



State Medical Board of Ohio Special Meeting Minutes
March 18, 2020

Michael Schottenstein, M.D., President, called the meeting to order at 12:37 pm via telephone conference with the following members present: Richard Edgin, M.D., Vice President; Kim G. Rothermel, M.D., Secretary; Bruce R. Saferin, D.P.M., Supervising Member; Michael L. Gonidakis, Esq.; Amol Soin, M.D.; Robert Giacalone, R.Ph., J.D.; Mark A. Bechtel, M.D.; Betty Montgomery; Harish Kakarala, M.D.; and Jonathan Feibel, M.D. Members of the Board’s staff attended the meeting from the 3rd floor of the Rhodes Office Tower, 30 East Broad Street, Columbus, Ohio 43215.

PURPOSE OF MEETING

Dr. Schottenstein stated that during this unprecedented time, the State Medical Board of Ohio wants to ensure that Ohioans will have access to needed health care. Dr. Schottenstein added that the Board is committed to supporting its licensees so they may be prepared for and respond to the COVID-19 pandemic.

As such, there were three items of business that Dr. Schottenstein wished to discuss with the Board today.

CONTINUING EDUCATION

Dr. Schottenstein stated that the first item of business is the continuing education (CE) that is required for many of the Board’s health care professionals and allied health professionals for license renewal. In recognition of the cancellation of many annual, in-person events that provide continuing education to the Medical Board’s licensees, as well as the need to have Ohio’s health care providers readily available to assist in the current state Emergency, Dr. Schottenstein asked the Board to consider suspending the enforcement of CE requirements.

Motion that, beginning immediately, the Medical Board will suspend enforcement of the continuing education requirements for the renewal of a license issued by the State Medical Board of Ohio; that this includes, but is not limited to, the requirement for Ohio physicians to obtain 50 hours of Category 1 CME at the time of their license renewal; that the exercise of this enforcement discretion is effective the day the State of Ohio declared an emergency on March 9, 2020, and will apply to renewals due by March 1, 2021; and that all existing Board orders and consent agreements for individual licensees remain in effect and will be enforced:

Motion	Dr. Bechtel
2 nd	Dr. Edgin

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

Dr. Kakarala agreed with the motion. However, he wanted to make certain that there was an understanding that these are unique circumstances and, while the Board is mindful of the circumstances, this motion cannot be a justification for a failure to stay current on the standards of care. Dr. Kakarala stated that this motion cannot be used in a future minimal standards case as a rationale or justification for practicing below minimal standards.

Dr. Saferin opined that the Board should either offer a waiver or reduce the required hours of Category I CME for the two-year renewal period from 50 to 25. Dr. Saferin stated that in this way, those who are not due to renew their license until the end of 2021 will not be required to fulfill all 50 hours in 2021 due to the lack of

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CME opportunities in 2020. Dr. Feibel agreed with Dr. Saferin and suggested that the Board lobby the legislature to effectuate Dr. Saferin's suggestion.

Dr. Schottenstein agreed with the points made by Dr. Saferin and Dr. Feibel, but unfortunately that proposal cannot be implemented quickly. Dr. Schottenstein stated that the current motion is something that the Board can do today and it would be reasonable to discuss Dr. Saferin's proposal on a going-forward basis.

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

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

The motion carried.

The State Medical Board of Ohio reminds all licensees that continuing education continues to be required by law and suspending enforcement does not relieve a licensee of the obligation to obtain required continuing education. Accredited online education is a viable option through the duration of the State of Emergency.

Dr. Schottenstein added that licensees need to be aware that the relaxed enforcement does not address the Board-mandated educational courses. There are licensees who are obligated to complete remedial courses through Board orders and consent agreements. The Board's expectation is that those licensees will complete the actions outlined in their agreements and will not be allowed leniency for missed courses.

TELEMEDICINE

Dr. Schottenstein proposed changes to Ohio's telemedicine regulations. Hospitals and providers are dealing with dozens of uncertainties and developing countless new processes on a daily basis, and the pressure is extremely intense. The Board acknowledges this unprecedented situation and wants to offer reassurance to providers that the Board is going to be flexible and not bring enforcement action against providers who are genuinely trying to do the right thing to treat patients via telemedicine in this crisis.

Motion that, beginning immediately, the Medical Board will not enforce any regulations requiring in-person visits between providers and patients; that this exercise of enforcement discretion includes, but is not limited to, enforcement of regulations related to providers prescribing to patients not seen in-person by the physician; that the exercise of this enforcement discretion is effective the day the State of Ohio Declared an Emergency on March 9, 2020, and will conclude upon expiration of Executive Order 2020-01D; that providers must act in good faith in establishment and/or continuance of the provider-patient relationship; and that the Medical Board will provide advance notice before beginning enforcement when the state emergency orders are lifted:

Motion	Dr. Saferin
2 nd	Dr. Edgin

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

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In response to a question from Mr. Gonidakis, the Board's Chief Legal Counsel Kimberly Anderson stated that the motion, if passed, will apply to regulations that contain a requirement for in-person visits prior to prescribing, as outlined in the memo to the Board dated March 16, 2020. Mr. Gonidakis clarified that if the motion passes, such in-person visits will not be required. Dr. Schottenstein stated that that was his understanding as well.

Mr. Gonidakis asked for Dr. Soin's opinion of the motion, in light of Dr. Soin's experience with opioid treatment. Dr. Soin stated that there are tens of thousands of patients in Ohio on chronic opioids and there is concern about how those prescriptions will be refilled to maintain those patients should this state of emergency become a prolonged issue. Dr. Soin stated that the concern for withdraw for those patients and the harm of having a sudden change in their medication regimen outweighs the risk of unintended consequences of not enforcing these regulations. Dr. Soin stated that this is not an ideal situation, but opined that it is the best alternative at this time.

Dr. Soin continued that many surgical procedures that are performed to relieve painful disorders will not be done because elective procedures have been cancelled. This will probably result in a short-term increase in opioid prescriptions because that is a viable alternative to treat pain. Dr. Soin stated that the Board should be cognizant of that fact moving forward.

Dr. Soin supported the motion, stating that it will be a helpful way for pain management physicians to manage their patients.

Dr. Feibel also supported that motion and stated that the Board should encourage telemedicine so that patients can stay out of physicians' offices as much as possible, particularly at-risk patients.

Mr. Gonidakis asked if this motion only relates to regulations that have been adopted by the Medical Board and not to statutes. Dr. Schottenstein answered affirmatively, adding that there has also been some loosening of such regulations on the federal level as well. Assistant Attorney General Melinda Snyder stated that this motion is a policy decision by the Board.

Mr. Giacalone stated that he has had the same concerns as Mr. Gonidakis, but he felt this motion was the lesser evil and it makes sense to loosen these regulations in the short-term. Mr. Giacalone commented that the Board of Pharmacy should be made aware of this action.

Ms. Montgomery inquired about the ability of the Board's Enforcement section to continue on cases involving clear violations that are not related to the current emergency circumstances. Dr. Schottenstein noted that the current motion includes language that providers must act in good faith in establishing and/or continuing the physician/patient relationship. Dr. Schottenstein stated that this motion should not open the floodgates to unscrupulous prescribing and the Board is still within its rights to take action when there are clearly egregious prescribing practices, notwithstanding this motion.

Executive Director Stephanie Loucka stated that the Board is in close communication with the Board of Pharmacy and the Board of Nursing regarding these matters. Ms. Loucka stated that the Board's staff will be sending information to licensees on a regular basis regarding the changes that are coming forward with telemedicine. When the Board receives official notification of things happening on the federal level, it will consolidate that information and make it available to licensees on the Board's website. The consolidated information will also be disseminated via a communication strategy being developed by the Board's Director of Communications, Tessie Pollock.

Regarding Ms. Montgomery's concerns, Ms. Loucka stated that nothing about the suspension of enforcement of telemedicine regulations will change the requirement for practitioners to practice within the minimal standards of care. Ms. Loucka stated that the Board will continue to vigilantly address minimal standards of care issues.

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

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

The motion carried.

The State Medical Board of Ohio reminds all licensees to adequately document the need for deviation from the existing telehealth requirements, except for specific, emergency situations relative to the state of emergency.

EMERGENCY LICENSURE

Dr. Schottenstein wished to address the potential need for expanding Ohio's health care provider workforce. There are many retired physicians and physician assistants who may wish to reactivate their license to help during this pandemic. Board staff is exploring options for reactivating licenses for retired providers and will bring the matter back before the Board if it needs to act further.

Additionally, Dr. Schottenstein stated that Ohio may find itself needing physicians and physician assistants who are licensed in other states but not licensed in Ohio. With respect to the licensing out-of-state physicians, it was Dr. Schottenstein's understanding that the Board can work with the State's Emergency Management Agency (EMA), in a declared emergency, to make out-of-state licensed physicians eligible to practice in Ohio in response to the declared emergency. It was also Dr. Schottenstein's understanding that out-of-state physician assistants are already covered for this type of reciprocity in Ohio Revised Code 4730.04.

Dr. Schottenstein asked the Board to consider a motion allowing Board staff to work with the EMA, or any other governmental entity identified as a necessary party, to quickly license out-of-state physicians to respond to the COVID-19 emergency in Ohio.

Motion that the Board authorizes Board staff to work with the State Emergency Management Agency, or other governmental entities as identified, to effectuate Ohio licensure eligibility for out of state doctors who are called upon to respond to the COVID-19 emergency in Ohio:

Motion	Dr. Bechtel
2 nd	Dr. Kakarala

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

The Board briefly discussed the potential problems in reactivating the licenses of physicians who have been retired for several years and may not be up-to-date on current standards of care. Dr. Rothermel, noting that the current motion is only about out-of-state physicians, suggested that the Board discuss the matter of retired physicians at a future meeting.

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

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

The motion carried.

STAFF RECOGNITION

Dr. Schottenstein thanked everyone for participating in this Special Meeting via telephone conference. Dr. Schottenstein also thanked the Board staff for going above and beyond, doing hard work, and working long hours and weekends. Dr. Schottenstein particularly thanked Ms. Pollock, stating that her past work in emergency preparedness with the Department of Health has been invaluable and the Board is lucky to have her.

ADJOURN

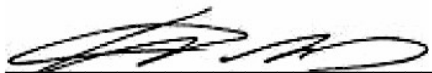
Motion to adjourn:


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

The motion carried.

The meeting adjourned at 1:04 pm.

We hereby attest that these are the true and accurate approved minutes of the Special Meeting of the State Medical Board of Ohio on March 18, 2020, as approved on April 8, 2020.


Michael Schottenstein, M.D., President


Kim G. Rothermel, M.D., Secretary

