 30 days have elapsed since the mailing of the Notice. This matter is therefore before the Board for final disposition. This matter is disciplinary in nature, and therefore the Secretary and Supervising Member may not vote. In this matter, Dr. Rothermel served as Secretary, Dr. Saferin served as Supervising member, and Dr. Bechtel served as Secretary and/or Supervising Member.

#### THOMAS DOUGLAS MURRAY, M.D.

Dr. Soin stated that on January 11, 2017, the Board issued a Notice of Opportunity for Hearing to Dr. Murray stating that the Medical Board intended to consider disciplinary action regarding his license to practice medicine in Ohio. On or about August 13, 2016, in the United States District Court for the District of New Mexico, Dr. Murray pled guilty to two felony counts of Possession of a Matter Containing Visual Depictions of Minors Engaging in Sexually Explicit Conduct. On or about October 5, 2016, Dr. Murray was sentenced to 24 months of incarceration and seven years of probation, and he is required to register with state and federal sex offender/child offender databases.

**Dr. Steinbergh moved to find that the allegations set forth in the January 11, 2017 Notice of Opportunity for Hearing have been proven to be true by a preponderance of the evidence, and to enter an Order, effective immediately, permanently revoking Dr. Murray's license to practice medicine and surgery in Ohio. Dr. Schottenstein seconded the motion.** A vote was taken:

ROLL CALL:

Dr. Rothermel	- abstain
Dr. Saferin	- abstain
Dr. Schottenstein	- aye
Dr. Steinbergh	- aye
Dr. Soin	- aye
Mr. Gonidakis	- aye
Mr. Kenney	- aye
Dr. Schachat	- 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
Dr. Steinbergh	- aye
Dr. Soin	- aye
Mr. Gonidakis	- aye
Mr. Kenney	- aye
Dr. Schachat	- 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, the Assistant Attorneys General, Ms. Murray, Mr. DePew, Ms. Moore, and Mr. Taylor in attendance.

The Board returned to public session.

#### EXECUTIVE SESSION

**Dr. Saferin moved to go into Executive Session for the purpose of preparing for, conducting, or reviewing negotiations or bargaining sessions with public employees concerning their compensation or other terms and conditions of their employment; and to consider the appointment, employment, dismissal, discipline, promotion, demotion, or compensation of a public employee or official. Dr. Steinbergh seconded the motion. A vote was taken:**

ROLL CALL:

Dr. Rothermel	- aye
Dr. Saferin	- aye

Dr. Schottenstein - aye  
Dr. Steinbergh - aye  
Dr. Soin - aye  
Mr. Kenney - aye  
Dr. Schachat - 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 and Ms. Loe initially in attendance. Mr. Groeber and Ms. Loe exited the meeting during the Executive Session.

The Board returned to public session.

The Board took a recess at 12:10 p.m. and resumed at 1:05 p.m.

#### PROPOSED FINDINGS AND PROPOSED ORDERS

##### CALLIE YIP, L.M.T.

**Dr. Steinberg moved to remove the matter of Callie Yip, L.M.T., from the table. Dr. Schottenstein seconded the motion.** All members voted aye. The motion carried.

Ms. Anderson stated that since the Board discussed the matter of Ms. Yip, it has been discovered that some of the evidence in the case that should have been presented to the Hearing Examiner was not provided. Therefore, Ms. Anderson asked the Board to remand this matter back to the Board's Hearing Unit so that the additional evidence can be considered by the Hearing Examiner.

**Dr. Steinbergh moved to remand the matter of Callie Yip, L.M.T., to the Hearing Unit. Dr. Schottenstein seconded the motion.**

Mr. Gonidakis asked if Ms. Yip will receive notification that this case has been remanded back to the Hearing Unit. Ms. Anderson replied that Ms. Yip would not be notified because the Board is not issuing a new citation and she never requested a hearing on the initial citation. Mr. Gonidakis opined that it would be appropriate to notify Ms. Yip that the Board will consider this case again in the future with additional evidence. Ms. Anderson stated that the way the Board communicates with respondents is through the Notice of Opportunity for Hearing, which has already been sent. Ms. Anderson further stated that the time for Ms. Yip to request a hearing based on the Notice of Opportunity for Hearing has passed. Ms. Anderson stated that, absent a request for a hearing, the Board does not send notice to respondents regarding the consideration of their case, though the matter is listed on the Board's public agenda. Ms. Anderson stated that the Board will notify Ms. Yip when the Board issues its Order, and Ms. Yip will have the right to appeal that Order to the courts if she so chooses.

Mr. Gonidakis reiterated his opinion that Ms. Yip should be notified of the Board's future consideration of her case based on additional evidence. Mr. Gonidakis observed that the Board's previous discussion of Ms. Yip focused a good deal on the fact that Ms. Yip had not requested a hearing and was not present at the meeting, yet Ms. Yip cannot be present at the Board's future consideration if she is not notified. Ms.

Anderson agreed and stated that that fact remains unchanged. Mr. Gonidakis asked if Ms. Yip could have requested a hearing or presented evidence had she been present today when the Board was unable to decide on an Order. Ms. Anderson replied that Ms. Yip would not have been able to do so for jurisdictional reasons.

Dr. Steinbergh stated that she understands Mr. Gonidakis' position. Dr. Steinbergh expressed concern that the Board had not received all the evidence that it should have in this case. Dr. Steinbergh commented that the Board's process in this regard must be improved, noting that this is not the first time this has happened. Dr. Steinbergh stated that this is something that should not happen. Ms. Anderson agreed.

Dr. Schottenstein noted for clarification that the failure to provide certain information was an oversight and not an intentional withholding of information. Ms. Anderson agreed and reiterated that the Board's staff only realized a few moments ago that this had happened. Ms. Anderson stated that the staff will systematically review this process to ensure that it does not happen again.

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

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

The motion to remand carried.

#### RATIFICATION OF SETTLEMENT AGREEMENTS

##### STEPHEN BERNIE, M.D. – PERMANENT SURRENDER OF CERTIFICATE TO PRACTICE MEDICINE AND SURGERY

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

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

The motion to ratify carried.

**C.P.C., M.D. – PERMANENT SURRENDER OF CERTIFICATE TO PRACTICE MEDICINE AND SURGERY**

**Dr. Schottenstein moved to ratify the Proposed Consent Agreement with C.P.C., M.D. Mr. Gonidakis seconded the motion.**

Dr. Steinbergh stated that she intends to vote against this proposed Consent Agreement. Dr. Steinbergh opined that the Board should not accept the permanent surrender of a training certificate for an impairment issue. Dr. Steinbergh opined that this individual should have the opportunity to return to medicine following proper treatment.

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

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

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

**RENATO F. DELA CRUZ, M.D. – CONSENT AGREEMENT**

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

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

The motion to ratify carried.

**MAHENDRA KUMAR MAHAJAN, M.D. – PERMANENT SURRENDER OF CERTIFICATE TO PRACTICE MEDICINE AND SURGERY**

**Dr. Steinbergh moved to ratify the Proposed Permanent Surrender with Dr. Mahajan. Dr.**

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

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

The motion to ratify carried.

ABDUL M. ORRA, D.O. – CONSENT AGREEMENT

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

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

The motion to ratify carried.

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

Ms. Marshall briefly reviewed the proposed citations. Dr. Steinbergh asked what happens when the Board cites a physician who is outside of the United States. Ms. Marshall answered that if a physician's address of record is outside the United States, then the Notice of Opportunity for Hearing is sent via international registered mail; if service cannot be achieved, notices will be published in periodicals in the area of the address of record.

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

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

ROLL CALL:

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

The motion to approve carried.

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

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

ROLL CALL:

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

The motion to approve carried.

**Dr. Steinbergh moved to send the Notice of Immediate Suspension and Opportunity for Hearing to William George Paloski, D.O. Dr. Schottenstein seconded the motion.** A vote was taken:

ROLL CALL:

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

The motion to send carried.

**Dr. Steinbergh moved to send the Notices of Opportunity for Hearing to rick James Bucher, M.D.; Ronald Blane Casselberry, M.D.; John Cameron Hodge, D.O.; Nilesh B. Jobalia, M.D.; Firas A. Rabi, M.D.; and Robert Windsor, 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
	Dr. Soin	- aye
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye
	Dr. Schachat	- aye
	Dr. Bechtel	- abstain

The motion to send carried.

## RULES AND POLICIES

### PROPOSED RULES IN CHAPTER 4731-12 AND RULE 4731-29-01

Ms. Debolt stated that the Rules in Chapter 4731-12 and Rule 4731-29-01 have to do with podiatric licensure and procedures for the operation of a pain management clinic, respectively.

**Dr. Saferin moved that that Rules 4731-12-01, 4731-12-02, 4731-12-04, 4731-12-05, 4731-12-06, 4731-12-07 and 4731-29-01 be final filed with an effective date of June 30, 2017. Dr. Schottenstein seconded the motion. A vote was taken:**

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

The motion carried.

## OPERATIONS REPORT

**Human Resources:** Mr. Groeber stated that there are currently a number of vacant positions, the most urgent of which is an investigator position in the North area. Interviews are underway to fill the nurse reviewer positions. A position for a certification/licensure specialist remains vacant and may be filled by incoming personnel from the Dietetics Board or the Respiratory Care Board, should that proposed consolidation be approved by the legislature.

**Investigator Firearms:** Mr. Groeber noted that the Board had previously directed the staff to take steps

towards removing the authorization for the Board's investigators to carry firearms in the near future. Pursuant to a suggestion from the Labor-Management Committee, which was approved by the Board, additional written comments from the Board investigators were provided to Board members regarding some areas of elevated danger in the course of their duties. Management feedback on how to make the investigator positions safer have also been provided, whether the Board chooses to discontinue the authorization to carry firearms or not. Mr. Groeber emphasized that the Board continues the authorization to carry firearms while this discussion continues.

Mr. Groeber asked if any Board members had any comments about the written scenarios of elevated danger provided by the investigators.

Dr. Schottenstein stated that when these discussions began, his initial thought was to be respectful of the investigators' need to be able to protect themselves in unpredictable situations. However, he found the examples of elevated danger provided by the investigators to be examples of predictable danger, not unpredictable danger, and that it was common sense that the investigators placed themselves into risky situations. Dr. Schottenstein expressed a concern that having a firearm by have given the investigators a false sense of courage in terms of going into potentially dangerous situations that they would otherwise avoid. Dr. Schottenstein stated that in this sense, one could make a case that having a firearm actually increases the risk to investigators because it clouds judgment in such situations that should be avoided. Dr. Schottenstein agreed with that thought of changing the investigator job description to make the position safer in general.

Dr. Steinbergh agreed with Dr. Schottenstein's comments and stated that she was also surprised that investigators were going into such situations. Dr. Steinbergh understood how an investigator may feel safer with a weapon, but she opined that that is not a reason to carry a weapon. Dr. Steinbergh agreed that the investigator position should be revised to improve investigator safety. Dr. Steinbergh stated that she has always opposed the use of firearms by Medical Board investigators, while appreciating they training they go through for carrying firearms. Dr. Steinbergh commented that she is not opposed to people having weapons, but she pointed out that the Medical Board is not a law enforcement agency and should not act like one.

Dr. Saferin also agreed that the investigator position description should be changed to make the job safer. However, Dr. Saferin stated that the written statement provided by investigators describe situations that turned dangerous rather quickly, and therefore having a firearm was a benefit. Dr. Saferin stated that more and more people in the public are carrying firearms and situations can change quickly, particularly when people are upset that their license is being revoked or suspended. For these reasons, Dr. Saferin supported to policy of investigators carrying firearms.

Mr. Groeber briefly outlined management's initial thoughts on how to make the investigators' jobs safer:

- Investigators should exercise discretion in meeting with a licensee alone in the licensee's office, particularly if the licensee is suspected of being impaired and/or having a firearm.
- Investigators should be allowed to leave an interview at any time if they feel uncomfortable.
- Investigators should not meet with licensees in the licensees' homes.
- If a licensee is unwilling to meet in a public location or in a time frame between 7:00 a.m. and 6:00 p.m., then the licensee should be subpoenaed into the Medical Board offices for an

interview.

- Investigators should never meet personally with an individual who is known or expected to be armed.
- Investigators should never be on the front line in a raid situation; investigators should only participate when the area is secure.

The Board indicated general agreement with the points outlined by Mr. Groeber.

Mr. Groeber added that management also wants to investigate the possibility of outsourcing the gathering of emergency urine screens to a third party, since that seems to be a situation in which investigators may encounter less stable individuals. Mr. Groeber stated that using a third party company that specializes in gathering such specimens would also improve the chain of custody on those materials. Dr. Steinbergh commented that she would be concerned for the safety of the individual from the third-party company. Mr. Groeber indicated that the licensee would be providing a sample voluntarily in these situations.

Lastly, Mr. Groeber stated that in any situation which is predictably dangerous, the Board should partner with law enforcement to serve subpoenas and other actions, even if it means paying law enforcement overtime. Mr. Groeber outlined an obviously dangerous hypothetical situation in which a licensee who is a mixed martial arts fighter and a suspected drug trafficker is practicing paramilitary drills with a firearm and a bullet-proof vest. In such a situation, the investigator should use the telephone, the Board's subpoena authority, or law enforcement.

The Board indicated agreement with the items discussed by Mr. Groeber. Mr. Groeber stated that he will work with Mr. Fais and Mr. Schmidt to review and make appropriate changes to the policies and procedures manual for investigators.

Mr. Groeber read the following statement, prepared by Ms. Loe:

If the Board agrees that they wish to proceed with removing firearms, you can direct staff at this time to proceed with the necessary steps over the next 90 days, including updating job classifications, specifications, and position descriptions, and revising investigator manual and protocols with the goal towards removing firearms effective at the September 13 Board meeting.

**Dr. Steinbergh moved to implement the actions as outlined in Ms. Loe's statement. Dr. Schottenstein seconded the motion.**

Dr. Saferin stated that he is uncertain how to vote on this motion because he supports the changes to the investigator job description, but he does not support removing the authority of investigators to carry firearms. Dr. Saferin asked if the motion could be broken into two parts. Dr. Steinbergh agreed.

**Dr. Steinbergh wished to withdraw her motion.** No Board members objected to withdrawing the motion. The motion was withdrawn.

**Dr. Saferin moved to revise the investigator manuals and protocols to implement safer work practices, as discussed. Dr. Rothermel seconded the motion.** A vote was taken:

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

The motion carried.

**Dr. Steinbergh moved to update the investigator job classification, specifications, and position descriptions with a goal toward removing the authority for investigators to carry firearms, effective at the September 13, 2017 Board meeting. Dr. Schottenstein seconded the motion. A vote was taken:**

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

The motion carried.

Mr. Groeber noted that at this time, the Board is maintaining investigators' authority to carry firearms.

**Information Technology:** Mr. Groeber stated that the new e-License system will be implemented on Monday, which will pull allopathic, osteopathic, and podiatric physician licensure into the new system. The implementation will lead to brief periods of shut-down with read-only access. Mr. Groeber stated that instructional videos on using the new system have been posted and the Board's licensees have been send sign-in names and passwords. Mr. Groeber stated that the Board's licensure staff will work later hours next week, as well as next Saturday morning, to answer any questions that licensees may call and ask about the new system.

**Communications and Outreach:** Mr. Groeber stated that April and May were robust months for presentations, publications, and meetings by the Board. Mr. Groeber stated that all outreach activities are listed in the Operations Report.

**Agency Operations:** Mr. Groeber stated that there have been some slow-downs with the migration to the new e-License system, but there has been no change in the Board's caseload. Total number of licensees is up 8%, MD/DO licenses are up 11%, and expedited licenses are up 12% over last year.

Mr. Groeber stated that there has been a suggestion that the Board have opportunity to meet with staff

members. Mr. Groeber suggested that at every other Board meeting, a group of staff members in a certain area meet with the Board and describe what they do. Mr. Groeber stated that this will give the Board members an improved understanding of the Board's overall processes.

Mr. Groeber noted that on Monday, Ms. Anderson will celebrate ten years of working with the Board. The Board applauded Ms. Anderson.

## REPORTS BY ASSIGNED COMMITTEES

### FINANCE COMMITTEE

#### FISCAL REPORT

Ms. Loe stated that the Board's April revenue was slightly over \$1,000,000 and expenses were over \$600,000. Ms. Loe stated that review is far ahead of where it was two years ago in the same cycle. Ms. Loe stated that this increase is almost entirely due to licensees renewing their licenses early before the new system is implemented, and therefore the Board can probably expect a small dip in revenue after the new system goes online. Ms. Loe stated that the Board's cash balance is just under \$4,000,000. Ms. Loe noted that the current fiscal year will end on June 30.

#### ACCOUNTS RECEIVABLE

Ms. Loe stated that the Board received another \$500 fine payment from a massage therapist in compliance with a consent agreement. Ms. Loe noted that another licensee was fined \$10,000 in a consent agreement, but the agreement gave the licensee six months to pay the fine. Ms. Loe stated that all other outstanding fines are in the collections process. Ms. Loe commented that it is highly unlikely that some of the outstanding fines will be paid because the licensee, or former licensee in the case of revocations, is bankrupt or must pay debts to the Internal Revenue Service first. Ms. Loe stated that the Board has received a total of \$21,000 since general fining authority was implemented.

#### PURCHASE OF EMAIL MARKETING SYSTEM

Mr. Kenney stated that the Finance Committee approved up to \$25,000 for the purchase of an email marketing system. Mr. Groeber stated that this the system will allow the Board to send targeted emails to different licensure groups based on license type, the timeframe in which the license will expire, or other criteria. Mr. Groeber stated that the system will also provide better tracking capabilities and even offer the opportunity for text messaging. Mr. Groeber added that the system will be user-friendly and will also be more efficient for the Board's staff. Dr. Schottenstein added that the system will also allow the Board to reach out to prospective licensees.

Mr. Groeber stated that the funds approved by the Finance Committee will cover the initial set-up of the system and the first year of service, with following years being about \$20,000. Mr. Groeber opined that this will be a wise investment considering that the Board will have almost 80,000 licensees over the next two years following the anticipated consolidate with the Dietetics Board and the Respiratory Care Board. Mr. Groeber noted that the Finance Committee vote unanimously to approve up to \$25,000.

TRAVEL AUTHORIZATION

Mr. Kenney stated that the Committee recommended approval of Ms. Debolt to represent the Board at the Criminal Justice Opioid Response Policy Academy, hosted by the Substances Abuse and Mental Health Services Administration in collaboration with the Bureau of Justice Assistance. The Academy will be held in Indianapolis, Indiana, June 27-28, 2017. Ms. Debolt noted that the Ohio Supreme Court will pay the bulk of her travel expenses.

**Dr. Saferin moved to approve Ms. Debolt's travel to the Criminal Justice Opioid Response Policy Academy on June 27-28, 2017, in Indianapolis, Indiana, and that Ms. Debolt's attendance at the Academy is in connection to her duties as Senior Counsel for the State Medical Board. Dr. Schottenstein seconded the motion. A vote was taken:**

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

The motion carried.

EXECUTIVE DIRECTOR COMPENSATION

Mr. Kenney stated that the Finance Committee recommends approval of a 2.5% increase in the salary of the Executive Director. Dr. Soin commented that the Board, having completed a review of Mr. Groeber, is very pleased with his performance as Executive Director. Dr. Soin further commented that as President of the Board, it has been a pleasure to work with Mr. Groeber.

**Dr. Saferin moved to increase the Executive Director's compensation by 2.5%, effective in the pay period including July 1, 2017. Mr. Gonidakis seconded the motion. A vote was taken:**

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

The motion carried.

PURCHASE OF EMAIL MARKETING SYSTEM

Concerning the purchase of the email marketing system, previously discussed, Dr. Saferin asked if the full Board should confirm the Finance Committee's approve to spend up to \$25,000 on the system. Ms. Loe replied that the Committee has the authority to approve the expenditure, but the full Board may confirm it if it wants to.

**Dr. Saferin moved to confirm the Finance Committee's decision regarding expenditure on the email marketing system. Dr. Steinbergh seconded the motion. A vote was taken:**

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

The motion carried.

POLICY COMMITTEEACUTE PAIN RULES

Ms. Anderson stated that the Board will soon receive word from the Common Sense Initiative (CSI) regarding approval to file the proposed acute pain rules with the Joint Committee on Agency Rule Review (JCARR) sometime after this meeting but before the July 12 Board meeting. Ms. Anderson asked the Board to authorize Dr. Soin to approve the Board to file the proposed rules with JCARR following approval by CSI.

**Dr. Steinbergh moved to authorize Dr. Soin to approve the filing of the proposed acute pain rules with JCARR following approval by CSI. Dr. Saferin seconded the motion. A vote was taken:**

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

The motion carried.

## LEGISLATIVE UPDATE

Mr. LaCross stated that the House passed its version of the budget on Monday. The budget bill included the following provisions in relation to the Medical Board:

- Moving allopathic, osteopathic, and podiatric medical licensure requirements from Eligibility for Examination to Eligibility for Licensure.
- Reducing the initial medical licensure fee to \$305.
- Making podiatric physicians eligible for the Clinical Research Faculty Certificate.
- Making training certificates a three-year certificate, eligible for one renewal.

Mr. LaCross stated that amendments to the Omnibus Bill are due tomorrow. Mr. LaCross stated that the amendment regarding consolidation of the Dietetics Board and the Respiratory Care Board with the Medical Board will be resubmitted. This amendment will align the Dietetics and Respiratory Care Boards with the Medical Board's licensure, enforcement, and investigations divisions so that the consolidation on January 21, 2018, will be more easily accomplished. Mr. LaCross also noted that the licensure fees for dietetic and respiratory care professionals will be reduced.

Mr. LaCross stated that House Bill 145, concerning the One-Bite Reporting Exemption, was passed out of committee.

Mr. LaCross stated that House Bill 75, the Armed Forces reciprocity bill, would have made a limited license available for individuals who are not qualified for licensure. Mr. LaCross stated that the Board was able to stop that bill, arguing that it would be a danger to the public and would be unenforceable. Mr. LaCross stated that Representative Johnson will introduce a more minimal bill that will affect licensees outside of the Medical Board.

Mr. LaCross stated that there is a prescribing bill that is currently on hold. Mr. LaCross stated that he will continue to negotiate with Representative Edwards on that bill.

Mr. LaCross stated that the Board was able to remove language from the budget bill that would have required the Board to fingerprint all the physicians moving forward, at the physicians' expense. That language was in pursuance of a program with the Bureau of Criminal Identification and Investigation which runs continuous checks on licensees for missed arrest records, which the Board would take action on. The Board would also have been charged an undisclosed amount for that program.

Mr. LaCross stated that he, Mr. Miller, and other staff would like to open the Board's revised code sections to see what can be streamlined in order to increase the Board's efficiency.

Mr. LaCross stated that work continues on legislation to change the number of hours of continuing medical education (CME) required for physician license renewal from 40 Category I hours to 50 Category I hours and to eliminate the requirement for Category II hours.

Mr. Gonidakis noted that legislation that has been in effect for some months allows physicians to reduce their CME requirements by providing care to the indigent. Mr. Gonidakis expressed concern about reducing the requirement for physicians to be educated on a regular basis. Mr. Gonidakis opined that the

practice of medicine should not be diluted in this way or by continuing to extend the scope of practice of non-physicians such as physician assistants. Mr. Gonidakis recommended that the Board become more sensitive to such legislative proposals that do not help the practice of medicine and, if fact, hurts the practice of medicine and patient safety.

Dr. Steinbergh agreed with Mr. Gonidakis' comments. Dr. Steinbergh stated that providing care to the indigent is a wonderful thing, but it does not advance the physician's education. Dr. Steinbergh also commented that accrediting bodies that accredit CME will probably not accept that one can attend a three-hour class and have it considered Category I. Dr. Schachat noted that most physicians also have CME requirements for their hospital privileges or specialty board certification and those requirements will be unchanged. Dr. Steinbergh agreed, but she added that many physicians are not specialty board certified.

Dr. Steinbergh asked about the status of Senate Bill 55, which would establish minimum nurse-to-patient ratio in hospitals and prohibit retaliatory actions by hospitals against nurses. Mr. LaCross replied that that bill is not moving forward. Dr. Steinbergh stated that she does not know the details of this particular bill, but she opined that the Board should be supportive of this type of bill for reasons of patient safety. Dr. Steinbergh stated that it is very difficult for physicians to work in an environment where the nurses are expected to take care of too many patients. Dr. Schachat agreed that better nurse staffing enhances quality and safety. However, Dr. Schachat felt that the proper nurse-to-patient ratio could be different in different facilities and that the issue should not be micromanaged. Dr. Schachat also noted that there are very strong imperatives for hospitals to lower costs and having a rule that forces higher staffing levels would conflict with that imperative. Dr. Schachat stated that hospitals are already mandated to do things safely and each institution should be allowed to determine the proper ratio.

#### MEDICAL MARIJUANA RULES UPDATE

Dr. Soin stated that the Medical Marijuana Advisory Committee had its last meeting on June 8. Ms. Anderson stated that the Board's proposed rules on Medical Marijuana has been approved by the Common Sense Initiative with no changes and the rules have been filed with the Joint Committee on Agency Rule Review (JCARR). A public hearing on the Board's medical marijuana rules is scheduled for July 10 at 1:00 p.m. at the State Fire Marshall's office in Reynoldsburg.

#### INFORMED CONSENT FOR INVESTIGATIONAL DRUGS, PRODUCT, OR DEVICE

Dr. Soin stated that new medications and devices must go through multiple stages to gain Food and Drug Administration (FDA) approval. Dr. Soin observed that there is a movement to allow investigational drugs that have passed phase one of FDA testing to be allowed to be used in certain scenarios, such as potential life-extending or life-saving medications. Dr. Soin noted that phase one testing is little data on efficacy or safety. Dr. Soin stated that the legislature has tasked the Board with providing an informed consent form for this process in Ohio, so information is being gathered to produce such a form. Ms. Anderson stated that any input into this matter would be welcome.

#### PROPOSED FAQ'S FOR RULE 4731-11-09

Dr. Soin stated that the Policy Committee reviewed the commented received regarding the proposed frequently asked questions (FAQ) document on Rule 4731-11-09. Ms. Debolt stated that work on the FAQ document will continue and will be brought back to the Committee next month.

LICENSURE COMMITTEECOSMETIC THERAPY UNIVERSAL EXAMINATION

Dr. Saferin stated that the Licensure Committee had a good discussion with representatives from the Society for Clinical and Medical Hair Removal (SCMHR) regarding the new licensure examination for cosmetic therapists. Dr. Saferin stated that SCMHR is supportive of the Committee's work and a draft rule will be brought for the Board's consideration next month.

LICENSURE APPLICATION REVIEWSMYRON HILMAR WEINBERGER, M.D.

Dr. Saferin stated that Dr. Weinberger has applied for licensure in Ohio. Dr. Weinberger has indicated that he has not engaged in the clinical practice of medicine since 2007. Dr. Saferin briefly reviewed Dr. Weinberger's education and career, noting that he has served in administrative capacity as professor emeritus of medicine at Indiana University School of Medicine and editor-in-chief of the Journal of the American Society of Hypertension. Dr. Weinberger has indicated that he would like to pursue an administrative medical license in Ohio. The Committee recommends approval of Dr. Weinberger's application.

**Dr. Saferin moved to grant Dr. Weinberger's application for license to practice medicine and surgery in Ohio and immediately limit and restrict the license 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. Weinberger has successfully certified his American Board of Medical Specialties Certification in Internal Medicine and completed a Board approved preceptorship or upon successful completion of the Special Purpose Examination (SPEX). Dr. Steinbergh seconded the motion. A vote was taken:**

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

The motion carried.

ANJALI GUPTA, M.D.

Dr. Saferin stated that Dr. Gupta has applied for medical licensure in Ohio. Dr. Gupta indicated on her application that she has not been engaged in the clinical practice of medicine since July 2012. In 2012, Dr. Gupta took time off from work to start a family and raise twins at home. Dr. Gupta obtained American Board of Emergency Medicine (ABEM) certification in 2011 and has maintained her continuing medical

education (CME) requirements. As of February 2017, Dr. Gupta was meeting the ABEM Maintenance of Certification (MOC) requirements. Dr. Gupta's certification will expire in December 2021. The Committee recommends approval of Dr. Gupta's application.

**Dr. Saferin moved that Dr. Gupta's application for a license to practice medicine and surgery in Ohio be approved and immediately limited to participation in a Board-approved 30-day preceptorship that includes one week of observation and three weeks of patient care under direct supervision. Dr. Saferin further moved that the limitations and restrictions on Dr. Gupta's ability to practice outside the preceptorship shall be lifted upon receipt of evidence acceptable to the Board or its designee that Anjali Gupta, MD has successfully completed the thirty-day preceptorship, as well as a Board-approved emergency medicine board review course within one year of the date of mailing the Notice of Opportunity for a Hearing. Dr. Schottenstein second the motion.**

Dr. Steinbergh stated that she agrees with the provision for a 30-day preceptorship, but she does not agree that Dr. Gupta should be required to take an emergency medicine board review course. Dr. Steinbergh noted that Dr. Gupta is well-qualified, holds current ABEM certification, and is meeting the MOC requirements. Dr. Steinbergh opined that the preceptorship to refamiliarize her with emergency medicine work should be sufficient.

Dr. Saferin stated that the Committee discussed the points raised by Dr. Steinbergh. Dr. Saferin stated that if Dr. Steinbergh wished to amend his motion, he would consider it a friendly amendment.

Dr. Rothermel stated that she could go either way on this question, but she felt that five or more years is a significant amount of time to not be clinically active. Dr. Rothermel commented that MOC can mean many different things and that MOC requirements are not necessarily in-depth. Dr. Schottenstein agreed that five years away from practice is a long time and opined that asking Dr. Gupta to take the board review course is reasonable.

Dr. Schachat stated that he would second Dr. Steinbergh's motion to amend for purposed of discussion.

**Dr. Steinbergh moved to amend the motion to remove the requirement that Dr. Gupta take a Board-approved emergency medicine board review course. Dr. Schachat seconded the motion.**

Dr. Steinbergh reiterated that Dr. Gupta is already boarded in emergency medicine and opined that she should not be required to take the certification examination again, though she may choose to do so. Dr. Steinbergh also noted that Dr. Gupta is current on her MOC requirements and opined that MOC requirements are meaningful.

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

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

Dr. Schachat	- nay
Dr. Bechtel	- nay

The motion to amend did not carry.

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

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

The motion carried.

JANICE LEE JAMISON, M.T.

Dr. Saferin stated that Ms. Jamison is applying for restoration of her massage therapy license. Dr. Saferin stated that Ms. Jamison has not actively practiced massage therapy since her license expired in 2014. The Licensure Committee recommends approval of Ms. Jamison's application.

**Dr. Saferin moved to approve Ms. Jamison's request for restoration of her license to practice massage therapy in Ohio, pending successful completion of the Massage and Bodywork Licensing Examination (MBLEX) within six months from the date of mailing of the Notice of Opportunity for a Hearing. Dr. Schottenstein seconded the motion. A vote was taken:**

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

The motion carried.

TERESA DIANE BATCHELOR, M.T.

Dr. Saferin stated that Ms. Batchelor is applying for restoration of her massage therapy license. Dr. Saferin stated that Ms. Batchelor has not actively practiced massage therapy since her license expired in 2011. The Licensure Committee recommends approval of Ms. Batchelor's application.

**Dr. Saferin moved to approve Ms. Batchelor's request for restoration of her license to practice massage therapy in Ohio, pending successful completion of the Massage and Bodywork Licensing Examination (MBLEX) within six months from the date of mailing of the Notice of Opportunity for a Hearing. Dr. Schottenstein seconded the motion. A vote was taken:**

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

The motion carried.

MICHAEL P. LOREY, P.A.

Dr. Saferin stated that Mr. Lorey is applying for restoration of his physician assistant license. Dr. Saferin stated that Mr. Lorey has not actively practiced as a physician assistant since September 2003. In February 2015, the Board conditionally approved Mr. Lorey's restoration application pending the completion of a preceptorship. However, Mr. Lorey was unable to find a preceptor. Therefore, Mr. Lorey obtained a master's degree at Pace University in December 2016, retook the Physician Assistant National Recertifying Examination (PANRE), and passed. Mr. Lorey also regained certification from the National Committee on Certification of Physician Assistants (NCCPA).

The Licensure Committee recommends approval of Mr. Lorey's application.

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

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

The motion carried.

YEHUDITH ASSOULINE-DAYAN, M.D.

Dr. Saferin stated that Dr. Assouline-Dayana is applying for medical licensure in Ohio. Dr. Assouline-Dayana has requested a waiver of the Board's 10-year rule for passing the United States Medical

Licensing Examination (USMLE) on the basis of 4731-6-14, Ohio Administrative Code, which allows the Board to grant a good-cause waiver to any applicant who demonstrates good cause, as determined by the Board, for not having passed all three steps of the USMLE within a 10-year period. Dr. Saferin noted that Dr. Assouline-Dayane passed all three steps of the USMLE on her first attempt, far exceeding the minimum passing score each time.

Dr. Saferin stated that Dr. Assouline-Dayane is also requesting graduate medical education (GME) equivalency pertaining to 4731.14(B)(2), Ohio Revised Code, which permits the Board to determine an equivalent to the GME training requirement of two years through the second-year level. Dr. Saferin stated that Dr. Assouline-Dayane has a total of seven-and-a-half years of post-graduate training and has completed a residency in Israel. Dr. Saferin noted that this experience includes one year of a rotating internship, four years of residency in internal medicine, and two-and-a-half years in a gastroenterology/hepatology fellowship in Israel. In addition, Dr. Assouline-Dayane has served as staff physician in Israel for nine years. Most recently, Dr. Assouline-Dayane has served as a clinical associate professor in gastroenterology and hepatology at the University of Iowa Hospital and Clinic for three-and-a-half years and holds that position currently. Dr. Assouline-Dayane plans to take the American Board of Internal Medical certification examination, which she was granted an opportunity to do in August 2016. Dr. Assouline-Dayane is certified by the Israel Medical Association Scientific Council in internal medicine, gastroenterology, and hepatology.

The Licensure Committee recommends approve of Dr. Assouline-Dayane's request.

**Dr. Saferin moved to approve the good cause exception of the 10-year rule, as outlined in 4731-6-14, and to accept the examination sequence in order to grant Dr. Assouline-Dayane a license. Dr. Saferin further moved to find that Dr. Assouline-Dayane's training and experience in Israel and the United States be equivalent to the 24 months of graduate medical education through the second-year level so that she may be granted a license. Dr. Steinbergh seconded the motion. A vote was taken:**

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

The motion carried.

#### ELECTRONIC DELIVERY OF LICENSURE VERIFICATIONS

Mr. Turek stated that the Licensure Committee discussed the proposal to move from sending licensure verifications by mail to sending them by email. Mr. Turek noted that many other states send and receive licensure verification via email. Mr. Turek stated that this proposal is an effort to continuing streamlining licensure processes. The Board had no objections to proceeding with the proposal.

PHYSICIAN ASSISTANT/SCOPE OF PRACTICE COMMITTEEREQUEST TO CHANGE PHYSICIAN ASSISTANT FORMULARY

Dr. Steinbergh stated that the Physician Assistant Policy Committee (PAPC) received a letter from the Cleveland Clinic Multiple Sclerosis Department request that the Committee reevaluate the physician assistant formulary for certain medications. The PAPC did not meet this month, but will review the request next month. However, the Board's Physician Assistant/Scope of Practice Committee met this morning and discussed the request.

Dr. Steinbergh stated that the request concerns the ability of physician assistants to prescribe certain medications and comparing the physician assistant formulary to the advanced practice nurse (APN) formulary. Dr. Steinbergh noted that both Committees have been considering changing the physician assistant formulary, which is currently rather complicated, into a negative formulary similar to the APN exclusionary formulary. Dr. Steinbergh stated that these discussions will continue next month.

Dr. Bechtel discussed the rapid evolution of formularies in oncology and other fields. Dr. Bechtel stated that new drugs are being developed rapidly and oncology and other specialty groups in Ohio depend on physician assistants and APN's in providing patient care. Dr. Bechtel expressed concerns about whether the PAPC is meeting frequently enough to deal with issues that impact the care that physician assistants provide. Dr. Bechtel noted that the PAPC, which recommends changes to the physician assistant formulary, has had some meetings cancelled recently due to a lack of quorum. Dr. Bechtel also stated that the Committee should address the question of whether the physician assistant and APN formularies should be equal and whether those positions are equal to each other.

Dr. Steinbergh thanked Dr. Bechtel for his input. Dr. Steinbergh agreed that physician assistants and APN's are often compared to each other. Dr. Steinbergh stated that APN's are independent practitioners in collaborative relationships with physicians and that the APN formulary states that their prescribing will be within the scope of practice of their collaborating physicians. Dr. Steinbergh stated that physician assistants are in a supervisory relationship with physicians and are also expected to prescribe with the scope of practice of their supervising physicians. Dr. Steinbergh stated that she understands Dr. Bechtel's concerns about rapidly-changing medications, especially in oncology, but she also expressed concerns about patient protection and the black label warning that some medications have.

COMPLIANCE COMMITTEE

Dr. Steinbergh stated that on May 10, 2017, the Compliance Committee met with Alex T. Alahakoon, M.D.; Roozbeh Badii, M.D.; Christina Bieermann, M.T.; Andrew J. Kuntzman, M.T.; Elizabeth R. Stipe, M.T.; and Shannon Lee Swanson, D.O., and moved to continue them under the terms of their respective Board actions. The Compliance Committee accepted Compliance staff's report of conferences on April 10 & 11, 2017.

DELEGATION OF AUTHORITY TO APPROVE APPEARANCES BY SKYPE

Dr. Soin noted that, pursuant to the Board's discussion of this topic at its April 2017 Retreat, final probationary appearances before the Board should be conducted in person and not via Skype or other electronic means. However, Dr. Soin stated that there may be instances where an electronic appearance is necessary. Dr. Soin stated that for one physician in particular, a personal appearance before the Board

would be very challenging. The physician in question lives in California and works in a small community hospital in an underserved area. Dr. Soin stated that the physician is the only anesthesiologist in the hospital and it is very difficult to find cross-coverage. Dr. Soin further noted that this physician has been very compliant with the terms of his probation. Dr. Soin suggested that in this and similar cases, it would be reasonable to allow an electronic appearance.

Dr. Soin suggested that a policy be implemented so that, in cases in which a probationer would have to travel a great distance that would cause demonstrable harm to patient care, the Board President be allowed to approve the final probationary appearance to occur electronically. Dr. Steinbergh agreed that this would be appropriate in limited situations. Dr. Steinbergh opined that the situation cited by Dr. Soin would be an appropriate example for allowing an electronic appearance.

**Dr. Steinbergh moved to allow final probationary appearances by electronic means on an individual basis if it is proposed by the Secretary and Supervising Member and approved by the President. Dr. Saferin seconded the motion. A vote was taken:**

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

The motion carried.

#### 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. No Board member wished to discuss a probationary request separately.

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

- **To grant Mark L. Allen, M.D.'s request to continue under the terms of the Board's Order of August 12, 2015, while residing in Kansas;**
- **To grant Kevin G. Baldie, M.D.'s request for approval of Lori A. Pittinger, M.D., to serve as the treating psychiatrist;**
- **To grant Deborah L. Cook, D.P.M.'s request for reduction in personal appearances to annually;**
- **To grant Jesse M. Ewald, M.D.'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 drug log requirement; and reduction in recovery meeting attendance to three meetings per week with a minimum of ten per month;
- To grant Bethany J. Notestine, M.T.'s request for approval of *From the Client's Perspective: Marketing, Policies and Ethics of your Practice; a Self-Evaluation for an Ethical Practice; Dealing with Ethical Gray Areas in Massage; Ethical Dilemmas Fully Exposed; and Ethics and the Power Differential* online courses, offered by the American Massage Therapy Association; to fulfill the personal/professional ethics requirement;
- To grant Cara E. Perez, M.D.'s request for release from the terms of her June 8, 2016 Consent Agreement;
- To grant William Popovich, M.D.'s request for approval of David W. Stroom, M.D., to serve as the new treating psychiatrist;
- To grant Justin M. Rodebaugh, M.D.'s request for approval of Virginia Health Practitioners' Monitoring Program to conduct monitoring while the doctor resides in Virginia;
- To grant Bernard J. Rose, M.D.'s request for approval of Gary A. Balster, M.D., to serve as the new treating psychiatrist;
- To grant John A. Ross, M.D.'s request for reduction in personal appearances to once per year;
- To grant Frank G. Stoddard, III, D.P.M.'s request for approval of *Intensive Course in Medical Documentation: Clinical, Legal and Economic Implications for Healthcare Providers*, administered by Case Western Reserve University, to fulfill the medical record-keeping course requirements for reinstatement; and approval of *Intensive Course in Controlled Substance Prescribing: Pain, Anxiety, Insomnia*, administered by Case Western Reserve University, to fulfill the controlled substances prescribing course requirement for reinstatement;
- To grant Terry L. Thomas, D.O.'s request for approval of Courtney S. Adkins, D.O., to serve as the new monitoring physician; and
- To grant Aly M. A. Zewail, M.D.'s request for approval of Gizelle Jones Williams, L.I.S.W.-S., to conduct psychotherapy treatment.

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

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

The motion carried.

#### FINAL PROBATIONARY APPEARANCES

##### PAUL H. GOODMAN, D.O.

Dr. Goodman 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. Goodman's history with the Board.

In response to questions from Dr. Soin, Dr. Goodman stated that he practices full-time as an emergency medicine physician in two different facilities. Dr. Goodman stated that he works mostly nights, four 12-hour shifts per week, and he enjoys his work. Dr. Goodman stated that his recovery is going excellently and he plans to continue his recovery activities after he is released from probation.

Dr. Steinbergh asked if Dr. Goodman is currently under psychiatric care. Dr. Goodman stated that he had been seeing a psychiatrist at the Cleveland Clinic and began treatment for depression. After about a year, the psychiatrist opined that Dr. Goodman no longer had depression and he was discharged from psychiatric care. Dr. Goodman stated that he had been taking medication for depression, but he is not taking any psychiatric medication currently. Dr. Goodman stated that the only counseling he receives currently is through his Alcoholic Anonymous partnerships. Dr. Goodman commented that he is doing very well.

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

##### W. ANDREW HIGHBERGER, M.D.

Dr. Highberger was appearing before the Board pursuant to his request for release from the terms of his June 13, 2012 Consent Agreement. Dr. Soin reviewed Dr. Highberger's history with the Board.

Dr. Steinbergh noted that Dr. Highberger had been an anesthesiologist, but has since retrained in another specialty. Dr. Steinbergh asked Dr. Highberger to describe his retraining and his current work. Dr. Highberger replied that he currently works full-time at Shepherd Hill Hospital as an addiction medicine specialist. Dr. Highberger stated that after his medical license was restored, he did a one-year fellowship in addiction medicine in New York and trained with Richard Whitney, M.D.

Dr. Steinbergh asked what Dr. Highberger's triggers are and how the Board can be assured that he will not relapse again. Dr. Highberger responded that one of the biggest issues in his relapse was that he had gone back to work in anesthesiology, which is a very dangerous environment for a recovering addict. Dr. Highberger explained that he had been sober for nine years when he had hip replacement surgery and had opioid prescribed for a period of time afterwards. Dr. Highberger stated that he did extremely well and stopped taking the opioids when the prescription was complete. However, the course of opioids did activate Dr. Highberger's disease and things got out of hand about six to eight months later. Dr. Highberger stated that returning to the field of anesthesiology was a mistake that almost cost him his life.

Dr. Steinbergh asked how Dr. Highberger would manage if he needed another surgery involving acute

pain. Dr. Highberger answered that if he had to take pain medication again, he would have an addiction specialist involved in his care. Dr. Highberger commented that after his release from probation he will continue to be monitored by the Ohio Physician Health Program, probably for the rest of his career. Dr. Steinbergh agreed that that was a good idea.

Dr. Schottenstein noted that Dr. Highberger now has a permanent limitation on his license restricting him from practicing anesthesiology. Dr. Schottenstein asked if Dr. Highberger was accepting of the restriction when it was enacted, or if he resented the restriction initially. Dr. Highberger replied that he had no interest in returning to anesthesiology, noting that the small amounts of opioids and other mood-altering drugs in the operating room are potentially harmful to an addict. Dr. Highberger commented that anesthesiology is very high-risk in general and anesthesiologists have the highest mortality rate of all physicians. Dr. Highberger stated that he was grateful for the Board's restriction and did not resent it at all.

Dr. Schottenstein asked if Dr. Highberger is enjoying his current work. Dr. Highberger replied that it is the greatest job he has ever had and he wishes he had entered addiction medicine sooner. Dr. Highberger stated that his work helps his recovery, though he emphasized that he works his own recovery program outside of work.

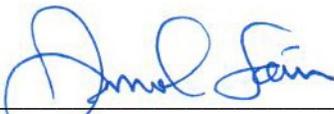
**Dr. Steinbergh moved to release Dr. Highberger from the terms of his June 13, 2012 Consent Agreement, effective immediately. Dr. Schottenstein seconded the motion.** All members voted aye. The motion carried.

#### ADJOURN

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

Thereupon, at 3:05 p.m., the June 14, 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 June 14, 2017, as approved on July 12, 2017.



Amol Sooin, M.D., President

  
Kim G. Rothermel, M.D., Secretary

(SEAL)

