



**State Medical Board of Ohio Meeting Minutes
March 10, 2021**

Mark A. Bechtel, M.D., President, called the video conference meeting to order at 10:02 a.m. with the following members present: Betty Montgomery, 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.; Michael Schottenstein, M.D.; Sherry Johnson, D.O.; Harish Kakarala, M.D.; Jonathan Feibel, M.D.; and Yeshwant Reddy, M.D.

Dr. Kakarala joined the meeting at a later time.

MINUTES REVIEW

Motion to approve the minutes of the February 10, 2021 Board meeting, as drafted:

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

The motion carried.

REPORTS AND RECOMMENDATIONS

Dr. Bechtel asked the Board to consider the Reports and Recommendations appearing on the agenda. Dr. Bechtel 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: Mahmood Yoonessi, M.D.. A roll call was taken:

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

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Dr. Feibel	Y
Dr. Bechtel	Y

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

Dr. Bechtel 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.

Dr. Kakarala joined the meeting at this time.

Dr. Bechtel asked if Dr. Kakarala had received, read and considered the Hearing Record; the Findings of Fact, Conclusions and Proposed Orders; and any objections filed in the matters of: Mahmood Yoonessi, M.D. Dr. Kakarala answered affirmatively.

Dr. Bechtel further asked if Dr. Kakarala 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. Dr. Kakarala answered affirmatively.

Mahmood Yoonessi, M.D.

Dr. Bechtel directed the Board's attention to the matter of Mahmood Yoonessi, M.D. Objections have been filed and were previously distributed to Board members. Ms. Lee was the Hearing Examiner.

Dr. Bechtel stated that a request to address the Board has been made on behalf of Dr. Yoonessi. Five minutes will be allowed for that address.

Dr. Yoonessi was represented by his attorney, Todd Collis.

Dr. Yoonessi respectfully asked the Board to not adopt the Hearing Examiner's Report and Recommendation, stating that the action against his New York medical license was unreliable. Dr. Yoonessi stated that the attorney in New York admitted that he withheld thousands of pages of documents. Dr. Yoonessi also stated that the Report and Recommendation violated his right to due process under the constitutions of Ohio and the United States, rights that are also articulated in several United States Supreme Court cases.

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Dr. Yoonessi continued that the Report and Recommendation repeats New York's incorrect assertion that he had used Paxil at a time when it was still unapproved by the Food and Drug Administration (FDA), which would have been contrary to standards of good practice. Dr. Yoonessi stated that the Report and Recommendation relitigates a two-decade-old contested New York Medical Board case, although he has not been allowed to address those allegations. Dr. Yoonessi stated that the Report and Recommendation erroneously labels the New York Board's determination in the case of Patient A regarding appendectomy and Do Not Resuscitate (DNR) orders as typographical errors, which is not true, as a forensic document examiner has attested to in writing.

Dr. Yoonessi stated that he completed his residency at the University of Cincinnati and he enjoys the support of the giants in the field of Obstetrics and Gynecology. Dr. Yoonessi was hopeful that the Ohio Board will stop the collateral damage to his medical license and to areas of his life and his family life that are entirely unrelated to medicine.

Mr. Collis stated that he is honored to represent Dr. Yoonessi. Mr. Collis stated that he has serious concerns that Dr. Yoonessi's Ohio hearing was the same unreliable process that had occurred in New York and California. Mr. Collis stated that in 2007 and 2009, two committees, one of which was composed entirely of physicians, recommended reinstatement of Dr. Yoonessi's license. However, a mere six paragraphs in the Report and Recommendation addressed the past 20 years of Dr. Yoonessi's voluminous continuing medical education (CME) credits, society and board active memberships, and colleague support. Mr. Collis stated that the central issue of this matter occurred 25 years ago and the Board should give substantial weight to everything Dr. Yoonessi has done in the past 20 years.

Mr. Collis continued that, to Dr. Yoonessi's great prejudice, the Hearing Examiner included in the Report and Recommendation the majority of the New York Order word for word, despite sustaining the Assistant Attorney General's objections to attempts to provide evidence demonstrating how New York had sandbagged Dr. Yoonessi. Mr. Collis stated that documents that were intentionally withheld by the New York Board, to forged medical records, to so-called expert testimony that Dr. Yoonessi should have used an unapproved chemotherapy drug, to Dr. Yoonessi's public records request that did not include documents that are known to be in New York's records. Consequently, the New York and California actions are unreliable. Mr. Collis stated that if a respondent cannot relitigate the underlying offense of a bootstrap action, the Ohio Board's reliance on a mere representation of the New York case is not reliable, probative, or substantial.

Mr. Collis stated that the Report and Recommendation includes findings of minimal standards violations for which Dr. Yoonessi was never cited, such as negligence or lack of consent. Mr. Collis stated that discipline based on allegations for which Dr. Yoonessi was not cited is contrary to law.

Mr. Collis stated that, unlike the matters in New York and California, Dr. Yoonessi greatly appreciates the Ohio Board's careful consideration of his evidence. Dr. Yoonessi continues to suffer from the collateral consequences of unjust 20-year-old administrative actions. Therefore, this matter is about restorative justice. Mr. Collis stated that Dr. Yoonessi will complete any training, assessment, or program that the Board requires. A just result as set forth in Mr. Collis' objections is a fair way to allow Dr. Yoonessi to conclude his two-decade battle for justice while assuring that he meets the Board's standards.

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

Mr. Wilcox stated that this case is essentially a bootstrap action. Dr. Yoonessi has applied for reinstatement of his Ohio medical license, which expired in 1974. Since that time, Dr. Yoonessi has engaged in egregious actions, as appropriately outlined in the Hearing Examiner's Report and Recommendation based on documents from New York and California. Mr. Wilcox stated that the history of this case is clear based on that documentation.

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Mr. Wilcox stated that Dr. Yoonessi has been in a state of denial for the last 20 years over what happened in New York. Mr. Wilcox stated that the fact that Dr. Yoonessi is before the Board today asking for restoration of a license that expired in 1974 shows how much that denial of reality has seized his thought processes. Dr. Yoonessi feels that he was wronged by the New York Board and that somehow the Ohio Board can help him. Mr. Wilcox stated that the Ohio Board cannot help Dr. Yoonessi and that Ohio is not the place to relitigate what had happened in New York.

Mr. Wilcox continued that Dr. Yoonessi had a 10-day hearing in New York, yet he now claims that he was somehow denied due process in that action. Mr. Wilcox stated that Dr. Yoonessi's objections are completely false and that the Hearing Examiner was more than patient in allowing him to discuss those New York actions that he had been fixated on for 20 years. Mr. Wilcox noted that Dr. Yoonessi's Ohio hearing encompassed an entire day, and Mr. Wilcox's part in that hearing was just to introduce documents from the actions in New York and California.

Mr. Wilcox stated that Dr. Yoonessi had not practiced medicine for 15 years and he is over 80 years old. Mr. Wilcox further stated that the New York action contains some of the most alarming findings and conclusions that he has ever seen. Mr. Wilcox stated that Dr. Yoonessi is certainly not a candidate for restoration of his Ohio license. Mr. Wilcox agreed with the Hearing Examiner's Report and Recommendation.

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

Motion	Dr. Johnson
2 nd	Dr. Kakarala

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

Dr. Schottenstein opined that the due process concerns were thoroughly litigated in this matter. Dr. Schottenstein further stated that this is not an occasion to collaterally attack another state's board order or to relitigate past concerns.

Dr. Schottenstein observed that Dr. Yoonessi has not practiced in his surgical subspecialty for a very long time and his license to practice medicine has been revoked in two states. Consequently, the Board would need to see a profound level of mitigation to consider restoring Dr. Yoonessi's Ohio medical license. Unfortunately, Dr. Schottenstein did not see that level of mitigation.

Dr. Schottenstein felt that the events that led to the revocation of Dr. Yoonessi's New York medical license are legitimately concerning. Even leaving that aside, Dr. Schottenstein commented that 17 years is a lifetime in medicine, notwithstanding the fact that Dr. Yoonessi has kept up on his continuing medical education (CME). Dr. Schottenstein stated that CME is not equivalent to the actual practice of medicine and is not adequate to compensate for being out of practice for such a long time. Therefore, Dr. Schottenstein agreed with the Proposed Order of permanent denial of Dr. Yoonessi's application for restoration.

Mr. Giacalone agreed with Dr. Schottenstein, commenting that this matter seems to have been tried quite diligently and thoroughly, and that Dr. Yoonessi has been out of practice for a very long time. Mr. Giacalone agreed that the Proposed Order is appropriate.

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

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

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

The motion to approve carried.

FINDINGS, ORDERS, AND JOURNAL ENTRIES

Dr. Bechtel 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. Dr. Bechtel stated that these matters are non-disciplinary in nature, and therefore all Board members may vote.

Kimberly Ferguson, M.T.

Dr. Bechtel stated that on January 13, 2021, the Board authorized issuance of a Notice of Opportunity for Hearing to Kimberly Ferguson, M.T., informing her that the State Medical Board of Ohio proposed to approve her application for a license to practice massage therapy, provided that she take and pass the Massage and Bodywork Licensing Examination (MBLEX) due to the fact that Ms. Ferguson has not engaged in the active practice of massage therapy for more than two years.

Motion to find that the facts set forth in the January 13, 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. Ferguson's application for a license to practice massage therapy in the State of Ohio, provided that she takes and passes the MBLEX within 6 months of the mailing of the Notice of Opportunity for a Hearing:

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

The motion carried.

Tori Grant, M.T.

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Dr. Bechtel stated that on January 13, 2021, the Board authorized issuance of a Notice of Opportunity for Hearing to Tori Grant, 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. Grant has not engaged in the active practice of massage therapy for more than two years.

Motion to find that the facts set forth in the January 13, 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. Grant'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 mailing of the Notice of Opportunity for a Hearing:

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

The motion carried.

Gerald McCullough, R.C.P.

Dr. Bechtel stated that on January 13, 2021, the Board authorized issuance of a Notice of Opportunity for Hearing to Gerald McCullough, R.C.P., informing him that the State Medical Board of Ohio proposed to approve his application for a license to practice as a respiratory care profession, provided that he take and pass the Therapist Multiple Choice (TMC) for Certified Respiratory Therapist (CRT), due to the fact that Mr. McCullough has not engaged in the active practice of respiratory care for more than two years.

Motion to find that the facts set forth in the January 13, 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 Mr. McCullough's application for a license to practice respiratory care in the State of Ohio, provided that he takes and passes the TMC for CRT within 6 months of the mailing of the Notice of Opportunity for a Hearing:

Motion	Dr. Johnson
2 nd	Dr. Saferin
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Schottenstein	Y
Dr. Reddy	Y
Dr. Johnson	Y
Dr. Kakarala	Y

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Mr. Gonidakis	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

Da’Vonna Me’Shay Paris, M.T.

Dr. Bechtel stated that on January 13, 2021, the Board authorized issuance of a Notice of Opportunity for Hearing to Da’Vonna Me’Shay Paris, M.T., informing her that the State Medical Board of Ohio proposed to approve her application for a license to practice massage therapy, provided that she take and pass the Massage and Bodywork Licensing Examination (MBLEx) due to the fact that Ms. Paris has not engaged in the active practice of massage therapy for more than two years.

Motion to find that the facts set forth in the January 13, 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. Paris’ application for a license to practice massage therapy in the State of Ohio, provided that she takes and passes the MBLEx within 6 months of the mailing of the Notice of Opportunity for a Hearing:

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

The motion carried.

Amy L. Reutzal, M.T.

Dr. Bechtel stated that on December 9, 2020, the Board authorized issuance of a Notice of Opportunity for Hearing to Amy L. Reutzal, 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. Reutzal has not engaged in the active practice of massage therapy for more than two years.

Motion to find that the facts set forth in the December 9, 2020 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. Reutzal’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 12 months of the mailing of the Notice of Opportunity for a Hearing:

Motion	Dr. Kakarala
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2 nd	Dr. Soin
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Schottenstein	Y
Dr. Reddy	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Mr. Gonidakis	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	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; and to consider the appointment, employment, dismissal, discipline, promotion, demotion, or compensation of a public employee or official:

Motion	Dr. Johnson
2 nd	Dr. Saferin
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Schottenstein	Y
Dr. Reddy	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y

The motion carried.

The Board went into Executive Session at 10:38 a.m. and returned to public session at 11:20 a.m. Dr. Rothermel was not present upon resumption of public session

SETTLEMENT AGREEMENTS

DH, M.D.

Motion to ratify the proposed Consent Agreement with DH, M.D.:

Motion	Dr. Soin
2 nd	Dr. Kakarala
Dr. Saferin	Abstain
Mr. Giacalone	N
Dr. Soin	N

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Dr. Schottenstein	N
Dr. Reddy	N
Dr. Johnson	N
Dr. Kakarala	N
Mr. Gonidakis	N
Ms. Montgomery	N
Dr. Feibel	N
Dr. Bechtel	N

The motion did not carry.

Dr. Rothermel returned to the meeting at this time.

George D.J. Griffin, III, M.D.

Motion to ratify the proposed Permanent Surrender with George D.J. Griffin, III, M.D.:

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

The motion carried.

Irene Ellen Dornauer, R.C.P.

Motion to ratify the proposed Step I Consent Agreement with Irene Ellen Dornauer, R.C.P.:

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

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The motion carried.

Jennifer D. Bahner, M.D.

Motion to ratify the proposed Step II Consent Agreement with Jennifer D. Bahner, M.D.:

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

The motion carried.

Krista M. Rubosky, P.A.

Motion to ratify the proposed Addendum to the Step II Consent Agreement with Krista M. Rubosky, P.A.:

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

The motion carried.

Mitchum A. Hissong

Motion to ratify the proposed Step I Consent Agreement with Mitchum A. Hissong:

Motion	Dr. Johnson
2 nd	Dr. Kakarala
Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y

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

The motion carried.

Martha A. Johnston, M.D.

Motion to ratify the proposed Permanent Surrender/Retirement with Martha A. Johnston, M.D.:

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

The motion carried.

Ralph George Rohner, M.D.

Motion to ratify the proposed Permanent Surrender with Ralph George Rohner, M.D.:

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

The motion carried.

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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. Nikki Adams, L.M.T.: A Summary Suspension, based on failure to submit to a Board-ordered chemical dependency evaluation due to a history of two OVI convictions and her departure from two prior treatment programs without completion.
2. Michael A. Bummer, M.D.: Proposed denial of licensure in Ohio, based on history of a 2019 felony conviction related to practice for unlawful distribution of controlled substances. Additionally, Ms. Marshall noted a clinical aspect to this matter, as the physician has not been in clinical practice since 2018.
3. Richard B. Darr, M.D.: A Summary Suspension, based on a expert forensic report from a board-ordered psychiatric evaluation that opined that this physician is unable to practice at this time due to unspecified neurocognitive disorder.
4. Russel D. Main, R.C.P.: To be issued to an applicant for license restoration, based on a history of license revocation by the California Respiratory Care Board in 2012 related to substandard care involving several patients.
5. Xavier Martinez, M.D.: Based on action by Arizona Medical Board that arose from a guilty plea to attempted sexual abuse of a patient. This physician’s Ohio license lapsed in 1992, and therefore this does not trigger an automatic suspension.
6. Daryl D. Wisdom, M.D.: Based on action by Michigan Medical Board related to pending sexual assault charges.
7. Vilma Kistner Briggs, M.D.: A Summary Suspension, based on a first relapse on alcohol.

Motion to approve and issue Citation #1, a Summary Suspension:

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

The motion carried.

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

Motion	Dr. Johnson
2 nd	Dr. Kakarala
Dr. Rothermel	Abstain

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

The motion carried.

Motion to approve and issue proposed Citation #7, a Summary Suspension:

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

The motion carried.

Motion to approve and issue proposed Citations #2, 4, 5, and 6:

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

The motion carried.

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OPERATIONS REPORT

Human Resources: Ms. Loucka stated that the Board continues to work through the hiring process to backfill some positions.

The Board's senior leadership team has been participating in a communication strategy course offered by the Department of Administrative Services (DAS) regarding behavior in certain work situations and helping the staff better understand each other and achieve better communication. Ms. Loucka stated that that past year of working remotely has been challenging and the course has been helpful.

Discussions continue on return-to-work planning for the staff. Some of that planning will depend on what the State bargains with the major unions. The Board continues toward the goal of having some staff continuing to work from home, some being back in the office, and some being hybrid between office and home. The State has yet to provide a return-to-work date.

Finance: Ms. Loucka stated that Dr. Schottenstein will go more in-depth with the Board's finances later in the Finance Committee report. Ms. Loucka observed that the Board's revenue is not as healthy as had been expected due to the legislature's extension of the renewal deadline. A little under 14,000 licensees need to renew their licenses by July 1, 2021, and the Board should be in a healthy revenue state by the end of this fiscal year. The staff has begun communications with those licensees to remind them to renew.

Ms. Loucka stated that some workgroup updates have been included in the Operations Report. Of note, Ms. Wonski and Ms. Loucka have been increasing visits to legislators to discuss the Board's proposed budget and priorities.

Licensure: Ms. Loucka stated that the licensure staff has done a terrific job working from home and keeping things on-track. Ms. Loucka read the following email about one of the licensure staff, Brianna Williams:

After having a difficult time with the website, I finally found a phone number so I could talk to a real person. Thankfully, Brianna Williams responded to my call. She was extremely helpful and accurate in her advice to me. She was also very patient with a computer moron like myself. She has restored my faith in humanity. She deserves a big fat raise in her paycheck and should be put in mass production. I have dealt with several boards about my license and she is by far the best advisor I have had.

Complaints: Ms. Loucka stated that there is nothing significant to note on the complaints report and that complaints continue to increase. Enforcement is actively engaged with complaint management and Mr. Roach has assumed his new role as Chief of Complaint Management.

In response to questions from Ms. Montgomery, Ms. Loucka stated work continues on complaint prioritization and addressing the increase in complaint volume. Ms. Loucka stated that the current prioritization system is not keeping up with the current volume, but the staff is discussing solutions that it can present to the Board in the next three to six months.

Federation of State Medical Boards Annual Meeting: Ms. Loucka stated that this year's meeting of the Federation of State Medical Boards will be virtual. Ms. Loucka asked any Board member to contact her if they would like to attend.

RULES & POLICIES

Rule Review Update

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Ms. Anderson stated that an overview of all the rules the Board staff is working on and their current status has been included in the meeting materials for the Board members' review. Ms. Anderson stated that she would be happy to answer any questions the Board may have.

Rules with CSI

Hearing Rules

Ms. Anderson stated that the proposed amendments to the hearing rules were initially filed with the Common Sense Initiative (CSI) in October 2020. Afterwards, the Hearing Unit asked for changes to rule 4731-03 to allow for hearings via videoconference upon motion from any party or hearing examiner. At CSI's request, the Board produced another business impact analysis and established another public comment period. Public comments were due on January 22, 2021, and two comments were received and were included in the meeting materials.

The first comment is from Dr. Bob Miller, regarding rule 4731-13-08 which allows for electronic filing of hearing documents. Dr. Miller indicated that keeping paper filing as an option would be necessary for people who do not have adequate internet service. Ms. Anderson has already responded to Dr. Miller that under rule 4731-13-08, electronic filing is an option but is not a requirement at this time. Consequently, it does not appear that any changes to that rule is necessary.

The second comment is from Levi Tkach of Graff & McGovern. Mr. Tkach objected to the proposed provision in rule 4731-13-03 which would allow a hearing via videoconference upon the motion of any party or the hearing examiner. Mr. Tkach specifically objected to the hearing examiner making the motion, expressing concern that the hearing examiner could unilaterally deny the respondent the right of confrontation and due process.

Mr. Tkach also objected to the proposed amendment to 4713-15, which had been previously approved by the Board, to change the deadline for a party to request to address the Board from five days before the Board meeting to seven days before. Ms. Anderson opined that this amendment would be a good tool for the Board and that a party's due process concerns can be addressed through the multiple avenues that are available. Ms. Anderson further noted that

Mr. Tkach also pointed out that the Ohio State Bar Association (OSBA) is currently crafting model virtual hearing guidelines and suggested that the Board wait until those guidelines are complete. Ms. Anderson agreed that the Board should review those guidelines, but they are not yet complete. Since these rules are due for their five-year review, Ms. Anderson suggested moving forward with the rule and revisiting the issue if the OSBA guidelines include anything that may lead the Board to consider changes. Ms. Anderson noted that under 4731.23(C), Ohio Revised Code, the Board can approve a late request to address upon the vote of three Board members, and the Board does that regularly. Ms. Anderson is not recommending any changes to the rule based on this comment.

Dietetics Rule 4759-4-04

Mr. Smith stated that there are three dietetics rules currently pending at the CSI. During CSI's public comment period, only one comment was received about one rule, 4759-4-04, the continuing education (CE) rule. The comment was filed by the Ohio Academy of Nutrition and Dietetics (OAND), which would like the CE requirements for non-registered licensed dietitians to be more similar to the requirements for registered dietitians. Specifically, OAND requested the inclusions of a requirement for development and documentation of a learning plan.

Mr. Smith worked with Dr. Rothermel and Dr. Saferin to develop language addressing this comment. OAND found that the language meets their concerns. The language was also discussed at the last Dietetics Advisory Council meeting and there were no objections. The language still preserves the Board's priority, which is to

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move dietitians to a biannual reporting of CE like other license types. Also, the Board will no longer routinely review non-registered dietitians' CE learning plans, but those dietitians will be obligated to document and retain the learning plan and provide it to the Board upon request if they are audited.

Dr. Saferin moved to approve refiling the amended rule with CSI. Dr. Kakarala seconded the motion. All members voted aye. The motion carried.

Board of Nursing Consult Agreement Rules

Ms. Anderson stated that under statute, the Board of Nursing is required to consult with the Medical Board with respect to rules for advanced practice nurses. This morning, the Board of Nursing indicated that it had received comments on the rules from their Advanced Practice Nurse Committee. Since the Medical Board's comments are not needed until May 1, Ms. Anderson will bring this topic back for discuss in the April meeting.

Initial Circulation of Rules

Ms. Anderson stated that a number of rules have been submitted for initial circulation to interested parties for comment, including the consult agreement rules for physician assistants. Only one comment was received. Ms. Anderson stated that the comment was non-substantive and regarded a historical issue about the pronouncement of death rule. Ms. Anderson asked for approval to file the rules with CSI.

Dr. Kakarala moved to approve rules for filing with Common Sense initiative, as outlined in the memo from Ms. Anderson dated February 24, 2021. Dr. Johnson seconded the motion. All members voted aye. The motion carried.

Delegation FAQ's

Ms. Anderson stated that at the last meeting, the Board had specific surgical questions about whether nurses can do that work. At the Board's direction, Ms. Anderson drafted a document of 11 frequently asked questions (FAQ) on delegation of surgical tasks. FAQ #7 and #8 addresses the specific questions that were discussed last month regarding whether individuals who are licensed but for whom the task are outside their scope of practice can be delegated these tasks under the Board's delegation rules. The FAQ's stated that the tasks can be delegated, but it is the physician's responsibility to ensure that the individual can perform the task safely.

Dr. Bechtel opined that the FAQ document is well-constructed and informative. Ms. Montgomery agreed and stated that the language is simple and clear. Dr. Feibel also agreed that the FAQ's are very clear and easy to understand.

Ms. Montgomery commented that the phrase in FAQ #3, "...should be appropriately delegated" might instead be worded as "...could be appropriately delegated" to avoid any misunderstanding that a physician is required to delegate. Ms. Montgomery also had questions about the wording and construction of FAQ #11 and use of the word "preventing." Dr. Schottenstein commented that, as noted by Ms. Anderson, the wording substantially reflects the wording in Rule 4731-23-02. Ms. Montgomery felt that the wording of the FAQ should be modified somewhat so that it would be clear to a physician reading it.

Rather than delaying approval to next month, Ms. Montgomery suggested that the Board approve the FAQ document, with the understanding that there may be slight changes to FAQ #3 and FAQ #11. Ms. Anderson and Ms. Montgomery will work together on those edits.

Ms. Montgomery moved to accept the FAQ document as drafted, with an understanding that there may be slight changes of wording on FAQ #3 and FAQ #11, and that this will constitute final approval by the Board. Dr. Johnson seconded the motion. All members voted aye. The motion carried.

Light-Based Medical Device Rules

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Ms. Anderson stated that House Bill 442 eliminates licensure for cosmetic therapists, effective April 12, 2021. Currently under Rule 4731-18-03, licensed cosmetic therapists can perform laser hair removal as delegated by a physician. This rule, along with other light-based medical device rules, are currently pending at CSI.

Ms. Anderson stated that in order for cosmetic therapists to continue performing laser hair removal after April 12, there are three options:

- A change in statute, which is unlikely to occur before April 12.
- An emergency rule.
- Waive enforcement of the rule for cosmetic therapists.

Regarding an emergency rule, Ms. Anderson stated that a draft emergency rule has been provided to Board members. Ms. Anderson stated that an emergency rule would require approval by the Governor and would only be good for 120 days. Since the emergency rule would expire in 120 days, the Board would have to file the permanent rule simultaneously. The Board's next meeting is scheduled for April 14, two days after the effective date of House Bill 442. Discussions about an emergency rule have already begun with the Governor's office.

The proposed emergency rule would change the definition of a cosmetic therapist from someone who is currently licensed to someone who was licensed as of April 11, 2021. The emergency rule would also require cosmetic therapists to be approved by the delegating physician to perform the laser hair removal without a physician being onsite. The language on minimal standards violation in Paragraph G of the rule will be removed because the Board will no longer have jurisdiction over cosmetic therapists, and language is added to state that violation of Paragraph B or C constitutes the unauthorized practice of medicine.

Ms. Anderson also recommended updating the language with respect to physician assistants to remove references to supplemental utilization plans, which are no longer required by the Board. Language has been added to specify that the physician with whom the physician assistant has a supervision agreement would have to authorize the service.

Regarding the permanent rule, Ms. Anderson stated that a lot of work has hinged on what kind of supervision or training is necessary for physician assistants. A number of changes were recommended at the December 2020 meeting of the Board's Policy Committee. At the Policy Committee's direction, the matter was discussed at the January 2021 meeting of the Physician Assistant Policy Committee (PAPC).

The PAPC noted that under the Board's rules, before the light-based medical device can be used for non-ablative vascular lasers or for laser hair removal, the physician must have an initial in-person review with the patient to determine that the application of the laser is appropriate. After the initial application, the physician must have another in-person review before there are subsequent applications of the laser. The PAPC asked if the initial review could be delegated to the physician assistant and if the requirement could be completed via telemedicine, which would necessitate removing the word "in-person" in those sections. Ms. Anderson stated that she discussed this with Dr. Bechtel and Dr. Feibel. Dr. Bechtel had opined that a physician could safely perform the initial review via telemedicine.

Dr. Bechtel noted that these changes actually expands the ability to use lasers beyond physicians. Dr. Bechtel stated that cosmetic therapists and nurses have been allowed to perform laser hair removal, but non-physicians have never been allowed for use vascular lasers, so this is something new. Many physicians have expressed concern about non-physicians lasering the wrong lesions, like a skin cancer, which may have adverse outcomes. Dr. Bechtel appreciated these concerns, noting that other states that have allowed this have seen higher instances of scarring from laser treatments. Dr. Bechtel stated that it is critical to have a physician evaluate the patient before and after the first treatment to avoid complications and protect the public.

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Dr. Bechtel had no objections to the use of telemedicine to perform evaluations, noting the increased use of telemedicine in dermatology and the increased resolution of cameras and other equipment.

Ms. Anderson proposed removing the in-person requirements in Rule 4731-18-03, paragraphs (A)(3), (A)(4), (B)(3), and (B)(4), which would allow the physician to perform the initial and follow-up evaluation via telemedicine. In response to a question from Dr. Feibel, Ms. Anderson stated that if the pending telemedicine bill becomes law, that will take precedence over this rule.

Ms. Anderson continued that Rule 4731-18-04, paragraphs (B)(2) and (C)(2) contains language about phototherapy and photodynamic therapy. Again, the telemedicine issue has been raised, as well as whether a physician needs to perform the initial visit prior to allowing a physician assistant to administer the therapy. Ms. Anderson stated that Dr. Bechtel feels comfortable that a physician assistant would be able to apply phototherapy or photodynamic therapy without having the initial physician visits, and that it can be done via telemedicine.

Dr. Bechtel stated that phototherapy is commonly used to treat psoriasis and is very carefully controlled. Photodynamic therapy is a continuation of how pre-cancerous lesions are treated. In photodynamic therapy, a solution is painted on the skin, left in place for about an hour, and then exposed to a specific blue light for about 15 minutes. There is no change in the duration or intensity of the light; the application is very standard and consistent with each application. Dr. Bechtel felt that a physician assistant should be able to perform these tasks, especially working alongside a physician who is supervising them. Dr. Bechtel stated that this would not require an initial physician evaluation.

Ms. Anderson stated that paragraph (B)(5)(b) of the permanent rule would be different from the emergency rule with respect to cosmetic therapists. Those licensed as cosmetic therapists as of April 11, 2021, will continue to be able to perform laser hair removal. Those not licensed as of that date must complete a cosmetic therapy course of instruction with a minimum of 750 clock hours, which mirrors the current requirement, and receive a passing score on the Certified Laser Hair Removal Professional Examination, administered by the Society for Clinical and Medical Hair Removal.

Ms. Anderson stated that in case the timing of these rules do not work out as expect, she is asking for a waiver of enforcement for the cosmetic therapists if the emergency rule cannot be put in place in time.

In summary, Ms. Anderson requested the following:

- Explore the possibility of filing an emergency rule with an executive order.
- Approval of the draft emergency language.
- Approval of the amendments as outlined in the memo for the permanent rule.
- Approval to file permanent rules 4731-18-01 through 4731-18-04 as soon as they are released from CSI.
- Delegate to Dr. Bechtel as Board President the ability to make additional necessary changes to the emergency rule or permanent rule if needed between the March 2021 and April 2021 Board meetings.
- Waive enforcement if the emergency rule is not in place before April 12, 2021.

Dr. Johnson moved to approve Ms. Anderson's requests. Ms. Montgomery seconded the motion. All members voted aye. The motion carried.

ODH Vaccine Protocol

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Mr. Smith briefly reviewed the recent order issued by the Ohio Department of Health regarding volunteer COVID-19 vaccine providers. The protocols authorize allopathic physicians, osteopathic physicians, podiatric physician, physician assistants, and respiratory care professionals, with the scope of their respective licensure and according to the competencies set forth by the Board, to administer, deliver, or distribute the Pfizer or Moderna COVID-19 vaccines.

Mr. Smith continued that individuals who fall into the protocol would have to become registered volunteers and be actively deployed by a medical reserve corps unit in support of dispensing the vaccine. The protocol standardizes the training and procedures. Mr. Smith noted that the protocol is a 13-page document that has very granular detail on the different procedures, from information given during assessment to how to deal with adverse allergic reactions. The protocol also allows medical students, pharmacy interns, and nursing students who are sufficiently advanced in their education with the necessary competencies, as set forth by their licensing board. The protocol also states that personnel administering vaccines must receive comprehensive, competency-based training on both vaccine administration and recognition and management of any anaphylaxis.

The personnel must also comply with competencies set forth by their licensing board, and if the board does not set forth competencies then the personnel would have to meet the training requirements in the protocol order itself. Mr. Smith stated that there are training modules that, in lieu of the board setting competencies, the personnel would have to meet.

Mr. Smith stated that the order specifically tasks the Medical Board with setting competencies for physicians, physician assistants, respiratory care professionals, and medical students. If the Board does not wish to set competencies, the training modules mentioned in the order would be required for those individuals.

Mr. Smith briefly reviewed the three options outlined in his memo to the Board:

- Option 1: Require physicians, physician assistants, and respiratory care professionals to have an active license in good standing and not be under suspension or probation, and also complete the e-training modules; and require medical students to have at least two years of medical school and/or have medical school clinical experience within the last year of giving a vaccination of any kind.
- Option 2: Require no competencies beyond the e-training modules; and require medical students to have the competency of being in medical school for two years or having administered a vaccine in the last year.
- Option 3: No additional competencies beyond the e-training modules for the licensed professionals and the medical students.

Mr. Smith asked the Board to discuss the matter and choose one of these options, or develop an alternative option.

Dr. Reddy noted that only the Pfizer and Moderna vaccines are mentioned in the order. Mr. Smith responded that there is no official guidance from the Department of Health regarding the other vaccines. Mr. Smith stated that the Board may set forth competencies for the Pfizer and Moderna vaccines plus all future COVID-19 vaccinations if it wishes.

Dr. Schottenstein opined that due to the urgency of the need, the Board should proceed in such a way to facilitate getting as many vaccines delivered as possible in a safe manner. Dr. Schottenstein stated that he did not have a strong preference, but he would lean towards Option 3 in the interest of not creating roadblocks to people who are able to safely administer vaccines. Dr. Bechtel agreed.

Dr. Feibel noted that Option 1 specifically mentions that suspended physicians cannot administer the vaccine, whereas that is not mentioned in Option 3. Therefore, the implication seems to be that suspension physicians

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would be able to administer under Option 3. Dr. Schottenstein noted that the Department of Health order references individuals who are authorized to practice. This would not be relevant to medical students since they specifically mentioned. Dr. Schottenstein opined that suspended physicians would not be included since they are not authorized to practice. Dr. Bechtel agreed with Dr. Schottenstein. Mr. Smith stated that physicians under probation are authorized to practice, but there is a good argument that suspended physicians are not so authorized and this can be communicated to the Department of Health.

Dr. Rothermel stated that the phrase “active license” in Option 1 would seem to preclude anyone under suspension. Dr. Rothermel also stated that retired physicians who are being recruited for these efforts may not have an active license. Dr. Feibel agreed and stated that he would favor Option 1, with the understanding that it must be someone who has an active license in good standing or a retired physician who retired with an active license in good standing. Dr. Feibel agreed that physicians under probation should be included since they have an active license, but not suspended physicians.

Mr. Smith stated that Senate Bill 310 allows retired physicians whose license has expired to provide the COVID-19 vaccine until May 1.

Dr. Rothermel moved to require physicians, physician assistants, and respiratory care professionals to have an active license in good standing with the Medical Board and complete the e-training module as specified in the Department of Health Order to participate in COVID-19 vaccinations. Dr. Reddy seconded the motion. All members voted aye. The motion carried.

Mr. Smith asked if the Board wished to set forth competencies for medical students. The Board discussed this briefly and noted that medical students are not regulated by the Board. Mr. Smith stated that in the absence of competencies set forth by the Board, the requirement for medical students will default to the e-training modules in the order. Ms. Loucka stated that the Board will communicate to the Department of Health that medical students are not under the purview of the Medical Board.

Evaluation and Treatment Rules

Ms. Anderson stated that at its February 2021 meeting, the Compliance Committee recommended that dietitians, respiratory care professionals, radiologist assistants, and genetic counselors who are referred to a Board-ordered evaluation should be permitted under the Board’s rules to have an outpatient evaluation as massage therapists are. Proposed amendments to the Board’s rules would allow these additional licensees to have a 24-hour outpatient evaluation rather than a 72-hour inpatient evaluation. The proposed amendments would also allow those licensees to have outpatient treatment when they are ordered to treatment, which is also currently the case for massage therapists. For those in the One-Bite program, there would be an outpatient evaluation and then treatment based on an individualized treatment plan developed by the treatment provider. Finally, the proposed amendments remove references to cosmetic therapists since they will no longer be licensed by the Board as of April 12, 2021.

Dr. Rothermel expressed concern that those licensees, with the occasional exception of those in the One-Bite program, will always have outpatient treatment rather than treatment based on the evaluation and the recommendation. Ms. Anderson noted that this is currently the case for massage therapists and cosmetic therapists. To have treatment for all these licensees based on the recommendation of the treatment provider would be a change that the Board can discuss.

Dr. Bechtel recommended further discussion of this matter with the Compliance Committee. Ms. Montgomery agreed and stated that it can be discussed during the completion of today’s Compliance Committee meeting this afternoon.

Legislative Update

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Ms. Wonski stated that the Board's biggest priorities continue to be the budget proposal and the Interstate Medical Licensing Compact. The Board is also closely monitoring House Bill 122 regarding telehealth and Senate Bill 55 regarding massage therapist licensure, among several other bills.

House Bill 110: Ms. Wonski reported that the Board's initial budget request was granted in the Executive version of House Bill 110. The legislative team will continue to advocate for that request and closely monitor the bill through the remainder of the process.

Ms. Wonski stated that she and Ms. Loucka have met over the last month with legislators on the finance committees and subcommittees in both chambers to answer any question they may have. Ms. Loucka testified last month for the House Finance Subcommittee on Health and Human Services. The next step is for the House version of the bill to be passed and sent to the Senate for its committee process. Ms. Wonski will keep the Board updated as the bill moves through the many steps.

Senate Bill 6: Ms. Wonski stated that this bill will require Ohio to join the Interstate Medical Licensure Compact (IMLC). In the last few months, Ms. Loucka and Ms. Wonski have met with the bill's sponsor and co-sponsor and continue to reiterate that this bill will present operational challenges and could slow the licensure process for out-of-state applicants.

Marschall Smith, Executive Director of the IMLC, provided a presentation to Licensure Committee this morning and answered questions. Ms. Wonski noted that the bill's language is a contract and cannot be changed, but amendments may be added to allow for some flexibility around implementation of the legislation. Ms. Wonski stated that the Board's proposed amendments to extend the implementation time from six months to one year and for appropriations for start-up costs were approved and added to the bill's language this morning in the Senate Health Committee. The Board appreciates the work of bill sponsor Senator Roegner, Committee Chair Dr. Huffman, and their staff for adding the amendment.

House Bill 122: Ms. Wonski stated that this bill would allow health care professionals to provide telehealth services.

Senate Bill 55: Ms. Wonski stated that this bill will require individuals practicing non-therapeutic massage within the state to obtain a license from the medical board. The intention of the bill is to curb illicit massage practices in Ohio.

FAQ Document: Ms. Wonski stated that an FAQ document addressing questions about the elimination of cosmetic therapist and Oriental medicine practitioner licensure elimination has been included in the meeting materials.

Controlling Board: Ms. Wonski reported that the Controlling Board has approved the Medical Board's request to extend the contract with Ms. Shamansky to provide hearing examiner services. The Board can continue to utilize Ms. Shamansky's services for the remainder of the fiscal year.

Senate Bill 9: Mr. Gonidakis noted that this bill, which puts additional restrictions on agency rule-making, will be voted out of the Senate today. Mr. Gonidakis asked if the bill is applicable to the Medical Board. Ms. Wonski replied that in its current form, Senate Bill 9 addresses on Executive agency; boards and commissions are exempt. Ms. Wonski has included this bill on the legislative tracker and it is being monitored to see if boards and commissions are included in later versions.

COMMITTEE BUSINESS

Dietetics Advisory Council Report

Ms. Reardon stated that the Dietetics Advisory Council met on March 8. Ms. Wonski provided an update on pertinent legislation. The Council discussed proposed updates to evaluation requirements for allied

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professionals. The Council also discussed Rule 4759-4-04, which was amended at the request of the Ohio Academy of Nutrition and Dietetics (OAND) regarding non-registered dietitians' continuing education requirements.

Ms. Reardon noted that the terms of some Council members will expire soon. The staff will work with the OAND to obtain applications for new members for review.

Respiratory Care Advisory Council Report

Dr. Kakarala stated that the Respiratory Care Advisory Council met on March 9. Ms. Wonski provided an update on pertinent legislation. The Council discussed the proposed updates to evaluation requirements for allied professionals, changing the 72-hour inpatient evaluation to a 24-hour outpatient evaluation. The Council also discussed the recent Department of Health order that included respiratory care professionals as COVID-19 volunteer vaccine providers.

The Council has three members whose terms will expire soon. The staff is working with the Ohio Society of Respiratory Care to get nominations for new members.

Medical Marijuana Expert Review Committee Report

Dr. Bechtel stated that the Medical Marijuana Expert Review Committee met last month and discussed petitions to add qualifying conditions for treatment with medical marijuana. 30 petitions were received in the petition window, which were divided into four categories:

- Category 1, petition does not meet the statutory and rule requirements for a petition.
- Category 2, petition almost meets requirements, but has minor deficiencies that the Board may be able to work with.
- Category 3, petition is for a condition that is already covered.
- Category 4, petition meets requirements for further review.

Dr. Bechtel noted that the Committee decided to recategorize some of the petitions categorized by the staff. The petitions in Categories 1 and 3 will be presented at the next Board meeting with a recommendation that they be rejected. Dr. Bechtel noted that there were no petitions in Category 2.

For Category 4, the Committee will seek an expert on neurologic conditions to review the petitions for restless leg syndrome, Huntington's disease, and spasticity and persistent muscle spasms. An expert in palliative care or a similar field will be sought for review of the petitions on terminal illness. For the petitions for autism spectrum disorder and panic disorders with agoraphobia, the Committee decided to proceed without expert review because the Board has considered these conditions in the past; the Board will act as its own expert for these petitions.

The Committee established a public comment period for February 11 to February 26, 2021, for the petitions in Category 4. The Committee will meet this afternoon to discuss the comments that were received.

The Committee decided to send a caution letter to physicians who hold a Certificate to Recommend the Medical Use of Marijuana (CTR) who have not responded to the physician CTR survey as required.

FSMB Recommendations Review Committee Report

Dr. Schottenstein stated that the FSMB Recommendations Review Committee discussed proposed statutory language regarding the addition of a consumer member to aid in supervision of investigations. The draft language requires Board approval of consumer member participation. The language appears to provide

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flexibility to specify consumer member involvement in either specific steps of the process or approval by category of complaint, such as sexual misconduct complaints. The Board President would have flexibility in determining which consumer member to appoint. The Board may rescind the authorization if needed.

After thorough discussion, the Committee reached a consensus that the draft language provides maximum flexibility going forward. Consumer members may be appointed one at a time or rotated through. Potentially, a consumer member could be appointed to one category of complaints while another consumer member could be appointed to another.

If the Board concurs with the Committee, the language will go to interested parties for comment. The language may be included in the package of sexual misconduct legislative proposals that has been previously approved.

Ms. Montgomery moved to approve the proposed statutory change to 4731.22(F), ORC, to allow the addition of a consumer member into the supervision of investigations as drafted. Mr. Gonidakis seconded the motion. All members voted aye. The motion carried.

Compliance Committee Report

Ms. Montgomery stated that this morning's meeting of the Compliance Committee was cut short due to technical difficulties. The Committee will conclude its meeting this afternoon following the Board meeting.

Ms. Montgomery stated that Ms. Anderson gave a very thorough overview comparing the 72-hour inpatient evaluation to the 24-hour outpatient evaluation. The Committee concluded that the efficacy of the two evaluations are substantially equal. Ms. Montgomery stated that if the lower-paid professions can utilize the outpatient evaluation, it will perhaps be more fair with more people in trying to address their problems. Ms. Montgomery stated that the cost of the inpatient evaluation was so insurmountable for the lower-paid professions that they would often withdraw their requests for licensure. The Committee will discuss this further next month and ask the Board to adopt it.

Ms. Montgomery continued that the Committee discussed legislative proposals to require licensees to immediately report when they have committed a violation that they would have to disclose on their renewal application. There is also a desire to explore whether the Board can exempt applicants' personal backgrounds on mental health and substance abuse from public records. Currently, many applicants do not disclose and the Board finds out through other means, which is not ideal.

The Committee also discussed the letter from the Medical Associations Coalition (MAC) expressing concerns about the language of some questions on the Board's licensure and renewal applications. The Committee discussed whether the Board should maintain the five-year "lookback" period or move to a two-year lookback for the questions on mental health and substance abuse. That discussion was ongoing when the meeting was abruptly ended.

Finance Report

Fiscal Update

Dr. Schottenstein stated that revenue for January 2021 was \$321,115, a significant drop from the previous month, which was itself a drop from the month before. Dr. Schottenstein noted that the legislature has extended the licensure renewal deadline again, this time to July 1, so this reduction in revenue is once again a function of licensees delaying their renewal. This reduction will likely be rectified as the end of the fiscal year approaches and licensees renew again.

Dr. Schottenstein continued that the Board's cash balance is substantially down from last month at \$5,943,016, but is still high by historical comparison. This should act as a cushion over the next few months with regard to the anticipated decrease in revenue caused by the license renewal deadline extension. This lost revenue

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should be recouped later in the fiscal year, just as happened with the previous extension. There are about 13,600 licensees, including about 8,500 physicians, who were due to renew by April 1 but took advantage of the license renewal deadline delay. That represents about \$2,500,000 in revenue. The Board is hopeful that not all these licensees will wait until June 30 to renew. The Communications staff will send emails to those licensees every two to four weeks until July 1 encouraging them not to wait until the last minute.

Expenditures

Dr. Schottenstein stated that the Board only just received the invoice from the Department of Administrative Services (DAS) for the last four or five months of rent and various other services they provide. This was reflected in the January 2021 figures as a spike in expenditures. The total charge from DAS was \$229,000. This, combined with the anticipated drop in revenue due to the renewal deadline extension, contributed to the negative impact on the Board's cash balance. There will be a similar spike in the February 2021 figures because the Board just paid a \$330,000 invoice for e-License services for DAS. Dr. Schottenstein noted that this is a yearly charge. In addition, credit card processing fees continue to trickle in. Dr. Schottenstein stated that the credit card vendor has been consistently late in invoicing and the Board has express its concerns about that. Payroll and other spending is otherwise fairly consistent.

Fining Update

Dr. Schottenstein stated that the Board did not receive any fine revenue in January, but it did levy \$59,000 in disciplinary fines. This includes two \$18,000 fines assessed in the context of permanent revocation of licensure, so those will probably go to collections. One licensee was assessed an \$18,000 fine and has already paid it.

Other Finance Items

Dr. Schottenstein stated that Ms. Loucka testified before the House Finance Subcommittee on Health and Human Services regarding the Board's budget proposal in House Bill 110. Dr. Schottenstein stated that he viewed the testimony and thought it was great.

Dr. Schottenstein stated that the Controlling Board approved Ms. Shamansky's increased limit on her contract to provide hearing examiner services.

Licensure Committee Report

Interstate Medical Licensure Compact

Dr. Saferin stated that the Committee had a presentation from Marschall Smith, Executive Director of the Interstate Medical Licensure Compact. The Committee members asked Mr. Smith many questions and expressed some concerns. This discussion will continue.

Resumption of Enforcement of Continuing Education Requirements

Dr. Saferin stated that the Committee has recommended resuming the enforcement of continuing education requirements, which had been suspended due to the COVID-19 pandemic.

Dr. Rothermel moved to approve resuming enforcement of continuing education requirements. Dr. Kakarala seconded the motion. All members voted aye. The motion carried.

Licensure Application Questions

Dr. Saferin stated that the Committee voted to recommend approval of proposed revisions to licensure application questions, as presented in the meeting materials.

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Dr. Johnson moved to approve the proposed questions for the licensure applications. Dr. Kakarala seconded the motion. All members voted aye. The motion carried.

Licensure Application Reviews

Motion to approve the Licensure staff recommendations for the requests of Marian Bachmeyer; Olubunmi Esan, M.D.; Elizabeth Marchese; David J. Park, M.D.; Girish Raghunathan, M.D.; Linda Rowell; and Holly Ward:

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

The motion carried.

COMPLIANCE

Reinstatement Request

Christopher Vashi, M.D.

Motion to approve the request for the reinstatement of the license of Christopher Vashi, M.D., subject to the probationary terms and conditions as outlined in the August 14, 2019 Board Order for a minimum of five years:

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

The motion carried.

State Medical Board of Ohio Meeting Minutes – March 10, 2021

Office Conference Review

Motion to approve the Compliance staff's Reports of Conferences for February 8 and 9, 2021:

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

The motion carried.

Probationary Requests

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

- a) Julie M. Alderson, D.O.: Request for reduction in psychiatrist treatment to once every 12 weeks.
- b) Susan Donna Lawrence, D.O.: Request for approval of Tiffany L. Bell, D.O. to serve as the monitoring physician; and determination of frequency and number of charts at ten charts per month.
- c) Steve M. Leung, M.D.: Request for release from the terms of the March 9, 2016 Step II Consent Agreement.
- d) Bryan D. Loos, M.D.: Request for approval of *Intensive Course in Medical Ethics, Boundaries and Professionalism*, offered by Case Western Reserve University, to fulfill the professional ethics/boundaries course requirement.
- e) Colin S. Moorhead, M.D.: Request for approval of *PBI Medical Ethics and Professionalism: An Ethics Protection, Violation Prevention Course*, offered by University of California, Irvine School of Medicine, to fulfill the personal/professional ethics course requirement.
- f) Ariane S. Neyou, M.D.: Request for release from the terms of the November 10, 2020 Consent Agreement.
- g) James E. Prommersberger, D.P.M.: Request for approval of Irina Gross, D.P.M., to serve as the new monitoring physician.
- h) Vern D. Reynolds, D.O.: Request for release from the terms of the January 13, 2021 Consent Agreement.
- i) Scott R. Welden, M.D.: Request for approval of the proposed practice plan; approval of Bradley R. Wolf, M.D., to serve as the monitoring physician; and determination of the frequency and number of charts to be reviewed at 10 charts per month.
- j) Aubrey D. Winkler-Krueger, P.A.: Request for release from the terms of the March 14, 2018 Consent Agreement.

State Medical Board of Ohio Meeting Minutes – March 10, 2021

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

The motion carried.

ADJOURN

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

The meeting adjourned at 1:41 p.m.

We hereby attest that these are the true and accurate approved minutes of the State Medical Board of Ohio meeting on March 10, 2021, as approved on April 14, 2021.

Mark Bechtel MD

Mark Bechtel, M.D., President

Kim G. Rothermel MD

Kim G. Rothermel, M.D., Secretary

(SEAL)





State Medical Board of Ohio

FSMB RECOMMENDATIONS REVIEW COMMITTEE MEETING

March 10, 2021

via live-streamed video conference

<p>Members: Michael Schottenstein, M.D., Chair Kim Rothermel, M.D. Bruce Saferin, D.P.M. Robert Giacalone, R.Ph., J.D. Betty Montgomery Jonathan Feibel, M.D.</p> <p>Other Board Members present: Mark Bechtel, M.D. Yeshwant Reddy, M.D.</p>	<p>Staff: Stephanie Loucka, Executive Director Kimberly Anderson, Chief Legal Counsel Nathan Smith, Senior Legal and Policy Counsel Angela Canepa, Deputy Director of Investigations, Enforcement, and Compliance Julie Williams, Public Information Officer Benton Taylor, Board Parliamentarian</p>
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The meeting was called to order at 8:00 a.m.

Minutes Review

Dr. Saferin moved to approve the draft minutes of the Committee's February 10, 2021 meeting as written. Mr. Giacalone seconded the motion. All members voted aye. The motion carried.

Recommended Statutory Language Regarding Consumer Member

Dr. Schottenstein stated that draft legislative language for the addition of a consumer member to aid in the supervision of investigations has been provided for the Committee's review. The draft language requires Board approval of consumer member participation. The language appears to provide flexibility regarding the ability to specify consumer member involvement in either specific steps in the process or approval by category, such as for sexual misconduct investigations. The language allows the Board President flexibility in determining which consumer member is appointed. Finally, the language allows the Board to rescind the authorization of consumer member participation if needed.

The Committee discussed the draft language thoroughly. In response to Dr. Feibel, Ms. Loucka confirmed that the Board can vote to appoint a consumer member to a category of complaints, such as sexual misconduct complaints or minimal standards complaints, and that would remain effective until the Board chose to rescind that vote. Ms. Montgomery agreed that the legislative language should be very broad so that the Board can have a great deal of flexibility in implementing and managing the process.

Responding to a question from Dr. Schottenstein, Ms. Loucka stated that it was contemplated that one consumer member would be assigned as opposed to two, though the language allows flexibility for the Board to appoint two consumer members to a case if it wishes to. Ms. Loucka did not foresee the

Board appointing two consumer members to a case that since that would remove another consumer member from the final vote if the matter were to reach the level of formal action. Ms. Loucka also affirmed that the language would allow the Board to appoint one consumer member to participate in one category of complaints and another consumer member to participate in another category of complaints.

Several Committee members asked if the language should clarify that one or more consumer members may be appointed to a case. Ms. Loucka opined that the current draft language would allow for that, but she and the staff will review the Committee's comments and discuss the matter.

Ms. Loucka stated that if the full Board approves the draft language today, it will be included in the Board's legislative package on sexual misconduct which will be sent to stakeholders and interested parties for input.

Dr. Schottenstein commented that he is very happy with the draft language, which addresses the issues the Committee hoped it would.

Dr. Saferin moved to recommend that the Board approve the language as drafted. Dr. Rothermel seconded the motion. All members voted aye. The motion carried.

Adjourn

Dr. Saferin moved to adjourn the meeting. Ms. Montgomery seconded the motion. All Committee members voted aye. The motion carried.

The meeting adjourned at 8:13 a.m.

bt



State Medical Board of Ohio

MEDICAL MARIJUANA EXPERT REVIEW COMMITTEE MEETING

March 10, 2021

via live-streamed video conference

Members: Mark Bechtel, M.D., Chair Amol Soin, M.D. Robert Giacalone, R.Ph., J.D. Michael Schottenstein, M.D. Yeshwant Reddy, M.D.	Staff: Stephanie Loucka, Executive Director Kimberly Anderson, Chief Legal Counsel Brandi Dorcy, Communications Liaison Nathan Smith, Senior Legal and Policy Counsel Chelsea Wonski, Director of Legislative Affairs Jerica Stewart, Communications & Outreach Administrator Julie Williams, Public Information Officer Benton Taylor, Board Parliamentarian
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The meeting was called to order at 2:05 p.m.

Minutes Review

Dr. Soin moved to approve the draft minutes of the Committee's February 10, 2021 meeting as drafted. Dr. Reddy seconded the motion. All members voted aye. The motion carried.

Expert Process Update

Dr. Bechtel stated that the Committee members have received the *curriculum vitae* of Robert Albright, M.D., who is under consideration to serve as an expert to review Category IV petitions to add qualifying conditions for treatment with medical marijuana. Dr. Bechtel briefly reviewed Dr. Albright's qualifications and noted that he is board certified in both neurology and in hospice and palliative medicine. Dr. Reddy felt that the Board is lucky that Dr. Albright, with his expertise and unique experience, is willing to come forward and be an expert reviewer. Dr. Bechtel agreed and added that Dr. Albright also holds a Certificate to Recommend the Medical Use of Marijuana.

Dr. Soin moved to accept Dr. Albright to review the petitions to add Huntington's disorder, restless leg syndrome, spasticity and spasms, and terminal illness to the list of qualifying conditions to be treated with medical marijuana. Dr. Schottenstein seconded the motion. All members voted aye. The motion carried.

Public Comment Review and Discussion

Dr. Bechtel stated that public comments on the Category IV petitions were included in the meeting materials. Comments from Nationwide Children's Hospital focused on opposition to adding autism and anxiety to the list of qualifying conditions. Specifically, Nationwide Children's Hospital brought forth concerns that in pediatric patients, medical marijuana could cause worsening of several psychiatric conditions and could have a long-term negative impact on cognition, intelligence quotient,

ability to concentrate, and problem-solving. There was also concern for obesity and decline in personal engagement later in life for those patients.

Dr. Bechtel continued that, as previously pointed out by Dr. Schottenstein, children and adults with autism often have difficulty expressing themselves and may have trouble communicating feelings of discomfort or being harmed. Dr. Bechtel recalled that Nationwide Children's Hospital also opposed similar petitions last year, along with Cincinnati Children's Hospital and the Director of the Ohio Department of Mental Health and Addiction Services. Dr. Bechtel also noted that some of the comments from physicians were in favor of approving the petitions for autism and anxiety, but limited in scope. There were also many comments from the public.

Dr. Schottenstein stated that the comments from the public on autism and anxiety were heart-felt and heartbreaking. Dr. Schottenstein understood that patients and families are truly suffering from the effects of these conditions. Dr. Schottenstein further stated that conventional treatment is lacking in these areas and many patients have had minimal benefit and substantial side-effects from conventional treatment. Dr. Schottenstein stated that he would never lightly reject a petition to add a qualifying condition, but he wanted to be careful that his concern for these patients does not sway him into approving something that has inadequate evidence of benefit and substantial risk of side-effects. Dr. Schottenstein was very mindful of the comments received from proponents of adding these conditions, as well as the comments from Nationwide Children's Hospital. Dr. Schottenstein felt that the Board should have a sense that medical marijuana is as good as or better than conventional therapies before approving it.

Dr. Bechtel agreed with Dr. Schottenstein. Dr. Bechtel stated that autism impacts entire families and conventional therapies are not always satisfactory, but the Board must be cautious not to approve something that could have significant detrimental effects to that population of patients. Upcoming clinical studies looking at medical marijuana may provide additional insight and guardrails on how to move forward on this issue.

Mr. Giacalone agreed with Dr. Bechtel and Dr. Schottenstein, stating that these families deal with significant issues. Mr. Giacalone noted that one physician among the public commenters, Douglas Woo, M.D., made positive comments on the petition to approve autism, but his comments were anecdotal and referred to only one individual. Mr. Giacalone stated that it is difficult to balance the potential benefits against the long-term negative effects on autistic children, noting that one child may have a beneficial effect while ten children have a detrimental effect. Mr. Giacalone stated that the Board sympathizes with the parents and their children, but it does not want to make their situation worse. Mr. Giacalone hoped that more studies are conducted that find some benefit for these patients.

Dr. Reddy also sympathized with the families and children with autism, but stated that the Board cannot approve something that has not been scientifically proven to be helpful just because there is no proper treatment currently. Dr. Reddy expressed concern about what medical marijuana does to a young brain later in life, and he therefore did not feel comfortable approving that treatment for autism.

Dr. Bechtel noted one comment from Frederick Slezak, M.D., who felt that the qualifying conditions for treatment with medical marijuana should be in more generalized categories rather than specific diagnoses. Dr. Bechtel recalled that Dr. Reddy had made similar comments previously. Dr. Bechtel stated that the Board must follow the statutes, but opined that it may be good from an organizational standpoint to put the qualifying conditions into categories going forward.

Dr. Schottenstein agreed that it would make sense in many ways to allow for broad categories. However, statute 4731.302, Ohio Revised Code, reads, “A petition shall not seek to add a broad category of disease or conditions.” Dr. Soin questioned whether it is productive to discuss categorizing the qualifying conditions unless there is a change in the statute. Dr. Bechtel agreed that the statute is clear, although he felt it would be a good approach and he appreciated Dr. Slezak’s comments.

Dr. Schottenstein stated that he is also respectful of the legislative intent in not including broad categories. Possibly, the legislature was concerned about categories becoming so broad that they would be all-encompassing and allow areas of treatment that the legislators would not otherwise be comfortable with.

Dr. Bechtel stated that the Committee will wait for the expert reviews of the other Category IV petitions and then have a formal vote on the petitions for autism and panic disorders with agoraphobia. Dr. Bechtel asked Ms. Dorcy to provide the Committee members with any pertinent testimony from previous experts from last year with regard to those conditions.

Ms. Loucka stated that Dr. Albright has been asked to complete his expert reports by the end of April so that the Committee can discuss them at its May 12 meeting.

Petition Rejections

Dr. Bechtel stated that this afternoon the Board will be asked to reject the petitions in Category I and Category III, and to inform the petitioners in Category III that the conditions may already be covered. The Committee will await the expert reports for Category IV petitions and then make recommendations on those to the full Board. The Board will serve as its own expert for the petitions for autism and panic disorder with agoraphobia since the Board has already seen expert opinions on those conditions in the past.

Dr. Schottenstein commented that when the Board rejects the petitions in Category III, it should be made very clear that reason for the rejection is that the conditions are already qualifying conditions and can already be treated with medical marijuana. Dr. Bechtel agreed that that should be made very clear.

Adjourn

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

The meeting adjourned at 2:28 p.m.

bt