

September 9, 2015

MINUTES**THE STATE MEDICAL BOARD OF OHIO****September 9, 2015**

Donald R. Kenney, Sr., President, called the meeting to order at 9:50 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: Kim G. Rothermel, M.D., Secretary; Bruce R. Saferin, D.P.M., Supervising Member; Anita M. Steinbergh, D.O.; Amol Soin, M.D.; Sushil Sethi, M.D.; Robert P. Giacalone; Andrew P. Schachat, M.D.; Michael Schottenstein, M.D.; and Richard Edgin, M.D. The following member arrived at a later time: Michael L. Gonidakis, Vice President.

Also present were: Anthony J. Groeber, Executive Director; Kimberly Anderson, Assistant Executive Director; Michael Miller, Assistant Executive Director for Licensure and Renewal; Sallie J. Debolt, Senior Counsel; William Schmidt, Senior Counsel for Investigations; David Katko, Assistant Legal Counsel; Joan K. Wehrle, Education and Outreach Program Manager; Rebecca Marshall, Chief Enforcement Attorney; Marcie Pastrick, Mark Blackmer, Angela McNair, Cheryl Pokorny, Gregory Taposci, James Roach, and Kimberly Lee, Enforcement Attorneys; Katherine Bockbrader, Kyle Wilcox, Melinda Snyder, and James Wakley, Assistant Attorneys General; R. Gregory Porter, Chief Hearing Examiner; Danielle Blue, Hearing Examiner; Danielle Bickers, Compliance Supervisor; Annette Jones and Angela Moore, Compliance Officers; Alexandra Murray, Managing Attorney for Standards Review, Experts, and Intervention; Christine Schwartz, Legal and Policy Staff Attorney; Jacqueline A. Moore, Legal/Public Affairs Assistant; Bernadette Simon, Executive Programs Specialist; and Benton Taylor, Board Parliamentarian.

MINUTES REVIEW

Dr. Steinbergh moved to approve the draft minutes of the August 12, 2015, Board meeting, as written. Dr. Sethi seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Mr. Giacalone	- aye
	Dr. Steinbergh	- aye
	Mr. Kenney	- abstain
	Dr. Sethi	- aye
	Dr. Soin	- aye
	Dr. Schottenstein	- aye
	Dr. Schachat	- aye
	Dr. Edgin	- aye

The motion carried.

Mr. Gonidakis entered the meeting at this time.

APPLICANTS FOR LICENSURE

Dr. Steinbergh moved to approve for licensure, contingent upon all requested documents being received and approved in accordance with licensure protocols, the acupuncturist applicants listed in Exhibit "A," the genetic counselor applicants listed in Exhibit "B," the massage therapist applicants listed in Exhibit "C," the physician assistant applicants listed in Exhibit "D," the physician applicants listed in Exhibit "E," and the radiologist assistant applicants listed in Exhibit "F." Dr. Saferin seconded the motion. A vote was taken:

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

The motion carried.

REPORTS AND RECOMMENDATIONS

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

Mr. Kenney 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: Ranjan Prakash Bhandari, M.D.; Anureet Gill, M.D.; Marvin H. Rorick, M.D.; Lawrence Rothenberg, M.D.; Ping Wei; and Karl M. Hagen, M.D. A roll call was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Mr. Giacalone	- aye
	Dr. Steinbergh	- aye
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye
	Dr. Sethi	- aye
	Dr. Soin	- aye
	Dr. Schottenstein	- aye
	Dr. Schachat	- aye

Dr. Edgin - aye

Mr. Kenney 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
Mr. Giacalone	- aye
Dr. Steinbergh	- aye
Mr. Gonidakis	- aye
Mr. Kenney	- aye
Dr. Sethi	- aye
Dr. Soin	- aye
Dr. Schottenstein	- aye
Dr. Schachat	- aye
Dr. Edgin	- aye

Mr. Kenney 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. Kenney 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.

RANJAN PRAKASH BHANDARI, M.D.

Mr. Kenney directed the Board's attention to the matter of Ranjan Prakash Bhandari, M.D. No objections have been filed. Mr. Porter was the Hearing Examiner.

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

Dr. Bhandari was represented by his attorney, Justin Withrow.

Mr. Withrow urged the Board to adopt the Hearing Examiner's Proposed Order of a reprimand in the matter of Dr. Bhandari. Mr. Withrow stated that Dr. Bhandari has been living with this matter, which ultimately led to his criminal conviction, for more than five years. Mr. Withrow stated that Dr. Bhandari cooperated fully with the Food and Drug Administration (FDA) during its investigation and he subsequently pleaded guilty to a misdemeanor misbranding offense. Dr. Bhandari also paid a substantial monetary penalty as a result of civil proceedings. Mr. Withrow stated that Dr. Bhandari has been

publically shamed and humiliated as a result of the criminal investigation and the Medical Board's investigation.

Mr. Withrow continued that in 2008, two years before being contacted by FDA officials, Dr. Bhandari voluntarily stopped purchasing medications from a Canadian supplier and has not ordered medications from a non-U.S. supplier since that time. After he was advised that he was under investigation by the FDA, Dr. Bhandari funded his own private investigation by hiring a retired Federal Bureau of Investigation (FBI) agent and two Huron County Detectives. Dr. Bhandari provided the results of his investigation to the government. Mr. Withrow noted that the court imposed a lesser sentence on Dr. Bhandari than the other oncologists who have been found guilty of misbranding.

Mr. Withrow stated that Dr. Bhandari's practice area is an impoverished area in southeast Ohio which has above-average cancer rates and below-average access to care. In Columbiana County Dr. Bhandari is the only oncologist who treats patients at East Liverpool City Hospital. Jefferson County has two other oncologists, but they do not accept several insurance providers that are accepted by Dr. Bhandari. In Harrison County there are no other oncologists besides Dr. Bhandari. Mr. Withrow stated that Dr. Bhandari's elderly and impoverished patients would have to travel at least 30 to 45 minutes for alternative treatment if Dr. Bhandari was unable to provide care.

Mr. Withrow stated that Dr. Bhandari is sincerely remorseful for his actions. Mr. Withrow stated that since obtaining his Ohio medical license in 1991, Dr. Bhandari has never been sued for malpractice, been subject to any discipline, and has no other prior criminal record. Mr. Withrow asked the Board to adopt the Hearing Examiner's Proposed Order and permit Dr. Bhandari to continue his life's work.

Dr. Bhandari stated that he is very sorry and remorseful for his wrongful acts, which he has been agonizing over for the last five years. Dr. Bhandari stated that he has brought shame to himself, his family, his hospital, his Medical Board, and the State. Dr. Bhandari stated that he never intended to violate any law.

Mr. Kenney asked if the Assistant Attorney General would like to respond. Mr. Wakley stated that he would like to respond.

Mr. Wakley stated that this case is similar to and related to other cases the Board has heard in the last several months. Seven of the oncologists in these cases pled guilty in federal court to importing oncology drugs from Canada and their court-imposed sanctions ranged from six months to twelve months of probation. Mr. Wakley stated that the Medical Board has given reprimands to several of the physicians in these cases, though one physician's license was suspended for 60 days due to evidence that he had continued importing the drugs after being warned not to do so by the FDA. Mr. Wakley stated that due to mailing address issues, it is unclear if Dr. Bhandari had received such warnings notices; therefore, Mr. Wakley asked the Board to assume that Dr. Bhandari had not been made aware of the FDA notices.

Mr. Wakley stated that one of the previous drug importation cases resulted in a 30-day stayed suspension and he opined that Dr. Bhandari's case is similar to that case. Mr. Wakley stated that Dr. Bhandari saved money by importing the medications from Canada, but he did not pass those savings on to his patients. Dr. Bhandari also failed to make his patients aware that they were receiving medications that had not been

inspected or approved by the FDA.

Mr. Wakley acknowledged that Dr. Bhandari is genuinely remorseful, but he opined that a simple reprimand is not appropriate in this case. Mr. Wakley urged the Board to adopt a sanction that is more appropriate for Dr. Bhandari's offense.

Dr. Steinbergh moved to approve and confirm Mr. Porter's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Ranjan Prakash Bhandari, M.D. Dr. Soin seconded the motion.

Mr. Kenney stated that he will now entertain discussion in the above matter.

Dr. Steinbergh stated that Dr. Bhandari is a hematologist/oncologist practicing in southeast Ohio. Dr. Steinbergh noted the several of Dr. Bhandari's patients attested to the quality of Dr. Bhandari's care and that they would not have an oncologist in that area if not for Dr. Bhandari. Dr. Steinbergh stated that though Dr. Bhandari has not been alleged to have violated the minimal standards of care, the Board generally accepts that when medications are compromised quality of care becomes a concern.

Dr. Steinbergh stated that she agrees with the Report and Recommendation's Findings of Fact, Conclusions of Law, and the Proposed Order of a reprimand. Dr. Steinbergh stated that Dr. Bhandari is extremely remorseful and opined that Dr. Bhandari will not offend again.

Mr. Giacalone expressed concerns that Dr. Bhandari may have received the notices from the FDA regarding the medications he was importing from Canada. However, Mr. Giacalone accepted Mr. Wakley's suggestion to assume that the notices were not received by Dr. Bhandari, though Mr. Giacalone indicated that he may not agree with such a suggestion in the future. Mr. Giacalone noted that Dr. Bhandari paid a \$1,200,000 penalty for defrauding the federal and state governments. Regarding comments that Dr. Bhandari voluntarily stopped purchasing the imported medications, Mr. Giacalone noted that Dr. Bhandari stopped the purchases because he was not receiving the products on time and not because he realized it was wrong.

Mr. Giacalone stated that he supports the Proposed Order of a reprimand mostly for the sake of Dr. Bhandari's patients, assuming that it is true that Dr. Bhandari is the only available oncologist in certain areas. Mr. Giacalone stated that he would not let Dr. Bhandari's patient suffer because of the malfeasance committed by their physician.

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

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Mr. Giacalone	- aye
	Dr. Steinbergh	- aye
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye

Dr. Sethi	- aye
Dr. Soin	- aye
Dr. Schottenstein	- aye
Dr. Schachat	- aye
Dr. Edgin	- aye

The motion to approve carried.

ANUREET GILL, M.D.

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

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

Mr. Kenney stated that he will now entertain discussion in the above matter.

Dr. Schachat stated that Dr. Gill is alleged to have violated her May 2012 Step I Consent Agreement with the Board. In the February 2014 Notice of Opportunity for Hearing, the Board alleged that Dr. Gill tested positive for Phosphatidyl Ethanol in December 2013, that Dr. Gill had missed quarterly personal appearances, that Dr. Gill had missed required call-ins and drug screens, and that Dr. Gill had failed to attend all required Alcoholics Anonymous (AA) meetings. The Board sent another Notice of Opportunity for Hearing in March 2014 which alleged that Dr. Gill had self-reported three relapses with alcohol, had been arrested for Driving Under the Influence of alcohol (DUI), and that Dr. Gill had missed additional quarterly appearances, call-ins, and drug screens.

Dr. Schachat briefly reviewed Dr. Gill's career. Dr. Gill was issued a training certificate in 2009 which expired in June 2012 and has been inactive since that time. Dr. Gill's Step I Consent Agreement was based on her May 2012 admission for inpatient treatment at Glenbeigh Hospital related to alcohol use, a 2009 conviction for Operating a Vehicle while Intoxicated (OVI), and situational depression problems with incidents of tardiness at work. The Consent Agreement suspended Dr. Gill's training certificate indefinitely and contained standard stipulations to undergo drug testing and make personal appearances. Dr. Schachat stated that Dr. Gill's Consent Agreement was tolled for one year from 2012 to 2013 because her visa was expiring and she had to return to India, so compliance was waived during that time. When Dr. Gill returned to the United States in August 2013, she or her sister notified the Board that Dr. Gill could not afford to pay for her drug screens.

Dr. Schachat stated that the Board had no further communication with Dr. Gill until the morning of her scheduled hearing when she sent an email stating that she could not attend the hearing and expressing concern about the publication of information about her license on the Board's website which was causing her to suffer "mental harassment." In addition, Dr. Gill's email complained that the allegation that she had not complied with her Consent Agreement's requirement to "obey all laws" meant, in her view, that she was not obeying any laws at all. Dr. Gill's email also stated that she had had three favorable evaluations

by physicians. Dr. Gill's email commented that she has never been under the influence of alcohol while at work and that her problem is less severe than that of physicians who abused alcohol or opiates while practicing.

Dr. Schachat stated that Dr. Gill returned to India in 2014 due to her mother's illness; there is no evidence that Dr. Gill requested to toll the requirements of her Consent Agreement during that time. Dr. Schachat opined that the argument that Dr. Gill cannot afford the monitoring fees is not persuasive and noted that virtually all other physicians manage to afford those fees. Dr. Schachat also commented that Dr. Gill has had opportunities to obtain other work to fund the monitoring fees. Dr. Schachat stated that there are numerous indications that Dr. Gill has relapsed and is not in a reliable state of sobriety at this time. Dr. Schachat stated that he supports the Proposed Order to revoke Dr. Gill's training certificate.

Dr. Steinbergh agreed with Dr. Schachat and also supported the Proposed Order of revocation.

Dr. Schottenstein opined that Dr. Gill is in denial about the extent of her disease. Dr. Schottenstein stated that Dr. Gill's statements about other physicians whose conditions are worse than hers indicates that she is not yet ready to accept the fact that she has a problem. Dr. Schottenstein stated that Dr. Gill is a young physician with a lot of promise and he hoped that Dr. Gill will be able to face her problem in the future.

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

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

The motion to approve carried.

MARVIN H. RORICK, M.D.

Mr. Kenney directed the Board's attention to the matter of Marvin H. Rorick, M.D. Objections have been filed and were previously distributed to Board members. Mr. Porter was the Hearing Examiner.

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

Dr. Rorick was represented by his attorney, Daniel Zinsmaster.

Mr. Zinsmaster stated that due to the volume and complexities of this case, he has asked Dr. Rorick to address the Board first and he will make additional comments if there is time.

Dr. Rorick stated that his hearing comprehensively reviewed 12 patient cases from 2006 to 2011 which had been selected from his practice. Dr. Rorick stated that these charts represent some of his most challenging patients because their conditions were chronic and there were behavioral or psychiatric factors involved. Dr. Rorick related that his desire to become a physician probably originated with his treatment for scoliosis curvature as a youth. Following medical school Dr. Rorick trained as a general neurologist and has been practicing neurology continuously since 1981. Dr. Rorick briefly described the nature of his practice and stated that he has been the Director of the Department of Neurology at Bethesda Hospital since 1994 and at Christ Hospital since 2008. Dr. Rorick also served as President of the Cincinnati Academy of Medicine from 1988 to 1999. Dr. Rorick stated that compassionate continuity of care for incurable neurological disease is characteristic of his practice and he strives to provide the highest standard of care.

Dr. Rorick stated that he was very distressed when he read the Board's citation letter and the report of the State's expert witness, Jay Berke, M.D. Dr. Rorick stated that he did not shirk his responsibility to his patients and that he cared for them as best he could. Dr. Rorick stated that as a result of the hearing, the routine use of the Ohio Automated Rx Reporting System (OARRS), pill counts, urine screens, and risk evaluation and management strategies have been incorporated into his practice. Dr. Rorick stated that he seeks to improve his qualifications and is willing to take additional coursework as the Board sees fit.

Mr. Kenney asked if the Assistant Attorney General would like to respond. Mr. Wilcox stated that he would like to respond.

Mr. Wilcox opined that Dr. Rorick has downplayed the seriousness of this matter throughout the proceedings and that Dr. Rorick's care of these 12 patients did not meet the minimal standards of care. Mr. Wilcox stated that a physician must provide adequate care no matter the socioeconomic circumstances of the patient. Though Dr. Rorick's objections noted that portions of the Board's citation letter were not sustained, Mr. Wilcox pointed out that the portions that were sustained represent serious violations of the Medical Practices Act. These violations include prescribing narcotic medications in a manner below the minimal standards of care and ignoring clear indications that patients are addicted or are diverting medications.

Mr. Wilcox remarked that the attacks on the State's expert, Dr. Berke, are inappropriate. Mr. Wilcox stated that Dr. Berke is a board-certified neurologist and has been treating headache patients at his clinic since 1977. Mr. Wilcox opined that the attacks on Dr. Berke are an attempt to distract the Board from the real issues of this case.

Mr. Wilcox stated that many of Dr. Rorick's patients were being treated for chronic headaches, yet Dr. Rorick did not require his patients to keep a headache log to track the frequency, severity, duration, location, and other aspects of their headaches. Mr. Wilcox stated that Dr. Berke convincingly testified that due to Dr. Rorick's failure to adhere to these diagnostic and treatment protocols, many of his patients suffered frequent medication overuse which resulted in rebound headaches. Dr. Berke testified that

without a headache log a physician cannot make a decision on what treatment modalities are appropriate.

Mr. Wilcox added that Dr. Rorick does not apply monitoring techniques in an effective manner. Mr. Wilcox noted Patient 11, for whom Dr. Rorick continued to prescribe narcotics despite multiple red flags for medication abuse. Mr. Wilcox stated that physicians are not required to be policemen, but they are required and expected to use tools and vigilance when prescribing addictive medications. Mr. Wilcox stated that Dr. Rorick failed to consistently take preventative measures or to react appropriately when his patients exhibited signs of abuse or diversion.

Mr. Wilcox disagreed with the Hearing Examiner's Proposed Order of a reprimand and probationary terms for a minimum of one year. Mr. Wilcox opined that Dr. Rorick's medical license should be suspended and that he should be required to complete education on the proper prescribing of narcotic pain medications.

Dr. Steinbergh moved to approve and confirm Mr. Porter's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Marvin H. Rorick, M.D. Dr. Soin seconded the motion.

Mr. Kenney stated that he will now entertain discussion in the above matter.

Dr. Soin stated that this matter involved allegations that Dr. Rorick's treatment of twelve patients constitutes a failure to maintain standards applicable to the selection or administration of drugs or the failure to employ applicable scientific method in the selection of drugs. According to his testimony, Dr. Rorick has approximately 3,000 active patients and less than 50% of his patients have chronic pain issues.

Before reviewing the patient care in question, Dr. Soin made comments on the State's expert witness, Jay Berke, M.D. Dr. Berke testified that his practice utilizes pain contracts, but he has not felt the need to use them "because my patients don't run into these problems." When asked what Dr. Berke would do if one of his patients reported that his or her opiate medication had been stolen, Dr. Berke indicated that this has never occurred to any of his patients. Dr. Soin opined that this type of blind arrogance is what causes a pill mill crisis and he was disappointed to see it in a State expert witness.

Dr. Soin briefly reviewed the care of the twelve patients in question:

- **Patient 1:** Dr. Rorick treated Patient 1 from April 1993 to at least July 2009 for conditions including back pain, migraine, tension headache, neck pain, and fibromyalgia. In 1997 and again in 2002 Dr. Rorick had information that Patient 1 was using her medication in excess of what had been prescribed. Regarding the May 2007 event, Dr. Soin noted that the evidence was insufficient to support the finding that Dr. Rorick failed to take or document taking appropriate action.
- **Patient 2:** Dr. Rorick saw Patient 2 regularly from September 2005 to October 2007 for conditions including headaches. Dr. Rorick's prescribed medications included Percocet, Demerol, Vicodin, Gabapentin, Depakote, and Relpax. Dr. Soin stated that part of the difficulty in considering the allegations related to Patient 2 is that Patient 2 was ultimately exposed as a drug abuser who forged prescriptions. Dr. Rorick allegedly failed to take

appropriate action despite signs of potential misuse of medications.

- **Patient 3:** Dr. Rorick treated Patient 3 from January 2007 until at least July 2009 for conditions including back pain. Dr. Rorick's prescribed medications included acetaminophen, oxycodone, and tramadol. Dr. Rorick allegedly failed to try or to document trying alternative therapies to treat Patient 3's mechanical back pain.
- **Patient 4:** Dr. Rorick treated Patient 4 from March 2003 to at least June 2009 for conditions including headaches. Dr. Rorick's prescribed medications included Vicodin. Dr. Rorick allegedly failed to try or to document trying to wean Patient 4 from medications, despite documenting that Patient 4's headaches were likely due to daily use of medications.
- **Patient 5:** Patient 5 was seen by another physician in Dr. Rorick's group from September 2003 to October 2004, after which there was a gap in treatment until June 2006 when Patient 5 saw Dr. Rorick for complaints of severe headaches. Patient 5 saw Dr. Rorick regularly thereafter until at least 2009. Dr. Rorick's prescribed medications included Stadol and Vicodin.
- **Patient 6:** Dr. Rorick allegedly failed to appropriately document the description of Patient 6's headaches. Dr. Rorick treated Patient 6's headaches with Stadol.
- **Patient 7:** Dr. Rorick treated Patient 7 from September 2010 until at least April 2011 for conditions including cervical spondylosis and migraines. Dr. Rorick's prescribed medications included OxyContin, Oxycodone with acetaminophen, and Alprazolam. Dr. Rorick allegedly failed to appropriately document findings to support his diagnosis of migraine headaches, failed to conduct and/or order appropriate diagnostic studies, failed to obtain or review prior treatment records to support his diagnosis, and failed to try or document trying alternative treatment modalities.
- **Patient 8:** Dr. Rorick began treating Patient 8 in 2008, but only saw him on a regular basis from April 2009 to at least April 2011. Dr. Rorick allegedly prescribed medication to treat peripheral neuropathy without documenting findings to support that diagnosis. Dr. Rorick also allegedly failed to order or document appropriate evaluation or therapy of documented seizures.
- **Patient 9:** Dr. Rorick treated Patient 9 from February 2005 to October 2005 for conditions including back pain. Following a gap in treatment, Patient 9 returned to Dr. Rorick's care in September 2007 with continuing back pain. Dr. Rorick's prescribed medications included Klonopin and Oxycodone. Dr. Rorick allegedly failed to document attempts at physical therapy or other alternatives prior to prescribing controlled substances.
- **Patient 10:** Dr. Rorick treated Patient 10 from March 2002 to July 2009 for conditions including post-traumatic back pain. Dr. Rorick's prescribed medications included Percocet and Vicodin. Dr. Rorick allegedly failed to document obtaining a neurosurgical review.
- **Patient 11:** Dr. Rorick treated Patient 11 from October 2004 to at least July 2009 for conditions including back pain and headaches. Dr. Rorick's prescribed medications included morphine, diazepam, Percocet, Soma, and hydrocodone. Dr. Rorick allegedly continued to

prescribe controlled substances despite evidence of potential medication misuse.

- **Patient 12:** Dr. Rorick treated Patient 12 from May 1993 to at least June 2009 for conditions including headaches. Dr. Rorick's prescribed medications included Stadol, Vicodin, and lorazepam. Dr. Rorick allegedly failed to take appropriate action despite signs of potential misuse of medications.

Dr. Soin stated that some of the objections filed by Dr. Rorick are significant. For instance, Dr. Rorick's objections stated that the Report and Recommendation do not consider the evolution of the treatment of pain patients in Ohio since 1993. Dr. Rorick's objections also note that some of the patient care pre-dates formal recognition of the identified patient behavior as a red flag. However, Dr. Soin stated that a physician does not need to have an official guideline to recognize certain things as red flags. Dr. Soin drew an analogy with a hypothetical endocrinologist whose morbidly obese and diabetic patient is eating a dozen doughnuts in the examination room; the endocrinologist should not need a guideline to recognize the red flag in that situation. Likewise, Dr. Soin stated that Dr. Rorick should have recognized certain red flags, such as when an Ohio Automated Rx Reporting System (OARRS) report on patients showed clear evidence of misuse, abuse, diversion, and excessive use of medications. Dr. Soin stated that recognizing these red flags would just be good medicine, which was not practiced in some of the cases reviewed by the Board.

Dr. Soin stated that he understands why someone would be in favor of the Proposed Order, which would reprimand Dr. Rorick and impose probationary terms for at least one year. Dr. Soin acknowledged that he disagreed with some of the State's expert's opinions, such as the expert's criticism of Dr. Rorick's failure to obtain a neurosurgical consultation for Patient 10. Despite this, Dr. Soin agreed that Dr. Rorick's patient care failed on many levels. Dr. Soin opined that Dr. Rorick's practice was not a pill mill, but that the minimum standards of care were not met in many instances.

Dr. Soin suggested that a suspension of Dr. Rorick's medical license for at least 30 days, with probationary terms of at least two years, would be appropriate.

Dr. Soin moved to amend the Proposed Order to suspend Dr. Rorick's Ohio medical license for at least 30 days and to impose probationary terms for at least two years, including requirements to take a controlled substance prescribing course to have a monitoring physician. Dr. Steinbergh seconded the motion.

Dr. Schottenstein agreed with Dr. Soin that certain things are just good medicine and a physician should not need an express guideline to tell them what to do in every situation. Dr. Schottenstein noted that during testimony Dr. Rorick had an exchange with the Assistant Attorney General in which he indicated that he did not want to know if a patient was using cocaine, stating "I'm the doctor, not the sheriff." Dr. Schottenstein stated that a patient's abuse of drugs is not incidental and is medically germane to their treatment. While Dr. Schottenstein found it admirable that Dr. Rorick wanted to help his patients and not dismiss them from his practice, he also opined that continuing to prescribe for patients who break their pain contracts is enabling a potentially dangerous situation.

Mr. Giacalone agreed with Dr. Schottenstein and questioned how a physician can continue to prescribe narcotics and ignore the fact that the patient is also taking illicit drugs from the street. Mr. Giacalone also commented that Dr. Rorick had his patients on very high doses of medication. Mr. Giacalone agreed with earlier comments that the Board's expert witness was not stellar and that Dr. Rorick was not operating a pill mill. Mr. Giacalone also agreed that Dr. Rorick's prescribing habits with some of his patients were below the minimal standards of care.

Dr. Steinbergh agreed with Dr. Rorick's objections that the knowledge of pain prescribing has evolved over time. However, Dr. Steinbergh noted that she learned in medical school that this was inappropriate prescribing and Dr. Rorick graduated from medical school just a few years after she did. Dr. Steinbergh opined that every physician on the Board knows that Dr. Rorick's prescribing was inappropriate. Dr. Steinbergh also noted that Dr. Rorick has a teaching role and stated that it is critical for physicians in such a position to be very specific in their knowledge of the rules. Dr. Steinbergh felt it was important to role-model for young physicians in training when teaching them how to properly prescribe.

Dr. Steinbergh noted that Dr. Rorick's expert witness, Constantino Benedetti, M.D., is an anesthesiologist, yet he is acting as an expert in a case involving a neurologist. Dr. Benedetti testified that he is a fellow of the American Academy of Pain Medicine, but he acknowledged that he has no training in neurology and that he does not know how to properly evaluate a patient for migraine headaches. Dr. Steinbergh opined that Dr. Benedetti's qualifications do not match those of Dr. Rorick or the kinds of cases that the Board is discussing today. Dr. Steinbergh stated that the physicians on the Medical Board represent a composite of experts and that the Board is able to act as its own expert.

Dr. Steinbergh agreed with Dr. Soin's proposed amendment and asked that this matter be tabled so that the amendment can be properly drafted.

Dr. Steinbergh moved to table this matter. Mr. Giacalone seconded the motion. A vote was taken:

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

The motion to table carried.

LAWRENCE ROTHENBERG, M.D.

Mr. Kenney directed the Board's attention to the matter of Lawrence Rothenberg, M.D. Objections have been filed and were previously distributed to Board members. Ms. Shamansky was the Hearing Examiner.

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

Dr. Rothenberg was represented by his attorney, Eric Plinke.

Mr. Plinke stated that Dr. Rothenberg is not attending today's meeting because he is no longer pursuing his application to restore his Ohio medical license. Mr. Plinke stated that Dr. Rothenberg is a gastroenterologist and spends 100% of his clinical time performing endoscopic procedures. Mr. Plinke stated that Dr. Rothenberg does not practice pain management and he does not prescribe controlled substances of any kind. Mr. Plinke stated that Dr. Rothenberg has been compliant with his Florida consent agreement and his license in that state has been reinstated. Mr. Plinke noted that there were no findings from the various allegations against Dr. Rothenberg in Florida and he did not admit to any violation.

Mr. Plinke continued that three years ago Dr. Rothenberg applied for restoration of his Ohio medical license. Mr. Plinke stated that he does not believe that Dr. Rothenberg's application was ever officially complete. When the Ohio position he was seeking became unavailable in 2012, Dr. Rothenberg stopped pursuing the Ohio license. Mr. Plinke stated that there was no communication between Dr. Rothenberg and the Board regarding his license restoration application. Mr. Plinke speculated that the Assistant Attorney General will say that communication ceased because Dr. Rothenberg was under investigation, but Mr. Plinke stated that there is no evidence of that.

Mr. Plinke stated that the Board's actions on license restoration applications are guided by Section 4731.222 of the Ohio Revised Code, and not Section 4731.22 as stated in the Notice of Opportunity for Hearing and the Report and Recommendation's Proposed Order. Mr. Plinke stated that the Board can choose to deny Dr. Rothenberg's application for restoration, but it must do so under Section 4731.222. Mr. Plinke stated that this would necessitate restarting the administrative process since the Board's Notice of Opportunity for Hearing only gave notice of an alleged violation of Section 4731.22.

Mr. Plinke recommended that the Board treat Dr. Rothenberg's restoration application as an application that was abandoned by both parties. Mr. Plinke stated that there is no evidence that either Dr. Rothenberg or the Board acted on the application until early 2015 when the Board decided to initiate these proceedings.

Mr. Kenney asked if the Assistant Attorney General would like to respond. Mr. Wakley stated that he did wish to make response.

Mr. Wakley stated that he will not address Mr. Plinke's legal arguments because they are more suited to an appeal should Dr. Rothenberg choose to appeal the decision that the Board will make today. Mr. Wakley stated that the settlement agreement that Dr. Rothenberg entered into with the Florida Board of Medicine resulted in a suspension of his Florida medical license and required him to pay tens of thousands of dollars

in fines. Mr. Wakley opined that it is difficult to argue that the Ohio Board does not have a basis to act on these allegations.

Mr. Wakley stated that the Board cannot abandon an application on its own accord and it must act upon Dr. Rothenberg's application. Mr. Wakley recommended that the Board accept the Proposed Order to permanently deny Dr. Rothenberg's application for restoration.

Dr. Steinbergh moved to approve and confirm Ms. Shamansky's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Lawrence Rothenberg, M.D. Dr. Sojn seconded the motion.

Mr. Kenney stated that he will now entertain discussion in the above matter.

Mr. Kenney stated that Dr. Rothenberg practiced medicine in Ohio in 2005 and 2006, but has spent most of his career in Florida. In 2012 Dr. Rothenberg applied to restore his Ohio medical license, which had lapsed in 2010. Though Dr. Rothenberg did not pursue his plan to relocate to Ohio, his application for restoration remains pending.

Mr. Kenney continued that Dr. Rothenberg came under investigation by the Florida Board of Medicine in November 2012 and he was subject to emergency restrictions on his Florida medical license. Dr. Rothenberg was charged with improperly prescribing excessive amounts of controlled substances to three patients. In October 2014 Dr. Rothenberg entered into a settlement agreement with the Florida Board in which he admitted that the alleged facts, if proven, would constitute violations of Florida law. Dr. Rothenberg also agreed that the disposition of his case was fair and appropriate. In December 2014 the Florida Board issued a final order reprimanding Dr. Rothenberg, suspending his Florida medical license for six months, and permanently prohibiting him from owning, operating, or practicing in a pain management clinic. The Florida Board also restricted Dr. Rothenberg from prescribing controlled substances, though this restriction can be lifted by the Florida Board in the future. Dr. Rothenberg was also required to pay a \$30,000.00 fine and to pay the cost of investigation in the amount of \$12,594.98.

Mr. Kenney stated that Dr. Rothenberg had continued to prescribe to the three patients despite evidence that the patients may have been diverting the medication. In one example, the patient tested positive for street drugs but negative for all the prescribed medications, yet Dr. Rothenberg continued to prescribe controlled substances to the patient.

Regarding the legal issues brought up in Dr. Rothenberg's objections, including the suggestion that the Board did not act on Dr. Rothenberg's application in a timely manner, Mr. Kenney agreed with the Assistant Attorney General that these issues are more properly considered in an appeal. Mr. Kenney stated that it is appropriate for the Board to determine the disposition of Dr. Rothenberg's application based on action taken against him in another state. Mr. Kenney stated that it is clear the Dr. Rothenberg had been participating in a pill mill in Florida and opined that Dr. Rothenberg's actions are almost unbelievable for a licensed physician. Mr. Kenney supported the Proposed Order to permanently deny Dr. Rothenberg's application for restoration.

Dr. Steinbergh agreed with Mr. Kenney's statements and stated that she does not see the need or desire to have a physician in Ohio who has already been disciplined in another state for this type of prescribing.

Dr. Soin opined that Dr. Rothenberg had clearly been involved in a pill mill in Florida. Dr. Soin noted that Dr. Rothenberg had been over-prescribing oxycodone in the form of 30 mg tablets. Dr. Soin explained that oxycodone sells on the street for about one dollar per mg. Dr. Soin stated that an 80 mg tablets are difficult to illicitly sell at \$80 per tablet, but 30 mg tablets at \$30 per tablet are more easily sold and diverted. For this reason, Dr. Soin is very concerned whenever he sees oxycodone being prescribed excessively in 30 mg tablets.

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

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

The motion to approve carried.

PING WEI

Mr. Kenney directed the Board's attention to the matter of Ping Wei. Objections have been filed and were previously distributed to Board members. Ms. Blue was the Hearing Examiner.

Dr. Steinbergh moved to approve and confirm Ms. Blue's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Ping Wei. Mr. Gonidakis seconded the motion.

Mr. Kenney stated that he will now entertain discussion in the above matter.

Mr. Gonidakis stated that Ms. Wei graduated from a massage therapy school in New Jersey in 2012 and she currently holds a license to practice massage therapy in Kentucky. In 2014 Ms. Wei was charged in Tennessee with trafficking for commercial sex acts and promoting prostitution, both of which are felonies. Court records claim that Ms. Wei was the manager of an acupuncture center, that she collected and received money for acts of prostitution, and that she managed and harbored women for prostitution. On February 28, 2014, Ms. Wei pleaded guilty to an amended misdemeanor charge of prostitution. The judge entered a "judgement deferred-no conviction" order and sentenced her to 11 months and 29 days in jail. The judge suspended the entire jail sentence except for 17 days and 16 hours, which Ms. Wei had already

served, and put Ms. Wei on probation for the remainder of the time she had been sentenced to. The felony trafficking charge was dismissed and Ms. Wei was required to pay a fine. On February 9, 2015, Ms. Wei's record was expunged.

Mr. Gonidakis continued that in September 2014 Ms. Wei submitted an application for a license to practice massage therapy in Ohio. Ms. Wei disclosed on her application that she had been charged with a felony. However, Ms. Wei also falsely claimed that she was innocent of all her charges and that the court had dismissed all of the charges against her. According to testimony, the acupuncture center which Ms. Wei managed had only two workers who also lived there, as did Ms. Wei. Mr. Gonidakis opined that this is a classic example of a human trafficking situation. Mr. Gonidakis also noted that Ms. Wei provided conflicting testimony about whether she was practicing massage therapy in Ohio, at first stating that she was practicing in Ohio and then later stating that she was only teaching people who practiced in Ohio. Ms. Wei has faulted her attorney for filling out her license application incorrectly.

Mr. Gonidakis stated that the objections filed by Ms. Wei rested heavily on the fact that her record had been expunged and therefore the Board should not consider her criminal history. However, Mr. Gonidakis pointed out that Ohio Revised Code, Section 4731.22, states that the Board can disregard an expungement if it occurs after the Notice of Opportunity for Hearing is issued. Mr. Gonidakis stated he agrees with the Proposed Order to permanently deny Ms. Wei's application for a massage therapy license.

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

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

The motion to approve carried.

KARL M. HAGEN, M.D.

Mr. Kenney directed the Board's attention to the matter of Karl M. Hagen, M.D. No objections have been filed. Ms. Blue was the Hearing Examiner.

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

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

Ms. Collis stated that Dr. Hagen is unable to attend today's meeting due to problems with his flight. Ms. Collis opined that the Hearing Examiner has made an appropriate recommendation in this case, which was based on action taken by the Florida Board of Medicine following a surgical error. Ms. Collis stated that since that incident in 2011, Dr. Hagen has taken his practice in a different direction and he no longer practices surgery. Dr. Hagen has completed a fellowship program in addiction medicine and he currently practices exclusively in addiction medicine in Florida.

Ms. Collis continued that Dr. Hagen has family in Ohio and he plans to return to Ohio in summer months and in his retirement to work at a rehabilitation center. Ms. Collis stated that the Proposed Order would reprimand Dr. Hagen and impose a two-year probationary period with monitoring if Dr. Hagen ever chooses to practice in Ohio. Under the Proposed Order, Dr. Hagen would have to submit a practice plan for the Board's approval before commencing practice in Ohio. Ms. Collis stated that the Board would be able to deny any practice plan that includes surgery. Ms. Collis opined that the Proposed Order protects the public and does not demean the seriousness of this case.

Ms. Collis urged the Board to adopt the Proposed Order and to not place a permanent restriction on Dr. Hagen's Ohio medical license. Ms. Collis stated that it is imperative for the Board to know that a permanent limitation on a medical license essentially makes the physician unemployable in Ohio. Ms. Collis stated that Ohio Medicaid and many other insurance companies will not cover a physician who has a permanent limitation.

Mr. Kenney asked if the Assistant Attorney General would like to respond. Mr. Wilcox stated that he would like to respond.

Mr. Wilcox stated that he supports the Proposed Order and opined that it would protect the people of Ohio should Dr. Hagen choose to practice here. Mr. Wilcox disagreed with Ms. Collis' general comments regarding permanent restrictions on physicians' licenses. Mr. Wilcox stated that the Board's mission is to protect the public and it should not base its decisions on whether the physician will be able to be covered by insurance at a later date.

Dr. Steinbergh moved to approve and confirm Ms. Blue's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Karl M. Hagen, M.D. Dr. Soin seconded the motion.

Mr. Kenney stated that he will now entertain discussion in the above matter.

Dr. Sethi stated that he is a board-certified general surgeon and he has experienced cases similar to that of Dr. Hagen. Dr. Sethi stated that Dr. Hagen was presented with a 35-year-old male with abdominal pain in the right lower quadrant. A CT scan suggested an inflamed appendix. Dr. Sethi stated that Dr. Hagen wisely decided to not perform a laparoscopic procedure due to the possibility that the appendix may have ruptured. During surgery, Dr. Hagen found a large amount of inflammation. While searching for the appendix, Dr. Hagen brought up a long tubular structure which he mistakenly thought was the appendix. Dr. Sethi stated that he understands why it would be difficult to differentiate due to the large amount of

inflammation.

Dr. Sethi continued that most patients improve rapidly following an appendectomy, but this patient did not get better. This indicated to Dr. Hagen that something was wrong. Two days later, Dr. Hagen received the report from the pathologist and found that he had removed an inflamed ureter and not an appendix. Subsequently, one of Dr. Hagen's partners took the patient back to surgery and the appendix was removed, but the ureter could not be repaired. Dr. Hagen testified that he had done many appendectomies prior to this with no problems.

Dr. Sethi stated that this event traumatized Dr. Hagen to the extent that he stopped practicing as a surgeon. Dr. Hagen's Florida agreement faulted Dr. Hagen for wrong-site surgery and advised him to give lectures to residents on how to avoid wrong-site surgery. The American Board of Surgery did not take any disciplinary action against Dr. Hagen. Dr. Hagen decided to retrain in addiction medicine and he currently practices in that field. Dr. Hagen does not intend to return to the practice of surgery. Dr. Hagen testified that if he returns to Ohio it would be mostly as a retired physician to donate his services to his community.

Dr. Sethi stated that based on these events and the fact that it was an isolated incident with a single patient, the Hearing Examiner has recommended a reprimand and probationary terms if Dr. Hagen returns to practices in Ohio. Dr. Sethi agreed with the Hearing Examiner and opined that Dr. Hagen has suffered enough. Dr. Sethi agreed with Ms. Collis that there should not be a permanent restriction on Dr. Hagen's Ohio medical license. Dr. Sethi stated that this kind of incident can happen when there is a very inflamed abdomen, even when the utmost precautions are taken.

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

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

The motion to approve carried.

MARVIN H. RORICK, M.D.

Dr. Steinbergh moved to remove the matter of Marvin H. Rorick, M.D., from the table. Mr. Giacalone seconded the motion. A vote was taken:

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

The motion carried.

The Board staff provided the Board members with a written version of Dr. Soin's motion to amend. Dr. Schachat noted that the amendment includes a provision for a practice plan with a monitoring physician and asked if the Board should specify what kind of patient records should be reviewed by the monitoring physician. Ms. Bickers stated that when Dr. Rorick requests the approval of a monitoring physician, the Board at that time can specify the types of charts to be reviewed.

Dr. Soin indicated that he wished to modify his motion to amend to match the written amendment provided to the Board members, as follows:

It is hereby ORDERED that:

- A. **SUSPENSION OF CERTIFICATE:** Commencing on the thirty-first day following the date on which this Order becomes effective, the certificate of Marvin H. Rorick, M.D., to practice medicine and surgery in the State of Ohio shall be SUSPENDED for an indefinite period of time, but not less than 30 days.
- B. **CONDITIONS FOR REINSTATEMENT OR RESTORATION:** The Board shall not consider reinstatement or restoration of Dr. Rorick's certificate to practice medicine and surgery until all of the following conditions have been met:
 1. **Application for Reinstatement or Restoration:** Dr. Rorick shall submit an application for reinstatement or restoration, accompanied by appropriate fees, if any.
 2. **Controlled Substances Prescribing Course(s):** At the time he submits his application for reinstatement or restoration, or as otherwise approved by the Board, Dr. Rorick shall provide acceptable documentation of successful completion of a course or courses dealing with the prescribing of controlled substances. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. The Board may consider any course(s) recently completed by Dr. Rorick as full or partial satisfaction of this condition. Any course(s) taken in compliance with this

provision shall be in addition to the Continuing Medical Education requirements for relicensure for the Continuing Medical Education period(s) in which they are completed.

In addition, at the time Dr. Rorick submits the documentation of successful completion of the course(s) dealing with the prescribing of controlled substances, he shall also submit to the Board a written report describing the course(s), setting forth what he learned from the course(s), and identifying with specificity how he will apply what he has learned to his practice of medicine in the future.

3. **Additional Evidence of Fitness To Resume Practice**: In the event that Dr. Rorick has not been engaged in the active practice of medicine and surgery for a period in excess of two years prior to application for reinstatement or restoration, the Board may exercise its discretion under Section 4731.222, Ohio Revised Code, to require additional evidence of his fitness to resume practice.
- C. **PROBATION**: Upon reinstatement or restoration, Dr. Rorick's certificate shall be subject to the following PROBATIONARY terms, conditions, and limitations for a period of at least two years:
1. **Obeys the Law**: Dr. Rorick shall obey all federal, state, and local laws, and all rules governing the practice of medicine and surgery in Ohio.
 2. **Declarations of Compliance**: Dr. Rorick shall submit quarterly declarations under penalty of Board disciplinary action and/or criminal prosecution, stating whether there has been compliance with all the conditions of this Order. The first quarterly declaration must be received in the Board's offices on or before the first day of the third month following the month in which this Order becomes effective. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
 3. **Personal Appearances**: Dr. Rorick shall appear in person for an interview before the full Board or its designated representative during the third month following the month in which this Order becomes effective, or as otherwise directed by the Board. Subsequent personal appearances shall occur every **six** months thereafter, and/or as otherwise directed by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.
 4. **Monitoring Physician**: Within 30 days of the effective date of this Order, or as otherwise determined by the Board, Dr. Rorick shall submit the name and curriculum vitae of a monitoring physician for prior written approval by the Secretary and Supervising Member of the Board. In approving an individual to serve in this capacity, the Secretary and Supervising Member will give preference to a physician who practices in the same locale as Dr. Rorick and who is engaged in the same or similar practice specialty.

The monitoring physician shall monitor Dr. Rorick and his medical practice, and shall review Dr. Rorick's patient charts. The chart review may be done on a random basis, with the frequency and number of charts reviewed to be determined by the Board.

Further, the monitoring physician shall provide the Board with reports on the monitoring of Dr. Rorick and his medical practice, and on the review of Dr. Rorick's patient charts. Dr. Rorick shall ensure that the reports are forwarded to the Board on a quarterly basis and are received in the Board's offices no later than the due date for Dr. Rorick's declarations of compliance.

In the event that the designated monitoring physician becomes unable or unwilling to serve in this capacity, Dr. Rorick shall immediately so notify the Board in writing. In addition, Dr. Rorick shall make arrangements acceptable to the Board for another monitoring physician within 30 days after the previously designated monitoring physician becomes unable or unwilling to serve, unless otherwise determined by the Board. Dr. Rorick shall further ensure that the previously designated monitoring physician also notifies the Board directly of his or her inability to continue to serve and the reasons therefor.

The Board, in its sole discretion, may disapprove any physician proposed to serve as Dr. Rorick's monitoring physician, or may withdraw its approval of any physician previously approved to serve as Dr. Rorick's monitoring physician, in the event that the Secretary and Supervising Member of the Board determine that any such monitoring physician has demonstrated a lack of cooperation in providing information to the Board or for any other reason.

5. **Tolling of Probationary Period While Out of Compliance:** In the event Dr. Rorick is found by the Secretary of the Board to have failed to comply with any provision of this Order, and is so notified of that deficiency in writing, such period(s) of noncompliance will not apply to the reduction of the probationary period under this Order.
 6. **Required Reporting of Change of Address:** Dr. Rorick shall notify the Board in writing of any change of residence address and/or principal practice address within 30 days of the change.
- D. **TERMINATION OF PROBATION:** Upon successful completion of probation, as evidenced by a written release from the Board, Dr. Rorick's certificate will be fully restored.
- E. **REQUIRED REPORTING WITHIN 30 DAYS OF THE EFFECTIVE DATE OF THIS ORDER:**
1. **Required Reporting to Employers and Others:** Within 30 days of the effective date of this Order, Dr. Rorick shall provide a copy of this Order to all employers or entities with which he is under contract to provide healthcare services (including but not limited to third-party payors), or is receiving training, and the Chief of Staff at each hospital or

healthcare center where he has privileges or appointments. Further, Dr. Rorick shall promptly provide a copy of this Order to all employers or entities with which he contracts in the future to provide healthcare services (including but not limited to third-party payors), or applies for or receives training, and the Chief of Staff at each hospital or healthcare center where he applies for or obtains privileges or appointments.

In the event that Dr. Rorick provides any healthcare services or healthcare direction or medical oversight to any emergency medical services organization or emergency medical services provider in Ohio, within 30 days of the effective date of this Order, he shall provide a copy of this Order to the Ohio Department of Public Safety, Division of Emergency Medical Services.

These requirements shall continue until Dr. Rorick receives from the Board written notification of the successful completion of his probation.

2. **Required Reporting to Other Licensing Authorities:** Within 30 days of the effective date of this Order, Dr. Rorick shall provide a copy of this Order to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license, as well as any federal agency or entity, including but not limited to the Drug Enforcement Administration, through which he currently holds any professional license or certificate. Also, Dr. Rorick shall provide a copy of this Order at the time of application to the proper licensing authority of any state or jurisdiction in which he applies for any professional license or reinstatement/restoration of any professional license. This requirement shall continue until Dr. Rorick receives from the Board written notification of the successful completion of his probation.
 3. **Required Documentation of the Reporting Required by Paragraph E:** Dr. Rorick shall provide this Board with **one** of the following documents as proof of each required notification within 30 days of the date of each such notification: (a) the return receipt of certified mail within 30 days of receiving that return receipt, (b) an acknowledgement of delivery bearing the original ink signature of the person to whom a copy of the Order was hand delivered, (c) the original facsimile-generated report confirming successful transmission of a copy of the Order to the person or entity to whom a copy of the Order was faxed, or (d) an original computer-generated printout of electronic mail communication documenting the e-mail transmission of a copy of the Order to the person or entity to whom a copy of the Order was e-mailed.
- F. **VIOLATION OF THE TERMS OF THIS ORDER:** If Dr. Rorick violates the terms of this Order in any respect, the Board, after giving him notice and the opportunity to be heard, may institute whatever disciplinary action it deems appropriate, up to and including the permanent revocation of his certificate.

EFFECTIVE DATE OF ORDER: This Order shall become effective immediately upon the mailing of the notification of approval by the Board.

No Board member objected to the change in Dr. Soin's motion. The change to the motion to amend was accepted.

A vote was taken on Dr. Soin's motion to amend:

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

The motion to amend carried.

Dr. Steinbergh moved to approve and confirm Mr. Porter's Findings of Fact, Conclusions of Law, and Proposed Order, as amended, in the matter of Marvin H. Rorick, M.D. Dr. Soin seconded the motion. A vote was taken:

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

The motion to approve carried.

FINDINGS, ORDERS, AND JOURNAL ENTRIES

Mr. Kenney 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. The matters are therefore before the Board for final disposition. These matters are non-disciplinary in nature, and therefore all Board members

may vote.

KAREN SUE COOKSEY, M.T.

Dr. Saferin moved to find that the allegations set forth in the July 10, 2015 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, granting Ms. Cooksey's application for restoration, provided that she takes and passes the Massage and Bodywork Licensing Examination within six months of July 10, 2015. Dr. Steinbergh seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Mr. Giacalone	- aye
	Dr. Steinbergh	- aye
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye
	Dr. Sethi	- aye
	Dr. Soin	- aye
	Dr. Schottenstein	- aye
	Dr. Schachat	- aye
	Dr. Edgin	- aye

The motion carried.

BROOKE JOYCE FLINN, M.T.

Dr. Saferin moved to find that the allegations set forth in the April 29, 2015 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, granting Ms. Flinn's application for restoration, provided that she takes and passes the Massage and Bodywork Licensing Examination within six months of April 29, 2015. Dr. Steinbergh seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Mr. Giacalone	- aye
	Dr. Steinbergh	- aye
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye
	Dr. Sethi	- aye
	Dr. Soin	- aye
	Dr. Schottenstein	- aye
	Dr. Schachat	- aye
	Dr. Edgin	- 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. Steinbergh seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Mr. Giacalone	- aye
	Dr. Steinbergh	- aye
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye
	Dr. Sethi	- aye
	Dr. Soin	- aye
	Dr. Schottenstein	- aye
	Dr. Schachat	- aye
	Dr. Edgin	- 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. Miller, Ms. Loe, Ms. Debolt, Mr. Schmidt, Ms. Marshall, the Enforcement Attorneys, the Assistant Attorneys General, Ms. Schwartz, Mr. Nealis, Ms. Murray, Ms. Simon, and Mr. Taylor in attendance.

The Board returned to public session.

RATIFICATION OF SETTLEMENT AGREEMENTS

THOMAS BARTLEY BENZ, M.D. – PROBATIONARY CONSENT AGREEMENT

Dr. Steinbergh moved to ratify the Proposed Probationary Consent Agreement with Dr. Benz. Dr. Soin seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Mr. Giacalone	- aye
	Dr. Steinbergh	- aye
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye
	Dr. Sethi	- aye

Dr. Soin	- aye
Dr. Schottenstein	- aye
Dr. Schachat	- aye
Dr. Edgin	- aye

The motion to ratify carried.

JOHN RICHARD CERONI, L.M.T. – PERMANENT SURRENDER

Dr. Steinbergh moved to ratify the Proposed Permanent Surrender with Mr. Ceroni. Dr. Soin seconded the motion. A vote was taken:

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

The motion to ratify carried.

JULIO CESAR GALINDO, M.D. – CONSENT AGREEMENT

Dr. Soin moved to ratify the Proposed Consent Agreement with Dr. Galindo. Dr. Sethi seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Mr. Giacalone	- aye
	Dr. Steinbergh	- abstain
	Mr. Gonidakis	- nay
	Mr. Kenney	- aye
	Dr. Sethi	- aye
	Dr. Soin	- aye
	Dr. Schottenstein	- nay
	Dr. Schachat	- aye
	Dr. Edgin	- aye

The motion to ratify carried.

PETER C. JOHNSON, M.D. – STEP I CONSENT AGREEMENT

Dr. Steinbergh moved to ratify the Proposed Step I Consent Agreement with Dr. Johnson. Dr. Soin seconded the motion. A vote was taken:

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

The motion to ratify carried.

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

Dr. Steinbergh moved to send the Notice of Immediate Suspension and Opportunity for Hearing to Juan M. Hernandez, M.D. Dr. Soin seconded the motion. A vote was taken:

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

The motion to send carried.

Dr. Steinbergh moved to send the Notice of Immediate Suspension and Opportunity for Hearing to William George Paloski, D.O. Dr. Soin seconded the motion. A vote was taken:

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

The motion to send carried.

Dr. Steinbergh moved to send the Notices of Opportunity for Hearing to the following: Barry Howard Brooks, M.D.; Anthony Edward Innocenzi, D.P.M.; Kush Kumar, M.D.; Carlos Gustavo Teran Miranda, M.D.; and Hil Rizvi, M.D. Dr. Soin seconded the motion. A vote was taken:

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

The motion to send carried.

The Board took a recess at 12:00 p.m. and returned at 1:00 p.m.

LICENSURE PRESENTATION

Mr. Miller provided the Board with a demonstration of the new E-License 2.0 system which is currently being used for massage therapist licensing and renewal. Mr. Miller stated that ultimately all of the Board's licensure types will be brought into this new system to replace the current CAVU system, which is outdated.

Mr. Kenney asked about communication with applicants in the case of incorrect or missing information on the application. Mr. Groeber stated that the Board staff is able to send an email to the applicant in such instances for a quick resolution. Mr. Groeber stated that this new system will allow the licensure staff more time to provide help with errors on applications. Mr. Miller commented that email seems to be the

quickest and most effective means of communication with applicants, though the Board can reach out in other ways if email is unsuccessful. Mr. Groeber hoped that in the future the system will include samples of documents that applicants can click on to see what a particular document should look like.

Dr. Soin noted that the payment section includes a “pay later” button. Mr. Miller explained that that button may not be necessary, but it was included in the Board’s original requirements in order to allow third-party payers to pay the application or renewal fee, as some institutions do for their residents or employed physicians.

RULES AND POLICIES

RESCISSION OF RULE 4731-11-07 AND ADOPTION OF RULES 4730-1-06.1, 4731-1-02, 4731-6-35, 4731-9-01, 4731-11-09, 4731-24-05, 4774-1-02.1, AND 4778-1-02.1

Dr. Saferin moved to approve the Findings and Order rescinding current Rule 4731-11-07 and adopting proposed Rules 4730-1-06.1, 4731-1-02, 4731-6-35, 4731-9-01, 4731-11-07, 4731-24-05, 4774-1-02.1, and 4778-1-02.1. Dr. Saferin further moved that the adopted rules be final filed with an effective date of September 30, 2015. Dr. Soin seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Mr. Giacalone	- aye
	Dr. Steinbergh	- aye
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye
	Dr. Sethi	- aye
	Dr. Soin	- aye
	Dr. Schottenstein	- aye
	Dr. Schachat	- aye
	Dr. Edgin	- aye

The motion carried.

ADOPTION OF RULE 4731-31-01

Dr. Steinbergh moved to approve the Findings and Order ratifying the adoption of proposed Rule 4731-31-01 and its final filing with an effective date of September 18, 2015. Dr. Saferin seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Mr. Giacalone	- aye
	Dr. Steinbergh	- aye
	Mr. Gonidakis	- aye

Mr. Kenney	- aye
Dr. Sethi	- aye
Dr. Soin	- aye
Dr. Schottenstein	- aye
Dr. Schachat	- aye
Dr. Edgin	- aye

The motion carried.

CONSIDERATION OF COMMENTS ON PROPOSED RULES 4731-11-04 AND 4731-11-04.1

Ms. Debolt stated that the Board had previously received comments from the public on these proposed rules concerning weight loss medications. Ms. Debolt asked the Board to discuss the comments and determine whether the proposed rules should be amended accordingly.

Dr. Steinbergh stated that she wished to recommend some changes to the proposed rules, but asked that this matter be deferred to the October Board meeting so that the public comments and other documentation can be more thoroughly reviewed. The Board members agreed to discuss this topic in October. Ms. Anderson invited the Board members to provide her with their thoughts and comments so they can be included in next month's agenda materials.

CONSIDERATION OF COMMENTS ON PROPOSED RULE 4731-11-03

Ms. Debolt stated that this proposed rule did not receive comments from the Board's public rules hearing or from the Common Sense Initiative office. However, at the Joint Committee on Agency Rule Review (JCARR) hearing, comment was received from Shire US, Inc., the maker of the stimulant medication Vyvanse. Shire noted that the proposed rule does not list treatment of binge eating disorder as one of the permissive uses of stimulant controlled substances, even though the Food and Drug Administration (FDA) has approved Vyvanse for treatment of binge eating disorder. Shire has suggested that the proposed rule be amended to allow use of stimulant controlled substances for any indication for which the FDA has granted approval.

The Board discussed this matter thoroughly. Dr. Saferin noted that Vyvanse is the only medication that is currently approved by the FDA for treatment of binge eating disorder, and therefore it seemed logical for the Medical Board to allow it as well. Dr. Steinbergh, Dr. Schachat, Dr. Schottenstein, Mr. Giacalone, and Dr. Soin were generally in favor of allowing medications to be used according to FDA labeling.

Dr. Steinbergh invited comments from Mr. Schmidt. Mr. Schmidt disagreed with the reasoning that the Medical Board should automatically approve medication uses that are FDA-approved. Mr. Schmidt noted, for example, that methamphetamine is still FDA-approved for weight loss, yet he knows of no state which permits the use of methamphetamine for weight loss. Ms. Schmidt also noted that the Board's rules on the use of opioid analgesics are more strict than FDA labeling. Mr. Schmidt stated that the courts have upheld the Board's right to restrict the use of medications that have been FDA approved. Mr. Schmidt also noted research that indicates that binge eating disorder is very rare. However, Mr. Schmidt predicted, based on

his experience with controlled substance regulation, that if a medication treating binge eating disorder is approved then that disorder will become far less rare.

Ms. Debolt suggested that the Board members send their comments on this subject to her so that she can develop some draft language for the Board's discussion next month. The Board members agreed. Dr. Steinbergh requested that Mr. Schmidt write a brief history of the Board's involvement with weight-loss rules. Mr. Schmidt agreed.

Dr. Steinbergh moved to table the topics of proposed Rules 4731-11-03, 4731-11-04, and 4731-11-04.1. Dr. Saferin seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Mr. Giacalone	- aye
	Dr. Steinbergh	- aye
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye
	Dr. Sethi	- aye
	Dr. Soin	- aye
	Dr. Schottenstein	- aye
	Dr. Schachat	- aye
	Dr. Edgin	- aye

The motion carried.

APPROVAL TO FILE RULES 4731-1-25, 4731-7-01, AND 4731-11-11

Dr. Saferin moved to approve the filing of proposed rules 4731-1-25, 4731-7-01, and 4731-11-11 for the formal promulgation process. Dr. Steinbergh seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Mr. Giacalone	- aye
	Dr. Steinbergh	- aye
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye
	Dr. Sethi	- aye
	Dr. Soin	- aye
	Dr. Schottenstein	- aye
	Dr. Schachat	- aye
	Dr. Edgin	- aye

The motion carried.

OPERATIONS REPORT

Human Resources: Mr. Groeber announced that Mr. Schmidt has accepted the position of Chief of Investigations for the Board. Mr. Groeber also stated that an offer will soon be made to a candidate for the position of Central Area Investigator Supervisor.

Mr. Groeber stated that Ms. Peterson of the Standards Review and Intervention section officially retired in August.

Mr. Groeber noted that the Governor appointed Dr. Edgin to the Medical Board last month. Mr. Groeber welcomed Dr. Edgin to the Board.

Budget: Mr. Groeber stated that there has been a small cyclical drop in revenue compared to two years prior but the Board continues to spend less than in previous time frames. The Board's overall cash balance is currently about \$4,800,000, compared to \$4,300,000 at this time last year.

Information Technology: Mr. Groeber stated that the demonstration of the new E-License system, which the Board members saw earlier in the meeting, represents the user's experience. Mr. Groeber stated that within the Board's internal processes the new system will move materials more quickly and efficiently. Mr. Groeber stated that the system will soon be expanded to include physician assistant licensure as well as complaint intake, investigation, enforcement activity, and other Board activities. The system will eventually be expanded to include all licensure types. Mr. Groeber stated that a SharePoint site is also being developed for document management and routing, particularly for the Investigations section.

Agency Operations: Mr. Groeber stated that for the eighth month in a row there has been an overall decrease in the number of open complaints and the number now stands at 2,133. Mr. Groeber credited the staff's hard work in addressing the complaints and moving them through the system more efficiently.

Mr. Groeber also made the following observations:

- The number of licenses issued is up by 3% compared to one year ago and are being issued 23% faster. Mr. Groeber noted that for the second month in a row there has been a small decrease in the number of MD and DO licenses and stated that a root-cause analysis will be commenced if the pattern continues.
- Complaint triage figures have increased, which may be a result of Ms. Murray's efforts to move cases through Standards Review and Intervention more quickly.
- The Investigations Section has received 135 new complaints in the last month.
- The number of complaints in the Enforcement section is down to 508, compared to 985 in February. Mr. Groeber recognized Ms. Marshall for her work in this area.
- The Standards and Review Intervention section continues to reduce its number of open complaints.

- The Hearing Unit continues to reduce its number of open cases.

Speed and East Initiative: Mr. Groeber stated that a copy of the Speed and Ease projects have been provided for review by the Board members.

December Retreat: Mr. Groeber stated that some Board members have asked that the Board consider scheduling a retreat for December 10, 2015, to discuss current topics of concern. Mr. Groeber stated that the retreat does not necessarily need to be for a full day.

REPORTS BY ASSIGNED COMMITTEES

FINANCE COMMITTEE

Mr. Kenney stated that a proposed set of fining guidelines had previously been provided to the Board members for their review. Mr. Kenney hoped that these proposed guidelines will be generally accepted by the Board in most cases and thereby limit the time the Board will spend discussing what an appropriate fine would be in a given circumstance.

Dr. Saferin moved to adopt the proposed fining guidelines. Dr. Steinbergh seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Mr. Giacalone	- aye
	Dr. Steinbergh	- aye
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye
	Dr. Sethi	- aye
	Dr. Soin	- aye
	Dr. Schottenstein	- aye
	Dr. Schachat	- aye
	Dr. Edgin	- aye

The motion carried.

In response to questions from the Board, Ms. Anderson clarified that the maximum fine that the Board can impose on a respondent is \$20,000 regardless of the number of violations. Ms. Anderson also stated that the Board's fining practices must be in accordance with the fining guidelines that the Board has adopted. Dr. Saferin noted that the Board has discretion within the law as to how much a respondent should be fined. Mr. Kenney agreed, but opined that the Board should generally follow its fining guidelines and reserve its discretion for the other aspects of discipline such as length of suspension, probationary terms, and whether to revoke a license. Mr. Kenney stated that the funds collected through fines can be used to educate physicians and medical students to help them avoid committing violations that would bring them to the attention of the Board.

Dr. Rothermel asked if the guidelines provide for fines for all violations of the Medical Practices Act, including impairment. Ms. Anderson answered that the guidelines have no fines for cases of inability to practice due to mental or physical illness. However, the guidelines do provide for fines in cases of impairment, with the amount of the fine based on the number of relapses.

Dr. Schachat observed that the Board's fines could be bankrupting for young physicians who are just starting their careers and may have significant debt from their education. Dr. Schachat suggested that the Board consider adjusting the fining guidelines so that fines are based on the respondent's years in practice. Mr. Kenney opposed this suggestion, stating that a young physician could have many financial resources whereas a long-practicing physician in a rural area could be less well-off financially. Mr. Kenney opined that the Board should not consider a respondent's financial situation when determining an appropriate fine.

PUBLICATION

Dr. Steinbergh opined that the Board members should see what is being considered regarding a quarterly Medical Board journal before discussions about a contract with a vendor continue. Dr. Steinbergh's primary concern about the proposal is those individuals and organizations who may advertise in the journal. Dr. Steinbergh stated that she does not want to be ethically or morally conflicted by the advertisements.

Mr. Groeber replied that only the terms of a contract are currently being negotiated. Mr. Groeber stated that before a contract is finalized the vendor will provide a list of potential advertisers which will be presented to the Finance Committee and the full Board to ensure that there are no conflicts that could undermine the Board's integrity.

Mr. Kenney agreed with Dr. Steinbergh's comments and stated that the Board will retain the right to approve all advertising and content in the journal. Mr. Kenney also stated that there will be five different journals, one for each of the five regions of Ohio. Mr. Groeber stated that the journal will be 64 pages, be of high quality, and will have regionalized sections highlighting facilities or licensees within each region.

Dr. Steinbergh continued to express concerns about possible conflicts arising from having advertisers in the Medical Board journal and how the Board will select appropriate advertisers in a public meeting. Mr. Gonidakis noted that other regulatory boards in Ohio and in other states have the same kinds of journals that the Medical Board is considering. Mr. Gonidakis further stated that if the project is ultimately approved, then Mr. Groeber and other members of the Board's staff will be tasked with approving advertisements and not the Board in public meetings.

Mr. Kenney stated that he does not perceive a conflict of interest in having advertiser's in the Medical Board's journal. Mr. Kenney stated that the purpose of the journal will be to demonstrate to licensees and other interested parties the good work that the Board performs on their behalf. Mr. Kenney stated that no contract with a vendor will be approved until the whole Board can review it and vote to approve or disapprove the project.

POLICY COMMITTEEUPDATE ON RED FLAGS DOCUMENT

Mr. Gonidakis stated that the Policy Committee discussed the draft Red Flags document for the Board's website. The Policy Committee approved the draft with the amendment that it include a hyperlink that will take the reader to the background of the issue.

Dr. Saferin moved to approve the Red Flags document as amended by the Policy Committee. Dr. Steinbergh seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Mr. Giacalone	- aye
	Dr. Steinbergh	- aye
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye
	Dr. Sethi	- aye
	Dr. Soin	- aye
	Dr. Schottenstein	- aye
	Dr. Schachat	- aye
	Dr. Edgin	- aye

The motion carried.

UPDATE ON PHYSICIAN-OWNED DISTRIBUTORSHIP COMMUNICATION

Mr. Gonidakis stated that a letter has been sent to the Ohio Hospital Association and other interested groups, as well as all of the Board's licensees, regarding physician-owned distributorships (POD's). Ms. Anderson stated that she will keep the Board informed of any responses she receives from the letter.

UPDATE ON ONE-BITE LEGISLATION

Mr. Gonidakis stated that the Board is still awaiting draft legislation on the one-bite reporting exemption from the Legislative Service Commission. Mr. Gonidakis anticipated that the first draft will be available soon for the Board's review.

RULE 4731-16-06, HEARING UNIT CONTINUANCES OF HEARINGS

Dr. Steinbergh moved to approve the proposed amended rule for circulation to interested parties as proposed. Mr. Giacalone seconded the motion. A vote was taken:

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

Mr. Giacalone	- aye
Dr. Steinbergh	- aye
Mr. Gonidakis	- aye
Mr. Kenney	- aye
Dr. Sethi	- aye
Dr. Soin	- aye
Dr. Schottenstein	- aye
Dr. Schachat	- aye
Dr. Edgin	- aye

The motion carried.

PHYSICIAN ASSISTANT/SCOPE OF PRACTICE COMMITTEE

FORMULARY REVIEW

Dr. Sethi moved to add Compazine to the “physician-initiated” category of the physician assistant formulary for antiemetic purposes. Dr. Saferin seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Mr. Giacalone	- aye
	Dr. Steinbergh	- aye
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye
	Dr. Sethi	- aye
	Dr. Soin	- aye
	Dr. Schottenstein	- aye
	Dr. Schachat	- aye
	Dr. Edgin	- aye

The motion carried.

Dr. Sethi stated that the Committee also discussed a request to allow physician assistants to prescribe alteplase, a thrombolytic agent, for the purpose of breaking up clots in a PICC line or a central line. Alteplase is currently in the “CPT may not prescribe” category of the physician assistant formulary. Following discussion, the Committee decided to send this matter back to the Physician Assistant Policy Committee (PAPC) to add warning language on the administration of alteplase to break up clots in lines. Of special concern to the Committee were possible central nervous system effects from this practice.

SPECIAL SERVICES APPLICATIONSJOHN PARENTE, D.O.

Dr. Sethi stated that the special service applications of Dr. Parente have been tabled indefinitely due to pending changes in the physician assistant law that will no longer require Board approval for special services. Dr. Sethi asked Ms. Debolt to discuss the new law.

Ms. Debolt stated that Senate Bill 10 will become effective on October 15. Under Senate Bill 10, if a physician assistant license applicant has a master's degree that meets specific requirements they will receive prescribing authority along with their license to practice. Ms. Debolt stated that even with prescribing authority, the physician assistant will only be able to prescribe if their supervising physician specifically delegates that ability to them. Also under Senate Bill 10, the Medical Board will no longer be approving special services plans. Instead, the scope of practice of a physician assistant will include any service within their supervising physician's routine practice and expertise.

Ms. Debolt stated that other laws in place will limit the practice of physician assistants. For instance, the Board's rules on light-based medical devices will prevent physician assistants from using a laser for anything except hair removal with the supervising physician on-site. Physician assistants are also limited in the places in which they are allowed to prescribe controlled substances. Ms. Debolt also stated that physician assistants will not be able to perform x-rays unless they are licensed to do so by the Ohio Department of Health.

Ms. Debolt stated that the Board's rules will need to be amended in the coming months in order to implement Senate Bill 10.

Dr. Sethi exited the meeting at this time.

LICENSURE COMMITTEELICENSURE APPLICATION REVIEWSHESHAM AHMED ABOUD, M.D.

Dr. Saferin moved to approve the good cause exception of the 10-year rule as outlined in 4731-6-14(C)(3)(b)(ii), and accepting the examination sequence in order to grant Dr. Abboud a license. Dr. Steinbergh seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Mr. Giacalone	- aye
	Dr. Steinbergh	- aye
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye

Dr. Soin	- aye
Dr. Schottenstein	- aye
Dr. Schachat	- aye
Dr. Edgin	- aye

The motion carried.

ADAM STUART NELSON, M.D.

Dr. Saferin moved to approve Dr. Nelson's request to deem his training and experience in Australia and the one-and-a-half years of post-graduate training in the United States to be equivalent to 24 hours months of graduate medical education through the second-year level so that he may be granted a license. Dr. Steinbergh seconded the motion. A vote was taken:

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

The motion carried.

COMPLIANCE COMMITTEE

Dr. Steinbergh stated that on August 12, 2015, the Compliance Committee met with Matthew A. Colflesh, M.D.; Amanda S. Conn, M.T.; Jesse M. Ewald, M.D.; Adam Maier, D.O.; Pooranand Palaparty, M.D.; and Suman C. Vellanki, M.D., and moved to continue them under the terms of their respective Board actions. The Compliance Committee accepted Compliance staff's report of conferences on July 6th and 7th, 2015.

PROBATIONARY REQUESTS

Mr. Kenney advised that at this time he would like the Board to consider the probationary requests on today's consent agenda. Mr. Kenney asked if any Board member wished to discuss a probationary request separately. Dr. Steinbergh stated that she would like to discuss the probationary requests of Regis P. Burlas, D.O. and Gary Allan Dunlap, D.O., separately.

Dr. Steinbergh noted that Dr. Burlas, who had his third relapse in March 2013, has been out of practice since June 2012. Dr. Burlas is currently working towards a massage therapy license. Dr. Steinbergh asked if Dr. Burlas had held a physician assistant license prior to attending medical school. Ms. Bickers replied

that she is not aware of Dr. Burlas having held a physician assistant license. Dr. Steinbergh also noted that Dr. Burlas' Pennsylvania medical license has been suspended based on the actions on his Ohio medical license.

Regarding Dr. Dunlap, Dr. Steinbergh recalled that he had had hoarding disorder and his medical office had not been safe for patients to enter due to clutter. Dr. Steinbergh stated that she had made previous inquiries and had learned that a Board investigator visits Dr. Dunlap's office every six months. The investigator reports have thus far been positive.

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

- **To grant Ajay Bhatia, M.D.'s request for reduction in psychiatric sessions to every eight weeks; and discontinuance of the chart review requirement;**
- **To grant Courtney D. Borruso, D.O. request for reduction in psychiatric sessions to every four months; and reduction in appearances from every three months to ever six months;**
- **To grant Regis P. Burlas, D.O.'s, request for permission to continue under the terms of the June 12, 2013 Superseding Step I Consent Agreement while residing in Rhode Island;**
- **To grant Matthew A. Colflesh, M.D. request for approval of *Intensive Course in Controlled Substance Prescribing*, offered by Case Western Reserve University;**
- **To grant Gary Allan Dunlap, D.O.'s request for reduction in appearances from every three months to once per years;**
- **To grant Allison C. Heacock, M.D.'s request to discontinue the monthly psychotherapy requirement;**
- **To grant Thomas D. Kramer, Jr., M.D.'s request for approval of Scott M. Campbell, M.D., to serve as the new monitoring physician;**
- **To grant Adam C. Maier, D.O.'s request for approval of Thomas M. Anderson , M.D., to serve as the monitoring physician;**
- **To grant Mary Elizabeth Mudd, M.D.'s request for approval of *Intensive Course in Medical Documentation; Clinical, Legal and Economic Implications for Healthcare Providers*, administered by Case Western Reserve University, to fulfill the medical record keeping course requirement;**
- **To grant John E. Ratliff, D.O.'s request for approval of *Managing Pain Without Overusing Opioids; The Opioid Epidemic (6 modules); Legal Advisor: Identifying Drug Dependence; Managing Risk When Prescribing Narcotic Painkillers; Opioid Prescribing Series (6 modules); Principles of Palliative Care and Persistent Pain Management (2 Modules); A Message from MMS President Dennis***

M. Dimitri, M.D.; MMS Opioid therapy & Physician Communication Guidelines;, administered by the Massachusetts Medical Society, to fulfill the controlled substances prescribing course required for reinstatement; and approval of the online course *Electronic Health Records (3 modules)*, administered by the Massachusetts Medical Society, to fulfill the medical record-keeping course requirement;

- To grant Florencia A. Riel-Guzman, M.D.'s request for approval of *The Complete Practice Management Seminar*, offered by the University of Tennessee College of Medicine, Chattanooga, to be administered in online course format;
- To grant Carol G. Ryan, M.D.'s request for approval of a new practice plan;
- To grant Rick Skibicki, M.D.'s request for approval of Bradford L. Borden, M.D., to serve as the new monitoring physician;
- To grant Terry L. Thomas, D.O.'s request for approval of Justin W. Jeffries, D.O., to serve as the new monitoring physician; and
- To grant Randall G. Whitlock, Jr., P.A.'s request for reduction in appearances to twice per year; reduction in recovery meeting attendance to two per week with a minimum of ten per month; and approval of Kenneth A. Writesel, D.O., to serve as the new reporting physician;

Mr. Giacalone seconded the motion. A vote was taken:

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

The motion carried. (Dr. Steinbergh noted her abstention from the vote regarding Adam C. Maier, D.O., John E. Ratliff, D.O., and Mary Elizabeth Mudd, M.D.)

REINSTATEMENT REQUEST

FRANKLIN D. DEMINT, D.O.

Dr. Steinbergh moved that the request for the reinstatement of the license of Franklin D. Demint,

D.O., be approved, effective immediately, subject to the permanent limitations, probationary terms and conditions as outlined in the November 5, 2014 Order for a minimum of three years. Mr. Gonidakis seconded the motion. A vote was taken:

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

The motion carried.

FINAL PROBATIONARY APPEARANCES

CAROL E. LEWIS, M.D.

Dr. Lewis was appearing before the Board pursuant to her request for release from the terms of her September 12, 2012 Consent Agreement. Ms. Bickers reviewed Dr. Lewis' history with the Board.

In response to questions from Dr. Steinbergh, Dr. Lewis stated that she has served as the staff psychiatrist at Catholic Charities in Cleveland for one year following the completion of a fellowship in addiction psychiatry and passing the addiction medicine board examination. Dr. Lewis stated that her position is challenging but not overwhelming. Dr. Lewis stated that her husband and her friends are very supportive and she has two home groups in Alcoholics Anonymous. Dr. Lewis also continues to see her psychiatrist and her therapist regularly.

Mr. Gonidakis asked Dr. Lewis to describe her caseload. Dr. Lewis replied that she sees about 150 patients at Catholic Charities and an additional 10 to 20 patients at the Matt Talbot for Women Treatment Center.

Dr. Steinbergh asked if Dr. Lewis has any questions for the Board. Dr. Lewis stated that she has no questions, but she wanted to personally thank Dr. Steinbergh for what she had said to Dr. Lewis on a previous occasion. Specifically, after Dr. Lewis regained her Ohio medical license, Dr. Steinbergh had stated that she worries about Dr. Lewis. Dr. Lewis stated that that was the first time that she felt the Board had her best interests at heart as well as that of her patients. Dr. Lewis stated that Dr. Steinbergh's comments affected her and helped turn things around for her.

Dr. Steinbergh moved to release Dr. Lewis from the terms of her September 12, 2012 Consent

Agreement, effective immediately. Dr. Soin seconded the motion. A vote was taken:

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

The motion carried.

DONALD RAY SAVAGE, JR., M.D.

Dr. Savage was appearing before the Board pursuant to his request for release from the terms of the Board's Order of March 12, 2014. Ms. Bickers reviewed Dr. Savage's history with the Board.

Mr. Giacalone asked Dr. Savage to explain what brought him before the Board and to give advice to the medical students in attendance. Dr. Savage advised the students to know and follow the rules, even if they see other physicians breaking rules by prescribing to colleagues, friends, or family members. Dr. Savage stated that when he was dating his present wife he prescribed facial cream for her; therefore, she became Dr. Savage's patient. Dr. Savage also saw her children as patients, which was also improper. Dr. Savage stated that his medical license was suspended for six months due to these events. Dr. Savage stated that being someone's physician puts one in a position of power. Dr. Steinbergh agreed and stated that sexual misconduct with someone who makes medical decisions for a patient, such as pediatric patients, is like having sex with a patient.

Dr. Steinbergh commented that Dr. Savage has learned a lot from his professional boundaries course. Dr. Savage stated that the course was excellent and he opined that it should be a required course for medical students and physicians.

Dr. Steinbergh moved to release Dr. Savage from the terms of the Board's Order of March 12, 2014, effective September 18, 2015. Mr. Giacalone seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Mr. Giacalone	- aye
	Dr. Steinbergh	- aye
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye

Dr. Sethi	- aye
Dr. Soin	- aye
Dr. Schottenstein	- aye
Dr. Schachat	- aye
Dr. Edgin	- aye

The motion carried.

CAROL A. THIERRY, A.A.

Ms. Thierry was appearing before the Board pursuant to her request for release from the terms of her September 9, 2009 Consent Agreement. Ms. Bickers reviewed Ms. Thierry's history with the Board.

Dr. Steinbergh stated that medical practitioners often face stresses, including economic stresses, that lead them to make bad decisions. Dr. Steinbergh asked Ms. Thierry to describe her situation to the medical students in attendance at today's meeting.

Ms. Thierry stated that she had practiced as an anesthesiologist assistant at the Cleveland Clinic for most of her 30-year career. Ms. Thierry stated that she became very upset when the Cleveland Clinic announced that anesthesiologist assistants would have to clock in and out for work and would no longer be paid for a half-hour lunch. Ms. Thierry felt that the Cleveland Clinic had wanted an "anesthesia robot," while she saw herself as someone working on people's lives and making sure they were safe in the operating room. Ms. Thierry stated that some workdays she would clock in early or clock out late. On some occasions when she was not assigned to work, Ms. Thierry would clock in for a couple of hours. Ms. Thierry stated that this went on for a couple of years until she was caught. As a consequence of getting caught, Ms. Thierry was fired and her anesthesiologist assistant license was suspended for a year. Ms. Thierry advised the students to not let anger ruin their careers. Dr. Steinbergh stated that the medical students may face challenges similar to Ms. Thierry's, noting that some physicians have committed Medicaid fraud because they felt they were not being paid enough.

Dr. Steinbergh asked Ms. Thierry what she is doing currently. Ms. Thierry replied that she is taking care of various family members who have had health problems.

Dr. Soin asked if Ms. Thierry sees any difference between clocking in without doing work and, for instance, shoplifting. Ms. Thierry replied that what she did was dishonest and she has paid back what she owed. Ms. Thierry also answered Dr. Soin's questions regarding the scope of practice of an anesthesiologist assistant and the level of physician supervision involved. Dr. Steinbergh provided a brief history of the Medical Board's regulation of the anesthesiologist assistant profession.

Mr. Giacalone opined that Ms. Thierry remains bitter towards Cleveland Clinic for changing her position from salaried to hourly wages. Mr. Giacalone asked if Ms. Thierry takes ownership of her actions. Ms. Thierry stated that she took those actions out of anger and that it was a stupid mistake. Ms. Thierry stated that under hourly wages there was no incentive to work harder or faster because doing so hurt oneself financially. Ms. Thierry also stated that the hourly wages only applied to the ambulatory surgery centers

where she worked and that the anesthesiologist assistants working at the main campus remained salaried until four years later. When Mr. Giacalone reiterated his question, Mr. Thierry replied that what she did was wrong and that she apologized to everyone the day she was fired.

Dr. Schottenstein, noting the recent health problems in Ms. Thierry's family, asked how Ms. Thierry is holding up. Ms. Thierry replied that she is doing well and her husband is in good health again.

Dr. Steinbergh moved to release Ms. Thierry from the terms of her September 9, 2009 Consent Agreement, effective September 10, 2015. Mr. Giacalone seconded the motion. A vote was taken:

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

The motion carried.

ADJOURNMENT

Dr. Steinbergh moved to adjourn the meeting. Dr. Saferin seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Mr. Giacalone	- aye
	Dr. Steinbergh	- aye
	Mr. Gonidakis	- aye
	Mr. Kenney	- aye
	Dr. Sethi	- aye
	Dr. Soin	- aye
	Dr. Schottenstein	- aye
	Dr. Schachat	- aye
	Dr. Edgin	- aye

The motion carried.

Thereupon, at 3:30 p.m., the September 9, 2015 session of the State Medical Board of Ohio was adjourned.

September 9, 2015

We hereby attest that these are the true and accurate approved minutes of the State Medical Board of Ohio meeting on September 9, 2015, as approved on October 14, 2015.



Donald R. Kenney, Sr., President



Kim G. Rothermel, M.D., Secretary

(SEAL)

