



**Medical Board of Ohio Meeting Minutes  
September 8, 2021**

Betty Montgomery, President, called the meeting to order at 10:01 a.m. in the Administrative Hearing Room, 3rd floor of the Rhodes Office Tower, 30 East Broad Street, Columbus, Ohio 43215 with the following members present: Sherry Johnson, D.O., Vice President; Kim G. Rothermel, M.D., Secretary; Bruce R. Saferin, D.P.M., Supervising Member; Michael L. Gonidakis, Esq.; Amol Soin, M.D.; Robert Giacalone, J.D., R.Ph.; Michael Schottenstein, M.D.; Jonathan Feibel, M.D.; Yeshwant Reddy, M.D.; and Mark A. Bechtel, M.D.

**MINUTES REVIEW**

**Dr. Saferin moved to approve the minutes of the August 11, 2021 Board Meeting. Dr. Bechtel seconded the motion.** All members voted aye. The motion carried.

**REPORTS AND RECOMMENDATIONS**

Ms. Montgomery asked the Board to consider the Reports and Recommendations appearing on the agenda. Ms. Montgomery asked if each member of the Board received, read and considered the Hearing Record; the Findings of Fact, Conclusions and Proposed Orders; and any objections filed in the matters of: Marios Papachristou, M.D.; and Spilios Pappas, M.D. A roll call was taken:

Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Johnson	Y
Mr. Gonidakis	Y
Dr. Schottenstein	Y
Dr. Feibel	Y
Dr. Reddy	Y
Dr. Bechtel	Y
Ms. Montgomery	Y

Ms. Montgomery further asked if each member of the Board understands that the Board's 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 or Permanent Denial. A roll call was taken:

Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Johnson	Y
Mr. Gonidakis	Y
Dr. Schottenstein	Y
Dr. Feibel	Y
Dr. Reddy	Y
Dr. Bechtel	Y

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Ms. Montgomery	Y
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Ms. Montgomery further asked if each member of the Board understands that in each matter eligible for a fine, the Board's fining guidelines allow for imposition of the range of civil penalties, from no fine to the statutory maximum amount of \$20,000. A roll call was taken:

Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Johnson	Y
Mr. Gonidakis	Y
Dr. Schottenstein	Y
Dr. Feibel	Y
Dr. Reddy	Y
Dr. Bechtel	Y
Ms. Montgomery	Y

Ms. Montgomery stated 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 disciplinary matters before the Board today, Dr. Rothermel served as Secretary and Dr. Saferin served as Supervising Member.

During these proceedings, no oral motions were allowed by either party. Respondents and their attorneys not addressing the Board are viewing this video conference meeting remotely and have a number to call in the event of an emergency or procedural concern.

## **Marios Papachristou, M.D.**

Ms. Montgomery directed the Board's attention to the matter of Marios Papachristou, M.D. No objections have been filed. Ms. Lee was the Hearing Examiner.

A request to address the Board has been filed on behalf of Dr. Papachristou. Five minutes will be allowed for that address.

Dr. Papachristou stated that the Board is already aware of the circumstances of his addiction, his criminal behavior and legal consequences, and what he has done in recovery. Dr. Papachristou noted that both the Assistant Attorney General and the Hearing Examiner had commented on insights into addiction, and he stated that he could talk about that for hours. Dr. Papachristou had prepared a statement on the insight into what he had lost to addiction, but it is not about the loss of his career, his incarceration, or the separation from his family. Rather, it was about the 11 years of unhappiness and torment he experienced before that, in the best of times when his life was perfect.

Dr. Papachristou continued that he wrote clever analogies to argue that addiction is not a disease of judgment as is commonly understood, but a disease of priorities. Dr. Papachristou stated that he is sorry for what he did while in a state of addiction and that a minute rarely passes when he does not feel grief, remorse, and frustration over this. Dr. Papachristou stated that he will be dealing with that for the rest of his life because there are reminders everywhere, including the faces of his wife and children who he had so utterly failed, the place he lives, and the place he works.

Dr. Papachristou stated that he has tried to be as forthcoming as possible throughout this process. Dr. Papachristou stated that he is now at a professional bottom, currently working as a cashier in a grocery store making \$15.00 per hour and his family is on public assistance. Dr. Papachristou stated that he has nothing to

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lose professionally. What he has now cannot be taken away, namely his mental health which, through recovery and the adversity he has experience in the last three years, is stronger than ever. Dr. Papachristou also has the love, support, and respect of his family, friends, and colleagues.

Dr. Papachristou stated that he is appearing today without an attorney and he has made no objections to the Report and Recommendation. Dr. Papachristou was representing himself because he understands that the future of his medical career is at the Board's mercy. Dr. Papachristou stated that he has submitted an application for restoration of his medical license merely to give the Board that option if it believes Dr. Papachristou's medical practice would be of value. Dr. Papachristou's decision to apply was based on the unanimous opinion of his former colleagues, many of whom he worked with daily for over a decade, as well as his 12-step sponsor, who is board-certified by the American Society of Addiction Medicine, and his counselor who has worked with Dr. Papachristou since the early days of his recovery.

Dr. Papachristou continued that given his current employment options, he would obviously be extremely grateful to practice medicine in any capacity, as that would fundamentally change his ability to provide for his family. Having said that, Dr. Papachristou noted that he has been trained as an academic radiologist. After five years of training, eight years as an attending physician, and spending the last three years doing academic work and completing almost 500 continuing medical education (CME) credits, this is by far the area where he would be of most value to medicine. Dr. Papachristou stated that if the Board decides that his medical practice is salvageable, he will eventually pursue a second radiology fellowship, re-test for his board certification, and re-enter practice as a radiologist. Dr. Papachristou used the word "eventually" because he understood that if the Board considers granting him a medical license, there would be very reasonable concerns given his history.

Dr. Papachristou observed that the Report and Recommendation suggests appropriate restrictions on his ability to prescribe controlled substances. Dr. Papachristou stated that to the best of his knowledge, such a permanent restriction would make it impossible for him to practice radiology, enter a radiology fellowship, or re-test for his radiology certification. If the Board determines that Dr. Papachristou's practice of radiology would be of value, Dr. Papachristou hoped the Board would also consider a pathway to an unrestricted license or consider that these concerns can be addressed with conditions rather than restrictions. For example, Dr. Papachristou stated that a condition that he would not obtain a Drug Enforcement Administration (DEA) registration would have the same practical effect as a restriction on prescribing controlled substances, but would still allow him to practice radiology in the future.

Dr. Papachristou thanked the Board for listening and taking time to review his case, regardless of the outcome.

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

Ms. Snyder stated that she had never sat through a hearing like Dr. Papachristou's. Ms. Snyder stated that Dr. Papachristou was forthcoming and very understanding of his addiction, and she opined that he would be a great candidate for a license. However, granting Dr. Papachristou a license would be legally complicated. Ms. Snyder pointed out that Dr. Papachristou's license expired in 2018 and, as of the time of his hearing, he had not applied for restoration and she therefore did not know what part of the process his restoration application is currently in. Ms. Snyder stated that if the Board is inclined to allow Dr. Papachristou to practice, he would need to take the Special Purpose Examination (SPEX) because he has been out of practice for more than two years.

**Dr. Reddy moved to approve and confirm the Proposed Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Dr. Papachristou. Mr. Giacalone seconded the motion.**

Ms. Montgomery stated that she will now entertain discussion in the above matter.

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Dr. Feibel commented that since he has been on the Medical Board he has not heard a respondent make such an address to the Board. Dr. Feibel found Dr. Papachristou's address to be compelling, introspective, and honest. Dr. Feibel congratulated Dr. Papachristou on where he has come from and where he is today. Dr. Feibel hoped that the Board would do what it can to help Dr. Papachristou reobtain licensure. Dr. Feibel expressed concern about the lack of a permanent restriction barring Dr. Papachristou from prescribing, primarily because he did not want Dr. Papachristou to be tempted due to his addictive personality.

Responding to an inquiry from Ms. Montgomery, Ms. Anderson stated that Dr. Papachristou filed an application for restoration of his lapsed medical license on June 30, 2021. That application remains pending. Ms. Anderson added that although Dr. Papachristou discussed impairment at his hearing, he did not file an Eastway waiver. The lack of an Eastway waiver could be an obstacle if the Board wishes to craft an order that includes impairment terms. Ms. Anderson elaborated that there is case law that indicates that the Board has to make its order based on the Notice of Opportunity for Hearing, which in this case referenced only Dr. Papachristou's criminal conviction. The Notice did not reference impairment, though that topic was discussed in Dr. Papachristou's hearing. Dr. Anderson stated that individuals can waive their rights with an Eastway waiver, but that did not happen in this case.

Ms. Montgomery echoed Dr. Feibel's concerns regarding temptation if Dr. Papachristou has the ability to prescribe. Ms. Montgomery stated that at some point, if Dr. Papachristou has truly turned the corner on his addiction, the Board may allow him to exercise the muscle he has developed to avoid the addiction.

Dr. Feibel asked if Dr. Papachristou could sign an Eastway waiver now. Ms. Anderson replied that he could, but Dr. Papachristou is not represented by counsel at this time and that can be a concern.

Dr. Schottenstein opined that a non-permanent revocation of Dr. Papachristou's license would be appropriate because that would allow him a pathway back to practice in Ohio. Dr. Papachristou would be able to file an application for a new license which could result in a new citation, whereupon he could present evidence of his sobriety and the steps he will have taken to maintain it. Dr. Papachristou could also enter into a Step I consent agreement with the Board prior to citation. Dr. Schottenstein commented that if he were contemplating such a consent agreement in the future, he would like to see, in addition to standard conditions for reinstatement, requirements for courses in ethics and controlled substance prescribing, and perhaps a permanent limitation on prescribing or an agreement that Dr. Papachristou will not apply for registration with the Drug Enforcement Administration (DEA) to prescribe controlled substances. Dr. Schottenstein also speculated that due to the time that has passed since he last practiced medicine, Dr. Papachristou may need to take the Special Purpose Examination (SPEX) or complete a physician reentry program like the Center for Personal Education for Professionals (CPEP) or the Physician Assessment and Clinical Education (PACE) program. For now, Dr. Schottenstein favored the Proposed Order, including the proposed fine.

Mr. Giacalone agreed that a prohibition on applying for DEA registration, or a commitment to refrain from applying, would address the Board's concerns about Dr. Papachristou prescribing controlled substances. Dr. Soin also concurred with the Proposed Order to revoke Dr. Papachristou's medical license and the proposed fine. Dr. Soin agreed that if Dr. Papachristou reapplies, a restriction on obtaining DEA registration would address the issues of controlled substance prescribing, though Dr. Soin was not against imposing a restriction on all prescribing, including non-controlled substances. Ms. Montgomery added that an order for revocation would also give the Board time to consider the ramifications of such a restriction on Dr. Papachristou's future employment if he reapplies for licensure.

Ms. Anderson briefly explained the procedures involved in this matter. If the Board accepts the Proposed Order to revoke Dr. Papachristou's medical license, then restoration of that license would not be available. To reobtain licensure, Dr. Papachristou will have to apply for a new license. Ms. Anderson believed that the Board could refund the fees Dr. Papachristou has paid to file his pending application for restoration and he could apply for a new license after his current license is revoked.

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Ms. Montgomery agreed with Dr. Feibel's comments that Dr. Papachristou's address to the Board was honest and forthcoming. The Board appreciated Dr. Papachristou's honesty.

Dr. Feibel stated that he has historically not been completely supportive of amendments to reduce fine amounts for respondents. However, this is a situation in which putting Dr. Papachristou's life in harm's way and making it more stressful is not the message the Board should be sending. Dr. Feibel suggested entirely removing the fine in the Proposed Order.

**Dr. Feibel moved to amend the Proposed Order to remove the fine. Mr. Gonidakis seconded the motion.** A vote was taken:

Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Johnson	Y
Mr. Gonidakis	Y
Dr. Schottenstein	Y
Dr. Feibel	Y
Dr. Reddy	Y
Dr. Bechtel	Y
Ms. Montgomery	Y

The motion to amend carried.

**Dr. Feibel moved to approve and confirm the Proposed Findings of Fact, Conclusions of Law, and Proposed Order, as amended, in the matter of Dr. Papachristou. Dr. Bechtel seconded the motion.** A vote was taken:

Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Johnson	Y
Mr. Gonidakis	Y
Dr. Schottenstein	Y
Dr. Feibel	Y
Dr. Reddy	Y
Dr. Bechtel	Y
Ms. Montgomery	Y

The motion to approve carried.

### **Spilios Pappas, M.D.**

Ms. Montgomery directed the Board's attention to the matter of Spilios Pappas, M.D. No objections have been filed. Ms. Shamansky was the Hearing Examiner.

**Dr. Johnson moved to approve and confirm the Proposed Findings of Fact, Conclusions, and Order in the matter of Dr. Pappas. Dr. Bechtel seconded the motion.**

Ms. Montgomery stated that she will now entertain discussion in the above matter.

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Dr. Bechtel did not find Dr. Pappas' testimony at his hearing to be credible. Dr. Bechtel stated that Dr. Pappas was indicted in federal court and found guilty by a jury for filing fraudulent claims for doing medically unnecessary procedures for kickbacks and bribes, as well as unnecessarily prescribing opioids. Despite this, Dr. Pappas does not seem to accept responsibility for his actions. Dr. Pappas claims that when he signed a contract that he was the owner of a treatment center in Toledo, he was misguided and did not really believe he was doing that. Dr. Pappas also stated that he maximized the billing for his procedures, but also claimed he was not responsible because the people in billing were supposed to review it, even though those people were not in the examination room. Dr. Bechtel found the size and amount of the fraud to be staggering at more than \$130,000,000. Dr. Bechtel felt that permanent revocation is necessary in this situation.

Dr. Johnson agreed with Dr. Bechtel. Dr. Johnson stated that Dr. Pappas took no responsibility for his part in the Medicare fraud. Dr. Johnson stated that permanent revocation is warranted in this matter.

Ms. Montgomery noted that Dr. Pappas was the seventh-highest prescriber of oxycodone in Michigan, yet the fine in the Proposed Order is not the maximum that can be imposed by the Board. Ms. Montgomery stated that the fine is to some extent symbolic, but she hoped the Hearing Examiners paid attention to this case with regard to proposed fines. Ms. Montgomery stated that Dr. Pappas made a great deal of money for himself and has not taken responsibility for his actions.

Dr. Reddy opined that the fine should be the maximum the Board can impose, stating that Dr. Pappas greatly benefited from his fraud. Dr. Reddy wished the Board had the authority to impose a fine greater than \$20,000.

**Dr. Reddy moved to amend the Proposed Order to increase the fine from \$18,000 to \$20,000. Dr. Feibel seconded the motion.**

Dr. Schottenstein substantially echoed the previous comments. Dr. Schottenstein stated that Dr. Pappas' hearing testimony was minimizing and self-exculpatory. Dr. Schottenstein stated that in the aftermath of two felony convictions, it was not mitigating for Dr. Pappas to provide testimony that there had been a big misunderstanding, that he had no knowledge of the crime, and that the testimony of the co-conspirators was a lie. Dr. Schottenstein observed that under the Board's Rule 4731-13-24, a plea of guilty or finding of guilt regarding a crime is evidence of commission of all aspects of that crime. Therefore, by that Rule, all the evidence has been conclusively proven.

Dr. Schottenstein continued that it is difficult to believe Dr. Pappas' testimony that he was convicted of felonies based on a misunderstanding, that he did not have knowledge of the Medical Board's rules regarding opioid prescribing, that he thought it was responsible to routinely bill the maximum possible charge and then depend on a billing secretary to make appropriate corrections, and that he did not realize the impropriety of fraudulently signing an application for his clinic's business license. Dr. Pappas denies his culpability for these unethical criminal activities by maintaining that he had no knowledge of them. However, Dr. Schottenstein stated that it would require willful ignorance to be unaware of the criminal activity of his own actions and those of his associates. Dr. Schottenstein stated that willful ignorance is an aggravating factor, not a mitigating factor. Dr. Schottenstein further noted the testimony of Dr. Pappas' co-conspirators that Dr. Pappas was, in fact, well aware of the criminal behavior, and the jury found that testimony to be credible.

Dr. Schottenstein stated that the only mitigating factor in this case is the absence of a prior disciplinary record. However, there are multiple aggravating factors:

- Dr. Pappas did not take responsibility for his behavior.
- Dr. Pappas had a dishonest selfish motive.
- There were multiple violations.
- Patients were vulnerable to Dr. Pappas' behavior.
- Dr. Pappas' behavior was negligent at best and reckless at worst.

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- Dr. Pappas used his position of trust to accomplish his deception.
- To Dr. Schottenstein's perception, Dr. Pappas has shown no remorse.

Regarding the fine, Dr. Schottenstein observed that two of Dr. Pappas' co-conspirators have already been disciplined by the Board, and those orders were amended to increase the proposed fine to the maximum of \$20,000.

Dr. Schottenstein noted that Dr. Pappas is appealing his conviction. Section 4731.22(H), Ohio Revised Code, allows for reinstatement of a license that had been permanently revoked if that permanent revocation was based on a criminal conviction that was subsequently overturned on appeal. If Dr. Pappas' conviction is overturned, he may petition for reconsideration of the Board's Order and reobtain licensure. However, Dr. Schottenstein felt it unlikely that Dr. Pappas will prevail on appeal. Dr. Schottenstein stated that if Dr. Pappas' testimony at trial was consistent with his testimony at the Medical Board hearing, it is difficult to believe the convictions will be reversed.

Dr. Schottenstein stated that Dr. Pappas' brazen, audacious behavior chips away at the trust the public has in the medical profession. Dr. Schottenstein supported the Proposed Order and the proposed amendment to increase the fine to \$20,000.

Dr. Soin stated that Dr. Pappas began practicing pain management exclusively in 2013 and became the seventh-highest prescriber of oxycodone in Michigan. Dr. Pappas did not look into whether there were laws or rules about prescribing. Dr. Soin appreciated that the Assistant Attorney General discussed House Bill 93 in her closing statement at the hearing. Dr. Soin stated that House Bill 93 was transformative and impacted very pain medicine practitioner in Ohio, and had garnered attention across the country. Dr. Soin stated that House Bill 93 should have well-known to Dr. Pappas, who was practicing in a border state and in the Toledo area. Dr. Soin stated that the Board should continue to emphasize House Bill 93 because it provides for onsite inspection of pain clinics by the Board of Pharmacy, as well as other vetting processes that prevent pain clinics from going rogue in Ohio.

Mr. Giacalone found it curious that Dr. Pappas was the seventh-highest prescribing of oxycodone 30 mg in Michigan, yet that is not mentioned in his criminal indictment and conviction, which was solely about health care fraud. Mr. Giacalone stated that the health care fraud involved hundreds of millions of dollars, and that alone is sufficient to revoke Dr. Pappas' license. Mr. Giacalone clarified that the health care fraud is at the heart of the issue for revocation of Dr. Pappas' medical license, not the other aspects that have not yet been proven.

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

Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Johnson	Y
Mr. Gonidakis	Y
Dr. Schottenstein	Y
Dr. Feibel	Y
Dr. Reddy	Y
Dr. Bechtel	Y
Ms. Montgomery	Y

The motion to amend carried.

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**Dr. Johnson moved to approve and confirm the Proposed Findings of Fact, Conclusions, and Order, as amended, in the matter of Dr. Pappas. Dr. Bechtel seconded the motion. A vote was taken:**

Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Johnson	Y
Mr. Gonidakis	Y
Dr. Schottenstein	Y
Dr. Feibel	Y
Dr. Reddy	Y
Dr. Bechtel	Y
Ms. Montgomery	Y

The motion to approve carried.

### **PROPOSED FINDINGS AND PROPOSED ORDERS**

Ms. Montgomery stated that in the following matters, the Board issued Notices of Opportunity for Hearing. No timely requests for hearing was received. These matters were reviewed by a Hearing Examiner, who prepared Proposed Findings and Proposed Orders, and they are now before the Board for final disposition. These matters are disciplinary in nature, and therefore the Secretary and Supervising Member cannot vote. In these matters, Dr. Rothermel served as Secretary and Dr. Saferin served as Supervising Member.

#### **Abdul Haq, M.D.**

**Dr. Reddy moved find that the allegations as set forth in the September 9, 2020 Notice of Opportunity for Hearing in the matter of Mr. Haq have been proven to be true by a preponderance of the evidence and to adopt Ms. Shamansky’s Proposed Findings and Proposed Order. Dr. Johnson seconded the motion.**

Ms. Montgomery stated that she will now entertain discussion in the above matter.

Dr. Schottenstein stated that he supports the Proposed Order to permanently revoke Dr. Haq’s Ohio medical license. Due to the egregious nature of the offense, Dr. Schottenstein also favored an amendment increasing the fine to the maximum allowed by law, \$20,000.

Regarding Ms. Montgomery’s prior comments on fines proposed by the Hearing Examiner, Dr. Schottenstein noted that in the past the Board has instructed the Hearing Examiners to propose the minimum fine amount based on the disciplinary guidelines, with the thought that the Board can adjust the fine amount if it is so inclined. Ms. Montgomery thanked Dr. Schottenstein for his comments.

**Dr. Schottenstein moved to increase the proposed fine from \$18,000 to \$20,000. Dr. Feibel seconded the motion. A vote was taken:**

Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Johnson	Y
Mr. Gonidakis	Y
Dr. Schottenstein	Y

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Dr. Feibel	Y
Dr. Reddy	Y
Dr. Bechtel	Y
Ms. Montgomery	Y

The motion to amend carried.

**Dr. Bechtel moved find that the allegations as set forth in the September 9, 2020 Notice of Opportunity for Hearing in the matter of Mr. Haq have been proven to be true by a preponderance of the evidence and to adopt Ms. Shamansky’s Proposed Findings and Proposed Order as amended. Dr. Reddy seconded the motion. A vote was taken:**

Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Johnson	Y
Mr. Gonidakis	Y
Dr. Schottenstein	Y
Dr. Feibel	Y
Dr. Reddy	Y
Dr. Bechtel	Y
Ms. Montgomery	Y

The motion to approve carried.

### **Russel D. Main, R.C.P.**

**Dr. Johnson moved find that the allegations as set forth in the March 10, 2021 Notice of Opportunity for Hearing in the matter of Mr. Main have been proven to be true by a preponderance of the evidence and to adopt Ms. Lee’s Proposed Findings and Proposed Order. Dr. Bechtel seconded the motion.**

Ms. Montgomery stated that she will now entertain discussion in the above matter. No Board member offered discussion in this matter.

A vote was taken on Dr. Johnson’s motion:

Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Johnson	Y
Mr. Gonidakis	Y
Dr. Schottenstein	Y
Dr. Feibel	Y
Dr. Reddy	Y
Dr. Bechtel	Y
Ms. Montgomery	Y

The motion carried.

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**Hannah F. Smith**

**Dr. Reddy moved find that the allegations as set forth in the February 10, 2021 Notice of Opportunity for Hearing in the matter of Ms. Smith have been proven to be true by a preponderance of the evidence and to adopt Ms. Lee’s Proposed Findings and Proposed Order. Dr. Bechtel seconded the motion.**

Ms. Montgomery stated that she will now entertain discussion in the above matter. No Board member offered discussion in this matter.

A vote was taken on Dr. Reddy’s motion:

Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Johnson	Y
Mr. Gonidakis	Y
Dr. Schottenstein	Y
Dr. Feibel	Y
Dr. Reddy	Y
Dr. Bechtel	Y
Ms. Montgomery	Y

The motion carried.

**Daryl D. Wisdom, M.D.**

**Dr. Bechtel moved find that the allegations as set forth in the March 10, 2021 Notice of Opportunity for Hearing in the matter of Dr. Wisdom have been proven to be true by a preponderance of the evidence and to adopt Ms. Lee’s Proposed Findings and Proposed Order. Dr. Johnson seconded the motion.**

Ms. Montgomery stated that she will now entertain discussion in the above matter. No Board member offered discussion in this matter.

A vote was taken on Dr. Bechtel’s motion:

Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Johnson	Y
Mr. Gonidakis	Y
Dr. Schottenstein	Y
Dr. Feibel	Y
Dr. Reddy	Y
Dr. Bechtel	Y
Ms. Montgomery	Y

The motion carried.

**FINDINGS, ORDERS, AND JOURNAL ENTRIES**

Ms. Montgomery stated that in the following matters, the Board issued Notices 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. These matters are therefore before the Board for final disposition. These matters are non-disciplinary in nature, and therefore all Board members may vote.

**Kathy Chevalier**

Ms. Montgomery stated that on or about July 14, 2021, the Board authorized issuance of a Notice of Opportunity for Hearing to Kathy Chevalier, informing her that the State Medical Board of Ohio proposed to deny her application for a license to practice respiratory care because she has not successfully passed an examination approved by the Board. Specifically, Ms. Chevalier has not provided documentation that she has completed the required Clinical Simulation Examination (CSE) portion of the Registered Respiratory Therapist (RRT) examination.

**Dr. Johnson moved to find that the facts set forth in the July 14, 2021 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, denying Ms. Chevalier’s application for a license to practice respiratory care in the State of Ohio. Dr. Saferin seconded the motion. A vote was taken:**

Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Johnson	Y
Mr. Gonidakis	Y
Dr. Schottenstein	Y
Dr. Feibel	Y
Dr. Reddy	Y
Dr. Bechtel	Y
Ms. Montgomery	Y

The motion carried.

**Natalie A. Clapp**

Ms. Montgomery stated that on or about July 14, 2021, the Board authorized issuance of a Notice of Opportunity for Hearing to Natalie A. Clapp, informing her that the State Medical Board of Ohio proposed to deny her application for a license to practice respiratory care because she has not successfully passed an examination approved by the Board. Specifically, Ms. Clapp has not provided documentation that she has completed the required Clinical Simulation Examination (CSE) portion of the Registered Respiratory Therapist (RRT) examinations.

**Dr. Johnson moved to find that the facts set forth in the July 14, 2021 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, denying Ms. Clapp’s application for a license to practice respiratory care in the State of Ohio. Dr. Bechtel seconded the motion. A vote was taken:**

Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Soin	Y

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Dr. Johnson	Y
Mr. Gonidakis	Y
Dr. Schottenstein	Y
Dr. Feibel	Y
Dr. Reddy	Y
Dr. Bechtel	Y
Ms. Montgomery	Y

The motion carried.

## **Celis S. Serrano**

Ms. Montgomery stated that on or about July 14, 2021, the Board authorized issuance of a Notice of Opportunity for Hearing to Celis S. Serrano, informing her that the State Medical Board of Ohio proposed to deny her application for a license to practice massage therapy because she does not hold a diploma or certificate from a school, college or institution in another state or jurisdiction that meets the Board’s required course of instruction, and has not held a current license, registration or certificate of good standing for massage therapy in another state for at least the preceding five years. Specifically, although Ms. Serrano completed a total of 1,155 clock hours, her program was deficient in the following areas: Anatomy, Physiology, and Pathology; and Ethics.

**Dr. Saferin moved to find that the facts set forth in the July 14, 2021 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, denying Ms. Serrano’s application for a license to practice massage therapy in the State of Ohio. Dr. Bechtel seconded the motion.**

Mr. Giacalone noted a typographical error in the Findings, Order, and Journal Entry. Specifically, page 3 stated that Ms. Serrano has not completed “325 clock hours in anatomy, physiology, and pathology.” It should read “275 clock hours”.

**Mr. Giacalone moved to amend the Findings, Order, and Journal Entry to correct the error as discussed. Dr. Saferin seconded the motion. A vote was taken:**

Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Johnson	Y
Mr. Gonidakis	Y
Dr. Schottenstein	Y
Dr. Feibel	Y
Dr. Reddy	Y
Dr. Bechtel	Y
Ms. Montgomery	Y

The motion carried.

**Dr. Saferin moved to find that the facts set forth in the July 14, 2021 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, denying Ms. Serrano’s application for a license to practice massage therapy in the State of Ohio. Dr. Bechtel seconded the motion. A vote was taken:**

Dr. Rothermel	Y
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Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Johnson	Y
Mr. Gonidakis	Y
Dr. Schottenstein	Y
Dr. Feibel	Y
Dr. Reddy	Y
Dr. Bechtel	Y
Ms. Montgomery	Y

The motion carried.

### **Amanda S. Snell, M.T.**

Ms. Montgomery stated that on or about July 14, 2021, the Board authorized issuance of a Notice of Opportunity for Hearing to Amanda S. Snell, M.T., informing her that the State Medical Board of Ohio proposed to approve her application for restoration of her license to practice massage therapy provided that she take and pass the Massage and Bodywork Licensing Examination (MBLEx) due to the fact that Ms. Snell has not engaged in the active practice of massage therapy for more than two years.

**Dr. Johnson moved to find that the facts set forth in the July 14, 2021 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. Snell’s application for restoration of her license to practice massage therapy in the State of Ohio, provided that she takes and passes the MBLEx within 6 months of the date of mailing of the order. Dr. Bechtel seconded the motion. A vote was taken:**

Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Johnson	Y
Mr. Gonidakis	Y
Dr. Schottenstein	Y
Dr. Feibel	Y
Dr. Reddy	Y
Dr. Bechtel	Y
Ms. Montgomery	Y

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; and to consider the appointment, employment, dismissal, discipline, promotion, demotion, or compensation of a public employee or official. Dr. Johnson seconded the motion. A vote was taken:**

Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Soin	Y

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Dr. Johnson	Y
Mr. Gonidakis	Y
Dr. Schottenstein	Y
Dr. Feibel	Y
Dr. Reddy	Y
Dr. Bechtel	Y
Ms. Montgomery	Y

The motion carried.

The Board went into Executive Session at 10:56 a.m. and returned to public session at 12:01 p.m.

### **FINDINGS, ORDER, AND JOURNAL ENTRY – LICENSE REINSTATEMENT**

#### **Kelly N. Roan, D.O.**

Ms. Montgomery stated that On June 12, 2019, the State Medical Board of Ohio issued a Notice of Automatic Suspension and Opportunity for Hearing to Kelly N. Roan, D.O., based on his having been convicted in the Cuyahoga County Court of Common Pleas of one count of Rape, in violation of Section 2907.02(A)(1)(c), Ohio Revised Code, a felony of the first degree; and two counts of Rape, in violation of Section 2907.02(A)(2), Ohio Revised Code, felonies of the first degree. On February 12, 2020, the State Medical Board of Ohio issued an Entry of Order permanently revoking Dr. Roan’s license to practice osteopathic medicine and surgery and imposing a fine in the amount of \$8,000.00.

The convictions that were the basis of the Board’s Order were subsequently reversed by the Eighth District Court of Appeals. On July 9, 2021, Dr. Roan filed a Petition to Vacate Board Order pursuant to Section 4731.22(H), Ohio Revised Code.

**Mr. Giacalone moved to vacate the February 12, 2020 Order and Entry, and to reinstate Dr. Roan’s license to practice osteopathic medicine and surgery in the State of Ohio. Dr. Reddy seconded the motion. A vote was taken:**

Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Johnson	Y
Mr. Gonidakis	Y
Dr. Schottenstein	Y
Dr. Feibel	Y
Dr. Reddy	Y
Dr. Bechtel	Y
Ms. Montgomery	Y

The motion carried.

### **SETTLEMENT AGREEMENTS**

#### **William Roddick, M.D.**

**Dr. Johnson moved to ratify the proposed Consent Agreement with Dr. Roddick. Dr. Bechtel seconded the motion. A vote was taken:**

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Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Johnson	Y
Mr. Gonidakis	Y
Dr. Schottenstein	Y
Dr. Feibel	Y
Dr. Reddy	Y
Dr. Bechtel	Y
Ms. Montgomery	Y

The motion carried.

**Christopher R. Suntala, M.D.**

**Dr. Johnson moved to ratify the proposed Permanent Surrender/Retirement with Dr. Suntala. Dr. Feibel seconded the motion. A vote was taken:**

Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Johnson	Y
Mr. Gonidakis	Y
Dr. Schottenstein	Y
Dr. Feibel	Y
Dr. Reddy	Y
Dr. Bechtel	Abstain
Ms. Montgomery	Y

The motion carried.

**Gary James Frantz, M.D.**

**Dr. Johnson moved to ratify the proposed Permanent Surrender with Dr. Frantz. Dr. Feibel seconded the motion. A vote was taken:**

Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Johnson	Y
Mr. Gonidakis	Y
Dr. Schottenstein	Y
Dr. Feibel	Y
Dr. Reddy	Y
Dr. Bechtel	Abstain
Ms. Montgomery	Y

The motion carried.

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## DME, P.A.

**Dr. Bechtel moved to ratify the proposed Consent Agreement with DME, P.A. Dr. Johnson seconded the motion.**

Mr. Giacalone opined that this proposed settlement agreement does not go far enough and recommended that it be rejected. Mr. Giacalone opined that if an acceptable future settlement cannot be negotiated, the case should be brought to the Board for citation.

A vote was taken on Dr. Bechtel's motion:

Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	N
Dr. Soin	N
Dr. Johnson	N
Mr. Gonidakis	N
Dr. Schottenstein	N
Dr. Feibel	N
Dr. Reddy	N
Dr. Bechtel	N
Ms. Montgomery	N

The motion did not carry.

## Thomas Edward Javery, M.D.

**Dr. Johnson moved to ratify the proposed Permanent Retirement/Surrender with Dr. Javery. Dr. Reddy seconded the motion. A vote was taken:**

Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Johnson	Y
Mr. Gonidakis	Y
Dr. Schottenstein	Y
Dr. Feibel	Y
Dr. Reddy	Y
Dr. Bechtel	Abstain
Ms. Montgomery	Y

The motion carried.

## Courtney E. Barrows, M.D.

**Dr. Johnson moved to ratify the proposed Step II Consent Agreement with Dr. Barrows. Dr. Bechtel seconded the motion. A vote was taken:**

Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Soin	Y

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Dr. Johnson	Y
Mr. Gonidakis	Y
Dr. Schottenstein	Y
Dr. Feibel	Y
Dr. Reddy	Y
Dr. Bechtel	Y
Ms. Montgomery	Y

The motion carried.

**Gerard Cosgrove, R.C.P.**

**Dr. Johnson moved to ratify the proposed Step II Consent Agreement with Mr. Cosgrove. Dr. Bechtel seconded the motion. A vote was taken:**

Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Johnson	Y
Mr. Gonidakis	Y
Dr. Schottenstein	Y
Dr. Feibel	Y
Dr. Reddy	Y
Dr. Bechtel	Y
Ms. Montgomery	Y

The motion carried.

**Sonia L. Tanio, M.D.**

**Dr. Reddy moved to ratify the proposed Permanent Surrender with Dr. Tanio. Dr. Feibel seconded the motion. A vote was taken:**

Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Johnson	Y
Mr. Gonidakis	Y
Dr. Schottenstein	Y
Dr. Feibel	Y
Dr. Reddy	Y
Dr. Bechtel	Abstain
Ms. Montgomery	Y

The motion carried.

**Firas Souheil Atassi M.D.**

**Dr. Johnson moved to ratify the proposed Consent Agreement with Dr. Atassi. Dr. Reddy seconded the motion. A vote was taken:**

Dr. Rothermel	Abstain
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Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Johnson	Y
Mr. Gonidakis	Y
Dr. Schottenstein	Y
Dr. Feibel	Y
Dr. Reddy	Y
Dr. Bechtel	Abstain
Ms. Montgomery	Y

The motion carried.

**Michael Glenn McMannis, M.D.**

**Dr. Bechtel moved to ratify the proposed Step I Consent Agreement with Dr. McMannis. Dr. Johnson seconded the motion. A vote was taken:**

Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Johnson	Y
Mr. Gonidakis	Y
Dr. Schottenstein	Y
Dr. Feibel	Y
Dr. Reddy	Y
Dr. Bechtel	Y
Ms. Montgomery	Y

The motion carried.

**Jerome Bernard Yokiel, M.D.**

**Dr. Bechtel moved to ratify the proposed non-disciplinary Withdrawal of Application for a Certificate to Recommend the Medical Use of Marijuana with Dr. Yokiel. Dr. Johnson seconded the motion. A vote was taken:**

Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Johnson	Y
Mr. Gonidakis	Abstain
Dr. Schottenstein	Y
Dr. Feibel	Y
Dr. Reddy	Y
Dr. Bechtel	Y
Ms. Montgomery	Y

The motion carried.

**Noel J. Watson, M.D.**

**Dr. Johnson moved to ratify the proposed Permanent Surrender with Dr. Watson. Dr. Feibel seconded the motion.** A vote was taken:

Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Johnson	Y
Mr. Gonidakis	Y
Dr. Schottenstein	Y
Dr. Feibel	Y
Dr. Reddy	Y
Dr. Bechtel	Abstain
Ms. Montgomery	Y

The motion carried.

The Board meeting recessed at 12:14 pm. The meeting resumed at 1:05. Dr. Feibel was not present when the meeting resumed

**NOTICES OF OPPORTUNITY FOR HEARING, ORDERS OF SUMMARY SUSPENSION, ORDERS OF IMMEDIATE SUSPENSION, AND ORDERS OF AUTOMATIC SUSPENSION**

Ms. Marshall presented the following Citations to the Board for consideration:

1. Benjamin R. Gibson, M.D.: Based on misdemeanor of moral turpitude. This physician is currently suspended under a prior Step I Consent Agreement.
2. Ryan Sherard Williams, M.D.: Based on acts constituting a felony, to wit: rape and gross sexual imposition.
3. Aaron Goldfein, M.D.: To be issued to a licensure applicant, based on a 2017 felony conviction for conspiracy to commit health care fraud; prior action in 2010 by the Michigan Board of Medicine for overprescribing oxycontin; and a license surrender in New York.
4. Mary Margaret Hudson, R.C.P.: A summary suspension, based on relapse and two drug-related convictions for child endangerment, which are misdemeanors of moral turpitude.
5. Heather Jagoda, M.D.: Based on relapse, to be issued to a training certificate holder who is already suspended under a prior Step I Consent Agreement.
6. Norma S. Lake, M.D.: Based on action by Florida Board of Medicine that permanently restricted the physician from prescribing and prohibits affiliation with any pain management clinic.
7. Angela Mariano: To be issued to a massage therapist applicant, based on failure to submit to a Board-ordered combination psychiatric and chemical dependency evaluation.
8. Dara Parvin, M.D.: Based on discipline by Iowa Board of Medicine regarding professional boundaries.
9. Timothy Bush Reed, M.D.: To be issued to an applicant, based on multiple issues including federal convictions for transportation of obscene material, impairment, credentials deficiencies for not having practiced since July 2019, and taking 18 years to complete the USMLE testing sequence.
10. James Shaw, L.M.T.: Based on alleged violation of the sexual misconduct rules involving one client that occurred in 2019.

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11. Henry C. Waite, M.D.: Based on minimal standards regarding benzodiazepine prescribing from 2011 to 2019.

**Dr. Bechtel moved to approve and issue proposed Citation #4, a Summary Suspension. Dr. Soin seconded the motion.** A vote was taken:

Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Johnson	Y
Mr. Gonidakis	Y
Dr. Schottenstein	Y
Dr. Reddy	Y
Dr. Bechtel	Y
Ms. Montgomery	Y

The motion carried.

**Mr. Giacalone moved to approve and issue proposed Citations #'s 2 and 6. Dr. Soin seconded the motion.** A vote was taken:

Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Johnson	Y
Mr. Gonidakis	Y
Dr. Schottenstein	Y
Dr. Reddy	Y
Dr. Bechtel	Abstain
Ms. Montgomery	Y

The motion carried.

**Dr. Johnson moved to approve and issue proposed Citations #'s 1, 3, 5, and 7 through 11. Dr. Bechtel seconded the motion.** A vote was taken:

Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Johnson	Y
Mr. Gonidakis	Y
Dr. Schottenstein	Y
Dr. Reddy	Y
Dr. Bechtel	Y
Ms. Montgomery	Y

The motion carried.

Dr. Feibel rejoined the meeting at this time.

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## **OPERATIONS REPORT**

**Human Resources:** Ms. Loucka stated that the Board is in the process of hiring for multiple positions. This will continue throughout the first quarter and probably into the second quarter of this fiscal year. Currently, some roles are being backfilled. Over the next month, hiring for new positions authorized by the new budget bill will begin.

**Budget Update:** Ms. Loucka stated that as vacancies continue to be staffed, the Board's cash balance will decrease accordingly. Even when fully staffed, the Board's projected balance will continue to be maintained, though not at as robust a level as is seen today.

Ms. Loucka stated that Dr. Schottenstein will give a more thorough financial report later in the meeting.

**Fine Summary Report:** Ms. Loucka stated that there has been internal discussion about how the Board collects fines. The staff will be able to provide the Board with a better fines report within the next few months, including follow-through on outstanding fines and collections efforts.

**Work Group Activities:** Ms. Loucka stated that Compliance did a great job breaking down the time staff spends with probationers, including a breakdown of impairment vs. non-impairment probationers. Ms. Loucka commented that Ms. Dorcy and Ms. Priddy have been working to make the Board's probation program more robust. The first step is understanding the numbers, where staff is spending its time, who the probationers are, and what needs to be done to follow a probationer. More meaningful information will be available to the Board in the coming months.

Ms. Loucka noted that the Board received a note from a former probationer who had been released from probation. The note essentially said that the work of the Board and the Compliance staff turned the probationer's life around. The note also said that some may think the Board is too harsh at times, but licensees need those wake-up calls to get their act together. Ms. Loucka stated that the note is a reminder of why the Board does what it does.

**Investigations:** Ms. Loucka stated that Investigations has been busy. Investigations is also working on literature they can leave with law enforcement and others that explains what the Board is and what it does. The literature will allow for follow-up with law enforcement and facilitate building relationships.

**Licensure:** Ms. Loucka stated that Licensure has been very busy and is turning round license applications at a very good rate. Licensure has been short a staff member, but multiple staff members volunteered for overtime to help keep licensure applications moving. Ms. Loucka noted that over the last few years the applications have become more complex and take a little more time to process.

Ms. Loucka stated that the staff is maintaining good customer services and addressing calls in a very timely fashion, though there are some anomalies. Those who call in are providing good feedback with little to no complaints with respect to hold time and call time. The average call times are provided in the Operations Report. Going forward, staff will look at the outliers and identify situations that are creating outliers.

Ms. Loucka noted a small increase in the time to issue licenses, which is due to the required background checks. In May 2021, the Attorney General's office started a new system for the Bureau of Criminal Investigation (BCI) for background checks, based on a new technology. The new technology initially caused some delays and a small backlog developed for background checks, but BCI has been working with the Board on that.

**Printing:** Responding to a question from Ms. Montgomery, Ms. Loucka stated that the State uses shared service printing and Department of Administrative Services (DAS) printers, which have not been available since July. This has created a difficult situation for the Board and it is hoped that a patch will be available in September. Ms. Loucka noted that the Board pays for the printing service, but should not be paying for a

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service that it has not been able to use. Currently, Board staff can print things on a flash drive that is directly inserted into a printer, but cannot print from their computers. Also, Excel documents currently cannot be saved as PDF's.

**Chief Analytics Officer:** Ms. Loucka introduced Aaron White, the Board's new Chief Analytics Officer. Mr. White comes to the Board from the Department of Administrative Services Human Resources, where he was head of Operations. Mr. White will work with Salesforce and the Board's data.

**Susan Loe:** Ms. Loucka wished to thank Ms. Loe, who is leaving the Board for a new position. Ms. Loucka stated that the Board has appreciated Ms. Loe's hard work over the years and wished her all the best.

### **RULES & POLICIES**

#### **Rule Review Update**

Ms. Anderson stated that the Rule Review Update is provided in the Board meeting materials. No Board member had a question about the Rule Review Update.

#### **Adoption of Rules**

Ms. Anderson stated that these rules, as outlined in the Board's memo, had a public hearing on June 28, 2021. The Board approved small amendments at its July 2021 meeting. This package of rules includes the Ohio Automated Rx Report System (OARRS) rules, the pronouncement of death rule, one of the delegations rules, and the sexual misconduct rules.

**Dr. Saferin moved to adopt, amend, and rescind the rules as described in the August 16, 2021 memorandum from Ms. Anderson and to assign each rule action the effective date of September 30, 2021. Mr. Giacalone seconded the motion.** All members voted aye. The motion carried.

#### **Internal Management Rule 4731-30-03, Final Adoption**

Ms. Anderson stated that proposed changes to this Rule addresses some of the changes brought by House Bill 442. This Rule allows delegation of license application approvals. The proposed change removes Oriental medicine practitioners from the list of license types. This rule was circulated to interested parties and no comments were received.

**Dr. Bechtel moved to amend Rule 4731-30-03, OAC as described in the August 17, 2021 memorandum from Ms. Anderson and to assign the effective date of September 30, 2021. Dr. Saferin seconded the motion.** All members voted aye. The motion carried.

#### **Rules to Be Filed with CSI**

Ms. Anderson stated that this package of rules concern M.D. and D.O. examinations, changes in the attempt limits for passing the United States Medical Licensing Examination (USMLE), emeritus registration, and military provisions. In accordance with House Bill 441, the proposed changes remove references to cosmetic therapists and Oriental medicine practitioners. Also, based on recommendations from the Compliance Committee, there are proposed changes to three of the treatment provider rules so that certain allied license types are eligible for outpatient examinations and treatment.

**Dr. Saferin moved to approve Ms. Anderson to file the rules with the Common Sense Initiative as discussed. Dr. Bechtel seconded the motion.** All members voted aye. The motion carried.

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## Podiatric Scope of Practice

Ms. Anderson stated that additional time has been given for the public to file comments on this topic. Also, Ms. Anderson and Ms. Reardon are gathering privileging information from hospitals on how the procedures in question are being privileged. This topic will be brought back to the Board when there are more details.

## Draft Disqualifying Offenses List

Mr. Smith stated that the proposed list of disqualifying offenses is substantially the same that the Board reviewed in May 2021. House Bill 263 requires licensing boards to provide a list of disqualifying offenses that the board may consider in denying a license application. Mr. Smith noted that the Board would not be required to deny a license if the applicant had been convicted of an offense on the list, but it would have the opportunity to consider denying the application. As laid out in the Board's memo, there are several factors the Board would have to consider when making the decision to deny, in addition to the disqualifying offense.

Mr. Smith stated that upon review of the meeting materials, he identified some typographical errors that he can amend, with the Board's approval:

- Page 1, R.C. 1547.10, another offense name is inadvertently substituted. The actual offense is called "Stopping and Furnishing Information Upon Accident or Collision" and concerns boating accidents.
- Page 2, R.C. 2907.22, and name of the offense should be "Procuring Prostitution." The full name is "Enticement or Solicitation to Patronize a Prostitute; Procurement of Prostitute for Another."
- Page 5, R.C. 2950.01, the description should read (A)(1) through (A)(13).

Mr. Smith stated that the law takes effect on October 9, 2021, and the Board is required to publish the list on its website by that time.

**Dr. Bechtel moved to approve the draft State Medical Board of Ohio Disqualifying Offense List, amended as discussed, to be effective and published on October 9, 2021. Dr. Feibel seconded the motion.**

In response to a question from Ms. Montgomery, Mr. Smith stated that the Board can only consider offenses for which the applicant was convicted, not offenses which there were charged and then reduced through plea bargain. Mr. Smith stated that the list was drafted to be as comprehensive as possible. For instance, there are times when a person is indicted for Felonious Assault and that is then pleaded down to Assault. Therefore, both Felonious Assault and Assault are included on the list so the Board may consider a conviction for Assault.

Mr. Smith further explained that the offense of Filing False Patient Neglect and Abuse Complaint was included on the Disqualifying Offenses lists so that the Board may consider denying licensure to a physician who had filed a false report against a fellow licensee falsely claiming that he or she had abused or neglected a patient.

Ms. Montgomery asked if the Board still had rules permitting it to consider moral turpitude. Mr. Smith responded that House Bill 263 deleted some licensure requirements for initial licensure; consequently, the Board has stricken some of the language that says the applicant must be of good moral character. However, Under R.C. 4731.22, the Board can still discipline someone who is convicted of an offense of moral turpitude.

Dr. Schottenstein appreciated Mr. Smith's desire to be comprehensive with the list, but wondered if there is tension between the desire to be comprehensive and R.C. 979(B), which requires the criminal offense to be directly related to the duties and responsibilities of the licensed occupation. Mr. Smith agreed that there is such tension and that had been discussed internally as the list was drafted. Some of the discussion centered

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around patient safety, so some of the listed offenses relate to whether patient safety could be negatively affected.

Mr. Giacalone asked how the Board will logistically satisfy the requirement that the Board “shall” weigh the listed factors. Mr. Smith stated that that would be addressed in the regular enforcement process.

Ms. Montgomery stated that Mr. Smith has done exhaustive work on the list of Disqualifying Offenses.

**A vote was taken on Dr. Bechtel’s motion.** All members voted aye. The motion carried.

### **Proposed Internal Management Rule 4731-30-04**

Ms. Anderson stated that this internal management rule will allow the Board to perform an annual review of the list for possible changes. The proposed rule was circulated to interested parties, and no comments were received.

**Dr. Bechtel moved to approve filing and adoption of the draft internal management rule with an effective date of October 9, 2021. Dr. Johnson seconded the motion.** All members voted aye. The motion carried.

### **Legislative Update**

Ms. Wonski briefly reviewed changes made to the legislative summary that is provided to the Board. The new layout lists bills of high priority and where they are in the legislative process. The remaining listed bills are being monitored but do not require immediate action. The bottom of the summary lists bills that have passed. Ms. Wonski noted that the Board’s position on bills is no longer listed since the Board could change its position.

Ms. Wonski stated that the staff is still working on the draft of educational materials on the right of conscience for medical providers. A completed draft should be ready for Board review by the next Board meeting.

During the legislative recess, Ms. Wonski has continued to have conversations with legislators, legislative staff, and stakeholders about bills of interest to the Board. Since the legislature returns next week, more substantive details will likely be available next month. During this current recess, Ms. Wonski has had conversations about House Bill 122 regarding telemedicine; House Bill 176, regarding athletic trainers; House Bill 81, regarding massage therapy; House Bill 286, regarding the Court of Common Pleas; House Bill 196, regarding surgical assistants; House Bill 318, regarding anesthesiologist assistants; and House Bill 356, regarding drug offenses and treatment.

Dr. Soin stated that when the next legislative update is presented, he would like to hear about interactions with Representative Mark Fraizer, given his comments in the newspaper. Specifically, Representative Fraizer stated that there should be a conversation between the physician and the patient about the standard of care and what is best for the patient, rather than the Medical Board dictating that in-person visits must occur *cart blanche* for everything. Dr. Soin found this quote to be inaccurate regarding the Board’s position and he felt it was important to interact with Representative Fraizer on that issue.

Ms. Loucka agreed and stated that the Board is considering telemedicine beyond just House Bill 122. Following the Board’s extension of the moratorium on enforcement of the telemedicine rules to December 31, 2021, the staff has worked on having a firm understanding of what will change for people on January 1, 2022. Concurrently, House Bill 122 is moving through the legislature. The Board has been very clear that it recognizes that telemedicine is here to stay and the real question is what sort of guardrails should be put around it to ensure patient safety. As part of that, the staff has been working on a plan to offer suggestions for House Bill 122, as well as providing education on the current state of telemedicine and the current expectations for the standard of care.

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Ms. Loucka stated that a meeting had been scheduled with Representative Fraizer, but it unfortunately had to be cancelled and will be rescheduled. The staff feels a need to correct the record and will address Representative Fraizer's comments.

Ms. Loucka continued that staff has also considered what the Board's rules should look like if the legislation is not passed, or if it passes and the Board must adopt rules as part of that legislation. Ms. Loucka emphasized the importance of talking with and listening to stakeholders on this matter. First, this will involve conversations with individuals that the Board hears from frequently. Second, the Board will like to have facilitated group stakeholder conversations. At that point, Ms. Loucka will reach out to Medical Board members for volunteers to participate in those group conversations. Ms. Loucka stated that not everyone will agree with the Board's rules, but the Board will know where everyone stands and will be able to address those issues from a practical application standpoint. Ms. Loucka's primary concern was timing, noting that there are interests pushing the bills forward.

Ms. Loucka stated that there are very good reasons for telemedicine that people will want to continue, and the Board wants to be helpful in that regard and preserve the role of the Board.

Dr. Schottenstein asked about the role of the Ryan Haight Online Pharmacy Consumer Protection Act in the Board's rule-making and what has been proposed in House Bill 122. The Ryan Haight Act was passed in 2008 by the U.S. Congress and it significantly limited the conditions in which a controlled substance could be prescribed via telemedicine. According to the Ryan Haight Act, telemedicine prescribing of controlled substance is only allowed if there has been a previous in-person assessment of the patient. The Federal government suspended enforcement of that Act in response to the COVID-19 pandemic, and that suspension continues to be in effect. At some point, unless there is a movement to make the suspension permanent, the Ryan Haight Act will go back into effect, probably at the end of this year. Dr. Schottenstein stated that the Board should keep this in mind as it contemplates its telemedicine rules.

Dr. Schottenstein opined that in general, in-person medicine is superior to telemedicine, but telemedicine is superior to no care at all. Dr. Schottenstein believed that telemedicine can substantially increase access to care. Regrettably, many patients may not be able to continue care if telemedicine is not available. This is where the Board's conversations with interested parties will come into play.

### **COMMITTEE BUSINESS**

#### **Compliance Committee Report**

Ms. Montgomery stated that the Compliance Committee met this morning. The Committee continues to work on the mental health questions on licensure applications and hopes to have the work finalized next month. The Committee also discussed the draft mental health acknowledgment statement and the impairment duty-to-report. There was also a verbal update on out-of-state action reporting upgrades.

#### **2022 Window for Petitions to Add Qualifying Conditions to Ohio's Medical Marijuana Control Program**

**Dr. Reddy moved to accept petitions during the same window next year, November 1, 2022 through December 31, 2022. Dr. Johnson seconded the motion.** All members voted aye, except Mr. Gonidakis, who abstained. The motion carried.

#### **Finance Report**

Dr. Schottenstein stated that July 2021 was the first month of Fiscal Year 2022. Revenue in July was \$1,136,631, which is a very good number for the Board. Revenue increased by 21% from July 2019, substantially reflecting the late license renewals that had trickled in from the renewal deadline extension. The Board's cash balance is \$6,731,295, which is a record. Net fiscal year revenue is \$405,516. Dr. Schottenstein

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noted a 20.1% decrease in expenditure from July 2020, which substantially reflects the three pay periods that occurred in July 2020.

The Board was allotted approximately \$12,300,000 for Fiscal Year 2022, increased from approximately \$11,300,000 in 2021 due to payroll increases and the new positions the Board is authorized to fill.

The Board received \$10,000 in disciplinary fines and \$711 in collections.

Dr. Schottenstein wished Ms. Loe that best as she leaves the Medical Board to take new position at the Ohio Consumer Council. Dr. Schottenstein has enjoyed working with Ms. Loe over these past several years as Finance Committee chair, and he was grateful to Ms. Loe for taking so much of her time as they reviewed Finance Committee matters. Dr. Schottenstein stated that Ms. Loe has always been very kind and a pleasure to work with. Dr. Schottenstein stated that the Board will miss Ms. Loe.

### **Licensure Committee Report**

#### **Interstate Medical Licensing Compact Update**

Dr. Saferin stated that the staff continues to work through the ins and outs of joining the Interstate Medical Licensing Compact (IMLC), as required by statute. Dr. Saferin stated that Ms. Loucka and Mr. Turek are available for any questions the Board members may have about the IMLC.

#### **Elimination of License Verifications for Physician Applicants**

**Dr. Johnson moved to eliminate all the requirement that M.D./D.O./D.P.M. applicants submit license verifications as part of an initial or restoration application for licensure, and to require staff to obtain an NPDB for all D.P.M. applications. Dr. Rothermel seconded the motion. All members voted aye. The motion carried.**

#### **Licensure Application Reviews**

**Dr. Johnson moved to approve the Licensure staff recommendations for the requests of Sara Oliver; Neelima Reddy; Karen Carcioppolo; Sung Moon Kim, M.D.; and Jennifer White. Dr. Soin seconded the motion. A vote was taken:**

Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Johnson	Y
Mr. Gonidakis	Y
Dr. Schottenstein	Y
Dr. Feibel	Y
Dr. Reddy	Y
Dr. Bechtel	Y
Ms. Montgomery	Y

The motion carried.

**PROBATIONARY REPORTS AND REQUESTS**

**Office Conference Review**

**Dr. Johnson moved to approve the Compliance staff’s Reports of Conferences for August 9 and 10, 2021. Dr. Reddy seconded the motion.** All members voted aye, except Dr. Rothermel, Dr. Saferin, and Dr. Bechtel, who abstained. The motion carried.

**Probationary Requests**

**Dr. Reddy moved to approve the Secretary and Supervising Member’s recommendations for the following probationary request:**

- a) Michael H. Anikeev, M.D.: Request for approval of Robert J. Brauer, D.O., to serve as the monitoring physician; and determination of the frequency and number of charts to be reviewed at 10 charts per month.
- b) Dale A. Harris, M.D.: Request for approval of Amy B. Mattern, D.O., to serve as the treating psychiatrist.
- c) Timothy J. Morley, D.O.: Request for approval of the previously-completed courses *Infectious Diseases in Adults*, offered by The Harvard Medical School, and *Infection Control: New York State Mandatory Training*, offered by Access Continuing Education, Inc., to fulfill the infection prevention and control course requirement; and approval of the previously-completed course *Intensive Course in Medical Documentation*, offered by Case Western Reserve University, to fulfill the office management course requirement.
- d) Joseph Peyton, D.O.: Request for approval of Todd R. Forrest, D.O., to serve as the monitoring physician; and determination of the frequency and number of charts to be reviewed at 10 charts per week.
- e) Krista M. Rubosky, P.A.: Request for approval of Luis E. Villaplana, M.D., to serve as the reporting physician.
- f) Scott R. Welden, M.D.: Request for approval of the additional practice plan; and approval of Noor U. Hassan, M.D., to serve as an additional monitoring physician, with the two monitoring physicians to divide chart review between them with each monitoring physician reviewing five charts per month.

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

Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Johnson	Y
Mr. Gonidakis	Y
Dr. Schottenstein	Y
Dr. Feibel	Y
Dr. Reddy	Y
Dr. Bechtel	Abstain
Ms. Montgomery	Y

The motion carried.

**ADJOURN**

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

The meeting adjourned at 2:03 p.m.

We hereby attest that these are the true and accurate approved minutes of the State Medical Board of Ohio meeting on September 8, 2021, as approved on October 13, 2021.

  
Betty Montgomery, President

  
Kim G. Rothermel, M.D., Secretary

(SEAL)





State Medical Board of Ohio

**COMPLIANCE COMMITTEE MEETING**

**September 8, 2021**

30 E. Broad Street, 3<sup>rd</sup> Floor, Administrative Hearing Room, Columbus, OH 43215

<p><b>Members:</b> Betty Montgomery, Chair Robert Giacalone, R.Ph., J.D. Michael Schottenstein, M.D.</p> <p><b>Other Board Members present:</b> Kim Rothermel, M.D. Bruce Saferin, D.P.M. Amol Soin, M.D. Mark Bechtel, M.D. Yeshwant Reddy, M.D. Mark Bechtel, M.D.</p>	<p><b>Staff:</b> Stephanie Loucka, Executive Director Kimberly Anderson, Chief Legal Counsel Brandi Dorcy, Chief of Compliance Amy Pridday, Compliance Manager Nathan Smith, Senior Legal and Policy Counsel Chelsea Wonski, Legislative Liaison Brycen Hatfield, Administrative Professional Benton Taylor, Board Parliamentarian</p>
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The meeting was called to order at 9:31 a.m.

### Minutes Review

**Dr. Schottenstein moved to approve the draft minutes of the July 12, 2021, and August 11, 2021, as corrected. Mr. Giacalone seconded the motion.** All member voted aye. The motion carried.

### Mental Health Impairment Questions on Licensing Applications

Ms. Montgomery stated that the Committee continues to review the questions on the licensure applications regarding mental health.

Ms. Dorcy stated that an updated memo is included in the meeting materials on the discussions staff has had on this topic. Since the Committee's last meeting, the Ohio Physicians Health Program (OPHP) has provided feedback requesting that the wording of the questions on substance abuse and impairment also be reviewed. Compliance is currently researching to determine if there are any needed changes to those questions and will report back to the Committee.

Responding to a question from Ms. Montgomery, Ms. Dorcy was confident that after internal discussions, the staff will be able to make recommendations for proposed changes to the questions.

Mr. Giacalone noted that on the duty-to-report language, it currently states, "...any behavior that threatens patient safety, including indications of poor mental health." Mr. Giacalone suggested changing this to "...any behavior that threatens public safety, including indications of illegal sexual misconduct, poor mental health or substance abuse." Mr. Giacalone observed that sexual misconduct

is a very high-profile issue and should be addressed. Mr. Giacalone suggested the term “illegal” sexual misconduct to reduce confusion with conduct that may not be criminal.

The Committee discussed this suggestion. Mr. Giacalone was concerned that the term “sexual misconduct” may be too broad, but he would support making using a broad term if that was the will of the Committee. Dr. Schottenstein stated that he does not oppose the inclusion of sexual misconduct, but noted that the nature of the statement relates to impairment. Mr. Giacalone agreed that the topic of sexual misconduct does not fit perfectly, but it would serve as another reminder that this issue is front and center for everyone. Mr. Giacalone opined that the more places sexual misconduct is listed, the better. Dr. Schottenstein agreed with Mr. Giacalone’s point.

Ms. Loucka suggested that both concerns could be addressed by modifying the first sentence of that paragraph with a comment following “Medical Board” saying something to the effect of, “...including, but not limited to, sexual misconduct, impairment, practice below the minimal standards of care, and improper prescribing of controlled substances.” Such wording would mirror the Board’s other duty-to-report language, and the second piece would be the impairment language. Mr. Giacalone agreed.

**Dr. Schottenstein moved to accept the suggestion as discussed. Mr. Giacalone seconded the motion.** All members voted aye. The motion carried.

### **Out-of-State Action Reporting Updates**

Ms. Anderson stated that at the last Compliance Committee meeting, there were questions about how the Board receives reports of out-of-state actions from the Federation of State Medical Boards (FSMB). Ms. Anderson reported that in 2019, the Board reached out to the FSMB’s Physician Data Center and discussed how they ensure that states are timely with their reporting. Ms. Anderson now has a verbal update to the 2019 information.

Ms. Anderson stated that all states report actions to the Physician Data Center, and that data is shared with other states through email. Every few days, the State Medical Board of Ohio receives those reports and notifications for any licensee who has ever been licensed in Ohio. The FSMB recommends to states that they report within 30 days of an action, which is also a requirement of the National Practitioner Databank (NPDB). The FSMB follows up with the states quarterly to ensure timely reports. The Physician Data Center also receives information on licensing, which is used to update their data.

In 2019, the State Medical Board of Ohio updated its out-of-state action protocol. Under the current protocol, reports are entered within one week of receipt. The protocol also sets parameters. For instance, if someone has an expired Ohio license that has been expired for more than two years, the report will probably be filed with no further action and no enforcement or investigations resources will be expended on it. An exception is if the report involves a felony conviction, in which case a complaint is generated and sent to Enforcement.

Ms. Montgomery noted that the Board receives bootstraps that are very old. Ms. Anderson stated that despite the state reporting requirements and the follow-up by the FSMB, she could not guarantee that every state is reporting actions in a timely fashion. When a report is received by the Ohio Board, it is entered within one week. If a complaint moves to Enforcement, they will have to obtain certified records from the state of origin.

### **Certificate to Recommend Annual Report Data**

Ms. Montgomery noted that at last month's Board meeting, Dr. Reddy had questioned an outlying physician who had 1,500 patients. Ms. Dorcy replied that the staff is continuing to review all the data that was received from that report. Ms. Montgomery asked if this matter will appear on a future meeting agenda for discussion. Ms. Dorcy replied affirmatively.

#### **National Practitioner Databank Follow-Up**

Dr. Schottenstein noted that last month, Mr. Giacalone asked whether the Board routinely checks the National Practitioner Databank (NPDB) on license renewal applications in addition to initial licensure applications. Dr. Schottenstein stated that he discussed this with Mr. Turek and learned that the Board does not routinely check the NPDB for renewal applications because the sheer volume of renewal applications would make that prohibitive. The NPDB may be checked if the application indicates that there may be an issue that could have been reported to the NPDB. Ms. Anderson elaborated that the renewal application asks if the licensee had relinquished his or her privileges anywhere; an affirmative answer would lead the staff to check the NPDB. This would also occur for criminal matters and impairment matters, though those issues are usually followed-up in a different manner.

#### **Adjourn**

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

The meeting was adjourned at 9:49 a.m.

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