



AGENDA

**STATE MEDICAL BOARD OF OHIO
ASSIGNED COMMITTEES**

April 12 & 13, 2017

NOTE: Items listed on Committee agendas may also be discussed during the “Reports of Assigned Committees” on the Board’s Agenda

ALSO, Additions or deletions to this agenda may become necessary after publication. Please check the agenda appearing on the Board’s website for the most current version.

Start times are approximate and agenda items and committee meetings may be taken out of order, at the discretion of the Board President.

LICENSURE COMMITTEE

April 12, 2017 – 8:00 a.m. – Conference Room #318

- I.) Minutes Review
- II.) Restoration Application Reviews
 - a.) Gerald Thomas Bowen, M.D.
 - b.) Antoinette Lashawn Carter, M.T.
 - c.) Molly Sue Hainrihar, M.T.
 - d.) Colleen A. Lanzaretta M.T.
 - e.) David William Simmons, M.T.
- III.) Application Affidavits
- IV.) Employer Recommendations and Certificates of Recommendation
- V.) Cosmetic Therapy Universal Examination

POLICY COMMITTEE

April 12, 2017 – 8:30 a.m. – Conference Room # 336

- I.) Minutes Review
- II.) Rule Review Update
- III.) Legislative Update
- IV.) House Bill 145, Impaired Practitioners
- V.) Draft Rules
- VI.) FSMB Statement Regarding Kickbacks
- VII.) One-Bite Reporting Exemption Legislation

FINANCE COMMITTEE**April 12, 2017 – 9:00 a.m. – Conference Room # 335**

- I.) Minutes Review
- II.) Officer or Staff Reports
 - a.) Medical Board Fiscal Update
 - b.) Other Reports
- III.) Existing Medical Board Fiscal Matters
- IV.) New Medical Board Fiscal Matters
- V.) Action Item

AD HOC EXECUTIVE DIRECTOR REVIEW COMMITTEE**April 13, 2017 – 2:00 p.m. – Room # 1858**

- I.) Executive Director Review



AGENDA

James A. Rhodes State Office Tower
30 E. Broad St., Columbus, OH 43215, 3rd Floor
April 12, 2017 - 9:45 a.m.

**NOTE: Additions to this agenda may become necessary.
Please check the agenda appearing on the Board's website for the most current version.**

Agenda items may be discussed out of order, at the discretion of the Board President.

- I. ROLL CALL
- II. MINUTES REVIEW
March 8, 2017 Board Meeting
- III. APPLICANTS FOR LICENSURE
 - a.) Anesthesiologist Assistants
 - b.) Genetic Counselors
 - c.) Massage Therapists
 - d.) Physician Assistants
 - e.) Physicians
 - f.) Radiologist Assistants
- IV. REPORTS AND RECOMMENDATIONS
 - a.) Gerry Victor Hsu, P.A. (Cincinnati, OH)
 - b.) Gregory Allen Ingram, M.D. (Ravenna, OH)
 - c.) Alan Lewis Menkes, D.O. (Murrieta, CA)
 - d.) Anne L. Phelan-Adams, M.D. (Canal Winchester, OH)
 - e.) Summit Shailesh Shah, M.D. (Strongsville, OH)
- V. PROPOSED FINDINGS AND PROPOSED ORDERS (none)
- VI. FINDINGS, ORDERS, AND JOURNAL ENTRIES
 - a.) Josette Danielle Bowman, L.M.T.
 - b.) Akram Boutros, M.D.
- VII. EXECUTIVE SESSION

BOARD AGENDA

April 12, 2017
9:45 a.m.
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VIII. SETTLEMENT AGREEMENTS	
IX. NOTICES OF OPPORTUNITY FOR HEARING, ORDERS OF SUMMARY SUSPENSION, ORDERS OF IMMEDIATE SUSPENSION, AND ORDERS OF AUTOMATIC SUSPENSION	
X. RULES & POLICIES	
a.) Chapters 4731-5 and 4731-6, Ohio Administrative Code	
b.) Chapter 4731-28, Ohio Administrative Code	
XI. APPOINTMENTS TO COMMITTEE ON PRESCRIPTIVE GOVERNANCE	
XII. OPERATIONS REPORT	
XIII. REPORTS BY ASSIGNED COMMITTEES	
<u>Finance Committee Report</u>	
a.) Officer or Staff Reports	
i. Medical Board Fiscal Update	
ii. Other Reports	
b.) Existing Medical Board Fiscal Matters	
c.) New Medical Board Fiscal Matters	
d.) Action Item Review	
<u>Policy Committee Report</u>	
a.) Legislative Update	
b.) House Bill 145, Impaired Practitioners	
c.) FSMB Statement Regarding Kickbacks	
d.) One-Bite Reporting Exemption Legislation	

BOARD AGENDA

April 12, 2017
9:45 a.m.
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Licensure Committee Report

- a.) Restoration Application Reviews
 - i. Gerald Thomas Bowen, M.D.
 - ii. Antoinette Lashawn Carter, M.T.
 - iii. Molly Sue Hainrihar, M.T.
 - iv. Colleen A. Lanzaretta M.T.
 - v. David William Simmons, M.T.
- b.) Application Affidavits
- c.) Employer Recommendations and Certificates of Recommendation
- d.) Cosmetic Therapy Universal Examination

Compliance Committee Report

XIV. PROBATIONARY REQUESTS

- a.) Christina Biedermann, M.T. (Sidney, OH)
- b.) Patrick L. Bruno, M.D. (Burton, OH)
- c.) Nathan B. Frantz, D.O. (Cleveland Heights, OH)
- d.) James George Lamphear, M.D. (Kailua, HI)
- e.) James T. Lutz, M.D. (Cincinnati, OH)
- f.) Giridhar Singh, M.D. (Dublin, OH)
- g.) Elizabeth R. Stipe, M.T. (Lorain, OH)
- h.) Suman C. Vellanki, M.D. (Strongsville, OH)

XV. REINSTATEMENT REQUEST

- a.) Robert M. Cook, M.D. (Centerville, OH)

BOARD AGENDA

April 12, 2017
9:45 a.m.
(Continued)

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XVI. FINAL PROBATIONARY APPEARANCES

Sohail Aman, M.D. (Church Creek, M.D.)

Dr. Aman is appearing before the Board pursuant to his request for release from the terms of his April 9, 2014 Consent Agreement.

Harry F. Howell, II, L.M.T. (Canal Fulton, OH)

Mr. Howell is appearing before the Board pursuant to his request for release from the terms of his April 8, 2015 Consent Agreement.

Aldo Antonio Molinar, M.D. (Poland, OH)

Dr. Molinar is appearing before the Board pursuant to his request for release from the terms of his March 11, 2015 Consent Agreement.

Jilian A. Waite, M.D. (Centerville, OH)

Dr. Waite is appearing before the Board pursuant to her request for release from the terms of the Board's Order of April 13, 2016.



AGENDA

**STATE MEDICAL BOARD OF OHIO
COMPLIANCE COMMITTEE**

April 12, 2017
Approximately 2:00 p.m.
30 E. Broad St., Columbus, OH 43215, 3rd Floor

**NOTE: Additions to this agenda may become necessary.
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I. INITIAL PROBATIONARY APPEARANCES

Rezik Abdul Aziz Saqer, M.D. (Houston, TX)

Dr. Saqer is making his initial appearance before the Committee pursuant to the terms of his August 10, 2016 Consent Agreement.

William K. Basedow, D.O. (Ironton, OH)

Dr. Basedow is making his initial appearance before the Committee pursuant to the terms of the Board's Order of June 10, 2015.

Freeda J. Flynn, M.D. (St. Clairsville, OH)

Dr. Flynn is making her initial appearance before the Committee pursuant to the terms of the Board's Order of May 13, 2015.

Yi Xiong, D.O. (Cincinnati, OH)

Dr. Xiong is making his initial appearance before the Committee pursuant to the terms of his January 11, 2017 Consent Agreement.

II. APPROVAL OF REPORTS OF CONFERENCES

March 6 & 7, 2017

III. MINUTES REVIEW

Compliance Committee Agenda

April 12, 2017
2:00 p.m.
(Continued)

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AGENDA

**STATE MEDICAL BOARD OF OHIO
APRIL 2017 RETREAT**

April 13, 2017
8:30 a.m.

30 E. Broad St., Columbus, OH 43215, Room 1858, 18th Floor

**NOTE: Additions to this agenda may become necessary.
Please check the agenda appearing on the Board's website for the most current version.**

- 8:30 a.m. WELCOME AND INTRODUCTIONS
- 8:45 a.m. OARRS NON-COMPLIANCE LETTERS
- a) Methodology and Outcomes
 - b) Potential Changes to Disciplinary Guidelines and Fining Grid
- 9:30 a.m. INVESTIGATOR FIREARMS
- a) History and Background of Investigator Firearms
 - b) Other Considerations and Analysis
 - c) HR Review of Investigator Position Description
 - d) Firearms Policies and Time Study
- 10:30 a.m. BREAK
- 10:45 a.m. SKYPE FOR BOARD APPEARANCES
- 11:30 a.m. NON-COMPLIANCE OPTIONS FOR SECRETARY AND SUPERVISING MEMBER
- 12:00 p.m. LUNCH / REVIEW OF SHAREPOINT
- 12:30 p.m. LICENSURE DISCUSSION
- a) CME Process Review & Analysis
 - CE Broker Demonstration
 - b) HB 290 Discussion
 - c) Late Fee Review & Discussion
- 1:30 p.m. OPEN DISCUSSION / NEW TOPICS
- 2:00 p.m. ADJOURN

MINUTES**THE STATE MEDICAL BOARD OF OHIO****April 12, 2017**

Amol Soin, M.D., President, called the meeting to order at 9:55 a.m. in the Administrative Hearing Room, 3rd Floor, the James A. Rhodes Office Tower, 30 E. Broad Street, Columbus, Ohio 43215, with the following members present: Robert P. Giacalone, Vice President; Kim G. Rothermel, M.D., Secretary; Bruce R. Saferin, D.P.M., Supervising Member; Donald R. Kenney, Sr.; Michael L. Gonidakis; Andrew P. Schachat, M.D.; Michael Schottenstein, M.D.; Richard Edgin, M.D.; Ronan M. Factora, M.D.; and Mark A. Bechtel, M.D. The following member did not attend: Anita M. Steinbergh, D.O.

Also present were: Anthony J. Groeber, Executive Director; Kimberly Anderson, Assistant Executive Director; David Fais, Assistant Executive Director; William Schmidt, Chief of Investigations; Sallie Debolt, Senior Counsel; Teresa Pollock, Director for Communications; Joan K. Wehrle, Education and Outreach Program Manager; Rebecca Marshall, Chief Enforcement Attorney; Marcie Pastrick, 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. Saferin moved to approve the draft minutes of the March 8, 2017, Board meeting, as written. Dr. Schottenstein seconded the motion. All members voted aye, except Mr. Gonidakis who abstained. The motion carried.

APPLICANTS FOR LICENSURE

Dr. Schottenstein moved to approve for licensure, contingent upon all requested documents being received and approved in accordance with licensure protocols, the anesthesiologist assistant applicants listed in Exhibit "A," the genetic counselor applicants listed in Exhibit "B," the massage therapist applicants listed in Exhibit "C," the physician assistant applicants listed in Exhibit "D," the physician applicants listed in Exhibit "E," and the radiologist assistant applicants listed in Exhibit "F," as listed in the Agenda Supplement and handouts. Mr. Giacalone seconded the motion. A vote was taken:

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

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

The motion carried.

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: Gerry Victor Hsu, P.A.; Gregory Allen Ingram, M.D.; Alan Leis Menkes, D.O.; Anne L. Phelan-Adams, M.D.; and Summit Shailesh Shah, M.D. A roll call was taken:

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

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

Dr. Soin noted that, in accordance with the provision in section 4731.22(F)(2), Ohio Revised Code, specifying that no member of the Board who supervises the investigation of a case shall participate in further adjudication of the case, the Secretary and Supervising Member must abstain from further participation in the adjudication of any disciplinary matters. In the matters before the Board today, Dr.

Rothermel served as Secretary, Dr. Saferin served as Supervising Member, and Dr. Bechtel served as Secretary and/or 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.

GERRY VICTOR HSU, P.A.

Dr. Soin directed the Board's attention to the matter of Gerry Victor Hsu, P.A. Objections to Ms. Shamansky's Report and Recommendation have been filed and were previously distributed to Board members.

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

Mr. Hsu was represented by his attorney, James McGovern. Mr. McGovern stated that Mr. Hsu would like to address the Board.

Mr. Hsu stated that he is appearing before the Board to testify to his innocence and to defend his integrity. Mr. Hsu stated that while he cannot change the outcome of the judge's decision in his case in which there were no witnesses other than himself and his accuser, he hoped the Board would see him for who is truly is, as revealed by the positive testimony of his colleagues and friends, both male and female, and the excellence and consistency of his work performance. Mr. Hsu noted that in January 2017 he was awarded a Certificate of Integrity by his Acting Chief at the Veterans Administration (VA); the certificate states, "Acting with high moral principles, adhering to the highest professional standards, and maintaining the trust and confidence of all around you." Mr. Hsu stated that in his career he had successfully cared for thousands of male and female patients in Ohio and Rhode Island with no complaints related to patient care.

Mr. Hsu continued that he has submitted himself to psychological evaluation and testing, which found no psychopathology or no sexual deviation consistent with the offense he is accused of committing. Mr. Hsu stated that numerous testimony and letters by his colleagues, friends, and family stated they have never observed or heard of any type of sexually deviant behavior in all their interactions with him. Mr. Hsu stated that his psychologist found him to be naïve, shy, and socially awkward, which is not uncommon for a person who was raised by Chinese immigrant parents. Mr. Hsu state that his awkward and naïve responses in court may have been to his detriment.

Mr. Hsu stated that he has lived his entire life without legal problems prior to this incident. Mr. Hsu further stated that he has been compliant with all court requirements and submitted himself to the authority of his probation officer, Ms. Kettler, who has stated the Mr. Hsu was always compliant. Mr. Hsu stated that he has been compliant with every investigation and that he was honest and forthright at his hearing. Mr. Hsu stated that he has learned from this incident to be more cautious and to be ever-vigilant in avoiding situations where his actions or comments may be misinterpreted.

Mr. Hsu stated that he has worked very hard to get to where he is at, and he cannot imagine doing anything else with his life. Mr. Hsu stated that using his knowledge, skills, and training to care for people gives his life purpose and fulfillment. Mr. Hsu stated that he wants to continue giving back to his

profession by showing his commitment and dedication to caring for his patients and our veterans. Mr. Hsu asked the Board to allow him to continue to practice in his profession without restriction or interruption.

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

Ms. Snyder noted that on the day that Judge Powers found Mr. Hsu guilty in court, she stated on the record that she had reviewed the evidence, including the transcript, the video, and her own notes. Judge Powers specifically found that the prosecution's witnesses were more credible than Mr. Hsu.

Ms. Snyder stated that certain aspects of Mr. Hsu's administrative hearing bothered her. First, Ms. Snyder stated that it appeared the hearing was attempting to put the victim in this case back through another trial without her being present. Ms. Snyder stated that Mr. Hsu was a convicted and found guilty by a court following testimony by Mr. Hsu and several witnesses. Ms. Snyder noted that Judge Powers did not find Mr. Hsu to be a credible witness. Ms. Snyder stated that the victim in the case subjected herself to the ordeal of the trial because Mr. Hsu did, in fact, expose himself to her in a parking lot.

Ms. Snyder stated that Peter Ganshirt, Psy.D., testified at Mr. Hsu's administrative hearing and opined that Mr. Hsu did not commit the act. However, Ms. Snyder pointed out the Dr. Ganshirt essentially did not review anything, was not in court during Mr. Hsu's trial, and did not even read the victim's statement or testimony. Rather, Dr. Ganshirt arrived at his opinion because he had talked with Mr. Hsu. Dr. Ganshirt testified that while he did read a transcript of Mr. Hsu's testimony in his criminal trial, he did not read any other part of the court transcript. Dr. Ganshirt further conceded that he was relying solely on what Mr. Hsu had reported to him. Ms. Snyder opined that Dr. Ganshirt is not credible in this matter.

Ms. Snyder reiterated that Mr. Hsu was found guilty in criminal court of exposing himself and he has accepted no responsibility for this action. Rather, Ms. Hsu had put responsibility back on the victim and he continues to be defiant about any of his behavior. Ms. Snyder asked the Board to accept what the Hearing Examiner has written in the Report and Recommendation.

Dr. Schottenstein moved to approve and confirm Ms. Shamnsky's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Gerry Victor hsu, P.A. Dr. Edgin seconded the motion.

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

Dr. Factora stated that this matter involves Ms. Hsu's conviction for a misdemeanor involving moral turpitude. Dr. Factora briefly reviewed Mr. Hsu's career as a physician assistant. Mr. Hsu was first licensed as a physician assistant in Ohio in March 2012. Mr. Hsu has also held a physician assistant license in Rhode Island, though that license has since expired. Mr. Hsu began working at the Veterans Administration (VA) Medical Center in Cincinnati in 2012 and he was still employed there as of the time of his hearing. When criminal charges were filed against Mr. Hsu in May 2015, the medical center transferred him to a non-medical department.

Dr. Factora stated that the incident in question took place in April 2015 when Mr. Hsu approached a woman identified as "Natalie" in a parking lot in the neighborhood of the Cincinnati Zoo after working hours. Mr. Hsu allegedly exposed his penis to Natalie at that time. Natalie immediately called for security

and a security guard confronted Mr. Hsu, who had returned to his car by that time. The security guard's supervisor and a VA police officer subsequently came to the scene. Mr. Hsu provided a written statement regarding the incident that same day at the VA police station. Natalie also filed a written statement with zoo security the following day.

Dr. Factora continued that Mr. Hsu went on trial on the charge of Public Indecency and did not elect to have a jury trial. In August 2015 Mr. Hsu was found guilty beyond a reasonable doubt, with Judge Melissa Powers explaining that the finding came down to the credibility of the witnesses. Dr. Factora stated that it was clear the Mr. Hsu's interaction with Natalie, even prior to the alleged exposure, had made Natalie uncomfortable. Dr. Factora noted the following aspects of Mr. Hsu's trial:

- There was no collaborating eye-witness testimony to the allegation.
- There was no video evidence of the alleged exposure, despite the presence of security and security cameras at the parking lot.
- Mr. Hsu did not flee or attempt to flee the scene.
- There was a suggestion that there was a lack of detailed questioning on the part of Mr. Hsu's attorney.

Dr. Factora stated that Mr. Hsu filed an appeal with the Court of Appeals of Hamilton County, but his conviction was eventually sustained. Mr. Hsu was sentenced to 30 days in jail, all of which was suspended, and he was required to pay court costs. Mr. Hsu was also placed on probation and was required to have treatment recommended by the court psychologist. Dr. Factora noted that the court psychologist's report is not available to the Board because it was protected by the court and is not a public record. Dr. Factora noted that Mr. Hsu was released four months early from probation in May 2016 and the probation officer confirmed that Mr. Hsu had complied with all his obligations.

Dr. Factora stated that Mr. Hsu's psychologist, Peter Ganshirt, Psy.D., provided a report regarding his impressions of Mr. Hsu. Dr. Ganshirt also administered two psychological tests to Mr. Hsu to help identify any characteristics that would pose a risk to anyone in the community, specifically women or patients. Dr. Ganshirt opined in his report that Mr. Hsu was not a sexual offender or a sexual predator, based on his data.

Dr. Factora stated that additional testimony came from a vast array of individuals including co-workers, colleagues, clinical supervisors, friends, and family. Dr. Factora stated that the testimony lauded Mr. Hsu's professionalism and work ethic. Dr. Factora noted that at one point Mr. Hsu was awarded for his commitment to service in a circumstance in which he traveled to a veteran's hospice location to conduct a physical examination that was necessary for the veteran's application for compensation and pension, an examination that would otherwise have required the veteran to make an outpatient visit which was not possible due to the veteran's physical limitations. Dr. Factora further noted that Kristin Jumer, L.P.C.C., and Melissa Napier, P.A., both work with Mr. Hsu. Ms. Jumer and Ms. Napier have also developed platonic relationships with Mr. Hsu outside of work and have had opportunity to observe him in social situations. Ms. Jumer and Ms. Napier both testified that the alleged behavior was out-of-character for what they had observed and known about Mr. Hsu.

Dr. Factora stated that it is undisputed that Mr. Hsu was found guilty of a misdemeanor conviction involving moral turpitude and the conviction was affirmed on appeal. Dr. Factora noted several mitigating

factors in this case:

- It was a single episode.
- There were no prior red flags for this behavior.
- Mr. Hsu fully disclosed his conviction to the Board.
- Mr. Hsu worked to fulfill his sentencing requirements immediately following his criminal conviction.
- Mr. Hsu appears to be remorseful and does not want to do anything that would jeopardize his career.
- There are numerous letters of support and positive characterizations for Mr. Hsu.
- Two women who know Mr. Hsu in a social context attested to his character and testified that the alleged behavior was out-of-character for what they had observed of him.
- A psychological evaluation by Dr. Ganshirt did not reveal any findings that could be identified as factors that would put women or patients at risk.

Dr. Factora noted that the Hearing Examiner characterized the incident as a forced sexual encounter. Dr. Factora disagreed with characterizing the event on the same level as all other cases involving sexually-oriented offenses and argued that there must be some level of gradation, particularly considering the wide array of testimony supporting Mr. Hsu professionally and socially.

Dr. Factora disagreed with the Hearing Examiner's Proposed Order of permanent revocation of Mr. Hsu's license, noting that the event did not take place in the context of patient care. Dr. Factora suggested that the Board discuss the possibility of an alternative order and recommended that the discussion begin with consideration of a reprimand.

Mr. Kenney agreed with Dr. Factora's comments and opined that permanent revocation is very harsh given the hearing record and Mr. Hsu's background. Mr. Kenney commented that another such incident, however, would warrant permanent revocation because it would indicate a pattern of behavior.

Dr. Schottenstein felt that Mr. Hsu is attempting to re-litigate the case that resulted in his conviction by continuing to maintain his innocence. Dr. Schottenstein stated that in reviewing this case, he began with the premise that it is virtually impossible to erroneously perceive that someone has begun to publicly masturbate in a proximity that is close enough to hold a conversation. Dr. Schottenstein stated that the logical inference of this premise is that one of the two parties is lying.

Dr. Schottenstein stated that in his testimony, Mr. Hsu speculated that Natalie may have lied about such a thing because she had become annoyed with him and irritated to the point where she overreacted, told a security guard her story, and "she just got stuck in her story since then." Mr. Hsu further described this as a perception of reality that is not based on truth. Dr. Schottenstein stated that this is not plausible and there is no over-reaction from a feeling of irritability that provokes a misapprehension of reality. Dr. Schottenstein stated that everyone knows what it is like to feel irritated or even highly irritated, but they do not see things that are not there when that happens. Dr. Schottenstein stated that it is degrading and offensive to feed into the stereotype of a woman becoming easily hysterical. Dr. Schottenstein asked hypothetically if anyone would doubt the credibility of a man or accuse him of overreacting if he testified

that he saw Mr. Hsu engage in this behavior.

Dr. Schottenstein continued that Mr. Hsu's defense attorney had stated that it is ludicrous to think the Mr. Hsu would engage in this activity in an employee parking lot with security guards and people everywhere. However, Dr. Schottenstein stated that it is not necessary that this behavior follow a logical pattern because, as the prosecutor in the criminal case noted, it is a product of desire and impulse.

Dr. Schottenstein stated that he believes all the nice things that his colleagues, friends, and family members have said about Mr. Hsu, that thousands of patients have had good experiences with Mr. Hsu, and that Mr. Hsu has been compliant with every recommendation made for him. However, Dr. Schottenstein stated that these things are not mutually exclusive to the activity with which he has been charged.

Dr. Schottenstein also did not find Dr. Ganshirt's psychological assessment to be entirely credible. Dr. Schottenstein stated that Mr. Hsu and Dr. Ganshirt had already formed a therapeutic relationship prior to this assessment, and therefore Dr. Schottenstein was uncertain that Dr. Ganshirt was as objective as he could have been. Dr. Schottenstein also expressed concern about the heavy reliance on the Sexual Violence Risk 20 (SVR-20) test. Dr. Schottenstein commented that psychological testing is suggestive, but it is not diagnostic and it is a tool among many to collect data and form impressions. Dr. Schottenstein stated that Dr. Ganshirt based much of his impression on the SVR-20, a 20-item checklist of risk factors for sexual violence. Dr. Schottenstein stated that the results of the SVR-20 are dependent on the veracity of the examinee and the test can be confounded if the examinee lies. Dr. Schottenstein further stated that sexual offenders are notorious for minimizing and denying their behavior.

Dr. Schottenstein stated that the State has met its burden by showing the Mr. Hsu was convicted of a fourth-degree misdemeanor, namely one count of Public Indecency. Dr. Schottenstein opined that the attempt to re-litigate the matter is not persuasive. Dr. Schottenstein stated that Mr. Hsu is asking the Board to believe two things: First, that the victim is a hysterical and unrepentant liar who has no compunction about seeing an innocent man dragged through the court system and potentially lose his reputation and livelihood; and second, that the court of law that tried Mr. Hsu and had the closest look at the witnesses and facts wrongly convicted him. Dr. Schottenstein stated that there is no evidence that either of these things are true.

Dr. Schottenstein stated that this kind of behavior is treatable with a combination of psychotherapy and medication management. Dr. Schottenstein stated that in these situations he would generally favor non-permanent revocation of license, especially for a first offense, if the licensee is attempting to work on the problem. However, Mr. Hsu has made no admission of his behavior and is taking no responsibility for his actions. Dr. Schottenstein stated that he does not hear remorse from Mr. Hsu, only denial. Dr. Schottenstein stated that given that level of denial, he does not see how Mr. Hsu is a candidate for treatment. Dr. Schottenstein stated that the Board has to protect the public, and therefore he regretfully agrees with the Hearing Examiner's Proposed Order of permanent revocation.

Mr. Giacalone stated that he tends to agree with Dr. Schottenstein. Mr. Giacalone stated that he struggled with understanding why two women would single Mr. Hsu out with an untrue story. Mr. Giacalone further noted that both the courts and the Medical Board's Hearing Examiner found Mr. Hsu to not be credible. Mr. Giacalone, reiterating that Mr. Hsu has made no admission of his actions, asked how that justifies rehabilitation. Mr. Giacalone stated that Mr. Hsu has done some wonderful things, but he also noted that Mr. Hsu would be treating veterans and others who may be female. Mr. Giacalone stated

that he struggles with the concept of only issuing a reprimand to Mr. Hsu.

Mr. Kenney commented that he is not attempting to re-try this matter and that he feels the court came to the correct conclusion regarding Mr. Hsu. However, Mr. Kenney questioned whether permanent revocation of Mr. Hsu's license was an appropriate response to these actions. Mr. Giacalone stated that if Mr. Hsu did commit these acts, then he is a liar and is not taking responsibility. Mr. Kenney did not agree that Mr. Hsu was a liar and commented that he is taking the court's decision into consideration.

Dr. Factora added that he also is not contesting the court's finding of Mr. Hsu's guilt, but he questioned whether Dr. Hsu's actions warrant permanent revocation. Dr. Factora agreed that there should be some sort of punishment, but opined that permanent revocation is very punitive and puts Mr. Hsu's actions in the same vein as any other sexually-oriented crime. Dr. Factora further noted that Mr. Hsu was convicted of a fourth-degree misdemeanor, not a felony.

Dr. Schottenstein agreed with Dr. Factora and stated that he would be more amenable to something less than permanent revocation if Mr. Hsu had been contrite and agreeable to seeking help for his problem. Dr. Schottenstein also agreed that there are more substantial sexual offenses, but stated that Mr. Hsu's actions were potentially traumatizing to the victim and is not something that he takes lightly.

Dr. Schachat stated that he tends more towards to views of Dr. Factora and Mr. Kenney in this matter. Dr. Schachat opined that Mr. Hsu sounded credible to him today, but the question is whether Mr. Hsu was credible prior to today.

Mr. Giacalone noted that the Board members seem to agree that Mr. Hsu committed the alleged acts and only disagree on the Board's sanction. Mr. Giacalone asked if the Board members would feel comfortable having Mr. Hsu examine one of their female patients. Mr. Giacalone further wondered, if a lesser sanction is imposed, whether Mr. Hsu would see that as a vindication and an indication that he could commit this act again.

Dr. Factora suggested that an Order of reprimand may be appropriate in this matter, perhaps with probationary terms. Mr. Kenney suggested that a non-permanent revocation of Mr. Hsu's license may be more fitting. Mr. Kenney stated that a non-permanent revocation would allow Mr. Hsu to reapply for a license after addressing some of the Board's concerns. Dr. Factora agreed.

Dr. Factora moved to amend the Proposed Order to a non-permanent revocation of Mr. Hsu's physician assistant license. Mr. Kenney seconded the motion.

In response to a question from Dr. Schachat, Ms. Anderson stated that in a non-permanent revocation, the Board cannot enforce conditions that Mr. Hsu must meet before reapplying for a license. However, Ms. Anderson stated that the Board can make comments on what it would like to see from Mr. Hsu before he reapplies, and those comments would be recorded in the meeting minutes. Mr. Giacalone commented that prior to any reapplication, Mr. Hsu should wait at least one year and also receive independent therapy which the Board can find acceptable. Dr. Soin agreed that those things would help Mr. Hsu regain his license, though they would not guarantee it.

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

ROLL CALL: Dr. Rothermel - abstain

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

The motion to amend carried.

Dr. Schottenstein moved to approve and confirm Ms. Shamnsky's Findings of Fact, Conclusions of Law, and Proposed Order, as amended, in the matter of Gerry Victor hsu, P.A. Mr. Giacalone seconded the motion. A vote was taken:

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

The motion to approve carried.

GREGORY ALLEN INGRAM, M.D.

Dr. Soin directed the Board's attention to the matter of Gregory Allen Ingram, M.D. Objections to Mr. Porter's Report and Recommendation have been filed and were previously distributed to Board members.

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

Dr. Ingram asked the Board to not permanently revoke his medical license, but to instead consider an indefinite suspension with conditions. Dr. Ingram stated that he has engaged in misconduct that has led to this proceeding. Dr. Ingram stated that after realizing I had a problem and was a risk to patients, he self-reported to the Board and to law enforcement to begin this process and ensure safety of the public. Dr. Ingram sought psychiatric treatment, was diagnosed with bipolar disorder, and was started on appropriate medications and counseling.

Dr. Ingram stated that he has cooperated with the Board and with law enforcement during their investigations. Dr. Ingram served one year in federal prison, which afforded him an opportunity to engage

in a great deal of personal reflection. Dr. Ingram stated that he has completed 50 hours of community service and he remains on supervised release. On release from prison, Dr. Ingram resumed monthly appointments with his psychiatrist as well as weekly psychological counseling. Dr. Ingram stated that he also attends weekly 12-step meetings.

Dr. Ingram continued that since being treated for bipolar disorder, he has gained better insight into my mental illness and behavior. Dr. Ingram stated that, like the Board, his main concern is for public safety. Dr. Ingram believed that public safety can be accomplished without permanently revoking his license. Dr. Ingram opined that continued psychiatric treatment and counseling will be paramount to ensure public safety. Dr. Ingram stated that he is willingly to release his medical records to the Board to assure compliance and he will remain compliant with the treatment plan, including medication and counseling as recommended by his psychiatrist.

Dr. Ingram stated that he has not practiced medicine since October 2014 and that he required continuing medical education (CME) to practice the most current standards of evidence-based medical care. Dr. Ingram stated that he will pursue courses in appropriate controlled substance prescribing so that he does not place patients at risk again, as well as CME in emergency medicine and urgent care. Dr. Ingram added that he should practice in a regulated environment so that his prescribing and medical record-keeping can be monitored to ensure the public and the Board of his readiness to practice medicine. Dr. Ingram stated that his goal is to work with the Board as partners to ensure public safety. Dr. Ingram believed that setting conditions and an indefinite suspension can accomplish this goal without requiring permanent revocation.

Dr. Ingram stated that not a day goes by that he is not sorry for what I did. Dr. Ingram apologize to the patients he harmed, his colleagues in the medical profession, and his family and friends who he has disappointed. Dr. Ingram wished he had had better insight into his bipolar disorder before he made decisions that led to his misconduct. Dr. Ingram felt that a mental health disorder, if managed appropriately, should not limit him from being a physician he is willing to meet any conditions set by the Board to practice medicine in Ohio where I can use my skills and knowledge to help the public. Dr. Ingram stated that now that he is being treated for his bipolar disorder, he has better insight and control of his behavior and he does not intend to let this misconduct occur again.

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

Ms. Snyder stated that neither she nor any of the Hearing Examiners take permanent revocation of license lightly. However, Ms. Snyder stated that there are some cases in which the conduct is so egregious that permanent revocation is the only answer. Ms. Snyder acknowledged that permanent revocation is difficult in a case where a mental condition may be involved.

Ms. Snyder continued that Dr. Ingram was convicted of 48 felonies for illegally dispensing controlled substances. Ms. Snyder stated that within a year of receiving his full medical license, Dr. Ingram began handing out prescriptions for narcotics to strippers, to their friends, to people he had never met, and to people he had never physically examined. Ms. Snyder stated that Dr. Ingram did this knowing some of those people were addicts. Ms. Snyder noted that Dr. Ingram wrote 46 prescriptions for oxycodone totaling 1,087 pills and six prescriptions for morphine products totaling 672 pills. Dr. Ingram even initiated a sexual relationship with a stripper after he did a pelvic exam on her in the emergency department.

Ms. Snyder stated that Dr. Ingram's actions were not simply a few lapses in judgement. Rather, Ms. Snyder stated that this was two years of conduct that was calculated to satisfy Dr. Ingram's sexual gratification. Ms. Snyder stated that Dr. Ingram preyed on these people whom he knew to be addicts because he wanted the relationship. Ms. Snyder stated that Dr. Ingram's youth and his bipolar diagnosis does not matter, because some conduct that is so egregious that there is no mitigation. Ms. Snyder stated that the Board's ultimate concern is public safety, but public perception of and trust in the medical profession is also a concern. Ms. Snyder supported the Proposed Order of permanent revocation.

Dr. Schottenstein moved to approve and confirm Mr. Porter's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Gregory Allen Ingram, M.D. Dr. Edgin seconded the motion.

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

Dr. Schachat stated that the allegations against Dr. Ingram relate to selling, prescribing, dispensing, giving away, or administering controlled substances in exchange for sexual favors. Dr. Schachat also stated that Dr. Ingram pleaded guilty to those actions in a court of law. Dr. Schachat noted that under the Board's disciplinary guidelines, the minimum penalty for these actions is permanent revocation of license, though the Board can deviate from the minimum penalty based on mitigating factors. Dr. Schachat stated that on or around November 10, 2015, in U.S. District Court, Dr. Ingram pleaded guilty to 48 felony counts.

Dr. Schachat continued that in December 2014 Dr. Ingram was diagnosed with bipolar disorder. Dr. Ingram's psychiatrist, Shishuka Malhotra, M.D., testified in support of Dr. Ingram and stated that much of Dr. Ingram's behavior could be explained by mania or other aspects of his psychiatric illness. Dr. Schachat stated that over a period of about 11 months, Dr. Ingram prescribed controlled substances in return for money or sexual favors. Dr. Schachat stated that some of the prescription were given to women who were addicted to heroin or oxycodone.

Dr. Schachat stated that the mitigating factors in this case include Dr. Ingram's psychiatric diagnosis, which could explain some inability to behave appropriately and is presumably manageable with appropriate care. Dr. Schachat added that character witnesses have also given favorable testimony and Dr. Ingram has been cooperative with authorities, including the Board. Dr. Ingram has also acknowledged the wrongfulness of his behavior, he appears remorseful, and he has no prior disciplinary record. Dr. Schachat also pointed out aggravating factors that Dr. Ingram was convicted of 48 felonies and that this was done in the course of medical practice.

Dr. Schachat opined that the aggravating factors outweigh the mitigating factors in this matter, and therefore he agreed with the Proposed Order of permanent revocation.

Dr. Schottenstein stated that in the context of a manic episode, judgment may become so impaired that one behaves in a way that one normally would not and one may have a feeling of unrealistic self-confidence and invincibility. However, Dr. Schottenstein pointed out that manic episodes eventually end after a day or several days, and then appropriate judgment returns. Dr. Schottenstein stated that between episodes of mania when judgment returns, one might expect self-reflection that would prompt a request for intervention. Dr. Schottenstein stated that if one realized that they had engaged in inappropriate behavior that did not reflect their values, one would likely contact a family member, friend, or physician and ask for help. Dr. Schottenstein stated that it is not plausible to him that mania drove Dr. Ingram's

behavior over such a long period of time without an opportunity to address the situation during periods of time when the mania had lifted. Dr. Schottenstein stated that there were many opportunities to address the behavior, but the behavior only stopped when Dr. Ingram was caught.

Dr. Schottenstein continued that a second compelling consideration is that Dr. Ingram's work was going so well during the time period in question. Dr. Schottenstein stated that the presence of mania as a mitigating factor would have been more compelling if Dr. Ingram's work quality had suffered during that time. Dr. Schottenstein commented that it does not seem consistent that Dr. Ingram was an exemplary employee, as has been attested to by multiple witnesses, while he was in the throes of mania that was profound enough to provoke the behavior in question.

Dr. Schottenstein noted that Dr. Ingram, who has described his behavior as "impulsive," has attested that he knew that writing the prescriptions was wrong when he was doing it. Dr. Schottenstein pointed out that "impulsive" means that one acts before one thinks. Dr. Schottenstein stated that knowing something is wrong and doing it anyway is not impulsive behavior, it is reckless behavior. Dr. Schottenstein commented that character is what keeps someone from doing something they know is wrong even if they think they will not be caught. Dr. Schottenstein did not find it plausible that Dr. Ingram acted without think every time over the 23-month period in which he wrote narcotics for women who were not his patients in exchange for sexual relations or money.

Dr. Schottenstein stated that in her testimony, D. Malhotra asked the question, "We allow diabetic physicians to go and practice if they are on insulin; why would you not allow a bipolar physician to practice?" Dr. Schottenstein responded to this question by stating that the Medical Board often allows bipolar physicians to practice. However, if a diabetic physician who is on insulin commits 48 felonies, then the Board does not allow that diabetic physician to practice. Dr. Schottenstein stated that no one is punishing Dr. Ingram for his medical illness. Rather, punishment is assessed for bad behavior. Dr. Schottenstein acknowledged Dr. Malhotra's concerns about the stigma of mental illness, but opined that the stigma is actually promoted when mental illness used as a primary defense strategy to evade consequences of bad behavior when that is not an appropriate defense. Dr. Schottenstein stated that this leads the public to conceptualize people as deceptive even if they appropriately bring up their mental health issue as a mitigating factor in their behavior. Dr. Schottenstein opined that the Board has always done its best to make a distinction between the illness and the behavior. Dr. Schottenstein stated that if Dr. Ingram receives a discipline less than permanent revocation, it will be because of the presence of mental illness and his Eastway waiver.

Dr. Schottenstein stated that when one prescribes narcotics in the manner that Dr. Ingram did, one creates addicts and increases the level of misery in society in terms of safety and quality of life. Dr. Schottenstein opined that Dr. Ingram's behavior was exploitive, selfish, and predatory. Dr. Schottenstein stated that when a licensee pleads guilty to 48 felony counts, the argument against permanent revocation must be profound; Dr. Schottenstein did not find such arguments compelling in this case. Dr. Schottenstein noted Dr. Ingram's testimony in which he admitted that trust is the cornerstone of the medical profession. Dr. Schottenstein stated that Dr. Ingram's conduct undermined the patients' trust in physicians. Dr. Schottenstein agreed with the Proposed Order of permanent revocation.

Mr. Giacalone commented that not only did Dr. Ingram took advantage of these women, he also helped to proliferate and continue Ohio's problem of drug abuse and addiction. Mr. Giacalone found this to be unforgivable, and therefore he also supported permanent revocation.

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

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

The motion to approve carried.

ALAN LEWIS MENKES, D.O.

Dr. Soin directed the Board's attention to the matter of Alan Lewis Menkes, D.O. Objections to Mr. Porter's Report and Recommendation have been filed and were previously distributed to Board members.

Dr. Soin stated that counsel for the State has filed a Motion to Remand the Matter to the Hearing Examiner and to Reopen the Record. Counsel for Dr. Menkes has filed a response and counsel for the State filed an Amended Motion. The matter is now before the Board. Each side will be given three minutes to present arguments regarding the motion.

Mr. Wilcox stated that when the Board considers a Report and Recommendation it has several options, including the option to remand the matter to the Hearing Examiner to take additional testimony or to permit the introduction of additional evidence. Mr. Wilcox stated that in the matter of Dr. Menkes, two documents came into the hearing record. First, State's Exhibit 2, which was given to the Assistant Attorney General as the certified copy of Dr. Menkes' application for license restoration. Dr. Menkes also submitted Respondent's Exhibit A, which was different from State's Exhibit 2. Mr. Wilcox stated that there were no objections to State's Exhibit 2 as Dr. Menkes' official application.

Mr. Wilcox stated that he filed this motion in response to allegations made in the objections and closing arguments that the Board was somehow not providing Dr. Menkes' complete application materials. Mr. Wilcox stated that the complete application materials have been provided.

Dr. Soin asked if Dr. Menkes or his counsel wished to respond. Dr. Menkes' counsel, Eric Plinke, stated that he wished to respond.

Mr. Plinke stated that he opposed remanding this matter to the Hearing Examiner, though that is an option for the Board. Mr. Plinke stated that if the Board is satisfied with the hearing record, it can proceed on that basis. Mr. Plinke stated that the discrepancy in the material from his vantage point was the emails attached to the application materials. Mr. Plinke opined that neither of the attorneys at the beginning of Dr. Menkes' hearing appreciated the materiality of the emails or that the emails that were in Respondent's Exhibit A but not State's Exhibit 2. Mr. Plinke stated that the emails from Dr. Menkes had an attachment that addressed the objections.

After the statements, the Board members indicated that they are satisfied with the hearing record in the matter of Dr. Menkes.

A vote was taken on the motion to remand.

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

The motion to remand did not carry.

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

Mr. Plinke agreed with the Hearing Examiner that the emails and other evidence demonstrate that there was not an intent to deceive on the part of Dr. Menkes. Mr. Plinke stated that going forward, his instructions to Dr. Menkes has been that, when confronted with an application, provide all information possible and err on the side of complete disclosure.

Dr. Menkes apologized that through his error, the Board now has to consider this matter. Dr. Menkes stated that due to his oversight, my employer had no record of his Oregon medical license. Dr. Menkes stated that this omission was an unintentional mistake. Dr. Menkes stated that when he became aware of this error, he sent updated information to the Board in the form of a standard informational document that he has used many times before to explain what happened with this Oregon medical license.

Dr. Menkes stated that he had voluntarily limited his Oregon medical license by sending a letter about my disability to the Oregon Medical Board. Dr. Menkes stated that he has never viewed this as a disciplinary action and that no state medical board has ever told him otherwise. Nevertheless, Dr. Menkes apologized for causing this confusion. Dr. Menkes related an incident in which he approached the instructor of a continue medical education (CME) instructor following the class and the instructor had recognized him from a lecture Dr. Menkes had given 33 years earlier and that the instructor greatly admired Dr. Menkes. Dr. Menkes stated that that had been an overwhelming moment for him. Dr. Menkes stated that that related to the issue that was reviewed by the California Osteopathic Medical Board in the 1970's.

Dr. Menkes continued that he has never had a malpractice suit, a Medicare or Medicaid audit, or a complaint with any medical board previously. Dr. Menkes stated that he sustained a series of automobile and other accidents, followed by multiple neurosurgical reconstruction which took away his ability to practice intensive care medicine. Therefore, Dr. Menkes had to limit himself to office-based medicine. At the request of his telemedicine employer, Dr. Menkes applied for reinstatement of his Ohio medical

license in 2015 in order to assist Ohio residents in receiving telemedicine consultations. Dr. Menkes submitted his *curriculum vitae* to his employer's credentialing department and Oregon was not listed on the *curriculum vitae* as a state in which he previously held a license. Dr. Menkes stated that this is solely his fault. Dr. Menkes noted that the Oregon voluntary limitation has not prevented his licensure in 18 other states.

Dr. Soin asked if the Assistant Attorney General wished to respond. Mr. Wilcox stated that he wished to respond.

Mr. Wilcox opined that Dr. Menkes had very troubling responses to very specific, straight-forward questions. Ultimately, the Hearing Examiner found that Dr. Menkes misled the Board in one instance but not any of the other instances. Mr. Wilcox stated that in cases such as this, the State has the burden of proving intent to deceive.

Mr. Wilcox stated that there are three direct questions that Dr. Menkes answered "no" to that obviously should have been answered "yes." Dr. Menkes was asked on the application if he had any limitation on his ability to practice medicine, including a physical limitation; Dr. Menkes answered "no" despite the fact that he has a permanent disability. The Hearing Examiner said that because Dr. Menkes saw his practice as only an office space, he felt that he could do that. However, Mr. Wilcox pointed out that none of those qualification are in the question.

Mr. Wilcox continued that Dr. Menkes was also asked if another licensing board had ever issued an action against him; Dr. Menkes answered "no." Mr. Wilcox noted that in 1988 he voluntarily approached the Oregon Medical Board and reported that he could not fully practice medicine due to his physical limitation from his accident. In response, the Oregon Board entered an Order limited his license in that state. Therefore, Mr. Wilcox stated that the correct answer to the Ohio application question was obvious.

Mr. Wilcox continued that Dr. Menkes was also asked if he had any limitation against his hospital privileges; Dr. Menkes answered "no." Mr. Wilcox noted that Dr. Menkes did have such an action in California in the 1970's. Dr. Menkes stated in his hearing that the California Medical Board had told him he did not have to report that action on his privileges. However, Mr. Wilcox noted that this is the Ohio Board, not the California Board.

Mr. Wilcox noted that if the Board accepts the Proposed Order, it would reprimand Dr. Menkes and grant him a full, unrestricted medical license in Ohio. Mr. Wilcox stated that it is important for the Board to receive direct, honest answers on its applications so that the Board can evaluate whether it should give the applicant a license. Mr. Wilcox opined that, because Dr. Menkes did not provide honest answers on those three questions, it should amend the Report and Recommendation to make the finding that Dr. Menkes had provided false answers, in violation of 4731.22(F)(5), Ohio Revised Code. In addition, Mr. Wilcox felt that if the Board decides to grant Dr. Menkes a license, it should be limited in a manner similar to what the Oregon Board did based on his abilities.

Dr. Schottenstein moved to approve and confirm Mr. Porter's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Alan Lewis Menkes, D.O. Mr. Giacalone seconded the motion.

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

Mr. Gonidakis briefly reviewed Dr. Menkes medical career. Dr. Menkes was originally licensed to practice medicine in Ohio in 1967, but that license lapsed in 1990 due to non-renewal. In 1986 Dr. Menkes was injured in an automobile accident, making him no longer able to practice critical care medicine or perform hospital procedures. However, Dr. Menkes could perform various types of office-based medicine. Dr. Menkes held administrative positions from 1991 to 2006. In 2013 Dr. Menkes began doing telemedicine consultations, which he continues to do today.

Mr. Gonidakis continued that in July 2015, Dr. Menkes submitted an application for restoration of his Ohio medical license. Dr. Menkes has indicated that he had an assistant helping him with his application, although he admitted multiple times that it is his responsibility to review and approve the application. Dr. Menkes wrote on the application, in his handwriting, "telemedicine only." Dr. Menkes is currently licensed in multiple states; Dr. Menkes' Oregon medical license, which is expired, was purposely left that off his list. Dr. Menkes testified that he did not believe he needed to list his Oregon license because it was a voluntary limitation initiated by him.

Mr. Gonidakis stated that the two issues before the Board is that Dr. Menkes did not disclose his voluntary limitation in Oregon or that he had been disciplined by a hospital in California. Dr. Menkes has claimed that the action against his hospital privileges in California was politically motivated and that the California Board informed him that he needn't that action. Mr. Gonidakis noted that no other hospital in Dr. Menkes' nearly 50-year career has ever taken an action against him. Mr. Gonidakis further stated that the action on his Oregon license was not disciplinary and was not reported to the National Practitioner DataBank.

Mr. Gonidakis noted that the Hearing Examiner has described Dr. Menkes as very cooperative. Mr. Gonidakis stated that there was an issue with email communication, which the Hearing Examiner felt was a mitigating circumstance. Mr. Gonidakis stated that he supports to Proposed Order to reprimand Dr. Menkes and to issue a reprimand. Mr. Gonidakis stated that while he appreciated Mr. Wilcox's recommendation to find a 4731.22(F)(5) violation, he felt that a reprimand is appropriate in this case.

Dr. Schottenstein opined that Dr. Menkes failed to correctly answer the questions on the application. Dr. Schottenstein stated that correct answers would have informed the Board about Dr. Menkes' voluntary limitation in Oregon and the suspension of his hospital privileges in California, as well as any physical limitations. Dr. Schottenstein felt that Dr. Menkes was selective about the information he shared with the Ohio Board based on what Dr. Schottenstein felt was a self-serving position where he was providing information based on what he thought the Board needed to know to arrive at the conclusion that he believed was the correct one.

Dr. Schottenstein stated that he is glad that Dr. Menkes in the future will err on the side of providing all information on applications. Dr. Schottenstein stated that it is not for the applicant to decide what information the Board needs to know based on self-serving personal opinion. Dr. Schottenstein stated that applicants cannot be selective with information because the applicant is not impartial in determining how much of an impact his or her relevant history has on their ability to practice.

Dr. Schottenstein opined that Dr. Menkes exhibited a degree of cognitive contortion in his justification for his application answers. Dr. Schottenstein opined that the answers were overly subtle, intellectually dishonest, sophisticated and contrary to common sense, and the multiple incorrect answers seemed to be a pattern. Dr. Schottenstein was grateful that Dr. Menkes now seems to understand the importance of full disclosure. Dr. Schottenstein stated that he supports the Proposed Order.

Mr. Gonidakis stated that every case that comes before the Board has a unique set of facts and circumstances. Mr. Gonidakis agreed that there are standards for applications, just as with medical practice, and that the Board required disclosure on its applications. Mr. Gonidakis opined that the totality of the facts and circumstances of this case would lead to a reprimand

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

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

The motion to approve carried.

ANNE L. PHELAN-ADAMS, M.D.

Dr. Soin directed the Board's attention to the matter of Anne L. Phelan-Adams, M.D. Objections to Mr. Porter's Report and Recommendation have been filed and were previously distributed to Board members.

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

Dr. Phelan-Adams stated that she would like to read a statement:

I appear before this Board today as a fully-functional, articulate, cognitively-intact, and emotionally stable individual. The period of time between November of 2015 and March of 2016 was the only time in my life that I had a substance abuse problem. It was triggered by a personal crisis that was just too painful for me to bear. I handled it poorly, but it was a horrible circumstance. That was over a year ago, but out of an abundance of caution I continue to take a low dose of an anti-depressant and see a therapist regularly. I've not had any substance misuse in over a year.

This Board asserts that it has substantial evidence that not only am I impaired, but that I pose a serious and eminent risk to the public. What is the evidence? What is the evidence as I stand here now and as I have been before the past year? Well, I think there is none. There's opinion, there's speculation, there's what I consider false assumptions and prediction of the future. But I don't consider any of this evidence. In the preceding twelve months, two psychiatrists, a neurologist, a primary care physician, and a therapist have evaluated me. They found no objective evidence of ongoing impairment, no behavioral abnormalities, no cognitive impairment, no current memory deficit, and no positive drug test. Those are things I consider evidence, and they aren't there. No health organization,

colleague, patient, or anyone like that has ever formally complained about my conduct. No officer of the law has charged me with anything more than a traffic infraction. And none of my family or close friends have ever seen any evidence of alcoholism or addiction, merely a three-month period of substance misuse which I totally regret.

The Federation of State Physician Health Programs makes a clear distinction between a medical condition and impairment, stating that ‘illness is the existence of a disease or a disease process. Impairment is a functional classification and implies the inability of the person affected by the disease to perform specific activities.’ In my case, these are practicing telemedicine and one day a week of treating opioid-addicted patients. It adds that ‘unfortunately, some regulatory agencies equate illness ... as synonymous with impairment.’ The AMA [American Medical Association] also asserts that ‘distinguishing the difference between impairment and disability is imperative’ and that medical boards have the obligation to focus on current functional impairment instead of history of a diagnosis or treatment for mental illness. The ABA [American Bar Association] Council on Psychiatrists and the Law concurred, stating that “only information about current impairment suspecting the capacity to function as a competent physician should ever be considered.’

Every step along the way of this process I have felt that I have been considered guilty unless I could prove myself to be innocent. I have been, multiple times, ordered to submit to certain evaluations and treatment, and that if I do not the allegations are presumed true. Coercing someone, including myself, to submit to an indefinite and unnecessary treatment and confinement in a rehab facility that I can’t afford as a condition for reinstating licensure is, in my opinion, a violation of my basic human rights not to be confined for no good reason. Ohio, like many other states, is facing a severe shortage of physicians, and any time I think that a board of medicine ... “

Dr. Soin informed Dr. Phelan-Adams that her time has expire and asked her to finish her though.

Dr. Phelan-Adams stated that she would like to be able to resume her previous level of functioning and work. Dr. Phelan-Adams thanked the Board.

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

Ms. Snyder stated that this is a case of mental and chemical impairment. Ms. Snyder stated that Stephen G. Noffsinger, M.D., the Board’s expert psychiatrist, found that Dr. Phelan-Adams suffered from major depressive disorder which impairs her ability to practice medicine in Ohio without further treatment. Christopher L. Adelman, the Board’s chemical dependency expert, found that Dr. Phelan-Adams suffered from alcohol use disorder, mild, which similarly impaired her ability to practice in Ohio without further treatment. Ms. Snyder stated that these are facts and medical diagnoses, not a conspiracy against Dr. Phelan-Adams.

Ms. Snyder continued that because Dr. Phelan-Adams’ diagnoses, the Board has to follow certain legal procedures. For instance, the finding of chemical impairment automatically triggers requirements for treatment. Ms. Snyder stated that this does not violate Dr. Phelan-Adams’ basic human rights, it is an effort to make her well so that she can practice safely in Ohio.

Ms. Snyder stated that this matter was triggered by the fact that Dr. Phelan-Adams overdosed twice within four months and was admitted to the hospital due to a combination of alcohol and Xanax or another anti-psychotic medication. After each incident Dr. Phelan-Adams sought treatment, and each time she would not tell her subsequent treatment provider about the level of her alcohol use. Ms. Snyder opined that even today, Dr. Phelan-Adams does not seem to appreciate that her alcohol use was problematic. Ms. Snyder added that it is uncertain whether Dr. Phelan-Adams is being candid about her current alcohol use.

Ms. Snyder stated that Dr. Noffsinger also opined about Dr. Phelan-Adams' substance use and that she needed outpatient treatment, whereas Dr. Adelman has recommended inpatient treatment. Ms. Snyder noted that Dr. Adelman is the Board's chemical impairment provider in this case and opined that the Board should defer to Dr. Adelman's opinion because he is simply following the Medical Board's law.

Mr. Gonidakis exited the meeting at this time.

Ms. Snyder stated that Dr. Phelan-Adams stated at her hearing that she has no intention of going through treatment.

Dr. Schottenstein moved to approve and confirm Mr. Porter's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Anne L. Phelan-Adams, M.D. Dr. Factora seconded the motion.

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

Dr. Schottenstein briefly reviewed Dr. Phelan-Adams' medical career. On Thanksgiving Day, 2015, Dr. Phelan-Adams' husband told her he wanted a divorce after 37 years of marriage. Dr. Phelan-Adams testified that that was a very traumatic experience and she had never been in so much emotional pain in her life. Dr. Phelan-Adams' routine was to drink a small amount of sherry in the evening, but this appeared to subsequently increase.

Dr. Schottenstein continued that on December 22, 2015, Dr. Phelan-Adams was taken by ambulance to the emergency department. Dr. Phelan-Adams' daughter stated that Dr. Phelan-Adams had taken some medication with alcohol. Dr. Phelan-Adams told the emergency medical services (EMS) personnel that she had just wanted the pain to stop and she had not been trying to hurt herself. Dr. Phelan-Adams also indicated to the EMS crew that on several occasions she had taken different amounts of medication along with alcohol. According to the record, Dr. Phelan-Adams' daughter related a multiple-decades long history of clinical depression. Dr. Phelan-Adams was found to have overdosed on alcohol, nortriptyline, and Xanax, and her blood alcohol content was .11.

Dr. Schottenstein noted Dr. Phelan-Adams' testimony that she has ordered her medications from a wholesaler because it was more convenient and less expensive. Dr. Phelan-Adams testified that she did not have a prescription for Xanax and, although she admitted to a social worker that she knew it was wrong for her to self-prescribe the Xanax, she continued to do so after the emergency room visit.

Dr. Schottenstein continued that on March 18, 2016, Dr. Phelan-Adams was brought back to the emergency department by her daughter who had found her on the bathroom floor. Chart notes indicate that Dr. Phelan-Adams was battling depression and going through a stressful divorce. Dr. Phelan-Adams stated at the time that she had been coping with the stress of the divorce by drinking alcohol, that she

knew that was an issue, and that it would stop. The chart notation indicated that Dr. Phelan-Adams sleeps with a bottle of sherry next to her bed and that her alcohol consumption had increased, though Dr. Phelan-Adams disagreed with this at her hearing. Her urine screen was positive for benzodiazepines and her blood alcohol level of .13. Once again, Dr. Phelan-Adams denied any suicidal ideation. Dr. Schottenstein observed that according to the social working the emergency department, Dr. Phelan-Adams admitted not telling her psychologist about her alcohol and benzodiazepine consumption. Subsequently, Dr. Phelan-Adams' primary care physician began her on Wellbutrin for depression and noted that she had tolerated that medication well in the past.

In May 2016 Dr. Phelan-Adams had a recorded interview with a Board investigator. In the interview, Dr. Phelan-Adams indicated that she had drunk all night after her husband asked for a divorce in November. Dr. Phelan-Adams further indicated that the two incidents of overdose had resulted from attempts to commit suicide, but that she had told her children that they were accidental. She also indicated in that interview that she had wanted to kill herself after her husband asked for the divorce. She stated that the alcohol and benzodiazepine combination was not working, so she ordered Xanax wholesale. Dr. Phelan-Adams indicated that this combination would have worked, presumably with regard to causing suicide, had her daughter not found her. Dr. Phelan-Adams told the investigator that she was glad her daughter found her because she no longer wanted to kill herself.

In July 2015 Dr. Phelan-Adams was seen by Dr. Noffsinger for a Board-ordered psychiatric evaluation. Dr. Noffsinger diagnosed Dr. Phelan-Adams with major depressive disorder, single episode in full remission; alcohol use disorder, mild, in early remission; and benzodiazepine use disorder, mild in early remission. Dr. Phelan-Adams told Dr. Noffsinger that her alcohol use had been a problem for her between December and March, having used alcohol daily at night, through the night, and in increasing quantities up to 750 cc, which indicated that Dr. Phelan-Adams had tolerance to the alcohol. Dr. Phelan-Adams also reported that she had had blackouts from the alcohol use and periods of amnesia afterwards. Dr. Noffsinger's evaluation found Dr. Phelan-Adams to be incapable to practicing medicine and indicated that she required treatment to maintain her remission from her symptoms of depression.

In December 2016, Dr. Phelan-Adams underwent the Board-ordered 72-hour evaluation at Glenbeigh Hospital, where she saw a treatment team under the direction of Dr. Adelman. Dr. Adelman diagnosed Dr. Phelan-Adams with alcohol use disorder, mild abuse; and sedative hypnotic abuse disorder, mild abuse. Dr. Adelman concluded that Dr. Phelan-Adams was impaired and not capable of practicing medicine. Dr. Adelman recommended a 28-day inpatient stay at a board-approved facility, but she declined further services at that time.

In his testimony, Dr. Adelman noted a pattern. Namely, Dr. Phelan-Adams' usual routine was to drink a small amount of alcohol before bed, but at some point the use of the alcohol progressed and she engaged in binge drinking, about half a bottle of sherry along with 5 benzodiazepine tablets. Dr. Adelman noted that Dr. Phelan-Adams' drinking continued even after the emergency department visits, and that a logical person would not continue to drink unless they had a dependency problem.

Dr. Schottenstein stated that the Hearing Examiner noted that Dr. Phelan-Adams accepts the depression diagnosis and is willing to submit to psychiatric treatment for that condition. However, Dr. Phelan-Adams indicated in her hearing that she has no intention of submitting to a 28-day inpatient stay and she denied that she has a substance abuse disorder. The Hearing Examiner's Proposed Order would suspend Dr. Phelan-Adams' medical license indefinitely, with the understanding that if and when she decides to seek reinstatement she will be required to undergo 28 days of inpatient treatment as a condition for

reinstatement, followed by probationary monitoring for at least five years.

Dr. Schottenstein stated that he understands Dr. Phelan-Adams' position, even if he respectfully disagrees with it. Dr. Schottenstein stated that from Dr. Phelan-Adams' viewpoint, she had been depressed during a tough time in her life during which she drank more and took Xanax, but now she is back with her husband, on anti-depression medications, has a stable mood, and her drinking and drug use is behind her. From that perspective, Dr. Phelan-Adams does not understand why she must admit to having an alcohol use disorder and a sedative use disorder and go through 28 days of inpatient treatment. However, Dr. Schottenstein stated that Dr. Phelan-Adams' conceptualization does not hold together in many places. Dr. Schottenstein opined that Dr. Phelan-Adams is exhibiting fair amounts denial and cognitive dissonance.

Dr. Schottenstein continued that he would never presume to minimize the pain that Dr. Phelan-Adams had experienced or judge her for wanting to engage in behavior to make the pain go away. However, Dr. Schottenstein pointed out that suffering is part of life and even profound suffering is something that everyone is likely to experience at some point. However, most people do not binge drink, abuse drugs, and attempt suicide to compensate for this level of pain. Dr. Schottenstein stated that these are not normal reactions to stress. Dr. Schottenstein stated that these behaviors occur when people are prone to mood disorder and substance abuse disorder, even if those things are under reasonable control at times of low stress. Dr. Schottenstein emphasized that the stress does not cause the depression and substance abuse; rather, it is the brain is prone to these things.

Dr. Schottenstein stated that there are multiple examples of Dr. Phelan-Adams minimizing the degree of her substance abuse and depression with medical caregivers, family, and friends. In Dr. Phelan-Adams' husband testimony, he criticized the Board for making no honest attempt to work with Dr. Phelan-Adams regarding what he called the forgivable mistake that she made during a life crisis. Dr. Schottenstein submitted that what the Board is currently doing constitutes an honest attempt to work with Phelan-Adams. Furthermore, Dr. Schottenstein disagreed with the characterization of Dr. Phelan-Adam's behavior as a mistake. Instead, Dr. Schottenstein stated that Dr. Phelan-Adams has a condition and a pattern of risky behavior which needs to be treated. Dr. Schottenstein stated that Dr. Phelan-Adams will forever be at risk of relapse regarding this behavior unless she gets treatment, which reduces the risk of relapse. Dr. Schottenstein stated that there are real-life examples that relapse for Dr. Phelan-Adams is potentially fatal.

Dr. Schottenstein stated that the Board has made an honest attempt to work with Dr. Phelan-Adams, which was the point of the 72-hour substance abuse assessment. Dr. Schottenstein state that an honest attempt to work with a licensee is the point for allowing someone to keep their license and go back into practice after a brief suspension following a diagnosis of a substance abuse disorder. Dr. Schottenstein stated that, regrettably, it is next to impossible to convince somebody that they have a problem, and this is why there are interventions. Dr. Schottenstein stated that Dr. Phelan-Adams has well-meaning friends and family who are enabling her denial by conceptualizing attempts to encourage treatment as a form of persecution. Dr. Schottenstein stated that in the absence of treatment, there is real risk that this does not end well.

Dr. Schottenstein hoped that Dr. Phelan-Adams will make good choices going forward, stay on her medicine, and change her mind about pursuing the program recommended by the Medical Board. Dr. Schottenstein stated that he agreed with the Proposed Order of indefinite suspension.

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

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

The motion to approve carried.

SUMMIT SHAILESH SHAH, M.D.

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

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

Dr. Shah was represented by his attorney, Eric Plinke.

Mr. Plinke stated that Dr. Shah is before the board due to his felony convictions. Mr. Plinke stated that while these are felonies, they are lower-class felonies and the record contains substantial mitigation. Mr. Plinke stated that these were isolated incidents which did not involve controlled substances or patient care. Mr. Plinke stated that Dr. Shah did not have any intent to violate the law.

Dr. Shah stated that he is before the Board today by his own fault and he understands the significance of the situation. Dr. Shah stated that in 2011 he opened his own allergy and immunology practice shortly after completing his residency. When the practice opened, the only employees were Dr. Shah's wife who acted as a receptionist; a nurse; and himself. Dr. Shah commented that he had no training on how to run a business. When the practice opened, Dr. Shah's wife and nurse called the Medical Board, the Board of Pharmacy, and insurance companies to make certain that the practice had all the appropriate licenses and paperwork to begin seeing patients. At that time, they were informed by the Board of Pharmacy that no special permits or licenses such as the Terminal Distributor of Dangerous Drugs (TDDD) license were required to dispense medications such as anti-histamines, eye drops, inhalers, and allergy shots.

Dr. Shah stated that his practice grew rapidly to thousands of patients and multiple locations and he hired an additional physician, as well as a nurse practitioner. In 2016, as part of beginning a compliance program for the practice, it was found that the practice does not have a TDDD license for the administration of medications and allergy shots. At that time, Dr. Shah learned that when his practice added another physician and additional locations, it was no longer exempt from having a TDDD license. Dr. Shah reported this omission to the appropriate agency.

Mr. Gonidakis returned to the meeting at this time.

Dr. Shah stated that it was never his intention to break the law and he expressed remorse for failing to keep up with his obligations. Dr. Shah stated that he has learned that the clinical practice of medicine is one aspect of running a practice, but there is a very large administrative and compliance aspect as well. Dr. Shah stated that his practice now has a compliance officer, a HIPPA officer, and a Vice President of Operations to ensure this kind of error does not happen again.

Dr. Shah stated that since he reported this issue last year, he has not seen any patients until receives approval from the Board to continue practicing. Dr. Shah stated that this has been the longest period that he has been away from patient care since medical school and he hoped to resume practice soon, with the Board's approval.

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

Ms. Snyder stated that she has nothing to add, except to point out that this is a case of first impressions. Ms. Snyder commented that she does not recall a similar case appearing before the Board.

Dr. Schottenstein moved to approve and confirm Ms. Blue's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Summit Shailesh Shah, M.D. Mr. Giacalone seconded the motion.

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

Dr. Schottenstein stated that Dr. Shah was cited by the Board based on allegations that on August 26, 2016, he pleaded guilty to, and was found guilty of, four felony counts of selling, purchasing, distributing, or delivering dangerous drugs. Dr. Schottenstein briefly reviewed Dr. Shah's career and education. Dr. Shah was sentenced to a total of one month of community service and ordered to pay restitution in the amount of approximately \$210,000 to the Ohio Attorney General's Office. Dr. Shah paid the restitution on the same day and began his community service that day.

Dr. Schottenstein stated that Dr. Shah opened Premiere Allergy, an allergy and asthma practice, in Dublin, Ohio, in April 2011. At the time, Dr. Shah was the sole physician. Dr. Shah's nurse called the Board of Pharmacy and she was told that Dr. Shah did not require an TDDD license because he was a solo practitioner at one location and was the sole proprietor of the practice. Dr. Shah began to focus on the clinical aspects of medicine as opposed to the regulatory and compliance aspects. Over next four years, Dr. Shah's practice grew rapidly to a multi-physician practice with ten locations in the central Ohio area.

Dr. Schottenstein stated that Dr. Shah's criminal conviction arose from the fact that he did not have a TDDD license, which was required once his practice grew into a group practice with multiple locations. In the summer of 2016 during a self-initiated compliance review, Dr. Shah discovered Premiere Allergy did not have a TDDD license and he instructed his attorney self-report this fact. Dr. Schottenstein stated that the drugs used at Premiere Allergy are not controlled substances. Dr. Shah now has a TDDD license for all locations of his practice, as well as multiple administrators. Dr. Shah continues to perform annual compliance reviews.

Dr. Schottenstein stated that Dr. Shah stopped seeing patients in August 2016 and divested from

Premiere Allergy because he did not want to be in the process of seeing patients and then have to discontinue due to an issue with his medical license. Dr. Shah has indicated that he is very anxious to get back to clinical medicine.

Dr. Schottenstein stated that since Dr. Shah is not contesting his violation of 4731.22(B)(9), Ohio Revised Code, this is a case of mitigation. Dr. Shah's defense counsel stated that this is essentially an issue of licensure and regulatory compliance which occurred because Dr. Shah was not experienced from a business management standpoint. The Assistant Attorney General noted that the Board's minimum disciplinary guidelines for felony conviction is permanent revocation of license. However, the Assistant Attorney General also indicating that she is not advocating for permanent revocation and pointed out that over the last couple of year the Board has looked at the underlying facts of a felony. Based on the underlying facts of this felony conviction and the mitigating factors surrounding it, the Hearing Examiner has recommended a reprimand.

Dr. Schottenstein stated that physicians are responsible for knowing the legal and regulatory requirements of setting up a practice. Dr. Schottenstein further stated that felony violations is something the Board has always taken seriously. However, Dr. Schottenstein noted the following mitigating factors:

- Dr. Shah has no prior disciplinary record.
- Dr. Shah was not dishonest or selfish in his motives.
- This is not an incident that will recur.
- Dr. Shah is the one who caught the error and made a full and complete disclosure to the Board.
- Dr. Shah properly took remedial measures.
- Dr. Shah expressed remorse.
- Dr. Shah's actions have primarily had an adverse impact on himself as opposed to others.
- There was no willful, reckless, or intentional misconduct.
- There was no financial gain from the action.
- No controlled substances were involved, negating the risk of diversion.

Dr. Schottenstein stated that as he review this case, he considered that the Board's disciplinary guidelines called for permanent revocation if there is finding of guilt of a felony. Dr. Schottenstein also considered the fact that when massage therapists continue practicing after their licenses expire, the Board typically suspends them for 90 to 180 days. However, Dr. Schottenstein agreed with the consensus between defense counsel and the State the permanent revocation is excessive in this case. Dr. Schottenstein opined that there is a legitimate difference between the lapse of a license related to clinical practice and an administrative license that, while clearly important, serves more of a regulatory function.

Dr. Schottenstein opined that the multiple mitigating factors in this case justify an Order of reprimand. Dr. Schottenstein could not see how the interests of the public or the medical profession would be served by a more substantial consequence in this case. Dr. Schottenstein stated that the consequences for any future issue of this nature could potentially be more substantial, depending on the underlying facts and mitigating circumstances.

Mr. Giacalone agreed with Dr. Schottenstein and opined that it appears the Dr. Shah made an honest mistake when he failed to recognize that the growth of his practice had triggered a requirement for a TDDD license. Mr. Giacalone stated that Dr. Shah has already paid substantially for this mistake in terms of a felony conviction and a significant fine. Mr. Giacalone opined that a reprimand is appropriate in this case.

Dr. Soin stated that he appreciates the mitigating factors in this case. Dr. Soin stated that he does not take a felony conviction lightly, but he felt that Dr. Shah took all the right steps when he realized his mistake. Dr. Soin reiterated that Dr. Shah had contacted the Board of Pharmacy and had been told he did not need a TDDD license, which was true at that time. Dr. Soin also noted that Dr. Shah self-reported and has paid a heavy price. Dr. Soin questioned what would be accomplished with a reprimand and stated that he would support an Order of No Further Action. Dr. Soin opined that Dr. Shah does not represent a harm to the public. Dr. Soin hoped that other physicians who find themselves in a similar situation would take the same actions as Dr. Shah.

Dr. Edgin stated that ignorance of the law is not an excuse. Dr. Edgin noted that Dr. Shah was convicted of a felony, whereas the Board will sometimes permanently revoke a practitioner's license because of a misdemeanor. Dr. Edgin stated that he would not favor a permanent revocation, but he opined that a reprimand is a very light sanction for a felony conviction. Dr. Edgin commented that if the violation was not important, it would not have been a felony.

Dr. Schachat agreed that ignorance is not an excuse for breaking the law. However, Dr. Schachat stated that if one does not know the law, one cannot follow the law. Dr. Schachat stated the he is comfortable with an order of reprimand. Dr. Schachat stated that Dr. Shah has already paid a tremendous penalty and he did not see a future risk to the public.

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

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

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

Mr. Taylor asked the Board, for procedure reasons, to place the Hearing Examiner's Report and Recommendation back before the Board if it wished to continue considering this matter.

Dr. Schottenstein moved to approve and confirm Ms. Blue's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Summit Shailesh Shah, M.D. Dr. Schachat seconded the

motion.

Dr. Schachat moved to amend the Proposed Order to an Order of no further action. Mr. Giacalone seconded the motion.

Mr. Giacalone commented that he has seconded the motion to amend for discussion purposes, but he does not intend to vote for the amendment.

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

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

The motion to amend did not carry.

Dr. Soin asked the Board vote on the original Report and Recommendation, which is still before the Board.

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

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

The motion to approve carried.

FINDINGS, ORDERS, AND JOURNAL ENTRIES

Dr. Soin stated that in the following matters, the Board issued a Notice of Opportunity for Hearing, and documentation of Service was received for each. There were no timely requests for hearing filed, and more than 30 days have elapsed since the mailing of the Notices. The matters are therefore before the

Board for final disposition. These matters are non-disciplinary in nature, and therefore all Board members may vote.

JOSETTE DANIELLE BOWMAN, L.M.T.

Dr. Soin stated that Ms. Bowman has applied for restoration of her license to practice massage therapy in Ohio. The Board notified Ms. Bowman that it proposed to approve her application, provided that she take and pass the Massage and Bodywork Licensing Examination, due to the fact that Ms. Bowman has not engaged in the active practice of massage therapy for more than 2 years.

Dr. Saferin moved to find that the allegations set forth in the February 15, 2017 Notice of Opportunity for Hearing have been proven to be true by a preponderance of the evidence, and that the Board enter an Order, effective immediately upon mailing, approving Ms. Bowman's application for restoration of her license to practice massage therapy in the State of Ohio, provided that she takes and passed the Massage and Bodywork Licensing Examination within six months of February 2, 2017. Dr. Schottenstein seconded the motion. A vote was taken:

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

The motion to approve carried.

AKRAM BOUTROS, M.D.

Dr. Soin stated that Dr. Boutros has applied for a license to practice medicine and surgery in Ohio. The Board notified Dr. Boutros that it proposed to approve his application, but limit and restrict such license to administrative, non-clinical medicine; and participation in a Board-approved preceptorship, due to the fact that Dr. Boutros has not engaged in the active practice of medicine for more than 2 years. The Board further proposed to remove the limitation upon Dr. Boutros' completion of the Board-approved preceptorship and successful recertification of his American Board of Medical Specialties certification in Internal Medicine.

Dr. Rothermel moved to find that the allegations set forth in the March 15, 2017 Notice of Opportunity for Hearing have been proven to be true by a preponderance of the evidence, and that the Board enter an Order, effective immediately upon mailing, approving Dr. Boutros' application for a license to practice medicine and surgery in the State of Ohio; that the license is limited to the practice of administrative, non-clinical medicine and participation in a Board-approved preceptorship; and that, upon Dr. Boutros' submission of documentation from the preceptor that he has successfully completed the preceptorship and documentation that Dr. Boutros has

successfully recertified his American Board of Medical Specialties certification in Internal Medicine, said limitation and restrictions shall be terminated. Dr. Saferin seconded the motion. A vote was taken:

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

The motion to approve carried.

RECONSIDERATION IN THE MATTER OF GERRY VICTOR HSU, P.A.

Dr. Soin stated that Mr. Hsu's attorney has filed a written motion for reconsideration of the Order in the matter of Mr. Hsu, which the Board discussed earlier in the meeting. Dr. Soin asked the Board members to take a few minutes to review the motion, which has been provided to all Board members by Ms. Anderson.

After review of the motion to reconsider, Dr. Soin asked if any Board member wished to make a motion.

Dr. Schottenstein moved that the Board reconsider the Order in the matter of Mr. Hsu. Dr. Bechtel seconded the motion. A vote was taken:

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

The motion to reconsider carried.

Mr. Gonidakis asked Dr. Factora to give his view of the statements made in the attorney's motion for reconsideration. Specifically, Mr. Gonidakis asked if Dr. Factora had felt confused or rushed to make a decision when he was offering his motion to amend during the first discussion of this matter. Dr. Factora replied that he had not felt pressured or rushed and that he had only been unclear regarding the process

for a non-permanent revocation.

Dr. Soin stated that he supports the initial Order as issued by the Board. Dr. Soin noted that the motion for reconsideration also included comments suggesting that Dr. Schottenstein and Mr. Giacalone had made misstatements of the record, such as referring to Mr. Hsu's conviction as a sexual offense when it was not, or the suggestion that there were two victims instead of one. Dr. Soin stated that he did not glean any of that from the Board's discussion and opined that it was not an accurate reflection of what Mr. Giacalone and Dr. Schottenstein had said. Dr. Soin stated that he had read the hearing record for himself and he felt very comfortable with the facts.

Dr. Schottenstein commented that some of the confusion may have occurred because one would naturally think that an episode of exhibitionism of a masturbation is a sexual offense, colloquially-speaking. Dr. Schottenstein stated that he understands that Mr. Hsu's conviction was for public indecency which is not technically a sexual offense. Dr. Schottenstein stated that he had used the term in a colloquial sense meant to encompass the behavior.

Mr. Giacalone agreed with Dr. Schottenstein's comments. Mr. Giacalone stated that the Board could get into the minutiae of what may have happened, but the record speaks for itself and all the Board members read the hearing record and attested to having read the hearing record. Mr. Giacalone stated that the Board made its decision based on the facts, testimony, and transcript in the hearing record.

Dr. Schachat noted that the motion for reconsideration also requests more clarity on what Mr. Hsu should do to help ensure that his future application for a new license will be accepted by the Board. Dr. Soin commented that there are no guarantees, especially considering that Board members eventually leave the Board and new members join. However, Dr. Soin indicated that an ethics course and a patient boundaries course would be appropriate for Mr. Hsu. Dr. Bechtel agreed and stated that a boundaries course would be particularly important.

Dr. Schachat added that Mr. Hsu should also be assessed by another psychologist or psychiatrist. Dr. Factora agreed and added that Mr. Hsu should also be compliant with any recommendations made by the assessing psychiatrist or psychologist. Mr. Giacalone stated that an ideal psychiatrist or psychologist would be one who has a history with the Board and who the Board has found historically credible. Dr. Schottenstein added that the assessing psychiatrist or psychologist should be independent and not already have a therapeutic relationship with Mr. Hsu. Dr. Schottenstein commented that the assessor could be either a psychiatrist or a psychologist, but should have a forensic background.

Dr. Schottenstein moved to affirm the Board's initial Order in the matter of Gerry Victor Hsu, P.A. Mr. Kenney seconded the motion. A vote was taken:

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

Dr. Edgin - aye
Dr. Bechtel - aye

The motion carried.

EXECUTIVE SESSION

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

ROLL CALL:

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

The motion carried.

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

The Board returned to public session.

RATIFICATION OF SETTLEMENT AGREEMENTS

ISAAC J. COVEY, M.T. – PERMANENT SURRENDER

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

ROLL CALL:

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

Dr. Edgin - aye
Dr. Bechtel - abstain

The motion to ratify carried.

ADAM J. LOCKETZ, M.D. – PERMANENT WITHDRAWAL OF APPLICATION FOR MEDICAL LICENSURE

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

ROLL CALL:

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

The motion to ratify carried.

ABRAHAM Y. SIM, M.D. – VOLUNTARY PERMANENT RETIREMENT

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

ROLL CALL:

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

The motion to ratify carried.

KEVIN GORDON BALDIE, M.D. – STEP I CONSENT AGREEMENT

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

ROLL CALL:

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

The motion to ratify carried.

MEIR BENIT, M.D. – CONSENT AGREEMENT

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

ROLL CALL:

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

The motion to ratify carried.

PAUL ROBERT BROWN, P.A. – STEP II CONSENT AGREEMENT

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

ROLL CALL:

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

Dr. Edgin - aye
Dr. Bechtel - aye

The motion to ratify carried.

ROY L. DONNERBERG, M.D. – PERMANENT SURRENDER

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

ROLL CALL:

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

The motion to ratify carried.

RICHARD RAY MASON, D.O. – STEP II CONSENT AGREEMENT

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

ROLL CALL:

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

The motion to ratify carried.

RICHARD D. POTTS, M.D. – VOLUNTARY PERMANENT RETIREMENT

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

ROLL CALL:

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

The motion to ratify carried.

FRANK GERARD STODDARD, III, D.P.M. – STEP I CONSENT AGREEMENT

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

ROLL CALL:

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

The motion to ratify carried.

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

Dr. Schottenstein moved to enter an Order of Immediate Suspension in the matter of Steven Scott McNutt, M.D., and to issue the Notice of Immediate Suspension and Opportunity for Hearing. Mr. Giacalone seconded the motion. A vote was taken:

ROLL CALL:

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

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

The motion carried.

Dr. Schottenstein moved to send the Notice of Opportunity for Hearing to Michelle Lynn Ahmed, D.O.; Christopher Philip Caiola, M.D.; Scott D. Gordon, D.O.; Kevin Thomas Hanzel, D.P.M.; Allison Darlene Justice; Raymond A. Lloyd, II, M.D.; and Steven Mark Oyakawa, M.D. Mr. Giacalone seconded the motion. A vote was taken:

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

(*Dr. Soin voted aye on all the listed proposed citations except two; Dr. Soin voted nay on the proposed citations for Michelle Lynn Ahmed, D.O. and Steven Mark Oyakawa, M.D.)

The motion to send carried.

Dr. Schottenstein moved to send the Notices of Opportunity for Hearing to Daniel W. Palmer, M.D.; Serif Aziz Salama, M.D.; and Donald Paul Wingard, D.O. Mr. Giacalone seconded the motion. A vote was taken:

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

(*Dr. Soin voted aye on all the listed proposed citations except one; Dr. Soin voted nay on the proposed citation for Serif Aziz Salama, M.D.)

The motion to send carried.

RULES AND POLICIES

CHAPTER 4731-5 AND 4731-6, OHIO ADMINISTRATIVE CODE

Dr. Saferin moved that the proposed rules in Chapters 4731-5 and 4731-6, Ohio Administrative Code, be filed with the Joint Committee for Agency Rule Review (JCARR). Dr. Schottenstein seconded the motion. A vote was taken:

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

The motion carried.

CHAPTER 4731-28-01, OHIO ADMINISTRATIVE CODE

Dr. Saferin moved to approve Rule 4731-28-01 as proposed in 2016 for filing with the Joint Committee on Agency Rule Review (JCARR). Dr. Schottenstein seconded the motion. A vote was taken:

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

The motion carried.

APPOINTMENTS TO THE COMMITTEE ON PRESCRIPTIVE GOVERNANCE

Debolt—we have 3 persons nominated for appointment to the CPG. Dr. Edgin representing the medical board, Katherine A. “Toni” Clark, D.O., representing the Ohio Academy of Family Physicians, and Richard G. Bakker, M.D., Ph.D., representing the Ohio State Medical Association.

Dr. Saferin moved to appoint Richard Edgin, M.D. and Richard G. Bakker, M.D., Ph.D. to the Committee on Prescriptive Governance for terms starting May 1, 2017, and ending April 30, 2019. Dr. Saferin further moved to appoint Katherine A. Clark, D.O., to the Committee on Prescriptive Governance for a term beginning May 1, 2017, and ending April 30, 2018. Dr. Schottenstein seconded the motion. A vote was taken:

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

The motion carried.

OPERATIONS REPORT

Human Resources: Mr. Groeber stated that the Board continues to interview applicants to fill a number of investigator vacancies.

Information Technology: Mr. Groeber stated that development of the new eLicensure system continues and should be released in June. Mr. Groeber commented that Mr. Miller has done a very good job on this project. Mr. Groeber noted that Mr. Miller is currently on loan to the Chemical Dependency Board, which is currently without an Executive Director and in need of leadership that Mr. Miller can provide.

Communications and Outreach: Mr. Groeber stated that the Board gave many presentations in the previous month, as well as publications. Mr. Groeber stated that most of the Board's recent outreach activities have been around acute opioid prescribing and medical marijuana.

Agency Operations: Mr. Groeber stated that the total number of open complaints has remained steady. Mr. Groeber added that the Licensure Section looks very good in terms of volume. Mr. Groeber noted that the Board sent a letter to approximately 3,000 individuals whose licenses had lapsed within the last two years; to date, nearly 150 massage therapists and over 60 physicians who had not renewed their license have chosen to renew after receiving the Board's letter. The Board's letter noted that practicing without a license can incur penalties.

Mr. Groeber stated that the Ohio Automated Rx Reporting System (OARRS) letter project continues. Mr. Groeber noted that for the first time since this project began in September 2016, there were no further investigations on individuals based on the reports we received from the Board of Pharmacy. Mr. Groeber stated that when the project began, about 45 physicians had more than 200 unchecked patients in a month; currently, no physician has that many unchecked patients. Mr. Groeber thanked the medical associations for their help in these efforts.

Mr. Groeber reminded the Board that the Board Retreat is tomorrow at 8:30 in Room 1858 of the Rhodes State Office Building.

Mr. Groeber reminded that Board that all Board members are responsible to file a financial disclosure statement with the Ohio Ethics Commission by May 15.

REPORTS BY ASSIGNED COMMITTEES

FINANCE COMMITTEE

FISCAL REPORT

Mr. Kenney stated that the Board's finances are good. Mr. Kenney noted that revenue from licensing fees are down somewhat, but this is not something to be concerned about at this time. Mr. Kenney stated that the Board's cash balance is adequate, though the Board did pay \$1,500,000 towards the eLicense system.

Mr. Groeber stated that the Finance Committee voted to approve spending authority to invest in a more robust email contact to tie with the Board's Twitter and, perhaps, LinkedIn feed. Mr. Groeber stated that this will give us a better opportunity to interface with licensees on more frequent basis.

POLICY COMMITTEE

LEGISLATIVE UPDATE

Dr. Soin stated that the budget bill is currently still in the House Finance Committee. The House sub-committees have concluded and made their recommendations to the Finance Committee. Dr. Soin stated that the Medical Board has submitted the following amendments for consideration:

- Adding podiatric physicians to eligibility for the Clinical Research Faculty Certificate
- Adding genetic counselors and radiologist assistants to the drop-down box for background checks
- Aligning the physician renewal dates to current processes
- Removing the requirement that physicians list all collaborating nurses on licensure applications
- Moving the renewal notice requirement from three months to one month.

Dr. Soin stated that House Bill 145 concerning the one-bite reporting exemption has been referred to the House Government Accountability and Oversight Committee. Dr. Soin stated that the Board is working in collaboration with its partners at the medical associations to ensure this bill moves after the legislative break.

FSMB STATEMENT REGARDING KICKBACKS

Dr. Soin stated that the Committee reviewed the Federation of State Medical Boards (FSMB) statement

regarding kickbacks. The Committee felt the statement could be valuable as an educational tool and resource for physicians. Therefore, the statement will be posted to the Board's website.

DRAFT RULES

Dr. Soin stated that the Committee had a very robust discussion of the proposed acute pain rules. The Committee voted to circulate those draft rules to interested parties for public comment.

LICENSURE COMMITTEE

COSMETIC THERAPY UNIVERSAL EXAMINATION

Dr. Saferin moved to select the Certified Clinical Electrologist Examination (CCE), as prepared by the Society for Clinical and Medical Hair Removal, as an examination for competency for cosmetic therapy applicants, and to authorize the Board staff to pursue any legislative or regulatory amendments as necessary. Dr. Rothermel seconded the motion. A vote was taken:

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

The motion carried.

APPLICATION AFFIDAVITS

Mr. Turek stated that as the Board continues to transition to an electronic application system, this is an ideal time to review application requirements and determine if there are electronic alternatives to what is currently submitted by paper. Mr. Turek stated that the Licensure Committee discussed a proposal to authorize electronic attestation, applicable to all license and certificate types. Mr. Turek stated that this proposal would not apply to any affidavit or similar document that is required from individuals other than the applicant. Mr. Turek stated that statutory amendments would be required to implement this proposal.

Saferin moved to authorize the implementation of electronic attestation and releases as applicable, and to authorize the Board staff to pursue legislative action as necessary. Dr. Schottenstein seconded the motion. A vote was taken:

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

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

The motion carried.

EMPLOYER RECOMMENDATIONS AND CERTIFICATES OF RECOMMENDATION

Mr. Turek stated that the Licensure Committee discussed a proposal to eliminate all existing requirements for physicians, allied professional, and training certificate applicants to submit employer recommendations and certificates of recommendation as part of the application for initial licensure. The proposal would also eliminate all existing requirements for physicians and allied licensees to submit a certificate of recommendation as part of the applicant for restoration. Mr. Turek stated that employer recommendations will continue to be required for restoration applications.

Mr. Turek commented that, considering the Board's access to National Practitioner DataBank reports, Federation Credentials Verification Service reports, background checks, and other resources, the employer recommendations are not of great value. Mr. Turek further commented that it is extremely rare for an applicant to submit a poor recommendation. Mr. Turek noted, however, that employer recommendations can be useful when evaluating applicants seeking restoration.

Dr. Saferin moved to eliminate all existing requirements to submit employer recommendations and certificates of recommendation as part of the application for initial licensure as a Doctor of Medicine, Doctor of Osteopathic Medicine, Doctor of Podiatric Medicine, Massage Therapist, Cosmetic Therapist, Physician Assistant, Anesthesiologist Assistant, Acupuncturist, Oriental Medicine Practitioner, Radiologist Assistant, and Genetic Counselor; and the application for a Training Certificate. Dr. Saferin further moved to eliminate all existing requirements to submit certificates of recommendation as part of the application for restoration of a license as a Doctor of Medicine, Doctor of Osteopathic Medicine, Doctor of Podiatric Medicine, Massage Therapist, Cosmetic Therapist, Physician Assistant, Anesthesiologist Assistant, Acupuncturist, Oriental Medicine Practitioner, Radiologist Assistant, and Genetic Counselor. Dr. Schottenstein seconded the motion. A vote was taken:

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

The motion carried.

ANTIONETTE LASHAWN CARTER, M.T.

Dr. Saferin moved to approve Ms. Carter's request for Ohio licensure pending successful completion of the Massage and Bodywork Licensing Examination (MBLEX) within six months following the Board meeting. Dr. Schottenstein seconded the motion. A vote was taken:

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

The motion carried.

DAVID WILLIAM SIMMONS

Dr. Saferin moved to approve Mr. Simmons' request for Ohio licensure pending successful completion of the Massage and Bodywork Licensing Examination (MBLEX) within six months following the board meeting. Dr. Schottenstein seconded the motion. A vote was taken:

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

The motion carried.

COLLEEN A. LANZARETTA, M.T.

Dr. Saferin moved to approve Ms. Lanzaretta's request for Ohio licensure, pending successful completion of the Massage and Bodywork Licensing Examination (MBLEX) within six months following the board meeting. Dr. Schottenstein seconded the motion. A vote was taken:

ROLL CALL:

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

The motion carried.

MOLLY SUE HAINRIHAR, M.T.

Dr. Saferin moved to approve Ms. Hainrihar's request for Ohio licensure pending successful completion of the Massage and Bodywork Licensing Examination (MBLEX) within six months following the board meeting. Dr. Schottenstein seconded the motion. A vote was taken:

ROLL CALL:

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

The motion carried.

COMPLIANCE COMMITTEE

Dr. Soin stated that on March 8, 2017, the Compliance Committee met with Paul r. Brown, P.A.; Joseph P. Burick, D.O.; Philicia S. Duncan, M.D.; Marvin H. Rorick, M.D.; Shane T. Sampson, M.D.; Ernest L. Sutton, M.D. and Onyinyechi Rose Uradu, M.D.; and moved to continue them under the terms of their respective Board actions. The Compliance Committee accepted Compliance staff's report of conferences on February 6 & 7, 2017.

PROBATIONARY REQUESTS

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

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

- To approve Christina Biedermann, M.T.'s request for approval of the ethics course tailored by Donna Homenko, Ph.D., to fulfill the professional ethics course requirement;
- To grant Patrick L. Bruno, M.D.'s request for approval of the updated practice plan;
- To grant Nathan B. Frantz, D.O.'s request for reduction in screens to two per month and upon request; and reduction in appearances to every six months;
- To grant James George Lamphear, 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 approval of Gerard A. Myers, D.O., to serve as an additional monitoring physician; and determination of the frequency and number of charts to be reviewed at five charts per week by each monitoring physician;
- To grant Giridhar Singh, M.D.'s request for approval of *Intensive Course in Medical Ethics, Boundaries and Professionalism*, administered by Case Western Reserve University, to full both the personal/professional ethics and the physician boundaries course requirements;
- To grant Elizabeth R. Stipe, M.T.'s request for approval of the American Massage Therapy Association courses *A Holistic Model for Ethical Practice* online course; *Self-Evaluation for an Ethical Practice* online course; *From the Client's Perspective: Marketing, Policies and Ethics of Your Practice* online course; to fulfill the professional ethics course requirement;
- To grant Suman C. Vellanki, M.D.'s request for approval to reduce personal appearances to every six months; discontinue the chart review requirement; and reduce drug and alcohol rehabilitation meeting attendance to two per week with a minimum of ten per month; and
- To grant Aly M. A. Zewail, M.D.'s request for approval of Jason M. Jerry, M.D., to serve as the treating psychiatrist;

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

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

The motion carried.

REINSTATEMENT REQUEST

ROBERT M. COOK, M.D.

Dr. Schottenstein moved that the request for the reinstatement of the license of Robert M. Cook, M.D., be approved, effective April 13, 2017, subject to the probationary terms and conditions as outlined in the January 11, 2017 Board Order, for a minimum of 2 years. Mr. Giacalone seconded the motion. A vote was taken:

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

The motion carried.

FINAL PROBATIONARY APPEARANCES

SOHAIL AMAN, M.D.

Dr. Aman was appearing before the Board pursuant to his request for release from the terms of his April 9, 2014 Consent Agreement. Dr. Soin reviewed Dr. Aman’s history with the Board.

In response to questions from Dr. Soin, Dr. Aman stated that he learned in the controlled substances prescribing course that physicians must be careful and look at the totality of patient care when prescribing. Dr. Aman stated that he was recently board-certified in hospitalist work, and so he will be expanding his practice into more inpatient and outpatient care.

Mr. Giacalone asked Dr. Aman to describe what brought him to the attention of the Board. Dr. Aman answered that while working as a hospitalist he was recruited to cover for a physician who was going on maternity leave. Dr. Aman stated that he did not know much about the practice he was covering for. Dr. Aman stated that he practiced there for 28 days before the Drug Enforcement Administration (DEA) shut down the clinic and asked him to surrender his DEA registration. Dr. Aman commented that the Maryland Board of Physicians review all of his patient charts and cleared him of wrong-doing. Dr. Aman stated that the voluntary surrender of his DEA registration required a six-month suspension of his Ohio medical license, under Ohio rules.

Dr. Soin commented that Dr. Aman’s six-month suspension was not due to Ohio Board rules. Rather, the

suspension was due to the Board concerns about how Dr. Aman had practiced during that time period and the volume and types of prescriptions he wrote without vetting patients. Dr. Soin commented that even if a physician is just covering for another physician, they are still responsible for those patients, particularly if controlled substances are involved. Dr. Soin opined that Dr. Aman failed to meeting the standard of care in his treatment of those patients.

Mr. Giacalone exited the meeting at this time.

Dr. Schottenstein moved to release Dr. Aman from the terms of his April 9, 2014 Consent Agreement, effective immediately. Dr. Edgin seconded the motion. A vote was taken:

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

The motion carried.

HARRY F. HOWELL, II., L.M.T.

Mr. Howell was appearing before the Board pursuant to his request for release from the terms of his April 8, 2015 Consent Agreement. Dr. Soin reviewed Mr. Howell's history with the Board.

Dr. Soin asked what changes Mr. Howell has made to ensure that he renews his massage therapy license in a timely manner. Mr. Howell replied that he now has a stand on his desk with the date to renew his license. Mr. Howell stated that he normally receives a notice from the Board when it is time to renew his license, but he did not receive that notice for some reason. Mr. Howell stated that when he realized that his license was expired, he called the Board and ceased practicing. Mr. Howell stated that he has returned to practice, but he hasn't yet built up his practice to the level it was at previously.

Dr. Schottenstein noted that Mr. Howell has had some health-related concerns and asked how Mr. Howell is feeling. Mr. Howell responded that he has new knees and a reconstructed heart, but he is doing well now. Mr. Howell stated that he works out three days per week and he is currently working towards a third-degree black belt.

Dr. Edgin moved to release Mr. Howell from the terms of his April 8, 2015 Consent Agreement, effective immediately. Dr. Schottenstein seconded the motion. A vote was taken:

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

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

The motion carried.

ALDDO ANTONIO MOLINAR, M.D.

Dr. Molinar was appearing before the Board pursuant to his request for release from the terms of his March 11, 2015 Consent Agreement. Dr. Soin reviewed Dr. Molinar's history with the Board.

In response to questions from Dr. Soin, Dr. Molinar stated that his bipolar disorder is being treated with medications prescribed by his psychiatrist. Dr. Molinar also sees a psychotherapist every month. Dr. Molinar stated that he practices a lot of mindfulness and not letting my emotions get out of control. Dr. Molinar stated that he is an anesthesiologist trained in critical care medicine, which is a busy field. Dr. Molinar commented that he is currently between jobs and he is looking for a job that is not as production-drive as many anesthesiology positions, such as in academia.

Dr. Soin commented that practice as an anesthesiologist can involve wide emotion swings in a single day, from moments of boredom to moments of terror. Dr. Soin asked how Dr. Molinar plans to cope with the stresses of an anesthesiology practice. Dr. Molinar commented that everyone has good and bad days, but the emotional swings are much more pronounced for those with bipolar disorder. Dr. Molinar stated that in a hypomanic or manic mood, a bipolar individual may have feelings of grandiosity and agree to more tasks than they are probably capable to doing. Dr. Molinar stated that he exhibited this behavior and should have recognized it at the time. Dr. Molinar stated that oftentimes other health professionals such as nurses will prop a physician up when the physician is low, and this is what happened to him. Dr. Molinar stated that he was not diagnosed with bipolar disorder until he was an attending physician. Dr. Molinar stated that the important thing for him is to keep health boundaries and to be an advocate for others who have mental health issues. Dr. Molinar commented that his diagnosis carries a stigma and it has been difficult for him to find a position, even though he is a very capable physician.

Dr. Schottenstein asked if Dr. Molinar has Bipolar Type II. Dr. Molinar stated that he was initially diagnosed with Type II, but he is actually Type I. Dr. Molinar stated that this difference matters a great deal in terms of medication and he noticed a significant improvement when he changed medications to Bipolar Type I. Dr. Schottenstein commented that Bipolar Type I requires anti-manic and strong mood-stabilizing medications. Dr. Schottenstein observed that this diagnosis explains Dr. Molinar's previous tendency to sing up for many things due to feelings of grandiosity. Dr. Molinar agreed.

Dr. Schottenstein noted that Dr. Molinar also has a diagnosis of attention deficit hyperactivity disorder (ADHD). Dr. Molinar stated that he is currently on Wellbutrin for his ADHD and this is working well. Dr. Schottenstein asked if Dr. Molinar engages in substance use. Dr. Molinar answered that he does not use substances.

Mr. Giacalone returned to the meeting at this time.

Dr. Schottenstein moved to release Dr. Molinar from the terms of his March 11, 2015 Consent Agreement, effective immediately. Dr. Edgin seconded the motion. A vote was taken:

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

The motion carried.

JILIAN A. WAITE, M.D.

Dr. Waite was appearing before the Board pursuant to her request for release from the terms of the Board's Order of April 13, 2016. Dr. Soin reviewed Dr. Waite's history with the Board.

Dr. Soin asked if Dr. Waite would share her story with the medical students in attendance. Dr. Waite replied that she makes house calls and does not see patients in her office. Dr. Waite stated that when she began her practice she was able to send an order for an x-ray if that was needed by one of her patients. However, a prescription was later required for an x-ray or ultrasound. Since Dr. Waite was rarely in her office, she felt she was delaying her patients' needs when they called and needed an x-ray or ultrasound. Therefore, Dr. Waite began to pre-sign prescriptions that were kept locked in her manager's office. Dr. Waite stated that when she found at that pre-signing blank prescriptions was illegal, she stopped the practice. However, she did not destroy the pre-signed prescriptions she already had. Dr. Waite stated that she came to the attention of the Board when an investigator saw one of the pre-signed blank prescriptions in her office. Dr. Waite stated that she is now allowed to issue verbal orders for imaging and send in the prescription a few days later. Dr. Waite stated that since this issue arose she has created a log-in and log-out system for prescriptions.

Dr. Soin clarified that the pre-signed prescriptions were not just for x-rays. Dr. Waite agreed but stated that the situation began with the x-ray prescriptions. Dr. Soin commented that physicians are often suspended for these actions, but Dr. Waite was reprimanded and put on probationary terms due to the mitigating circumstances of her case.

Dr. Schottenstein asked if Dr. Waite has contemplated using e-prescribing. Dr. Waite replied that she does use e-prescribing for things like blood pressure medication, but she is hesitant to use such a system for narcotics. The Board briefly discussed some of the advantages of using e-prescribing.

Dr. Schottenstein moved to release Dr. Waite from the terms of the Board's Order of April 13, 2016, effective April 15, 2017. Dr. Edgin seconded the motion. A vote was taken:

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

The motion carried.

ADJOURN

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

Thereupon, at 2:45 p.m., the April 12, 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 April 12, 2017, as approved on May 10, 2017.



Amol Soin, M.D., President



Kim G. Rothermel, M.D., Secretary

(SEAL)



State Medical Board of Ohio

LICENSURE COMMITTEE MEETING
April 12, 2017
30 E. Broad St., Columbus, OH Room 318

Members: Bruce R. Saferin, D.P.M., Chair Kim G. Rothermel, M.D. Richard Edgin, M.D. Ronan Factora, M.D. Other Board members present: Andrew Schachat, M.D. Michael Schottenstein, M.D.	Staff: Joseph Turek, Deputy Director for Licensure Mitchell Alderson, Chief of Licensure Chantel Scott, Chief of Renewal Sallie Debolt, Senior Counsel Colin DePew, Assistant Attorney
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Dr. Saferin called the meeting to order at 8:05 a.m.

MINUTES REVIEW

Dr. Rothermel moved to approve the draft minutes of the March 8, 2016 meeting of the Licensure Committee, as amended. Dr. Edgin seconded the motion. The motion carried.

COSMETIC THERAPY UNIVERSAL EXAMINATION

Dr. Saferin stated that the Committee continues to consider the use of a Cosmetic Therapy Universal Examination for use in the licensure of cosmetic therapists in Ohio. Dr. Saferin stated that the current discussion will probably center around the Certified Clinical Electrologist Examination (CCE), offered by the Society for Clinical and Medical Hair Removal (SCMHR). Dr. Saferin stated that the CCE meets Ohio's statutory requirements. Further, SCMHR can add portions to the CEE to address the cosmetic therapy scope of practice in Ohio, such as massage of the head and neck and the chemistry of bacteriology, and can do so in a timely and cost-effective manner.

The Committee discussed this matter thoroughly with the cosmetic therapists in attendance at the meeting. Responding to concerns voiced by the public, Dr. Saferin stated that cosmetic therapists will not be forced to become members of SCMHR in order to take the CCE, though SCMHR is likely to solicit membership in their organization. Dr. Saferin also emphasized that the CCE, if adopted by the Board, will be for new licensure only and will not affect those already licensed to practice cosmetic therapy in Ohio. Dr. Saferin understood that the cost to take the CCE will be \$250, plus a proctor fee of \$85.

The Committee briefly discussed the examination offered by the National-Interstate Council of State Boards of Cosmetology (NIC), but Dr. Saferin pointed out that NIC will not be able to include questions specific to the Ohio scope of practice due to internal policies.

Dr. Saferin noted that no one in the meeting seems to have said anything negative about the CCE. Dr. Saferin stated that it will take several months for the Board to adopt the necessary rules to put this into effect and the public will have ample opportunity to comment on those rules.

Dr. Saferin thanked the cosmetic therapists for attending the meeting.

Dr. Rothermel moved to recommend accepting the CEE as the Board's examination for licensure of cosmetic therapists. Dr. Edgin seconded the motion. The motion carried.

Ms. Debolt stated that she and Mr. Turek hope to have the initial draft rules for the cosmetic therapy license examination before the full Board in May, after which the process of gathering comments from interested parties in the public can begin.

APPLICATION AFFIDAVITS

Dr. Saferin stated that the Licensure staff has asked the Committee to consider allowing electronic attestations and releases in licensure applications. Mr. Turek explained that currently, every applicant for every license type or certificate must submit a general affidavit and release. Mr. Turek proposed replacing this with an electronic affidavit, which will require a statutory change. Mr. Turek noted that one consequence of adopting this policy is that the Board will no longer receive a photograph of the applicant. However, Mr. Turek pointed out that the Board does not require licensees to update their photograph, so they tend to be outdated.

Dr. Factora moved to recommend approval of this proposed policy. Dr. Rothermel seconded the motion. The motion carried.

EMPLOYER RECOMMENDATIONS AND CERTIFICATES OF RECOMMENDATION

Mr. Turek described a proposal to eliminate the requirements for an employee recommendation and certificates of recommendation for the Board's initial licensure applicants. The proposal would also eliminate the certificate of recommendation, but not the employee recommendation, for license restoration applicants.

Dr. Edgin moved to recommend adoption of the proposal to eliminate the requirement for employer recommendations and certificates of recommendation for initial licensure applicants, and to eliminated the requirement for a certificate of recommendation for license restoration applicants. Dr. Factora second the motion. The motion carried.

RESTORATION APPLICATION REVIEWS

Gerald Thomas Bowen, M.D.

Dr. Saferin stated that Dr. Bowen has applied for restoration of his Ohio medical license. Dr. Bowen has indicated that he has not engaged in the clinical practice of medicine since July 2005. Dr. Bowen graduated from the George Washington University School of Medicine and Health Sciences in 1960.

Dr. Rothermel suggested that this topic be tabled so that Dr. Bowen can be invited to attend an investigatory office conference to discuss his restoration application and his plans for practice, and perhaps to evaluate him cognitively. Dr. Rothermel noted that for most physicians who not practiced for more than two years, the Board requires an examination such as the Special Purpose Examination (SPEX). Dr. Rothermel stated that Dr. Bowen was never board certified and it is difficult that he would pass the SPEX at this point. Dr. Rothermel stated that she would suggest that Dr. Bowen complete a minimum six-month training period and chart review and then take the SPEX examination before his application is approved, which may be an almost impossible situation for Dr. Bowen. Dr. Rothermel noted that Dr. Bowen wants to practice in an urgent care two days per week.

The Committee discussed the matter further. Dr. Factora stated that Dr. Bowen would have to have supervision, which is unlikely in an urgent care where he will be mostly on his own. Dr. Saferin agreed with Dr. Rothermel's suggestion to invite Dr. Bowen to an office conference for a discussion. Dr. Rothermel stated that if Dr. Bowen chooses not to attend the conference, his application can be withdrawn and nothing would be reported to the National Practitioner Databank. Dr. Factora stated that he could attend this conference if it were held in the afternoon on a Tuesday. Dr. Saferin agreed and thanked Dr. Factora for making himself available.

The Committee briefly discussed the possible reasons for Dr. Bowen's desire to reenter the practice of medicine at this stage in his life.

Dr. Rothermel moved to table this topic so that an office conference can be held with Dr. Bowen. Dr. Factora seconded the motion. The motion carried.

Antionette Lashawn Carter, M.T.

Dr. Saferin stated that Ms. Carter has applied for restoration of her massage therapy license. Ms. Carter has not practiced massage therapy since she let her license expire in 2009.

Dr. Factora moved to recommend approval of Ms. Carter's application, pending successful completion of the Massage Therapy Licensing Examination (MBLEX). Dr. Rothermel seconded the motion. The motion carried.

David William Simmons, M.T.

Dr. Saferin stated that Mr. Simmons has applied for restoration of his massage therapy license. Mr. Simmons' massage therapy license expired in 2014.

Dr. Rothermel moved to recommend approval of Mr. Simmons' application, pending successful completion of the Massage Therapy Licensing Examination (MBLEX). Dr. Factora seconded the motion. The motion carried.

Colleen A. Lanzaretta, M.T.

Dr. Saferin stated that Ms. Lanzaretta has applied for restoration of her massage therapy license. Dr. Saferin noted that Ms. Lanzaretta took and passed the Massage Therapy Licensing Examination (MBLEX) more than two years ago, but she has not practiced massage therapy. Therefore, Ms. Lanzaretta would have to take the MBLEX again in order to meet the Board's requirements.

Dr. Rothermel moved to recommend approval of Ms. Lanzaretta's application, pending successful completion of the MBLEX. Dr. Factora seconded the motion. The motion carried.

Molly Sue Hainrihar, M.T.

Dr. Saferin stated that Ms. Hainrihar has applied for restoration of her massage therapy license. Ms. Hainrihar's massage therapy license expired in 2014.

Dr. Factora moved to recommend approval of Ms. Hainrihar's application, pending successful completion of the Massage Therapy Licensing Examination (MBLEX). Dr. Edgin seconded the motion. The motion carried.

ADJOURN

Dr. Factora moved to adjourn the meeting. Dr. Rothermel seconded the motion. The motion carried.

The meeting adjourned at 8:50 a.m.

Bruce R. Saferin, D.P.M.
Chair

blt

State Medical Board of Ohio

POLICY COMMITTEE MEETING

April 12, 2017

30 East Broad Street, Columbus, OH 43215, Room 336

<p>Members: Amol Soin, M.D., Chair Robert Giacalone Andrew P. Schachat, M.D. Mark. A. Bechtel, M.D.</p> <p>Other Board Members Present: Kim G. Rothermel, M.D. Richard A. Edgin, M.D. Ronan M. Factora, M.D. Michael Schottenstein, M.D. Bruce Saferin, D.P.M.</p>	<p>Staff: A.J. Groeber, Executive Director Kimberly Anderson, Chief Legal Counsel Sallie J. Debolt, Senior Counsel David Fais, Deputy Director Rebecca Marshall, Chief Enforcement Attorney Jonithon LaCross, Director of Public Policy & Government Affairs Tessie Pollock, Director of Communication Nate Smith, Senior Attorney Joan Wehrle, Education & Outreach Program Manager</p>
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Dr. Soin called the meeting to order at 8:31 a.m.

MEETING MINUTES REVIEW

Dr. Bechtel moved to approve the Policy Committee minutes of the March 8, 2017 meeting. Dr. Schachat seconded the motion. The motion carried.

RULES REVIEW UPDATE

Ms. Anderson introduced Nate Smith, Senior Attorney, who recently joined the Board's legal department. He previously had worked in the Attorney General's office. Mr. Smith will be helping with agency rules, policy, and legislative issues, as well as administrative triage of complaints.

LEGISLATIVE UPDATE

Budget update: Mr. LaCross reported that the budget is in the House Finance committee. The legislators are on break for two weeks. He reported that he had sent two proposed amendments to the Board members this week. The first addresses clinical research certificates for podiatrists. The second amendment adds Radiologist Assistants and Genetic Counselors to the drop-down box for background checks. The administrative license is on hold as the cost to provide these licenses may be more than anticipated.

Also in the Board's budget, we changed dates renewal notices are sent from the Board to MTs and physicians to one month prior to license expiration instead of three months in advance.

Mr. LaCross reported that currently physicians who have collaborative agreements with advanced practice nurses must list the name of each APRN on their renewal form. With the conversion to

eLicense, that will no longer be necessary, as the Medical Board can obtain that information from the Nursing Board. Physicians will just check a yes or no box on the renewal form.

HB75 – Professional Licensure – Armed Forces. This bill establishes an expedited process to grant a professional license to an individual who is on active duty as a member of the armed forces of the United States, or is the spouse of such an individual, and holds a valid license in another state. We will be discussing the details of application requirements and expectations.

HB145 – Impaired Medical Practitioners, “One-Bite” bill. This bill provides for the establishment of a confidential monitoring program for the treatment of certain impaired practitioners and declares an emergency. Representatives Sprague and Huffman are presenting this legislation. This is the one-bite legislation. It has been introduced and referred to the House Government Accountability and Oversight Committee.

Mr. LaCross indicated that we are still preparing for Board consolidation, but he will notify the Board if there are any changes made.

Dr. Soin asked for an update regarding opioid prescribing legislation. Mr. LaCross responded that there are two bills pending. It is his understanding that we have the current rules which we will be discussing today and the bill is more restrictive than the rules, addressing 3-5 day prescriptions for acute pain and mandating CMEs. He anticipates more support for the acute pain rules process from associations and stakeholders.

HB 145, IMPAIRED PRACTITIONERS

Was addressed by Mr. LaCross during his general legislative updated.

DRAFT RULES

Ms. Anderson reported that Governor Kasich announced an initiative on March 30, 2017 for limits on opioid prescribing for the initial prescription for acute pain. This is a joint effort with the Pharmacy Board, Nursing Board and Dental Board.

Proposed amended Rule 4731-11-01: Definitions

- Adds definitions for acute pain, morphine equivalent dose, minor, extended-release or long-acting opioid analgesic, opioid analgesic, hospice care, palliative care and terminal condition.

Proposed amended Rule 4731-11-02: General Provisions

- (D) Adds requirement that physicians must follow Pharmacy Board Rules dealing with the form of the prescription in 4729-5-30 and 4729-5-13, Ohio Administrative Code. Ms. Anderson explained that a change the Pharmacy Board is making to their rule package will impact the 5-30 rule which will require the diagnosis code on the prescription. By adding that into the Medical Board rule, we would also be requiring the diagnosis code on the

prescription because physicians will need to comply with the referenced Pharmacy Board rules.

Proposed new Rule 4731-11-13: Prescribing of opioid analgesics for acute pain

- Caution to first consider non-opioid treatment options.
- Prohibits extended-release or long-acting opioid analgesics for acute pain.
- For adults, there is a seven-day limit with no refills, and, a five-day limit with no refills for minors. There is physician discretion in (A)(3)(a)(iii) if the physician believes that the pain is going to extend longer than seven days or five days. That limit may be exceeded but the chart needs to show the reason that a non-opioid medication was not appropriate for the patient's condition and that it is necessary to exceed that limit.
- There are some small exceptions for allergies and there are also exceptions for hospice patients, palliative care patients, individuals with a terminal condition, or individuals with cancer.
- There is also a limit on the average daily morphine equivalent (MED) dose. It cannot exceed more than 30 MED per day. This limit cannot be exceeded through physician discretion. There is no mechanism for that in this rule as drafted.
- Ms. Anderson noted that the rule doesn't apply to office-based opioid treatment. Opioids prescribed for addiction treatment, such as suboxone, would not be impacted by this rule.
- Another amendment to Section D is on page 349 of the policy committee materials. All of the Boards recognized the need for an expressed exception that this rule does not apply to inpatient prescriptions in a hospital. It will apply to prescriptions that are taken out of the hospital, but not ones administered in a hospital.

The provisions of these proposed rules will be applicable to physician assistants through Rule 4730-2-07, Ohio Administrative Code, Standards for Prescribing. The other healthcare boards (Board of Nursing and Dental Board) are promulgating rules with the same provisions. The Board of Pharmacy is promulgating rules consistent with these limits.

Ms. Anderson provided a quick overview of the rule contents, and requested discussion and approval to send the draft rules to interested parties for a two-week comment period so that our stakeholders get a chance to provide comments.

Mr. Groeber reported that as we worked through the initial draft of the rule, we received some guidance and comments from members, particularly around whether we should require physicians to avoid certain types of high-dose single release medications around 15 – 30 mg as those are highly sought by drug-seekers. Although that is not specifically outlined in the language of the rule, this is something we can work into educational materials.

Mr. Giacalone suggested it would be helpful to have information about the MED calculator available on the OARRS website as many individuals may not be familiar with it but it could get a lot of attention from pharmacists.

Mr. Groeber indicated that we can use this rule as a foundation for a refresher education campaign focusing on prescribing, but also on identifying drug-seeking behavior and how to address those issues.

Dr. Bechtel reported there's a lot of research on non-opioid ways to manage pain. It would be great if the Board can start an educational initiative to look at clinical examples and ideas that could help the licensees in Ohio.

Dr. Bechtel relayed a concern shared with him from an orthopedic surgeon who asked about patients with significant trauma or severe fractures from incidents like auto mobile accidents. Seven days of analgesia will likely not be adequate for these patients. How onerous will it be for doctors to document the need for continued medication in the medical record? If the doctor extends the medication for longer than a week is that going to trigger a review by the Pharmacy Board?

Mr. Groeber indicated that the intent of diagnosis codes is to incorporate it into research and data. The plan is to look at the most frequent diagnosis codes for an acute condition and learn what we should see for these conditions. If providers are consistently over-writing for conditions that should be short term but continue to write for 30-90 days, that's what is going to be flagged out for further review.

Ms. Pollock reported that we are partnering with GCOAT and the Ohio Department of Health to develop provider education focused on appropriate prescribing, non-opioid therapy for pain and tactics for de-escalating opioid use after acute incidents.

Dr. Schottenstein asked what happens to chronic pain patients who need a surgical procedure. Does the extra 30MED get subsumed within the medication total they are already on, or is it in addition to their medications?

Dr. Soin explained that if a patient is on 80 MED for pain management and they have a surgical procedure the doctor may write for 4 Vicodin a day for five to seven days following surgery. This amount of Vicodin is below the 30 MED limit for acute pain.

Mr. Groeber indicated that every controlled substance prescription is going to require a diagnosis code on the prescription per the Pharmacy Board rules. The diagnosis codes would track chronic conditions separate from an acute event. He assured the committee that the clear majority of physicians are using OARRS and prescribing appropriately.

Mr. Giacalone indicated that education will be needed for prescribers and pharmacists regarding the inclusion of the diagnosis code on a prescription.

Ms. Anderson noted that the issues about a chronic pain patient with an acute situation on top of it is another matter for further discussion. The acute pain rule may not be applicable for those patients.

Dr. Schachat referred to (A)(3)(a)(ii) regarding obtaining the parent or guardian's written consent prior to prescribing opioid analgesics to a minor. He asked if this is a separate consent form, or is it part of the general consent. This needs to be clarified. Ms. Anderson said that there is a statutory requirement for the consent form for minors, but there is a hospital exemption to the statute. She explained that in drafting the rule we did not specify the form to use, but the intent is that before any patient is prescribed opioids they are advised of the risks/benefits of the medication, and if the patient is a minor, the parents/guardians are also advised.

Dr. Schachat asked if there was ever a situation where someone who is not the parent/guardian is caring for the minor? Ms. Anderson replied that this matter was recognized in HB314. Dr. Schachat suggested that this scenario could be clarified and included in an FAQ.

Dr. Schachat referred to the seven day and five day limits in (A)(3)(a)(iii). If a patient with an acute episode is going to need 10 days of medication, can a prescription be written for seven days with a three day refill? Is it two different prescriptions?

Also, if a patient develops an allergy to the medication after a few days and they need a new medicine, does the seven day clock get reset? For example, the patient was on the old medicine for two days, are they then limited to only five days on the new medicine? It was noted that the intent is to stay within the seven day limit with documentation in the chart of the need for the new medication. Dr. Schachat suggestion including this example in an FAQ.

Dr. Schachat asked about the MED calculator. He said that many doctors are not aware of the calculator, so this will require an educational effort. He believed that doctors are not going to go to the OARRS website to use the calculator. Does it list all narcotics?

Dr. Soin said the MED calculator on the OARRS website is comprehensive and is based on data from the Centers for Disease Control. The calculator is the standard used in Ohio. He said that this will be education project that could include FAQs and clinical examples such as six 5mg Vicodin/day.

Dr. Schachat referred to (B)(4) regarding the exception for an individual who has cancer or another condition associated with the individual's cancer or history of cancer. He suggested that it should be a history of cancer that is related to the pain, because some cancers such as small basal cell don't contribute to pain. Committee member agreed with this revision.

Concerns were raised regarding management of severe acute situations, such as burns, hip replacement, amputations, or car accident injuries. A seven day supply is not enough to treat the pain.

Dr. Schachat asked if there could be more exceptions. Ms. Anderson said that we are working with the other boards and this is the initial draft. But we are in a comment period. We want to get approval today to send the draft out for comments to get feedback from stakeholders.

Dr. Schachat suggested that we develop a short list of exceptions, but provide a method for expanding exceptions after the rule is implemented.

Mr. Giacalone suggested a list of exceptions be created that can be amended as needed without including it in the rule. Ms. Anderson said if a document was referenced in the rule, you'd have to attach it to the rule, and update the list when the rule is updated. The list essentially gets incorporated in the rule by reference.

Dr. Soin said he is concerned about the severe acute situations.

Dr. Schachat noted the seven day and five day limits with no refills, yet the limits can be exceeded if the reason is documented in the chart. So, what happens if a patient needs the medication for 14 days. What controls - the no refills in (A)(3)(a)(i) and (ii), or the extension in (A)(3)(a)(iii)? Does a doctor write two separate prescriptions, each for seven days?

Mr. Giacalone said oxycodone and hydrocodone cannot be refilled. Question was raised as to whether subsequent prescriptions could be written "do not fill before" for those patients needing more than five or seven days of medication for their acute condition. The refill issue needs more clarification so that unintended patient consequences can be minimized.

Ms. Anderson said that the underlying issue is that there are a lot of prescriptions for acute pain issues that are too big. The rule is an effort to dial that back. We appreciate the feedback from the committee but we need to continue to address the problem in the state and we need to deal with the availability of opioids.

Dr. Rothermel commented that per the draft rule the diagnosis code needs to be on the prescription. However, if the medication is written for more than seven days the reason is in the medical record, not the prescription. Will this trigger phone calls to the physician from the pharmacist to clarify the prescription? This will not set well with doctors. What if the doctor is not available for the call?

Dr. Schachat noted another issue is the 120 character limit on electronic prescribing software. Dr. Soin agreed.

Ms. Anderson said that we will meet with the Pharmacy Board to see how pharmacists are going to handle these situations.

Motion was made by Mr. Giacalone and seconded by Dr. Bechtel to approve the proposed acute pain rules be distributed to interested parties for comment. Motion carried. Dr. Schachat opposed.

FSMB STATEMENT REGARDING KICKBACKS

The Federation of State Medical Boards sent out an alert to medical boards advising of some business arrangements that are potential violations of federal and state kickback and fraud laws. Ms. Anderson asked for direction from the board on if/how to communicate this to physicians.

Dr. Bechtel said this is important to put on the website and suggested that the board also define kickbacks as these could come in the form of tickets and gifts and not just bonuses.

Dr. Soin agreed; especially for compounding pharmacies because of the extremely high reimbursement rates and solicitation emails looking for partners and medical directors. Providing education could help protect physicians who are well-intended.

Ms. Anderson inquired if board members would like to post this information on med.ohio.gov. Board members, including Mr. Giacalone, Dr. Soin and Dr. Bechtel supported that.

ONE-BITE REPORTING EXEMPTION LEGISLATION

Impaired practitioner legislation also known as the “One-Bite” bill was addressed during Mr. LaCross’s general legislative update.

ADJOURN

Dr. Schachat moved to adjourn the meeting. Mr. Giacalone seconded the motion. Motion carried.

The meeting adjourned at 9:33 a.m.

jkw
tbp

State Medical Board of Ohio

FINANCE COMMITTEE MEETING
April 12, 2017
30 E. Broad St., Columbus, OH Room 318

Members: Donald R. Kenney, Sr., Chair Bruce R. Saferin, D.P.M. Michael Schottenstein, M.D. Michael L. Gonidakis Other Board members present: Richard A. Edgin, M.D.	Staff: A.J. Groeber, Executive Director Teresa Pollock, Director of Communications
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Mr. Kenney called the meeting to order at 9:00 a.m.

FINANCE COMMITTEE MEMBERSHIP

Mr. Kenney noted that Dr. Edgin, who is not a member of the Finance Committee, attends the Committee's meetings monthly. Mr. Kenney suggested that Dr. Edgin be made a member of the Finance Committee. Mr. Groeber stated that he will make a note of Mr. Kenney's suggestion.

MINUTES REVIEW

Dr. Saferin moved to approve Finance Committee March 8, 2017 meeting minutes. Dr. Schottenstein seconded the motion. The motion carried.

FISCAL UPDATE

Mr. Groeber stated that the Board's revenue is down compared to the same time in the last biennium, but the decrease is not significant. Mr. Groeber stated that the decrease could be due to a low license renewal month. Mr. Groeber added that the Board's cash balance is down due to the \$1,500,000 payment towards the Board's share of the eLicense system. Mr. Groeber expected the cash balance to slowly increase in the future. Mr. Kenney commented that the cash balance should be watched to ensure that the decrease is not the beginning of a downward trend.

Dr. Saferin asked if the Board will continue to pay fees whenever it requires a change in the eLicense system. Mr. Groeber stated that the eLicense system will have routine maintenance costs which will be significant, but will not approach the levels that the Board is currently paying for the system's development. Mr. Groeber noted that those licensees who have migrated to the new system go through the process about six or seven days faster, while the amount of time the Board spends moving paper around has dropped to zero. Mr. Kenney opined that the most important part of the eLicense system will be the integration with the Ohio Automated Rx Reporting System (OARRS) through the Board of Pharmacy.

FINING AUTHORITY

Mr. Groeber updated the Committee on administrative fines that have been paid and those that are still outstanding, including those involved in special counsel or on appeal. Mr. Groeber noted that fines that are included in consent agreements tend to get paid quickly, while fines associated with license revocation are more difficult to collect.

Mr. Groeber stated that tomorrow's Board retreat will include a brief discussion of including triggers in consent agreements that will allow for automatic fines for failure to adhere to the terms of the agreement, such as missing a rehabilitation meeting. Dr. Saferin opined that automatic fines will be more effective than the current practice of adding time (tolling) for infractions.

BUDGET LEGISLATION

Mr. Groeber stated that the Board's budget proposal continues to be part of the overall budget bill which is currently being considered by the legislature. Mr. Groeber commented that it appears that the proposed consolidation of the Medical Board with the Dietetics Board and Respiratory Care Board will be removed from the budget bill.

BOARD MEMBER COMPENSATION

Mr. Groeber stated that the Board has recently discussed pay raises for Board members when they are reappointed to the Board. Mr. Groeber stated that the proposed raise would amount to 0.75 cents per hour. Mr. Groeber stated that when the subject first arose, Dr. Steinbergh was the only member eligible for such an increase. After a brief discussion, the Finance Committee expressed support for pursuing the raises for reappointed Board members. Dr. Saferin suggested that the amount of the proposed raise should be increased. Mr. Gonidakis agreed.

SOCIAL MEDIA

Mr. Groeber stated that there has been discussion of launching a social media platform and adopting tools to better manage the Board's contact with licensees. Ms. Pollock stated that the first step of this process is to improve the Board's website to make it more user-friendly and visually appealing. Ms. Pollock continued that the next step is to adopt a better email contact system. Ms. Pollock stated that currently about one-third of emails sent to licensees either bounce back or are unread. Ms. Pollock stated that she is looking at an email marketing system called GovDelivery which will provide more than just text in an email and would be more visually appealing. Mr. Groeber noted that the Governor's office uses the system, as well as some other state government agencies.

Ms. Pollock stated that the initial cost to have the GovDelivery system communicate with the Board's Salesforce system would be \$4,000 and approximately \$12,000 per year to allow for an unlimited number of emails to licensees. The system will link the individual licensees with their unique Salesforce account and allow the licensee to update their contact information, among other functions. Information on the Board's social media accounts on Twitter and LinkedIn can also be distributed via this system. Ms. Pollock briefly outlined the advice and guidance provided by the Ohio Department of Health, as well as other state medical boards, and how they manage their social media. Ms. Pollock noted that the North Carolina Medical Board has a very good social media model.

Dr. Saferin moved to implement the plans regarding social media. Dr. Schottenstein seconded the motion. The motion carried.

Ms. Pollock briefly answered the Committee's questions about the two-way nature of social media communication, how to deal with inappropriate posts made by licensees, and the need to post a very visible notice that comments made on the Board's Twitter account do not constitute filing a formal complaint against a licensee and directing people on how to file such a complaint.

ADJOURN

Dr. Saferin moved to adjourn the meeting. Dr. Schottenstein seconded the motion. The motion carried.

The meeting adjourned at 9:35 a.m.

State Medical Board of Ohio

COMPLIANCE COMMITTEE MEETING

April 12, 2017

30 E. Broad St., Columbus, OH Administrative Hearing Room

Members: Amol Soin, M.D., Acting Chair Michael Schottenstein, M.D. Ronan M. Factora, M.D. Other Board members present: Kim G. Rothermel, M.D.	Staff: Alexandra Murray, Managing Attorney Annette Jones, Compliance Officer Angela Moore, Compliance Officer Benton Taylor, Board Parliamentarian
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Dr. Soin called the meeting to order at 3:00 p.m.

INITIAL PROBATIONARY APPEARANCES

Rezik Abdul Aziz Saqer, M.D.

Dr. Saqer is making his initial appearance before the Committee pursuant to the terms of his August 10, 2016 Consent Agreement. Dr. Soin reviewed Dr. Saqer's history with the Board.

In response to questions from Dr. Soin, Dr. Saqer stated that he intends to continue practicing pain management in Texas, but not necessarily prescribing narcotics. Dr. Saqer stated that he did not do anything wrong, but Dr. Saqer's clinic was raided by law enforcement due to an accident involving one of Dr. Saqer's patients. Dr. Saqer stated that after about 16 months of investigation, the Texas Medical Board lifted the suspension of Dr. Saqer's Texas medical license. Dr. Saqer stated that he completed his training in Ohio in 1996 and has never practiced in Ohio, but he would like to keep his Ohio medical license in good standing.

Dr. Soin asked Dr. Saqer to describe the accident involving a patient that led to the raid. Dr. Saqer stated that his patient caused an automobile accident that killed four people. Dr. Saqer stated that there was nothing to prove that the patient was under the influence of any drug at the time of the accident, but he had a medication bottle with Dr. Saqer's name on it in his car. Dr. Saqer was arrested and his Texas medical license was suspended based on the arrest. Dr. Saqer stated that he is a proponent of treating pain with interventional procedures instead of medication when possible.

Dr. Schottenstein asked Dr. Saqer to clarify whether there are any current restrictions on his Texas medical license. Dr. Saqer replied that there are still some restrictions until the matter is cleared up in court. Dr. Saqer stated that currently he is required to practice as part of a group and he is not allowed to renew his Drug Enforcement Administration (DEA) registration.

Dr. Schottenstein asked if Dr. Saqer was ever criminally convicted. Dr. Saqer answered that he was never criminally convicted, though there is a pending legal matter which he is confident will be cleared soon. Peter Nolan, attorney for Dr. Saqer, stated that the pending legal matter has nothing to do with the accident involving Dr. Saqer's patient. Mr. Nolan stated that rather than prosecuting Dr. Saqer for his patient's accident, it is an attempt to prosecute for alleged insurance fraud. Mr. Nolan stated that the grand jury has not completed its review and the matter has been pending for 19 months.

Dr. Schottenstein stated that Dr. Saquer's Consent Agreement with the Ohio Board indicates a concern for possible pre-signing of treatment notes and prescriptions, as well as a possible failure to properly maintain controlled substances. Mr. Nolan stated that all those charges have been dropped.

Dr. Schottenstein moved to continue Dr. Saquer under the terms of his August 10, 2016 Consent Agreement, with future appearances before the Board's Secretary or Designee. Dr. Factora seconded the motion. The motion carried.

William K. Basedow, D.O.

Dr. Basedow is making his initial appearance before the Committee pursuant to the terms of the Board's Order of June 10, 2015. Dr. Soin reviewed Dr. Basedow's history with the Board.

Responding to questions from Dr. Soin, Dr. Basedow stated that he has taken the controlled substances prescribing course and has learned the importance of background checks on patients who are prescribed narcotics, detailed informed consent, and a contract agreement with the patient. Dr. Basedow stated that documentation from prior treating physicians is also important. Dr. Basedow stated that he continues to practice as a family practitioner and an addictionologist, but he sees himself as more of a family practitioner in the long-term. Dr. Basedow stated that he will not be handling any controlled substances for pain and he will refer all pain patients to a pain management specialist. Dr. Basedow clarified that he will not be prescribing any narcotics or benzodiazepines.

Dr. Schottenstein asked if Dr. Basedow drinks alcohol. Dr. Basedow replied that he does not drink alcohol. Dr. Schottenstein asked if Dr. Basedow is active in a recovery program. Dr. Basedow answered that he speaks during Alcoholic Anonymous (AA) meetings and will occasionally give an open lead for AA and community services.

Dr. Schottenstein moved to continue Dr. Basedow under the terms of the Board's Order of June 10, 2015, with future appearances before the Board's Secretary or Designee. Dr. Factora seconded the motion. The motion carried.

Freeda J. Flynn, M.D.

Dr. Flynn is making her initial appearance before the Committee pursuant to the terms of the Board's Order of May 13, 2015. Dr. Soin reviewed Dr. Flynn's history with the Board.

Responding to questions from Dr. Soin, Dr. Flynn stated that she has been through three psychological evaluations and none resulted in a diagnosis or recommendations for treatment. Dr. Flynn stated that it had previously been alleged that she had depression, most likely by a nurse practitioner whose employment was terminated by Dr. Flynn. Dr. Flynn opined that the action against her is the result of vindictiveness on someone's part, though she does not know who. Dr. Flynn stated that she has had to discharge people from her addiction clinic and has had to fire three employees. Dr. Flynn stated that 20 years ago she had depression in relation to her divorce and she sought counseling and took medication during that period, but she has not experienced depression since then.

Dr. Flynn continued that she has a very busy practice with approximately 4,000 patients. Dr. Flynn stated that she just received approval to treat an additional 175 patients with Suboxone. Dr. Flynn stated that in addition to her addiction clinic, she also has a family practice and is very involved in the community.

Dr. Schottenstein asked if Dr. Flynn has concerns about the number of hours she works, noting that Dr. Flynn did express such concerns in 2002. Dr. Flynn replied that she has always self-analyzed and wondered if she was working too many hours. Dr. Flynn stated that she follows the mental health guidelines and takes a night off when needed. Dr. Flynn also stated that her friends will tell her if she fails to notice that she is working too hard.

Dr. Schottenstein asked if Dr. Flynn feels emotionally composed in her interactions with patients and staff. Dr. Flynn responded that she works with addicts who are often in denial and she is sometimes blunt with her patients. Dr. Soin commented that as a pain management physician he also has difficult discussions with his patients. Dr. Soin stated that he sometimes sees physicians before the Board because of upset patients or employee complaints. Dr. Soin stated that there is something to be said for tactfulness and respect when dealing with a patient.

Dr. Schottenstein moved to continue Dr. Flynn under the terms of the Board's Order of May 13, 2015, with future appearances before the Board's Secretary or Designee. Dr. Factora seconded the motion. The motion carried.

Yi Xiong, D.O.

Dr. Xiong is making his initial appearance before the Committee pursuant to the terms of his January 11, 2017 Consent Agreement. Dr. Soin reviewed Dr. Xiong's history with the Board.

In response to questions from Dr. Soin, Dr. Xiong stated that he is currently in an internal medicine residency and will probably become a hospitalist or primary care physician. Dr. Xiong stated that he was supposed to complete his training in Massachusetts, but the Board's action has led the Massachusetts Board of Registration in Medicine to not consider his application in that state. Consequently, Dr. Xiong is staying in Ohio. Dr. Xiong stated that he will probably stay in Ohio in the long-term, though he is also considering moving back to Texas.

Dr. Soin asked if Dr. Xiong had any questions about his Consent Agreement. Dr. Xiong replied that he had no questions.

Dr. Schottenstein asked if Dr. Xiong could explain his situation to the medical students in attendance. Dr. Xiong stated that about seven years ago he was practicing as a nurse in Oklahoma and was responsible for getting patients ready for surgery. Dr. Xiong stated that when one patient was late for surgery, he decided to open a chart on the patient to help ensure that everything went smoothly. Dr. Xiong commented that he knew the patient personally and so he tried to fill in the patient information, including medical history and medications, but left the vital signs and patient signature blank. Dr. Xiong stated that he thought this would save time. However, Dr. Xiong stated that the patient never showed up. Dr. Xiong stated that he had not considered what he did to be falsification of documentation and he did not realize the seriousness of the situation. As a result, Dr. Xiong was forced to resign his position and he was penalized by the Oklahoma Board of Nursing, as well as the State Medical Board of Ohio. Dr. Xiong advised the students to be honest at all times.

Dr. Schottenstein stated that there was also an incident regarding a post-operative call. Dr. Xiong elaborated that with another patient who he knew very well, Dr. Xiong had become annoyed that the patient would not pick up his calls. Dr. Xiong recorded that he called the patient at 8:00, 10:00, and 12:00. However, the paper was filed early and he was not able to actually make those calls. This was discovered when a nurse saw the improper documentation and reported Dr. Xiong. Dr. Xiong stated that, just as with the previous case, he had gotten ahead of himself. Dr. Xiong stated that this is something he would never do again.

Dr. Schottenstein moved to continue Dr. Xiong under the terms of his January 11, 2017 Consent Agreement, with future appearances before the Board's Secretary or Designee. Dr. Factora seconded the motion. The motion carried.

APPROVAL OF REPORTS OF CONFERENCES

Dr. Schottenstein moved to approve the Compliance Staff's Reports of Conferences for March 7 & 8, 2017. Dr. Factora seconded the motion. The motion carried.

MINUTES REVIEW

Dr. Schottenstein moved to approve the draft minutes from March 8, 2017. Dr. Factora seconded the motion. The motion carried.

ADJOURN

Dr. Schottenstein moved to adjourn the meeting. Dr. Factora seconded the motion. The motion carried.

The meeting adjourned at 3:30 p.m.

Anita M. Steinbergh, D.O.
Chair

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