



**State Medical Board of Ohio Meeting Minutes
November 10, 2020**

Michael Schottenstein, M.D., President, called the video conference meeting to order at 10:05 a.m. with the following members present: Mark A. Bechtel, 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.; Betty Montgomery; Sherry Johnson, D.O.; and Jonathan Feibel, M.D.

MINUTES REVIEW

Motion to approve the minutes of the October 14, 2020 Board meeting, as drafted:

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

The motion carried.

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: Omar Almusa, M.D.; Kang Lu, M.D.; James Thomas Murphy, M.D.; and Jada Ransome, L.M.T. A roll call was taken:

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

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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. 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. 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 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. 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.

Omar Almusa, M.D.

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

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

Dr. Almusa was represented by his attorney, Brandon Smith.

Mr. Smith stated that it became clear in Dr. Almusa's hearing that this is not a straight-forward conviction matter. Rather, the convictions arose from Dr. Almusa's addiction. Accordingly, Dr. Almusa asks the Board to

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consider the disciplinary guidelines governing impairment cases prior to imposing a sanction. Mr. Smith stated that the impairment guidelines more closely line up with the facts of Dr. Almusa's case than do the conviction guidelines.

Dr. Almusa stated that the Assistant Attorney General will outline the criminal conviction to which he pleaded guilty. Dr. Almusa stated that, unfortunately, everything she will say is true. Dr. Almusa stated that his actions led him to this reckoning today. Dr. Almusa and his former colleague wrote narcotic prescriptions for each other, leading Dr. Almusa to be charged with unlawful distribution and health care fraud. Dr. Almusa stated that he truly regrets his actions. Dr. Almusa stated that he never sold or traded pills for money or favors. Instead, Dr. Almusa undertook these actions to feed his addiction. Dr. Almusa stated that his conviction is only part of his story and he welcomed the privilege of sharing the rest with the Board today.

Dr. Almusa continued that he was diagnosed with Crohn's disease 26 years ago in December 1994 and he has struggled with the related pain since that time. Dr. Almusa stated that in July 2014, after seven years of working overnights and with near constant pain from his Crohn's disease, his judgment was compromised and he broke the law. In 2014, at the height of the opioid epidemic, Dr. Almusa was no longer prescribed opioids to help manage his pain. Dr. Almusa commented that physicians were rightly shying away from opioids at that time in order to address a worsening public health crisis. Unlawfully, Dr. Almusa continued to manage his pain using the same medications because they provided significant relief from both the pain and the gastrointestinal symptoms. Dr. Almusa had rationalized that he was using the same dosages the had been prescribed to him previously, 30 mg of hydrocodone daily. Dr. Almusa stated that he had thought his actions were somehow, in a very twisted way, reasonable or justifiable.

In recovery now, Dr. Almusa has learned that these were rationalizations and signs of his addiction. Dr. Almusa's recovery began shortly before his indictment on February 24, 2018, when he stopped using hydrocodone altogether. Following his indictment and with the help of friends and family, Dr. Almusa attended rehabilitation. Following rehabilitation, Dr. Almusa began regularly attending Alcoholics Anonymous (AA), Narcotics Anonymous (NA), and working with a therapist. Dr. Almusa now has an AA sponsor and has also found personal spiritual guidance from Monsignor Ronald Lengwin of the Catholic Church in Pittsburgh. Dr. Almusa enrolled in the Pennsylvania Physicians Health Program and submitted to extensive monitoring even though it would have no bearing on his sentencing. Dr. Almusa's family, friends, the Church, and the fellowship of recovery are supporting his efforts to live a pro-social, sober life.

Dr. Almusa stated that he is in a good place now. Dr. Almusa's treating physicians are aware of his illnesses and are working to help him manage them appropriately while in recovery. Dr. Almusa stated that he has no secrets anymore and he has worked hard to share the message of his story with others, especially physicians. Dr. Almusa will talk about his story at the December 1, 2020 Radiological Society of North America Annual Meeting, to be potentially viewed by as many as 60,000 attendees worldwide.

Dr. Almusa humbly asked the Board for the privilege of practicing medicine once again in order to benefit others. Dr. Almusa stated that he has worked hard on his recovery and today he is repentant and hopeful. Dr. Almusa stated that the twelfth step is about giving back, and as part of his recovery he hoped the Board will permit him a chance to do that.

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

Ms. Snyder stated that, as will all bootstrap cases originating from out-of-state, she encouraged the Board to put more weight on the court records than on the testimony, which is unrefuted. Ms. Snyder noted that, notwithstanding the testimony, Dr. Almusa does not have a current license or a pending application for a license. Therefore, the Board cannot grant Dr. Almusa's request to impose impairment terms instead of revoking the expired license. Ms. Snyder stated that without a license or application, there is nothing onto which impairment terms can be imposed. Because Dr. Almusa's Ohio medical license expired in 2015, the Board is more limited than if there was an active license.

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Ms. Snyder supported the Report and Recommendation.

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

Motion	Dr. Johnson
2 nd	Mr. Gonidakis

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

Ms. Montgomery commented that Dr. Almusa has a very impressive resumé and he made a compelling argument in his testimony. Ms. Montgomery stated that it is regrettable what has happened to Dr. Almusa and what he has allowed to happen to himself. However, Ms. Montgomery stated that she will support the Proposed Order, not because Dr. Almusa has not done wonderful things or that his resumé does not speak soundly about him, but because she felt the law prevails in this matter.

Dr. Schottenstein observed that defense counsel stated today and in the written objections that this is an impairment case and that the felony convictions are secondary to the impairments and were a direct consequence thereof. However, Dr. Schottenstein's view of this case is that in 2014, in the absence of addiction, Dr. Almusa rationalized a choice to engage in criminal behavior. Dr. Almusa was not in the grips of addiction when he embarked on a scheme to illegally dispense Schedule II controlled substances; Dr. Almusa's substance abuse disorder came later after he had been using opioids on a regular basis. Dr. Almusa testified that he had "drifted" from managing his Crohn's symptoms to signs that he had a substance abuse problem, and by the time he recognized those signs the substance use disorder had already progressed. Inexplicably, Dr. Almusa did not seek out a specialist to treat his condition. By participating in this scheme with a colleague, Dr. Almusa arguably worsened his colleague's addiction.

Dr. Schottenstein also noted that Dr. Almusa has been compliant with his substance use treatment program, has been sober for almost three years, and has indicated that he would like the opportunity to work in Ohio. Dr. Schottenstein echoed Ms. Snyder's comments that Dr. Almusa does not have an active license to suspend. Dr. Almusa's Ohio license expired in 2015, there is no pending application at this time, and the Board cannot simply waive the application process. If Dr. Almusa was within the two-year window for renewal after license expiration, the Board could grant the renewal and suspend the license with standard conditions for impairment cases, but that is not an option since his license expired more than two years ago.

Dr. Schottenstein stated that a non-permanent revocation of Dr. Almusa's expired license still allows him a path to licensure in Ohio. If and when Dr. Almusa applies, he will likely receive a new citation based on the current Board action, and at that point he can present evidence of his sobriety and the steps he is taking to maintain it. Dr. Almusa could enter into a consent agreement at that time. Dr. Schottenstein commented that if he were contemplating such a consent agreement for Dr. Almusa in the future, he would consider an ethics course and a permanent limitation from prescribing Schedule II medications, in addition to the standard conditions for reinstatement in impairment cases. Also, because it is going on three years since Dr. Almusa last practiced medicine, a physician reentry program such as CPEP or PACE and a practice plan could be considered. For the current action, Dr. Schottenstein favored the Proposed Order.

Mr. Giacalone agreed with the comments of Ms. Montgomery and Dr. Schottenstein. Concerning any future consent agreement if Dr. Almusa applies for relicensure, Mr. Giacalone opined that there should be a permanent limitation from prescribing both Schedule II medications and narcotics since some narcotics are not Schedule II controlled substances.

Vote on Dr. Johnson's motion to approve:

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

The motion carried.

Kang Lu, M.D.

Dr. Schottenstein directed the Board's attention to the matter of Kang Lu, M.D. No objections were filed. Ms. Shamansky was the Hearing Examiner.

Dr. Schottenstein stated that there has been a last-minute request from Dr. Lu to submit a written copy of his verbal remarks. Mr. Wilcox stated that he had no objection to Dr. Lu's request.

Motion to accept a written copy of Dr. Lu's verbal remarks:

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

The motion carried.

A copy of Dr. Lu's written comments was emailed to the Board members.

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

Dr. Lu stated that he will read from his prepared statement:

In this period of national uncertainty, obfuscation of the Truth, and an increasing skepticism for traditional institutions, academia, the news, and even for our medical profession, it is imperative that we as physicians remain true to our intellectual foundation as scientist and critical thinkers. We must not allow presumptions to be accepted without scrutiny, and we must demand the Truth and the proofs therefor.

Truth is the agreement of thought and reality; and discovery is the process of arriving at the Truth according to the persuasion of one's own intellect, by studying the questions pertinent to the cause. Discovery, or "the right to be informed" is a fundamental due process requirement

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secured by the national and state constitutions. In *Greene v. McElroy*, the Supreme Court declared: "Where governmental action seriously injures an individual, ... the evidence used to prove the Government's case must be disclosed to the individual so that he has an opportunity to show that it is untrue. ... [These rights apply] ... not only in criminal cases, ... but also in all types of cases where administrative and regulatory actions were under scrutiny."

Therefore, in accordance with Article I § 10 of the Ohio Constitution, I respectfully "demand the nature and cause of the accusation[s] against" me to be disclosed by the prosecuting attorney, not for the purpose of relitigating a prior case, but to simply reveal what should already be on the record.

Because a defect of "subject-matter jurisdiction...can never be forfeited or waived," and "however late this objection has been made...it must be considered and decided...any proceeding without the limits prescribed is *coram non judice*, and its action a nullity," and because "the lack of jurisdiction ... renders [an] order a complete nullity and it may be 'impeached directly or collaterally by all persons, anywhere, at any time, or in any manner,'" I respectfully demand a plain, substantial and formal statement of the subject matter jurisdiction asserted by the prosecutor, in writing and for the record. Specifically:

It is alleged that I was "arrested" for failure to submit to police officers in 2014 and 2015; but, the 4th Amendment requires that the seizure of person be supported by a warrant or probable cause. Can the prosecutor produce a warrant or a statement of probable cause? Or show that an exception to the Constitution was in effect?

It is alleged that I was convicted of "importing firearms" into Canada in 2018; but, the Canadian Customs Act clearly defines "firearms" as a species of "goods" or "merchandise" for trade, sale, distribution, or cross-border commerce. After an exhaustive investigation, the Canadian officials found nothing to suggest that I had any unlawful intention or had engaged in an unauthorized commercial activity, and I was released the very next day. Can the prosecutor produce any published law to show that the subject matter jurisdiction of the Customs Act (whether U.S. or Canadian) applies to personal belongings, such as the arms I kept for the "security of the person," in accordance with the Canadian Charter of Rights and Freedoms or the United States Constitution?

It is also alleged that I failed to disclose these so-called "crimes" to the medical boards; but, according to the Supreme Court, "A crime, as a compound concept, generally constituted only from the concurrence of an evil-meaning mind with an evil-doing hand..." in the causation of actual harm. Not only has no one accused me of any harm, the courts have remarked that "The claim and exercise of a constitutional right cannot be converted into a crime" and, "There can be no sanction or penalty imposed because of the exercise of a constitutional right."

Can the prosecutor identify facts on record showing that I harmed anyone, or how my conduct exceeded the constitutional rights belonging to me? Can the prosecutor produce the legislated definition of "crime," so as "To satisfy due process requirement with sufficient definiteness that ordinary people can understand what conduct is prohibited and in a manner that does not encourage arbitrary and discriminatory enforcement"

It is my right and "...our duty to construe legislation as it is written, not as it might be read by a layman, or as it might be understood by someone who has not even read it." ... "When a statute includes an explicit definition, we must follow that definition, even if it varies from that term's ordinary meaning." The Administrative Magistrate in Massachusetts defines fraudulent intent as "proof that a party knowingly made a false statement and that the subject of that statement was susceptible of actual knowledge..."

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At this time, the Board Parliamentarian advised Dr. Lu that his five minutes had expired and asked him to conclude his thoughts.

Dr. Lu proceeded to his conclusion:

Words give rise to thoughts that form beliefs, and by closely dissecting our own beliefs we realize that the real lies are the very thoughts that we believed were our own. So, "When words lose their meaning, people lose their liberty," and they "perish for a want of knowledge." That is the history of empires past, and that will be our fate and our children's fate if the law is allowed to be applied according to unproved presumptions, or in excess of constitutional limits.

WHEREFORE, I pray that the Medical Board of Ohio may disposition this matter according to provable facts: 1) that I have done no harm, 2) there was no crime, 3) I did not bear false witness, 4) there has never been a concern for patient safety or professional competence on my part, and 5) the presumed Massachusetts final order is defective in subject matter jurisdiction, and is "a complete nullity."

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

Mr. Wilcox stated that this is Ms. Pelphrey's case, who could not attend today's meeting. Ms. Pelphrey had asked Mr. Wilcox to inform the Board that she supports 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. Lu:

Motion	Dr. Johnson
2 nd	Dr. Bechtel

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

Dr. Schottenstein opined that Dr. Lu may misunderstand the purpose of today's proceeding, which is not to relitigate the actions of other board or other legislative or law enforcement entities. The allegation before the Board today is that other medical boards has taken action against Dr. Lu's medical licenses in those states. If the Board finds the allegation to be true, then this is a case of mitigation.

Dr. Schottenstein found Dr. Lu's statement that when words lose their meaning, people lose their liberties, to be very interesting. Dr. Schottenstein also found the statement ironic because he felt Dr. Lu himself uses words in a way that cause them to lose their meaning. Dr. Schottenstein stated that the meaning of a word is based on how the word is understood within the language, and so the meaning of language equates to its use. The definitions of words emerge from the culture and society in which they are used. Dr. Schottenstein stated that Dr. Lu is not attentive to the social and legal context in which the words he uses are intelligible.

Dr. Schottenstein continued that language must be shareable and be a meaningful social event that happens between and among the users of the language. Dr. Schottenstein commented that Dr. Lu appears to have his own private language with words that mean something to him but do not mean anything to other users of the language. Dr. Schottenstein stated that a private language is actually an absurdity because if words are used in a language as a means of communication, they necessarily cannot be private. Similarly, if the meaning of words is private and known only to Dr. Lu, it cannot be part of the language.

Dr. Schottenstein stated that language is necessarily communal. So, when Dr. Lu makes a distinction between firearms and arms, indicates that he was in an automobile but not a motor vehicle, states that he was not arrested despite being handcuffed and booked at a police station, and maintains that he saw an administrative officer and not a judge, those are all specious distinctions that inform Dr. Lu's own private language. Dr. Schottenstein stated that Dr. Lu has the right to have a private language and interpret words in a way that is

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meaningful to him, but that right ends when it results in behavior that violates the law. Dr. Lu has deliberately engaged in behavior that broke the law because it does not conform with his own personal interpretation of it. Dr. Schottenstein stated that this is not acceptable because if that principle was universally applied and everyone started engaging in behavior through the prism of their own interpretation of the law and their own moral code, there would be anarchy.

Dr. Schottenstein stated that the Hearing Examiner has recommended a non-permanent revocation of Dr. Lu's Ohio medical license, based on the action taken by the Massachusetts Board of Registration in Medicine. Dr. Lu is also encouraged to wait until he has a full and unrestricted license in Massachusetts before he reapplies in Ohio. Dr. Schottenstein stated that under the Proposed Order, Dr. Lu can reapply for licensure at any time, but that does not mean the license would be granted. Dr. Lu could come back before the Board through another citation or a consent agreement, or the Secretary and Supervising Member could decide that the issues have been dealt with and grant him full licensure.

Dr. Schottenstein stated that he supports the Proposed Order.

Dr. Soin thanked Dr. Schottenstein for his thoughtful comments, and also thanked Dr. Lu for his thoughtful and philosophical comments. Dr. Soin stated that he could see a scenario in which one is shooting with friends in rural Vermont, puts the guns in one's car, and then inadvertently cross the nearby border into Canada. Dr. Soin also stated that, to some extent, this does not involve issues related to patient care. Dr. Soin supported the Proposed Order, noting that it left a path open for Dr. Lu to return to practicing medicine and that the amount of the fine is nominal.

Mr. Giacalone thanked Dr. Lu for his very in-depth research and analysis. Echoing previous statements, Mr. Giacalone stated that Dr. Lu's interpretation is somewhat off and he had interpreted things that are contrary to what the courts have decided in this issue. Mr. Giacalone was concerned about Dr. Lu's rationalizations in spite of what seems to be common sense, as well as his history with firearms and law enforcement. Mr. Giacalone also expressed concern for what it means for Dr. Lu's practice of medicine if he decides that something does not apply to him because of the way he interprets it, which some of the medical evaluations have also pointed out.

Mr. Giacalone stated that under the Proposed Order, Dr. Lu will have the opportunity to regain licensure in Ohio. Mr. Giacalone stated that Dr. Lu's adherence to the requirements of the Massachusetts Board needs to occur before the Ohio Board would feel comfortable allowing him to practice in this state.

Dr. Feibel agreed with Mr. Giacalone and expressed concern about Dr. Lu's lack of realization of his situation. Dr. Feibel encouraged Dr. Lu to reflect on his stances and positions if he reapplies for Ohio licensure in the future. Dr. Feibel supported the Proposed Order.

Vote on Dr. Johnson's motion to approve:

Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Soin	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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James Thomas Murphy, M.D.

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

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

Dr. Murphy objected to the Proposed Order that would grant him an Ohio medical license under probationary terms. Dr. Murphy opined that the Proposed Order is overly-restrictive and includes onerous reporting requirements. The Proposed Order also requires him to take a medical records course, despite the fact that he has already taken such a course with the PACE program in San Diego. Dr. Murphy stated that his violation concerning failure to maintain patient records occurred ten years ago.

Dr. Murphy opined that the Board has over-stepped in its Proposed Order to restrict his license. Dr. Murphy stated that he has had two other licenses granted in 2018 and 2019 in Indiana and Georgia with no such probation and no restrictions. Dr. Murphy was uncertain what makes Ohio so special that it thinks Dr. Murphy is a criminal, makes it appear that he has violated many laws, requiring the Attorney General to be involved, and issuing this restrictive order.

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

Ms. Snyder stated that Dr. Murphy has filed an application for a license to practice medicine in Ohio. This case is a bootstrap based on an action taken by the New York State Board of Professional Medical Conduct, which issued Consent Order against Dr. Murphy. Other state boards have also taken action against Dr. Murphy based on the New York action. Dr. Murphy has indicated that he has a very narrow practice plan for Ohio.

Ms. Snyder stated that the Board would not be over-stepping its legal bounds if it chooses to adopt the Proposed Order. Ms. Snyder supported the Proposed Order and opined that it is reasonable given the action taken in New York.

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

Motion	Dr. Bechtel
2 nd	Dr. Johnson

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

Dr. Schottenstein respectfully commented that the New York Board could have been somewhat clearer in drafting its Consent Order. The New York Consent Order contained multiple allegations but found only one actual violation, namely the documentation issue. The other allegations were essentially dismissed. The matter before the Board today is an out-of-state bootstrap action based on minimal standards concerns related to documentation. The New York Board permanently revoked Dr. Murphy's license to practice in that state in a voluntary consent agreement in which Dr. Murphy was represented by counsel. While Dr. Schottenstein appreciated Dr. Murphy's thought that the Proposed Order is onerous, he noted the discipline in New York on which it is based was substantial.

Dr. Schottenstein wished there was more information available about the New York action. Dr. Schottenstein noted that the violation occurred ten years ago and was based on poor documentation. There have not been any further violations of which the Board is aware and Dr. Murphy's practice in Ohio will be very limited. Dr. Schottenstein opined that the Proposed Order is fair. Dr. Schottenstein appreciated Dr. Murphy's comments

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about having already taken a medical records course with PACE in 2015. Dr. Schottenstein stated that the Board's Secretary and Supervising Member will have discretion to determine whether that course is sufficient to satisfy the records course requirement, and their recommendation on the matter would come to the Board as a probationary request.

Mr. Giacalone questioned whether a one-year probation is appropriate given that Dr. Murphy's violation was ten years ago and only involved medical records. Mr. Giacalone wondered if the probation should be terminated once he has completed the records course, commenting that he did not see the value of continuing probation once the course has been completed. Dr. Schottenstein stated that if the Board agrees to that and also has the sense that the PACE program would satisfy the records course requirement, then perhaps the Board should consider amending the Proposed Order to No Further Action. Mr. Giacalone responded that the Board may wish Dr. Murphy to take a course more tailored to Ohio documentation requirements, but if the PACE program is acceptable then he would agree with Dr. Schottenstein.

Dr. Feibel stated that he is very uncomfortable with this case, commenting that if the Ohio Board had agreed to a consent agreement that permanently revoked a physician's license it would have to have involved something egregious, especially if the physician was represented by counsel. Dr. Feibel opined that the Proposed Order is the minimum sanction he would support, and he would also entertain the possibility of not granting the license.

Mr. Giacalone commented that there is a big difference between surrendering a license, as Dr. Murphy did in New York, and having a license revoked. Mr. Giacalone stated that having dealt with New York regulators, he understood that it was a tangled jurisdiction. The only other allegations, which were dismissed, was four counts of negligence with patients, allegations about which the Board has no information. Mr. Giacalone stated that someone may voluntarily surrender a license in order to avoid prosecution, or they may do so because they feel it is not worth the effort. Mr. Giacalone stated that based on the limited information before the Board, he could not envision an order more severe than the Proposed Order.

Ms. Montgomery reiterated that the Board does not know what happened in New York and only the medical documentation issue is before the Board today. Ms. Montgomery noted that Dr. Murphy had an attorney in New York, but it is not known if that attorney was well-prepared or competent. It is also not known if Dr. Murphy understood at that time that an action in New York would result in a cascade of bootstrap actions in all states in he which he had a license or would apply for a license. Ms. Montgomery supported the Proposed Order.

Dr. Soin also supported the Proposed Order, including the requirement that Dr. Murphy complete a medical records course. Dr. Soin stated that Dr. Murphy took the PACE course five years ago and many things could have changed since that time. Dr. Soin did not feel it was unreasonable to require Dr. Murphy to take another records course, noting that a lot of knowledge erosion can occur in five years. Dr. Soin stated if Dr. Murphy's New York license had been revoked by order of the New York Board, he would agree with Dr. Feibel. However, since the New York license was voluntarily surrendered it is more difficult to support a sanction harsher than the Proposed Order.

Dr. Feibel commented that he also did not support an amendment to increase the Proposed Order, but that he would not support a lesser order.

Vote on Dr. Bechtel motion to approve:

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

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Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Y
Dr. Schottenstein	Y

The motion carried.

Jada Ransome, L.M.T.

Dr. Schottenstein directed the Board's attention to the matter of Jade Ransome, L.M.T. Objections have been filed and were previously distributed to Board members. Ms. Shamansky was the Hearing Examiner. This matter is non-disciplinary, and therefore all Board members may vote.

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

Motion	Dr. Johnson
2 nd	Dr. Bechtel

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

Dr. Schottenstein opined that the Proposed Order is fair and compassionate.

Vote on Dr. Johnson's motion to approve:

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

The motion carried.

PROPOSED FINDINGS AND PROPOSED ORDERS

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

Harrison L. Kunz, Jr., R.C.P.

Motion to find that the allegations as set forth in the February 12, 2020 Notice of Opportunity for Hearing in the matter of Mr. Kunz have been proven to be true by a preponderance of the evidence and to adopt Ms. Lee's Proposed Findings and Proposed Order:

Motion	Dr. Bechtel
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2 nd	Mr. Giacalone
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Dr. Schottenstein stated that he will now entertain discussion in the above matter. No Board member offered discussion in this matter

Vote on Dr. Bechtel's motion to approve:

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

The motion carried.

Inderpal Singh, M.D.

Motion to find that the allegations as set forth in the May 13, 2020 Notice of Opportunity for Hearing in the matter of Dr. Singh have been proven to be true by a preponderance of the evidence and to adopt Ms. Lee's Proposed Findings and Proposed Order:

Motion	Dr. Bechtel
2 nd	Dr. Johnson

Dr. Schottenstein stated that he will now entertain discussion in the above matter. No Board member offered discussion in this matter.

Vote on Dr. Bechtel's motion to approve:

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

The motion carried.

FINDINGS, ORDERS, AND JOURNAL ENTRIES

Dr. Schottenstein stated that in the following matters, the Board issued Notices of Opportunity for Hearing, and documentation of Service was received for each. There were no timely requests for hearing filed, and more than 30 days have elapsed since the mailing of the Notices. These matters are therefore before the Board for final disposition. These matters are non-disciplinary in nature, and therefore all Board members may vote.

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Rebecca Eileen Billings, D.O.

Dr. Schottenstein stated that on September 9, 2020, the Board issued a Notice of Opportunity for Hearing to Rebecca Eileen Billings, D.O., informing her that the State Medical Board of Ohio proposed to approve her application for a license to practice osteopathic medicine and surgery, provided that she take and pass the American Board of Internal Medicine (ABIM) certification examination due to the fact that Dr. Billings has not engaged in the active practice of osteopathic medicine and surgery for more than two years.

Motion to find that the facts set forth in the September 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 Dr. Billings' application, provided that she takes and passes the ABIM certification examination within 12 months of the date of mailing of the Notice of Opportunity for Hearing:

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

The motion carried.

Marijana Oroz, M.T.

Dr. Schottenstein stated that on September 9, 2020, the Board issued a Notice of Opportunity for Hearing to Marijana Oroz, 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. Oroz 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 September 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. Oroz's application, provided that she takes and passes the MBLEx within 12 months of the date of mailing of the Notice of Opportunity for Hearing?:

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

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Dr. Schottenstein	Y
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The motion carried.

Rebecca Gale Shook

Dr. Schottenstein stated that on September 9, 2020, the Board authorized issued a Notice of Opportunity for Hearing to Rebecca Gale Shook, informing her that the State Medical Board of Ohio proposed to approve her application for a license to practice respiratory care, provided that she take and pass the Clinical Simulation Examination (CSE), due to the fact that Ms. Shook 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 September 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. Shook's application, provided that she takes and passes the CSE within 12 months of the date of mailing of the Notice of Opportunity for Hearing:

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

Motion	Dr. Saferin
2 nd	Dr. Bechtel
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Soin	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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The Board went into Executive Session at 11:06 a.m. and returned to public session at 11:44 a.m.

The Board meeting was recessed at 11:44 a.m. and resumed at 12:10 p.m.

SETTLEMENT AGREEMENTS

Ariane S. Neyou, M.D.

Motion to ratify the proposed Consent Agreement with Ariane S. Neyou, M.D.:

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

The motion carried.

Brent Andrew Boyer, M.D.

Motion to ratify the proposed Step I Consent Agreement with Brent Andrew Boyer, M.D.:

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

The motion carried.

Jeff D. Gabbard, L.M.T.

Motion to ratify the proposed Permanent Surrender with Jeff D. Gabbard, L.M.T.:

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

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

The motion carried.

James M. Thomas, M.D.

Motion to ratify the proposed Permanent Surrender/Retirement with James M. Thomas, M.D.:

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

The motion carried.

Michael David Clewlow, R.C.P.

Motion to ratify the proposed Step I Consent Agreement with Michael David Clewlow, R.C.P.:

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

The motion carried.

Paul E. Kaplan, M.D.

Motion to ratify the proposed Permanent Surrender with Paul E. Kaplan, M.D.:

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

The motion carried.

Robert W. Alcorn, M.D.

Motion to ratify the proposed Permanent Surrender/Retirement with Robert W. Alcorn, M.D.:

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

The motion carried.

Stephen Levitt, M.D.

Motion to ratify the proposed Permanent Surrender with Stephen Levitt, M.D.:

Motion	Dr. Bechtel
2 nd	Dr. Johnson
Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Soin	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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Thomas Warren Carrigan, M.D.

Motion to ratify the proposed Permanent Surrender with Thomas Warren Carrigan, M.D.:

Motion	Dr. Johnson
2 nd	Dr. Bechtel
Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Soin	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. Dalena R. Clever, M.T.: Based on a misdemeanor conviction for sexual imposition.
2. Martin Escobar, M.D.: Based on a voluntary surrender of the physician’s Drug Enforcement Administration (DEA) certificate.
3. James Hamilton, R.C.P.: Based on a conviction for child pornography.
4. Mark A. White, M.D.: Based on a recent admission during a Board investigation to sexual misconduct with a patient.
5. Rogener Lacerna M.D.: A Summary Suspension, based on the physician’s failure to submit to a neurological examination.

Motion to approve and issue citation # 5, a Summary Suspension Based Upon Presumption of an Inability to Practice:

Motion	Mr. Giacalone
2 nd	Dr. Johnson
Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Soin	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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Ms. Montgomery exited the meeting at this time.

Motion to approve and issue proposed Citations #1 and #3:

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

The motion carried.

Motion to approve and issue proposed Citation # 2 and #4:

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

The motion carried.

Ms. Montgomery returned to the meeting at this time.

OPERATIONS REPORT

Human Resources: Ms. Loucka stated that Human Resources is in the process of hiring an investigator for the Northeast Region, a position that has been vacant since March 2020. Final interviews for the position were conducted last week.

Ms. Loucka wished to publicly thank Tessie Pollock, who will be leaving the Board this Friday. Having served the Board as Chief of Communications, Ms. Pollock will be joining the Department of Aging in the same role. Ms. Loucka expressed gratitude to Ms. Pollock for all of her work and the initiatives she took on, stating that she exceeded the role of communications director.

Dr. Schottenstein stated that Ms. Pollock has been invaluable to the Board and that it has been a pleasure knowing her on a personal level as well. Mr. Giacalone agreed and stated that Ms. Pollock has been fantastic to work with and that the Department of Aging had gained a star. Dr. Bechtel thanked Ms. Pollock for her leadership and enthusiasm. Dr. Saferin stated that Ms. Pollock is “a true gem.” Ms. Montgomery also agreed that Ms. Pollock has done a wonderful job.

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Ms. Pollock thanked the Board and stated that she has been impressed every month by the thoughtful conversations the Board has to protect the public.

Budget: Ms. Loucka stated that the Board's revenue is increasing, as will be noted by Dr. Schottenstein's Finance Report later in the meeting. Mr. Turek reported this morning that the number of licensees who have delayed renewal due to the extension granted in response to the COVID-19 pandemic is down to 11,857, a substantial decrease from 17,000 last month. There is a communications campaign targeted to those who have yet to renew. Ms. Loucka stated that some of these licensees will not renew due to natural attrition, but she estimated that about 9,000 of them will renew.

Board Meetings: Ms. Loucka stated that the Board's staff continues to do its best working remotely during the pandemic. Because the law that allows the Board to meet remotely will expire on December 1, 2020, next month's Board meeting will be in person unless the law is extended. The meeting will take place at the State Fire Marshall's office, where the Board will be able to use a large room that will accommodate all the Board members being seated at a separate table. Ms. Loucka thanked the Fire Marshall's office for allowing the Board to use the room, since the Board's regular meeting room is too small to accommodate spacing requirements. The meeting will be livestreamed to the public.

Licensure: Ms. Loucka stated that the Board's licensing activity continues very well and the staff has been very productive working from home. The Board is in the process of implementing new customer service technology for phones called Jabber. Jabber will allow for an automated attendant and will still have a live person option. The system will help callers get directed to the proper area in a more timely fashion.

Return to the Office: Ms. Loucka stated that the Medical Board is slated to be part of Phase 4 of the state employee's return-to-office plan. This will mean the Board employees will return in March and April 2021 with encouragement to continue teleworking until the end of May 2021. The Board also continues to identify situations that would allow a reduction of office space and expenses and to continue work-at-home or hybrid arrangements for some employees.

Complaints: Ms. Loucka stated that incoming complaints and closed complaints continue to be steady. The internal review team for the historical case review, in which 1,260 sexual misconduct complaints that had been closed were re-reviewed, should finish its work by the week of Thanksgiving. This will allow for full staffing of other complaint areas afterwards. There will be a debriefing of what the staff has learned during this process. Final numbers from the review will be presented to the Board in December. Ms. Loucka noted that the staff took on additional work in order to complete the review.

Ms. Montgomery asked if the Board will receive data regarding physicians who were found during the historical case review to have failed to report. Ms. Loucka confirmed that aggregate, de-identified data on that topic will be provided.

License Renewal and CME's: Dr. Bechtel related that a licensee has informed him that he (the licensee) had not been able to take all the continuing medical education (CME) that is required due to the COVID-19 pandemic. Dr. Bechtel noted that in response to the pandemic, the Board has suspended enforcement of the CME requirements. However, when the licensee attempts to renew his license and he truthfully answers "no" to the question about whether the renewal applicant has completed all the CME requirements, the system will not allow him to complete the renewal process.

Mr. Turek acknowledged that the licensing system will block a renewal application if the applicant answers "no" to that question. Mr. Turek stated that licensees calling about that issue are being advised to answer "yes" because the Board has suspended enforcement of that requirement and that licensees will not be penalized for answering the question that way.

Dr. Rothermel acknowledged that the Board had to make some concessions this year, but she hoped that the staff is encouraging licensees to fulfill their CME requirements even if the Board is not enforcing it. Mr. Turek

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confirmed that licensees are encouraged to complete their CME's and that, while the Board has suspended enforcement, the legal responsibility to complete the CME requirements is not suspended. Dr. Schottenstein agreed, stating that the CME requirements are statutory and licensees are still obligated to complete them.

Dr. Rothermel commented that many CME's are offered on-line and such courses can easily satisfy the CME requirements, and most of the courses are free. Dr. Rothermel expressed concern that following the pandemic some licensees could untruthfully answer "yes" and say that the Board had told them to do that.

Dr. Johnson asked if there was a way to a renewal applicant to leave comments on the application noting that they had answered "yes" because they had been instructed by Board staff to do so and that they are not intentionally deceiving the Board. Mr. Turek answered that applicants are unable to leave comments in the system. Mr. Giacalone asked if that information is on the website. Ms. Loucka replied that that can be clarified on the website and also in an email blast to licensees.

Dr. Feibel stated that he is very uncomfortable with encouraging people to lie on their renewal application. Dr. Feibel stated that it sets a bad precedent and opens the Board to potential problems. Dr. Feibel felt that the Board should address this issue directly and make clear what it expects licensees to do. Dr. Feibel stated that he would rather licensees answer "no" to the question and that the Board grant renewal anyway. Dr. Soin agreed with Dr. Feibel, stating he does not support lying on the application, but stated that he would defer to operations team on how best to handle the situation.

Ms. Loucka stated that she had been under the impression that renewal applicants could answer "no" and still complete the on-line application. Ms. Loucka stated that the team will look at the system, but one of the drawbacks of the eLicensure system is that all boards use it changes cannot be made just for the Medical Board.

RULES & POLICIES

Adoption of Rules

Motion to adopt, amend, and rescind the rules as described in the November 4, 2020 memorandum from Ms. Anderson and to assign each rule action the effective date of November 30, 2020:

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

The motion carried.

Proposed Board Meeting Dates for 2022

Motion to adopt the proposed 2022 meeting dates for the State Medical Board of Ohio, as listed in the Agenda Materials:

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

The motion carried.

COMMITTEE BUSINESS

Sexual Misconduct Committee

Dr. Schottenstein stated that the Sexual Misconduct Committee has sunset. Dr. Schottenstein thanked all the Board members and staff who contributed to the hard work the Committee conducted. Dr. Schottenstein stated that the Board will continue to work on this issue and build on the Committee's work.

Approval of Committee Minutes

Motion to approve the draft minutes of last month's meetings of the Sexual Misconduct Committee, Telehealth Committee, and Executive Director Review Committee:

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

The motion carried.

Dietetics Advisory Council Report

Ms. Reardon stated that the Dietetics Advisory Council met yesterday via video conference. The Council reviewed three documents, including proposed FAQ's. The Council approved posting the FAQ's to the website.

The Council was informed that there are 1,437 licensed dietitians who need to renew their licenses before December 1, 2020. These figures are provided to the Ohio Dietetics Association, which published them in its newsletter.

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The Council was given a rules update and informed that the Board is ready to file three amended rules concerning dietetics with the Common Sense Initiative (CSI). Those proposed amended rules will be posted to the Board’s website and public comments will be accepted through November 23, 2020.

Ad hoc Telehealth Committee Report

Dr. Feibel stated that the telehealth bill has had its first reading in the legislature. The bill’s sponsor has accepted all the Committee’s proposed amendments, so they will hopefully be incorporated into the bill. The Board will be able to provide testimony on the bill in the near future.

Policy Committee Report

Rule Review Update

Dr. Soin stated that the continuing medical education (CME) rules have been filed with the Joint Committee on Agency Rule Review (JCARR) and there will be a public rules hearing on December 4, 2020. Three dietetics rules are ready to be filed with the Common Sense initiative (CSI) this week. The radiologist assistant rules, hearing rules, and exposure prone invasive procedure rules did not elicit any public comments and will be filed in January 2021.

Dr. Soin commented that good progress is being made on rule review.

Rules at the Common Sense Initiative

Dr. Soin stated that the Committee discussed the controlled substances rules, based on a request from the Ohio State Medical Association (OSMA) for the Board to engage with experts regarding the weight-loss rule. It was noted that the weight-loss rule has not been changed for a long time and some believe that Ohio may not be up-to-date on that issue. Dr. Soin stated that there is no guarantee that the rule will be changed, but the Committee is open to learning more. Dr. Soin commented that the Board is very sensitive to the fact that weight-loss drugs are highly susceptible to abuse, so it wants to move judiciously and cautiously to protect the public.

Physician Assistant Consult Rules

Dr. Soin stated that the Committee reviewed an initial draft of these rules in response to the passage of House Bill 203, which allows physician assistants to enter into consult agreements. The draft was based on the physician consult rules. The Board is working with the Board of Pharmacy on some issues and the proposed rule will be circulated to interested parties in the future.

Sexual Misconduct Draft Legislation

Dr. Soin stated that this issue had been extensively discussed by the Sexual Misconduct Committee. Dr. Soin stated that the Board takes this issue very seriously and high-level discussions will continue. The memo in the Policy Committee materials provides an excellent overview of the legislation. Dr. Soin stressed that work in this area is ongoing and is very important to the Board.

Telehealth FAQ’s

Dr. Soin stated that the Committee has recommended approval of the proposed Telehealth FAQ’s.

Motion to approve the proposed Telehealth FAQ’s:

Motion	Dr. Johnson
2 nd	Dr. Bechtel

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

The motion carried.

Legislative Update

Dr. Soin stated that the Committee considered the legislative update. Dr. Soin commented that the legislative tracker is very extensive and is available in the Policy Committee materials. Dr. Soin commented that the entire legislative team is working hard talking to bill sponsors and meeting with legislators.

Letter from physicians from ODMHAS

Dr. Soin stated that a letter written by physicians from the Ohio Department of Mental Health and Addiction Services (ODMHAS) was provided to the Committee for its information.

Compliance Committee Report

Dr. Schottenstein stated that Kelley Long from the Ohio Physicians Health Program (OPHP) had given a presentation to the Board at its October 13, 2020 Retreat, but she had been unable to complete the presentation. The Compliance Committee invited Ms. Long to attend a Committee meeting and complete the presentation.

The Committee and Ms. Long discussed the components of the process, which begins with an evaluation and then moves to completing treatment, suspending practice for 30 days, returning to work with continuing care, and a monitoring agreement. The Committee and Ms. Long also reviewed the fact that the confidentiality of the One-Bite law is for substance use disorder only and that OPHP would notify the Board of other infractions.

Ms. Long stated that from May 2019 to May 2020, about 121 referrals were made to OPHP. About 80% of the referrals were physicians and residents, but other professions were represented as well, including massage therapists, respiratory care professionals, and physician assistants. OPHP continues to provide online training monthly for treatment providers; a rule requires treatment providers to complete the training at least quarterly. With recent changes that allow residential care and partial hospitalization as options, the average stay has increased to about 45 days.

OSMA is also curious about any movement the Board could make regarding the transfer of licensees enrolled in other states' physician health programs who may want to work in Ohio.

Finance Committee Report

Fiscal Update

Dr. Schottenstein stated that the Board's revenue in September 2020 was \$1,247,421, a substantial increase from the previous month. This is likely a function of license renewals by those who had delayed renewing their licenses because of the extension authorized by the legislature. Dr. Schottenstein noted that preliminary

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numbers for October 2020 also look good at about \$1,400,000, which is at least double the revenue for October 2018. The Board's cash balance improved to \$5,079,792.

Dr. Schottenstein encouraged licensees not to wait until the December 1, 2020 deadline to renew their licenses, noting that this is also the deadline for all other licensing boards and the licensing system could be overwhelmed if too many try to renew on the same day.

Expenditures year-to-date have increased by 0.9%, mostly due to an increase in payroll. The total spent on the historical case review is \$183,786, though a few invoices may still come in.

The Board received \$39,500 in disciplinary fines in addition to \$82,17 from collections. The Board levied \$20,700 in fines and has received \$56,796 in fines in the first quarter of Fiscal Year 2021.

Ms. Montgomery exited the meeting at this time.

Licensure Committee Report

Licensure Application Reviews

Motion to approve the Licensure staff recommendations for the requests of Linda Clem, L.D., Kimberly Overmyer, M.T., Therese Paul, L.D., and Kori Pierce, M.T.:

Motion	Dr. Rothermel
2 nd	Dr. Bechtel
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Johnson	Y
Mr. Gonidakis	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 October 15, 2020:

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

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The motion carried.

Probationary Requests

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

- a) William R. Danko, M.D.: Request for approval of the psychiatric treatment plan from Anthony W. Alvarez, M.D., to complete the psychiatric assessment requirement; and approval of *PBI Medical Ethics and Professionalism: An Ethics Protection, Violation Prevention Course*, offered by the University of California, Irvine School of Medicine, OR the personal/professional ethics course tailored by Donna Homenko, Ph.D., to fulfill the personal/professional ethics course requirement.
- b) Ryan L. Gerritsen, M.D.: Request for reduction in appearances from every three months to every six months; and reduction in drug testing frequency from a minimum of four times per month to a minimum of two times per month.
- c) John J. Kavlich, M.D.: Request for approval of Scott F. Martin, M.D. to complete a psychiatric return to work assessment.
- d) Hyun B. Kim, D.O.: Request for release from the terms of the July 8, 2020 Consent Agreement.
- e) Vincent Lombardi, M.D.: Request for release from the terms of the July 8, 2020 Consent Agreement.
- f) Edward I. Nelson, M.D.: Request for release from the terms of the November 18, 2017 Consent Agreement.
- g) Vernon E. Proctor, M.D.: Request for release from the prescribing restriction/limitation in the May 13, 2020 Board Order; approval of the submitted practice plan; approval of Sandra K. Dettmann, M.D. to serve as the monitoring physician; and determination of the frequency and number of charts to be reviewed at 10 charts per week.
- h) Adam J. Rowe, M.D.: Request for acknowledgement of completion of the requirements established under the August 12, 2020 Consent Agreement Based Upon Felonious Conduct Associated with Initial Impairment.
- i) Jon B. Silk, Jr., M.D.: Request for approval of Joseph P. Allen, M.D., FAAFP to serve as the monitoring physician; and determination of the frequency and number of charts to be reviewed at ten charts per month.

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

The motion carried.

ADJOURN

State Medical Board of Ohio Meeting Minutes – November 10, 2020

Motion to adjourn:

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

The motion carried.

The meeting adjourned at 1:10 p.m.

We hereby attest that these are the true and accurate approved minutes of the State Medical Board of Ohio meeting on November 10, 2020, as approved on December 9, 2020.

(SEAL)



State Medical Board of Ohio

POLICY COMMITTEE MEETING

November 10, 2020

via live-streamed video conference

<p>Members: Amol Soin, M.D., Chair Robert Giacalone, R.Ph., J.D. Mark Bechtel, M.D. Betty Montgomery Sherry Johnson, D.O.</p> <p>Other Board Members present: Michael Schottenstein, M.D. Kim Rothermel, M.D. Bruce Saferin, D.P.M. Jonathan Feibel, M.D.</p>	<p>Staff: Stephanie Loucka, Executive Director Kimberly Anderson, Chief Legal Counsel Nathan Smith, Senior Legal and Policy Counsel Chelsea Wonski, Legislative Director Joseph Turek, Deputy Director for Licensure Tessie Pollock, Chief Communications Officer Julie Williams, Public Information Officer Benton Taylor, Board Parliamentarian</p>
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Dr. Soin called the meeting to order at 9:04 a.m.

Minutes Review

Mr. Giacalone moved to approve the draft minutes of the October 14, 2020 meeting of the Policy Committee. Dr. Bechtel seconded the motion. The motion carried.

Rule Review Update

Ms. Anderson stated that the proposed continuing medical education (CME) rules were released from the Common Sense Initiative (CSI) in late October and have been filed with the Joint Committee on Agency Rule Review (JCARR). Three dietetics rules will be filed with CSI this week. Also, the Board has a public rules hearing scheduled for December 4, 2020.

Ms. Anderson continued that CSI received no comments on the proposed radiologist assistant rules, the exposure prone invasive procedure rules, or the hearing rules. Ms. Anderson expected to be able to file these rules with JCARR in January 2021.

Rules with the Common Sense Initiative

Controlled Substance Prescribing Rules:

Ms. Anderson stated that the comment period has ended for two packages of rules at the Common Sense Initiative (CSI). The personal information rules, which relate to internal Board policies, received no comments. One comment was received on the controlled substance prescribing rules from Jennifer Hayhurst of the Ohio State Medical Association (OSMA). Ms. Hayhurst requested that the

Board engage experts to provide advice regarding the Board's weight-loss rule, 4731-11-04. Ms. Hayhurst noted in her comment that this rule has been virtually unchanged for decades.

Ms. Anderson noted that the Board of Pharmacy is very supportive of the weight-loss rules as they are, while bariatric physicians find the rules antiquated and not helpful for patients. Ms. Anderson also noted that this is one of the only areas in which the Board requires prescribing to be in-line with the labeling.

Ms. Anderson stated that the Committee could possibly have a conference call or video call with experts identified by OSMA so that they can provide input. Ms. Anderson requested that a physician member of the Policy Committee assist in evaluating the experts' input and tailoring it specifically to the rule.

Dr. Bechtel opined that the Committee should take the same approach as with the light-based medical device rules, in which a Board member spearheaded efforts to form a group of experts to evaluate the rules in a very focused manner and provide recommendations grounded in evidence-based medicine. Ms. Montgomery agreed and asked if there is an association that represents bariatric physicians. Ms. Anderson stated that, based on input provided by Ms. Hayhurst, there is no Ohio association of bariatric physicians, but there are several national groups.

Mr. Giacalone, noting that the Board reviewed these rules five years ago, asked what has changed to warrant another review. Mr. Giacalone further noted that the reason the Board adopted this rule was due to widespread abuse of these medications. Mr. Giacalone agreed that there should be input from associations and clinicians, but added that there should also be input from the Board of Pharmacy, the Drug Enforcement Administration, and the Food and Drug Administration so that there is balance between the potential benefits of changing the rule and the risk of drug abuse in the general population. Dr. Schottenstein agreed, stating that there may be evidenced-based medicine that suggests the rule should be altered, but it must be weighed against the risk of these medications being abused.

Dr. Soin stated that there is no promise or guarantee that the rule will be changed, but there may be new information that the Committee can consider and possibly lead to a change in the rule. Dr. Soin stated that he would be happy to work with Ms. Anderson and meet with experts identified by OSMA, then report back to the Committee in December.

Dr. Bechtel moved to approve the plan outlined by Dr. Soin and Ms. Anderson to meet with identified experts and report back to the Committee. Ms. Montgomery seconded the motion.
The motion carried.

Physician Assistant Consultation Rules, First Draft

Ms. Anderson stated that House Bill 203 was recently passed by the legislature. This legislation, which becomes effective on December 16, allows physician assistants to enter into consult agreements with pharmacists. Ms. Anderson has produced an initial draft of rules based on the Board's consult agreement rules for physicians. Ms. Anderson will meet later with Cameron McNamee from the Board of Pharmacy to discuss the rules they are drafting, as well as issues with respect to terminal distributors and other areas in which physicians cannot simply be substituted with physician assistants due to other rules and laws.

Dr. Johnson noted a section of 4730-2-07(E) of the draft rule:

A physician assistant holding prescriber number and who has been granted physician-delegated prescriptive authority by a supervising physician shall not prescribe any drug or device to perform or induce an abortion.

Dr. Johnson asked if this was already a rule that is in place for physician assistants. Ms. Anderson answered that this provision is already in statute. Dr. Johnson stated that a patient who has had a miscarriage can be given a medication if they desire, rather than having a procedure done. Dr. Johnson was uncertain if this rule would apply in the case of a miscarriage, which obstetricians term a “missed abortion.” Ms. Anderson stated that that topic is somewhat outside the confines of this rule, but she can provide Dr. Johnson with information on that topic.

Ms. Montgomery asked about the provision that allows the “practitioner” to override the decision of a pharmacist. Ms. Anderson stated that that is an area the Committee should discuss; while the Board is comfortable with a physician being able to override when necessary, the Committee should consider the situation involving a physician assistant. Ms. Anderson noted that physician assistants are supervised by a physician who has to approve them entering into a consult agreement with a pharmacist.

Dr. Bechtel moved to circulate the draft rule to the Physician Assistant Policy Committee, the Board of Pharmacy, the Board of Nursing, and other interested parties for comment. Ms. Montgomery seconded the motion. The motion carried.

Updated Sexual Misconduct Draft Legislation

Mr. Smith stated that the Board’s Sexual Misconduct Committee met in October and had an extensive discussion about draft legislation. Other Board members were also given an opportunity for additional input. A memo with an overview of the draft legislation has been provided to Committee members for their review. Mr. Smith commented that this legislation represents the input of many people, most particularly Ms. Anderson and Ms. Canepa. Mr. Smith stated that because the Board is moving forward with a sexual battery statute that criminalizes both sexual conduct and sexual contact, the draft legislation does not include a statutory proposal related to misdemeanor sexual imposition.

Mr. Smith stated that Mr. Giacalone had suggested that the California Medical Board be contacted to see if there had been any unintended consequences from their patient notification law, which was passed last year and is very similar to the patient notification provision in the draft legislation. This provision would require a licensee to provide notification to patients if they are on probation for certain specific violations.

Mr. Smith stated that he had a productive conversation with the California Medical Board’s legal counsel, who stated that there had been some challenges with getting a copy of the signed notification from the provider. Therefore, the draft legislation includes a phrase that states the signed copy shall be kept in the patient’s medical record and be made immediately available to the Board upon request. Mr. Smith stated that although this is not currently tied to a criminal penalty or a fine, it would be enforceable through the Board’s disciplinary statute if it is included as a term of probation.

Dr. Schottenstein asked if there had been any unintended consequences from the California legislation or if it had been counterproductive in some way. Mr. Smith replied that California has not seen adverse consequences and all the feedback has been positive.

Dr. Feibel opined that something regarding any finding of misconduct related to child pornography should be added, as that does not seem to be covered in the definition of sexual misconduct in 4731.991(A). Mr. Smith stated that he can look into that. Mr. Smith stated that the draft legislation is very patient-oriented and involves patient harm and licensee interaction with patients. Therefore, if anything additional is considered it would be tied to the patient. Dr. Soin asked if 2907.01(E) of the draft legislation could relate to child pornography. Mr. Smith replied that the proposal has been tied to the commission of any sexual misconduct with a patient or key third party, so as currently drafted there would have to be a connection to the patient themselves.

Ms. Montgomery asked if the staff is suggesting doing away with the statute on sexual imposition. Mr. Smith responded that there is no suggestion to do away with the statute, but the Medical Board is not putting forth a proposal to change the statute in such a way that would include specific Medical Board licensees. Ms. Montgomery asked if the proposal is just being made applicable to another statute. Mr. Smith replied that that is correct. Mr. Smith stated that the proposal addresses both sexual conduct and sexual contact in one statute, then differentiates the level of offense based on whether it is conduct, intercourse, or contact.

Ms. Montgomery commented that the memo was very well-written. Ms. Montgomery asked if a licensee's failure to report is considered a minor misdemeanor in this draft. Mr. Smith replied that previous drafts had that that violation as a minor misdemeanor with subsequent violations as fourth-degree misdemeanors. However, the current draft makes all the violations fourth-degree misdemeanors, which is consistent with the criminal reporting statute.

Dr. Soin stated that many of these important topics should be discussed by the Board's Sexual Misconduct Committee. Regarding the memo for review today, the Policy Committee agrees that the staff did a very good job and the memo is appropriate.

Telehealth FAQ Updates

Mr. Smith stated that the proposed new FAQ's reflect questions that have been received regarding Rule 4731-11-09. If approved, these will be added to the existing FAQ's. There are no substantive changes to the existing FAQ's.

Dr. Bechtel moved to approved the new FAQ's. Dr. Johnson seconded the motion. The motion carried.

Legislative Update

Ms. Wonski stated that the legislative team has been preparing for the legislature's lame duck session, which begins today with committee hearings. Ms. Wonski anticipated that language proposed by the Board will be officially added to two bills, while several other bills are being monitoring for legislative movement.

Senate Bill 246, Occupational Licensing Reciprocity: Ms. Wonski stated that the legislative team has worked with the committee chair and the bill's sponsor to address concerns about retention of the Board's ability to make a determination of whether an applicant has adequately met Ohio's qualifications for licensure. An updated draft of the substitute bill includes most of the Board's requested changes, but not in their entirety. Ms. Wonski appreciated the willingness of the sponsor to work with the Board and make some compromises. Ms. Wonski expected the substitute bill to be adopted at the next committee meeting, which has not yet been scheduled.

Senate Bill 364, Interstate Medical Licensing Compact: Ms. Wonski stated that the legislative team traveled to meet with this bill's sponsor in her district to express the Board's concerns. The sponsor seemed to understand the concerns and advised that she would take them into consideration.

House Bill 263, Occupational Licensing: Ms. Wonski stated that this bill would require the Board to provide a comprehensive list of criminal offenses that would prevent a person from being licensed in Ohio. Since the last Board meeting, the legislative team has worked with other licensing boards to develop a solution to the concerns about the bill's language.

House Bill 492, Physician Assistants: Ms. Wonski stated that this bill would expand the ability of physician assistants to perform procedural sedation for purposes of rapid intubation. Several stakeholders have expressed opposition to this language. Ms. Wonski commented that this bill is being watched very closely.

House Bill 679, Telehealth: Ms. Wonski stated that this bill continues to progress through the legislature. The Board's requested amendments have been drafted by the Legislative Services Commission and the team is waiting for those amendments to be adopted as part of the bill. Ms. Wonski gave special thanks to Mr. Gonidakis, who was instrumental in facilitating meetings with the committee chair and vice-chair. Ms. Wonski also thanked Dr. Feibel, who has offered to submit testimony, either in person or in writing, in support of the bill.

House Bill 407, Clinician Integrity and Medical Accuracy Act: Ms. Wonski stated that this bill would prevent a state or local government entity from requiring a physician to provide a patient with medical service or information that, in the physician's clinical judgment, is not deemed medically accurate or appropriate for the patient. This bill is being analyzed by the Board's policy and legal teams. More information will be provided at the next Policy Committee meeting if it appears this bill will move through the legislative process.

House Bill 598, Emergency Medical Technicians: Ms. Wonski stated that this bill temporarily authorizes emergency medical technicians (EMT) to perform certain medical services in the hospital during a declared emergency. This bill is being analyzed by the Board's policy and legal teams. More information will be provided at the next Policy Committee meeting if it appears this bill will move through the legislative process.

November 3 General Election: Ms. Wonski stated that a memo summarizing the results of the November 3, 2020 general election has been included in the meeting materials for the members' reference.

House Bill 747, Prescribing and Dispensing Drugs for Off-Label Use: Mr. Giacalone ask if this bill would arguably override the Board's weight-loss prescribing rules. Mr. Giacalone noted that the bill would basically absolve physicians from any action by state regulatory board if they issue a prescription for a drug to be used in a manner other than the use approved by the U.S. Food and Drug Administration (FDA). Ms. Wonski stated that the same concerns have been brought up by Ms. Anderson and Mr. Smith. The legislative team will continue to monitor the bill.

Mr. Giacalone asked if the Board should be more than just an interested party, noting that if the Board decides to keep the weight-loss prescribing rules unchanged, this legislation will be a problem. Mr. Giacalone also wondered if this bill would affect opioid prescribing. Ms. Loucka stated that the bill is not expected to move, but if there is any movement the Board will strengthen its position.

Letter Regarding ODMHAS Proposed Rules

Ms. Loucka stated that an informational memo has been included in the meeting materials regarding a letter sent to Dr. Schottenstein from a group of physicians at the Ohio Department of Medical Health and Addiction Services (ODMHAS). The letter expresses concerns about a proposed ODMHAS rule that will allow non-physicians to order seclusion and restraints. Ms. Loucka stated that she appreciates the letter from the physicians, but noted that allowing non-physicians such authority is not prohibited under the Board's current rules and laws.

Dr. Schottenstein commented that when he first read the letter, he was taken aback that consideration was being given to allowing non-physicians to order seclusion and/or restraints at state run hospitals. Dr. Schottenstein stated that ordering seclusion and/or restraints is one of the most consequential medical decisions a physician can make because those actions are potentially emotionally harmful and potentially dangerous to the patient. Dr. Schottenstein added that it is also a civil rights issue. Because it is a decision of last resort, Dr. Schottenstein opined that the decision should only be made by a physician.

However, Dr. Schottenstein stated that the Joint Committee revised its rules on seclusion and restraints to all licensed practitioners, not just physicians. Additionally, physician assistants are already writing these orders in other health systems in Ohio. Dr. Schottenstein further noted that ODMHAS does not currently employ physician assistants. Also, the Board's ability to regulate physician assistants is derived from the legislature, which has not limited physician assistants from that function. Physician assistants are still obligated to practice within the confines of their supervisory agreement and follow the standard of care. Consequently, Dr. Schottenstein did not think the Board is in a position to push back on this expansion of the physician assistant scope of practice because physician assistants are already doing this in Ohio. To pursue such a limitation now would be a restriction of physician assistants' scope of practice and could open anti-trust and restraint of trade issues.

Dr. Schottenstein opined that it was right to bring this to the Committee's attention and that Ms. Loucka's proposed response is appropriate. Since this issue originated with the Joint Commission, there are potentially national implications. Dr. Schottenstein questioned whether the Federation of State Medical Boards (FSMB) has a position on this issue. Ms. Loucka stated that staff can reach out to the FSMB.

Adjourn

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

The meeting adjourned at 9:55 a.m.

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