



**State Medical Board of Ohio Meeting Minutes  
April 8, 2020**

Michael Schottenstein, M.D., President, called the video conference meeting to order at 9:02 a.m. with the following members present: Richard Edgin, M.D., 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, R.Ph., J.D.; Mark A. Bechtel, M.D.; Betty Montgomery; Sherry Johnson, D.O.; and Jonathan Feibel, M.D.

**MINUTES REVIEW**

Motion to approve the minutes of the March 11, 2020 Board meeting, as drafted:

Motion	Dr. Bechtel
2 <sup>nd</sup>	Dr. Saferin
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Edgin	Y
Dr. Johnson	Y
Mr. Gonidakis	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y
Dr. Schottenstein	Y

The motion carried.

Motion to approve the minutes of the March 18, 2020 Special Meeting of the Board, as drafted:

Motion	Dr. Saferin
2 <sup>nd</sup>	Dr. Edgin
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Edgin	Y
Dr. Johnson	Y
Mr. Gonidakis	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y
Dr. Schottenstein	Y

The motion carried.

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## REPORTS AND RECOMMENDATIONS

Dr. Schottenstein asked the Board to consider the Reports and Recommendations appearing on the agenda. He 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: James S. Hurvitz, M.D.; David N. Ringel, D.O.; and W.L. Gregory Siefert, M.D. A roll call was taken:

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

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

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

Dr. Schottenstein 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

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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. In addition, Dr. Bechtel served as Secretary and/or Supervising member in the matter of Dr. Ringel.

During these proceedings, no oral motions were allowed by either party. No respondent on today's agenda have requested to address the Board during this video conference meeting. The respondents and their attorneys are still viewing the meeting remotely and have a number to call in the event of an emergency or procedural concern.

### **James S. Hurvitz, M.D.**

Dr. Schottenstein directed the Board's attention to the matter of James S. Hurvitz, M.D. No Objections were filed. Ms. Shamansky was the Hearing Examiner.

Motion to approve and confirm the Proposed Findings of Fact, Conclusions, and Order in the matter of Dr. Hurvitz:

Motion	Dr. Bechtel
2 <sup>nd</sup>	Dr. Edgin

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

Dr. Schottenstein opined that the fact pattern in this case is very concerning. Dr. Schottenstein noted that Dr. Hurvitz indicated in his testimony that he is inclined to resume the practice of invasive plastic surgery and hand surgery. However, although Dr. Hurvitz has been practicing medicine for 47 years, he has not practiced invasive surgery for about 14 years and there have been many changes in the field since that time. Further, Dr. Hurvitz is grandfathered into his permanent specialty board certification from the 1980s, so he has not recertified in all that time. Dr. Schottenstein also observed that Dr. Hurvitz's California medical license was revoked, and the revocation was stayed twice, for what appear to be very legitimate concerns.

Because of the above concerns, Dr. Schottenstein did not feel that Dr. Hurvitz is a good candidate for licensure. Dr. Schottenstein commented that he found himself trying to craft an order placing guardrail after guardrail in an effort to satisfy himself that Dr. Hurvitz would be safe to practice, but he could not. Dr. Schottenstein opined that Dr. Hurvitz's application for restoration should be denied.

Dr. Feibel agreed with Dr. Schottenstein's comments. Dr. Feibel stated that Dr. Hurvitz was sanctioned by the Medical Board of California in 2002 and 2004 for failure to maintain adequate records and gross negligence. One case, which Dr. Feibel found terrifying, related to an abdominoplasty in which Dr. Hurvitz failed to recognize a major complication and handled the case well below the minimal standards of care. Dr. Feibel added that in the same case, Dr. Hurvitz failed to author an operative note for 14 months, which is unheard of. Dr. Feibel stated that there are multiple other examples of Dr. Hurvitz's concerning behavior. Dr. Feibel noted that Dr. Hurvitz was placed on probation in California for nine years.

Dr. Feibel continued that while the Board is not aware of any issues that Dr. Hurvitz has had since that time, he has not practiced invasive plastic surgery in the last 14 years. Because of this, Dr. Feibel would be very concerned about granting Dr. Hurvitz an unrestricted license to practice medicine. Dr. Feibel reiterated Dr. Schottenstein's observation that Dr. Hurvitz has not recertified his specialty board certification since the 1980s.

Motion to amend the Proposed Order to deny Dr. Hurvitz's application for restoration:

Motion	Dr. Feibel
2 <sup>nd</sup>	Dr. Bechtel

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Ms. Montgomery noted that Dr. Hurvitz had expressed a desire to do *locum tenens* work, and she questioned how that would work with the Proposed Order's requirement for a monitoring physician. Ms. Montgomery agreed with the proposed amendment to deny licensure, stating that the incident in which Dr. Hurvitz helped unload a semi-conscious patient into a private vehicle following a procedure seems so far below the standard of care that he should not be given a medical license.

Mr. Giacalone agreed with the other Board members' concerns and stated that some of the excuses or rationales provided by Dr. Hurvitz are suspect. Dr. Hurvitz had commented that he currently has a minimal patient load because California is overcrowded for specialties in plastic surgery. Mr. Giacalone found the thought of this physician with minimal experience and a terrible track record doing *locum tenens* work in this state to be a bit frightening. Mr. Giacalone agreed with the proposed amendment.

Vote on Dr. Feibel's motion to amend:

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

The motion carried.

Motion to approve and confirm the Proposed Findings of Fact, Conclusions, and Order, as amended, in the matter of Dr. Hurvitz:

Motion	Dr. Bechtel
2 <sup>nd</sup>	Dr. Edgin
Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Edgin	Y
Dr. Johnson	Y
Mr. Gonidakis	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y
Dr. Schottenstein	Y

The motion carried.

### **David N. Ringel, D.O.**

Dr. Schottenstein directed the Board's attention to the matter of David N. Ringel, D.O. No objections have been filed. Ms. Shamansky was the Hearing Examiner.

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Motion to approve and confirm the Proposed Findings of Fact, Conclusions, and Order in the matter of Dr. Ringel:

Motion	Dr. Johnson
2 <sup>nd</sup>	Dr. Soin

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

Dr. Schottenstein stated that this case is somewhat unusual because Dr. Ringel has not been licensed in Ohio since 2004 and he has not applied for restoration of his Ohio license. However, the Board has jurisdiction over expired licenses and the Board is sometimes prompted by certain factors to take action. In this matter, Dr. Ringel's criminal conviction involved controlled substances, the Kentucky Board of Medical Licensure placed a permanent restriction on his license in that state, and he is practicing in a state that is contiguous with Ohio.

Dr. Schottenstein noted that Dr. Ringel has asked the Board to adopt restrictions similar to that of his order in Indiana. However, Dr. Schottenstein was uncertain how the Board could adopt restrictions on a license when the respondent has no active license and no application that would allow restoration of the license with conditions. Dr. Schottenstein agreed with the Proposed Order, which would non-permanently revoke Dr. Ringel's license. Dr. Ringel may reapply for licensure in the future, at which time the Board may choose to grant the license with appropriate conditions.

Ms. Montgomery agreed with Dr. Schottenstein. Ms. Montgomery asked when the Board was notified of Dr. Ringel's 19-count indictment in Indiana. Ms. Marshall did not have that information, but noted that it would not be unusual to not be notified of an out-of-state indictment until there was a conviction. Mr. Giacalone added that another reason the Board may not have been notified of the indictment is because Dr. Ringel's Ohio license had lapsed. Ms. Marshall agreed and noted that there are a number of ways that the Board could have learned of the indictment. Ms. Marshall stated that the Board changed its out-of-state protocol about two years ago so that the Board would open complaints and take action on people who had a prescribing felony, even if their license was lapsed, because it was deemed important for public notification and in case the individual tried to restore their Ohio license. Prior to that time, such cases were closed by protocol and did not come before the Board.

Mr. Giacalone commented that this case is not particularly egregious and that it was Dr. Ringel's poor judgment that got him into this situation. Mr. Giacalone opined that the Hearing Examiner's Proposed Order made sense.

Vote on Dr. Johnson's motion to approve:

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

The motion carried.

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## W.L. Gregory Siefert, M.D.

Dr. Schottenstein directed the Board's attention to the matter of W.L. Gregory Siefert, M.D. No objections were filed. Ms. Lee was the Hearing Examiner.

Motion to approve and confirm the Proposed Findings of Fact, Conclusions, and Order in the matter of Dr. Siefert:

Motion	Dr. Johnson
2 <sup>nd</sup>	Dr. Bechtel

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

Dr. Schottenstein stated that this matter is a case of mitigation. The State has shown, and the defense counsel acknowledges, that Dr. Siefert entered into an Agreed Order in which his license to practice medicine in Kentucky was restricted. Dr. Schottenstein agreed that Dr. Siefert is well-trained, but opined that that makes the Kentucky Board's findings more concerning because it implies negligence on the doctor's part and that he should have known better than to practice in that manner. However, Dr. Schottenstein also felt that Dr. Siefert has taken responsibility for his actions. An independent expert found that Dr. Siefert had appropriately addressed the Kentucky Board's concerns, and there were multiple letters of support for Dr. Siefert from health care professionals.

Dr. Schottenstein noted the following mitigating factors:

- Dr. Siefert has no prior disciplinary record.
- Dr. Siefert did not have a selfish or dishonest motive.
- These events are unlikely to recur.
- Dr. Siefert has made a full and free disclosure to the Board.
- Dr. Siefert has expressed remorse.
- There has been no adverse impact of Dr. Siefert's misconduct on others of which the Board is aware.
- Dr. Siefert's conduct does not seem to have been willful or reckless.
- Dr. Siefert corrected his behavior after he recognized it, making changes in his practice and taking continuing medical education (CME) courses.

These factors led Dr. Schottenstein to agree with the Hearing Examiner's decision to not include a suspension in the Proposed Order. Dr. Schottenstein stated that the Ohio Board is very sensitive to the issues laid out in the Kentucky Order, but he felt that Dr. Siefert has demonstrated that he is a good candidate for, and is amenable to, remediation. Dr. Schottenstein agreed with the Hearing Examiner's Findings of Fact, Conclusions of Law, and Proposed Order. Dr. Schottenstein opined that the Proposed Order is fair and protects the public.

Mr. Giacalone stated that he struggled with this case because he did not feel there were enough facts. Being based on an out-of-state action, it was difficult for Mr. Giacalone to discern Dr. Siefert's prescribing habits. Mr. Giacalone observed that 1,800 controlled substance prescriptions had been written for 315 patient, but Dr. Siefert had stated that those patients had already been on pain management with high doses of medication and he had been trying to wean them down to lower dosages. In this case, the Board has little information except for one heavily-redacted document. Mr. Giacalone asked for Dr. Soin's opinion as to whether Dr. Siefert offered a plausible explanation for these actions.

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Dr. Soin stated that he will abstain from this case. Speaking generally and not about this case, Dr. Soin stated that it would not be atypical for a pain management physician to inherit patients who are already on extremely high doses of medicines and then be responsible to prescribe those as the patients go through the weaning process.

Dr. Schottenstein observed that there were times in Dr. Siefert's testimony that he seemed to acknowledge that he thought he had essentially been treated fairly throughout this process. Dr. Schottenstein felt that it was a relatively proportional response if Dr. Siefert himself felt that way. Dr. Feibel agreed and stated that he supports the Proposed Order.

A vote was taken on Dr. Johnson's motion to approve and confirm:

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

The motion carried.

### **EXECUTIVE SESSION**

Motion 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:

Motion	Dr. Saferin
2 <sup>nd</sup>	Dr. Johnson
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Edgin	Y
Dr. Johnson	Y
Mr. Gonidakis	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y
Dr. Schottenstein	Y

The motion carried.

The Board went into Executive Session at 9:28 a.m. and returned to public session at 9:33 a.m.

**SETTLEMENT AGREEMENTS**

**Andrew Bruno, R.C.P.**

Motion to ratify the proposed Permanent Withdrawal with Andrew Bruno, R.C.P.

Motion	Dr. Bechtel
2 <sup>nd</sup>	Ms. Montgomery
Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Edgin	Y
Dr. Johnson	Y
Mr. Gonidakis	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y
Dr. Schottenstein	Y

The motion carried.

**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. Mohammad Raza Khan, M.D.: Based on a guilty plea to Conspiracy to Receive Health Care Bribes and Kickbacks; and action by the Illinois Department of Financial and Professional Regulation. Ms. Marshall stated that this proposed citation is not an immediate suspension because it does not involve a drug felony. Also this physician’s Ohio medical license is lapsed.
2. Vincent Lombardi, M.D.: Based on action by the Medical Licensing Board of Indiana related to self-prescribing.
3. William R. Danko, M.D.: A summary suspension, based on impairment and failure to participate in a referral for the One-Bite Program.
4. James Thomas Murphy, M.D.: To be issued to an applicant who has a history of actions taken by medical boards in New York, Missouri, Texas, and California related to minimal standards of care.
5. Anjmun Sharma, M.D.: Based on action taken by the New Mexico Medical Board.
6. John O. Uche, M.D.: Based on alleged acts constituting a felony in course of practice, to wit: Illegal Processing of Drug Documents for calling in prescriptions under the name of another prescriber without that prescriber’s knowledge or consent. Ms. Marshall stated that this is not an impairment situation.

Motion to approve and issue proposed Citation #3, a Summary Suspension:

Motion	Dr. Johnson
2 <sup>nd</sup>	Dr. Edgin
Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Soin	Y

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Dr. Edgin	Y
Dr. Johnson	Y
Mr. Gonidakis	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Abstain
Dr. Schottenstein	Y

The motion carried.

Motion to approve and issue proposed Citations #'s 1 and 2:

Motion	Ms. Montgomery
2 <sup>nd</sup>	Dr. Johnson
Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Edgin	Y
Dr. Johnson	Y
Mr. Gonidakis	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Abstain
Dr. Schottenstein	Y

The motion carried.

Motion to approve and issue proposed Citations #'s 4, 5, and 6:

Motion	Mr. Gonidakis
2 <sup>nd</sup>	Dr. Johnson
Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Edgin	Y
Dr. Johnson	Y
Mr. Gonidakis	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y
Dr. Schottenstein	Y

The motion carried.

### **OPERATIONS REPORT**

Ms. Loucka stated that the Operations Report has been distributed to Board members for their review. Ms. Loucka stated that the staff continues to produce and work diligently in their telework situations. Ms. Loucka was extremely grateful to the staff for making these adjustments and remaining flexible and agile. Ms. Loucka commented that the investigators probably have the toughest time because so many practices are currently closed. Consequently, some investigations may take a little longer than usual.

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Ms. Montgomery asked if vacant positions will remain unfilled due to the directive to cut the budget by 20%. Ms. Montgomery noted that the Board had recently determined that it needed more staff, not less, due to the number and ages of cases. Ms. Loucka stated that the Board has been asked to take a 20% budget cut for the remainder of this fiscal year. Some cuts have already been identified to help reach that goal, such as releasing encumbrances and delaying the filling of vacancies. Ms. Loucka commented that there is currently a state hiring freeze, so vacancies cannot be filled at this time in any case. Ms. Loucka stated that as the Board moves into Fiscal Year 2021 there will need to be a conversation with Board members and the Office of Management and Budget about the Board's staffing needs and a possible rebalancing of staff positions.

### **COVID-19 RESPONSE**

Dr. Schottenstein stated that the Board members have been provided a summary of Ohio's COVID-19 Emergency Response Bill, outlining specific sections that may impact the Medical Board. No Board member had questions about the bill at this time.

Dr. Schottenstein stated that Ohio's Respiratory Care Therapists and Anesthesiologist Assistants will become critical players during the hospital surge.

### **Anesthesiologist Assistants**

Dr. Schottenstein stated that currently, anesthesiologist assistants in Ohio must work under a written practice protocol that details the scope of work they can perform under the supervision of a specific anesthesiologist. However, the COVID-19 emergency has and will continue to present unprecedented challenges to Ohio's healthcare systems and hospitals that will stress resources and personnel across all license types. In order to allow some flexibility for anesthesiologist assistants and the anesthesiologists supervising their practice, Dr. Schottenstein suggested a motion for the Board's consideration.

Motion for the Board to suspend enforcement of Section 4760.08, Ohio Revised Code and Rule 4731-24-02, Ohio Administrative Code, to the extent that a supervising anesthesiologist who supervises an anesthesiologist assistant shall not be required to adopt a written practice protocol; that this suspension of enforcement shall be for the duration of the period of the declared COVID-19 emergency; and that the Medical Board shall provide notice to licensees when the enforcement suspension is lifted:

Motion	Dr. Edgin
2 <sup>nd</sup>	Dr. Bechtel

Dr. Rothermel clarified that this motion only affects the written protocol requirement and that the Board is not suspending the supervision requirement. Dr. Schottenstein replied that that is correct.

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

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

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The motion carried.

## Respiratory Care Professionals

Dr. Schottenstein stated that there is also an opportunity to help support workforce capacity by allowing the respiratory care professionals who currently hold a limited permit to practice alongside their colleagues who have already received a full license. Currently, Ohio regulations require a graduate-based limited permit holder to be supervised by a licensed respiratory care professional. However, the COVID-10 pandemic has required the Board to reconsider this.

Therefore, it is the Board's position that if a licensed respiratory care professional is not available in the facility due to circumstances surrounding the COVID-19 emergency, the Board recognizes that Section 4761.17(B), Ohio Revised Code, allows a physician, certified nurse practitioner, certified nurse-midwife, certified nurse specialist, or physician assistant to also supervise a graduate-based respiratory care limited permit holder.

Dr. Schottenstein added that it will still be up to the hospital to allow the limited permit holder to have a full scope of practice. The Board does not want to be a hinderance, but rather it wants to allow the flexibility. In this way, hospital systems have the option of bringing limited permit respiratory care practitioners into their workforce.

Dr. Schottenstein stated that this position statement will be published on the Board's website with other actions taken by the Board related to the pandemic response.

## Pharmacists Consult Agreements

Dr. Schottenstein stated that Section 4729.39, Ohio Revised Code, establishes the use of consult agreements between physicians and pharmacists. The Ohio Board of Pharmacy has asked the Medical Board to approve allowing physicians to delegate their responsibilities under consult agreements to advanced practice medical nurses and physician assistants. This would apply only to hospital or institutional settings, not retail pharmacies, and only during the COVID-19 emergency.

Motion to, in conjunction with the Board of Pharmacy and the Board of Nursing, allow physicians practicing under a consult agreement in a hospital or institutional setting to delegate duties to an advance practice registered nurse or physician assistant for the period of the declared COVID-19 emergency:

Motion	Dr. Bechtel
2 <sup>nd</sup>	Mr. Giacalone

Mr. Gonidakis stated that he supports the motion, but he asked if the motion is sufficiently clear on when it will cease. Dr. Schottenstein stated that the phrase "declared COVID-19 emergency" means the emergency order issued by the Governor, and therefore the stop date for the motion will be when the Governor lifts the emergency order. Dr. Feibel suggested that the language of the motion include language making that clarification. Dr. Schottenstein agreed.

Mr. Giacalone questioned whether there should be a phase-out period, rather than having this end immediately upon the lifting of the emergency order. Dr. Feibel stated that he participated in the emergency call with the Board of Pharmacy regarding this matter, and he felt that it was only for the purposes of the expected surge in COVID-19 cases. Dr. Feibel stated that the Governor will not lift the emergency order until after the surge is over, and therefore a phase-out period is not necessary. Mr. Giacalone did not necessarily disagree, but he was concerned about having to scramble to reinstitute the policy later.

**Dr. Bechtel wished to change his motion to add the language suggested by Dr. Feibel.** No Board member objected to the change. The change to the motion was accepted.

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A vote was taken on Dr. Bechtel's motion to, in conjunction with the Board of Pharmacy and the Board of Nursing, allow physicians practicing under a consult agreement in a hospital or institutional setting to delegate duties to an advance practice registered nurse or physician assistant for the period of the declared COVID-19 emergency as declared by the Governor, and will stop when the emergency order is lifted by the Governor:

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

The motion carried.

### Telemedicine

Dr. Schottenstein stated that the Board held a special meeting on March 18. During that meeting, the Board voted to suspend enforcement of any regulations requiring in-person visits between providers and patients. Dr. Schottenstein noted that the Medical Board of Ohio has two existing statutory provisions under Section 4731.36, Ohio Revised Code, that support out-of-state telemedicine.

First, physicians in other states who have patients that may be "stuck in" or visiting Ohio during this crisis can continue to treat those patients via telemedicine. For example, a New York physician may have a college student from Ohio under continuous care during the school year. If the college student returned home to Ohio to reside with parents, the New York physician can still provide teletreatment.

Second, physicians in contiguous states may have existing patient relationships with Ohio residents. For example, a Michigan physician may have a patient who resides in Toledo. The Michigan physician may continue to treat the Toledo patient via telemedicine.

### Emergency Licensure

Dr. Schottenstein stated that other states have taken actions regarding additional workforce capacity responses, including having out-of-state licensees come into the state or allowing individuals with inactive licenses to practice. Unfortunately, Ohio does not have the legal mechanism to allow out-of-state licensees to practice in Ohio, except for the scenarios previously mentioned. Additionally, Ohio does not have the legal mechanism to automatically reactivate inactive licensees.

Dr. Schottenstein continued that in the event that the Medical Board is provided the legal authority to allow out-of-state licensees or inactive licensees to practice in Ohio, a survey was conducted among Board members to gauge favorability to these actions. The response was that the Board would be comfortable with issuing those emergency licenses. Of course, some parameters would be necessary to ensure the health and safety of Ohio's citizens. Dr. Schottenstein stated that the Medical Board's processes are ready for this type of licensing.

### Board-Ordered Evaluations

Dr. Schottenstein stated that the Secretary and Supervising Member have requested feedback from the Board members regarding Board-ordered chemical dependency evaluations during the COVID-19 pandemic. Unlike

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forensic psychiatric evaluations, which are currently being conducted by video, chemical dependency examinations must be conducted in person due to the laboratory component. This holds true for massage therapist outpatient examinations, as well as the mandatory 72-hour inpatient requirement for other licensee types. Additionally, other types of Board-ordered evaluations, such as neurological assessments or occupational medicine assessments, necessarily require an in-person component.

Dr. Schottenstein stated that the Board members have received a memo and recommendation from Ms. Marshall regarding Board-ordered evaluations during the pandemic.

Dr. Schottenstein appreciated the thoughts of the Secretary and Supervising Member. Dr. Schottenstein felt that it made sense that the Board be able to continue to allow the psychiatric evaluations to occur by video. Dr. Schottenstein also found the other recommendations reasonable: To defer assessments for applicants who are not practicing and therefore are not a risk for patient harm; and to assess cases of suspected inability to practice due to potential impairment or other factors on a case-by-case basis.

Mr. Giacalone agreed with Dr. Schottenstein, stating that the benefits outweigh the risks. Mr. Giacalone stated that it makes sense to provide some deference in some of these situations.

### Thank You to Health Care Workers

Finally and possibly most importantly, Dr. Schottenstein, on behalf of the Board, thanked physicians, physician assistants, respiratory care therapists and all other health care providers who are working tirelessly in the face of this pandemic, protecting and healing Ohioans. They are the true heroes on the frontlines of this war and the Medical Board remains grateful for their dedication. Dr. Schottenstein urged the Board's licensees to take a few moments to ensure their own health and safety. Dr. Schottenstein cautioned that crisis fatigue and burnout are real and the surge of this pandemic has not yet begun.

The Medical Board will be providing links to resources to its licensees to help them cope with this crisis. Additionally, the Board encourages its licensees to reach out to the Ohio Physicians Health Program when feeling the stress and burden of the pandemic.

### REPORTS BY ASSIGNED COMMITTEES

Dr. Schottenstein stated that this month the Board's committee work will be incorporated into the full Board meeting.

### Dietetic and Respiratory Care Advisory Committees

#### Appointments to Dietetics Advisory Council

Ms. Reardon stated that there are three positions to be filled on the Dietetics Advisory Council. After interviews and taking into consideration the recommendations of the Ohio Academy of Nutrition and Dietetics, the staff recommends that Carmen Clutter be reappointed as a licensed dietitian; that Kathy Shelito be appointed to fill the second open licensed dietitian position; and David Reiersen be reappointed to the consumer member seat.

Ms. Montgomery congratulated Ms. Reardon and Ms. Loucka on the efforts to reach out and have real conversations to engage interested parties in these matters.

Motion to accept the recommendations of the Board staff and reappoint Carmen Clutter as a licensed dietitian to the Dietetics Advisory Council; appoint Kathy Shelito as a licensed dietitian to the Dietetics Advisory Council; and reappoint David Reiersen as a consumer member to the Dietetics Advisory Council:

Motion	Dr. Saferin
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2 <sup>nd</sup>	Dr. Edgin
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Edgin	Y
Dr. Johnson	Y
Mr. Gonidakis	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y
Dr. Schottenstein	Y

The motion carried.

### Appointments to Respiratory Care Advisory Council

Ms. Reardon stated that there are two open positions on the Respiratory Care Advisory Council, both to be filled by licensed respiratory care professional positions. After interviews and taking into consideration the recommendations of the Ohio Society for Respiratory Care, the staff recommends that Sanja Keller be reappointed and Karen May be appointed.

Motion to approve the recommendations of the Board staff and reappoint Sanja Keller as a licensed respiratory care professional to the Respiratory Care Advisory Council, and appoint Karen May as a licensed respiratory care professional to the Respiratory Care Advisory Council:

Motion	Dr. Edgin
2 <sup>nd</sup>	Dr. Bechtel
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Edgin	Y
Dr. Johnson	Y
Mr. Gonidakis	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y
Dr. Schottenstein	Y

The motion carried.

### Finance Committee Report

#### Fiscal Update

Dr. Schottenstein stated that the Board's revenue for February 2020 was \$866,655 and net fiscal revenue was \$124,474. The Board's cash balance increased to \$5,296,559. Dr. Schottenstein commented that those are good numbers for the Board. The Board's expenditures are down by 5.5% year-to-date compared to a year ago.

Dr. Schottenstein stated that the Board had been anticipating additional high-revenue months for rest of this fiscal year, especially in June when respiratory care professionals and dieticians are supposed to renew their

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licenses. However, the passage of House Bill 197 pushed the deadline for license renewal to as late as December, so it is likely that many licensees will wait until the deadline to renew. This could lead to a decrease in revenue for several months followed by an upsurge in revenue towards the end of the calendar year.

Dr. Schottenstein recapped that revenue is up, expenditures are down, and the Board is in a financially healthy place at this time.

Dr. Schottenstein stated that the Board has been asked by the Office of Management and Budget to make a budget reduction of \$259,209 for Fiscal Year 2020. The Board is taking several measures to absorb that budget reduction:

- A freeze or delay of all nonessential hires.
- Release of contracts for victim advocates, with a thought of utilizing internal resources instead.
- A freeze or delay in non-essential equipment purchases.
- Reduction or cancelation of expert contractors who are not currently working, and re-encumbering when those funds are available.
- Cancellation of process server contracts and utilization of internal resources.
- Reduction in mobile phone services.
- Discontinuance of use of temporary personnel.
- Reduction in other encumbrances to minimal requirements.

Dr. Schottenstein stated that the Board will likely be asked to make cuts for Fiscal Year 2021. There is unspent payroll due to vacancies and that money has been moved into other categories such as case review. Money has also been set aside for experts that the Board is not likely to use because those funds are always over-encumbered. These cuts are requested even though the Board's funds do not come from the General Revenue Fund, so it may simply be transferred from the Board's cash fund at some point.

Dr. Schottenstein noted an uptick in the amount spent on historical case review. The Board is about 25% through its historical case review with regard to sexual misconduct cases. Dr., Schottenstein stated that this project is a priority and will continue even through this difficult time. Dr. Schottenstein stated that these numbers will be substantially higher in the March figures, which will reflect the progress being made in this endeavor.

In February 2020, the Board received fines from three sources: Disciplinary fines, continuing medical education (CME) non-disciplinary fines, and money received from collections. Those three sources total \$33,155.23 for February. The Board has received \$138,452 in total fines year-to-date out of total fines assessed of \$246,000.

### Communications Update

Ms. Pollock stated that the Communications team has been almost solely focused on COVID-19 responses. The team receives updates daily from the COVID-19 information center at the Emergency Operations Center, and important messages are being pushed out to the Board's licensees. The Board's website also has a page dedicated to resources such as the latest testing guidance, guidance on personal protective equipment (PPE), and information from the Drug Enforcement Administration (DEA) on prescribing.

Ms. Pollock stated that the Board's magazine is still in process and the Communications team is doing a great job on it. A report on digital communication updates and analytics has been provided to Board members.

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## **Medical Marijuana Expert Review Committee Report**

Motion to approve the March 11, 2020 Medical Marijuana Expert Review Committee minutes as drafted:

Motion	Dr. Soin
2 <sup>nd</sup>	Mr. Giacalone
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Edgin	Y
Dr. Johnson	Y
Mr. Gonidakis	Abstain
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y
Dr. Schottenstein	Y

The motion carried.

Dr. Bechtel stated that the Medical Marijuana Expert Review Committee is continuing its work in reviewing the information submitted for potentially adding Anxiety, Autism, and Cachexia as new qualifying conditions. The Committee will bring more information before the full Board in upcoming meetings.

## **Sexual Misconduct Committee Report**

Motion to approve the March 11, 2020 Sexual Misconduct Committee minutes as drafted:

Motion	Dr. Bechtel
2 <sup>nd</sup>	Dr. Edgin
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Edgin	Y
Dr. Johnson	Y
Mr. Gonidakis	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y
Dr. Schottenstein	Y

The motion carried.

Dr. Schottenstein stated that while work has been somewhat reprioritized with the COVID-19 response, the work on the taskforce recommendations continues. There has been significant progress on the historical case review, with more than 25% of the over 1,200 identified licensees reviewed. That completed review work now moves to the Board's internal team for further investigation for possible enforcement or to remain closed. That internal work will continue over the next year. Dr. Schottenstein further commented that the Board has completed 75% of the workgroup action plan tasks.

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Dr. Schottenstein stated that drafting work on the recommended statutory changes continues. Feedback from the Committee's last meeting, as well as stakeholder feedback, will be incorporated into the drafts and shared with the Board at an upcoming meeting.

Dr. Schottenstein pointed out that the Board's website has been updated to reflect high-level details on open and closed complaints. This is very much a work-in-progress and it needs more detail and to be adapted to reviewer feedback. Nevertheless, Dr. Schottenstein stated that this was a very big data lift and he expressed gratitude to the staff for this accomplishment.

### **Policy Committee Report**

Dr. Soin stated that the Policy Committee has devoted all of its efforts to the COVID-19 response this month. As such, all the action items were presented earlier in today's meeting.

### **Minutes Review**

Motion to approve the March 11, 2020 Policy Committee minutes as drafted:

Motion	Dr. Bechtel
2 <sup>nd</sup>	Dr. Edgin
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Edgin	Y
Dr. Johnson	Y
Mr. Gonidakis	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y
Dr. Schottenstein	Y

The motion carried.

### **Licensure Committee Report**

### **Minutes Review**

Motion to approve the March 11, 2020 Licensure Committee minutes as drafted:

Motion	Dr. Bechtel
2 <sup>nd</sup>	Dr. Edgin
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Edgin	Y
Dr. Johnson	Y
Mr. Gonidakis	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y
Dr. Schottenstein	Y

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The motion carried.

## Licensure Application Reviews

### Joanna Alford, M.T.

Dr. Saferin stated that Ms. Alford has applied for restoration of her Ohio massage therapy license. Ms. Alford indicated on her application that she has not practiced massage therapy within the past five years. Ms. Alford passed the Massage and Bodywork Licensing Examination (MBLEx) on October 18, 2019.

Because Ms. Alford passed the MBLEx within the past two years, staff has recommended granting her application for restoration.

Motion to approve Ms. Alford's application for restoration of her Ohio license as presented:

Motion	Dr. Johnson
2 <sup>nd</sup>	Dr. Bechtel

Dr. Edgin expressed concern about granting a massage therapy license to someone who has not practiced massage therapy for five years, despite the fact that she passed the MBLEx. Dr. Edgin asked if one would want someone performing foot surgery on them when that person has not done surgery for five years. Dr. Saferin did not feel that massage therapy was a similar situation.

Dr. Rothermel stated that this question came up in a Licensure Committee meeting within the last few months. The Committee reached out to experts in the field, including the heads of massage therapy schools, and asked if passage of the MBLEx was sufficient for someone who has been out of the practice of massage therapy for several years. The consensus was that passage of the MBLEx was adequate and the experts were very comfortable with those individuals returning to practice.

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

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

The motion carried.

### Kristen Bovia, M.T.

Dr. Saferin stated that Ms. Bovia has applied for a massage therapy license. Ms. Bovia has not been licensed in any jurisdiction and has never practiced massage therapy. However, Ms. Bovia passed the Massage and Bodywork Licensing Examination (MBLEx) on December 30, 2019.

Because Ms. Bovia recently passed the MBLEx, staff recommends granting her application for licensure.

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Motion to approve Ms. Bovia’s application for an Ohio license as presented:

Motion	Dr. Bechtel
2 <sup>nd</sup>	Dr. Johnson
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Edgin	Y
Dr. Johnson	Y
Mr. Gonidakis	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y
Dr. Schottenstein	Y

The motion carried.

### David Wang, M.D.

Dr. Saferin stated that Dr. Wang has applied for a medical license in Ohio. Dr. Wang has less than 24 months of post-graduate training in the United States, but is requesting that his experience and training in Australia, combined with the 21 months of acceptable training he has received in the United States, be deemed equivalent to 24 months of graduate medical education through the second-year level of graduate medical education, pursuant to Section 4731.09(A)(4)(b), Ohio Revised Code.

Motion to grant the graduate medical education equivalence, as outlined in Section 4731.09(A)(4)(b), Ohio Revised Code, so that Dr. Wang may be granted a license?

Motion	Ms. Montgomery
2 <sup>nd</sup>	Dr. Bechtel
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Edgin	Y
Dr. Johnson	Y
Mr. Gonidakis	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y
Dr. Schottenstein	Y

The motion carried.

## **COMPLIANCE**

### **Office Conference Review**

Motion to approve the Compliance staff’s Reports of Conferences for March 10, 2020:

Motion	Dr. Johnson
2 <sup>nd</sup>	Dr. Saferin

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

The motion carried.

### **Probationary Requests**

Motion to approve the Secretary and Supervising Member's recommendations for the following probationary requests:

- a) Allan Belcher, D.O.: Request for release from the terms of the January 14, 2015 Board Order.
- b) Diane Ottolenghi, M.T.: Request for release from the terms of the January 10, 2018 Consent Agreement.
- c) Luke Simmons, M.D.: Request for approval of Krisanna Deppen, M.D. to complete a return to work assessment required for reinstatement.

Motion	Dr. Johnson
2 <sup>nd</sup>	Mr. Giacalone
Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Edgin	Y
Dr. Johnson	Y
Mr. Gonidakis	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Abstain
Dr. Schottenstein	Y

The motion carried.

### **Reinstatement Request**

Michael Anikeev, M.D.

Motion to approve the request for reinstatement of the license of Michael Anikeev, effective immediately, subject to the probationary terms and conditions as outlined in the January 9, 2019 Board Order for a minimum of five years:

Motion	Mr. Giacalone
2 <sup>nd</sup>	Dr. Edgin
Dr. Rothermel	Abstain

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

The motion carried.

### **ADJOURN**

Motion to adjourn:

Motion	Dr. Johnson
2 <sup>nd</sup>	Dr. Edgin
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Edgin	Y
Dr. Johnson	Y
Mr. Gonidakis	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y
Dr. Schottenstein	Y

The motion carried.

The meeting adjourned at 10:19 am.

We hereby attest that these are the true and accurate approved minutes of the State Medical Board of Ohio meeting on April 8, 2020, as approved on May 13, 2020.

(SEAL)