

July 13, 2016

MINUTES**THE STATE MEDICAL BOARD OF OHIO****July 13, 2016**

Michael L. Gonidakis, President, called the meeting to order at 9:55 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: Amol Soin, Vice President; Kim G. Rothermel, M.D., Secretary; Bruce R. Saferin, D.P.M., Supervising Member; Anita M. Steinbergh, D.O.; Robert P. Giacalone; Andrew P. Schachat, M.D.; Michael Schottenstein, M.D.; and Richard Edgin, M.D. The following member did not attend: Donald R. Kenney, Sr.

Also present were: Anthony J. Groeber, Executive Director; Kimberly Anderson, Assistant Executive Director; David Fais, Assistant Executive Director; Susan Loe, Director of Human Resources and Fiscal; Sallie J. Debolt, Senior Counsel; Teresa Pollock, Deputy Director for Communications; Joan K. Wehrle, Education and Outreach Program Manager; Jonithon LaCross, Public Policy & Governmental Affairs Program Administrator; Marcie Pastrick, Angela McNair, Cheryl Pokorny, Gregory Taposci, James Roach, and Kimberly Lee, Enforcement Attorneys; Kyle Wilcox, Melinda Snyder, and Emily Pelphrey, Assistant Attorneys General; R. Gregory Porter, Chief Hearing Examiner; Danielle Blue, Hearing Examiner; Alexandra Murray, Managing Attorney for Standards Review, Experts, and Intervention; Annette Jones and Angela Moore, Compliance Officers; Mitchell Alderson, Administrative Officer; Chantel Scott, Chief of Renewal; Julie Williams, Public Information Officer; Christine Schwartz, Legal and Policy Staff Attorney; Jacqueline A. Moore, Legal/Public Affairs Assistant; Jack Holdford and Victoria Valena, Nurse Reviewer Specialists; and Benton Taylor, Board Parliamentarian.

MINUTES REVIEW

Dr. Steinbergh moved to approve the draft minutes of the June 8, 2016, Board meeting, as amended. Dr. Soin seconded the motion. All members voted aye. The motion carried.

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 anesthesiologist assistant 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," and the physician applicants listed in Exhibit "E" as listed in the agenda supplement and handout. Dr. Steinbergh further moved to approve the results of the July 1, 2016 Cosmetic Therapy Examinations and to certify as passing and license those receiving a score of 75 or greater on their examination, and to certify as failing and deny licensure to those who received a score of less than 75 on the examination, as listed in the handout. Dr. Soin seconded the motion. A vote was taken:

ROLL CALL:

Dr. Rothermel - aye

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

The motion carried.

REPORTS AND RECOMMENDATIONS

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

Mr. Gonidakis 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: Ernest B. de Bourbon, III, M.D.; Kristen Gabrielle Landry, M.D.; Harry Persaud, M.D.; and Steven Ralph Angerbauer, M.D. A roll call was taken:

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

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

Mr. Gonidakis 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. Gonidakis 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.

ERNEST B. DE BOURBON, III, M.D.

Mr. Gonidakis directed the Board's attention to the matter of Ernest B. de Bourbon, III, M.D. Objections have been filed to Ms. Blue's Report and Recommendation and were previously distributed to Board members.

Mr. Gonidakis stated that a request to address the Board has been timely filed by Dr. de Bourbon. Five minutes will be allowed for that address.

Dr. de Bourbon was represented by his attorney, James McGovern.

Dr. de Bourbon, a board-certified emergency medicine physician and a military veteran, stated that he retired ten years ago and subsequently started a cosmetic medical practice. Dr. de Bourbon stated that he is appearing before the Board today due to incomplete records used in the Board's initial evaluation of Patient 2. Dr. de Bourbon stated that the incomplete records were due to a clerical error in his office and once this was discovered the complete record was turned over as soon as it was permissible.

Dr. de Bourbon stated that the State failed to prove its allegation that a breach in the standards of care led to Patient 2's 2011 death. Dr. de Bourbon also stated that the State failed to prove its allegation of a medical records violation in his care of Patient 2, noting that the State's expert witness conceded that the medical record actually met the standards of care. Dr. de Bourbon admitted that he committed technical rules violations in his care of Patient 1 in 2007.

Dr. de Bourbon continued that during his career as an emergency physician he became very skilled in handling critical care patients and the procedures he performed at that time were much more complex than the cosmetic procedures at issue in this case. Dr. de Bourbon stated that to become qualified in cosmetic medicine he sought the best training available. Dr. de Bourbon stated that he attended many of the same programs as plastic surgeons and he was evaluated based on his demonstrated competence. Dr. de Bourbon stated that because he followed the Medical Board's education and training criteria, he was not charged with violating Section 4731-25-04(A), Ohio Administrative Code, regarding sufficient liposuction education, training, and experience. Dr. de Bourbon stated that out of 1,200 liposuction cases he has performed since 2010 he has had only one complication, which was a known complication of fat transfer. Dr. de Bourbon stated that his patients are generally happy with their procedures and he has not had any

problems with actual liposuction technique. Dr. de Bourbon added that in 2010 his office was accredited by the Accreditation Association for Ambulatory Health Care (AAAHC) and everything has been done “by the book” since that time.

Dr. de Bourbon stated that his care and medical record for Patient 2 met all applicable standards of care, as supported by the State’s expert witness, Robert D. Lewis, M.D., and by what Dr. de Bourbon learned in the intensive medical record-keeping course he recently completed. Dr. de Bourbon stated that there is no evidence that he violated the standards of care or that any violation of the standards of care caused Patient 2’s death. Dr. de Bourbon noted that Dr. Lewis agreed that not every physician documents blood aspiration prior to injection and that Dr. Lewis conceded that there is no such standard of care for documentation. Dr. de Bourbon further stated that Dr. Lewis conceded that there may or may not have been blood present in the aspirate and that the outcome could still have been the same. Dr. de Bourbon stated that his recent medical record-keeping course corroborated his procedural documentation as being appropriate given his usual practice pattern and that Dr. Lewis’ comment of “not documented, not done” is naïve given the realities of medical practice.

Dr. de Bourbon continued that Patient 2’s autopsy did not corroborate Dr. Lewis’ assumption that Patient 2’s fat embolism resulted from an overt violation of a large central vessel by a needle. Rather, the fat embolism, which is a known complication, was only found in Patient 2 by microscopic lung staining, suggesting a passive absorption through small exposed veins.

Dr. de Bourbon stated that the Hearing Examiner made some derogatory comments that should be taken with a grain of salt. Dr. de Bourbon stated that the Hearing Examiner’s comments were unfounded and biased and, for reasons that he could not discuss, he asked the Board members to keep an open mind. Dr. de Bourbon stated that the Hearing Examiner’s recommendation to suspend his medical license and permanently restrict him from performing liposuction is completely unwarranted. Dr. de Bourbon questioned why the Board should restrict him from performing liposuction when the key issues of this case were documentation of the injection technique for the fat transfer in Patient 2 and a technical rules violation in Patient 1. Dr. de Bourbon opined that it made no sense to restrict him from a procedure that is not even remotely related to these two cases. Dr. de Bourbon stated that a more logical recommendation could have been to restrict his ability to perform fat transfer to the buttocks.

Dr. de Bourbon admitted to and apologized for his technical rules violation in his care of Patient 1. Dr. de Bourbon stated that it had been early in his career and he has done everything since then to be in compliance with the Board’s rules. Dr. de Bourbon stated that at that time he and the experts he spoke with, including representatives of the Medical Board, did not understand the nuances of the Ohio rules for tumescent anesthesia, which imposed additional requirements beyond what was taught nationally. Dr. de Bourbon stated that Patient 1 had wanted a less invasive procedure to help correct problems from a prior botched surgery. Dr. de Bourbon stated that during each of the procedures with Patient 1 he worked on distinct areas and that it was well within the standards of care and his clinical judgement to do so. Dr. de Bourbon stated that Dr. Lewis had never done one of these procedures. Dr. de Bourbon stated that Patient 1’s abdominal procedure went well but he never had a chance to complete her leg treatments because she was non-compliant with her care. Dr. de Bourbon stated that his work was subsequently judged unfairly and that all the experts at the hearing agreed that not enough time had passed to allow complete healing

and know the full impact of his work.

Dr. de Bourbon asked the Board to consider this information and avoid sanctions that would suspend his license or impose any practice restrictions.

Mr. McGovern asked the Board to consider various motions and rules regarding a Quality Intervention Panel issue.

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

Mr. Wilcox stated that Dr. de Bourbon was trained in emergency medicine and he had never attended a surgery residency program or been formally trained in plastic surgery. In 2004 Dr. de Bourbon, having decided to enter the field of cosmetic and plastic surgery, embarked on what he called “hands-on training” by shadowing other physicians doing these procedures. Mr. Wilcox stated that Dr. de Bourbon had believed that these liposuction procedures were minimally-invasive, quick, and did not require general anesthesia. However, Mr. Wilcox noted expert testimony indicating that these are serious surgical procedures. Mr. Wilcox stated that though Dr. de Bourbon had attended seminars and learned “proprietary procedures,” one cannot learn proper surgical technique and make up for lack of training by attending weekend seminars. Mr. Wilcox stated that it is clear from the testimonies of Dr. de Bourbon and the State’s expert witness, Dr. Lewis, that Dr. de Bourbon did not understand the full impact these procedures have on the human body.

Mr. Wilcox opined that Dr. de Bourbon displayed arrogance at his hearing and that he seemed to be incredulous that he was going through this process. Mr. Wilcox stated that Dr. de Bourbon felt that his experience as an emergency medicine physician allowed him to enter the field of plastic and cosmetic surgery, but Mr. Wilcox noted that surgeons undergo years of training. Mr. Wilcox stated that general surgery residency is about five years and plastic surgery residency is another three years for a total of eight years of post-graduate training which Dr. de Bourbon seemed to think he could bypass.

Mr. Wilcox stated that Dr. de Bourbon still believes that he did nothing wrong and that Patient 2 died due to a known complication. However, the State believes, and the State’s expert testified, that Dr. de Bourbon’s technique was improper and caused the ultimate demise of Patient 2. Mr. Wilcox stated that Patient 2, a 35-year-old mother of four, died from pulmonary embolism.

Mr. Wilcox stated that he essentially agrees with the Hearing Examiner’s Proposed Order, though he felt that the suspension of Dr. de Bourbon’s license should be for a minimum of one year instead of 180 days. Mr. Wilcox strongly supported the proposed permanent limitation from performing liposuction. Mr. Wilcox stated that Dr. de Bourbon needs to be held to the standard of a plastic surgeon in Ohio, a standard which he fell woefully short of.

Dr. Steinbergh moved to approve and confirm Ms. Blue’s Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Ernest B. De Bourbon, M.D. Dr. Schottenstein seconded the motion.

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

Dr. Soin stated that Dr. de Bourbon completed a three-year emergency medicine residency in 1995 which, according to Dr. de Bourbon's testimony, included assisting in surgeries. Dr. Soin stated that Dr. de Bourbon perceives himself from his residency training as half surgeon and half critical care specialist. Dr. de Bourbon, who is active-duty military, served as an emergency physician at Wright-Patterson Air Force Base from 1995 to 1999 and as medical director at O'Bleness Memorial Hospital from 2000 to 2004. Dr. de Bourbon testified that as an emergency physician he has performed some complex surgical procedures, including an appendectomy, subclavian vein line, intubation, and drilling a burr hole to relieve a blood clot in a patient's skull.

Dr. Soin stated that Dr. de Bourbon left emergency medicine in 2004 to enter the field of cosmetic medicine, founding Artemis Laser and Vein Center in Dublin, Ohio. At first, Dr. de Bourbon only treated varicose veins, but he eventually began adding some cosmetic procedures and liposuction techniques such as Cool Lipo, Smart Lipo, and traditional liposuction. Dr. de Bourbon estimated that by 2011 he was performing about 200 liposuctions per year and that liposuction constituted about 25% of his practice at that time. Regarding his training in liposuction and fat transfer, Dr. de Bourbon testified that he observed physicians performing laser liposuction in Dayton, Ohio and Saint Louis, Missouri, completed over 24 hours of continuing medical education (CME) on the subject, and was formally trained on the use of a liposuction machine over a two-day period.

Dr. Soin stated that the State's expert witness, Robert D. Lewis, M.D., completed a five-year residency in general surgery in 1995 and a two-year plastic surgery residency in 1997. Although Dr. Lewis agreed that the types of procedures Dr. de Bourbon performed on Patient 1 and Patient 2 are not the sole province of plastic surgeons, he asserted the Dr. de Bourbon should be held to the standards of care of a plastic surgeon. Dr. de Bourbon's expert witness, Marvin A. Borsand, D.O., completed a research fellowship in addictionology and a four-year residency in general surgery. Dr. Borsand did not complete a plastic surgery residency or take additional training in plastic surgery, but he was board certified in cosmetic surgery and facial plastic surgery based on his qualifications as a surgeon.

Dr. Soin briefly reviewed Dr. Lewis' explanation of liposuction as the removal of fat from specified areas of the body either mechanically or using different techniques to emulsify or liquefy the fat to remove it. Dr. Lewis also affirmed that liposuction is a surgical procedure and stated that he considered the removal of 100 cc or more fat to be major surgery.

Dr. Soin continued that Patient 1, a female born in 1944, was treated by Dr. de Bourbon from April to July 2007. Patient 1 first presented to Dr. de Bourbon with complaints of excess abdominal fat deposits, especially around her umbilicus. Dr. Soin observed that Dr. de Bourbon's medical record included multiple sentence fragments. On July 11, 2007, Patient 1 had a second office visit and complained of excess irregular fat deposits, cellulite, a post-surgical deep groove in her right hip and thigh, and fat deposits and cellulite in the left hip and thigh. On the same day, Dr. de Bourbon performed laser-assisted lipolysis and lipoplasty to Patient 1's right lateral hip and thigh and the left lateral thigh. On July 19, Dr. de Bourbon performed another laser-assisted lipolysis and lipoplasty on Patient 1's right lateral hip and

thigh.

Patient 1 subsequently saw Arthur H. Bing, M.D., a plastic reconstructive surgeon, seeking a second opinion. Patient 1 later saw Robert Heck, M.D., a plastic surgeon, seeking revisionary surgery because she was unhappy with the results of the laser liposuction. Upon examination, Dr. Heck noted that Patient 1's legs were "horribly disfigured by Artemis" and added that it was "very uneven." Dr. Heck opined that multiple surgeries would be required to correct the problems.

Dr. Soin stated that Dr. Lewis testified that Dr. de Bourbon had departed from, or failed to conform to, the minimal standards of care in his treatment of Patient 1. Dr. Lewis set forth the following opinions in his report:

- Dr. de Bourbon's clinical judgment to perform laser-assisted liposuction was flawed
- Dr. de Bourbon's documentation of details of the operation were non-existent, his office notations were sparse, and his follow-up was limited
- There was no documentation of vital signs the day of the procedure or following the procedure.
- Dr. de Bourbon failed to follow-up appropriately with Patient 1 after the first two procedures and no documentation was provided to confirm any post-operative care at all
- Suction lipectomy of any volume over 100 cc should be considered a major operative procedure and appropriate precautions and documentation should be in place
- The proximity of the second and third procedure is highly suspect.

Dr. Soin stated that Dr. Borsand, Dr. de Bourbon's expert witness, also criticized Dr. de Bourbon for failure to document Patient 1's vital signs or to administer an IV during her procedures, as required by Rule 4731-25-05. Dr. de Bourbon admitted that in 2007 he was not familiar with the Board's rules regarding office-based liposuction, and therefore acknowledged violating Rule 4731-25-05.

Dr. Soin continued that Patient 2, a female born in 1975, was treated by Dr. de Bourbon from July 2010 to October 2011. Patient 2 was seeking Cool Lipo in the abdominal area. Dr. Soin noted that by this time Dr. de Bourbon's documentation had improved significantly. Dr. Soin stated that Patient 2's initial procedure went well with no complications and she was pleased with the results. Patient 2 had three post-operative visits.

In October 2011 Patient 2 underwent a second liposuction procedure to her abdomen and a fat transfer to her buttocks. Tragically, Patient 2 coded on the operating table and later died at Dublin Methodist Hospital. The Franklin County Coroner reported that the cause of death was a fat embolism as a consequence of liposuction and injection of adipose tissue. Dr. Soin stated that upon microscopic examination, it was noted that Patient 2's pulmonary vessels demonstrated the "presence of fat on the oil red stain O."

In his report, Dr. Lewis set forth the following criticisms of Dr. de Bourbon's care of Patient 2:

- The use of traumatized fat following VASER liposuction is of questionable value
- Dr. de Bourbon failed to document appropriate safeguards
- There was no specific operative note for Patient 2's October 13, 2011, procedure
- The documentation of the procedure is vague and lacks specific information such as the type and size of the injection needle or cannula, how the fat was handled and processed, and any mention of aspirating the syringe prior to injecting fat.

Dr. Lewis testified that upon his review of Patient 2's chart and autopsy report, it appeared that Dr. de Bourbon's fat injection caused Patient 2's arrest. However, Dr. Lewis also noted that arrest is a known complication of liposuction. Dr. de Bourbon testified that he had performed over 1,000 such procedures and that this was his first such complication.

Dr. Soin stated that he supports the Hearing Examiner's Proposed Order of a minimum 180-day suspension of Dr. de Bourbon's license and a permanent restriction from performing liposuction procedures. Dr. Soin stated that the vast majority of plastic surgeons undergo about eight years of post-graduate training in surgery and plastic surgery, whereas Dr. de Bourbon took multiple two-day courses and CME courses to prepare to do these major procedures. Dr. Soin emphasized that Patient 2 died, which is the worst possible outcome. Dr. Soin acknowledged that arrest is a known complication of the procedure, but commented that many plastic surgeons never have such a complication in their entire careers. Dr. Soin opined, in light of the importance of protecting the public, that the permanent limitation makes sense for a practitioner who is not board-certified in plastic surgery, has had a patient death, and has been the subject of multiple concerns about patient care and documentation. Dr. Soin further opined that Dr. de Bourbon's testimony shows that he lacks some situational awareness and responsibility for what happened. Dr. Soin expressed concern about Dr. de Bourbon potentially doing this again in the absence of a permanent restriction.

Dr. Steinbergh reiterated that Dr. de Bourbon was trained in emergency medicine, but he left that field to open a practice doing liposuction and other plastic surgery procedures. Dr. Steinbergh opined that when a doctor steps away from their training and goes into other areas of medicine without proper residency training, they put themselves and their patients at risk. Dr. Steinbergh stated that it is good to improve one's body of knowledge, but courses and seminars do not compare to the years of training and layering of knowledge one gets from a residency program. Dr. Steinbergh stated that the lack of such in-depth training in a field increases the likelihood that errors will occur. Dr. Steinbergh expressed particular concern about Patient 2, stating that a patient death is very serious under any circumstances.

Dr. Steinbergh briefly reviewed the credentials of the expert witnesses in this case. Dr. Steinbergh stated that the State's expert, Dr. Lewis, is a board-certified plastic surgeon and is fully qualified as an expert. Dr. de Bourbon's expert, Dr. Borsand, is appropriately boarded in general surgery and has faculty appointments, but his board certification in plastic surgery is from a certifying group that is not recognized by the American Board of Medical Specialties (ABMS) or the American Osteopathic Association (AOA). Dr. Steinbergh stated that certification by other groups cannot be compared to that of groups recognized by the ABMS or the AOA.

Dr. Steinbergh opined that the Hearing Examiner's Proposed Order is appropriate, but she felt that the proposed suspension of a minimum of 180 days was too short. Due to the substantial and egregious nature

of this case, Dr. Steinbergh opined that Dr. de Bourbon's license should be suspended for a minimum of 365 days. Dr. Steinbergh questioned what it would mean to the family of Patient 2 if Dr. de Bourbon, who has caused the death of a patient, had his medical license suspended for only six months.

Dr. Steinbergh moved to amend the Proposed Order so that the suspension of Dr. de Bourbon's medical license will be for not less than 365 days. Mr. Giacalone seconded the motion.

Dr. Schachat agreed that Patient 2 died following Dr. de Bourbon's procedure, but stated that it was not clear to him that Patient 2's death was caused by Dr. de Bourbon. Dr. Steinbergh commented that it seems clear to her that that is the case. Mr. Giacalone noted that Patient 2 went into arrest 30 seconds after Dr. de Bourbon's injection. Dr. Schachat agreed that the patient had the event right after the injection, but stated that the event could have happened even if the injection had been done correctly. Dr. Soin agreed that fat embolisms are a known complication of liposuction and can happen even when the correct technique is used. Mr. Giacalone asked if patients are dying on a daily basis from liposuction procedures. Dr. Schachat speculated that death from liposuction procedures is probably very infrequent.

Dr. Soin stated that what most concerned him was Dr. de Bourbon's apparent lack of respect for the fact that liposuction is a dangerous procedure. Dr. Soin noted that when Dr. de Bourbon first began these procedures he did not even use IV's or document vital signs. Dr. Soin acknowledged that Dr. de Bourbon has made improvements in these regards, but reiterated that he is not formally trained as a plastic surgeon and he had a patient death. Dr. Soin opined that the Board is protecting the public with its proposed action.

Dr. Schottenstein stated that he generally agrees with everything that has been said by his fellow Board members. Dr. Schottenstein also agreed that if a physician trains in another area of medicine, he or she must be held to the same standards as other practitioners in that field. However, Dr. Schottenstein also felt that such physicians should not be held to a higher standard than other practitioners in that field. Dr. Schottenstein asked if Dr. de Bourbon would be before the Board today if he was a properly-trained plastic surgeon who had performed multiple procedures and had one horrific outcome due to a known complication. Dr. Steinbergh opined that Dr. de Bourbon is not being held to a higher standard than other plastic surgeons. In answer to Dr. Schottenstein's question, Dr. Steinbergh stated that Dr. de Bourbon would be in the same position if he had trained as a plastic surgeon and these same events happened. Dr. Soin agreed, noting Dr. de Bourbon's lack of proper documentation and rule violations in his treatment of Patient 1. Dr. Schottenstein thanked Drs. Steinbergh and Soin for their answers.

Dr. Schottenstein asked if Dr. de Bourbon should be required to have a practice plan with a monitoring physician when he returns to practice if he is permanently restricted from performing liposuction. Dr. Steinbergh responded that when a physician is disciplined for standard of care issues, the Board usually requires a practice plan during the probationary period to monitor for other potential issues. Dr. Steinbergh stated that if Dr. de Bourbon decides to return exclusively to emergency medicine, he could request a change to his probationary requirements and the Board would consider his request.

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

ROLL CALL: Dr. Rothermel - abstain

Dr. Saferin	- abstain
Mr. Giacalone	- aye
Dr. Steinbergh	- aye
Dr. Soin	- aye
Mr. Gonidakis	- aye
Dr. Schachat	- abstain
Dr. Schottenstein	- aye
Dr. Edgin	- aye

The motion to amend carried.

Dr. Steinbergh moved to approve and confirm Ms. Blue's Findings of Fact, Conclusions of Law, and Proposed Order, as amended, in the matter of Ernest B de Bourbon, III, 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
	Dr. Soin	- aye
	Mr. Gonidakis	- aye
	Dr. Schachat	- aye
	Dr. Schottenstein	- aye
	Dr. Edgin	- aye

The motion to approve carried.

KRISTEN GABRIELLE LANDRY, M.D.

Mr. Gonidakis directed the Board's attention to the matter of Kristen Gabrielle Landry. Objections have been filed to Ms. Blue's Report and Recommendation and were previously distributed to Board members.

Mr. Gonidakis stated that Kristen G. Landry, M.D., has, through counsel, filed a motion to reopen the Hearing Record and/or remand the matter to the Hearing Examiner for purposed of collecting and analyzing newly-discovered material evidence. A copy of Dr. Landry's motion was previously provided to Board members. Mr. Gonidakis asked that the Board members take time to review and consider the motion.

Following time to review and consider the motion, Mr. Gonidakis stated that Dr. Landry may address the Board regarding the motion. Two minutes will be allowed for that address.

Dr. Landry was represented by her attorney, James McGovern.

Mr. McGovern stated that the Board's Rule 4731-28-01 relates to the inability of a practitioner to practice

according to the minimal standards of care without appropriate treatment, monitoring, or supervision. Mr. McGovern therefore found it very important when Dr. Landry recently indicated that she is no longer on any mood-stabilizing medications as she was during her hearing in September and October of 2015. Mr. McGovern apologized for raising this issue at such a late date, but noted that the Board's rules allow for a good-cause exception that would allow the Board to consider accepting newly-discovered information into the hearing record.

Mr. McGovern specified that he is seeking to include in the record evidence that Dr. Landry is no longer taking mood-stabilizing medications. Mr. McGovern also wanted to introduce evidence that the Licensed Independent Practitioner Health Committee (LIPHC) for Dr. Landry's Ohio State University residency program has indicated that it no longer feels the need to monitor Dr. Landry. Lastly, Mr. McGovern asked to introduce evidence of Dr. Landry's solid record of performance during the period that she has not been using mood-stabilizing medication.

Mr. McGovern asked the Board to either consider this new evidence or to remand this matter back to the Hearing Examiner to more fully develop the hearing record.

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

Mr. Wilcox stated that Dr. Landry's motion is to admit newly-discovered material evidence. However, Mr. Wilcox noted that a case in the 10th District Court of Appeals established that newly-discovered evidence is evidence that was in existence at the time of the administrative hearing. Mr. Wilcox noted that this evidence did not exist at the time of Dr. Landry's hearing. Rather, Mr. Wilcox stated that this is newly-created evidence in the form of the type of report that the Board typically receives about a practitioner who is already under probationary terms.

Mr. Wilcox opined that pursuant to case law, the attempt to supplement the hearing record is improper. Mr. Wilcox further opined that the evidence does not meet the legal criteria for newly-discovered evidence. Mr. Wilcox asked that the Board deny the motion. Mr. Wilcox speculated that if the Board grants this motion, then future respondents will admit additional evidence after the hearing record is closed.

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

Dr. Steinbergh opined that the information that Dr. Landry's counsel is seeking to introduce into the hearing record would not change her opinion of the case. Dr. Steinbergh stated that this type of information would typically come to the Board during the licensee's probationary period. Dr. Steinbergh suggested that Dr. Landry's motion be denied because of the Board's processes and the potential of abuse of this precedent in the future.

Dr. Steinbergh moved to deny the motion to reopen the Hearing Record and/or remand the matter to the Hearing Examiner for purposed of collecting and analyzing newly-discovered material evidence. Dr. Schottenstein seconded the motion.

Dr. Schachat commented that he is comfortable with denying the motion and with considering the information in question as new information, not newly-discovered information.

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

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

The motion carried.

Mr. Gonidakis stated that a request to address the Board has been timely filed by Dr. Landry. Five minutes will be allowed for that address.

Dr. Landry was represented by her attorney, James McGovern.

Mr. McGovern opined that the Board was mistaken in ruling against the motion to introduce newly-discovered evidence. Mr. McGovern noted that the Board's rule allows the Board to "permit the introduction of further documentary evidence" and it is not the same standard that applies in the courts.

Dr. Landry stated that she loves her profession and the safety of her patients is her number one priority. Dr. Landry also acknowledged that the Board's primary responsibility is to protect the public.

Dr. Landry stated that she disclosed on her May 2014 application for a training certificate that she has a history of bipolar II disorder. Dr. Landry noted that the training certificate application did not differentiate between bipolar I disorder and bipolar II disorder. Dr. Landry stated that the critical difference is the lack of impairing symptoms in bipolar II disorder. Dr. Landry observed that the State's expert witness, Stephen Noffsinger, M.D., was unable at the hearing to cite this difference until he was given the definition from the Diagnostic and Statistical Manual of Mental Disorders (DSM).

Dr. Landry continued that since her hearing in September 2015, she has successfully completed her second year of residency and passed Step 3 of the United States Medical Licensing Examination on her first attempt. Dr. Landry stated that with the approval her of psychiatrist, Dr. Lammers, she has been off all mood-stabilizing medications for six months. In addition, Dr. Levine, the Chair of the Licensed Independent Practitioners Health Committee (LIPHC) at the Ohio State University, saw no reason to continue any specialized supervision of Dr. Landry.

Dr. Landry stated that throughout her residency she has performed excellently in all areas of clinical competency, well above average in comparison to her peers. Dr. Landry stated that the following comments appeared in her most recent evaluation:

She is a very competent young physician and I'm confident she will only continue to provide great care for her patients. I felt very confident leaving patients in her care and truly believe she is able to practice independently.

Dr. Landry stated that she has been supervised by peers, co-workers, nursing staff, attending physicians, her program director, and the LIPHC. Dr. Landry stated that she has managed critically ill patients, run code blues in the middle of the night, and had many end-of-life discussions. Dr. Landry stated that every day is another opportunity for her emotional and mental stability to be critically tested. Dr. Landry stated that at her hearing, Dr. Noffsinger claimed that there had not been enough time to observe Dr. Landry symptom-free. Dr. Landry stated that there has been nearly a year of observations since the hearing. Dr. Landry stated that she started her residency 757 days ago and she has yet to have a bad day.

Dr. Landry stated that she had three points for the Board's consideration. First, Dr. Landry's behavior and performance in the last two years shows no signs of impairment or patient endangerment. Second, the primary argument in favor of the proposed probation was the fact that Dr. Landry was on mood-stabilizing medications at the time of her hearing to treat her bipolar disorder, and therefore she was impaired pursuant to the Board's definition of that term. However, Dr. Landry stated that she has been off those medications and has continued to perform excellently. Third, Dr. Landry stated that probation without evidence to support impairment would be discrimination because Dr. Landry would be sanctioned based solely on a status and not her conduct.

Dr. Landry stated that she has already faced, and will continue to face, the challenges of being a woman and a minority working as a physician. Dr. Landry stated that she has already faced difficult situations related to those in her workplace who know of her diagnosis. Dr. Landry stated that she has thus far prevailed in these challenges, but she believed that if her mental health diagnosis were made public it would create an undue hardship just as she is beginning her career by unnecessarily forcing her to overcome the inherent stigma that comes with mental illness. Dr. Landry asked the Board members not to discriminate against her today. Dr. Landry stated that she has worked hard to be the best physician she can be. Dr. Landry asked the Board not to place the mental health stigma on her and force her to work harder than her peers to earn the privilege of licensure and advance through her career.

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

Mr. Wilcox stated that in his testimony, the State's expert, Dr. Noffsinger, stated that, "Bipolar disorder is generally a chronic, recurring disorder, and Dr. Landry's history indicates that she has had recurrences of her mild symptoms over the past five to six years." Mr. Wilcox commented that the key phrase is "chronic, recurring disorder." Mr. Wilcox noted that Dr. Landry's psychiatrist, Dr. Lammers, testified that Dr. Landry needs ongoing treatment in order to practice medicine and would probably not be safe to practice otherwise.

Mr. Wilcox observed that Dr. Landry is currently in a training program, and therefore she is in a structured environment. However, Mr. Wilcox stated that the Board is ultimately responsible if it decides to license Dr. Landry without monitoring and something goes wrong. Mr. Wilcox opined that the probationary conditions in the Proposed Order are not onerous, only requiring Dr. Landry to be monitored, make one or two personal appearances before the Board's Secretary and Supervising Member, and for her treating psychiatrist to provide reports to the Board for a minimum of two years. Mr. Wilcox, in comparing the proposed probationary terms to the Board's responsibility to ensure that Dr. Landry is safe to practice medicine, opined that the Board should come down on the side of safety.

Mr. Wilcox continued that it is important the Dr. Landry be monitored, noting Dr. Noffsinger's testimony that bipolar individuals sometimes do not recognize the signs that he or she is having a bipolar episode. Mr. Wilcox opined that No Further Action, as requested by Dr. Landry and her attorney, would be inappropriate in this case.

Dr. Steinbergh moved to approve and confirm Mr. Porter's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Kristen Gabrielle Landry, M.D. Dr. Schottenstein seconded the motion.

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

Dr. Steinbergh noted that although the Board denied the request from Dr. Landry's counsel to introduce newly-discovered evidence into the hearing record for the Board's consideration, Dr. Landry mentioned the information in question in her address to the Board.

Dr. Steinbergh stated that Dr. Landry entered an internal medicine residency at the Ohio State University (OSU) in 2014 and she will complete the program in 2017. Dr. Steinbergh stated that Dr. Landry was very honest on her application for a training certificate and she properly disclosed her diagnosis of bipolar disorder, specifically Bipolar II. Dr. Steinbergh stated that she is not concerned with where this condition falls on the Diagnostic and Statistical Manual of Mental Disorders (DSM). Rather, Dr. Steinbergh stated that the functionality of the individual with the disease is much more important. Dr. Steinbergh noted that individuals with bipolar disorder, like those with other chronic recurrent diseases, can be stable for long periods of time and then become unstable. Dr. Steinbergh stated that in cases such as this, the Board must be certain that the individual will respond properly if there is some instability. Dr. Steinbergh commented that throughout her illness, Dr. Landry has been able to recognize when things were not going well for her and to seek help.

Dr. Steinbergh continued that when Dr. Landry entered her residency in June 2014 she began seeing Dr. Lammers, a psychiatrist. Dr. Landry has been monitored not only by Dr. Lammers, but also by the Licensed Independent Practitioner Health Committee (LIPHC) at OSU. Dr. Steinbergh stated that this monitoring was key to making certain that Dr. Landry stayed healthy, and so Dr. Steinbergh was disturbed to learn that Dr. Landry's LIPHC monitoring has ceased and that she has been taken off mood-stabilizing medications. Dr. Steinbergh speculated that stopping the medication and monitoring activities may be an effort to prove to the Board that Dr. Landry is stable. However, Dr. Steinbergh expressed concern because

Dr. Landry has a long record of stability while on the monitoring program and medication regimen.

Dr. Steinbergh agreed with the testimony of Stephen Noffsinger, M.D., who performed Dr. Landry's Board-ordered psychiatric examination, that Dr. Landry should not practice medicine without appropriate treatment and monitoring. Dr. Steinbergh stated that with psychiatric care and monitoring Dr. Landry has demonstrated stability for the last two years. Dr. Steinbergh reiterated that Bipolar II disorder is a chronic disease and recurrences can be expected.

Dr. Steinbergh noted that following a surgery internship, Dr. Landry decided to go into internal medicine due to issues of sleep deprivation and stress associated with surgery training. While Dr. Noffsinger testified that this demonstrated some impairment, Dr. Steinbergh disagreed and saw this as a sign that Dr. Landry was introspective enough to understand that sleep deprivation and stress can lead to instability for her.

Dr. Steinbergh agreed with Dr. Noffsinger's opinion that Dr. Landry is amenable to treatment and that she should remain in ongoing treatment with a psychiatrist. Dr. Steinbergh felt that Dr. Lammers should do a regular assessment of Dr. Landry while she is in training, even if nothing seems to have changed since the last assessment. Dr. Steinbergh commented that no changes between assessments is a positive sign.

In response to a comment made earlier by Dr. Landry during her address to the Board, Dr. Steinbergh stated that she does not believe under any circumstances that the Board is discriminating against Dr. Landry. Dr. Steinbergh stated that the Board has a responsibility to patients, regardless of Dr. Landry's identity or diagnosis.

Ms. Anderson clarified that the Board denied Dr. Landry's motion to introduce newly-discovered evidence into the hearing record. Ms. Anderson advised the Board to make its decision in this matter based on the information that is in the hearing record. Ms. Anderson acknowledged that Dr. Landry discussed this information when she addressed the Board, but stated that that is argument before the Board and is not part of the hearing record. Dr. Steinbergh thanked Ms. Anderson for the clarification.

Dr. Steinbergh acknowledged letters and correspondence from Dr. Landry's colleagues which express concerns that placing Dr. Landry on probation may only serve to deter other physicians from seeking help for mental disorders without improving patient care. Dr. Steinbergh agreed with this sentiment and stated that there should be an honest discussion about physicians and mental illness. Dr. Steinbergh further agreed that there should not be a stigma on mental health diagnoses in general. Dr. Steinbergh also acknowledged Dr. Landry's concerns that showing any emotions or making any mistakes during her duties could be attributed by others to her mental health disorder.

Dr. Steinbergh stated that she agrees with the Hearing Examiner's Findings of Fact, but wished to offer an amendment to the Conclusion of Law to add the phrase, "...unless she continues to receive appropriate treatment, monitoring, and supervision." Dr. Steinbergh also suggested amending the Proposed Order to No Further Action.

Dr. Steinbergh moved to amend the first paragraph of the Report and Recommendation's

Conclusion of Law to read as follows:

The facts concerning Kristen Gabrielle Landry, M.D., as set forth in Findings of Fact 1 and 2, individually and/or collectively, constitute an “[i]nability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including, but not limited to, physical deterioration that adversely affects cognitive, motor, or perceptive skills,” as that clause is used in R.C. 4731.22(B)(19), unless she continues to receive appropriate treatment, monitoring, and supervision.”

Dr. Steinbergh further moved to amend the Proposed Order to No Further Action. Dr. Schottenstein seconded the motion.

Ms. Anderson advised the Board that the proposed amendment constitutes a contingent Conclusion of Law, which may be legally problematic. Ms. Anderson also advised that a violation of one of the Board’s rules or statutes must be found in order to issue an order of No Further Action.

After some consideration, Dr. Steinbergh opined that the amendment to the Conclusion of Law is unnecessary.

Dr. Steinbergh wished to withdraw her motion to amend. No Board member objection to the withdrawal of the motion. The motion to amend was withdrawn.

Dr. Steinbergh moved to amend the Proposed Order to No Further Action, and to amend the Rationale for the Proposed Order to remove references to any suspension of license. Dr. Schottenstein seconded the motion.

Dr. Schottenstein confirmed that bipolar disorder is a chronic, recurring condition. Dr. Schottenstein explained that there is a difference between Bipolar I and Bipolar II. Dr. Schottenstein stated that Bipolar I is a very severe disease involving mood swings so profound that judgment can be impaired, and therefore it is conceivable that someone with Bipolar I could be symptomatic and not realize it. Dr. Schottenstein stated that individuals with Bipolar II can still function and, typically, can recognize their mood swings and take appropriate action.

Dr. Schottenstein noted Mr. Wilcox’s assertion that probation would not be onerous for Dr. Landry. Dr. Schottenstein opined that that is fair to a point, but stated that placing a practitioner on probation is considered a disciplinary action. Dr. Schottenstein expressed concern about Dr. Landry starting her career with a disciplinary record when she has been doing so well. Dr. Schottenstein stated that Dr. Landry has been a compliant patient and she seeks the help she needs when she is struggling.

Dr. Schottenstein noted that Dr. Landry’s objections to the Report and Recommendation argue that there was no violation of 4731.22(B)(19), Ohio Revised Code, and that the Board did not have the authority to order her to a psychiatric examination. The objections further argued that the Americans with Disabilities Act (ADA) applies to this case. Dr. Landry’s counsel also indicated that hospitalization and diagnosis failed to prove that Dr. Landry is unable to practice medicine and that the Board failed to show a causal

connection between the diagnosis and inability to practice, and therefore there was no violation of 4731.22(B)(19).

In response to Dr. Landry's objections, Dr. Schottenstein stated that the Board is not obligated to show a causal connection; according to the text of the statute, there only has to be "a possible violation" to compel an individual to a psychiatric examination. Dr. Schottenstein stated that there was a possible violation in this case because a licensee with a history of manic or depressive episodes of such severity as to cause suicidal behavior and resulting in psychiatric hospitalization is *prima facie* evidence of severe functional impairment. Dr. Schottenstein stated that the ability to practice medicine is, by definition, adversely impacted in such a situation, especially since bipolar disorder is episodic in nature. Dr. Schottenstein stated therefore that there was definitely a possible violation of 4731.22(B)(19) and a possible causal connection between Dr. Landry's January 2010 psychiatric hospitalization and her current ability to practice medicine according to acceptable and prevailing standards of care which warranted a psychiatric examination. Dr. Schottenstein did not find it logical to assert that the Board must firmly establish a causal connection of a violation of 4731.22(B)(19) to order a psychiatric examination because the purpose of the psychiatric examination is to ascertain those issues. Dr. Schottenstein stated that the Board was justified in ordering Dr. Landry's psychiatric examination not merely because of the disclosure of her diagnosis, but because of additional information regarding Dr. Landry's suicide attempt and psychiatric hospitalization.

Dr. Schottenstein continued that Dr. Landry's counsel also referred to the 10th District Court of Appeals' determination that a violation of 4731.22(B)(19) does not occur by mere evidence of mental illness. Dr. Schottenstein quoted the following passage from Dr. Landry's objections:

Evidence of impairment does not necessarily render an individual unable to practice according to acceptable and prevailing standards of care.

Dr. Schottenstein opined that this statement is fair to a degree, but that the operative phrase is "not necessarily." Dr. Schottenstein stated that in this context, the phrase "not necessarily" means "typically, but not always." Dr. Schottenstein stated that evidence of impairment typically, but not always, renders an individual unable to practice medicine. Based on this reading, Dr. Schottenstein opined that the 10th District Court of Appeals affirms the correctness of the Board's actions to investigate when there is a history of evidence of impairment.

In conclusion, Dr. Schottenstein responded to Dr. Landry's objections by stating that even if there was no evidence in January 2015 that Dr. Landry's condition was not well-controlled, the Board was obliged to investigate the severity of her condition over time. Dr. Schottenstein stated that the Board's actions were not based on a diagnosis, but rather on established facts that Dr. Landry had had an episode of impairment which warranted investigation. Dr. Schottenstein stated that since the impetus for the Board's investigation was based on Dr. Landry's behavior and not her condition, there was not a violation of the ADA.

Dr. Schottenstein stated that he supports the proposed amendment for No Further Action, based on evidence that Dr. Landry's mood has remained stable, she is a compliant patient, she takes her prescribed medication, she avoids alcohol and drugs, and she has a good prognosis.

Mr. Giacalone agreed that the Board does not wish to stigmatize mental illness by taking what is technically a disciplinary action. Mr. Giacalone stated that, unfortunately, there is currently no vehicle in the law to suspend a physician's license in a non-disciplinary manner. Mr. Giacalone suggested that a change in the law in this regard should be considered. Mr. Giacalone stated that two psychiatrists, one the State's expert and one Dr. Landry's treating psychiatrist, both agree that Dr. Landry should be monitored and that some type of medication is required.

Mr. Giacalone stated that he almost takes affront to Dr. Landry's comment about discrimination and stigma. Mr. Gonidakis agreed. Mr. Giacalone stated that the Board's mission is to protect the public. Mr. Giacalone stated that if there is a potential that one patient may be harmed because the Board failed to take appropriate action to ensure that Dr. Landry is aligned with her program, then the Board will not have served its function. Mr. Giacalone expressed concern that the Board may be going out of its way in an effort to avoid stigmatizing mental illness in this case. For these reasons, Mr. Giacalone stated that he cannot support the proposed amendment of No Further Action. Mr. Giacalone stated that the Proposed Order of probation may be overkill, but it is the only pathway available to the Board.

Dr. Steinbergh stated that she has proposed No Further Action because Dr. Landry is stable, introspective, cares about her health, has a good prognosis, and was honest on her application. Noting that Dr. Landry is now in a residency program, Dr. Steinbergh opined that the Board does not need to do anything further. Dr. Steinbergh reiterated her opinion that Dr. Landry should continue with monitoring with the LIPHC and seeing her psychiatrist regularly. Dr. Steinbergh stated that continued monitoring will allow Dr. Landry to document her stability in the future as she moves into other jobs and, potentially, other states.

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

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

The motion to amend did not carry.

Dr. Steinbergh noted that the Proposed Order places Dr. Landry's training certificate under probationary terms for a minimum of two years, meaning that the probation could still be in effect when Dr. Landry applies for full licensure in Ohio or another state. Dr. Steinbergh suggested that Dr. Landry's probation terminate with the conclusion of her residency program.

Ms. Anderson advised the Board that specifying a timeframe for the end of probation would provide clarity

to the Board's order, while making the end of probation contingent on another date could potentially be problematic. Ms. Anderson asked how the Board will know when Dr. Landry's residency concludes. Mr. Giacalone responded the Dr. Landry can inform the Board when her residency concludes.

Mr. Giacalone moved to amend the Proposed Order so that the probationary terms on Dr. Landry's training certificate will continue until the conclusion of her residency or fellowship training in the State of Ohio. Dr. Steinbergh seconded the motion.

Dr. Schottenstein noted for the benefit of the Board members that the proposed amendment would provide a definite time period for Dr. Landry's probation, as opposed to the more indefinite period of "at least two years" in the Proposed Order.

A vote was taken on Mr. Giacalone's motion to amend:

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

The motion to amend carried.

Dr. Steinbergh moved to approve and confirm Ms. Blue's Findings of Fact, Conclusions of Law, and Proposed Order, as amended, in the matter of Kristen Gabrielle Landry, M.D. Mr. Giacalone seconded the motion. A vote was taken:

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

The motion to approve carried.

The Board took a brief recess at 11:50 a.m. and resumed at 12:05 p.m.

HARRY PERSAUD, M.D.

Mr. Gonidakis directed the Board's attention to the matter of Harry Persaud, M.D. Objections have been filed to Ms. Blue's Report and Recommendation and were previously distributed to Board members.

Mr. Gonidakis stated that a request to address the Board has been timely filed by Dr. Persaud. Five minutes will be allowed for that address.

Mr. Gonidakis noted that neither Dr. Persaud nor an attorney representing him is present in the meeting. The Assistant Attorney General declined to address the Board.

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

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

Mr. Gonidakis briefly reviewed Dr. Persaud's medical career. Dr. Persaud testified at his hearing that for 23 years he owned and operated Harry Persaud, M.D., Inc., a cardiology and infectious disease practice, with his wife in Westlake, Ohio. Dr. Persaud has not practiced medicine since June 30, 2013.

Mr. Gonidakis continued that in August 2014 an indictment was filed in U.S. District Court charging him with Health Care Fraud or Aiding and Abetting Health Care Fraud, False Statements Relating to Health Care Matters, and Money Laundering. Mr. Gonidakis stated that these charges relate to fraudulent billing and numerous unnecessary medical tests which led to fraudulent billing between 2006 and 2012. As a result, Dr. Persaud overbilled or caused overbilling of Medicare and private insurance companies in the amount of approximately \$7,200,000, upon which claims Medicare and the private insurance companies paid approximately \$1,500,000. Following a federal jury trial, Dr. Persaud was found guilty of one count of Health Care Fraud, 13 counts of False Statements, and one count of Money Laundering. The jury determined the amount of gross proceeds obtained as a result of Health Care Fraud was \$2,100,000. Authorities seized \$93,000 from one of Dr. Persaud's accounts and \$250,000 from one of his wife's accounts. Dr. Persaud was sentenced to 20 years in prison followed by three years of supervised release. Mr. Gonidakis stated that Dr. Persaud is appealing his criminal conviction.

Mr. Gonidakis stated that during his testimony at hearing, Dr. Persaud admitted that he made numerous mistakes, generally speaking. Dr. Persaud denied performing intravenous urographies (IVU's) inappropriately and instead blamed the hospital technician for the problems. However, Dr. Persaud admitted that the federal government had video evidence of the entire procedure which shows him performing inappropriate actions. Dr. Persaud admitted that he made some mistakes with documentation and billing, but he vehemently denied that he laundered money. Dr. Persaud also claimed that the Board's proceedings were "anti-American" and that he had been "targeted."

Mr. Gonidakis emphasized that Dr. Persaud has been found guilty by a federal jury and he is currently residing in a federal penitentiary. Due to the seriousness of this matter, Mr. Gonidakis supported the Proposed Order of permanent revocation of Dr. Persaud's Ohio medical license.

Dr. Schottenstein commented that Dr. Persaud spent a large amount of time in his hearing trying to re-litigate the trial in which he was found guilty of multiple felonies. Dr. Persaud largely maintained his innocence and only acknowledged issues with documentation and billing. Dr. Schottenstein opined that Dr. Persaud engaged in the six rationalizations. First, Dr. Persaud stated that he did not perform IVU's inappropriately and it was the hospital technician's fault that the procedure was not recorded correctly. Second, Dr. Persaud maintained that he did not launder money and that it was his customary practice to transfer money from his practice to his family trust. Dr. Schottenstein stated that when the money that is transferred was obtained through the commission of a felony, that fits the definition of laundering money. Third, Dr. Persaud stated that his practice was targeted by the U.S. government because he is in private practice and not because of any practice irregularities. Dr. Persaud charged that the government is criminalizing cardiologists and that is "totally anti-American." Fourth, Dr. Persaud admitted making some mistakes, but he asked why the American public should be deprived of his skills and abilities. Dr. Schottenstein noted that Dr. Persaud's implication is that his behavior should be excused because he is so valuable to the community. Fifth, Dr. Persaud stated that his hospital did not follow their own by-laws, did not suggest training or supervision, and that they went directly to the federal government with the problems. Sixth, corrupt administrators took these actions deliberately not due to Dr. Persaud's behavior, but because they want to take away his practice to gain favor with University Hospitals.

Dr. Schottenstein opined that it is not plausible that there is a conspiracy within the U.S. government to persecute Dr. Persaud because he is in private practice. Dr. Schottenstein further opined that it is not plausible that a hospital technician error is to blame for the multiple procedural irregularities that have been noted. Lastly, Dr. Schottenstein opined that it is not plausible that hospital administrators are soulless bureaucrats who intentionally destroyed Dr. Persaud's livelihood in order to curry favor with another hospital.

Dr. Schottenstein stated that he is respectful of the fact that a jury found Dr. Persaud guilty of 15 counts of Health Care Fraud and that a judge sentenced him to 20 years in prison. Dr. Schottenstein stated that he supports the Proposed Order.

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

The motion to approve carried.

REPORT AND RECOMMENDATION ON REMANDSTEVEN RALPH ANGERBAUER, M.D.

Mr. Gonidakis directed the Board's attention to the matter of Steven Ralph Angerbauer, M.D. Mr. Gonidakis stated that by letter dated August 13, 2014, the State Medical Board of Ohio notified Dr. Angerbauer that it intended to determine whether to grant or deny his application for a certificate to practice medicine and surgery in Ohio or take disciplinary action. The Board advised Dr. Angerbauer of his right to request a hearing in this matter and, pursuant to a Judgment Entry issued by the Franklin County Court of Common Pleas, the court remanded this matter to the Board for an administrative hearing. The hearing was held on April 15, 2016, and this matter is now before the Board for its consideration.

Mr. Gonidakis stated that preliminary objections have been filed to Ms. Blue's Report and Recommendation and were previously distributed to Board members.

Mr. Gonidakis stated that this morning he was made aware of a motion, received after 5:00 p.m. yesterday, that the Board accept a supplement to the respondent's preliminary objections. Mr. Gonidakis stated that the Board can consider whether to accept the supplement to preliminary objections. Mr. Gonidakis noted that the respondent's objections were due on July 11, 2016.

Dr. Steinbergh moved to accept the supplement to the preliminary objections. No Board member seconded the motion. The motion to accept was lost for want of a second.

Mr. Gonidakis stated that a request to address the Board has been timely filed by Dr. Angerbauer. Five minutes will be allowed for that address.

Dr. Angerbauer was represented by his attorney, John Izzo.

Mr. Izzo noted that he disagreed with the statement that the supplement to the preliminary objections were filed in an untimely manner. Mr. Izzo opined that the Board lacks the authority to set a time limit for objections.

Mr. Izzo stated that the action against Dr. Angerbauer's medical license in the state of Washington was based on the fact that his record-keeping was not in accordance with Washington's rule, which the Washington Medical Quality Assurance Commission (Washington Commission) interpreted as Dr. Angerbauer having practiced below the minimal standards of care. In addition, Dr. Angerbauer put a homeless patient up in a hotel for a night, gave her food from his refrigerator when he left the state, and have her money to buy textbooks. Mr. Izzo stated that the Washington Commission decided that these actions formed an inappropriate relationship between Dr. Angerbauer and the patient.

Mr. Izzo continued that the Ohio Medical Board's staff seems to believe that Dr. Angerbauer is a dangerous individual who prescribes medications haphazardly, but this is not indicated in the Washington Commission documents. Rather, the Washington Commission documents state that Dr. Angerbauer's

minimal standards violations are due to record keeping only. The Washington Commission decided that Dr. Angerbauer can continue to practice medicine and surgery in that state so long as he is monitored for two-and-a-half years, takes several relevant continuing medical education (CME) courses, and pay a fine. Mr. Izzo emphasized that for acts that were fully investigated in Washington, the Washington Commission decided not to revoke or even suspend Dr. Angerbauer's license in that state. Given this fact, Mr. Izzo asked why the Ohio Board would permanently deny Dr. Angerbauer's application for licensure, as recommended in the Proposed Order.

Mr. Izzo opined that the disciplinary guidelines have not been looked at reasonably in this case. Mr. Izzo stated that the hearing record contains no reason why the maximum penalty should be issued to Dr. Angerbauer. Mr. Izzo stated that neither the minimal standards violation nor the patient boundaries issue would require revocation, suspension, or permanent denial for physicians or applicants in Ohio. Mr. Izzo stated that in 22 cases which were based on out-of-state actions over the past three years, the Ohio Board has either adopted the other state's penalty or issued a lesser penalty.

Mr. Izzo stated that the proposed penalty raises serious constitutional issues because Dr. Angerbauer is being treated more harshly than other physicians who are currently licensed in Ohio. Mr. Izzo noted that Dr. Mark Hostettler did not have his medical license revoked in October 2015, nor did Dr. Craig Whitaker Johnson in April 2014, yet each of them was found to have committed sexual misconduct. Mr. Izzo stated that no sexual misconduct is alleged in Dr. Angerbauer's case. Mr. Izzo stated that Dr. Marvin Rorick did not have his medical license revoked due to prescribing and minimal standards issues in September 2015, nor did Dr. John Ratliff in July 2015, Dr. William Basedow in June 2015, or Dr. Timothy Hickey in January 2015. Mr. Izzo stated that there are no prescribing issues in Dr. Angerbauer's case.

Mr. Izzo stated that another constitutional question in this case is whether there is a Fourth Amendment issue. Mr. Izzo stated that a permanent denial of Dr. Angerbauer's application would be an unreasonably taking because the Washington Commission, which actually initiated the proceedings against Dr. Angerbauer, issued a less harsh sanction. Mr. Izzo stated that Dr. Angerbauer is willing to withdraw his application because he no longer has a job opportunity in Ohio, but he was not allowed to withdraw. Consequently, Dr. Angerbauer is left with no choice but to fight for a license that he has no need for but may want in the future.

Mr. Izzo asked the Board to grant Dr. Angerbauer's request for licensure, noting that Dr. Angerbauer has fully complied with the Washington Commission's expectations, that he has learned a lot through this process, and that his actions would not warrant a revocation for a physician currently licensed in Ohio. Mr. Izzo reiterated that Dr. Angerbauer's actions in Washington have already been adjudicated by the Washington Commission and he has taken multiple CME courses to comply with the Washington Order. Mr. Izzo stated that the Board has a responsibility to protect the public and that the public does not need to be protected from Dr. Angerbauer. Mr. Izzo stated that by making a public record of Dr. Angerbauer's Washington discipline, the Ohio Board has already made sure that this information will always be available to anyone who wants or needs to know that information.

Mr. Gonidakis asked if the Assistant Attorney General would like to respond. Ms. Snyder stated that she would like to respond.

Ms. Snyder stated that she has not had an opportunity to review the prior cases which were cited by Mr. Izzo in his address to the Board, but she noted that Dr. Whitaker and Dr. Johnson were both physicians who were already licensed in Ohio at the time of their discipline. By contrast, Dr. Angerbauer, who has already been disciplined in the state of Washington, is asking the Board to allow him to begin practicing in Ohio. Ms. Snyder disagreed with Mr. Izzo's summary of the Washington Board's findings and actions. Ms. Snyder stated that the two key facts in this case are the Washington Commission's findings and the fact that Dr. Angerbauer has yet to come to Ohio and explain to the Board what happened.

Ms. Snyder continued that Dr. Angerbauer was an occupational medicine physician in Washington working for the federal government and did not have an outside private practice. In 2011 Dr. Angerbauer met a 28-year-old female employee of a gentlemen's club, referred to in the Washington Order as Patient A, and began prescribing her narcotics for her self-proclaimed lower back pain. Based primarily on examinations performed in parking lots, tattoo parlors, and his home, Dr. Angerbauer prescribed hydrocodone to Patient A for approximately 18 months. Ms. Snyder noted that Patient A also suffered from a number of mental health issues, including bipolar disorder and borderline personality disorder. The Washington Commission found that Dr. Angerbauer failed to meet the minimal standards of care in his treatment of Patient A, as well as a boundaries violation.

Ms. Snyder stated that Dr. Angerbauer did not attend his Ohio hearing, despite the fact that the hearing was planned to accommodate Dr. Angerbauer and all indications were given that he would appear. Instead, Dr. Angerbauer submitted a 16-page written statement five minutes before the start of the hearing. Therefore, Dr. Angerbauer did not answer questions about the nature of his relationship with Patient A and why he had been prescribing her narcotics in a parking lot. Ms. Snyder stated that Dr. Angerbauer's written statement offered a theoretical discussion about ethics. Ms. Snyder stated that consequently, the Ohio Board knows nothing more about this case than is seen in the Washington Order.

Ms. Snyder stated that Dr. Angerbauer had the right to submit his contentions in writing, but stated that this is very similar to someone pleading the Fifth Amendment in a civil case. Ms. Snyder explained that when someone pleads the Fifth Amendment in a civil case, they do not have to answer questions but their refusal to answer can be used against them. Ms. Snyder stated that she is not asking the Board to use Dr. Angerbauer's lack of answers against him, but she asked the Board to consider that Dr. Angerbauer, who wants to practice in Ohio and has an alarming disciplinary record, has not come to Ohio to answer the Board's questions. Ms. Snyder stated that Dr. Angerbauer understands this process better than most physicians because he is also an attorney, and therefore he understood that if he did not attend his hearing then he would not have to answer questions about the Washington Order under oath. Dr. Angerbauer also understood that the Board could not subpoena him and compel him to attend the hearing because he lived out of state.

Ms. Snyder stated that Ohio is currently struggling with a prescription drug abuse epidemic and that a physician like Dr. Angerbauer is not needed in Ohio.

Dr. Steinbergh moved to approve and confirm Ms. Blue's Findings of Fact, Conclusions of Law, and Proposed Order in the remanded matter of Steven Ralph Angerbauer, M.D. Mr. Giacalone

seconded the motion.

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

Dr. Schottenstein stated that in June 2014 the Washington Medical Quality Assurance Commission (Washington Commission) accepted a Stipulated Findings of Fact, Conclusions of Law, and Agreed Order that indicated that Dr. Angerbauer's Washington medical license would be monitored for two-and-a-half years; ordered Dr. Angerbauer to complete courses on ethics, physician/patient boundaries, medical record-keeping, and opioid prescribing; and ordered Dr. Angerbauer to pay a fine of \$1,500.

Dr. Schottenstein stated that in the Washington Order, Dr. Angerbauer stipulated to the following facts:

- In June or July 2011 he met Patient A, a 28-year-old female, at her place of employment, a gentlemen's club. Patient A told Dr. Angerbauer that she had chronic lower back pain, no money, no insurance, no primary care physician, and that she needed help.
- Dr. Angerbauer maintained a medical record for Patient A at his home. The record did not document inquiry into Patient A's medical or mental health history. According to Patient A, she suffered from anxiety, depression, bipolar disorder, borderline personality disorder, obsessive/compulsive disorder, and a history of substance abuse.
- In or around August 2011, Dr. Angerbauer met with Patient A for coffee and examined her back. Dr. Angerbauer agreed to prescribe hydrocodone. When Patient A asked for Percocet, Dr. Angerbauer responded that he could not prescribe Percocet because he would have to sign the prescription.
- Dr. Angerbauer met, examined, and treated Patient A at his home, at a mall, and at a local gas station.
- During an 18-month period between August 2011 and February 2013, Dr. Angerbauer prescribed hydrocodone with acetaminophen to Patient A on a regular basis. Dr. Angerbauer prescribed between 35 and 60 tablets per month during the first four months and between 80 and 120 tablets per month thereafter.
- In February 2013 Dr. Angerbauer stopped treating and prescribing for Patient A after learning that a complaint had been made to the Washington Commission.
- At different points in their relationship, Dr. Angerbauer used his credit card to pay for Patient A to spend the night in a hotel, gave her \$20, offered to pay for her school books, and gave her food from his refrigerator.

Dr. Schottenstein continued that in July 2014 Dr. Angerbauer sent an email to an Ohio Board enforcement attorney justifying his behavior by indicating that the Washington Commission's allegations were not based on improper treatment or care with narcotics, but rather they were based strictly on a medical records issue. The email also stated, "Clearly Patient A benefited greatly from her treatment and care, and was not harmed in any manner." Dr. Angerbauer further indicated in the email that his treatment was very reasonable and appropriate because he either visited or called Patient A at least every thirty days and he prescribed a maximum of 40 mg of morphine equivalent dose (MED) per day. Dr. Angerbauer added that Patient A had no other medical resources to turn to and he did not want to abandon her.

Dr. Schottenstein noted the Hearing Examiner's observation that Dr. Angerbauer was not found to have

had a sexual relationship with Patient A. Dr. Angerbauer's attorney noted that Dr. Angerbauer has admitted his mistakes, has no prior disciplinary issues, and has taken remedial CME courses on physician/patient boundaries, medical record-keeping, ethics, and opioid prescribing. Based on the seriousness of the offenses, the Hearing Examiner has recommended a permanent denial of Dr. Angerbauer's application for licensure.

Dr. Schottenstein stated that Dr. Angerbauer has indicated that the Washington Commission's allegations were not based on improper treatment, but were solely based on a lack of strict medical record compliance with pain management guidelines. However, Dr. Schottenstein pointed out the following passages from the Washington Commission's report:

Respondent failed to meet the standard of care in his treatment of Patient A. Respondent's records of his treatment of Patient A do not justify the long-term prescribing of hydrocodone to Patient A. Respondent repeatedly prescribed significant amounts of hydrocodone without performing an adequate physical examination and without formulating a treatment plan. Respondent failed to order imaging or diagnostic tests to determine the medical cause of the patient's pain. Respondent failed to employ drug testing, have Patient A sign a pain-management agreement, or take other steps to prevent diversion of the medication Respondent failed to obtain Patient A's informed consent Respondent breached the standard of care by violating appropriate physician-patient boundaries in his relationship with Patient A.

Dr. Schottenstein stated that this is clearly a minimal standards of care concern and not just a documentation issue.

Dr. Schottenstein noted that in Dr. Angerbauer's objections, his attorney indicated that it is irrelevant that Dr. Angerbauer was not present at his hearing or available for cross-examination because he had no obligation to appear at his hearing. Dr. Schottenstein argued that the fact that Dr. Angerbauer did not have an obligation to appear does not mean that his lack of appearance is irrelevant, stating that these are two different concepts.

Dr. Angerbauer's attorney also argued that there was no violation of Section 4731.22(B)(22), Ohio Revised Code, so that the Board had no standing to bring action against Dr. Angerbauer. Dr. Schottenstein observed that Dr. Angerbauer's Washington medical license will be monitored for two-and-a-half years, which is essentially probation and grounds for a violation of Section 4731.22(B)(22).

Dr. Angerbauer's attorney also argued that there was no limitation on Dr. Angerbauer's Washington medical license and he was allowed to treat other patients in Washington besides those at his place of employment. Dr. Schottenstein opined that this argument is beside the point. Dr. Schottenstein stated that Dr. Angerbauer showed bad judgment on many levels, including practicing outside his area of specialty. Dr. Schottenstein observed that Dr. Angerbauer is not a chronic pain specialist, yet he prescribed narcotics to his patient for well over a year with escalating doses.

Dr. Angerbauer's attorney made a distinction between Dr. Angerbauer's failure to inquire about Patient

A's medical history and his failure to document her medical history. Dr. Schottenstein stated that if the implication of this argument is that Dr. Angerbauer did, in fact, inquire into Patient A's medical history but did not document it, then that is almost worse than the alternative. Dr. Schottenstein wondered why a physician would not document such a compelling mental health and substance abuse history if he or she is contemplating a long-term prescription of narcotic medication. Dr. Schottenstein asked why a physician would not document this information and explain their rationale for treatment.

Dr. Angerbauer's attorney indicated that the likelihood of Dr. Angerbauer committing such mistakes in the future is slim at best and that there is no indication in the record that Dr. Angerbauer is a threat to patients in Ohio. However, Dr. Schottenstein pointed out that the Board only has Dr. Angerbauer's version of events from his written statement, the Washington Commission's Order, and his attorney's assurance to that effect. Dr. Schottenstein stated that he would have liked to have formed his own conclusions and possibly find a way to support granting Dr. Angerbauer's license, perhaps with suspension and practice monitoring.

Dr. Schottenstein stated that Dr. Angerbauer's behavior is so serious, occurred over such a long period of time, and is so lacking in satisfactory explanation from Dr. Angerbauer that he is apprehensive about voting to grant the license. Dr. Schottenstein stated that he is regrettably in agreement with the Proposed Order of permanent denial.

Dr. Schachat agreed that Dr. Angerbauer has demonstrated shortcomings, but questioned whether a permanent denial of his application is appropriate. Dr. Schachat opined that if Dr. Angerbauer completes any remediation that is required elsewhere, then he should be appropriate to practice in Ohio.

Dr. Steinbergh agreed with Dr. Schachat and stated that she would support a non-permanent denial of Dr. Angerbauer's application. Dr. Steinbergh stated that the Board does not need to grant licensure to someone who has behaved in this fashion, but expressed concern about what ramifications a permanent denial would have on Dr. Angerbauer's future career. Dr. Steinbergh stated that Dr. Angerbauer has made a lot of mistakes, but it seems that the Washington Commission has accepted his remediation. Dr. Steinbergh wished to hear other Board members' opinions about the appropriateness of a permanent denial.

Mr. Giacalone stated that Dr. Angerbauer's attorney has asked the Board to not relive the mistake that was made in Washington. However, Mr. Giacalone stated that the Board is making certain that the mistake does not happen in Ohio. Mr. Giacalone stated that Dr. Angerbauer is a calculating individual, noting the Dr. Angerbauer prescribed hydrocodone to Patient A instead of Percocet so that he would not have to sign the prescription and that Dr. Angerbauer called the pharmacy when he knew no one was there so he could leave a message instead of speaking to a live person. Mr. Giacalone stated that Dr. Angerbauer had no problem with prescribing up to 120 tablets per month to a patient with a history of substance abuse and mental illness.

Mr. Giacalone read the following statement from Dr. Angerbauer: "In reviewing my behavior at the time I honestly believed I was acting in the best interest of my patient, providing essential care with no money, insurance, no one was available to help. In doing so, I thought that I was exemplifying the ideal physician

virtues of caring, sympathy,” and so forth. Mr. Giacalone had difficulty taking the statement seriously. Mr. Giacalone stated that Dr. Angerbauer is an example of someone who should never practice medicine in Ohio. Mr. Giacalone opined that permanent revocation is appropriate in this case.

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

The motion to approve carried.

PROPOSED FINDINGS AND PROPOSED ORDERS

Mr. Gonidakis stated that in the following matters, the Board issued a Notice of Opportunity for Hearing. No timely requests for hearing were received. The matters were reviewed by a Hearing Examiner, who prepared Proposed Findings and Proposed Orders, and are now before the Board for final disposition. Dr. Soin stated that these matters are disciplinary in nature, and therefore the Secretary and Supervising Member may not vote. In these matters, Dr. Rothermel served as Secretary and Dr. Saferin served as Supervising Member.

DAVID MARK COLLEY, II, M.T.

Dr. Steinbergh moved to find that the allegations as set forth in the February 10, 2016 Notice of Opportunity for Hearing in the matter of Mr. Colley have been proven to be true by a preponderance of the evidence and to adopt Mr. Porter’s Proposed Findings and Proposed Order. Dr. Soin seconded the motion.

Mr. Gonidakis stated that he will now entertain discussion in the matter of Mr. Colley.

Mr. Gonidakis briefly reviewed Mr. Colley’s education and career. Mr. Colley’s massage therapy license is currently inactive due to a July 2015 Step I Consent Agreement with the Board. Mr. Gonidakis explained that in January 2015 the Board ordered Mr. Colley, who was a licensure applicant at that time, to an examination at Glenbeigh Hospital. Mr. Colley was diagnosed with alcohol and marijuana dependence and was determined to be impaired and not capable of practicing massage therapy at that time. The July 2015 Consent Agreement granted Mr. Colley’s license and suspended it indefinitely with standard requirements, including abstaining from alcohol and undergoing random urine screens.

Mr. Gonidakis continued that on December 30, 2015, Mr. Colley tested positive for ethyl glucuronide and ethyl sulfate. On January 7, 2016 FirstLab recommended a second test because the levels were low enough that they could have been cause of ingestion of food that contained alcohol. However, on January 8, 2016, Mr. Colley send an email to the Board's staff indicated that he could not afford the new test. Mr. Gonidakis stated that Mr. Colley's refusal to take the additional test violated his Consent Agreement. On January 13, 2016, Mr. Colley entered into a superseding Step I Consent Agreement which suspended his license indefinitely for a minimum of 60 days, with standard testing requirements. On January 18, 2016, Mr. Colley sent another email stating that he could not afford any more tests due to several circumstances in his life.

Mr. Gonidakis stated that he supported the Proposed Order, which would revoke Mr. Colley's license and fine him \$500.

Dr. Schottenstein stated that he did not disagree with the \$500 fine, but he noted that the standard fine for this violation is \$5,000.

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

The motion to approve carried.

KELLY KAY ELENNISS, M.T.

Dr. Steinbergh moved to find that the allegations as set forth in the October 14, 2015 Notice of Opportunity for Hearing in the matter of Ms. Elenniss have been proven to be true by a preponderance of the evidence and to adopt Mr. Porter's Proposed Findings and Proposed Order. Mr. Giacalone seconded the motion.

Mr. Gonidakis stated that he will now entertain discussion in the matter of Ms. Elenniss.

Mr. Giacalone stated that Ms. Elenniss was first licensed to practice massage therapy in Ohio in January 2006. Ms. Elenniss' license lapsed in January 2011 due to non-renewal. In November 2010 Ms. Elenniss entered into a Consent Agreement with the Board which suspended her license for an indefinite period, but not less than one year. The Consent Agreement also established interim conditions and requirements for reinstatement.

Mr. Giacalone continued that Ms. Elenniss failed to submit required quarterly declarations of compliance between February 2015 and August 2015. Ms. Elenniss also failed to appear for a scheduled probationary office conference in February 2015 and provided no explanation for her absence.

Mr. Giacalone stated that he supports the Proposed Order to revoke Ms. Elenniss' massage therapy license. Mr. Giacalone based his rationale on the evidence that Ms. Elenniss has not complied with her Consent Agreement and is either unable or unwilling to do so. Mr. Giacalone also noted that the non-permanent revocation will give Ms. Elenniss an opportunity to apply for a new license in the future when she is ready to comply with the Board's conditions.

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

The motion to approve carried.

ANTHONY EDWARD INNOCENZI, D.P.M.

Dr. Steinbergh moved to find that the allegations as set forth in the September 9, 2015 Notice of Opportunity for Hearing in the matter of Dr. Innocenzi have been proven to be true by a preponderance of the evidence and to adopt Mr. Porter's Proposed Findings and Proposed Order. Dr. Soin seconded the motion.

Mr. Gonidakis stated that he will now entertain discussion in the matter of Dr. Innocenzi.

Dr. Edgin stated that Dr. Innocenzi is licensed in Ohio and Colorado to practice podiatric medicine and surgery. In December 2014 an Information was filed in the U.S. District Court for the District of Colorado charging him with one count of Health Care Fraud. The Information charged that Dr. Innocenzi, as part of a scheme to defraud Medicare, saw patients at a skilled nursing facility and billed for services not provided or billed for services based on a false assertion that he had seen the patients in his office, which would entitle him to a higher rate of reimbursement than seeing the patients in a facility. In February 2015 Dr. Innocenzi pleaded guilty to the charges in the Information. The Court accepted Dr. Innocenzi's plea, found him guilty, and sentenced him to probation for five years. Dr. Innocenzi was also ordered to pay restitution to Medicare in the amount of \$51,313.14.

Dr. Edgin opined that Dr. Innocenzi essentially used his license to practice podiatric medicine in Colorado as a license to steal money from the federal government. Dr. Edgin stated that this conduct merits the permanent revocation of his Ohio license. Dr. Edgin supported the Proposed Order of permanent revocation.

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

The motion to approve carried.

CARLI A. STEINHAUSER, A.A.

Dr. Steinbergh moved to find that the allegations as set forth in the June 10, 2015 Notice of Opportunity for Hearing in the matter of Ms. Steinhauser have been proven to be true by a preponderance of the evidence and to adopt Mr. Porter's Proposed Findings and Proposed Order. Dr. Soin seconded the motion.

Mr. Gonidakis stated that he will now entertain discussion in the matter of Ms. Steinhauser.

Dr. Schachat stated that Ms. Steinhauser was first licensed to practice as an anesthesiologist assistant in 2011. Ms. Steinhauser's license expired in January 2016 due to non-renewal. In August 2014 Ms. Steinhauser entered into a Step I Consent Agreement with the Board which suspended her license for a minimum of 180 days. Dr. Schachat noted that that Consent Agreement is still in effect. Dr. Schachat stated that Ms. Steinhauser has failed to comply with multiple requirements of her Consent Agreement, including submission of quarterly declarations of compliance, attendance at in-person interviews, submission to random drug and alcohol screenings, and participation in a drug and alcohol rehabilitation program.

Dr. Schachat stated that Ms. Steinhauser was evaluated at the Woods at Parkside. Dr. Williams, Medical Director of the Woods at Parkside, reported that Ms. Steinhauser relapsed on alcohol after entering into her Consent Agreement and continued using alcohol until about three days prior to the evaluation.

Dr. Schachat stated that the evidence establishes that Ms. Steinhauser is either unable or unwilling to comply with her Consent Agreement. Dr. Schachat agreed with the Proposed Order to revoke Ms. Steinhauser's anesthesiologist assistant license. Dr. Schachat stated that Ms. Steinhauser would have an

opportunity to obtain a new license 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
	Dr. Soin	- aye
	Mr. Gonidakis	- aye
	Dr. Schachat	- aye
	Dr. Schottenstein	- aye
	Dr. Edgin	- aye

The motion to approve carried.

JAMES ANDREW WILLIAMS, D.O.

Dr. Steinbergh moved to find that the allegations as set forth in the December 9, 2015 Notice of Opportunity for Hearing in the matter of Dr. Williams have been proven to be true by a preponderance of the evidence and to adopt Mr. Porter's Proposed Findings and Proposed Order. Dr. Soin seconded the motion.

Mr. Gonidakis stated that he will now entertain discussion in the matter of Dr. Williams.

Dr. Schottenstein stated that in December 2015 the Medical Board summarily suspended Dr. Williams' osteopathic medical license based on clear and convincing evidence that he violated his July 2014 Board Order by failing to abstain from alcohol and that he is impaired in his ability to practice medicine due to his abuse of alcohol and/or chemical abuse or dependency.

Dr. Schottenstein continued that in July 2014 the Board found Dr. Williams to be impaired due to habitual or excessive use of alcohol. The Board Order indefinitely suspended Dr. Williams' medical license and established interim monitoring conditions, conditions for reinstatement, and subsequent probationary conditions. In March 2015 the Board granted Dr. Williams' request for reinstatement.

Dr. Schottenstein stated that in early November 2015 the Board received a drug screen for Dr. Williams showing a positive test for phosphatidylethanol in a concentration of 23 ng/ml. James Ferguson, D.O., Medical Director of Recovery Management Services, opined that the positive test was due to drinking alcohol and that there was no other inadvertent alcohol exposure that could have caused this result. Dr. Williams disputed the validity of the test and believed that he may have unintentionally been exposed to alcohol in cooking or cough syrup. Dr. Ferguson maintained that if the positive finding was due to cough syrup, then Dr. Williams would have to have consumed more than the label instructions directed in order to produce the observed result.

The Hearing Examiner concluded that the preponderance of the evidence shows that Dr. Williams relapsed on alcohol in or around October 2015, and thereby violated his Board Order. The Proposed Order would non-permanently revoke Dr. Williams' medical license. Dr. Schottenstein agreed with the Proposed Order because it would protect the public but also give Dr. Williams an opportunity to obtain a new license after he has demonstrated to the Board that he has had at least 90 days of continuous documented sobriety and that he is ready to comply with any and all treatment and monitoring conditions that the Board may impose. The Proposed Order also imposes a civil penalty of \$5,000.

Mr. Gonidakis stated that he will abstain from this vote.

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
	Dr. Soin	- aye
	Mr. Gonidakis	- abstain
	Dr. Schachat	- aye
	Dr. Schottenstein	- aye
	Dr. Edgin	- aye

The motion to approve carried.

The Board took a recess at 12:55 p.m. and resumed at 1:38 p.m.

EXECUTIVE SESSION

Dr. Steinbergh 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. Saferin seconded the motion. A vote was taken:

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- aye
	Mr. Giacalone	- aye
	Dr. Steinbergh	- aye
	Dr. Soin	- aye
	Mr. Gonidakis	- aye
	Dr. Schachat	- aye
	Dr. Schottenstein	- 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. Pollock, Ms. Marshall, the Enforcement Attorneys, the Assistant Attorneys General, Ms. Schwartz, Ms. Murray, Ms. Williams, Ms. Moore, and Mr. Taylor in attendance.

The Board returned to public session.

RATIFICATION OF SETTLEMENT AGREEMENTS

RICHARD DE LA FLOR, M.D. – PERMANENT SURRENDER OF CERTIFICATE TO PRACTICE MEDICINE AND SURGERY

Dr. Steinbergh moved to ratify the Proposed Permanent Surrender with Dr. De La Flor. Dr. Soin seconded the motion. A vote was taken:

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

The motion to ratify carried.

JAGPRIT SINGH DHILLON, M.D. – STEP I CONSENT AGREEMENT

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

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

The motion to ratify carried.

SAMUEL C. LOFTON, III, P.A. – PERMANENT SURRENDER OF CERTIFICATE TO PRACTICE AS A PHYSICIAN ASSISTANT

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

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

The motion to ratify carried.

MARY A. ZIELINSKI, L.M.T. – CONSENT AGREEMENT

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

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

The motion to ratify carried.

EVERETT LINN JONES, M.D. – PERMANENT SURRENDER/RETIREMENT OF CERTIFICATE TO PRACTICE MEDICINE AND SURGERY

Dr. Steinbergh moved to ratify the Proposed Permanent Surrender/Retirement with Dr. Jones. Dr. Soin seconded the motion. A vote was taken:

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

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

The motion to ratify carried.

M. SALIM RATNANI, M.D. – CONSENT AGREEMENT

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

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

The motion to ratify carried.

MIAN WILAYAT SHAH, M.D. – PERMANENT SURRENDER/RETIREMENT OF CERTIFICATE AND PERMANENT WITHDRAWAL OF APPLICATION FOR LICENSURE RESTORATION

Dr. Steinbergh moved to ratify the Proposed Permanent Surrender/Retirement and Permanent Withdrawal with Dr. Shah. Dr. Soin seconded the motion. A vote was taken:

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

The motion to ratify carried.

DONNA PORTER, L.M.T. – CONSENT AGREEMENT

Dr. Soin moved to ratify the Proposed Consent Agreement with Ms. Porter. Dr. Schottenstein seconded the motion.

Dr. Steinbergh opined that practicing massage therapy for six years without a license, as this practitioner has done, is intolerable. Dr. Steinbergh stated that she intends to vote against ratifying this Consent Agreement.

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

ROLL CALL:	Dr. Rothermel	- abstain
	Dr. Saferin	- abstain
	Mr. Giacalone	- aye
	Dr. Steinbergh	- no
	Dr. Soin	- aye
	Mr. Gonidakis	- aye
	Dr. Schachat	- aye
	Dr. Schottenstein	- aye
	Dr. Edgin	- aye

The motion to ratify carried.

JAMES A. MARSH, JR., D.O. – STEP I CONSENT AGREEMENT

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

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

The motion to ratify carried.

JOHN W. TEDROW, P.A. – PERMANENT SURRENDER OF CERTIFICATE TO PRACTICE AS A PHYSICIAN ASSISTANT

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

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

The motion to ratify carried.

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

Dr. Steinbergh moved to enter an Order of Summary Suspension in the matter of Robert Edward Marsico, Jr., M.D., in accordance with Section 4731.22(G), Ohio Revised Code, and to issue the Notice of Summary Suspension and Opportunity for Hearing. Dr. Soin seconded the motion. A vote was taken:

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

The motion carried.

Dr. Steinbergh moved to send the Notices of Opportunity for Hearing to the following: Iraj Derakhshan, M.D.; Thomas Michael Ehlinger, M.D.; Elizabeth J. Gross, P.A.; Shane T. Sampson, M.D.; and Alexander Ryan Venne, L.M.T. Dr. Soin seconded the motion. A vote was taken:

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

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

The motion to send carried.

The Board meeting recessed at 2:20 p.m. The Board meeting resumed at 3:25 p.m.

EXECUTIVE SESSION

Dr. Saferin moved to go into Executive Session to discuss employment of a staff member. Dr. Rothermel seconded the motion. A vote was taken:

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

The motion carried.

Pursuant to Section 121.22(G)(3), Ohio Revised Code, the Board went into executive session. Mr. Groeber was present during a portion of the Executive Session.

The Board returned to public session.

EXECUTIVE DIRECTOR COMPENSATION

Dr. Schottenstein moved to increase the Executive Director's compensation by 5%, effective as of the pay period that includes July 1, 2016. Dr. Saferin seconded the motion. A vote was taken:

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

Mr. Gonidakis - aye
Dr. Schachat - aye
Dr. Schottenstein - aye
Dr. Edgin - aye

The motion carried.

OPERATIONS REPORT

Human Resources: Mr. Groeber stated that the Department of Administrative Services has informed the Board that it has an obligation to report Board members' work time on a more granular level. Mr. Groeber stated that over the next month or two the Board members will see different formats for reporting their times.

Mr. Groeber stated that two new nurses have joined the Medical Board staff. Also new to the staff is Teresa Pollock, the Board's new Director of Communications.

Budget: Mr. Groeber stated that at the end of May the Board had a \$5,100,000 cash balance. The Board ended the fiscal year with about \$4,600,000.

Information Technology: Mr. Groeber stated that last month the Finance Committee approved the purchase of additional functionality for the E-License system, including a module for Board members. Mr. Groeber stated that the Board member's SharePoint website continues to improve and that additional Board members will begin using that site.

Communications and Outreach: Mr. Groeber stated that he was asked to distribute to Board members an article published by the Saint Louis Post-Dispatch about a physician who was found guilty in a medical malpractice lawsuit. Mr. Groeber asked the Board members to review the article for discussion next month.

Mr. Groeber stated that he had notified the Board members about an investigative story in the Atlanta Journal Constitution, and reprinted in the Dayton Daily News, related to sexual abuse by physicians in Ohio. Mr. Groeber stated that a response from Ms. Pollock was published yesterday in the Dayton Daily News. Mr. Groeber stated that work continues on a letter to the editor which will go out under Mr. Gonidakis' name as President which will clarify the Board's position and provide direction for victims of such abuse.

Mr. Groeber stated that pages 3 and 4 of the Operations Report detail the presentations and publications of the Board over the past month.

Mr. Groeber stated that a rough draft of the next edition of Health Scene Ohio was been provided to Board members. Mr. Groeber thanked Dr. Saferin, Dr. Schachat, and Dr. Schottenstein for reviewing some of the articles in the magazine. Mr. Groeber stated that the magazine continues to evolve and improve.

Mr. Groeber stated that Dr. Soin was on a panel yesterday with the U.S. Surgeon General. Dr. Soin stated that among the policy issues discussed, the Surgeon General stated that Centers for Medicare and Medicaid Services (CMS) will work to remove pain management from the Hospital Consumer Assessment of Healthcare Providers and Systems (HCAHPS) scores for the value-based payment model so that satisfaction in that regard will not be tied to compensation. Dr. Soin stated that in this way there will not be an incentive to prescribe in order to make the patient happy.

Dr. Soin continued that the Surgeon General mentioned an increase in Suboxone per practitioner from 100 to about 275. Dr. Soin commented that between Ohio's office-based opioid treatment (OBOT) rules and some pending legislation, Ohio will be one of the leading states in preventing Suboxone mills.

Dr. Soin stated that the Surgeon General also stated that the Obama administration has asked for \$1,100,000,000 to expand the number of rehabilitation centers in the country. Dr. Soin stated that the bill has bipartisan support, but the funding has been reduced to \$540,000,000.

Lastly, Dr. Soin stated that the Surgeon General expressed support for integrating the Ohio Automated Rx Reporting System (OARRS) direction into electronic medical records. Dr. Soin stated that a representative from the Board of Pharmacy on the panel mentioned that the Board of Pharmacy is working on such integration.

Mr. Groeber stated that the lead testing video, which was approved for production by the Finance Committee last month, should go out to pediatricians and family practitioners in the next month. Mr. Groeber stated that the video updates physicians on how to meet the guidelines for lead testing.

Agency Operations: Mr. Groeber stated that the total number of open complaints is now down to 1,494, a 3.5% reduction from last month. Mr. Groeber stated that the Board's statistics on complaints are improving in almost all sections. Mr. Groeber stated that the Standards Review and Interventions Section remains an area of concern in this regard, but the Section should receive staffing relief soon.

Mr. Groeber stated that the number of physician licenses issued is up 11% over last month. Mr. Groeber stated that due to changes at the Bureau of Criminal Investigation (BCI), there has been a small increase in the amount of time to process expedited licensure applications. Mr. Groeber stated that the Board has started to mitigate those time increases through new processes and working with other vendors.

RULES & POLICIES

Dr. Saferin moved to rescind current Rules 4731-1-08, 4731-13-08, and 4731-13-18; adopt new Rules 4730-1-08, 4731-13-08, 4731-13-18, and 4731-13-20.1; and adopt amended Rules 4731-8-05, 4731-13-01, 4731-13-02, 4731-13-03, 4731-13-09, 4731-13-10, 4731-13-11, 4731-13-12, 4731-13-13, 4731-13-15, 4731-13-16, 4731-13-20, 4731-13-25, 4731-13-34, and 4731-13-36. Dr. Rothermel seconded the motion.

Dr. Steinbergh stated that she had seen the public comments from Cheryl Kuck, the Public Policy Chair for the Ohio State Society of Medical Assistants, regarding the competency of all graduates of accredited

medical assistant programs to administer drugs and perform medical tasks. Dr. Steinbergh opined that Ms. Kuck's statements were overreaching. Dr. Steinbergh supported the rule which would allow a physician assistant to identify those who they know to be competent and to have the capacity to perform these tasks effectively.

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

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

The motion carried.

Dr. Saferin moved to approve draft Rules 4731-13-06 and 4731-13-23 to be filed with the Joint Commission on Agency Rule Review as drafted. Dr. Schachat seconded the motion. A vote was taken:

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

The motion carried.

Dr. Steinbergh moved that the rules in Chapter 4731-5, Ohio Administrative Code, be filed with the Common Sense Initiative office as "no change" rules. Dr. Saferin seconded the motion. A vote was taken:

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

Mr. Gonidakis - aye
Dr. Schachat - aye
Dr. Schottenstein - aye
Dr. Edgin - aye

The motion carried.

Dr. Steinbergh moved that the rules in Chapter 4731-6, Ohio Administrative Code, be filed with the Common Sense Initiative office as discussed. Dr. Schachat seconded the motion. A vote was taken:

ROLL CALL:

Dr. Rothermel - aye
Dr. Saferin - aye
Mr. Giacalone - aye
Dr. Steinbergh - aye
Dr. Soin - aye
Mr. Gonidakis - aye
Dr. Schachat - aye
Dr. Schottenstein - aye
Dr. Edgin - aye

The motion carried.

REPORTS BY ASSIGNED COMMITTEES

POLICY COMMITTEE

LEGISLATIVE UPDATE

Mr. Gonidakis stated that a significant legislative issue before the Board is the reduction in initial physician licensure fees. Ms. Anderson stated that the Board is also working on rules for medical marijuana, consult agreements, light-based medical devices, and the one-bite reporting exemption.

Mr. Gonidakis stated that he and several other Board members will be attending an interested parties meeting tomorrow with Representative Grossman regarding the one-bite reporting exemption. Mr. Gonidakis stated that he will report back to the other Board members at next month's meeting.

FINANCE COMMITTEE

PURCHASING POLICY

Dr. Saferin stated that the Finance Committee discussed the policy for approval of purchases. The Finance committee proposes a policy whereby purchases over \$10,000 must be approved by the Finance Committee with final approval by the Board President. The Finance Committee may also recommend that the full Board approve an expenditure. Purchases between \$5,000 and \$10,000 can be approved by the

Executive Director, while purchases below \$5,000 can be approved by a senior manager.

Dr. Saferin moved to accept the policy as recommended by the Finance Committee. Dr. Rothermel seconded the motion.

Mr. Gonidakis supported the new policy and stated that it allows for additional checks and balances in the purchasing process. Dr. Saferin commented that the policy recommended by the Finance Committee applies to non-routine purchases and does not cover routine payments such as rent and credit card payments.

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

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

The motion carried.

MEDICAL MARIJUANA IMPLEMENTATION

Dr. Saferin stated that the Board is working with the Department of Commerce, the Board of Pharmacy, and other related agencies to implement the new medical marijuana law. As part of that coordinated effort, the Medical Board may be asked to contribute to shared deliverables such as training materials, website development, and other forms of outreach and communication. The Finance Committee discussed this and authorized up to \$50,000 towards this development.

LOSS OF NCCPA CERTIFICATION – FINING GUIDELINES

Dr. Saferin stated that in October 2015 the Board gained the ability to discipline physician assistants who practice without holding certification from the National Commission for the Certification of Physician Assistants (NCCPA). As no fining guidelines exist for this violation, the Finance Committee was asked to recommend standards for fines. The Finance Committee discussed this issue and recommends that this violation have a minimum fine of \$5,000, a standard fine of \$10,000, and a maximum fine of \$20,000.

Dr. Saferin moved to accept the recommendation of the Finance Committee and establish fining guidelines for practicing as a physician assistant without NCCPA certification as follows: Minimum fine, \$5,000; standard fine, \$10,000; maximum fine, \$20,000. Dr. Edgin seconded the motion.

Dr. Steinbergh asked if the guidelines for fines for this violation should be discussed in tandem with the disciplinary guidelines for the violation. The Board discussed this briefly and determined that the fining guidelines should remain separate from the disciplinary guidelines.

Dr. Schachat commented that the proposed fines for practicing without NCCPA certification seem to be at levels more appropriate for physicians rather than physician assistants, who tend to have much lower salaries. Dr. Saferin disagreed and stated that depending on their specialty and the nature of their work, physician assistants can make as much as a physician. Dr. Steinbergh agreed with Dr. Saferin's comments and added that in some cases a physician assistant can make more than a physician.

Dr. Schachat asked if there would be any discipline for a physician who supervises a physician assistant who practices without certification. Dr. Steinbergh opined that that is a different matter and could be discussed at another time.

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

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

The motion carried.

LOSS OF NCCPA CERTIFICATION – MINIMUM DISCIPLINARY GUIDELINE

Dr. Steinbergh recommended tabling this topic until next month. Dr. Steinbergh stated that this topic deserves robust discussion and there is limited time in today's Board meeting.

Dr. Steinbergh moved to table this discussion until August 2016. Dr. Schottenstein seconded the motion. A vote was taken:

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

Dr. Edgin - aye

The motion carried.

LICENSURE COMMITTEE

Dr. Saferin stated that the Licensure Committee met this morning with representatives from the Ohio Emergency Medical Services Board (EMS Board). The EMS Board expressed concern that the Board has discontinued issuing wallet cards to physicians, in accordance with recent law. The EMS Board related that emergency medical technicians often rely on wallet cards to verify that those claiming to be physicians offering aid in an emergency are truly licensed physicians.

The Licensure Committee responded that anyone with internet access can go to the Board's website (med.ohio.gov) and quickly determine if someone has a valid physician's license. Dr. Saferin stated that Ms. Pollock will also send an electronic notification informing physicians that they can print out their verification from the Board's website and keep it in their wallets as a wallet card.

CERTIFICATE OF CONCEDED EMINENCE APPLICATION REVIEW

MEHMET ALPARSLAN TURAN, M.D.

Dr. Saferin stated that Dr. Turan graduated from Gazi University in Ankara, Turkey, and holds an unrestricted medical license in good standing in Turkey. Dr. Turan currently holds an Ohio Clinical Research Faculty Certificate and has been a professor of anesthesiology at the Cleveland Clinic since 2009. Dr. Turan also holds a position at the Cleveland Clinic focused on research on improving quality of care by implementing opioid-sparing analgesia, developing post-operative care pathways, and working on post-operative pain and patient safety by integrating this into clinical care. Dr. Turan has authored over 50 articles.

The Licensure Committee recommends approving Dr. Turan's application.

Dr. Saferin moved to approve Dr. Turan's application for a Certificate of Conceded Eminence. Dr. Steinbergh seconded the motion. A vote was taken:

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

The motion carried.

COSMETIC THERAPY UNIVERSAL EXAMINATION

Dr. Saferin stated that the Licensure Committee discussed ending the Board's administration of the cosmetic therapy examination and instead refer all applications to a universal examination to be determined by the Board. In the interim, the Licensure Committee recommends eliminating the practical hands-on portion of the cosmetic therapy examination, which is not required under the Board's statutes, and to administer the practical portion only in the Board's offices.

Dr. Steinbergh suggesting tabling this topic, opining that there is not enough time in this meeting to properly discuss this important topic. Dr. Saferin agreed.

Dr. Steinbergh moved to table this topic. Dr. Schachat seconded the motion. A vote was taken:

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

The motion carried.

GME-TO-FULL MEDICAL LICENSE BRIDGE PILOT

Dr. Saferin stated that Mr. Alderson has provided all Board members with a written update on the GME-to-Full Medical Licensure Bridge Pilot.

COMPLIANCE COMMITTEE

Dr. Steinbergh stated that on June 8, 2016, the Compliance Committee met with Stephanie Nicole Adams, M.T.; Heidi Davidson, M.T.; Linda Jean Dennis, M.D.; and Jerome A. McTague, M.D., and moved to continue them under the terms of their respective Board actions. The Compliance Committee also accepted Compliance staff's report of conferences on May 9 and 10, 2016.

TREATMENT PROVIDER APPLICATIONS

Dr. Steinbergh stated that the Compliance Committee has recommended that the applications for a Certificate of Good Standing from the Center for Chemical Addictions Treatment; The Farley Center at Williamsburg Place; and Positive Sobriety Institute be approved in accordance with Section 4731.25, Ohio

Revised Code, and Chapter 4731-16, Ohio Administrative Code.

Dr. Steinbergh moved to approve the Applications for Certificate of Good Standing as a Treatment Provider for Impaired Practitioners from Center for Chemical Addictions Treatment, The Farley Center at Williamsburg Place, and Positive Sobriety Institute be approved. Dr. Schottenstein seconded the motion. A vote was taken:

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

The motion carried.

Mr. Gonidakis exited the meeting at this time. Dr. Soin assumed the chair.

PROBATIONARY REQUESTS

Dr. Soin advised that at this time he would like the Board to consider the probationary requests on today's consent agenda. Dr. Soin asked if any Board member wished to discuss a probationary request separately. Dr. Steinbergh stated that she wished to the probationary requests of Dr. Lamphear, Dr. McTague, Dr. Purvis, and Dr. Siddiqui separately.

Dr. Steinbergh stated that Dr. Lamphear, Dr. McTague, and Dr. Purvis have requested permission to make appearances via electronic means such as Skype. Dr. Steinbergh recalled that there were great technical difficulties last month when a probationer appeared before the Board electronically, to the extent that Dr. Steinbergh abstained from the vote to release because she felt the communication was inadequate. Mr. Groeber explained that the technical problems last month were due to a software update which began immediately prior to the scheduled appearance. Mr. Groeber stated that he has started the procurement process for two updated systems so that there will always be at least one backup system. Mr. Groeber stated that he will do everything possible to ensure smooth operation in the future. Dr. Rothermel commented that she has met with more probationers since last month via Skype and the system has worked very well with excellent audio and video.

Dr. Steinbergh agreed that the requests can be approved, but commented that if there is an instance when communication is very poor then the Board should ask the probationer to appear in person at a later date. Dr. Schottenstein commented that there should be a guideline regarding which probationers should be eligible to appear electronically. Dr. Steinbergh agreed.

Regarding Dr. Siddiqui, Dr. Steinbergh noted that Dr. Siddiqui is requesting approval of a new practice plan. Dr. Siddiqui indicates that he has had an offer of employment, but wants to be able to keep his previous practice plan if the employment does not eventuate. Ms. Murray stated that if the Board approves the new practice plan and Dr. Siddiqui wants to return to the old practice plan, he will need to make that request and have it approved by the Board.

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

- **To grant Thomas B. Benz, M.D.'s request for approval of the drug testing and recovery meeting monitoring to be conducted by the West Virginia Medical Professional's Health Program while practicing outside of Ohio;**
- **To grant Micah S. Crouse, M.D.'s request for approval of *Intensive Course in Controlled Substance Prescribing*, offered by Case Western Reserve University, to complete the controlled substance prescribing course requirement; and approval of the summary for *Intensive Course in Controlled Substance Prescribing*, offered by Case Western Reserve University;**
- **To grant Paul H. Goodman, D.O.'s, request for discontinuance of the drug log requirement; discontinuance of the chart review requirement; and reduction in recovery meeting attendance to two meetings per week with a minimum of ten meetings per month;**
- **To grant Robert Seth Haber, M.D.'s request for approval of *Intensive Course in Controlled Substance Prescribing*, offered by Case Western Reserve University, required for reinstatement; Approval of *Intensive Course in Medical Documentation: Clinical, Legal and Economic Implications for Healthcare*, offered by Case Western Reserve University, required for reinstatement; Approval of the course summary for *Intensive Course in Controlled Substance prescribing*, offered by Case Western Reserve University; and approval of the course summary for *Intensive Course in Medical Documentation: Clinical, Legal and Economic Implications for Healthcare*, offered by Case Western Reserve University;**
- **To grant Christopher J. Karakasis, M.D.'s request for approval of Doksu Moon, M.D., to serve as the new monitoring physician;**
- **To grant James George Lamphear, M.D.'s request for permission to continue under the terms of his May 11, 2016 Step I Consent Agreement while residing in Hawaii; approval of the Hawaii Physicians Health Program to conduct monitoring while Dr. Lamphear resides in Hawaii; and approval to make appearances via electronic means;**
- **To grant Paul D. Lopreato, P.A.'s request for approval of Shobha Gupta, M.D., to serve as the new treating psychiatrist;**
- **To grant Michael C. Macatol, M.D.'s request for reduction in psychiatric treatment sessions to every four months;**

- To grant Jerome A. McTague, M.D.'s request for approval of personal appearances via internet meeting source;
- To grant Dennis A. Patel, M.D.'s request for reduction in appearances to every six months;
- To grant Jerry G. Purvis, Jr., M.D.'s request to make personal appearances via electronic means;
- To grant Firas A. Rabi, M.D.'s request for approval of *Medical Ethics, Boundaries, and Professionalism*, administered by Case Western Reserve University, to fulfill the physician/patient boundaries course required for reinstatement;
- To grant Charles W. Reyes, M.D.'s request for reduction in personal appearances to every six months; and discontinuance of the controlled substances log requirement;
- To grant Anthony M. Ruffa, D.O.'s request for reduction in psychotherapy treatment sessions to every three months;
- To grant Siraj A. Siddiqui, M.D.'s request for approval of a practice plan; approval of Sushil K. Jain, M.D., to serve as the monitoring physician; and determination of the frequency and number of charts to be review at 10 charts per week;
- To grant Shannon Lee Swanson, D.O.'s request for approval of Lawrence H. Mendel, D.O., to serve as the new monitoring physician;
- To grant Terry L. Thomas, D.O.'s request for reduction in personal appearances to every six months; discontinuance of the chart review requirement; and discontinuance of the controlled substance log requirement; and
- To grant Christopher R. White, M.D.'s request for approval of Philip J. Fischer, M.D., to serve as the treating psychiatrist.
- To grant Brian D. Hesler, M.D.'s request for discontinuance of the drug log requirement; and approval of an electronic semi-annual appearance for the December 2016 appearance; and
- To grant Peter C. Johnson, M.D.'s, request for approval of Larry J. Silcox, A.C.P., to serve as the new polygraph technician;

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

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

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

The motion carried.

REINSTATEMENT REQUEST

ROBERT SETH HABER, M.D.

Dr. Steinbergh moved that the request for the reinstatement of the license of Robert Seth Haber, M.D., be approved, effective immediately, subject to the probationary terms and conditions as outlined in the March 9, 2016 Order for a minimum of two years. Dr. Schottenstein seconded the motion. A vote was taken:

ROLL CALL:

Dr. Rothermel - abstain
Dr. Saferin - abstain
Mr. Giacalone - aye
Dr. Steinbergh - aye
Dr. Soin - aye
Dr. Schachat - aye
Dr. Schottenstein - aye
Dr. Edgin - aye

The motion carried.

FINAL PROBATIONARY APPEARANCE

ANDREW J. BEISTEL, D.O.

Dr. Beistel was appearing before the Board pursuant to his request for release from the terms of the Board's Order of July 8, 2015. Dr. Soin reviewed Dr. Beistel's history with the Board.

In response to questions from Dr. Steinbergh, Dr. Beistel stated that his life has become his Alcoholics Anonymous (AA) program. Dr. Beistel stated that most of his friends are in AA and he attends three meetings per week. Dr. Beistel commented that he is not much of anything without AA. Dr. Beistel stated that besides AA, his support system is a close-knit group of friends. Dr. Beistel stated that he does not associate with people socially unless they have some knowledge of his history of substance abuse. Dr. Beistel stated that he continues to practice in an emergency department working ten to twelve 12-hour shifts per month, which allows him flexibility to attend meetings and enjoy his kids.

Dr. Soin noted that Dr. Beistel's probationary time has been tolled in the past and asked what Dr. Beistel does to prevent instances of non-compliance in the future. Dr. Beistel stated that he has a sponsor with a caduceus group. Dr. Beistel commented that there are always new people at the meetings and he is happy

to provide his phone number when new people need a sponsor or someone to talk to.

Dr. Schottenstein asked Dr. Beistel to explain his previous comments that he is not much without AA. Dr. Beistel replied that if he is not sober he cannot be a doctor, a father, or anything else. Dr. Beistel stated that he has learned that if he stops attending meetings, talking to his sponsor, and praying, he will relapse at some point. Dr. Beistel stated that the last eight years have been better than he could have expected and that he must continue to work his program for the rest of his life.

Dr. Steinbergh moved to release Dr. Beistel from the terms of the Board's Order of July 8, 2015, effective immediately. Dr. Schottenstein seconded the motion. All members voted aye. The motion carried.

ELIZABETH B. LOTTES, D.O.

Dr. Lottes was appearing before the Board pursuant to her request for release from the terms of her July 13, 2011 Consent Agreement. Dr. Soin reviewed Dr. Lottes' history with the Board.

In response to questions from Dr. Soin, Dr. Lottes stated that she practices addiction medicine, spending half of her time doing research and half treating patients. Dr. Soin asked if Dr. Lottes could share her experiences. Dr. Lottes stated that when she started prescribing naloxone, most commercial pharmacies in Columbus did not carry it because they "don't want that type of patient here." Within the past year pharmacies still did not have naloxone in stock, but Dr. Lottes' patients could submit a prescription and receive it in 24 hours. Dr. Lottes stated that some suburban pharmacies are beginning to carry naloxone in stock.

Dr. Soin asked about Dr. Lottes' plans for the future in regard to monitoring and her health. Dr. Lottes replied that five years ago she started on the medication Aubagio for her multiple sclerosis and she has not had a relapse since that time. Dr. Lottes commented that Aubagio also has significantly less side-effects than her previous medications. Regarding her bipolar disorder, Dr. Lottes stated that she has been on the same medications for seven years and has been stable.

Dr. Lottes commented that for the last five years, Ms. Bickers and Ms. Jones in the Board's Compliance Section have been very professional and helpful to her.

Dr. Schottenstein moved to release Dr. Lottes from the terms of her July 13, 2011 Consent Agreement, effective immediately. Dr. Edgin seconded the motion. A vote was taken:

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

Dr. Edgin - aye

The motion carried.

MARY ELIZABETH MUDD, M.D.

Dr. Mudd was appearing before the Board pursuant to his request for release from the terms of her July 8, 2015 Consent Agreement. Dr. Soin reviewed Dr. Mudd's history with the Board.

Mr. Giacalone asked what changes Dr. Mudd has made to her practice to avoid issues going forward. Dr. Mudd replied that she is still practicing cosmetic medicine and is still in solo practice performing the same procedures as before. Dr. Mudd stated that her previous problems related to a procedure called Laser Lipo, which was very new at the time. Though Dr. Mudd was told at the time that Laser Lipo is not liposuction, she later came to realize that it is so close to liposuction that it should be considered liposuction.

Dr. Mudd continued that when the Board reviewed her records, the records were from 2008. Dr. Mudd stated that she was not a surgeon and therefore it was difficult for her at first to learn how to do surgical records. Dr. Mudd stated that she attended a medical records documentation course at the Board's request and she was pleased when the instructors reviewed her current records and said they were good. Dr. Mudd also commented that she uses tumescent local anesthesia instead of general anesthesia and that she recently had an opportunity to work with Dr. Jeffrey Klein, the originator of tumescent anesthesia.

Dr. Soin asked if Dr. Mudd puts IV's in her patients. Dr. Mudd replied that she does not use IV's because giving an IV to someone with tumescent anesthesia can cause fluid overload and congestive heart failure.

Dr. Soin noted that Dr. Mudd is a family practitioner and asked if Dr. Mudd discloses to her patients that she is not a surgeon. Dr. Mudd replied that she does disclose to her patients that she is not a surgeon. Dr. Soin asked if Dr. Mudd would classify liposuction as major surgery. Dr. Mudd answered that she would consider liposuction to be minimally invasive surgery, not major surgery. Dr. Soin asked if Dr. Mudd discloses to her patients that there is a risk of death. Dr. Mudd responded that she discusses that with her patients, but noted that tumescent anesthesia has been used since the mid-1980's and worldwide there has never been a death reported. Dr. Mudd stated that she discusses the potential risks of the procedure with her patients. Dr. Mudd stated that she does not do full-body liposuction and only does areas.

Dr. Mudd stated that she was a family practitioner for 25 years, but she does not consider herself to be a family practitioner any longer because she is no longer qualified to sit for the board examinations. Dr. Mudd stated that in more than 20 years of assessing patients she became good at determining who are the healthy patients and who medically may not be good cases and should be referred to a surgeon.

Mr. Giacalone asked if Dr. Mudd has educated any of her colleagues about her experience with the Board. Dr. Mudd replied that she has spoken to physicians in other specialties who are contemplating entering the field of cosmetic surgery about the risks and whether they are really qualified. Dr. Mudd commented that she had been an unusual family practitioner in that she had still practiced obstetrics and had assisted in all her C-sections, and therefore she was more familiar with an operating environment than most family

practitioners. Dr. Mudd further commented that physicians have come to her as patients because if something goes wrong they feel better in the hands of Dr. Mudd, a former family practitioner, than someone who only does surgery and may not be able to handle medical complications. Dr. Mudd added that she is also very good at assessing people post-operatively and has been able to detect when patients may be having problems even when the monitors report that everything is perfectly fine.

Dr. Soin asked if Dr. Mudd uses epinephrine in her tumescent anesthesia. Dr. Mudd replied that she does use epinephrine. Dr. Soin commented that as an anesthesiologist he uses tumescent anesthesia often and he always sees an increase in the patient's heart rate and blood pressure. Dr. Mudd stated that she only uses tiny amounts of epinephrine. Dr. Soin recommended that Dr. Mudd use IV's for her patients. Dr. Soin commented the Dr. Mudd's practice makes him nervous. Dr. Soin emphasized that he is expressing his own opinion, not the Board's. Dr. Mudd stated that she takes vital signs before each procedure and monitors the patient throughout.

Dr. Schottenstein asked if it is clear to Dr. Mudd that although she is not a plastic surgeon, she is held to the standards of a plastic surgeon when performing such procedures. Dr. Mudd agreed and stated that she takes the responsibility of caring for patients very seriously. Dr. Mudd stated that she knows her limitations and when a patient should be referred. Dr. Mudd stated that when she was a family practitioner practicing obstetrics she knew she was held to the same standards as an obstetrician. Dr. Mudd commented that when she left the field of family practice, the head of obstetrics at her hospital told her she was the best non-obstetrician she had ever seen and that her skills were equal to their obstetricians. Dr. Mudd stated that she offers the Laser Lipo procedure to her patients because she is able to provide a very safe way of doing the procedure.

Dr. Soin stated that the Board wants to make certain Dr. Mudd is aware of the risks of using tumescent anesthesia. Dr. Mudd replied that she is aware of the risks. Dr. Soin commented that if Dr. Mudd is using tiny amounts of epinephrine, then she must be using large amounts of tumescent if she is doing it properly. Dr. Mudd stated that when she practiced in Dr. Klein's office, his nurses felt that she had taken a step further in doing tumescent and keeping the amount of medicine very low. Dr. Soin stated that he pulled up an article by Dr. Klein which states that he is typically at half the volume of toxicity for local anesthetic, and, because lidocaine is metabolized, the risk of toxicity is extremely high if the patient is on a concurrent medication. Dr. Mudd stated that is what a medical history is taken. Dr. Soin advised Dr. Mudd to be cautious.

Mr. Giacalone noted that earlier today the Board considered a case in which a physician was performing liposuction and a patient death occurred. Dr. Mudd stated that she appreciates the Board's position and that she would welcome any Board member to come to her office during a procedure to see that she does a safe job and that she is very aware of the risks as well as the benefits.

Mr. Giacalone moved to release Dr. Mudd from the terms of her July 8, 2015 Consent Agreement, effective immediately. Dr. Schottenstein seconded the motion. A vote was taken:

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

Mr. Giacalone	- aye
Dr. Steinbergh	- abstain
Dr. Soin	- aye
Dr. Schachat	- aye
Dr. Schottenstein	- aye
Dr. Edgin	- abstain

The motion carried.

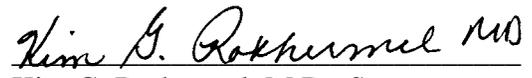
ADJOURNMENT

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

Thereupon, at 5:40 p.m., the July 8 13, 2016 session of the State Medical Board of Ohio was adjourned.

We hereby attest that these are the true and accurate approved minutes of the State Medical Board of Ohio meeting on July 13, 2016, as approved on August 10, 2016.


Michael L. Gonidakis, President


Kim G. Rothermel, M.D., Secretary

(SEAL)

