

MINUTES**THE STATE MEDICAL BOARD OF OHIO****October 10, 2018**

Robert P. Giacalone, R.Ph., J.D., President, called the meeting to order at 10:05 a.m. in the Administrative Hearing Room, 3rd Floor, the James A. Rhodes Office Tower, 30 E. Broad Street, Columbus, Ohio 43215, with the following members present: Andrew P. Schachat, Vice President; Kim G. Rothermel, M.D., Secretary; Bruce R. Saferin, D.P.M., Supervising Member; Michael L. Gonidakis, Esq.; Amol Soin, M.D.; Michael Schottenstein, M.D.; Richard Edgin, M.D.; Ronan M. Factora, M.D.; Mark A. Bechtel, M.D.; Betty Montgomery; and Sherry L. Johnson, D.O.

Also present were: Anthony J. Groeber, Executive Director; Kimberly Anderson, Assistant Executive Director; David Fais, Assistant Executive Director; Sallie Debolt, Senior Counsel; Susan Loe, Director of Human Resources and Fiscal; Teresa Pollock, Director for Communications; Joseph Turek, Deputy Director for Licensure; Joan K. Wehrle, Education and Outreach Program Manager; Nathan Smith, Staff Attorney; Rebecca Marshall, Chief Enforcement Attorney; James Roach, Assistant Chief Enforcement Attorney; Marcie Pastrick, Mark Blackmer, Cheryl Pokorny, Angela McNair, and Adam Meigs, Enforcement Attorneys; Kyle Wilcox, Melinda Snyder, and Emily Pelphrey, Assistant Attorneys General; R. Gregory Porter, Chief Hearing Examiner; Kimberly Lee, Hearing Examiner; Alexandra Murray, Managing Attorney, Standards Review and Compliance; Annette Jones and Angela Moore, Compliance Officer; Colin DePew, Legal and Policy Staff Attorney; Jacqueline A. Moore, Legal/Public Affairs Assistant; and Benton Taylor, Board Parliamentarian.

MINUTES REVIEW

Dr. Saferin moved to approve the draft minutes of the September 12, 2018, Board meetings, as written. Dr. Schottenstein seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Dr. Schottenstein	- aye
	Dr. Soin	- aye
	Dr. Schachat	- aye
	Mr. Giacalone	- aye
	Mr. Gonidakis	- aye
	Dr. Edgin	- aye
	Dr. Factora	- aye
	Ms. Montgomery	- aye
	Dr. Johnson	- aye
	Dr. Bechtel	- aye

The motion carried.

APPLICANTS FOR LICENSURE

Dr. Saferin moved to approve for licensure, contingent upon all requested documents being

received and approved in accordance with licensure protocols, the physician applicants listed in Exhibit "A" and the allied professional applicants in Exhibit "B," as listed in the Agenda Materials and handouts. Dr. Schottenstein seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Dr. Schottenstein	- aye
	Dr. Soin	- aye
	Dr. Schachat	- aye
	Mr. Giacalone	- aye
	Mr. Gonidakis	- aye
	Dr. Edgin	- aye
	Dr. Factora	- aye
	Ms. Montgomery	- aye
	Dr. Johnson	- aye
	Dr. Bechtel	- aye

The motion carried.

Dr. Saferin moved to approve for licensure, contingent upon all requested documents being received and approved in accordance with licensure protocols, the applicants listed in Exhibit "C" for the Certificate to Recommend Medical Marijuana, as listed in the Agenda Supplement and handouts. Dr. Schottenstein seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Dr. Schottenstein	- aye
	Dr. Soin	- aye
	Dr. Schachat	- aye
	Mr. Giacalone	- aye
	Mr. Gonidakis	- abstain
	Dr. Edgin	- aye
	Dr. Factora	- aye
	Ms. Montgomery	- aye
	Dr. Johnson	- aye
	Dr. Bechtel	- aye

The motion carried.

REPORTS AND RECOMMENDATIONS

Mr. Giacalone announced that the Board would now consider the Reports and Recommendations appearing on its agenda.

Mr. Giacalone asked whether each member of the Board had received, read and considered the hearing records, the Findings of Fact, Conclusions of Law, Proposed Orders, and any objections filed in the matters of: Michael Herman Anikeev, M.D.; Thomas Gerard Bering, M.D.; M. Salim Ratnani, M.D.; and

Edward Wojciechowski, M.D. A roll call was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Dr. Schottenstein	- aye
	Dr. Soin	- aye
	Dr. Schachat	- aye
	Mr. Giacalone	- aye
	Mr. Gonidakis	- aye
	Dr. Edgin	- aye
	Dr. Factora	- aye
	Ms. Montgomery	- aye
	Dr. Johnson	- aye
	Dr. Bechtel	- aye

Mr. Giacalone asked whether each member of the Board understands that the 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. A roll call was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Dr. Schottenstein	- aye
	Dr. Soin	- aye
	Dr. Schachat	- aye
	Mr. Giacalone	- aye
	Mr. Gonidakis	- aye
	Dr. Edgin	- aye
	Dr. Factora	- aye
	Ms. Montgomery	- aye
	Dr. Johnson	- aye
	Dr. Bechtel	- aye

Mr. Giacalone noted 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 matters before the Board today, Dr. Rothermel served as Secretary and Dr. Saferin served as Supervising Member.

Mr. Giacalone reminded all parties that no oral motions may be made during these proceedings.

The original Reports and Recommendations shall be maintained in the exhibits section of this Journal.

MICHAEL HERMAN ANIKEEV, M.D.

Mr. Giacalone directed the Board's attention to the matter of Michael Herman Anikeev, M.D. Objections To Mr. Porter's Report and Recommendation have been filed and were previously distributed to Board members.

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

Dr. Anikeev stated that he would first like to apologize to the Board. Dr. Anikeev stated that he wished to discussed two things: 1) Patient safety, and 2), his alleged impairment.

Dr. Anikeev stated that he was born in Russia and practiced medicine there for a number of years before immigrating to the United States. Dr. Anikeev stated that he did an internship in the Minneapolis-Saint Paul area, a fellowship at the University of New Mexico, and worked with the Ohio Department of Mental Health in Athens, Ohio for about five years. Dr. Anikeev also worked at the veterans hospitals in Columbus and Zanesville for about three-and-a-half years, as well as at a corrections facility in Pickaway County. Of late, Dr. Anikeev has worked for Access Ohio managing three clinics. In 2017, Dr. Anikeev was elected to the American health Council Board of Members. Dr. Anikeev stated that his patient care and patient safety has never been compromised, in spite of his personal life which has not been so successful.

Dr. Anikeev continued that the word "can't" was not in his vocabulary and he had been helping as much as he could. Dr. Anikeev opined that he had overestimated himself and underestimated his depression. Dr. Anikeev believe that he had late-onset depression and that he has a family history of depression. Dr. Anikeev stated that he had started experiencing symptoms of depression about two years ago and he addressed it with a psychiatrist. Dr. Anikeev commented that his progress was slow and his treatment had not been intensive enough, so his depression worsened.

Dr. Anikeev stated that he problems were compounded by his personal issues. Dr. Anikeev stated that he had been supporting five people besides himself, in two households: His ex-wife, his three sons, and his ex-fiancé. Dr. Anikeev stated that his priorities had always been his patients, his sons, and his elderly parents in Russia. Dr. Anikeev stated that he learned his lesson that he is no good if he is not functioning well. Dr. Anikeev stated that he started looking for inpatient hospitalization, which took some time and his depression got much worse. Eventually, Dr. Anikeev asked a friend to take him to Dublin Springs, where he was treated by a very experienced psychiatrist and his condition improved during three weeks of treatment. Following this treatment, Dr. Anikeev volunteered for a 30-day partial-hospitalization program at the Ohio Addiction Recovery Center.

Dr. Anikeev stated that he does not objection to undergoing an evaluation, as ordered by the Board. However, Dr. Anikeev stated that at this time he does not have \$5,122 to pay for the evaluation. Dr. Anikeev stated that he does not drink, smoke, or use drugs. Dr. Anikeev added that he is also getting back to being physically active. Lastly, Dr. Anikeev commented that he loves what he is doing.

Ms. Montgomery exited the meeting at this time.

Mr. Giacalone asked if the Assistant Attorney General wished to respond. Mr. Wilcox stated that he did wish to respond.

Mr. Wilcox stated that Dr. Anikeev had been ordered by the Board to an impairment evaluation, which Dr. Anikeev failed to attend. Mr. Wilcox noted that in the process of arranging a hearing in this matter, it became apparent that Dr. Anikeev was unable to attend the hearing he had requested because he was receiving psychiatric treatment at Dublin Springs. Later, the Hearing Examiner construed some voicemails from Dr. Anikeev as his objections to the Report and Recommendation, and there were

included in the hearing record as such.

Mr. Wilcox stated that the Board could issue an order in this matter today. However, Mr. Wilcox opined that as a matter of caution and of giving Dr. Anikeev due process, the Board should remand this matter back to the Hearing Unit so that a hearing can be arranged that Dr. Anikeev would be able to attend.

Dr. Schottenstein moved to approve and confirm Mr. Porter's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Michael Herman Anikeev, M.D. Dr. Soin seconded the motion.

Mr. Giacalone stated that he will now entertain discussion in the matter of Dr. Anikeev.

Dr. Soin stated that by a letter dated April 9, 2018, the Board notified Dr. Anikeev that it had reason to believe that he is impaired in violation of 4731.22(B)(26), Ohio Revised Code, and ordered Dr. Anikeev to undergo a 72-hour examination. The Board's determination was based on one or more reasons outlined in the letter, which include two alcohol-related criminal cases. The April 9, 2018 letter further notified Dr. Anikeev that he was ordered to submit to an examination at Shepherd Hill Hospital by a Board-approved treatment provider, Dr. Highberger, on June 4, 2018. The April 9, 2018 letter further notified Dr. Anikeev that his failure to submit to the examination as directed would constitute an admission of the allegations against him unless the failure was due to circumstances beyond his control. Finally, the letter notified Dr. Anikeev that if he failed to attend the examination and such failure was not due to circumstances beyond his control, the Board would be authorized to enter a default and final order without taking testimony or presentation of evidence.

Dr. Soin continued that in a letter dated June 4, 2018, Dr. Highberger notified the Board that Dr. Anikeev had failed to appear at Shepherd Hill for the examination. According to the hearing record, Dr. Anikeev had not informed the Board that his failure to appear was due to circumstances beyond his control.

Dr. Soin stated that he agrees with the Findings of Fact and Conclusions of Law in the Report and Recommendation. Dr. Soin also agreed with Mr. Wilcox that Dr. Anikeev should be allowed to have due process. Therefore, Dr. Soin felt that the matter should be remanded to the Board's Hearing Unit.

Dr. Soin moved to remand this matter to the Medical Board's Hearing Unit. Dr. Bechtel seconded the motion.

Dr. Schottenstein agreed with Dr. Soin's motion. Dr. Schottenstein stated that Dr. Anikeev had been unable to attend the hearing which he had requested because he had been too ill to participate, a fact that is corroborated by the proximity of the date of the missed hearing to Dr. Anikeev's hospitalization. Dr. Anikeev has requested that the suspension of his license be continued so that he can participate in the hearing process when he is more functional. Dr. Schottenstein opined that this is a fair request, noting that Dr. Anikeev's medical license is still summarily suspended and there is no risk to the public in granting the request.

A vote was taken on Dr. Soin's motion to remand the matter of Dr. Anikeev back to the Hearing Unit:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Schottenstein	- aye

Dr. Soin	- aye
Dr. Schachat	- aye
Mr. Giacalone	- aye
Mr. Gonidakis	- aye
Dr. Edgin	- aye
Dr. Factora	- aye
Dr. Johnson	- aye
Dr. Bechtel	- aye

The motion to remand carried.

THOMAS GERARD BERING, M.D.

Mr. Giacalone directed the Board's attention to the matter of Thomas Gerard Bering, M.D. Objections to Mr. Porter's Report and Recommendation have been filed and were previously distributed to Board members.

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

Dr. Bering was represented by his attorney, Elizabeth Collis.

Ms. Collis stated that Dr. Bering received his undergraduate and medical degrees at the University of Pennsylvania, he is board-certified by the American Board of Anesthesiology, and he has successfully practiced medicine for 35 years. Ms. Collis further noted that Dr. Bering currently holds medical licenses in five states and they are all in good standing.

Ms. Collis continued that Dr. Bering is currently being monitored by two monitoring programs in Pennsylvania. Ms. Collis opined that there is no need for the Ohio Board to use its limited resources to set up yet another monitoring program for Dr. Bering. Ms. Collis stated that the level of monitoring Dr. Bering has been through is quite incredible. Ms. Collis explained that Dr. Bering has taken drug tests since 2016 and all have been negative. Dr. Bering also attends four Alcoholics Anonymous (AA) meetings per week, works closely with a monitor, and attends weekly group sessions. Ms. Collis stated that to subject Dr. Bering to additional monitoring in Ohio is unnecessary, duplicative, and a waste of Ohio's resources.

Ms. Collis stated that at Dr. Bering's hearing, she argued that the Board should follow its Rule 4731-16-12, which allows a physician who does not live or work in Ohio to sign an out-of-state waiver form saying they will continue to comply with monitoring in their own state and that they will notify Ohio if they move to Ohio or seek work in Ohio. Ms. Collis asked that Board to apply that in today's situation. Ms. Collis stated that Mr. Wilcox will likely argue that Rule 4731-16-12 is not applicable in this case because Dr. Bering relapsed in 2015. However, Ms. Collis believed the purpose and intent of the rule is to allow physicians who live and work out of state and are being closely monitored in another state to continue that monitoring. Ms. Collis opined that the Board should allow the Pennsylvania Board of Medicine to send reports to Ohio on a quarterly basis or every six months.

Ms. Collis asked the Board to take no action in this case and allow Dr. Bering to sign an out-of-state waiver.

Dr. Bering stated that he has never lived or worked in Ohio, but he would like to keep an active Ohio medical license for possible future employment.

Dr. Bering stated that he first sought treatment in 2008 and signed a five-year contract with the Pennsylvania Physicians Health Program (PPHP), which he was released from after only two years based on his 100% compliance. Dr. Bering stated that he remained sober for over seven years. However, in June 2015 Dr. Bering attended his nephew's wedding and consumed champagne at the toast. Dr. Bering stated that he had thought he could return to consuming alcohol casually, and he was wrong. In November 2015, Dr. Bering was charged with Driving Under the Influence of Alcohol (DUI). Dr. Bering self-reported the DUI to the PPHP on the next business day and reentered their monitoring program.

Dr. Bering continued subsequently, on about eight occasions over a four-month period, he orally ingested Versed waste to help him fall asleep on the occasional night when he experienced insomnia. In May 2016, Dr. Bering tested positive in a drug screen. Dr. Bering was then ordered to an evaluation by the Pennsylvania Board. Dr. Bering entered treatment for 13 weeks at the Talbott Recovery Campus in Atlanta, Georgia.

Dr. Bering stated that he is currently being monitoring by two programs: The PPHP, and the Pennsylvania Board's non-disciplinary program. Dr. Bering stated that if he tests positive on either of these programs, the Pennsylvania Board will take a public disciplinary action against his license. Dr. Bering stated that he is currently two years into the PPHP's five-year monitoring program and he is over half-way through the Pennsylvania Board's three-year monitoring program, and his screens have been entirely negative.

Dr. Bering stated that he has practiced for over 35 years without any malpractice actions. Dr. Bering stated that he currently works as the Chief Anesthesiologist at the Hanover SurgiCenter in Pennsylvania, where he has better control of his schedule. Dr. Bering stated that he knows he must practice self-care in order to perform his best, and this is why he exercised regularly and swims one-and-a-half miles twice per week. Dr. Bering stated that exercise and a better work schedule has allowed him to regulate his sleep-wake cycle and have reduced his stress greatly.

Dr. Bering asked the Board to allow him to continue monitoring by the state of Pennsylvania while maintaining an active Ohio license. Dr. Bering stated that he would be willing to comply with monitoring in Ohio if he am employed in Ohio in the future.

Mr. Giacalone asked if the Assistant Attorney General wished to respond. Mr. Wilcox stated that he did wish to respond.

Mr. Wilcox stated that among other actions, Dr. Bering, an anesthesiologist, stole medications from the emergency department and self-administered them. Mr. Wilcox stated that Dr. Bering seems to be arguing today that he does not want to be monitored in Ohio because he is in Pennsylvania. However, Mr. Wilcox stated that the Board has rules for when a physician is impaired, and Dr. Bering is clearly impaired. Mr. Wilcox stated that the Hearing Examiner found that Dr. Bering committed acts constituting felonies by stealing medications from an operating room and self-administering them. Mr. Wilcox stated that Dr. Bering has been in inpatient treatment twice, once in 2008 and again following his 2015 relapse on alcohol and on sedative medications he stole from the operating room. Mr. Wilcox stated that under the Board's rules and under Ohio statute, Dr. Bering is considered impaired due to his relapse.

Mr. Wilcox stated that the Ohio Board routinely works with other boards to monitor licensees, and it can do so in this case with the Pennsylvania Board. Mr. Wilcox was sure that if there are duplicative efforts, the Board's Compliance staff will work with the Pennsylvania Board to make sure everything is appropriate. Mr. Wilcox stated that if there are extra or repetitive requirements for Dr. Bering, that is not relevant in the face of the Ohio Board's need to protect Ohio and enforce its rules.

Mr. Wilcox noted that in the objections to the Report and Recommendation, Ms. Collis made an argument regarding the Board's rule. Mr. Wilcox stated that there are three things wrong with the argument. First, Mr. Wilcox stated that it is a discretionary argument because the Board "may" waive the rule. Mr. Wilcox opined that considering Dr. Bering's actions, he is not the type of physician that the Board wants to waive the rule for. Second, Mr. Wilcox stated that Dr. Bering did not report his 2015 relapse until he applied to renew his Ohio license in 2017. Finally, Rule 4731-16-12 itself states that it is not applicable to a licensee who relapses. Mr. Wilcox further observed that the objections argue that Dr. Bering should not be fined. Mr. Wilcox stated that the \$4,000 fine in the Proposed Order is not for Dr. Bering's impairment. Rather, the fine is for taking Versed from the operating room on eight occasions, which constitutes felony theft of drugs.

Mr. Wilcox opined that Dr. Bering is in no position to try to dictate how he is to be monitored by the Ohio Board, considering that his license could be revoked due to his actions. Mr. Wilcox opined that the Hearing Examiner's Proposed Order is appropriate.

Dr. Bechtel moved to approve and confirm Mr. Porter's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Thomas Gerard Bering, M.D. Dr. Schottenstein seconded the motion.

Mr. Giacalone stated that he will now entertain discussion in the matter of Dr. Bering.

Dr. Factora stated that the Board's proposed actions are based on allegations that Dr. Bering had previously been treated for alcohol and/or chemical abuse in 2008; that Dr. Bering relapsed during or following treatment; that Dr. Bering had been more recently diagnosed with alcohol use disorder, severe, and sedative hypnotic abuse, severe; that Dr. Bering had begun diverting Midazolam from operating rooms for self-use; and that Dr. Bering has not been determined to be capable of practicing in accordance with acceptable and prevailing standards of care.

Dr. Factora briefly reviewed Dr. Bering's medication education and career. Dr. Factora noted that Dr. Bergin holds active medical licenses in Pennsylvania, New Jersey, and Ohio. Dr. Factora further noted that Dr. Bering currently works as the Chief Anesthesiologist at the Hanover SurgiCenter in Hanover, Pennsylvania, and he is employed by Surgical Anesthesia Services, LLC.

Dr. Factora continued that Dr. Bering first drank alcohol while in high school and his drinking progressed over the years. Dr. Factora observed that at one point, Dr. Bering's wife had to call 911 for Dr. Bering's intoxication due to excessive drinking. Dr. Factora further observed Dr. Bering's self-prescribing of Ambien in 2007, which was detected by a pharmacist and led to his involvement with PPHP, an inpatient evaluation, and diagnoses of alcohol dependence and sedative hypnotic dependence.

Dr. Factora stated that following the 2007 incident, Dr. Bering remained sober until June 2015, when he relapsed after drinking at a wedding. In November 2015, Dr. Bergin was charged with a DUI. Dr. Bering

further relapsed on Midazolam, a Schedule IV controlled substance. In May 2016, a urine or blood sample submitted by Dr. Bering tested positive for Midazolam. At the order of the Pennsylvania Board of Medicine, Dr. Bering sought evaluation and treatment at Talbott Recovery Campus in Atlanta, Georgia. Dr. Bering was admitted to Talbott on June 21, 2016, and remained in treatment until September 14, 2016. At discharge, Dr. Bering's diagnoses were sedative hypnotic use disorder, severe, and alcohol use disorder, severe. Around the time of Dr. Bering's relapse on midazolam, it was revealed that there was a summons and complaint regarding his earlier DUI.

Dr. Factora noted that in a letter dated September 22, 2016, Raymond C. Truex, M.D., Medical Director of PPHP, stated that the PPHP supported Dr. Bering's return to work as of November 15, 2016. Dr. Bering entered into a consent agreement and order with the Pennsylvania Board, effective February 7, 2017. The agreement and order suspended Dr. Bering's Pennsylvania medical license for three years, but stayed the suspension subject to probation for three years and various conditions relating to impairment treatment and monitoring.

Dr. Factora testified that he is currently subject to monitoring requirements imposed by both the PPHP and the Pennsylvania Board. Dr. Bering also testified that although he has a monitoring agreement with the Pennsylvania Board, the Pennsylvania Board does not consider it to be a disciplinary action. A March 16, 2018, license verification from the Pennsylvania Board shows that no disciplinary actions were found for Dr. Bering's Pennsylvania license.

Dr. Factora stated that Dr. Truex testified that the PPHP has two components, one of which is a voluntary and confidential recovery program. However, if the physician relapses or refuses to cooperate in the voluntary program, the matter becomes a public disciplinary issue.

Dr. Factora agreed with the Hearing Examiner's Findings of Fact, which highlights Dr. Bering's history of substance abuse, diversion of controlled substances for his own use, treatment history, and the impact of this on his ability to practice medicine and surgery to the prevailing standards of care. Dr. Factora also agreed with the Conclusions of Law and the Proposed Order.

Dr. Factora stated that the objections to the Report and Recommendation highlights the fact that Dr. Bering neither lives nor practices in Ohio, and that therefore no sanction should be imposed. Dr. Factora stated that, although Dr. Bering does not live or practice in Ohio, his application for Ohio licensure makes him subject to Ohio's rules and laws, especially given his explicit desire to practice medicine and surgery in Ohio at some point in the future. Dr. Factora stated that Dr. Bering's participation with PPHP is laudable, and he acknowledged that Dr. Bering's monitoring by the Pennsylvania Board of Medicine is considered non-disciplinary by the Board. However, Dr. Factora stated that Dr. Bering must adhere to Ohio laws and rules if he wants to practice in Ohio.

Dr. Factora stated that, given the scope of the monitoring being done in Pennsylvania, the Ohio Board has the capacity to work with the monitoring entities in Pennsylvania to avoid duplication and determine if elements of the Proposed Order may be satisfied through alternative means in Pennsylvania. Dr. Factora opined that proceeding with no action would be very inappropriate in this case.

Dr. Factora opined that the Proposed Order is appropriate in this case. Dr. Factora also emphasized the importance of Dr. Bering continuing to have a sponsor in order to make sure he does not relapse further, as having a sponsor was key to Dr. Bering's success before his first relapse.

Dr. Schottenstein agreed with Dr. Factora's comments. Dr. Schottenstein stated that he also wished to respond to some of the arguments made in the objections to the Report and Recommendation.

Dr. Schottenstein stated that he trusts that the Pennsylvania compliance programs are professional and effective. However, the job of protecting the citizens of Ohio from impaired practitioners who are not safe to practice belongs to the State Medical Board of Ohio. Dr. Schottenstein stated that the Ohio Board bears the ultimate responsibility for ensuring the safety and competency of Ohio's licensees and it would be asking a lot for the Board to farm out its responsibility to another state board. Dr. Schottenstein stated that Dr. Bering has an Ohio license and his practice could potentially put the safety of the Ohio public at risk if his impairment is not well-controlled. Dr. Schottenstein felt that the Ohio Board should do its job and monitor Dr. Bering.

Dr. Schottenstein pointed out that the monitoring of Dr. Bering is not intended to be punitive. Dr. Schottenstein stated that the Ohio Board is an additional resource for Dr. Bering to help him achieve his goals of sobriety and return to practice. Dr. Schottenstein stated that the Ohio Board has a good monitoring program and it will help Dr. Bering maximize his odds of a good outcome. Dr. Schottenstein was cautiously optimistic that Dr. Bering will ultimately be pleased that he had participated in Ohio's monitoring program.

Dr. Schottenstein quoted a portion of Rule 4731-16-12: "... grant of a waiver or waivers pursuant to this rule shall be conditioned on the certificate holder agreeing by a signed, notarized statement to notify the board in writing ...". Dr. Schottenstein stated that the problematic word in this passage is "agreeing." Dr. Schottenstein stated that the Board today will issue a Board Order, not a Consent Agreement. Dr. Schottenstein stated that the Board can order someone to do something, but it cannot order someone to agree to do something. Dr. Schottenstein stated that the term "agreement" denotes a state of mind where one concurs in one's belief or consents to a course of action. Dr. Schottenstein therefore opined that the Board cannot order agreement to the signing of a notarized statement as part of a disciplinary process. Dr. Schottenstein stated that invoking Rule 4731-16-12 in a Consent Agreement would be appropriate, absent a relapse, but not in the context of a Board Order. Dr. Schottenstein added that Rule 4731-16-12 also does not address Dr. Bering's diversion of Midazolam, an act that constitutes a felony.

Dr. Schottenstein stated that he is sensitive to the concern about creating an onerous level of demands on Dr. Bering. Dr. Schottenstein noted that Paragraph 16 of the Proposed Order allows the Board to coordinate with PPHP, so the Board will be able to minimize duplication of monitoring requirements where possible.

Regarding the argument that the fine should be waived because Dr. Bering suffers from addiction, Dr. Schottenstein stated that the Board has understanding for illness that leads to impairment. However, licensees are still responsible for their behavior. Dr. Schottenstein stated that addiction is not an excuse to behave unethically or break the law, and addiction is at best a mitigating circumstance. Therefore, Dr. Schottenstein supported the proposed fine.

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

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Schottenstein	- aye
	Dr. Soin	- aye

Dr. Schachat	- aye
Mr. Giacalone	- aye
Mr. Gonidakis	- aye
Dr. Edgin	- aye
Dr. Factora	- aye
Dr. Johnson	- aye
Dr. Bechtel	- aye

The motion to approve carried.

M. SALIM RATNANI, M.D.

Mr. Giacalone directed the Board's attention to the matter of M. Salim Ratnani, M.D. No objections have been filed. Mr. Porter was the Hearing Examiner.

Dr. Schottenstein moved to approve and confirm Mr. Porter's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of M. Salim Ratnani, M.D. Dr. Soin seconded the motion.

Mr. Giacalone stated that he will now entertain discussion in the matter of Dr. Ratnani.

Dr. Edgin stated that the Board's proposed action is based on allegations that Dr. Ratnani had violated certain specified terms and conditions of his July 2016 Consent Agreement with the Board. Dr. Edgin briefly reviewed Dr. Ratnani's medical education and career. Dr. Ratnani's medical license is currently active.

Dr. Edgin stated that on or about July 13, 2016, Dr. Ratnani entered into a Consent Agreement with the Board in lieu of further formal proceedings based on actions taken against his West Virginia and Kentucky licenses by the medical boards of those states. The Consent Agreement restored Dr. Ratnani's license to practice medicine and surgery in Ohio, reprimanded him, and imposed probationary terms. The probationary terms included the following requirements:

- to submit quarterly declarations of compliance with the Consent Agreement;
- to appear in person for an interview before the full Board or its designated representative during the third month following the effective date of the Consent Agreement;
- to submit, within 30 days of the effective date of the Consent Agreement;
- to submit to the Board for its prior approval the name and qualifications of a therapist, psychiatrist, psychologist, or counselor of his choice; and
- to undergo behavioral counseling for boundary issues at least every month or as otherwise directed by the Board.

Dr. Edgin stated that Annette Jones of the Board's Compliance Section testified that Dr. Ratnani initially complied with all of his requirements. However, in November 2016 Dr. Ratnani informed the Board that he would be leaving the United States to work in Pakistan because he could not find employment in this country. Dr. Ratnani submitted quarterly reports from his therapist through January 2017, but none after that. Dr. Ratnani also failed to appear for his required appearance before the Board, scheduled for November 2017. Dr. Ratnani also ceased to submit quarterly declarations of compliance. When asked

about communicating with Dr. Ratnani, Ms. Jones testified that she had difficulty due to brown-outs and communications problems in Pakistan. However, Dr. Edgin noted that written communications with the Board were not limited, and Dr. Ratnani failed to communicate in writing with the Board. Dr. Edgin stated that Dr. Ratnani was unable to find a new psychiatrist in Pakistan.

According to Dr. Ratnani's testimony, the Medical Licensing Board of Indiana declined to take any action based on the West Virginia action, and therefore his Indiana medical license is unencumbered. Dr. Ratnani also had letters of support from various people.

Dr. Edgin stated that the Proposed Order would continue the terms of the Consent Agreement, fine Dr. Ratnani \$1,000 and bar Dr. Ratnani from requesting termination of his Consent Agreement for at least five years following the effective date of July 13, 2016.

Dr. Schottenstein remembered Dr. Ratnani from his appearance before the Board's Compliance Committee in November 2016. At that time, Dr. Ratnani indicated that he was unable to find employment in the United States because of the medical board actions in West Virginia, Kentucky, and Ohio. Dr. Ratnani stated at that time that he was unemployed and out of money, and he therefore would have to take a job in Pakistan. Dr. Schottenstein recalled that Dr. Ratnani had expressed fear that he would not return from Pakistan alive because it is risky to be an American citizen there. At that time, Dr. Ratnani indicated that he knew it could be challenging to maintain his compliance while residing in Pakistan. Dr. Schottenstein stated that once Dr. Ratnani arrived in Pakistan, it was not feasible for him to participate in the terms of the Consent Agreement because of the unreliable electrical grid and internet there.

Dr. Schottenstein opined that the Proposed Order is more than fair to Dr. Ratnani because, for all practical intents and purposes, the Order is just tolling Dr. Ratnani for the time that he has been in non-compliance. Dr. Schottenstein expressed concern about perpetuating a vicious cycle in which Dr. Ratnani continues to have difficulty finding gainful employment in this country due to the Board action, leading him to once again return to Pakistan and become unable to comply with the terms of his Agreement. However, Dr. Schottenstein noted that Dr. Ratnani signed his Consent Agreement and thereby agreed to fulfill the terms therein. Dr. Schottenstein was hopeful that Dr. Ratnani can find an opportunity to practice in the United States or in another country that has more reliable technology.

Dr. Schottenstein regretted the inconvenience to Dr. Ratnani, but stated that the onus is on him to fulfill the conditions of his Agreement and repeated violations will likely result in more substantial discipline. Dr. Schottenstein agreed with the Proposed Order.

A vote was taken on Dr. Schottenstein's motion to approve:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Schottenstein	- aye
	Dr. Soin	- aye
	Dr. Schachat	- aye
	Mr. Giacalone	- aye
	Mr. Gonidakis	- aye
	Dr. Edgin	- aye
	Dr. Factora	- aye
	Dr. Johnson	- aye

Dr. Bechtel - aye

The motion to approve carried.

EDWARD WOJCIECHOWSKI, M.D.

Mr. Giacalone directed the Board's attention to the matter of Edward Wojciechowski, M.D. No objections have been filed. Ms. Shamansky was the Hearing Examiner.

Dr. Schottenstein moved to approve and confirm Ms. Shamansky's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Edward Wojciechowski, M.D. Dr. Soin seconded the motion.

Mr. Giacalone stated that he will now entertain discussion in the matter of Dr. Wojciechowski.

Dr. Johnson stated that on February 14, 2018, the Board issued a Notice of Immediate Suspension and Opportunity for Hearing to Dr. Wojciechowski, suspending his license pursuant to 3719.121(C), Ohio Revised Code, which requires the Board to suspend the license of a physician immediately upon receiving notice that he or she has been convicted of a felony drug abuse offense.

Dr. Johnson continued that the Notice alleged that on or about December 22, 2017, Dr. Wojciechowski entered a guilty plea in the Wood County Court of Common Pleas and was found guilty of two counts of Illegal Processing of Drug Documents and one count of Medicaid Fraud. The Board further alleged that it was reported that Dr. Wojciechowski had been hospitalized for an overdose that occurred on or about August 20, 2017, and that the Court of Common Pleas subsequently granted his motion for intervention in lieu of conviction, requiring him to successfully complete a treatment program. The Notice also cited 4731-16-02(B)(2), Ohio Administrative Code, which provides that if an applicant has applied for or requested treatment in lieu of conviction of a criminal charge or has pleaded guilty to a criminal offense that involves his or her personal use or abuse of a controlled substance, it shall constitute independent proof of impairment and shall support license suspension or denial without the need for an examination.

Dr. Johnson briefly reviewed Dr. Wojciechowski's medical education and career. Following practice in Bowling Green, Ohio, and Westerville, Ohio, Dr. Wojciechowski practiced at Care Here in Nashville, Tennessee, until his termination due to the events that led to his criminal charges.

Dr. Johnson stated that Dr. Wojciechowski reported to the Court that he first used alcohol in the ninth grade and became a weekend drinker throughout high school and college. Dr. Wojciechowski further reported that his alcohol usage decreased following college graduation. At 34-years-old, following a motorcycle accident, Dr. Wojciechowski was prescribed Percocet for pain. Dr. Wojciechowski used Percocet for two months as prescribed, and then began abusing the Percocet. For the next six years, Dr. Wojciechowski "binged" on pain pills and began using them daily.

Dr. Johnson stated that in 2010, Dr. Wojciechowski had inpatient treatment for 30 days, followed by six weeks of participation in an intensive outpatient program. Dr. Wojciechowski also joined the Ohio Physicians Health Program from 2010 to 2016.

Dr. Johnson continued that Dr. Wojciechowski further reported to the court that in 2016, at the age of 46, he relapsed on Ambien. Dr. Wojciechowski reported that he developed a tolerance to Ambien, using

three or more pills per night. Dr. Wojciechowski was unable to get the prescription in sufficient quantities, so he reached out to some of his patients and offered them payments for some of their pills. Dr. Wojciechowski admitted to prescribing Ambien to patients who did not need the medication, and in return he received pills from the patients. Dr. Wojciechowski then began doing this with Percocet by prescribing Percocet and paying the patient or agreeing to pay the patient's copays in order to receive a number of the pills as a kickback. Dr. Wojciechowski admitted that he did not meet with all of the patients and at times he called in prescriptions without seeing the patients. In addition, Dr. Wojciechowski was teaching martial arts and working as a ringside doctor at that time, and he prescribed medications to some of the fighters.

Dr. Johnson stated that Dr. Wojciechowski weaned himself from the Ambien and stayed sober for 70-80 days. Dr. Wojciechowski then made contact with some former acquaintances who used opiates and cocaine, and he started using opiates and cocaine as well. Dr. Wojciechowski moved on to heroin in 2017 because he was unable to afford opiates in sufficient quantities.

Dr. Johnson stated that in or about September 2016, the Ohio Board of Pharmacy reported to the Medical Board and the Attorney General's Medicaid Fraud Control Unit that Dr. Wojciechowski had written some questionable prescriptions and that he had been "let go" from two hospitals.

Dr. Johnson stated that on September 26, 2016, Dr. Wojciechowski was interviewed by representatives of the Medical Board and the Medicaid Fraud Control Unit. In the interview, Dr. Wojciechowski admitted to having financial difficulties, a large amount of debt, seeing patients at his home and at the mixed martial arts gym, and not keeping appropriate records or thoroughly examining patients. Dr. Wojciechowski also admitted that patients were supplying him with Ambien that he had prescribed for them. Dr. Wojciechowski further agreed that he had been advised of appropriate prescribing practices by the Medical Board and that he had continued to participate in the aberrant practices.

Dr. Johnson stated that criminal charges were brought against Dr. Wojciechowski on August 17, 2017, as mentioned earlier. Three days later, an EMS squad report indicated that Dr. Wojciechowski was found unresponsive by his father. Dr. Wojciechowski was transported to the hospital and given multiple doses of Naltrexone. Dr. Wojciechowski was admitted in critical condition with multiple diagnoses including drug overdose and a positive toxicology screen for cocaine and opiates. Following his hospitalization, Dr. Wojciechowski was assessed by a licensed professional clinical counselor with Harbor Behavioral Health, who recommended medication-assisted treatment for chemical dependency with an intensive level of care.

Dr. Johnson stated that Dr. Wojciechowski did not attend his Medical Board hearing, but he was represented by counsel. Among the items provided during the hearing was a statement from the licensed professional clinical counselor statement indicating that Dr. Wojciechowski had started Naltrexone treatment at Harbor Behavioral Health in September 2017, requiring three group sessions per week and one individual session each week. According to the report, Dr. Wojciechowski believed the program was helping him maintain his sobriety. Dr. Wojciechowski also wrote a summary of his history of chemical dependency and his progress of recovery for the Wood County Adult Probation Department. Dr. Wojciechowski reported that he was receiving support from his parents, he has resumed shared parenting of his daughter, and he was doing community service with his church.

Dr. Johnson added that Dr. Wojciechowski's counsel submitted a personal statement on his behalf describing his efforts to recover from substance abuse and bipolar disorder. Dr. Wojciechowski sees a

therapist once per week, does three hours of group counseling each week, takes medications for mental health, attends five to seven AA meetings per week, and participates in AA community events.

Dr. Schachat exited the meeting at this time.

Dr. Johnson stated that Dr. Wojciechowski's counsel indicated that his criminal offenses were directly related to his addiction. The counsel also related Dr. Wojciechowski's understanding of the seriousness of the case. Dr. Wojciechowski has not practiced medicine since 2017, he has no present intention to practice, and he may never do so again. However, the counsel respectfully submitted that a non-permanent revocation of Dr. Wojciechowski's license was the appropriate action for the Board to take since his criminal conduct was committed to obtain substances solely for his own use and because he was continuing to work towards recovery from his addiction.

Dr. Johnson stated that it is regrettable that Dr. Wojciechowski did not appear at his hearing, because the Board did not have an opportunity to assess his sincerity and commitment to his recovery. Unfortunately, the only information the Board has about Dr. Wojciechowski's current status was provided in the documents admitted into evidence. Based upon those documents, Dr. Johnson was happy to hear that Dr. Wojciechowski was continuing to work towards recovery. Dr. Johnson was also hopeful that Dr. Wojciechowski will do this not only for himself, but also for his supporting family, especially his daughter.

Dr. Johnson stated that deciding on an appropriate sanction is not easy in this case. On one hand, it appears that Dr. Wojciechowski's criminal activity and substandard patient care were the direct result of his addiction. In addition, Dr. Wojciechowski's addiction is extremely serious, as evidenced by his overdose in August 2017. Also, according to documents, Dr. Wojciechowski is working towards recovery.

Dr. Schachat returned to the meeting at this time.

Dr. Johnson continued that on the other hand, the mission of the Medical Board is to protect the health, safety, and welfare of the citizens of Ohio. Dr. Johnson stated that Dr. Wojciechowski did not protect his patients. In fact, Dr. Wojciechowski stated "I found patients who would use sleeping pills and have them give some pills back when they would fill their scripts." Dr. Wojciechowski also wrote, "These patients were also on opiates and were able to come to me for their scripts of opiates rather than a pain clinic." Dr. Johnson stated that Dr. Wojciechowski found vulnerable patients, took advantage of those patients, and prescribed medications the patients did not need. Dr. Wojciechowski took pills back from the patients, paid their co-pays, and paid the patients. Dr. Johnson stated that Dr. Wojciechowski created the risk that his patients would abuse or become addicted to the medications, or sell or give away medications they did not need. Dr. Johnson stated that Dr. Wojciechowski not only endangered his patients, but the larger community as well.

For the reasons listed above, Dr. Johnson agreed that a permanent revocation of Dr. Wojciechowski's medical license is the more appropriate action in this case. Dr. Johnson also recommended that no fine be levied due to Dr. Wojciechowski's financial hardships.

Dr. Bechtel also agreed with the Proposed Order to permanently revoke Dr. Wojciechowski's medical license, noting that he had been convicted of fraud. Most concerning to Dr. Bechtel was the fact that Dr. Wojciechowski took advantage of vulnerable patients, prescribing inappropriate medications that have potential side-effects and addictive properties, with the full intent of being able to acquire some of those medications for his own personal use. Dr. Bechtel reiterated that Dr. Wojciechowski was addressed by

the Board on proper prescribing procedures and he failed to follow those guidelines. Dr. Bechtel opined that Dr. Wojciechowski represents a very serious threat to the patients of Ohio and his license should be permanently revoked.

Mr. Gonidakis clarified that the Board's standard, discussed multiple times when the Board was granting fining authority, is to not consider the respondent's financial situation when determining an appropriate fine. Mr. Gonidakis urged the Board to not consider Dr. Wojciechowski's financial situation when determining whether to impose a fine. Dr. Schachat agreed. Mr. Giacalone noted that there is no fine in the proposed order because Dr. Wojciechowski's actions predate the Board's fining authority. Dr. Johnson agreed.

Mr. Giacalone commented that he agreed with everything that has been said regarding Dr. Wojciechowski. Mr. Giacalone stated that Dr. Wojciechowski essentially created more problems for people and gave them medications that they arguably did not need, potentially creating more addicts. Mr. Giacalone stated that he has no sympathy for Dr. Wojciechowski and he agreed with permanent revocation.

Dr. Schachat commented that because he left the meeting during a portion of this discussion, he will recuse from the vote in this matter.

A vote was taken on Dr. Schottenstein's motion to approve:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Schottenstein	- aye
	Dr. Soin	- aye
	Dr. Schachat	- abstain
	Mr. Giacalone	- aye
	Mr. Gonidakis	- aye
	Dr. Edgin	- aye
	Dr. Factora	- aye
	Dr. Johnson	- aye
	Dr. Bechtel	- aye

The motion to approve carried.

FINDINGS, ORDERS, AND JOURNAL ENTRIES

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

CAROL STANDRIDGE PRYCHODNIK, M.T.

Mr. Giacalone stated that Ms. Prychodnik has applied for restoration of her Ohio massage therapy license. The Board notified Ms. Prychodnik that it proposed to approve her application, pending

successful completion of the Massage and Bodywork Licensing Examination (MBLEX) due to the fact that she has not engaged in the active practice of massage therapy for more than two years.

Dr. Saferin moved to find that the allegations set forth in the August 8, 2018 Notice of Opportunity for Hearing have been proven to be true by a preponderance of the evidence, and that the Board enter an Order, effective immediately upon mailing, approving Ms. Prychodnik's application for restoration of her Ohio massage therapy license, pending successful completion of the MBLEX within six months of the mailing of the Notice of Opportunity for Hearing. Dr. Schottenstein seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Dr. Schottenstein	- aye
	Dr. Soin	- aye
	Dr. Schachat	- aye
	Mr. Giacalone	- aye
	Mr. Gonidakis	- aye
	Dr. Edgin	- aye
	Dr. Factora	- aye
	Dr. Johnson	- aye
	Dr. Bechtel	- aye

The motion carried.

HOLLY JEAN SORENSON, M.T.

Mr. Giacalone stated that Ms. Sorenson has applied for restoration of her Ohio massage therapy license. The Board notified Ms. Sorenson that it proposed to approve her application, pending successful completion of the Massage and Bodywork Licensing Examination (MBLEX) due to the fact that she has not engaged in the active practice of massage therapy for more than two years.

Dr. Saferin moved to find that the allegations set forth in the August 8, 2018 Notice of Opportunity for Hearing have been proven to be true by a preponderance of the evidence, and that the Board enter an Order, effective immediately upon mailing, approving Ms. Sorenson's application for restoration of her Ohio massage therapy license, pending successful completion of the MBLEX within six months of the mailing of the Notice of Opportunity for Hearing. Dr. Schottenstein seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Dr. Schottenstein	- aye
	Dr. Soin	- aye
	Dr. Schachat	- aye
	Mr. Giacalone	- aye
	Mr. Gonidakis	- aye
	Dr. Edgin	- aye
	Dr. Factora	- aye
	Dr. Johnson	- aye

Dr. Bechtel - aye

The motion carried.

EXECUTIVE SESSION

Dr. Saferin moved to go into Executive Session to confer with the Medical Board's attorneys on matters of pending or imminent court action, and for the purpose of deliberating on proposed consent agreements in the exercise of the Medical Board's quasi-judicial capacity. Dr. Schottenstein seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Dr. Schottenstein	- aye
	Dr. Soin	- aye
	Dr. Schachat	- aye
	Mr. Giacalone	- aye
	Mr. Gonidakis	- aye
	Dr. Edgin	- aye
	Dr. Factora	- aye
	Dr. Johnson	- aye
	Dr. Bechtel	- aye

The motion carried.

Pursuant to Section 121.22(G)(3), Ohio Revised Code, the Board went into executive session with Mr. Groeber, Ms. Anderson, Mr. Fais, Ms. Loe, Ms. Pollock, Ms. Debolt, Ms. Marshall, Mr. Roach, the Enforcement Attorneys, the Assistant Attorneys General, Ms. Murray, Mr. Smith, Ms. Moore, Mr. DePew, and Mr. Taylor in attendance.

Ms. Montgomery returned to the meeting during the Executive Session.

The Board returned to public session.

RATIFICATION OF SETTLEMENT AGREEMENTS

PAUL RITENOUR, D.O. – VOLUNTARY PERMANENT RETIREMENT FROM THE PRACTICE OF OSTEOPATHIC MEDICINE AND SURGERY

Ms. Montgomery moved to ratify the proposed Voluntary Permanent Retirement with Dr. Ritenour. Dr. Schottenstein seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Schottenstein	- aye
	Dr. Soin	- aye
	Dr. Schachat	- aye
	Mr. Giacalone	- aye

Mr. Gonidakis	- aye
Dr. Edgin	- aye
Dr. Factora	- aye
Ms. Montgomery	- aye
Dr. Johnson	- aye
Dr. Bechtel	- abstain

The motion to ratify carried.

JOHN KAVLICH, M.D. – STEP I CONSENT AGREEMENT

Dr. Schottenstein moved to ratify the proposed Step I Consent Agreement with Dr. Kavlich. Dr. Soin seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Schottenstein	- aye
	Dr. Soin	- aye
	Dr. Schachat	- aye
	Mr. Giacalone	- aye
	Mr. Gonidakis	- aye
	Dr. Edgin	- aye
	Dr. Factora	- aye
	Ms. Montgomery	- aye
	Dr. Johnson	- aye
	Dr. Bechtel	- abstain

The motion to ratify carried.

MATTHEW MANN MINARIK, P.A. – PERMANENT SURRENDER OF CERTIFICATE TO PRACTICE AS A PHYSICIAN ASSISTANT

Dr. Schottenstein moved to ratify the proposed Permanent Surrender with Mr. Minarik. Dr. Soin seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Schottenstein	- aye
	Dr. Soin	- aye
	Dr. Schachat	- aye
	Mr. Giacalone	- aye
	Mr. Gonidakis	- aye
	Dr. Edgin	- aye
	Dr. Factora	- aye
	Ms. Montgomery	- aye
	Dr. Johnson	- aye
	Dr. Bechtel	- aye

The motion carried.

KRISTA M. RUBOSKY, P.A. – STEP I CONSENT AGREEMENT

Dr. Schottenstein moved to ratify the proposed Step I Consent Agreement with Ms. Rubosky. Dr. Soin seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Schottenstein	- aye
	Dr. Soin	- aye
	Dr. Schachat	- aye
	Mr. Giacalone	- aye
	Mr. Gonidakis	- aye
	Dr. Edgin	- aye
	Dr. Factora	- aye
	Ms. Montgomery	- aye
	Dr. Johnson	- aye
	Dr. Bechtel	- aye

The motion carried.

ANTHONY JOSEPH DICELLO, M.T. – PERMANENT SURRENDER OF CERTIFICATE TO PRACTICE MASSAGE THERAPY

Dr. Schottenstein moved to ratify the proposed Permanent Surrender with Mr. DiCello. Dr. Soin seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Schottenstein	- aye
	Dr. Soin	- aye
	Dr. Schachat	- aye
	Mr. Giacalone	- aye
	Mr. Gonidakis	- aye
	Dr. Edgin	- aye
	Dr. Factora	- aye
	Ms. Montgomery	- aye
	Dr. Johnson	- aye
	Dr. Bechtel	- aye

The motion carried.

CITATIONS AND ORDERS OF SUMMARY SUSPENSION, IMMEDIATE SUSPENSION, AND AUTOMATIC SUSPENSION

Ms. Marshall briefly reviewed the proposed citations.

Ms. Montgomery stated that she had questions about proposed Citation #3, for Kristopher McKay, M.D., the physician had had his Colorado medical license suspended in February 2018, and then his Virginia medical license was suspended within two months based on the Colorado suspension, and then his California medical license was suspended three months after the Colorado suspension. Ms. Montgomery noted that this matter is now before the Ohio Board because the physician had failed to respond to the Board's interrogatories, which were sent three times. Ms. Montgomery asked why Ohio's process was so laden with process when other states found it sufficient to act more quickly.

Ms. Marshall replied that one thing that Enforcement, under the direction of the Board's Secretary and Supervising Member, looks at is whether the physician practicing in Ohio. In this case, the physician is not practicing in Ohio.

Ms. Marshall continued that the larger issue is that traditionally, the Board would simply issue a "bootstrap" citation based on another state's action once the certified copies of the action was obtained. However, in the past year or two the feedback from Board members is that they would like to have more information about the out-of-state actions. Since the Board does not have subpoena power outside of Ohio, Enforcement often sends interrogatories in an attempt to obtain the additional information that the Board wants. Ms. Marshall stated that when a licensee does not respond to interrogatories, Enforcement typically has to send three sets of interrogatories to prove that the failure to respond is a result of intentional non-cooperation, as opposed to a simple error or misdirected mail. Ms. Marshall stated that this can add time to the process.

Ms. Montgomery asked if this physician, having been suspended in three states, would be able to come to Ohio and be part of a group practice. Ms. Marshall stated that if the physician's Ohio medical license is active, he could potentially come to Ohio and practice. Ms. Marshall stated that when Enforcement has information that someone is in Ohio or if there are hints that they are coming to Ohio, those facts will move the process more toward a summary suspension when appropriate.

Ms. Montgomery commented that she understands that the Board would like more information in this case, but opined that the process seems burdensome for the Enforcement staff.

At this time the Board read and considered the proposed Opportunity for Hearing on Failure to Submit to an Examination and Notice of Summary Suspension Based upon Presumption of an Admission of Inability to Practice in the above matter, a copy of which shall be maintained in the exhibits section of this Journal.

Dr. Schottenstein moved to enter an Order of Summary Suspension in the matter of Marissa Maia Mertz, M.D., in accordance with Section 4731.22(G), Ohio Revised Code, and to issue the Opportunity for Hearing on Failure to Submit to an Examination and Notice of Summary Suspension Based upon Presumption of Impairment. Dr. Soin seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Schottenstein	- aye
	Dr. Soin	- aye
	Dr. Schachat	- aye
	Mr. Giacalone	- aye
	Mr. Gonidakis	- aye

Dr. Edgin	- aye
Dr. Factora	- aye
Ms. Montgomery	- aye
Dr. Johnson	- aye
Dr. Bechtel	- aye

The motion to send carried.

Dr. Schottenstein moved to send the Notices of Opportunity for Hearing to Freeda J. Flynn, M.D.; and Tammy M. Reed, D.O. Dr. Soin seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Schottenstein	- aye
	Dr. Soin	- aye
	Dr. Schachat	- aye
	Mr. Giacalone	- aye
	Mr. Gonidakis	- aye
	Dr. Edgin	- aye
	Dr. Factora	- aye
	Ms. Montgomery	- aye
	Dr. Johnson	- aye
	Dr. Bechtel	- abstain

The motion to send carried.

Dr. Schottenstein moved to send the Notices of Opportunity for Hearing to Steven D. Folkerth, M.D.; Kristopher McKay, M.D.; Ms. Laura Ann Ringenbach; and Saad Sakkal, M.D. Dr. Soin seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Dr. Schottenstein	- aye
	Dr. Soin	- aye
	Dr. Schachat	- aye
	Mr. Giacalone	- aye
	Mr. Gonidakis	- aye
	Dr. Edgin	- aye
	Dr. Factora	- aye
	Ms. Montgomery	- aye
	Dr. Johnson	- aye
	Dr. Bechtel	- aye

The motion to send carried.

RULES AND POLICIESREPORT OF SEPTEMBER 26, 2018 PUBLIC HEARING ON RULES

Ms. Debolt stated that some physician assistant rules had been the subject of this rules hearing. However, no comments were received regarding the physician assistant rules and those rules are not being discussed today.

Ms. Debolt asked the Board to consider making some amendments to proposed Rule 4731-11-01 to make sure that the definition of “chronic pain” uses the same language as is found in the Ohio Revised Code. Ms. Debolt also asked the Board to consider amendments to proposed Rule 4731-11-14 allowing physicians with subspecialty certification in hospice and palliative care to be recognized as pain management experts for the purposes of prescribing for their own patients at a higher level, as well as serving as a consultant upon referral by other physicians. Ms. Anderson commented that less than 350 physicians would meet this qualification in Ohio.

Dr. Saferin moved to amend the proposed rules as discussed. Dr. Bechtel seconded the motion.

A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Dr. Schottenstein	- aye
	Dr. Soin	- aye
	Dr. Schachat	- aye
	Mr. Giacalone	- aye
	Mr. Gonidakis	- nay
	Dr. Edgin	- aye
	Dr. Factora	- aye
	Ms. Montgomery	- aye
	Dr. Johnson	- aye
	Dr. Bechtel	- aye

The motion carried.

Ms. Anderson stated that these rules will be refiled on October 16 and will be discussed by the Joint Committee on Agency Rule Review (JCARR) on November 15. Ms. Anderson anticipated that the Board would be able to approve the new rules at the December Board meeting with an effective date of December 22, 2018.

MEDICAL MARIJUANA – 2019 WINDOW FOR FILING PETITIONS FOR NEW CONDITIONS

Dr. Bechtel moved that the 2019 window for filing petitions for new conditions to be treated with medical marijuana be between November 1 and December 31. Dr. Edgin seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Dr. Schottenstein	- aye

Dr. Soin	- aye
Dr. Schachat	- aye
Mr. Giacalone	- aye
Mr. Gonidakis	- abstain
Dr. Edgin	- aye
Dr. Factora	- aye
Ms. Montgomery	- aye
Dr. Johnson	- aye
Dr. Bechtel	- aye

The motion carried.

OPERATIONS REPORT

Human Resources: Mr. Groeber stated that a number of positions with the Board have been posted and the interviewing and hiring processes continue.

Investigator Firearms: Mr. Groeber stated that the Board staff is continuing to work with the union to implement the changes directed by the Board. Management has continued to work with the union to prepare for the return of firearms should the Board vote to rescind investigator authority to carry firearms at the November 2018 meeting. Mr. Groeber stated that until such time as the Board takes a formal vote, the Board will maintain the investigators' authority to carry firearms.

Budget Update: Mr. Groeber stated that the Board's budget is in very good shape and is projected to improve further in the coming months. Mr. Groeber stated that the budget will be discussed in more detail in the Finance Committee report.

Agency Operations: Mr. Groeber noted an small increase in the overall number of open complaints, which he suspected was primarily related to the additional thousands of new licensees which the Board acquired following the merger with the Dietetics Board and the Respiratory Care Board.

Mr. Groeber stated that the numbers from Licensure are good, though there is a minor decrease in the number of new MD/DO licenses. Year-to-Date, total licensure is up 20% compared to last year and the time to issue licenses has been reduced by 25%

Ad Hoc ICD-10 Data Review Committee: Mr. Groeber stated that the ICD-10 Code Data Review Committee met last month and had a very good discussion. Mr. Groeber stated that work continues with the Board of Pharmacy and the Department of Medicaid to get the data into a more workable form. Mr. Groeber stated that the Committee intends to work with the Board of Pharmacy to develop ICD-10 Prescription Coding Best Practices to ensure consistency in the way ICD-10 codes are reported.

Annual Ethics Training: Mr. Groeber reminded the Board members that the annual ethics training must be completed by December 15.

Board Meeting Materials Format: Mr. Groeber stated that he had a discussion with Ms. Montgomery regarding the volume and format of the Board's monthly meeting materials. Mr. Groeber asked for volunteers among the Board members to look through the materials and recommend changes in format to streamline the process, and perhaps changes in the manner of drafting minutes. Ms. Montgomery and

Mr. Giacalone volunteered to review the processes and make recommendations.

Ms. Montgomery exited the meeting at this time.

DIETETICS ADVISORY COUNCIL REPORT

Mr. Smith stated that the Dietetics Advisory Council met yesterday, approved the draft minutes of its August meeting, and continued discussion of therapeutic diet order writing and privileging. The Council also received updates on continuing actions related to dietetics, specifically the dietetics rules in Chapter 4759 which were filed with the Common Sense Initiative.

The Council was given update on the application and selection process to fill the educator vacancy on the Council. The Board will be presented with a slate of candidates to fill the vacancy at its November 14, 2018 meeting.

REPORTS BY ASSIGNED COMMITTEES

FINANCE COMMITTEE

FISCAL UPDATE

Dr. Schottenstein stated that the Board's review in August 2018 was \$810,142. Dr. Schottenstein stated that this is down from the \$1,100,000 in July, but he noted that July was an unusual month and that August was still a good revenue month. Dr. Schottenstein stated that there is a 27% year-to-date increase in revenue, which is likely a function of the shift in the renewal notice dates for the October 1 license renewal groups.

Dr. Schottenstein stated that the Board's cash balance is \$5,099,701, which is on the high end of the range of balances that the Board has historically carried.

Dr. Schottenstein stated that the Board continues to under-spend its spending authority and that is likely to continue going forward.

Dr. Schottenstein stated that expenditures have decreased 4.6% year-to-date. Dr. Schottenstein stated that this decrease is unusual and is partly a function of extra staff vacancies at this time.

ACCOUNTS RECEIVABLE

Dr. Schottenstein stated that the Board has received \$14,000 in fine payments since the last Board meeting. To date, the Board has received a total of \$296,000 in fine payments.

COMMUNICATIONS UPDATE

Dr. Schottenstein stated that Brainstorm Media has completed a second round of edits to the dietetics and respiratory care continuing education videos. The Committee hoped that the project will be completed before the next Board meeting.

Dr. Schottenstein stated that the Board has had a higher-than-usual number of media inquiries regarding

topics such as physician discipline and opioid prescribing. Dr. Schottenstein commented that those stories will likely be published in various newspapers in the next few weeks.

Dr. Schottenstein stated that the Board is piloting new Board meeting software from the vendor OnBoard. Dr. Schottenstein stated that the new software appears to be relatively easy to use, has good functionality, and has a relatively low cost estimate. Dr. Schottenstein commented that he has used the program and thought it was more functional than what the Board has used historically.

Dr. Schottenstein stated that the Board's Communications team spoke to a representative of the company that publishes the Ohio Nursing Board's magazine, which could be an option for a zero-cost publisher for the Medical Board's magazine. Dr. Schottenstein stated that CityScene has notified the Board of their intent to discontinue the Board's HealthScene magazine. Dr. Schottenstein stated that the Committee is also keeping in mind the option of the Board producing its magazine itself.

FSMB OPIOID PRESCRIBING RESOLUTION – TRAVEL APPROVAL UPDATE

Dr. Schottenstein stated that the Board was originally going to travel to Washington, DC, for a meeting with the Federation of State Medical Boards (FSMB) on Ohio's acute opioid prescribing resolution, which passed at the last FSMB Annual Meeting. However, the Board has asked that an FSMB representative come to Columbus for the meeting and the FSMB agreed. Dr. Schottenstein stated that the meeting will occur on November 15 in the Board's offices.

FDA MEETING UPDATE

Dr. Schottenstein stated the meeting with the Food and Drug Administration (FDA) which was originally scheduled for August has been rescheduled for November 16. Dr. Schottenstein noted that the travel expenses will be roughly the same as for the August meeting.

FISCAL YEARS 2020/2021 BUDGET REQUEST

Dr. Schottenstein stated that the Ohio Office of Budget and Management (OBM) has reported that the Board has met all the technical criteria for submission of its 2020/2021 budget request. The OBM noted that the Board typically underspends its allocated amount. For that reason, it is possible that the Board's allocated spending will go down in the future.

TRAVEL APPROVAL – MEDICAL MARIJUANA REGULATORS CONFERENCE

Dr. Schottenstein stated that there will be a Medical Marijuana Regulators Conference in Boston, Massachusetts, on October 25 and 26. Representatives from the Ohio Department of Commerce and the Ohio Board of Pharmacy will be attending the conference. As Mr. Groeber will be on vacation on those dates, conditional presidential approval for Kim Anderson to attend the conference was sought. Dr. Schottenstein stated that the total cost of airfare, hotel, and miscellaneous travel costs for Ms. Anderson is approximately \$1,150. Dr. Schottenstein noted that there will be no conference fee.

Dr. Saferin moved to approve Ms. Anderson to attend the Marijuana Regulators Conference on Thursday, October 25 and Friday, October 26, 2018, anticipating Wednesday evening arrival and Friday evening departure in Boston, Massachusetts; travel expenses will be paid by the Medical Board in accordance with state travel policy; and that attendance at the conference is in

connection with Ms. Anderson's duties as, and is related to her role as, Senior Legal Counsel for the State Medical Board of Ohio. Dr. Edgin seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Dr. Schottenstein	- aye
	Dr. Soin	- aye
	Dr. Schachat	- aye
	Mr. Giacalone	- aye
	Mr. Gonidakis	- abstain
	Dr. Edgin	- aye
	Dr. Factora	- aye
	Dr. Johnson	- aye
	Dr. Bechtel	- aye

The motion carried.

POLICY COMMITTEE

LEGISLATIVE REVIEW

Dr. Soin stated that Mr. LaCross provide the Policy Committee with a brief legislative update, mostly on the pending physician assistant bill.

FEDERAL LEGISLATION ADDRESSING THE OPIOID CRISIS

Dr. Soin stated that federal legislation addressing the opioid crisis is ongoing and there will likely be a report at a later meeting.

MANDATORY REPORTING FOR ELDER ABUSE

Dr. Soin stated that the mandatory reporting for elder abuse was voted on in Committee.

PHARMACY BOARD CONSULTATION RULES

Dr. Soin stated that the Policy Committee received an update on the Board of Pharmacy's consultation rules.

UPDATE ON ONE-BITE REPORTING EXEMPTION RULES

Ms. Anderson stated that the Committee had a lengthy discussion about the proposed changes to the one-bite reporting exemption rules, based on comments received during the Common Sense Initiative (CSI) process. Comments were received from six entities, including the Medical Association Coalition, and the Policy Committee approved a number of changes.

Ms. Anderson noted that Rule 4731-16-20 had stated that treatment providers must provide the different levels of care as necessary. Due to concerns about whether any treatment provider in Ohio would be able to provide every single level of care, Ms. Anderson suggested that the Board change the language to

specify that the treatment provide must provide one or more of the levels of patient care, and then lists the different levels of care: Medical detoxification inpatient; medical detoxification outpatient; extended residential; partial hospitalization; intensive outpatient continuing care; or others as necessary.

The Board agreed with Ms. Anderson's suggestion.

Dr. Saferin moved to approve the amendments to the Rules as discussed by the Policy Committee and as further discussed by the Board. Dr. Bechtel seconded the motion. All members voted aye. The motion carried.

LICENSURE COMMITTEE

RULE 4731-1-08, COSMETIC THERAPIST CONTINUING EDUCATION

Dr. Saferin stated that the Licensure Committee review the comments received regarding the proposed amendments to this rule. Following discussion, the Committee voted to recommend one change to the amendments. Ms. Debolt specified that the Committee agreed to amend paragraph (N)(1)(a), which regards the entities that can provide the continuing education. The change would add the phrase, "a provider accredited by the international association for continuing education and training."

Dr. Saferin moved to file the draft rules with the Common Sense Initiative as discussed. Dr. Sojin seconded the motion. All members voted aye. The motion carried.

LICENSURE APPLICATION REVIEW

ARNOLD WOLF, D.P.M.

Dr. Saferin stated that prior to September 28, 2018, section 4731.52(A)(1)(e) of the Ohio Revised Code required that an applicant for podiatric licensure "complete one year of postgraduate training in a podiatric internship, residency, or clinical fellowship program accredited by the council on podiatric medicine or the American podiatric medical association." Effective September 28, 2018, the law was amended to grant the Board authority to determine whether an applicant has other training that could be deemed equivalent to the requirement.

Dr. Saferin stated that Dr. Wolf graduated from William Scholl College of Podiatric Medicine in Chicago, Illinois, in 1983. Dr. Wolf completed a one-year preceptorship at Metro Podiatric Clinics, P.C., in 1984. Dr. Saferin stated that at that time, it was standard, common, and acceptable for podiatrists to complete a preceptorship as postgraduate training. Dr. Saferin further noted that Dr. Wolf has practiced podiatry for 34 years.

Dr. Saferin moved to approve Dr. Wolf's request that the Board deem his podiatric preceptorship training, and thirty-four years of experience in the United States, equivalent to the one-year of postgraduate training education requirement for licensure. Dr. Edgin seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Dr. Schottenstein	- aye

Dr. Soin	- aye
Dr. Schachat	- aye
Mr. Giacalone	- aye
Mr. Gonidakis	- aye
Dr. Edgin	- aye
Dr. Factora	- aye
Dr. Johnson	- aye
Dr. Bechtel	- aye

The motion carried.

EXECUTIVE SESSION

Dr. Saferin moved to go into Executive Session for the purpose of preparing for, conducting, or reviewing negotiations or bargaining sessions with public employees concerning their compensation or other terms and conditions of their employment; and to consider the appointment, employment, dismissal, discipline, promotion, demotion, or compensation of a public employee or official. Dr. Schottenstein seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Dr. Schottenstein	- aye
	Dr. Soin	- aye
	Dr. Schachat	- aye
	Mr. Giacalone	- aye
	Mr. Gonidakis	- aye
	Dr. Edgin	- aye
	Dr. Factora	- aye
	Dr. Johnson	- aye
	Dr. Bechtel	- aye

The motion carried.

Pursuant to Section 121.22(G)(3), Ohio Revised Code, the Board went into executive session with Mr. Groeber, Ms. Anderson, and Ms. Loe in attendance.

The Board returned to public session.

The Board meeting was recessed at 12:17 p.m. The meeting resumed at 1:12 p.m. Dr. Saferin and Ms. Montgomery were not present when the meeting resumed.

REPORTS BY ASSIGNED COMMITTEES

COMPLIANCE COMMITTEE

On September 12, 2018, the Compliance Committee met with Erin B. Engel, D.P.M.; and Muyuan Ma, M.D., and moved to continue them under the terms of their respective Board actions. The Compliance Committee also accepted Compliance staff's report of conferences on August 6, 7, & 9, 2018.

PROBATIONARY REQUESTS

Mr. Giacalone advised that at this time he would like the Board to consider the probationary requests on today's consent agenda. Mr. Giacalone asked if any Board member wished to discuss a probationary request separately. No Board member wished to discuss a probationary request separately.

Dr. Schottenstein moved to accept the Compliance staff's Reports of Conferences and the Secretary and Supervising Member's recommendations as follows:

- **To grant Michelle L. Ahmed, D.O.'s request for confirmation that she has completed the requirements of her September 13, 2017 Consent Agreement; Dr. Ahmed's reprimand shall not terminate;**
- **To grant Kevin G. Baldie, M.D.'s request for removal of the work hour limitation;**
- **To grant Michael T. Bangert, M.D.'s request approval of Regina L. Ford, L.M.H.C., to serve as the new treating mental health counselor;**
- **To grant Saul I. Blecher, M.D.'s request for approval of the submitted practice plan; approval of John M. Farmer, M.D., to serve as the monitoring physician; and determination of the frequency and number of charts to be reviewed at 10 charts per week;**
- **To grant Cari R. Corfman, M.T.'s request for approval of the professional ethics course tailored by Donna Homenko, Ph.D., to fulfill the professional ethics course requirement;**
- **To grant Perry M. Kalis, M.D.'s request for acknowledgement of completion of the terms of his July 12, 2017 Consent Agreement; Dr. Kalis' reprimand shall not terminate;**
- **To grant Muyuan Ma, M.D.'s request for approval of Douglas W. Beech, M.D., to conduct one of the psychiatric return-to-work assessments; approval of Carlos G. Lowell, M.D., to conduct one of the psychiatric return-to-work assessments; and approval of Luis F. Ramirez, M.D., to serve as the new treating psychiatrist;**
- **To grant William, S. Richardson, M.D.'s request for reduction in the drug and alcohol rehabilitation meeting attendance requirement to two per week with a minimum of ten per month;**
- **To grant Florencia A. Riel-Guzman, M.D.'s request for release from the terms of the July 8, 2015 Board Order; and**
- **To grant Mary A. Zielinski, M.T.'s request for release from the terms of her July 13, 2016 Consent Agreement.**

Dr. Soin seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Schottenstein	- aye
	Dr. Soin	- aye

Dr. Schachat	- aye
Mr. Giacalone	- aye
Mr. Gonidakis	- aye
Dr. Edgin	- aye
Dr. Factora	- aye
Dr. Johnson	- aye
Dr. Bechtel	- abstain

The motion to approve carried.

FINAL PROBATIONARY APPEARANCES

AJAY BHATIA, M.D.

Dr. Bhatia was appearing before the Board pursuant to his request for release from the terms of his August 14, 2013 Consent Agreement. Mr. Giacalone reviewed Dr. Bhatia's history with the Board.

Responding to questions from Mr. Giacalone, Dr. Bhatia stated that he currently practices in a mental health center treating patients who have no insurance. Dr. Bhatia stated that he enjoys the team atmosphere of the clinic. Dr. Bhatia stated that he has practiced at the clinic for almost nine years and it is a blessing to work there. Dr. Bhatia stated that he is able to balance his work with his illness and treatment. Dr. Bhatia stated that he currently sees a psychiatrist and he has been on the same psychiatric medications for about the last six years. Dr. Bhatia stated that he will continue to see his psychiatrist after he is released from probation.

Dr. Soin noted that according to the Board's materials, Dr. Bhatia's mother has rheumatoid arthritis and his parents depend on him for many things. Dr. Soin asked Dr. Bhatia plans to manage the stress of being a caretaker and other stressful situations. Dr. Bhatia replied that there is always stress in life, but he feels that he has good support from family and friends and that he is managing himself well.

Dr. Schottenstein agreed with Dr. Soin's concerns, noting that stress is a risk factor for relapse or decompensation. Dr. Schottenstein stated that people who are prone to bipolar disorder can have something like an allergic reaction to stress. Dr. Schottenstein observed that this is what happened to Dr. Bhatia when he became very overwhelmed studying for board examinations and working full-time. Dr. Schottenstein stated that it is important to be proactive about stress. Dr. Bhatia agreed and stated that he has learned that through his experiences. Dr. Bhatia likened the situation to the instructions in an airplane that one should put on one's own air mask before helping others; likewise, Dr. Bhatia stated that he has to be the best for himself first and then handle whatever he can in addition to that. Dr. Schottenstein asked if Dr. Bhatia feels that he has a good system in place for himself. Dr. Bhatia answered affirmatively.

Dr. Edgin moved to release Dr. Bhatia from the terms of his August 14, 2013 Consent Agreement, effective immediately. Dr. Schottenstein seconded the motion. All members voted aye. The motion carried.

ELISE HOFF, M.D.

Dr. Hoff was appearing before the Board pursuant to her request for release from the terms of her October 14, 2015 Consent Agreement. Mr. Giacalone reviewed Dr. Hoff's history with the Board.

In response to questions from Mr. Giacalone, Dr. Hoff stated that she is currently in a surgical pathology fellowship at MetroHealth. Dr. Hoff stated that she enjoys her work environment because it is very supportive and communal. Dr. Hoff stated that she continues to see Anna-Lynn Tamayo-Reyes, M.D., on a regular basis and to take her medications. Dr. Hoff stated that she will continue to see Dr. Tamayo-Reyes after she is released from probation. Dr. Hoff also sees Gina Dillon, Psy.D. for her therapy, pursuant to the requirements of her Consent Agreement. Dr. Hoff commented that she does not intend to continue seeing Dr. Dillon after her release from probation, but Dr. Dillon has stated that Dr. Hoff can call her if she ever needs to. Dr. Hoff stated that she does her best to take care of herself and she feels that she is in a good place.

Responding to questions from Dr. Schottenstein, Dr. Hoff stated that her fellowship will end on June 30, 2019, unless she requests to be released early. After the fellowship, Dr. Hoff plans to find full-time work as a pathologist.

Dr. Saferin returned to the meeting at this time.

Dr. Schottenstein asked if Dr. Hoff plans to seek work locally or if she plans to move following her fellowship. Dr. Hoff replied that she plans to stay local in the Northeast Ohio area. Dr. Hoff stated that she would like to be hired at the same facility as her fellowship, but she is uncertain if there will be a position available. Dr. Schottenstein stated that a period of transition can be stressful and it is easy during such times to become lax about things such as seeing one's doctor, taking medications, and getting proper sleep. Dr. Schottenstein stated that, in fact, these things are even more important during a time of transition, and he asked Dr. Hoff to keep that in mind. Dr. Hoff agreed.

Dr. Schottenstein moved to release Dr. Hoff from the terms of her October 14, 2015 Consent Agreement, effective October 22, 2018. Dr. Edgin seconded the motion. All members voted aye. The motion carried.

VINCENT JAMES KEISER, M.D.

Dr. Keiser was appearing before the Board pursuant to his request for release from the terms of his September 12, 2013 Consent Agreement. Mr. Giacalone reviewed Dr. Keiser's history with the Board.

Responding to questions from Mr. Giacalone, Dr. Keiser stated that his practice is going well and he has been practice since his 90-day suspension ended in 2013. Dr. Keiser stated that he is a radiologist; he is fellowship-trained in neuroradiology, but he also does diagnostic and emergency radiology. Dr. Keiser stated that he has been with the same practice group since 2001.

Regarding his recovery program, Dr. Keiser stated that Alcoholics Anonymous (AA) has become part of his life. Dr. Keiser stated that he has a sponsor and he also has a sponsee. Dr. Keiser commented that when he first entered the program, he was resentful toward the Medical Board because he did not think he had a problem. Dr. Keiser stated that in retrospect, he is grateful for that situation.

Regarding his support structure of family and friends, Dr. Keiser stated that almost everything has changed in the last five years. Eight months after becoming sober, Dr. Keiser filed for divorce and ultimately gained sole custody of his daughter. Dr. Keiser is now remarried and lives with his wife, his daughter, his two stepchildren, and two dogs.

Mr. Giacalone asked if anything will change for Dr. Keiser after he is released from probation. Dr. Keiser replied that the only things that will change is that he will no longer have to get the signatures and the drug screens required by his Agreement; otherwise, everything will remain the same. Responding to Dr. Schottenstein, Dr. Keiser stated that he attends about two to three AA meetings per week and he communicates with both his sponsor and his sponsee by telephone or social media. Dr. Keiser also attends caduceus meetings. Dr. Keiser stated that he has gone through all of the 12 steps and he is currently focusing on Step 11.

Dr. Schottenstein moved to release Dr. Keiser from the terms of his September 12, 2013 Consent Agreement, effective October 11, 2018. Dr. Soin seconded the motion. All members voted aye. The motion carried.

DAVID A. TRACY, M.D.

Dr. Tracy was appearing before the Board pursuant to his request for release from the terms of his October 9, 2013 Consent Agreement. Mr. Giacalone reviewed Dr. Tracy's history with the Board.

In response to questions from Mr. Giacalone, Dr. Tracy stated that he currently works as an emergency physician at MetroHealth and his work is going great.

Mr. Giacalone asked how Dr. Tracy's situation came about. Dr. Tracy stated that in residency he had felt that he had been drinking too much, and at one point he showed up late to an educational conference. When questioned by his program director, Dr. Tracy told him that he thought he had been drinking too much. Dr. Tracy ultimately ended up in treatment. Dr. Tracy elaborated that when he graduated from medical school, he moved from Michigan to Ohio, he found himself alone for about the first month, which compounded the problem.

Mr. Giacalone asked about Dr. Tracy's recovery program following his release from probation. Dr. Tracy answered that he plans to keep doing the same things, including attending meetings and talking to his sponsor. Dr. Tracy stated that his is not currently sponsoring anyone. Dr. Tracy commented that he has worked the 12 steps a couple of times. Dr. Tracy stated that he has a great family and support system. Dr. Tracy stated that he married shortly after he finished rehabilitation and he has two stepchildren and one child with his wife.

Dr. Schottenstein moved to release Dr. Tracy from the terms of his October 9, 2013 Consent Agreement, effective immediately. Dr. Soin seconded the motion. All members voted aye. The motion carried.

ADJOURN

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

Thereupon, at 1:35 p.m., the October 10, 2018 session of the State Medical Board of Ohio was adjourned.

October 10, 2018

We hereby attest that these are the true and accurate approved minutes of the State Medical Board of Ohio meeting on October 10, 2018, as approved on November 14, 2018.



Robert P. Giacalone, President



Kim G. Rothermel, M.D., Secretary

(SEAL)



LICENSURE COMMITTEE MEETING
October 10, 2018
30 E. Broad St., Columbus, OH Room 318

Members: Bruce R. Saferin, D.P.M., Chair Richard Edgin, M.D. Kim G. Rothermel, M.D. Ronan M. Factora, M.D. Other Board members present: Michael Schottenstein, M.D.	Staff: Joseph Turek, Deputy Director of Licensure/Renewal Mitchell Alderson, Chief of Physician Licensure Chantel Scott, Chief of Allied Licensure and Renewal Colin DePew, Assistant Attorney Sallie DeBolt, Senior Counsel
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Dr. Saferin called the meeting to order at 8:02 a.m.

MINUTES REVIEW

Dr. Edgin moved to approve the draft minutes for the September 12, 2018 meeting. Dr. Factora seconded the motion. The motion carried.

PROPOSED AMENDMENTS TO RULE 4731-1-08, CONTINUING COSMETIC THERAPY EDUCATION

Dr. Saferin stated that the proposed amendments to Rule 4731-1-08, continuing cosmetic therapy education (“CCTE”) were circulated to all cosmetic therapists for comment. Twelve cosmetic therapists submitted comments, and some had multiple comments. The revised amendments to the rule and the comment tracking sheet summarizing the comments have been provided to the board for review.

Ms. DeBolt stated that she and Mr. Turek considered the comments and process flow and made recommendations for the final rule. She stated that the most significant component is to keep the language which reduces the number of continuing education hours to twelve.

She stated that there is now a specific list of subject matters as well as a list of approved providers so there is no longer a need to submit courses to the Medical Board for approval. Many comments requested the inclusion of certain subjects, which the Board found were already covered, just not specifically stated. Mr. Turek stated that this will provide specific guidance for approved CCTE and resolve any problems with the current rule.

Dr. Saferin reported that two associations will be able to approve the CE. He mentioned that one comment asked about courses provided by the International Association for Continuing Education and Training (IACET). Mr. Turek provided clarification that IACET is an accreditor of continuing education but is not necessarily a provider. Dr. Factora suggested another option is to accept courses/providers accredited by the IACET, but not to require it. The language of providing this option will be added to the draft rule being submitted to the Common Sense Initiative Office. Dr. Factora commented that as the subjects and provider lists expand, the rule will need to be continually updated.

Dr. Saferin made a motion to file the draft rule including the additional language, with the Common Sense Initiative Office. Dr. Factora seconded the motion. The motion carried.

ARNOLD WOLF, DPM – PHYSICIAN APPLICATION

Dr. Saferin stated that prior to September 28, 2018, section 4731.52(A)(1)(e) of the Ohio Revised Code required that an applicant for podiatric licensure “completed one year of postgraduate training in a podiatric internship, residency or clinical fellowship program accredited by the council on podiatric medicine or the American Podiatric Medical Association.” Effective September 28, 2018, the law was amended to grant the Board authority to determine whether an applicant has other training that could be deemed equivalent to the requirement.

Dr. Saferin stated that Dr. Wolf graduated from William Scholl College of Podiatric Medicine in Chicago, IL in 1983. In 1984, Dr. Wolf completed a one-year preceptorship at Metro Podiatric Clinics, P.C. At the time, it was standard, common and acceptable for podiatrists to complete a preceptorship as postgraduate training. Dr. Wolf has practiced podiatry for thirty-four years.

Dr. Rothermel moved to approve Dr. Wolf’s request that the Board deem his podiatric preceptorship training and thirty-four years of experience in the United State to be equivalent to the one-year of postgraduate training education requirement so that he may be granted a license. Dr. Factora seconded the motion. The motion carried.

ADJOURN

Dr. Edgin moved to adjourn the meeting. Dr. Factora second the motion. The motion carried. The meeting adjourned at 8:14 a.m.

Bruce R. Saferin, D.P.M.

Chair

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FINANCE COMMITTEE MEETING
October 10, 2018
30 E. Broad St., Columbus, OH Room 318

Members: Michael Schottenstein, M.D., Chair Bruce R. Saferin, D.P.M. Richard A. Edgin, M.D. Michael L. Gonidakis, J.D.	Staff: A.J. Groeber, Executive Director Susan Loe, Director of Fiscal and Human Resources Tessie Pollock, Director of Communications
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Dr. Schottenstein called the meeting to order at 8:30 a.m.

MINUTES REVIEW

Dr. Edgin moved to approve the draft minutes of September 12, 2018. Dr. Gonidakis seconded the motion. The motion carried.

FISCAL UPDATE

Dr. Schottenstein stated that the August 2018 revenue was \$810,142, which is a decrease from \$1.1 million in July. He noted that July was an unusual month. He stated that in comparison, the August 2016 revenue was \$599,185. The year-to-date revenue increase is 27%. The increase is likely a function of the shift in the notice dates for the October 1 license renewal groups.

The Board has a cash balance of \$5,099,071, which is on the higher end of historical balances. The Board continues its trend of under-spending it's authorized amount and it is likely that this will continue.

EXPENDITURES AND ALLOCATIONS

Dr. Schottenstein reported that expenditures for fiscal year 2019 year-to-date include a 4.6% decrease which is unusual. This is partly due to a few vacant positions. He explained that some of the Board's current expenditures will be paid using encumbered 2018 fiscal year funds. He stated that in a few months, the expenditure amount will likely reflect the Board's usual 4% increase year-to-date.

ACCOUNTS RECEIVABLE AND FINES

Dr. Schottenstein stated that the accounts receivable report includes fine payments totaling \$14,000 which were collected since the September 12 board meeting. The Board has received \$296,000 in fine payments year-to-date. Mr. Gonidakis asked for clarification about the credit of \$9,945.46. Ms. Loe explained that this was due to a licensee who had an \$11,000 fine and a consent agreement. The Board previously received a payment of \$1,054.54 from the licensee's income tax return and garnishments. The licensee asked to permanently surrender her license in lieu of paying the remaining \$9,945.46 and was approved by AG's office and the Board to do so.

EDUCATION AND OUTREACH

Ms. Pollock provided an update regarding the Dietetics and Respiratory Care CE modules. Brainstorm media, the selected vendor for video production, has completed a second round of edits to the continuing education videos. While the number of edits were few, it required the voice

over talent to come back into the studio and rerecord some portions of the script. Final review of videos and quizzes is underway, and the communications team hopes to report completion of the project during the November board meeting.

Ms. Pollock reported that a higher-than-usual number of media inquiries have come into the Board since the September 12 meeting. Story topics include physician discipline and opioid prescribing. The Board anticipates publication of these stories in USA Today, Toledo Blade, WEWS Cleveland and WKYC within a few weeks.

Ms. Pollock stated that three Board Members indicated they were interested in piloting a new board meeting software this month. OnBoard appears to be the top vendor as they offer the best ease-of-use, features important for our board's workflow and the lowest cost estimate by more than \$10,000.

ELEARNING COMPANIES UPDATE

Regarding the magazine publisher search, Ms. Pollock stated that she had an extensive phone conversation with the company that publishes the Ohio Nursing Board's magazine. This could potentially turn out to be an option for a zero-cost publisher for the Medical Board's magazine. The president of the company said he would like to conduct some market research and will be back in touch with the Board in the coming weeks. Ms. Pollock also stated that another option is to publish a magazine in-house and she is working with Gary Holben to get bids from State Printing. Mr. Gonidakis stated that it would be extremely difficult if the magazine publications ended. He stated that much time and effort were put into developing the magazine and it is a very useful means to reach the licensees and the public.

Mr. Gonidakis asked questions about the statistics for visits to the Board's website as shown in the chart attached to the minutes. Ms. Pollock clarified that new users to the Board's website are individuals who have visited the website for the first time.

FSMB OPIOID PRESCRIBING RESOLUTION – TRAVEL APPROVAL UPDATE

Mr. Groeber provided an update regarding possible travel to Washington D.C. to meet with the Federation of State Medical Boards (FSMB) about Ohio's acute opioid crisis on November 15. Mr. Groeber contacted the FSMB representative and asked if they would be willing to come to Ohio in lieu of four individuals coordinating travel from Ohio to Washington D.C. The representative was able to accommodate the request to come to Ohio.

FDA MEETING UPDATE

Mr. Groeber stated that the August meeting with the FDA has been rescheduled to October 16, 2018.

FISCAL YEAR 2020-2021 BUDGET REQUEST

Ms. Loe provided a summary regarding the fiscal year 2020-2021 budget request. Ms. Loe stated that the Office of Budget and Management (OBM) has notified the Board that the budget request submission has met all of its technical requirements. She has received additional questions from OBM about the Board's history of under-spending, which may impact the Board's total authorized budget for fiscal year 2020-2021. Under-spending is partially due to vacant positions. Ms. Loe stated that the Board always has rotating vacancies, and they are usually in the process of being filled.

KIM ANDERSON TRAVEL APPROVAL

On Thursday, September 13, the Board was made aware of an Ohio delegation going to a medical marijuana regulators' conference in Boston on October 25-26, 2018. Anticipated travel includes Wednesday evening arrival and Friday evening departure. Representatives from the Department of Commerce and Board of Pharmacy will be attending as well. Mr. Groeber is on vacation those days so conditional presidential approval was granted by Mr. Giacalone for Kim Anderson to attend. Dr. Schottenstein requested that the Finance Committee discuss and vote upon full approval of Ms. Anderson's attendance at the conference. The projected cost breakdowns are as follows:

Airfare: \$350.00

Hotel (2 nights): \$600.00

Conference Fee: Anticipated to be \$0, but there may be some cost to attend

Miscellaneous Travel Costs: \$200.00

Dr. Saferin moved to approve Ms. Anderson to attend the Marijuana Regulators' Conference on Thursday, October 25 and Friday, October 26, 2018, anticipating Wednesday evening arrival and Friday evening departure, in Boston, Massachusetts. Travel expenses will be paid by the Medical Board in accordance with state travel policy. The attendance at the conference is in connection with Ms. Anderson's respective duties as, and is related to, her role as Senior Legal Counsel for the State Medical Board of Ohio. Mr. Gonidakis seconded the motion. The motion carried.

ADJOURN

Dr. Edgin moved to adjourn meeting. Mr. Gonidakis seconded the motion.

The meeting adjourned at 8:48 a.m.

Michael Schottenstein, M.D.
Chair

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State Medical Board of Ohio

POLICY COMMITTEE MEETING

October 10, 2018

30 East Broad Street, Columbus, OH 43215, Room 336

<p>Members: Andrew P. Schachat, MD Robert Giacalone Mark. A. Bechtel, MD Amol Soin, MD Betty Montgomery</p> <p>Other Board Members present: Kim G. Rothermel, MD Michael Schottenstein, MD Sherry Johnson, DO Ronan Factora, MD Bruce Saferin, DPM Richard Edgin, MD</p>	<p>Staff: A.J. Groeber, Executive Director Kimberly Anderson, Chief Legal Counsel Sallie J. Debolt, Senior Counsel Nathan Smith, Senior Legal and Policy Counsel Tessie Pollock, Director of Communication Joan Wehrle, Education & Outreach Program Manager Jonithon LaCross, Director of Public Policy and Government Affairs David Fais, Assistant Executive Director</p>
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Dr. Soin called the meeting to order at 9:15 a.m.

MEETING MINUTES REVIEW

Dr. Soin reported that the draft of the revised minutes of the September 12, 2018 meeting had been distributed to the committee and were included in the agenda materials.

Dr. Bechtel moved to approve the draft revised minutes of the September 12, 2018 Policy Committee meeting. Mr. Giacalone seconded the motion. Motion carried.

RULES REVIEW REPORT

Ms. Anderson said that the rule review update on page 11-1 in the agenda materials is provided for the information of the committee.

Ms. Anderson reported that that the Medication Assisted Treatment (MAT) rules and the Massage Therapy curriculum rule were released from CSI yesterday, so the Board will be filing these rules with JCARR.

LEGISLATIVE REPORT

Mr. LaCross reported that SB 259, the PA bill, was passed out of the Senate. He said we had been working on a floor amendment for clean-up language to remove the requirement for the Board to post PA supervision agreements online, since PA supervision agreements are no longer filed with the Medical Board. Mr. LaCross said we could not get it on the floor, but we are working with Representative Huffman to get this change through the House committee. The PA's have agreed with this change. It is anticipated that this bill will be addressed when the legislature returns after the election.

Mr. LaCross reported that budget information will be coming out and we will be working on that through the spring.

Mr. Giacalone asked when the PA bill would go into effect. Mr. LaCross responded that Representative Hoffman wants to move the bill quickly. Hopefully the bill can get signed before Christmas, and it will go into effect 90 days later.

FEDERAL LEGISLATION ADDRESSING THE OPIOID CRISIS

Mr. LaCross said that he will prepare a bill overview and the legal department will identify issues in the bill that may impact the Board. Information will be provided to the Board for discussion of the legislation.

Presented for information.

UPDATE ON CSI ANTITRUST REVIEW OF LIGHT BASED MEDICAL DEVICE RULES

Mr. Smith said his report is for the information of the committee. He referred to the memorandum on page 11-136 of the agenda materials.

He reported that on June 15, 2018 the Medical Board referred its proposed Chapter 4731-18 Ohio Administrative Code rules on Light Based Medical Device Procedures to CSI. CSI opened a comment period on the proposed Rules from August 13, 2018 to September 13, 2018 in which interested parties were instructed to “provide comments that concern antitrust or anticompetitive matters.” CSI received comments from twenty (20) distinct individuals or organizations. On September 24, 2018, CSI transmitted those comments to the State Medical Board with instructions to respond by October 9, 2018. Mr. Smith said the comments were included in the agenda materials. He reported that the Board filed our response with CSI yesterday and a copy of the response was distributed to committee this morning.

Mr. Smith said that most of comments were from cosmetic therapists who asked that there be no physician supervision required for light based hair removal. A spreadsheet of all of the comments is on page 11-138 and 11-139 in the agenda materials.

He noted that the proposed rule expands physician delegation of the application of light based medical device procedures by adding additional types of light based medical device procedures that can be delegated to additional non-physician operators. The proposed rules strengthen the supervision, education, and training requirements for the delegation of these procedures to assure patient safety.

Mr. Smith reported that the Board’s response to CSI states that the proposed rules do not implicate antitrust or anticompetitive concerns, but rather expand the market as more procedures can be performed by more types of providers.

Dr. Bechtel said the main thing is the expansion of the physician’s ability to delegate use of vascular lasers, which didn’t exist before, to PAs, RNs, and LPNs. The recommendations on education and training are based on patient safety. The Board is really pushing patient safety and at the same time expanding the use of vascular lasers to non-physicians. The Board is not restricting trade but expanding trade. The amount of education and training required was based on input from academic centers that train practitioners on these devices.

UPDATE ON ONE-BITE REPORTING EXEMPTION RULES

Ms. Anderson said that the One-Bite rules are currently at CSI and comments from six individuals or entities were received. She noted that a meeting was held with representatives from the medical association coalition on September 26th. Dr. Schottenstein and Dr. Rothermel attended that meeting along with Mr. Groeber, Ms. Anderson and Mr. LaCross.

Ms. Anderson referred the committee to page 11-126 of the agenda materials for discussion of the marked changes in the rules.

4731-16-17 Requirements for one-bite program

4731-16-17 (H)(1) regarding random observed toxicology screens for individuals participating in the monitoring of the new one-bite program.

Ms. Anderson said that comments had been received from the medical association coalition. The Board had proposed a minimum of four toxicology screens per month during the first year of the agreement, with a minimum of two toxicology screens per month thereafter.

Following a lengthy discussion at the September 26th meeting, we are now recommending a minimum of two random, observed toxicology screenings per month.

4731-16-17 (H)(2) regarding drug and alcohol support group meetings

The Board had proposed a minimum of three meetings per week for the first year of the agreement and at least two meetings per week, with a minimum of 10 meetings per month, for the remainder of the agreement.

Ms. Anderson said that we are now recommending a minimum of 10 meetings per month.

Ms. Montgomery asked if more testing would be required for the first year of the agreement. Ms. Anderson responded that we are proposing to take that out. Ms. Montgomery believed the Board should be prescriptive regarding additional testing the first year.

Mr. Groeber reported that this was discussed at the September 26th meeting but there is a desire for clinical discretion throughout this process. A minimum of 10 screens/meetings a month meets the national standards. Mr. LaCross said interested parties strongly supported clinical discretion as each person going into treatment is unique. So, mandating additional screens/meetings for that first year may not be the same for everyone depending on the individual patient's needs.

Dr. Schottenstein said he was comfortable with the original proposed rules, but he is also comfortable with the changes suggested by the coalition. He thinks the rule changes are reasonable and it allows the clinicians to have the clinical flexibility they are seeking.

Dr. Rothermel agreed. She said they were presented with a lot of national data to support the changes offered by the coalition. She said that the professionals at the monitoring organization will be making these decisions. Dr. Rothermel noted the difference between the three meetings a week proposed by the Board compared to the 10 per month suggested by the coalition is only two meetings a month. She is very much in favor in giving flexibility to a monitoring organization staffed by medical professionals in dealing with addiction.

4731-16-17(I) regarding relapse. Ms. Anderson said the next proposed change is in on page 11-127.

The Board's proposed rule said a relapse or *confirmed positive drug screen* had to be reported to the Board by the medical director of the monitoring organization and the licensee.

A long discussion was held at the September 26th meeting regarding the confirmed positive drug screen and defining a "confirmed" positive drug screen. The group noted that it is possible to have a positive screen that is not a relapse due to factors such as collection error, incidental exposure etc.

The proposed change removes the "confirmed positive drug screen" language.

Dr. Schottenstein said it is a fair point that a positive drug screen may not be a relapse. He said he is OK with the deletion which will avoid false positive reporting to the Board. Dr. Rothermel concurred. Dr. Soin also agreed. He asked if using the term "confirmed" eliminated reporting a false positive. Ms. Anderson said they learned that it does not.

Rule 4731-16-18(A) regarding eligibility for one-bite program. Ms. Anderson referred to page 11-129.

She said one correction needed to be made regarding respiratory therapy. The Board's draft listed respiratory *therapist* and the proposed change is to list it as respiratory *professional*.

Rule 4731-16-19 (A)(6) Monitoring organization for one-bite program. Ms. Anderson referred to page 11-130.

Ms. Anderson said the Board's proposed rule states:

At the request of the board, the medical director of the monitoring provider shall provide testimony in any disciplinary proceeding involving a licensee reported to the board by the monitoring organization.

There were several concerns raised by the medical association coalition regarding this paragraph. In their comments on page 11-107 and 11-108 they talked about how the Medical Board was going to get some additional information.

Ms. Anderson said that if a relapse is reported to the Board by the monitoring organization, just as if a relapse was reported to us by a treatment provider now, we are moving forward with a hearing, not a consent agreement situation. The Board must provide evidence at a hearing. She said she talked with Chief Hearing Examiner Greg Porter about the type of evidence he would like to see in such cases. He indicated that an affidavit or written documentation would not be appropriate because the licensee, or the licensee's counsel, would not have an opportunity to cross examine that evidence. Ms. Anderson said we would need testimony regarding the relapse. Mr. Porter indicated that the testimony could be presented over the phone, and we can have some flexibility on that. Mr. Porter said that testimony could be provided by another representative from the monitoring organization.

Mr. Groeber expressed his support for changing the language to allow a representative from the monitoring organization to provide the testimony if needed.

Dr. Schachat suggested ...the medical director OR HIS OR HER DESIGNEE of the monitoring provider shall provide testimony ...

The committee agreed with Dr. Schachat's suggestion. Ms. Anderson said that we will make that change.

4731-16-19 (B)(1) and (B)(2)

Ms. Anderson said that this is the same discussion we had previously regarding the number of required toxicology screens and the number of support group meetings. Consequently, random observed toxicology screens will be provided a minimum of two times per month and the licensee shall attend a minimum of 10 drug and alcohol support meetings per month.

Rule 4731-16-20 Treatment providers in the one-bite program

Ms. Anderson directed the committee to page 11-132. She reported that we had received a comment from the Ohio Counseling Association about paragraph **(A)(4)** regarding group therapy supervision. We need to add "*professional counselor, professional clinical counselor*" to the list.

Ms. Anderson said we may also need to add marriage and family therapist if they hold master's level education, but staff will do some research on it. She said that she spoke with Amanda Sines, who represents the Ohio Counseling Association, regarding therapists. Ms. Sines said she did not think that "therapist" had a meaning in Ohio law, that it may be marriage and family counselors.

The committee approved the edits.

Ms. Anderson referred to paragraph **(A)(9)** regarding treatment provider levels of care. Current wording lists the levels of care ... intensive outpatient treatment, continuing care **and** others as necessary. As worded, a treatment provider would have to offer all the listed services and we don't believe any treatment provider offers all levels of care. We are suggesting changing "and" to "or" so that it would read ... intensive outpatient treatment, continuing care **OR** others as necessary.

Dr. Schachat and Ms. Montgomery suggested also adding ...including, BUT NOT LIMITED TO, medical detoxification... to clarify the levels of patient care listed in (A)(9).

Rule 4731-16-21 Continuing care for one-bite program

Ms. Anderson directed the committee to page 11-135. She said that this issue is the same as previously discussed in 4731-16-20(A)(4) regarding professional counselors and professional clinical counselors, so we can make those edits.

Dr. Bechtel moved to approve the changes to the One-Bite rules as discussed and to forward the changes to the full Board for approval. Dr. Schachat seconded the motion. Motion carried.

Ms. Anderson said that staff will file the revised rules with CSI following Board approval of the changes. Hopefully that will resolve CSI concerns and we can move forward to JCARR.

Ms. Montgomery extended congratulations to Mr. Groeber and Ms. Anderson for their efforts and their compromise to make it a workable program. Dr. Roethermel and Dr. Schottenstein were also recognized for their involvement in this process.

MANDATORY REPORTING OF ELDER ABUSE

Ms. Anderson said that this is an informational item. She said the law requires the Board to inform licensees about mandatory reporting of elder abuse. Ms. Pollock reported that we have posted information in the Medical Board eNews, the website, and Twitter. The Ohio Department of Job and Family Services provided resource materials that were included in the agenda materials. Dr. Bechtel said the resource document was very well written and helpful. Dr. Schottenstein agreed.

ANESTHESIOLOGIST ASSISTANT RULES

Ms. Debolt said that this is the five-year review of the rules. The memorandum on page 11-56 outlines recommended wording changes to clarify the meaning of a certain rule and/or to conform with Legislative Service Commission (LSC) drafting guidelines. She noted that rule 4731-24-05 has a misspelled word that will be corrected.

Dr. Bechtel moved to send the anesthesiologist assistant rules to interested parties. Dr. Schachat seconded the motion. Motion carried.

PHARMACY CONSULT AGREEMENT RULES

Ms. Anderson said that this topic is informational at this point to help the Board become familiar with the matter.

She said the Medical Board is required under the Pharmacy Board section of the Revised Code to pass rules in consultation with the Pharmacy Board regarding consult agreements. The Pharmacy Board did rules for the pharmacists, but we must do the physician rules. She said a rough draft of the rules has been prepared but staff realized there are five areas that need input from the Policy Committee and the Board.

Page 11-63 in the agenda materials identifies areas needing Board input as follows:

- 1) The Pharmacy Board rules indicate that a physician may override a decision of the managing pharmacist when appropriate. Under what circumstances and when must a pharmacist seek prior approval from the physician?
- 2) Does the Board have a preference regarding the method and frequency of communication between the physician and pharmacist?
- 3) Would the Board like to have the ability to review consult agreements? What action would be available to the Board if there were concerns with the content of the consult agreements?
- 4) Are there procedures or diagnoses for which a consult agreement should not be used? Rx board has none currently.
- 5) Does the Board want to prohibit the use of any drugs from being managed in a consult agreement? (Note: Pharmacy Board recently received approval from DEA for pharmacists to prescribe controlled substances pursuant to a consult agreement).

Ms. Anderson said that she had just wanted to introduce this issue to the committee today. She asked that Board members send her any comments so that she can provide a revised draft for discussion by

the committee in November. She has received some comments from Dr. Schottenstein that she will incorporate in the revision.

Ms. Anderson said that we will be sending it out for initial review and we also need to consult with the Pharmacy Board. We are at the beginning of the process regarding the rules, but your input is needed.

Dr. Schachat commented on the question asking about whether certain drugs should be excluded, He said that could essentially become a formulary. Managing a formulary is very challenging as we found with the PA/Scope of Practice Committee since each drug would need to be reviewed.

Mr. Giacalone commented that reviewing consult agreements would also be challenging as we experienced when reviewing PA supervision agreements.

Dr. Schachat asked Ms. Anderson to send the rules and the five areas for input to the Board.

Dr. Schottenstein said it may be helpful to have an ethics component included in the rules because we don't want to trade these services back and forth between the physician and the pharmacist. He also doesn't want to see visits to a pharmacist substitute for visits to physicians. It is important to address that in the process.

Dr. Johnson asked if this was a done deal by the legislature. Ms. Anderson said it was in law. She pointed out that the Pharmacy Board rules contain a component that the physician can over-ride and we may want to stand on that a bit. We can define the type of communication between the doctor and the pharmacist.

Mr. Giacalone noted that if no physicians wants a consult agreement with a pharmacist it will not happen. It is a delegation issue in a way.

Dr. Johnson asked the purpose of the consult agreements. Mr. LaCross said that the legislature viewed it as an access to care issue.

It was noted that the Pharmacy Board has enacted their rules regarding consult agreements. The Medical Board has to work with the Pharmacy Board on developing the Medical Board rules.

Mr. Groeber encouraged the Board members to review the draft rules and provide comments to Ms. Anderson, so we can have a robust discussion about this at the November meeting.

ADJOURN

Dr. Schachat moved to adjourn the meeting. Dr. Bechtel seconded the motion. Motion carried.
The meeting adjourned at 9:59 a.m.

jkw

State Medical Board of Ohio

COMPLIANCE COMMITTEE MEETING

October 10, 2018

30 E. Broad St., Columbus, OH Administrative Hearing Room

Members: Michael Schottenstein, M.D., Chair Robert Giacalone Amol Soin, M.D. Ronan M. Factora, M.D. Other Board member present: Kim G. Rothermel, M.D.	Staff: Alexandra Murray, Managing Attorney Annette Jones, Compliance Officer Angela Moore, Compliance Officer Benton Taylor, Board Parliamentarian
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Dr. Schottenstein called the meeting to order at 1:48 p.m.

MINUTES REVIEW

Dr. Factora moved to approve the draft minutes from September 12, 2018. Dr. Soin seconded the motion. The motion carried.

APPROVAL OF REPORTS OF CONFERENCES

Dr. Schottenstein noted that Freeda Flynn, M.D., was cited by the Board today, though the report of her probationary conference from the month before seemed unremarkable. Mr. Murray stated that the subject of Dr. Flynn's citation did not come up in her office conference.

Dr. Soin moved to approve the Compliance Staff's Reports of Conferences for September 10 and 11, 2018. Mr. Giacalone seconded the motion. The motion carried.

INITIAL PROBATIONARY APPEARANCES

Bryan D. Borland, D.O.

Dr. Borland is making his initial appearance before the Committee pursuant to the terms of his May 9, 2018 Consent Agreement. Dr. Schottenstein reviewed Dr. Borland's history with the Board.

In response to questions from Dr. Schottenstein, Dr. Borland stated that he is currently employed at a new treatment center for drug and alcohol addiction in Columbus. Dr. Borland stated that he is still unable to practice due to his status with insurance and Drug Enforcement Administration (DEA) licensure, but he is able to perform tasks such as medical education. Dr. Borland hoped to actually practice medicine at the center when he is able. Dr. Borland stated that he completed three years of emergency medicine residency, but he is not board-certified.

Dr. Schottenstein observed that Dr. Borland's drugs of choice are opioids and benzodiazepines, with a past history of marijuana and Adderall use. Dr. Schottenstein also observed that interpersonal relationship struggles have been a trigger for him, and asked how that has been going lately. Dr. Borland stated that he has no such troubles at this time and he is not engaged in any relationships. Dr. Borland also commented that although opioids and benzodiazepines are listed as his drugs of

choice, he would consider almost any drug a drug of choice for him. Consequently, Dr. Borland stays away from any mood-altering substances.

Dr. Borland stated that he has learned many coping skills over the last four years after attending rehabilitation meetings almost daily and working closely with his sponsor. Dr. Borland opined that he is better at dealing with stress and anxiety than he has ever been. Dr. Schottenstein recalled that criticism had been a potential trigger for Dr. Borland in the past. Dr. Borland agreed, but stated that he has developed the ability to be humble, patient, and grateful that he has a position.

Dr. Schottenstein asked if Dr. Borland is currently seeing a psychiatrist. Dr. Borland answered that he does see a psychiatrist and that is going very well. Dr. Borland stated that when he left treatment, he saw his psychiatrist and was diagnosed with depression. Dr. Borland stated that he has been on the medications Effexor and Wellbutrin for two or three years and he is stable on those medications. Dr. Schottenstein asked if Dr. Borland is still taking Naltrexone. Dr. Borland responded that he is no longer taking Naltrexone and does not feel a need to do so.

Dr. Schottenstein advised Dr. Borland to continue attending to his mental health and keep his stress level low, as those things are potential triggers for him. Dr. Borland agreed. Dr. Schottenstein asked if Dr. Borland is working the 12 steps. Dr. Borland replied that he has completed all 12 steps and he is now working through them again with his sponsor.

Dr. Schottenstein asked if Dr. Borland had any questions for the Committee. Dr. Borland replied that he has no questions.

Dr. Soin asked Dr. Borland to describe what he has gone through from 2014 to the present time. Dr. Borland stated that his drinking significantly increased during his residency. Dr. Borland saw a psychiatrist, who prescribed him Adderall for depression. At the suggestion of his residency director, Dr. Borland had an evaluation for substance use disorder. Dr. Borland was subsequently diagnosed with substance use disorder, but he did not truly believe it. Dr. Borland stated that he essentially faked his way through his first treatment and completed 90 days. However, Dr. Borland relapsed very quickly after leaving treatment. Dr. Borland stated that he was brought to the attention of the Board after a nurse saw him taking Percocet from a patient's home medications that had been brought to the emergency department. After admitting his actions to investigators, Dr. Borland contacted the Ohio Physicians Health Program (OPHP) and entered treatment the next day at Shepherd Hill Hospital.

Dr. Borland continued that at that time, he had lost his medical license, his career, the place where he lived, and any money he may have had. With the help of the counselors at Shepherd Hill, Dr. Borland concluded that he could have success and opportunity or he could have drugs and alcohol, but he could not have both. Dr. Borland stated that his second time through treatment was very different from the first time. Dr. Borland completed three to four months of inpatient treatment, then outpatient treatment, and then continued to attend group meetings voluntarily at the treatment center. Eventually, Dr. Borland was allowed to lecture at the facility. Dr. Borland also continued to be involved with the OPHP voluntarily and has shared his story at different medical schools and residency programs.

Dr. Schottenstein noted that during Dr. Borland's first treatment, he was having trouble with Step 1, which is admitting one's powerlessness over alcohol. Dr. Borland agreed.

Mr. Giacalone observed that when Dr. Borland's case first came to the Board, his medical license was non-permanently revoked. Mr. Giacalone wished Dr. Borland the best, but cautioned him that a

second mistake could lead to a permanent revocation. Dr. Borland stated that he realizes that he has no more chances and he appreciated the opportunity to practice medicine.

Dr. Soin moved to continue Dr. Borland under the terms of his May 9, 2018 Consent Agreement, with future appearances before the Board's Secretary or Designee. Dr. Factora seconded the motion. The motion carried.

Michael W. Jones, D.O.

Dr. Jones is making his initial appearance before the Committee pursuant to the terms of the Board's Order of July 11, 2018. Dr. Schottenstein reviewed Dr. Jones' history with the Board.

In response to questions from Dr. Factora, Dr. Jones stated that he is board-certified in obesity medicine, having originally practiced family medicine. For the past year, Dr. Jones has exclusively practiced obesity medicine with a multi-disciplinary group in Lynchburg, Virginia. Dr. Jones noted that under the terms of his Kentucky action, the Kentucky Board of Medical Licensure is supposed to conduct chart reviews of Dr. Jones' opioid prescribing. However, Dr. Jones stated that he no longer prescribes opioids, which has created a problem for the Kentucky Board requirements. Dr. Jones stated that he only prescribes medicines related to bariatric medicine, which include controlled substances Phentermine, Qsymia, and Belviq.

Dr. Factora asked about the status of Dr. Jones' board orders in various states. Dr. Jones commented that he had entered into his Kentucky Agreed Order very begrudgingly and only did so because he could not get his Virginia medical license until he resolved his Kentucky issue. Dr. Jones stated that all of the stipulations of his Kentucky Agreed Order have been fulfilled, except for two subsequent chart reviews. Dr. Jones reiterated that these chart reviews have been hindered because he no longer prescribes opioids, but Kentucky is working on resolving that issue. Dr. Jones stated that the Virginia Board of Medicine has restricted him from prescribing to treat chronic pain patients, which he is not doing anyway. Dr. Jones stated that he can petition the Virginia Board to lift the restriction once the Kentucky Agreed Order is completed. Dr. Jones stated that the Virginia restriction does not affect his current practice, but commented that no physician wants a restriction on their license.

Dr. Factora asked what elements of documentation the Kentucky Board was interested in seeing in order to be satisfied the Dr. Jones is meeting their requirements. Dr. Jones replied that the Kentucky Board has never told him what they are looking for. Dr. Factora commented that since Dr. Jones is prescribed some non-opioid controlled substances, perhaps a review of those records could satisfy the Kentucky requirements. Dr. Jones commented that his initial action in Kentucky was based on an allegation that he did not appropriately check the Kentucky All Schedule Prescription Electronic Reporting (KASPER) for a particular patient. However, Dr. Jones stated that he was able to produce a record proving that he had, in fact, checked KASPER. Dr. Jones speculated that there may have been a mix-up because his name, Michael Jones, is very common.

Dr. Factora asked if Dr. Jones has had an opportunity to deal with any pain issues at his bariatric clinic. Dr. Jones replied that he has had patients with pain, but he does not address the pain and he leaves that to the patient's primary care physician or pain management specialist.

Dr. Schottenstein, referring to a comment made earlier by Dr. Jones, asked Dr. Jones to clarify whether he is saying that the Kentucky Board action was based on a case of mistaken identity and that he had been the wrong Michael Jones. Dr. Jones replied that that is just a theory that has not been substantiated. Dr. Jones stated that the patient in question had come to him with no medical

records. The patient said she was out of medication right now, so Dr. Jones agreed to prescribe her a two-week supply of pain medication and he instructed her to provide her medical records soon. Dr. Jones stated that he still did not receive her records. Dr. Jones stated that on the patient's second visit, he drug-tested her and agreed to prescribe to her one more time but informed her that he would not prescribe any more without medical records. Dr. Schottenstein asked if Dr. Jones had checked that patient on KASPER. Dr. Jones replied that he checked the patient on KASPER at least twice and was able to prove that to the Kentucky Board investigator. Dr. Jones stated that the investigator's exact words were, "Oh, well, too late, the investigation has already started."

Dr. Schottenstein asked if Dr. Jones practices in Ohio. Dr. Jones replied that he does not practice in Ohio, but he got first medical license in Ohio in 2000 after his internship. Dr. Jones stated that he recently let his Ohio medical license lapse. Dr. Schottenstein commented that Ohio has strict phentermine prescribing rules and he advised Dr. Jones to be familiar with that.

Dr. Schottenstein asked if Dr. Jones had any questions for the Committee. Dr. Jones stated that he had no questions.

Mr. Giacalone noted that the Kentucky Board had reviewed 16 of Dr. Jones' patient charts. Out of the 11 charts that the Kentucky Board's expert was able to form an opinion on, it found that Dr. Jones had failed to conform to acceptable and prevailing medical standards in regard to diagnosis in three charts, and in regard to treatment in two charts, and overall seven charts were borderline. Mr. Giacalone asked, under Dr. Jones' "mistaken identity" theory, if Dr. Jones is saying that those charts were not his. Dr. Jones replied that the charts were his, and he further commented that the standards used by the Kentucky Board were subjective. Dr. Jones stated that there were no specifics about how some of charts were "borderline."

Dr. Jones commented that there was an allegation that he did nothing about an abnormal drug screen for one patient. Dr. Jones explained that for a few months in 2014 he had switched from a urine drug screen to an oral fluids drug screen, but Dr. Jones eventually determined that the oral fluids drugs screen was unreliable and created false positives and he switched back to urine drug screens. Dr. Jones stated that the patient in question had an abnormal result on the oral fluids screen and Dr. Jones did not act on that result because he did not trust the test. Dr. Jones stated that he later did a urine drug screen on that patient and the results were normal.

Mr. Giacalone noted that the patient described by Dr. Jones was identified by the Kentucky Board as one of the borderline cases. Mr. Giacalone asked about the ten other charts identified by the Kentucky Board. Dr. Jones stated that there was no objective evidence of problems in the other charts and that the entire review process was very subjective.

Dr. Schottenstein asked if Dr. Jones had considered taking the matter in Kentucky to a hearing instead of entering into the Agreed Order. Dr. Jones explained that he had requested a hearing and it was scheduled for February 2015. However, it was postponed to April 2015, the postponed against to July 2015, then postponed again to September 2015. Dr. Jones stated that he had closed his Kentucky practice in May 2015 and he needed to have his medical license application in Virginia approved so he could begin practice there, but the Virginia Board could not approve his application while there was an active investigation in Kentucky. Therefore, Dr. Jones begrudgingly signed the Agreed Order to resolve the matter.

Dr. Soin asked what kind of drug screen Dr. Jones had performed for patients before switching to the oral fluids screen. Dr. Jones replied that he used both quick cups and send out. Regarding the patient with no medical records as previously describe by Dr. Jones, Dr. Soin commented that Dr.

Jones has prescribed two-weeks of narcotics without seeing the results of a drug test. Dr. Jones stated that he did drug-test the patient and the quick cup was normal. Dr. Soin asked if the patient tested positive on her second visit. Dr. Jones replied that that test was positive. Dr. Soin stated that that was interesting.

Dr. Soin asked if Dr. Jones believes he belongs on probation. Dr. Jones opined that all of this, starting with the Kentucky Board, should not have happened. Dr. Jones stated that he does not claim to practice perfect medicine, but if the standard is perfection then no physician should be practicing.

Dr. Soin, observing that Dr. Jones has had some issues with treating chronic pain and is now practicing obesity medicine, stated that he is nervous about Dr. Jones. Dr. Soin stated that the same challenges that occur in chronic pain can also occur with some obesity medications. Dr. Soin asked what assurances Dr. Jones can give that he will follow appropriate guidelines with obesity medications going forward. Dr. Jones replied that the scheduled obesity medications are generally scheduled before of the class they are in and not because of the drug itself. Dr. Jones commented that there is no evidence whatsoever that Serotonin, a 5HT2c receptor blocker, has any addictive potential. Dr. Jones added that there is also no evidence that Phentermine is addictive even when it is used long-term, though there has been suspicion of it.

Dr. Soin restated his question, asking how Dr. Jones can assure him that he will be safe with patients in terms of selection of drugs and monitoring. First, Dr. Jones stated that this whole process has significantly opened his eyes to many issues. Dr. Jones opined that his eyes were not completely closed before, but were perhaps not as open as they needed to be. Second, Dr. Jones stated that he does not have an internal propensity to want to put people on the wrong medications at the wrong time for the wrong things. Dr. Jones stated that he wished to do the best for his patients. Dr. Jones stated that he obesity practice is the best medicine he has ever practiced in his life.

Dr. Soin restated his question, asking what assurances Dr. Jones can give and what Dr. Jones is doing to monitor the patients on these drugs. Dr. Jones replied that, even though it is not required, he is checking the prescription database in Virginia for every patient to whom he prescribes a controlled substance. Dr. Soin asked if Dr. Jones thinks that such a check is required in Ohio. Dr. Jones replied that he does not practice in Ohio and he has allowed his Ohio medical license to lapse. Dr. Soin commented that Ohio's obesity guidelines are very good and suggested that Dr. Jones read those guidelines and apply them in his Virginia practice.

Dr. Soin stated that he did not want to ask Dr. Jones any further questions for fear that Dr. Jones could incriminate himself. Dr. Jones stated that he follows the guidelines in Virginia. Dr. Soin commented that he is apprehensive about Dr. Jones and he wants Dr. Jones to be careful.

Mr. Giacalone commented that Dr. Jones' statements about obesity drugs are very similar to comments that had been made in the past about opioids. Specifically, Mr. Giacalone stated that at one time there were "studies" that indicated that opioids were not as addictive as once thought, and now there is an opioid addiction crisis. Mr. Giacalone stated that there is a history of abuse of Phentermine and similar products. Mr. Giacalone advised Dr. Jones to not go down the same path with obesity medications as other physicians did with opioids; otherwise, he could put his license at risk. Dr. Jones commented that he does have an increased respect for the issues that Mr. Giacalone has brought up. Dr. Jones stated that he has about 150 patients and perhaps four or five of them are on Phentermine.

Dr. Schottenstein stated that Dr. Jones will not go wrong if he proceeds with an abundance of caution for himself and his patients.

Dr. Soin moved to continue Dr. Jones under the terms of the Board's Order of July 11, 2018, with future appearances before the Board's Secretary or Designee. Dr. Factora seconded the motion. The motion carried.

Julie Anne Krause, M.D.

Dr. Krause is making her initial appearance before the Committee pursuant to the terms of her July 11, 2018 Consent Agreement. Dr. Schottenstein reviewed Dr. Krause's history with the Board.

Responding to questions from Mr. Giacalone, Dr. Krause stated that her case came about due to extreme personal crisis. Dr. Krause stated that she had married someone who was very abusive and who assaulted her two or three times, and she did not know what to do at that time. Mr. Giacalone stated that he sympathized with Dr. Krause, but he was trying to understand why Dr. Krause accessed the medical records of seven individuals. Dr. Krause replied that she had been trying to get contact information for relatives of her former spouse so she could see how much danger she was in, and also to get help with an intervention. Dr. Krause stated that she did not know that phone numbers were protected health information, but she acknowledged that it was her responsibility to know that. Dr. Krause stated that she entered into the Consent Agreement rather than go through a hearing because it was excruciating for her to talk about it.

Mr. Giacalone asked if Dr. Krause had had an attorney to guide her through the process with the Medical Board. Dr. Krause replied that she did have an attorney.

Dr. Soin asked why Dr. Krause had also looked up the health records of an investigator for an Ohio regulatory agency. Dr. Krause replied that she did not recall looking up that person's health records, and did not recall it when she signed the Consent Agreement. Dr. Krause commented that several of the doctors in her hospital shared a log-in for the electronic records system. Dr. Soin encouraged Dr. Krause to have her own log-in for electronic records. Dr. Schottenstein agreed. Mr. Giacalone noted that the Consent Agreement that Dr. Krause signed specifies that she accessed the investigator's records. Dr. Krause stated that she could not prove that she did not look at those records and the Board had insisted that it be part of the Agreement.

Dr. Soin asked if Dr. Krause has taken the required medical ethics course yet. Dr. Krause replied that she has taken the course and it was very good. Dr. Krause stated that the course was mostly about safeguarding patients' medical information. The course also discussed appropriate boundaries.

Mr. Giacalone asked about Dr. Krause's plans after her license is reinstated. Dr. Krause replied that she will return to her position as a nighttime hospitalist at a physical rehabilitation hospital. Dr. Krause commented that she loves that job. Dr. Krause clarified that the physical rehabilitation hospital is not the same facility where she had inappropriately accessed medical records.

Mr. Giacalone asked if Dr. Krause is educating others on what she has learned. Dr. Krause replied affirmatively. Dr. Krause stated that she is stunned at the many casual ethics breaches she sees, including physicians asking colleagues for a spouse's colonoscopy result, physicians discussing patients in an elevator, and being asked to prescribe for a family member of a colleague. Dr. Krause stated that it is hard to say "no" to some people. Dr. Soin stated that it is okay to say "no." Dr. Krause agreed.

Dr. Schottenstein asked if Dr. Krause felt safe now, noting that she has gone through some trauma. Dr. Krause replied that she did have physical trauma, but she feels safe and she feels very fortunate.

Dr. Krause commented that her situation was especially difficult because she had married her spouse in Illinois since gay marriage was not legal in Ohio at that time. Consequently, Dr. Krause could not legally get a divorce or a separation agreement in Ohio, and she could not get a restraining order. Dr. Krause stated that she went to therapy for a while following these events and she now feels stronger. Dr. Krause stated that she has been on medication from a psychiatrist for several years and is doing well on it.

Dr. Schottenstein asked if Dr. Krause had any questions for the Committee. Dr. Krause replied that she had no questions. Dr. Krause commented that her experience was horrifying in some ways, but she is grateful that it was not worse.

Mr. Giacalone moved to continue Dr. Krause under the terms of her July 11, 2018 Consent Agreement, with future appearances before the Board's Secretary or Designee. Dr. Factora seconded the motion. The motion carried.

ADJOURN

Mr. Giacalone moved to adjourn the meeting. Dr. Factora seconded the motion. The motion carried.

The meeting adjourned at 2:33 p.m.

Michael Schottenstein, M.D.
Chair

blt