



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

Michael Schottenstein, M.D., President, called the video conference meeting to order at 10:33 a.m. with the following members present: Kim G. Rothermel, M.D., Secretary; Bruce R. Saferin, D.P.M., Supervising Member; Michael L. Gonidakis, Esq.; Amol Soin, M.D.; Robert Giacalone, R.Ph., J.D.; Mark A. Bechtel, M.D.; Betty Montgomery; Sherry Johnson, D.O.; Jonathan Feibel, M.D.; and Harish Kakarala, M.D.

**MINUTES REVIEW**

Motion to approve the minutes of the May 13, 2020 Board meeting, as drafted:

Motion	Dr. Bechtel
2 <sup>nd</sup>	Dr. Johnson
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Johnson	Y
Dr. Kakarala	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 Report and Recommendation 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 matter of: Vinson M. DiSanto, D.O. A roll call was taken:

Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Johnson	Y
Dr. Kakarala	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
Dr. Kakarala	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
Dr. Kakarala	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 matter before the Board today, Dr. Rothermel served as Secretary, Dr. Saferin served as Supervising Member, and Dr. Bechtel served as Secretary and/or Supervising Member.

During these proceedings, no oral motions were allowed by either party. Respondents and their attorneys addressing the Board were allotted five minutes to do so. The assistant attorneys general are subject to the same limitations. The respondents and their attorneys are viewing the meeting remotely and have a number to call in the event of an emergency or procedural concern.

### **Vinson M. DiSanto, D.O.**

Dr. Schottenstein directed the Board's attention to the matter of Vinson M. DiSanto, D.O. no objections have been filed. Ms. Shamansky was the Hearing Examiner.

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

Dr. DiSanto was represented by his attorney, Todd Newkirk.

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Mr. Newkirk conveyed Dr. DiSanto's apologies for not appearing before the Board, but he was unable to attend today's video meeting because he is traveling.

Mr. Newkirk had no objections to the Hearing Examiner's Findings of Fact and Conclusions of Law, but he suggested that the Proposed Order be amended to remove the suspension of Dr. DiSanto's license and instead impose a reprimand or something similar. Mr. Newkirk pointed out that Dr. DiSanto is not currently suspended in any of the states in which he is licensed, including Kentucky where the action took place. The matter in Kentucky was resolved via an Agreed Order; Dr. DiSanto is still being monitored in Kentucky but he is permitted to practice. After satisfactory completion some medical record reviews, Dr. DiSanto's monitoring in Kentucky will come to an end. Dr. DiSanto's Rhode Island license has been reinstated without restriction, while the states of Arkansas and North Carolina have dismissed the cases entirely. Actions are pending in some other states, but Dr. DiSanto is not restricted in any of those states.

Mr. Newkirk continued that the treatment in question is old and involved testosterone, which Dr. DiSanto no longer prescribes. Though Dr. DiSanto is not currently practicing in Ohio and has no intent to do so in the near future, Mr. Newkirk asked the Board to consider removing the necessity of applying for reinstatement so as to avoid complications in other states that would stem from a suspension in Ohio.

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

Mr. Wilcox opined that the Hearing Examiner's Report and Recommendation is appropriate as drafted and he supported its adoption by the Board.

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

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

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

In response to a question from Dr. Feibel, Dr. Schottenstein stated that if the Board adopts the Proposed Order Dr. DiSanto would not be required to appear before the Board prior to the reinstatement of his license. Ms. Anderson added that the matter would come before the Board as a reinstatement request once Dr. DiSanto has met all reinstatement requirements. Dr. Feibel opined that Dr. DiSanto should have a practice monitor for a period of time following his reinstatement.

Motion to amend the Proposed Order to add a requirement for Dr. DiSanto to have a practice monitor while practicing in Ohio for a two-year period following the reinstatement of his license:

Motion	Dr. Feibel
2 <sup>nd</sup>	Ms. Montgomery

Ms. Montgomery commented that Dr. DiSanto's practice reflects issues that the Board is currently contemplating with regard to telehealth and the potential problems associated with a broad telemedicine practice.

Ms. Montgomery noted that another board had referred Dr. DiSanto to a remediation program in California. Dr. DiSanto finished the program in two months and expressed pride in having completed it so quickly. Ms. Montgomery opined that Dr. DiSanto had displayed arrogance about what he regarded as his excellent performance in the program. Ms. Montgomery pointed out that the program's review indicates that Dr. DiSanto

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was not up to par on modern applications of his practice. Ms. Montgomery voiced concern that Dr. DiSanto has not reflected on errors he may have made. Ms. Montgomery stated that this attitude reflects the problems surrounding the events in Kentucky.

Dr. Schottenstein agreed with Ms. Montgomery. Dr. Schottenstein observed that Dr. DiSanto had presumed he finished the remediation program in two months rather than the usual six to seven months because he is so knowledgeable. Dr. Schottenstein stated that it is also possible that other practitioners in the program took their time and tried to get it right instead of simply speeding through the program as quickly as possible.

Vote on Dr. Feibel's motion to amend:

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

The motion carried.

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

Motion	Dr. Johnson
2 <sup>nd</sup>	Dr. Kakarala
Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Mr. Gonidakis	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Abstain
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. The matters were reviewed by a Hearing Examiner, who prepared Proposed Findings and Proposed Orders, and they are now before the Board for final disposition. These matters are disciplinary in nature, and therefore the Secretary and Supervising Member cannot vote. In these

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matters, Dr. Rothermel served as Secretary and Dr. Saferin served as Supervising Member. In addition, Dr. Bechtel served as Secretary and/or Supervising Member in the matter of Dr. Ritchey.

### **George Robert Butler, M.D.**

Motion to find that the allegations as set forth in the June 12, 2019 Notice of Opportunity for Hearing in the matter of Dr. Butler 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. Johnson
2 <sup>nd</sup>	Dr. Kakarala

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

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

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

The motion carried.

### **William Ritchey, D.O.**

Motion to find that the allegations as set forth in the March 13, 2019 Notice of Opportunity for Hearing in the matter of Dr. Ritchey 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. Johnson
2 <sup>nd</sup>	Mr. Giacalone

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

Mr. Giacalone opined that the Proposed Order of permanent revocation is appropriate, stating that Dr. Ritchey's prescribing practices are egregious. Dr. Ritchey had been informed that some of his patients had been identified to him as having problems, yet he continued to over-prescribe to them. Mr. Giacalone pointed out that Patient BK was prescribed Percocet, Valium, and Soma, which according to the DEA is referred to as the "holy trinity" by drug abusers. Although Patient BK had been incarcerated before, Dr. Ritchey failed to ask why. Mr. Giacalone stated that Dr. Ritchey had a history of not asking his patients relevant questions or tactfully avoiding subjects. Given the damage Dr. Ritchey has done to his patients, Mr. Giacalone opined that he should not have a license in Ohio.

Dr. Soin agreed with Mr. Giacalone's comments, particularly regarding Patient BK. Dr. Soin commented that there may have been a time in the late 1990's or early 2000's when that type of prescribing pattern was

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common and, in some circles, even considered acceptable for short-term treatments of pain. However, given all the knowledge and evidence that has accumulated since that time, a physician should know better, especially given the gravity of the drug addiction problem in Ohio. Dr. Soin agreed with the Proposed Order of permanent revocation and a fine.

Dr. Schottenstein agreed with Mr. Giacalone and Dr. Soin. Dr. Schottenstein opined that Dr. Ritchey had been negligent and reckless and he has put the citizens of Ohio at risk.

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

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

The motion carried.

### **NON-DISCIPLINARY AGREEMENTS**

#### **Stephanie Ann Abul, M.D.**

Motion to ratify the proposed Non-Disciplinary Withdrawal of Application and Dismissal of Pending Non-Disciplinary Denial with Dr. Abdul:

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

The motion carried.

#### **Safaa Alakrawi**

Motion to ratify the proposed Non-Disciplinary Voluntary Surrender of License to Practice as a Respiratory Care Professional with Ms. Alakrawi:

Motion	Dr. Kakarala
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2 <sup>nd</sup>	Dr. Saferin
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Dr. Schottenstein noted that this situation came about because Ms. Alakrawi had been erroneously issued a license by the Board’s licensure section when she did not meet the requirements for licensure. Dr. Schottenstein asked if there was anything else the Board members could know about this case. Dr. Schottenstein stated that he was not interested in pointing fingers, but he would like to know how the error occurred. Dr. Schottenstein also asked what would have happened if Ms. Alakrawi had not agreed to the non-disciplinary voluntary surrender.

Ms. Anderson, having received information from the licensure staff, stated that the license had been issued prematurely and erroneously. Ms. Alakrawi had been given an opportunity to meet the necessary requirements, but she failed to do so. Specifically, Ms. Alakrawi passed the Certified Respiratory Therapist (CRT) examination but she did not pass the Registered Respiratory Care (RRT) examination; the Board requires passage of the RRT for licensure. Ms. Anderson observed that Ms. Alakrawi did not work as a respiratory care professional during the time she was licensed.

Ms. Anderson noted that a similar situation occurred a few years ago when a physician did not qualify for licensure but was erroneously issued a license anyway. In that case, the physician was issued a non-disciplinary citation and a settlement agreement was entered into.

Dr. Schottenstein thanked Ms. Anderson for the information.

Vote on Dr. Kakarala’s motion:

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

The motion carried.

### **Abdulkarim Hanna Aslo, M.D.**

Motion to ratify the proposed Non-Disciplinary Withdrawal of Application and Dismissal of Pending Non-Disciplinary Denial with Dr. Aslo:

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

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Dr. Feibel	Y
Dr. Bechtel	Y
Dr. Schottenstein	Y

The motion carried.

### **Aaron Didich, D.O.**

Motion to ratify the proposed Non-Disciplinary Surrender of Certificate to Recommend Medical Marijuana with Dr. Didich:

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

The motion carried.

### **Donald D. Woodard, M.D.**

Motion to ratify the proposed Non-Disciplinary Withdraw of Application for a Certificate to Recommend Medical Marijuana with Dr. Woodard:

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

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

The motion carried.

The Board went into Executive Session at 10:58 a.m. and returned to public session at 11:51 a.m.

### **REMAND IN THE MATTER OF MICHAEL GARBER, M.D.**

Dr. Schottenstein stated that on November 9, 2016, the Medical Board issued a Notice of Opportunity for Hearing to Dr. Garber based on his alleged failure to submit to a Board-ordered examination for chemical dependency and his alleged failure to notify the Board of any circumstances beyond his control preventing him from submitting to the examination.

The Board further alleged that as a result, a legal presumption had been established pursuant to Ohio Revised Code Section 4731.22(B)(26), and that he had admitted to the factual and legal allegations set forth by the Board in an August 18, 2016 letter, thus demonstrating impairment of his ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice.

On July 12, 2017, the Board issued an Order which suspended Dr. Garber's license to practice medicine and surgery and then stayed the suspension. Dr. Garber timely filed an appeal of the Board's Order with the Franklin County Court of Common Pleas, which affirmed the Board's order on August 21, 2019. Dr. Garber timely filed an appeal with the Court of Appeals, Tenth Appellate District, which issued an order on May 12, 2020, reversing the judgment of the Franklin County Court of Common Pleas and remanding the case to that court with instructions to vacate the Medical Board's July 12, 2017 Order and to remand the matter to the Board for further proceedings in accordance with its decision.

Specifically, the Court determined that the Board never afforded Dr. Garber the opportunity to be heard as to whether the order to submit to a three-day examination was supported by a reason to believe that his ability to practice was impaired by the habitual or excessive use of drugs. The Court held that the Board did not act in accordance with law when it imposed the stayed license suspension without affording Dr. Garber the opportunity to be heard on, and without determining the threshold question of, whether the Board had reason to believe that his ability to practice medicine was impaired due to habitual or excessive use of drugs at the time the three-day examination was ordered.

Dr. Schottenstein stated that in this remanded matter, the Board has the following available options:

1. Remand the matter to the hearing unit for the purposes of reviewing proffered evidence and/or additional evidence from the state, including testimony, to assess whether the decision to order Dr.

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Garber to the examination was based on a reason to believe that Dr. Garber's ability to practice medicine and surgery was impaired due to habitual or excessive use of drugs.

### 2. Dismiss the Notice of Opportunity for Hearing

Mr. Giacalone suggested dismissing the Notice of Opportunity for Hearing.

Motion to dismiss the Notice of Opportunity for Hearing issued to Michael Garber, M.D.:

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

The motion carried.

## **SETTLEMENT AGREEMENTS**

### **Matthew P. Redrow, R.C.P.**

Motion to ratify the proposed Permanent Surrender with Matthew P. Redrow, R.C.P.:

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

The motion carried.

### **Jody Finney, L.M.T.**

Motion to ratify the proposed Permanent Surrender with Jody Finney, L.M.T.:

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

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

The motion carried.

**David M. Engel, L.M.T.**

Motion to ratify the proposed Consent Agreement with David M. Engel, L.M.T.:

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

The motion carried.

**Ardeth Kathleen Ellis, L.M.T.**

Motion to ratify the proposed Consent Agreement with Ardeth Kathleen Ellis, L.M.T.:

Motion	Dr. Johnson
2 <sup>nd</sup>	Dr. Kakarala
Dr. Rothermel	Abstain
Dr. Saferin	Abstain
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Mr. Gonidakis	Y
Ms. Montgomery	Y
Dr. Feibel	Y
Dr. Bechtel	Abstain
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. Gianmarino Gianfrate, D.O.: To be issued to an applicant for a training certificate, based on the applicant's disclosure of having entered into a guilty plea of Assault on a Female in North Carolina in 2012, which constitutes a misdemeanor of moral turpitude and an alleged lack of good moral character.
2. Sherman Washington, M.D.: Based on actions taken against the licensee by the Washington Medical Commission.
3. Khalid Jalil, M.D.: based on actions taken against the licensee by the Georgia Composite Medical Board, which were based on a plea of guilty to reckless conduct involving a patient.
4. Kang Lu, M.D.: The Board had previously issued a citation to this licensee in April 2019 based on temporary suspension actions in other states; that matter is still pending for a hearing. The current proposed citation is based on a Denial of Application for Licensure by the Utah Department of Commerce, Division of Occupational and Professional licensing; and a Final Order and Decision by the Massachusetts Board of Registration in Medicine which revoked the licensee's license in that state and blocked him from practicing there for at least three years.
5. Jerry L. Brand, M.T.: Based on alleged sexual misconduct involving three patients.
6. Marios Papachristou, M.D.: Based on a plea of guilty to unlawful dispensing of a controlled substance. Ms. Marshall noted that this citation does not include an immediate suspension because this practitioner's Ohio license has lapsed.
7. Joseph M. Thomas, M.D.: Based on action taken by the State Board of Medicine of the Commonwealth of Pennsylvania related primarily to infection control.
8. Stephens Triplett, D.O.: Based on failure to cooperate in the Board's investigation and attempts to obtain the physician's continuing medical education (CME) information.

Regarding proposed Citation #4, Dr. Feibel asked if the respondent is currently licensed in Ohio and where he is currently practicing. Ms. Marshall replied that the respondent is not practicing in Ohio and his currently mailing address is in Massachusetts.

Dr. Feibel stated that this physician has been banned from practicing in many states, yet he is still licensed in Ohio and it may take a year to adjudicate this case. Dr. Feibel felt that the Board should continue to investigate the summary suspension issue that has been discussed in the past.

Ms. Marshall stated that one thing that the Secretary and Supervising Member looks at when determining if a practitioner presents a risk of immediate and serious harm to Ohio patients, which is one of the criteria for a summary suspension, is how close the practitioner is to Ohio. This physician is in Massachusetts, which is not near Ohio, and there is no evidence that he is actively practicing. If new information was received indicating that he was practicing in or near Ohio, the Secretary and Supervising Member could ask the Board to approve a summary suspension based on that change in circumstances.

Regarding proposed Citation #5, Ms. Montgomery asked if this massage therapist is currently practicing. Ms. Montgomery stated that this seems like a serious boundaries case and asked if a summary suspension would be in order. Ms. Marshall stated that the decision of whether to include a summary suspension in a citation is within the discretion of the Secretary and Supervising Member, in consultation with the Board's enforcement attorneys and the assistant attorneys general about the legal thresholds that must be met to support a summary suspension. Ms. Marshall noted that of the three allegations in this case, one is from 2017 and two are from 2019 and are several months old now. Ms. Marshall stated that this massage therapist currently has

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an active license. Ms. Montgomery opined that this citation seems to show a pattern of practice of a predator. Ms. Montgomery stated she would support something stronger than just a citation.

Ms. Marshall commented that the Secretary and Supervising Member, as well as the entire Board staff, is very focused on the issue of sexual misconduct and those cases are being handled as aggressively as possible. Ms. Marshall stated that the Secretary and Supervising Member have background information that will come to the Board through the hearing process but cannot be provided to the Board at this juncture. Another consideration is the weight and credibility of the evidence; Ms. Marshall stated that not every victim is willing to cooperate with the Board or willing to testify, and this weighs into consideration of whether the Board should go forward with a summary suspension. Ms. Marshall assured the Board that every sexual misconduct case is handled as aggressively as it is felt the law will support so that the Board can win its case and not be overturned.

The Board discussed this matter thoroughly.

Dr. Feibel stated that he respects Dr. Rothermel and Dr. Saferin as Secretary and Supervising Member of the Board, but he expressed concern that the ten voting members of the Board are in the dark while making very serious decisions and the Board is relying on two people to make these serious decisions on their behalf.

Dr. Schottenstein suggested that cases that seem egregious on the surface but do not include a summary suspension could be accompanied by additional information. Ms. Marshall stated that the problem is not providing information, but rather it is making sure that additional information does not taint the Board members' consideration of the case. Ms. Montgomery suggested that a timeline of events, including when the complaint was received, should be provided to the Board. Ms. Montgomery opined that no court would opine that such information tainted the Board members as adjudicators.

Mr. Giacalone asked about the definition of "immediacy" in these cases. Ms. Marshall answered that immediacy is not a black-and-white issue and that the Secretary and Supervising Member make the determination of immediacy in each case. Ms. Marshall stated that under the Board's current statutory scheme, the determination of whether the two legal prongs that support a summary suspension (clear and convincing evidence, and danger of immediate and serious harm) belongs to the Secretary and Supervising Member alone. The Board as a whole has a check and balance in this process because the Board elects the Secretary and Supervising Member.

Mr. Giacalone asked what would happen if a court found that the Board had issued a summary suspension improperly and the suspension was overturned. Ms. Marshall stated that the risk of issuing a summary suspension without clearing showing that the two legal prongs have been met is that the a court or the legislature could limit or remove that tool from the Board and it will not be available when it is truly needed.

Several Board members made suggestions for changes to the process, including selecting one or two Board members to review serious cases with the Secretary and Supervising Member, either during the review process or after the matter has been fully adjudicated, as a quality assurance measure. It was noted that any Board member reviewing investigatory information would be required to recuse themselves when the matter is considered by the Board. Ms. Montgomery noted that according to former Board member Dr. Steinbergh, the Board once had a quality assurance process many years ago.

Dr. Schottenstein suggested that the Board discuss this topic further after it receives the report from the FSMB audit of the Board's processes. Ms. Loucka agreed and stated that the staff can explore options to address the Board's concerns so that the Board can consider them with the FSMB audit report.

Motion to approve and issue proposed Citations #1 through #6::

Motion	Dr. Bechtel
2 <sup>nd</sup>	Dr. Kakarala
Dr. Rothermel	Abstain

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

The motion carried.

Motion to approve and issue proposed Citations #'s 7 and 8:

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

The motion carried.

### **ELECTION OF VICE PRESIDENT**

Dr. Schottenstein stated that the end of Dr. Edgin's term as a Board member resulted in a vacancy in the office of Board Vice President.

Motion to elect Dr. Bechtel as Vice President of the Medical Board for a term beginning immediately and ending on December 31, 2020:

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

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The motion carried.

## **OPERATIONS REPORT**

**Human Resources:** Ms. Loucka stated that the human resources status had not changed greatly and the staff continues to review the budget situation and the State hiring freeze.

Dr. Feibel exited the meeting at this time.

**Budget:** Ms. Loucka stated that license renewal fees are down about 50% due to the license renewal extension that was granted by the legislature. Staff is developing a communications strategy to remind licensees who have not renewed that they may renew their licenses now and do not need to wait until the deadline. For those whose licenses would have expired if not for the pandemic, the new renewal deadline established by the legislature is December 1, 2020, or 90 days after the lifting of the Governor's emergency order, whichever occurs first.

**One-Bite Program:** Ms. Loucka stated that Ms. Montgomery had previously asked for information on the One-Bite Program. The data for the last quarter is included in the Operations Report provided to the Board members. Ms. Loucka stated that numbers from the next couple of quarters will give an indication of how the implementation of the program is proceeding. A good conversation was had with the Ohio Physicians Health Program (OPHP), which shares the Board's goal of making sure licensees can avail themselves of this program and be successful.

Regarding the (B)(19) program, there are six licensees involved and everything is going smoothly for them. Ms. Loucka noted that two licensees are near graduation from the program.

**Investigations:** Ms. Loucka stated that Board members have been provided with the report from the investigations unit. Ms. Loucka pointed out that the investigators and some of the enforcement attorneys are participating in a three-day prescribing course hosted by Case Western Reserve University (CWRU). This is typically an in-person course, but CWRU has created an online version due to the pandemic. CWRU graciously offered the Board a discounted rate for the course.

**Licensure:** Ms. Loucka stated that the time to issue a clean license application continues to decrease. The licensure staff continues to struggle with background checks because many local offices have closed due to the pandemic, but this will improve once those offices reopen.

**Complaints:** Ms. Loucka stated that after receiving the FSMB audit report and feedback from Board members and staff, the real work will be tackling the open complaints load, making sure the Board is moving in the right direction, being expeditious in handling all the stages of complaints, balancing efficiency and not rushing inappropriately, and giving things the immediacy they are due.

**Communications:** Ms. Loucka stated that the communications team has provided great updates and viewership of the Board's videos continues to increase. The communications team developed very good materials for the FSMB virtual hall of posters which highlights the Board's work with Recovery Ohio, as well as the Duty to Report.

**Senate Testimony:** Ms. Loucka stated that staff presented to the Senate Transportation and Workforce Committee. The testimony went very well and no red flags were raised.

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## **REPORTS BY ASSIGNED COMMITTEES**

### **Dietetics Advisory Council Report**

Ms. Reardon stated that the Dietetics Advisory Council met on June 8, 2020, via video conference. The Council welcomed its new member, Ms. Shelito, as well as the reappointment of members Ms. Clutter and Mr. Reiersen. The Council received a legislative update on pertinent legislation in the General Assembly, as well as an update from the Ohio Academy of Nutrition and Dietetics. The Council discussed attempts to help licensees during the pandemic. The Council agreed that licensees should continue to renew their licenses and obtain continuing education during the pandemic.

### **Respiratory Care Advisory Council Report**

Dr. Kakarala stated that the Respiratory Care Advisory Council met on June 9, 2020. Though there was no new data to review, Dr. Kakarala stated that the Council is always tracking certification rates, graduation rates, and actions that respiratory care schools are taking with regard to enrollment and graduation rates. The Council wanted to ensure that there are no licensure issues during the pandemic.

### **Sexual Misconduct Committee Report**

Dr. Schottenstein stated that 67% of historical case reviews have been completed and only 400 cases of the original 1,256 are left to be assigned. An average of 43 cases, or about 3-4% of the caseload, are reviewed each week. At that rate, initial reviews should be completed by the end of September.

Dr. Schottenstein continued that the Board has been invoiced over \$100,000 related to this matter. Dr. Schottenstein thanked the assistant attorneys general for their efforts, which have led to \$9,000 in cost savings. 2,770 hours of staff time have been spent on the historical case review thus far.

Following the onsite review, there is a quality assurance check in which the Secretary and Supervising Member, Enforcement, Investigations, and the Executive Director will be able to weigh in. Over 200 of these cases have been reviewed so far.

The Board has been cautioned by victim advocates to be very careful when re-contacting witnesses in these cases so that they are not re-victimized. Therefore, the general process is to send the witnesses a letter informing them that the Board is reviewing the matter again so that they have time to process that information. The Board also continues to re-prioritize cases as new information is learned, with the most egregious cases generally being reviewed first.

The Federation of State Medical Boards (FSMB) audit is nearly complete and it included interviews with multiple Board members and staff. Ms. Loucka has opined that the FSMB appear to have a good understanding of the Board's processes. The audit will hopefully be complete by the end of June and the Board may be able to review the matter at its July 8, 2020 meeting.

### **Policy Committee Report**

#### **Legislative Update**

Dr. Soin stated that the Committee had a robust legislative update. The Committee discussed the update and determined that a better job will be done articulating the Board's official stance various bills that have a direct impact on licenses and the citizens of Ohio.

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## Telehealth

Dr. Soin stated that the Committee realizes that telehealth is a very important initiative for citizens and licensees, so it wants to do the best job possible in terms of feedback it can provide as the legislature considers adopting legislation. As a result, some Board members have volunteered their time to sit down with staff members for one-on-one questions. There is also a possibility that those Board members will have a group meeting, which may possibly require a public meeting prior to next month's Committee meeting.

## Microneedling

The Committee discussed microneedling as an introduction to a broader topic that the Committee will discuss next month.

## Death Certificate Position Statement

The Committee updated the Board's death certificate position statement.

## Controlled Substance Medication for Weight-Loss FAQ's

The Committee updated the Board's weight-loss FAQ's to remove references to the product Belviq, which has been removed from the market.

## Senate Bill 308/House Bill 606

Ms. Anderson stated that Senate Bill 308 and House Bill 606 will provide immunity to health care workers who provided care during the pandemic. Some of that immunity could expand into professional discipline as well. More details will be provided to the Board as the bills move forward.

## Rules to File with CSI

Moved to file the following proposed rules with the Common Sense Initiative (CSI): The proposed radiologist rules from Chapter 4774-1; the proposed personal information systems rules from Chapter 4731-9; and the proposed dietetics Rules 4759-4-04 and 4759-4-08 as amended:

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

The motion carried.

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## Finance Committee Report

### Fiscal Update

Dr. Schottenstein stated that the Board's revenue in April 2020 was \$632,619, which is less than half the revenue in March 2020 and 52% less than in April 2019. Looking ahead to the numbers in May 2020, Dr. Schottenstein stated that they look about as bad. Dr. Schottenstein further noted that April, May, and June are typically the Board's biggest months for revenue. The good news is that it is known why revenue has dropped off. Due to the COVID-19 pandemic, license renewal deadlines are delayed until December 1, 2020, or 90 days after the Governor's emergency order is lifted, whichever occurs first.

Dr. Schottenstein continued that the originally projected revenue for Fiscal Year 2020 was \$11,200,000. It now looks like revenue will be approximately \$10,200,000. Dr. Schottenstein stated that the Board will eventually receive the revenue it has lost, but the readjustment of renewal deadlines means that revenue for Fiscal Year 2020 will look artificially low and revenue for Fiscal Year 2021 will look artificially high. Dr. Schottenstein stated that while these numbers are disconcerting at the moment, it should even out over time. Dr. Schottenstein stated that the number of renewals in the last quarter of a fiscal year is typically about 13,000. However, there have been only 7,300 renewals thus far. The Board is strategizing to message licensees to encourage them to renew early and not wait for the deadline.

Dr. Schottenstein stated that April 2020 was a higher-spending month, for two reasons: First, the Board received its quarterly rent bill; and second, there was a delay getting invoiced for bank fees that the Board owed for October 2019 through February 2020, and that invoice was received in April.

Dr. Schottenstein stated that despite the foregoing, the Board still has over \$1,000,000 in net revenue for Fiscal Year 2020. The Board's cash balance is approximately \$5,500,000, which is down from \$5,800,000 the previous month. For the historical case review, the Board has \$78,283 remaining that is encumbered which will likely be spent down to about \$40,000 by the end of the fiscal year. That balance may potentially get the Board through the remaining case review project.

Ms. Montgomery exited the meeting at this time.

Dr. Schottenstein stated that the Board has a total allotment of \$10,587,390, which is down from approximately \$10,800,000. The Board's Fiscal Year 2021 appropriation is unchanged at \$11,300,000, but that number may change because it took into account wage increases that may not materialize. The Board usually turns in its allotment to the Office of Budget and Management (OBM) annually, but due to the budgetary environment OBM has asked that the allotment be estimated quarterly. All four quarters of estimated allotment will be sent next week so that OBM has an idea of when the Board's spending will occur. Dr. Schottenstein noted that exempt employees have been asked to take pay cuts in the form of 10 days off without pay. The bargaining unit is in negotiations regarding bargaining unit employees.

### Fines

Dr. Schottenstein stated that because of the Board's vote to delay enforcement of continuing medical education (CME) infractions, no CME non-disciplinary fines were collected for April.

### Purchase of Additional Salesforce Development Hours

Dr. Schottenstein stated that that Board is being asked to approve up to \$49,500 for dedication of IT time from the Department of Administrative Services (DAS) to prioritize the Board's projects. Dr. Schottenstein observed that this is the same amount request last year, and the Board only used about \$18,000 or \$19,000 of that. Therefore, the Board does not anticipate approaching the \$49,500 limit this year either. The funds are substantially for eLicense enhancements and to improve efficiency. This will be in addition to the \$80,000 that DAS is charging the Board for IT support. The \$80,000 is a substantial increase from \$30,000 the year before.

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Dr. Schottenstein listed examples of IT developments completed in Fiscal Year 2020:

- FSVS integration was updated to only allow profiles completed within the last 12 months to be transmitted to the Board, ensuring that the Board only receives current data from applicants.
- Several system changes were required with the passing of House Bill 166, including conversion of telemedicine licenses to full licenses, adding a late renewal period for training certificates, and converting all licenses to a rolling two-year expiration cycle.

Dr. Schottenstein stated that these changes allowed for increased operational efficiency when processing renewals, as well as smoothing out revenue intake over time.

Examples of projects for Fiscal Year 2021 include enhancements to enable the Board to automate and improve the subpoena authorization process, incorporate expert tracking, enter approval into the system, name changes process automation and a full system profile overhaul.

The rate per hour is approximately \$113. The staff is requesting that the Board approve up to \$49,500 for Fiscal Year 2021 with an estimated 435 hours of development.

Dr. Feibel returned to the meeting at this time.

Motion to approve the purchase of additional Salesforce development hours from DAS OIT of up to \$49,500 for Fiscal Year 2021 to support system enhancements:

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

The motion carried.

Mr. Gonidakis exited the meeting at this time.

## **Licensure Committee Report**

### Licensure Application Review

#### Amy Mamajek-Fu

Dr. Saferin stated that Amy Mamajek-Fu has applied for an Ohio Respiratory Care Professional license in Ohio. Ms. Mamajek-Fu has not practiced clinically since March 1999.

Motion to approve Ms. Mamajek-Fu's application for an Ohio license contingent on successful completion of the Clinical Simulation Examination within twelve months from the date of mailing of the Notice of Opportunity for a Hearing:

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Motion	Dr. Johnson
2 <sup>nd</sup>	Dr. Bechtel
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Dr. Feibel	Y
Dr. Bechtel	Y
Dr. Schottenstein	Y

The motion carried.

Mr. Gonidakis returned to the meeting at this time.

### Sherry Wang, M.D.

Dr. Saferin stated that Dr. Wang has applied for a medical license in Ohio. She has less than 24 months of post graduate training in the United States, but is requesting that her training in Australia, combined with the 12 months of acceptable training she has received in the United States, be deemed equivalent to 24 months of graduate medical education through the second-year level of graduate medical education.

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

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

The motion carried.

### Sandra Ramicone

Dr. Saferin stated that Ms. Ramicone has applied for restoration of her Ohio license to practice dietetics. Considering that Ms. Ramicone's dietetic registration with the Commission on Dietetic Registration is current, staff recommends that her license be restored.

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

Motion	Dr. Rothermel
2 <sup>nd</sup>	Dr. Bechtel
Dr. Rothermel	Y

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

The motion carried.

### Hasan Askari, M.D.

Dr. Saferin stated that Dr. Askari has applied for a medical license and has requested a waiver of the USMLE ten-year rule. Dr. Askari's specialty board certification is currently active, and he is participating in Maintenance of Certification.

Motion to approve the good cause exception to the 10-year rule as outlined in OAC 4731-6-05 (C)(1), and accept the examination sequence so that Dr. Askari may be granted a license:

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

The motion carried.

### Lanae Dailey

Dr. Saferin stated that Ms. Dailey has applied for restoration of her Ohio Respiratory Care Professional (RCP) license. Ms. Dailey passed the RRT examination in March 2020 and holds current RRT registration. Because Ms. Dailey recently gained her RRT registration, licensure staff recommends approval of her restoration application.

Do I hear a motion approve Ms. Dailey's application for restoration of her Ohio license as presented:

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

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Mr. Gonidakis	Y
Dr. Feibel	Y
Dr. Bechtel	Y
Dr. Schottenstein	Y

The motion carried.

### Mohamed Kamel, M.D.

Dr. Saferin stated that Dr. Kamel has applied for a medical license in Ohio. He has less than twenty-four months of post graduate training in the United States, but is requesting that his experience and training in Egypt and Ireland, combined with the ten plus months of acceptable training he has received in the United States, and his eleven years of practice experience in the United States, be deemed equivalent to 24 months of graduate medical education through the second-year level of graduate medical education.

Motion to grant the graduate medical education equivalence, as outlined in 4731.09(A)(4)(b), so Dr. Kamel may be granted a license:

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

Responding to a question from Dr. Kakarala, Dr. Saferin stated that Dr. Kamel is currently licensed in another state. Dr. Kakarala was uncertain how Dr. Kamel became licensed in another state with so little training. However, Dr. Kakarala stated that it is difficult to argue with the fact that Dr. Kamel has practiced in another state for more than a decade without incident. Dr. Saferin commented that Dr. Kamel had been thoroughly vetted for mistakes.

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

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

The motion carried.

### Nicholas Smith, M.D.

Dr. Saferin stated that Dr. Smith has applied for a medical license. He has less than 24 months of post-graduate training in the United States, but is requesting that his experience and training in Australia, combined with the 12 months of acceptable training he has received in the United States, be deemed equivalent to 24 months of graduate medical education through the second-year level of graduate medical education.

Motion to grant the graduate medical education equivalence, as outlined in 4731.09(A)(4)(b), so that Dr. Smith may be granted a license:

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

The motion carried.

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

Dr. Bechtel stated that this afternoon the Committee will review the expert report on the petition to add cachexia to the list of conditions than can be treated with medical marijuana. The Committee will then make a recommendation to the full Board on whether to approve or reject the petition. The Committee expects the Board to be able to vote on the petition at its July 8, 2020 meeting. However, to account of any unexpected circumstances, Dr. Bechtel asked the Board to extend the window for issuing a decision on the petition by 90 days. The Board will also render decisions on the petitions regarding anxiety and autism.

Motion to extend the deadline to issue decisions on the petitions to add cachexia, anxiety, and autism spectrum disorder to the list of qualifying conditions for treatment with medical marijuana to September 28, 2020, pursuant to 4731-32-05(F), Ohio Administrative Code, so that the Board may review the expert report prior to rendering a decision:

Motion	Dr. Saferin
2 <sup>nd</sup>	Dr. Kakarala
Dr. Rothermel	Y
Dr. Saferin	Y
Mr. Giacalone	Y
Dr. Soin	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Mr. Gonidakis	Abstain
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 May 11 and 12, 2020:

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

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Mr. Giacalone	Y
Dr. Soin	Y
Dr. Johnson	Y
Dr. Kakarala	Y
Mr. Gonidakis	Y
Dr. Feibel	Y
Dr. Bechtel	Abstain
Dr. Schottenstein	Y

The motion carried.

### **Probationary Requests**

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

- a) Krishan K. Aggarwal, M.D.: Approval of the previously attended *Intensive Course in Controlled Substance Prescribing: Pain, Anxiety, Insomnia*, offered by Case Western Reserve University, to fulfill the Controlled Substance Prescribing Course Requirement.
- b) Julie M. Alderson, D.O.: Request for reduction in psychotherapy treatment from to every two months.
- c) Marvin M. Baula, M.D.: Request for discontinuance of the practice plan requirement; and discontinuance of the chart review requirement.
- d) Nicholas C. Brautigam, M.D.: Request for approval of *PBI Medical Ethics and Professionalism: An Ethics Protection, Violation Prevention Course*, offered by the University of California, Irvine School of Medicine, to fulfill the professional ethics course requirement.
- e) Paul R. Brown, P.A.: Request for approval of Geoffrey A. Answini, M.D. to serve as the reporting physician.
- f) Peter C. Johnson, M.D.: Request for approval of Irma D. Santiago, M.D. to serve as the new monitoring physician.
- g) Jaydutt Patel, M.D.: Request for permission to travel between Ohio and Erie, PA without individual approvals.
- h) William S. Richardson, M.D.: Request for discontinuance of Naltrexone treatment.
- i) Jon P. Ryan, D.O.: Request for approval of Wendy Soto, M.D. to complete one return to work assessment, required for reinstatement.
- j) Raymond G. Stolarski, D.P.M.: Request for approval of the personal and professional ethics course, tailored by Donna Homenko, Ph.D., to fulfill the professional ethics course requirement:

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

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The motion carried.

**ADJOURN**

Motion to adjourn:

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

The motion carried.

The meeting adjourned at 1:21 p.m.

We hereby attest that these are the true and accurate approved minutes of the State Medical Board of Ohio meeting on June 10, 2020, as approved on July 8, 2020.

(SEAL)



**SEXUAL MISCONDUCT COMMITTEE MEETING  
June 10, 2020 – via Videoconference**

<b>Committee Members Present:</b> Michael Schottenstein, MD, Chair Robert P. Giacalone, JD, PhD Michael L. Gonidakis, Esq. Betty Montgomery, Esq.	<b>Staff Present:</b> Stephanie Loucka, Executive Director Stuart Nealis, Project Manager James Roach, Chief of Investigations Shawn McCafferty, Investigations Manager Tessie Pollock, Chief Communications Officer Benton Taylor, Board Parliamentarian
<b>Other Board Members Present:</b> Mark Bechtel, MD Jonathan Feibel, MD Kim Rothermel, MD Bruce Saferin, DPM	

Dr. Schottenstein called the meeting to order at 8:04 a.m.

**MINUTES REVIEW**

**Ms. Montgomery moved to approve the draft minutes of the Committee’s May 13, 2020 meeting. Mr. Giacalone seconded the motion. The motion carried.**

**HISTORICAL CASE REVIEW**

Mr. Nealis stated that the numbers he is presenting today are updated as of yesterday afternoon. The Board has completed 67% of the historical case reviews, with just under 400 cases of the original 1,256 remaining to be assigned. The weekly average of completed reviews has decreased somewhat since last month’s update, with the four-week average now at 43 completed reviews per week. This is because some cases being reviewed had some formal action and have become much more complex. Despite this, the Board continues to complete 3% to 4% of the reviews each week and is still on pace to complete all initial reviews by the end of September.

To date, the Board has been invoiced just over \$100,000 for contract reviews. Sixty-five reviews have been completed by the assistant attorneys general, which saved the Board approximately 179 hours and \$9,000. Board staff has spent approximately 2,700 hours on the historical case review, which over 1,400 of those hours coming after the recommendation from the contract reviewers.

Dr. Schottenstein thanked Mr. Nealis for the update.

**HISTORICAL CASE REVIEW TEAM PRESENTATION**

Mr. Roach stated that the overarching goal of this project is to get it right, though it may not be easy or expedient. Mr. Roach anticipated an average of 80 hours per week reviewing work done by outside reviewers and determining next steps. For each case in where there was no formal action, there is an investigation into the matter. Each case review represents a snapshot

in time, but the staff does its due diligence to examine what has occurred since the initial closure of each case and look for signs of predatory behavior.

Mr. Roach continued that the general approach is to ask what more can be done in each case, such as interviewing one more witness. Mr. Roach noted that the complaints under review can be five to twenty years old or more. Mr. Roach further noted that extensive documentation is very important to the process. Mr. Roach stated that over 200 cases have been reviewed by assigned staff from Enforcement and Investigations. Every part of the process has checks and balances; no one person makes the decision of where a case goes next.

Mr. McCafferty stated that since this has never been done, the process continues to be ironed out and a great deal has been accomplished in a short time. Mr. McCafferty reiterated Mr. Roach's comment that everything is thoroughly documented and vetted throughout the process. Mr. McCafferty briefly reviewed the investigations process, which involves batching together cases that have been through the initial review and assigning them to investigators. The investigators come back together at a later time to discuss what has been learned and what further course of action would be appropriate. Once a review is completed, it is take to the Secretary and Supervising Member.

Mr. McCafferty commented that social media searches in the course of investigation sometimes lead to new complaints. Also, review of the Ohio Law Enforcement Gateway (OLEG) has led to discovery of unreported arrests of physicians for things such as OVI.

Mr. McCafferty continued that cases are discussed weekly. Workflow varies based on the type of case. As many as two conference calls may be held per week to discuss the results of investigations and paths to move forward. The investigators are contacting law enforcement agencies and witnesses as part of their investigations. Mr. McCafferty described a program by which certified letters are sent to former complainants or former potential victims regarding the reopening of the case. The Board has worked extensively with Michelle Richards to design the program in such a way as to not re-victimize anyone.

Responding to questions from Ms. Montgomery, Mr. McCafferty stated that Investigations is working well with the assigned Enforcement Attorney. Mr. McCafferty stated that the key is communication and collaboration weekly. Mr. McCafferty stated that for cases in which the victim was never contacted by the Board, the investigator will reach out face-to-face. If the victim had been contacted at the time of the initial complaint, the certified letter will be sent. Mr. McCafferty explained that after speaking with victim advocates, it was determined that a letter would allow the victim time to process the fact that the Board is re-investigating, and would also give a little warning that the Board will reach out to them again. The approach is designed to be as soft and least disturbing as possible. Mr. Roach added that the Board has learned that it is extremely important to be respectful to the victims, and one way to do that is to give the victim power in the process. It is made clear that the victim is in control of what happens next.

Dr. Schottenstein asked what kind of response the letters are getting from the potential victims. Mr. McCafferty replied that it is difficult to characterize the response at this time because the letters program began just a couple of weeks ago. Mr. McCafferty anticipated being able to discuss the nature of the responses at next month's Committee meeting.

In response to further questions from Dr. Schottenstein, Mr. McCafferty stated that there are many different opinions during the review process. Some reviewers opine that investigators should have taken a certain course of action during the initial complaint, but rules and statutes

in effect at that time may not have allowed it. Following a thorough evaluation, the group comes to an unanimous decision nearly 100% of the time.

Responding to a question from Mr. Giacalone, Mr. McCafferty stated that cases are often re-prioritized based on what is learned during investigation. Mr. McCafferty described the situation as fluid and constantly under evaluation.

Ms. Montgomery asked if Mr. McCafferty feels that he is being listened to and that he has enough equipment and staffing, not only in these investigations but also in general. Mr. McCafferty replied that he has a lot of support. Mr. McCafferty commented that no one will every say they could not use more staff or more equipment, and these are particularly difficult times with the COVID-19 pandemic. Mr. McCafferty commended the work of the investigators, particularly Danielle Thompson and Jason Alveda. The investigator supervisors are also reviewing cases. Mr. McCafferty stated that the investigators are doing their due diligence and everyone is doing a great job.

Dr. Schottenstein noted that one of the tasks from the working group action plan was to address relations and the culture between Investigations and Enforcement. Mr. McCafferty stated that the relationship has been very collaborative and they are moving this project forward. Mr. McCafferty anticipated working even more closely with Enforcement when some of the case go back to that section.

Dr. Schottenstein thanked Mr. Roach and Mr. McCafferty for their presentation.

## FSMB AUDIT

Ms. Loucka stated that the team from the Federation of State Medical Boards (FSMB) has conducted multiple interviews of Board staff and Board members. Ms. Loucka commented that the questions the team ask her during her wrap-up interview gave indication that they truly understand the Board's processes. The Board should receive the team's report by the end of June. The report will be discussed at the next Committee meeting, followed by a much broader discussion by the full Board.

## ADJOURN

**Mr. Gonidakis moved to adjourn. Ms. Montgomery seconded the motion.** All members voted aye. The motion carried.

The meeting adjourned at 8:35 a.m.

Michael Schottenstein, MD  
Chair  
bt



**POLICY COMMITTEE MEETING**  
**June 10, 2020 via Videoconference**

<p><b>Members:</b> Amol Soin, M.D., Chair Robert Giacalone, R.Ph., J.D. Mark Bechtel, M.D. Sherry Johnson, D.O.</p> <p><b>Other Board Members present:</b> Michael Schottenstein, M.D. Kim Rothermel, M.D. Bruce Saferin, D.P.M. Michael Gonidakis, Esq. Betty Montgomery Jonathan Feibel, M.D. Harish Kakarala, M.D.</p>	<p><b>Staff:</b> Stephanie Loucka, Executive Director Kimberly Anderson, Chief Legal Counsel Nathan Smith, Senior Legal and Policy Counsel Jonithon LaCross, Legislative Liaison Benton Taylor, Board Parliamentarian</p>
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Dr. Soin called the meeting to order at 9:02 a.m.

### **Rule Spreadsheet and Schedule**

Ms. Anderson stated that the Rule Spreadsheet and Schedule has been provided to the Committee members. Ms. Anderson stated that the legal staff continues to make good progress through the rules and they continue to be a focus.

### **Legislative Update**

**House Bill 432 and Senate Bill 246:** Mr. LaCross stated that these licensure reciprocity bills have not been labeled as priorities in either house. Mr. LaCross will keep the Committee abreast of developments regarding these bills.

**House Bill 263:** Mr. LaCross stated that this bill would require the Board to create a specific list of disqualifying felony offenses; an applicant with a conviction for a felony on the list would be disqualified from licensure. Mr. LaCross contrasted this with the current practice in which the Board evaluates each applicant individually and makes a determination regarding licensure. The bill also states that any conviction that is more than five years old cannot be used for disqualification, and it removes the consideration of moral turpitude or character when making decisions for licensure.

Mr. LaCross stated that the Medical Board worked with other health care boards while this bill was in committee. At one point it had been agreed that an amendment developed by the board would be included in the bill prior to it passing committee. However, following a long delay the bill was designated a priority by the Speaker and it passed committee without amendments.

Mr. LaCross stated that the Board will continue to work on this bill and engage with the Senate when it moves to that body. Mr. LaCross stated that the boards have already been in contact with the Senate, which has indicated that the bill will not be fast-tracked.

**House Bills 641 and 650:** Mr. LaCross stated that these bills concern the treatment of specific conditions with medical marijuana; one is for autism spectrum disorder and the other is for opioid use disorder. Mr. LaCross stated that there is little push in either chamber to move these bills.

**Senate Bill 178:** Mr. LaCross stated that this bill would allow podiatrists to administer flu vaccine to patient seven years and older. This bill has been reviewed by Dr. Saferin and the Board and there does not seem to any concern about it from the medical community. The purpose of the bill is to provide greater access to the flu vaccine.

**Senate Bill 303:** Mr. LaCross stated that this bill will allow pharmacists to consult directly with physician assistants and advanced practice nurses who are prescribing to patients. The Board of Pharmacy favors this bill, as does most of the medical community.

Ms. Montgomery asked if the Board has taken a position on the pharmacy consultation bill. Mr. LaCross stated that prior to the COVID-19 pandemic there had been a plan to determine how to properly engage regarding that bill, but the Board has not taken a position at this time.

**House Bill 484:** Mr. LaCross stated this bill concerning athletic trainers was amended in the House and is unlikely to move in the Senate prior to the legislative recess. The bill requires athletic trainers to practice in collaboration agreements with physicians and podiatrists.

**House Bill 606:** Mr. LaCross stated that this bill creates a tort liability exemption for any health care practitioner who accidentally transmits COVID-19 and they cannot be held civilly liable. In response to a question from Dr. Feibel, Mr. LaCross stated that the bill will also create immunity for physicians who have been asked to perform actions outside their specialty. For example, physicians who were asked by their hospital to work in the emergency department during the emergency even though they have never practiced emergency medicine will be protected.

**Senate Bill 1:** Mr. LaCross stated that this bill would reduce regulatory restrictions for cabinet-level agencies. Which does not include the Medical Board. However, the bill also states that any Governor's Order must undergo JCARR review after 14 days, and this would affect the Board's licensees. Mr. LaCross stated that this bill is going into conference committee.

**Medical Board Stances on Pending Legislation:** Ms. Montgomery commented that there are several bills on which the Board should have an opinion, but has not taken a position on either in favor or against. Mr. Gonidakis stated that historically the Board has taken positions on many bills, but has done so less often over the last several months. Ms. Montgomery stated that when she served as a legislator, they heard from the Medical Board regularly. Ms. Montgomery stated that the Board should have a policy for weighing in on legislation so it has a voice at the appropriate time with policy-makers. Dr. Feibel agreed that the Board should have a greater presence on the bills that affect their licensees.

Dr. Soin was grateful for this feedback and stated that the Board can work on creating mechanism and methods for commenting on pending legislation that would affect the Board. Mr. LaCross also thanked the Committee and stated that he will meet with Ms. Loucka and Ms. Reardon to address these concerns further.

**House Bill 679:** Mr. LaCross stated that this telehealth services bill, which passed out of committee yesterday, will codify the ability to practitioners to use telemedicine. Other parts of the bill deal with Medicaid and maintains the facility fee for using telemedicine. The bill applies not only to physicians, but also to other practitioners such as dieticians, psychologists, clinical nurses, occupational therapists, physical therapists, and audiologists. Respiratory care professionals are not currently

included, but their association is working to change that so that they can manage things like albuterol usage via telemedicine. Initial visits to a practitioner would be allowed to occur by telemedicine if the visit meets the same standard of care as an in-person visit. If passed, the Board will be able to implement rules regarding the use of telemedicine.

Ms. Loucka noted that this bill moved very quickly through the House. Unfortunately, the Board had not been aware that the Ohio State Medical Association (OSMA) was providing testimony last week, at that testimony led to many of the sub-amendments that are detailed in the memo. The sub-bill was released yesterday, and the staff has not yet done a thorough analysis of it, though there is analysis of the bill as introduced. Ms. Loucka asked the Committee for guidance on how to proceed on this issue.

The Committee discussed this topic thoroughly. Dr. Bechtel commented that Ohio's elderly population is probably at the greatest risk for coronavirus, but many of them are not tech-savvy and may not be able to use telemedicine by way of computers and cameras. Dr. Bechtel stated that allowing use of telephone without a video component may help ensure that elderly and other vulnerable populations have access to care.

Dr. Johnson agreed with Dr. Bechtel, stating that many in southeastern Ohio have spotty internet service and telephones are the only way they have to communicate. Dr. Johnson stated that it is very important that health care practitioners continue to provide services for economically-challenges patients.

Ms. Montgomery stated that it is critical that the Board have a presence working with all allied health professionals affected by the telehealth issue. Ms. Montgomery also noted that there was some concern in the bill about a disparity between Medicaid and other telehealth services. Ms. Montgomery stated that patients not be subject to disparate treatment of a limiting of the quality of medical care simply because someone is on Medicaid. Mr. LaCross stated that the sub-bill adopted yesterday addresses many of these concerns.

Dr. Schottenstein agreed with previous comments about use of the telephone. Dr. Schottenstein stated that some psychiatric patients may be prone to anxiety about being on a video call. In general, Dr. Schottenstein did not favor restricting a doctor's ability to consult with a patient over the telephone.

Mr. Gonidakis commented that if enacted, this represents a significant policy shift for Ohio, and he expressed concern that the Board does not seem to have a seat at the table in the legislature. Ms. Loucka shared these concerns and stated that the Board will work on building on relationships in the House and staying in front of issues. Ms. Loucka agreed with Ms. Montgomery that these are unique times and things are moving quickly due to departure dates and deadlines in the legislature.

Dr. Feibel suggested that these issues may warrant a special meeting of the Committee so that it can stay on top of developments. Dr. Feibel commented that some medical specialties may be more conducive to telemedicine than others. Dr. Feibel stated that it is helpful to save a patient from having to go to a doctor's office during a pandemic, but the Board should be careful and thoughtful about making it the new standard of care. Dr. Feibel expressed concern that some will take advantage of being able to bill for a simple, short telephone call with a patient.

Dr. Soin agreed with Dr. Feibel's concerns and was opposed to telephone or email visits to physicians in certain situations. Dr. Soin stated that such provisions seem to conflict with other parts of the bill concerning facility fees and liability waivers. Dr. Soin pointed out that there are existing mechanisms within CMS and insurance payors to compensate for telephone encounters and those systems should

be left in place. Dr. Soin opined that telephone visits should be allowed only in cases in which the patient has a documented lack of video capability.

Mr. Giacalone agreed that telephone visits may make sense for the elderly population, but opined that the Board should be judicious in what it does. Mr. Giacalone noted past experiences with online prescribing and felt that the Board should not fall back into a similar situation. Mr. Giacalone felt that telephone visits would work for certain populations and certain medical specialties, but it should not be universal.

Dr. Bechtel agreed that video is the optimal means of communicating remotely and stated that telephone should only be used when use of video is documented to be impossible. Dr. Bechtel shared concerns that telephone visits could be abused and used as a way of generating income by having minimal conversations that would normally be simply part of a physician's daily work.

Ms. Loucka commented that it will be important for the Board to having rule-making authority to establish parameters for telemedicine as it relates to issues such as office-based opioids treatment, treatment for weight-loss, and recommendations for medical marijuana.

Ms. Loucka continued that the bill as introduced required a patient's initial visit to a physician to be in person and at least one in-person visit each year subsequent to that. Mr. LaCross stated that the sub-bill alters this requirement and allows the initial visit to be over the telephone so long as the visits meets the same standard of care that an in-person visit would. The sub-bill also outlines criteria that a telephone visit would have to meet.

Dr. Feibel opined that in most medical specialties, an initial visit by telephone could never meet the same standard of care of an in-person visit. Dr. Soin agreed, stating that the initial visit is critical not only for the physical examination but also for establishing a strong physician/patient relationship.

Ms. Loucka suggested that a sub-group of Board members focused on the telemedicine issue be established for the staff to work with between meetings. Dr. Soin, Mr. Gonidakis, Dr. Bechtel, Ms. Montgomery, and Dr. Feibel volunteered to be on the sub-group. Ms. Anderson stated that if the sub-group meets, it may be required to be a public meeting with notice given to the public. Dr. Soin stated that the staff can begin with individual consultations and then have a public meeting if that is deemed necessary.

**House Bill 45:** Mr. LaCross stated that there was some concern with this bill regarding the scope and registration of surgical technicians. The associations and hospitals are in favor of full licensure for surgical technicians rather than registration. This would allow the Board to properly regulate surgical technicians as it does all its licensees. Dr. Feibel stated that the Board should examine the merits of registration and whether there needs to be separate licensure.

**House Bill 492:** Dr. Schottenstein asked if there has been any movement on this bill concerning physician assistants. Dr. Schottenstein expressed concern that the bill waters down qualifications for physician assistants while simultaneously increasing their level of responsibility. Mr. LaCross stated that there is no intention in the legislature to move this bill at this time.

### **Rules for Initial Circulation**

Ms. Anderson asked that the proposed hearing rules in Chapter 4731-13 be withdrawn from the Common Sense Initiative (CSI) so that it can be amended to address some concerns and refiled. Ms.

Anderson also asked that the exposure prone invasive procedures be circulated to interested parties for review.

**Dr. Bechtel moved to withdraw Rule 4731-13-13 from CSI review and include it with the initial circulation of other rules from Chapter 4731-13, as amended, for initial review by interested parties; and to circulate rules from Chapter 4731-17, as amended, for initial review by interested parties. Mr. Giacalone seconded the motion. All Committee members voted aye. The motion carried.**

### Rules to File with CSI

Ms. Anderson stated that no comments were received on the personal information system rules and one comment was received on the radiologist assistant rules. Ms. Anderson believed that the statute on radiologist assistants addresses some of the informed consent issues because it requires radiologist assistants to wear a badge identifying themselves at all time and to work under the supervision of a radiologist. The Committee has also been provided with a detailed memo on the dietetics rules.

**Dr. Bechtel moved to recommend that proposed radiologist rules from Chapter 4774-1; the proposed personal information systems rules from Chapter 4731-9; and the proposed dietetics Rules 4759-4-04 and 4759-4-08 as amended, be filed with CSI. Ms. Montgomery seconded the motion. All Committee members voted aye. The motion carried.**

### CSI Updates

Mr. Smith stated that that Rule 4759-6-02 had been ready for filing with the Joint Committee on Agency Rule Review (JCARR) in Fall 2019. However, Senate Bill 221 became effective and changed the requirements for incorporation by reference, which are references to external documents. Senate Bill 221 requires such things as including the date for the version of the external document and that it be posted on the website. Some deficiencies in the Board's external references were noted in Rule 4759-6-02, so the rule's language has been amended to address that. In addition, an enforcement mechanism has been added that will make violation of the rule a violation of minimal standards of care.

Mr. Smith stated that the Dietetics Advisory Council has reviewed these amendments and recommend that the Board adopt them.

**Dr. Bechtel moved to recommend approval of proposed amended rule 4759-6-02 for refiling with CSI. Mr. Giacalone seconded the motion. All Committee members vote aye. The motion carried.**

### Death Certificate Position Statement

Ms. Anderson asked for the Committee's approval to amend the Board's death certificate position statement to update all the statute and rule references, as well as a statement specifically regarding death certificates related to COVID-19, based on guidance from the Centers for Disease Control (CDC).

**Ms. Montgomery moved to approve the updated position statement on death certificates for filing on the Board's website. Dr. Bechtel seconded the motion. All Committee members voted aye. The motion carried.**

## Weight-Loss Rules FAQ's

Ms. Anderson stated that the medication Belviq, a controlled substance for chronic weight maintenance, has been withdrawn from the market. Since Belviq is one of the two medications mentioned by name in the Board FAQ's on chronic weight loss, Ms. Anderson asked the Committee's approval to amend the FAQ's by removing references to Belviq.

**Bechtel moved to update the weight-loss rules FAQ's on the Board's website as discussed. Mr. Giacalone seconded the motion. All Committee members voted aye. The motion carried.**

## Microneedling

Ms. Anderson stated that she wished to introduce this topic to the Committee this month and have a more robust discussion next month. In December 2019, the Ohio State Cosmetology and Barber Board made changes in their rules for cosmetologists and aestheticians which clarified that procedures such as microneedling and cool sculpting is not permitted in their scope of practice. The Cosmetology Board did not opine on whether microneedling is a medical task which can be delegated under the Medical Board's delegation rules, or if it is a medical procedure which cannot be delegated and must be performed by a practitioner for whom it is within their scope of practice.

Ms. Anderson spoke about this matter with Dr. Bechtel, and his initial opinion was that microneedling is a medical procedure and not a medical task because there is risk of harm to patients. The Board's legal staff is currently researching how other states have addressed this issue. So far the consensus seems to be that other states consider microneedling to be a medical procedure, but it appears that other state medical boards have not weighed in on the issue. Ms. Anderson stated that the legal staff will continue researching and getting information from practitioners.

Dr. Bechtel stated that microneedling involves a platelet-rich infusion in which blood is drawn from the patient, spun in a centrifuge, and then injected into an area such as acne, scars, or under the scalp. This procedure involves a risk of bleeding and there has been reports of nerve damage. Dr. Bechtel noted a recent incident in New Mexico in which blood was mixed up and patients were potentially exposed to blood-borne pathogens. This incident illustrates the risks that are involved with microneedling. Dr. Bechtel was concerned about delegating this procedure to an unlicensed person. In response to a question from Dr. Kakarala, Ms. Anderson stated that cool sculpting is also outside the scope of practice of a cosmetologist or anesthetist.

Ms. Anderson stated that this topic will be brought back to the Policy Committee for discussion at a future meeting.

## 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 10:08 a.m.

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**MEDICAL MARIJUANA COMMITTEE MEETING  
June 10, 2020 - via Videoconference**

<p><b>Committee Members Present:</b> Mark A. Bechtel, M.D., Chair Michael Schottenstein, M.D. Amol Soin, M.D. Robert Giacalone, R.Ph, J.D</p> <p><b>Additional Board Members Present:</b> Kim Rothermel, MD</p>	<p><b>Staff Members Present:</b> Stephanie Loucka, Executive Director Kimberly Anderson, Chief Legal Counsel Alexandra Murray, Counsel, Standards, Compliance Attorney Tessie Pollock, Director of Communication Benton Taylor, Board Parliamentarian</p>
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Dr. Bechtel called the meeting to order at 3:04 p.m.

**CTR PHYSICIAN ANNUAL REPORT**

Dr. Bechtel stated that physicians with a certificate to recommend medical marijuana (CTR) are required to file a report with the Medical Board and the Board of Pharmacy annually. The Committee had been asked to review the report and, if appropriate, approve its publication. Mr. Giacalone opined that the report was very well done.

Motion to publish the CTR Physician Annual Report:

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

The motion carried.

**REVIEW AND DISCUSSION OF CACHEXIA EXPERT REPORT**

Dr. Bechtel stated that Anastasia Rowland-Seymour, M.D., who is present in the Committee meeting today, has offered her expert opinion on the petition to add cachexia to the list of conditions that may be treated with medical marijuana. Dr. Bechtel noted that medical marijuana is already approved for the treatment of nausea and vomiting with chemotherapy, as well as nausea and cachexia with AIDS; the petition, if approved, will allow for use of medical marijuana to treat cachexia when cancer or AIDS is not the underlying diagnosis.

Dr. Bechtel continued that Dr. Rowland-Seymour's report centered on two concerns. First, there was concern about the side-effects of marijuana in general and the impact of its chronic use on psychological issues such as paranoia, disengagement, and IQ. Second, there was

concern about the quality of the marijuana products, specifically whether they are dispensed free of contaminants and are of medical grade.

Regarding the quality of medical marijuana products in Ohio, Tessie Pollock, Director of Communications for the Medical Board, stated that the Department of Commerce enforces a high standard. Product samples are sent to testing laboratories and there have been a couple of recalls due to minute indications of possible contaminants or mislabeling. The Department of Commerce and State of Ohio Board of Pharmacy also have a tracking system called Seed to Sale which allows for the tracking of each individual plant from seed to the time it is processed into different types of products and sold at dispensaries. The testing laboratories had to complete a competitive process to get the contracts for perform the testing.

Dr. Bechtel agreed with Ms. Pollock, stating that Ohio pursues a very stringent, high-quality control mechanism to evaluate products, ensure quality control, and avoid contaminants. Dr. Soin stated that, given the quality control mechanisms and the scrutiny that processors and dispensaries are under, he felt as comfortable as he could tha the medical marijuana products Ohioans receive are high-quality. Based on what he has seen as a member of the Ohio Medical Marijuana Advisory Committee, Dr. Soin felt that the quality of the product could be trusted.

Regarding the concern about the potential side-effects of chronic use of medical marijuana, Dr. Soin agreed with Dr. Rowland-Seymour's opinion that there is not a robust amount of medical literature or clinical trials about the treatment of cachexia with medical marijuana. Dr. Soin opined that Dr. Rowland-Seymour's opinion is valid. Dr. Soin noted that those who established the medical marijuana program looked past these shortcomings for certain diagnoses because it was felt that the benefits outweighed the risks. Dr. Soin further pointed out the cachexia in relation to AIDS and cancer is one of the diagnoses already approved for treatment with medical marijuana.

Dr. Schottenstein noted ironically that dronabinol, a synthetic THC, is conceivably more potent than medical marijuana obtained from a dispensary. The concerns for side-effects like paranoia and anxiety are thought to be substantially THC-mediated, so it is possible that the risk of those side-effects could be reduced with medical marijuana as compared to dronabinol. Dr. Bechtel agreed, noting Dr. Rowland-Seymour's report that dronabinol, which is already approved by the FDA, is seven times more potent than medical marijuana.

Mr. Giacalone asked Dr. Rowland-Seymour for her thoughts. Dr. Rowland-Seymour agreed with all the prior comments of the Committee members. Dr. Rowland-Seymour stated that there is currently no data on the use of medical marijuana to treat cachexia that is not related to cancer or AIDS, but trials are underway and data may be available soon. Dr. Rowland-Seymour stated that she would probably agree with Dr. James Weeks, who submitted the petition, if he argued that medical marijuana is potentially more efficacious and less likely to produce side-effects than dronabinol. However, that does not seem to be Dr. Weeks' argument.

Dr. Schottenstein stated that there is cachexia, and then there is the loss of appetite which can be very distressing by itself. Dr. Schottenstein commented that it is probably not fair to say that medical marijuana **definitively** treats the syndrome of cachexia, but there is a quality of life issue when someone has a poor appetite. Such patients often miss **out** on social opportunities and on the enjoyment of eating. Dr. Schottenstein felt that from a mental health standpoint, it can be very beneficial to give people something that will increase their appetite even if it does not go to the heart of cachexia.

Dr. Rowland-Seymour commented that her primary concerns are safety and the ability to trace the product. If the manufacturing and quality assurance processes in Ohio are good and chemical fingerprinting of the plants is available, Dr. Rowland-Seymour felt that there would probably be minimal risk of harm in using medical marijuana to treat cachexia.

Dr. Soin stated that he would feel comfortable recommending approval of the petition to add cachexia to the list of qualifying conditions. Dr. Schottenstein agreed, stating that the case for approval is as strong as could be made to add a condition. Dr. Schottenstein reiterated that use of medical marijuana to treat AIDS-related and cancer-related cachexia is already allowed, and approval of this petition would extend that to all cases of cachexia. Mr. Giacalone agreed. Mr. Giacalone expressed concern about the lack of clinical trials, but agreed with previous comments that synthetic THC in the form of dronabinol is already in use. Given the quality control parameters in Ohio, Mr. Giacalone was inclined to favor approval. Mr. Giacalone further noted that a typical prescription of 60 dronabinol 2.5 mg tablets costs \$250, so the economics also favors approval of the petition to approve medical marijuana.

Dr. Bechtel also favored a recommendation of approval, based on the following:

- Ohio has very good quality control measures for medical marijuana.
- Synthetic THC is already FDA-approved.
- Dronabinol, a synthetic THC, may be more potent than medical marijuana and it is already approved.
- Though there is a lack of data from clinical trials for use of medical marijuana for cachexia, but this is also the case for conditions already approved by the legislature.
- Medical marijuana is already approved to treat cancer-related and ADIS-related cachexia.

In addition, Dr. Bechtel agreed with Dr. Schottenstein's comments regarding loss of appetite. Dr. Bechtel stated that loss of appetite can be a very distressing situation for both the patient and the family who tries to get the patient to eat.

Motion to recommend approval of the petition to add cachexia to the list of qualifying conditions for treatment with medical marijuana:

Motion	Dt. Schottenstein
2 <sup>nd</sup>	Dr. Soin
Mr. Giacalone	Y
Dr. Bechtel	Y
Dr. Schottenstein	Y
Dr. Soin	Y

The motion carried.

Motion to recommend denial of the petitions to add anxiety and autism spectrum disorder to the list of qualifying conditions for treatment with medical marijuana:

Motion	Dt. Schottenstein
2 <sup>nd</sup>	Dr. Soin
Mr. Giacalone	Y
Dr. Bechtel	Y
Dr. Schottenstein	Y
Dr. Soin	Y

The motion carried.

## ADJOURN

Motion to adjourn:

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

The motion carried.

The meeting adjourned at 3:30 p.m.

Mark A. Bechtel, M.D.  
Chair

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