

**MINUTES****THE STATE MEDICAL BOARD OF OHIO****May 9, 2018**

Robert P. Giacalone, President, called the meeting to order at 10:22 a.m. in the Administrative Hearing Room, 3<sup>rd</sup> Floor, the James A. Rhodes Office Tower, 30 E. Broad Street, Columbus, Ohio 43215, with the following members present: Andrew P. Schachat, Vice President; Kim G. Rothermel, M.D., Secretary; Bruce R. Saferin, D.P.M., Supervising Member; Amol Soin, M.D.; Michael Schottenstein, M.D.; Richard Edgin, M.D.; Ronan M. Factora, M.D.; Mark A. Bechtel, M.D.; Betty Montgomery; and Sherry L. Johnson, D.O. The following member did not attend: Michael L. Gonidakis.

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

MINUTES REVIEW

**Dr. Edgin moved to approve the draft minutes of the April 11, 2018, Board meeting, as written. Dr. Bechtel seconded the motion. A vote was taken:**

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

The motion carried.

APPLICANTS FOR LICENSURE

**Dr. Bechtel moved to approve for licensure, contingent upon all requested documents being received and approved in accordance with licensure protocols, the physician applicants listed in**

**Exhibit “A” and the allied professional applicants in Exhibit “B,” as listed in the Agenda Supplement and handouts; and to approve the results of the April 27, 2018 Cosmetic Therapy Examination 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 Agenda Supplement. Dr. Soin seconded the motion. A vote was taken:**

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

The motion carried.

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

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

The motion carried.

## REPORTS AND RECOMMENDATIONS

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

Mr. Giacalone asked whether each member of the Board had received, read and considered the hearing records, the Findings of Fact, Conclusions of Law, Proposed Orders, and any objections filed in the matters of: Katie E. Wolterman; and Fares Fhemi Yasin, M.D. A roll call was taken:

ROLL CALL:

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

Mr. Giacalone asked whether each member of the Board understands that the disciplinary guidelines do not limit any sanction to be imposed, and that the range of sanctions available in each matter runs from dismissal to permanent revocation. A roll call was taken:

ROLL CALL:

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

Mr. Giacalone noted that, in accordance with the provision in section 4731.22(F)(2), Ohio Revised Code, specifying that no member of the Board who supervises the investigation of a case shall participate in further adjudication of the case, the Secretary and Supervising Member must abstain from further participation in the adjudication of any disciplinary matters. In the matters before the Board today, Dr. Rothermel served as Secretary and Dr. Saferin served as Supervising Member. Mr. Giacalone stated that the matter of Ms. Wolterman is non-disciplinary in nature, and therefore all Board members may vote in that matter.

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

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

#### KATIE E. WOLTERMAN

Mr. Giacalone directed the Board's attention to the matter of Katie E. Wolterman. No objections have been filed. Mr. Porter was the Hearing Examiner.

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

Ms. Wolterman asked the Board to utilize its discretionary rights to bypass the nine-month minimum requirement for completing the course work for massage therapist licensure. Ms. Wolterman stated that, as noted in the Report and Recommendation, she attended a full-time program at the Finger Lakes School of Massage in Mount Kisco, New York, and completed 1,000 hours of coursework in massage therapy. Ms. Wolterman stated that although she has exceeded the 750 hours of coursework required by Ohio, she has been denied licensure because the coursework was completed in seven months.

Ms. Wolterman continued that in her hearing the Board's Deputy Director for Licensure, Joseph Turek, was asked for the reason for the nine-month minimum. Mr. Turek had replied that the provision was meant to prevent fraud. Ms. Wolterman stated that it was established in the hearing that the Finger Lakes School of Massage is a credible, reputable school. Ms. Wolterman further pointed out that Mr. Turek testified that he had no reason to believe that the school was not in good standing.

Ms. Wolterman opined that the 1,000 hours of coursework that she completed in the seven-month full-time program meets the requirements of the State of Ohio. Ms. Wolterman stated that there was no fraud committed by either herself or the Finger Lakes School of Massage, so it appeared to her that the nine-month minimum required by law does not apply in her case. Ms. Wolterman stated that she has worked very hard to become a massage therapist and she asked the Board to allow her to follow her passion by granting her a license to practice massage therapy in her home state of Ohio.

Mr. Giacalone asked if the Assistant Attorney General wished to respond. Ms. Pelphrey stated that she did not wish to respond.

**Dr. Schottenstein moved to approve and confirm Mr. Porter's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Katie E. Wolterman. Dr. Sojn seconded the motion.**

Mr. Giacalone stated that he will now entertain discussion in the matter of Ms. Wolterman.

Dr. Bechtel stated that this matter is related to the fact that Ms. Wolterman completed her massage therapy training in seven months rather than the minimum nine months required by Board rule. Dr. Bechtel stated that Ms. Wolterman graduated from the Finger Lakes School of Massage in April 2016 and was licensed to practice massage therapy in New York in October 2016. Dr. Bechtel noted that Ms. Wolterman's New York license is still active. Dr. Bechtel further noted that Ms. Wolterman passed the Massage and Bodywork Licensing Examination (MBLEX) in November 2016. Dr. Bechtel observed that Mr. Turek's testimony at the hearing that Ms. Wolterman's massage therapy education had met or exceeded all of the Board's requirements, except for that fact that she completed her training in less than nine months. Dr. Bechtel stated that Ms. Wolterman wished to return to Ohio to spend time with her elderly mother.

Dr. Bechtel continued that according to Ms. Wolterman's testimony, the Finger Lakes School of Massage is in good standing with the American Massage Therapy Association, is recognized by the National Certification Board for Therapeutic Massage & Bodywork, and has been accredited by the Accrediting Council for Continuing Education and Training. During her training, Ms. Wolterman completed 1,000 hours of training, exceeding the 750 hours required in Ohio and, according to her testimony, graduated with a grade point average of 94.6. Dr. Bechtel explained that the Finger Lakes School of Massage offers a part-time massage therapy program which lasts 21 months and a full-time program that lasts seven months. Both programs are 1,000 hours and have identical curricula. Dr. Bechtel stated that if Ms.

Wolterman had taken the part-time program she would have unquestionably qualified for Ohio licensure, but this case has arisen because she chose the full-time program and completed it in seven months.

Dr. Bechtel stated that the evidence in the hearing record would suggest that Ms. Wolterman has completed the requirements to practice massage therapy in Ohio. Dr. Bechtel agreed with the Proposed Order to approve Ms. Wolterman's application for licensure, provided that she meets all the statutory and regulatory requirements.

Dr. Saferin stated that this matter was discussed this morning in the Licensure Committee meeting and the consensus of the Committee was that the rule does not grant the Board the ability to exercise discretion in this matter. Dr. Saferin pointed out that past applicants have been denied licensure because the Board was not authorized to exercise discretion. Dr. Saferin agreed that Ms. Wolterman had the necessary education to practice massage therapy, but stated that the Board does not have the discretionary ability to overturn the rule.

Dr. Saferin stated that the solution to this issue is to change the rule through the rule-making process so that the Board can determine educational equivalency, similar to the rule for physician licensure. Once the rule is changed, Ms. Wolterman would qualify for licensure. Dr. Saferin asked the Board not to grant Ms. Wolterman licensure at this time due to the bad precedent it would set.

Dr. Schottenstein asked how long it would take to change the rule as Dr. Saferin has suggested. Ms. Anderson replied that any change to the rule would have to go through the whole, which would include submitting the rule to the Common Sense Initiative (CSI) and the Joint Committee on Agency Rule Review (JCARR). Ms. Anderson estimated that even though the amendment would probably not be controversial, the process would take at least six months.

Mr. Giacalone commented that the Board does not need to be a slave to the rule. Mr. Giacalone stated that Ms. Wolterman has completed 1,000 hours of massage therapy education and she is more than qualified for licensure. Mr. Giacalone suggested that the Board grant Ms. Wolterman's application for licensure and also pursue the rule change recommended by Dr. Saferin. Mr. Giacalone opined that it was ludicrous that Ms. Wolterman would have been licensed had she taken the 21-month part-time program, but she could be penalized because she took the seven-month full-time program.

Dr. Soin commented that if the consensus of the Board is to change the rule, then the argument about setting a precedent is moot. Mr. Giacalone and Dr. Schottenstein agreed.

Dr. Schottenstein stated that he appreciates Dr. Saferin's thoughts, but he opined that cases like Ms. Wolterman's is the reason that there is a Board. Dr. Schottenstein stated that the Board can hear cases and exercise discretion rather than having issues essentially go through a computer algorithm for a result. Dr. Schottenstein favored Mr. Giacalone's suggestion to grant Ms. Wolterman a license and to also begin on changing the rule. Dr. Schottenstein speculated that no one would oppose modifying the rule in a matter consistent with the approval of Ms. Wolterman's application. Dr. Schottenstein stated that he is mindful of the rule and the setting of precedent, but he is also mindful of provoking an unjust outcome. Dr. Schottenstein opined that denial Ms. Wolterman's application would be an unjust outcome.

Ms. Montgomery asked if any kind of legal challenge could result if the Board issues Ms. Wolterman a license. Ms. Anderson replied that the person who would have standing to challenge the issuance of the license would probably not do so. However, Ms. Anderson stated that it would be a legal concern if the

Board issues a license contrary to its rule, particularly considering applicants who have been denied under this rule in the past and applicants who the Board may choose to deny in the future. Ms. Anderson stated that the Board's intention to pursue amendments to the rule will ameliorate the situation somewhat. Mr. Giacalone commented that if other similarly-situated applicants in the past, then those people also deserve a license. Mr. Giacalone stated that such similarly-situated people could challenge the denial, but he opined that it would only be an academic exercise since the Board intends to change the rule.

Dr. Saferin reiterated that he is sympathetic to Ms. Wolterman's situation and he opined that she is more than qualified to practice massage therapy. Dr. Saferin stated that the issue is that other applicants have been denied by the Board because the Board was not authorized to determine educational equivalency under the rule. Dr. Saferin stated that if the Board grants Ms. Wolterman a license, it will have to do so for others even before the rule is changed. Dr. Saferin stated that this is concerning to him because the Medical Board is a group that follows the rules.

Mr. Groeber commented that if other individuals want to apply for licensure, they would go through the same process as Ms. Wolterman.

Dr. Bechtel asked why the minimum time period of nine months for massage therapy education is included in the rule. Dr. Saferin replied that he did not know why that time period was selected because it was done before his time on the Board. Dr. Saferin commented that if the rule simply contained a phrase such as "...and equivalent to be determined by the Board," then the Board could determine that Ms. Wolterman's education is adequate and grant her a license. Dr. Saferin stated that the Board's staff is already working on changing the rule and that the Board should not set a precedent before the rule is changed.

Mr. Giacalone quoted Mr. Turek's testimony in the hearing regarding why the rule includes a minimum nine-month time period:

I am not [aware of the reason why the Board requires that the program not take less than nine months]. It may have to do with trying to prevent fraud. And we do see sometimes fraudulent transcripts, sort of fraudulent of fly-by-night program.

Mr. Giacalone pointed out that fraud is not an issue in this case and there is no question about the integrity of the school transcripts or of Ms. Wolterman. Mr. Giacalone agreed with Dr. Schottenstein's comments and added that if the Board is only meant to rubber-stamp things, then there is no reason for the Board to be here. Mr. Giacalone reiterated that the Board intends to change this rule as discussed.

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

ROLL CALL:	Dr. Rothermel	- aye
	Dr. Saferin	- nay
	Dr. Schottenstein	- aye
	Dr. Sojn	- aye
	Dr. Schachat	- aye
	Mr. Giacalone	- aye
	Dr. Edgin	- aye
	Dr. Factora	- nay
	Ms. Montgomery	- nay

Dr. Johnson            - abstain  
Dr. Bechtel            - aye

The motion to approve carried.

FARES FHEMI YASIN, M.D.

Mr. Giacalone directed the Board's attention to the matter of Fares Fhemi Yasin, M.D. No objections have been filed. Ms. Blue was the Hearing Examiner.

**Dr. Schottenstein moved to approve and confirm Ms. Blue's Findings of Fact, Conclusions of Law, and Proposed Order in the matter of Fares Fhemi Yasin, M.D. Ms. Montgomery seconded the motion.**

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

Ms. Montgomery stated that Dr. Yasin graduated from medical school in Puerto Rico and was licensed to practice medicine in Puerto Rico in 2003. Dr. Yasin began practice in Michigan in 2005 as a family medicine practitioner. Ms. Montgomery noted that Dr. Yasin is not board-certified in any specialty. Ms. Montgomery noted that Dr. Yasin also apparently practiced as a dentist in the Dominican Republic for one year.

Ms. Montgomery continued that the Michigan Board of Medicine considered eleven counts against Dr. Yasin in April 2011, including issues such as poor record-keeping, failure to obtain proper patient histories, failure to monitor properly, failure to properly use Michigan's prescription drug monitoring program, failure to have a treatment plan, improper prescribing, and behavior that was determined to be incompetent and a violation of Michigan rules and statutes. As a result, Dr. Yasin entered into a Consent Order with the Michigan Board in August 2012 which included a \$1,500 fine, probation for one year, and a requirement to take continuing medical education (CME) courses. The Consent Order also limited Dr. Yasin so that no more than 25% of his practice could be involved in chronic pain management.

In December 2014 Dr. Yasin, who was no longer under probation at that time, was interviewed by a Michigan Board investigator. The interview revealed that 90% of Dr. Yasin's patients were being prescribed controlled substances. Ms. Montgomery noted that while only 8% of alprazolam tablets dispensed in Michigan were for 2 mg strength, 70% of Dr. Yasin's patients were given alprazolam tablets of 2 mg or more. A review of Dr. Yasin's charts again showed a failure to properly monitor patients for abuse or diversion of drugs, failure to use appropriate drug screening, failure to check the prescription drug monitoring program, prescribing inappropriate combinations of drugs, failure to consider alternative approaches, and other issues. In July 2016, the Michigan Board approved a Consent Order that reprimanded Dr. Yasin, fined him \$7,500, and required him to take a medical competency assessment and additional CME on prescribing. The Consent Order also barred Dr. Yasin from obtaining, prescribing, possessing, dispensing, or administering any controlled substances unless it had been prescribed to him by another healthcare provider. Ms. Montgomery characterized the Michigan Board's decision to approve this Consent Order as "very kind."

Ms. Montgomery stated that in December 2016 Dr. Yasin submitted an application for licensure in Ohio. Dr. Yasin did not appear at his hearing in Ohio, but he submitted a statement indicating that he has learned his lesson, that he now understands more about how one should prescribe, and that he is going

to be a better physician. Dr. Yasin also indicated that he does not want to use or prescribe controlled substances, at least in the near future.

Ms. Montgomery stated that he whole-heartedly agrees with the Hearing Examiner's Proposed Order, which would permanently deny Dr. Yasin's application for licensure in Ohio.

Dr. Schottenstein stated that it would be one thing if a doctor had had only one consent order with another state regarding minimal standards and was taking steps to correct the issues. However, Dr. Yasin's second Consent Order essentially mimics his first from four years prior. Dr. Schottenstein asked how the Ohio Board could have faith that the same conversation will not occur again four years from now. Dr. Schottenstein stated that the implication is that Dr. Yasin cannot be successful remediated to practice medicine appropriately. Dr. Schottenstein stated that he would be concerned about the safety of the public if Dr. Yasin were to have a license in Ohio. Dr. Schottenstein could not identify any interventions that would improve the situation because interventions have not worked in the past.

Dr. Schottenstein continued that Dr. Yasin's explanation that his prescriptions had been forged or were the result of clerical errors is very difficult to believe in this context. Dr. Schottenstein noted that in his statement, Dr. Yasin admitted that he had inadvertently prescribed controlled substances because he had not realized that those drugs were controlled substances. Dr. Schottenstein stated that it is unethical to prescribe a medication when one does not know such a basic fact about it. Dr. Schottenstein further stated that Dr. Yasin's explanation does not sound plausible. Dr. Schottenstein stated that for all these reasons, he supports the Proposed Order.

Mr. Giacalone commented that Dr. Yasin's over-prescribing was ridiculous, noting that one patient alone received Oxycontin 80 mg 60 tablets, Xanax 1 mg, Phenergan w/Codeine cough syrup, and Valium. Mr. Giacalone stated that Dr. Yasin failed to take basic steps such as checking the prescription drug monitoring program. Mr. Giacalone stated that Dr. Yasin is creating chaos, hurting families, and hurting people instead of helping them. Mr. Giacalone agreed with the Proposed Order.

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

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

The motion to approve carried.

#### EXECUTIVE SESSION

**Dr. Soin 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
	Dr. Schottenstein	- aye
	Dr. Soin	- aye
	Dr. Schachat	- aye
	Mr. Giacalone	- aye
	Dr. Edgin	- aye
	Dr. Factora	- aye
	Ms. Montgomery	- aye
	Dr. Johnson	- aye
	Dr. Bechtel	- aye

The motion to approve carried.

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

The Board returned to public session.

#### RATIFICATION OF SETTLEMENT AGREEMENTS

##### BRYAN DAVID BORLAND, D.O. – PROBATIONARY CONSENT AGREEMENT

**Dr. Schottenstein moved to ratify the proposed Probationary Consent Agreement with Dr. Borland. Dr. Soin seconded the motion. A vote was taken:**

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

The motion to ratify carried.

BHUPINDER CHAHAL, M.D. – PERMANENT SURRENDER OF CERTIFICATE TO PRACTICE  
MEDICINE AND SURGERY

**Dr. Schottenstein moved to ratify the proposed Permanent Surrender with Dr. Chahal. Dr. Edgin seconded the motion.** A vote was taken:

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

The motion to ratify carried.

REBECCA THERESE CIRINO, D.O. – CONSENT AGREEMENT

**Dr. Schottenstein moved to ratify the proposed Consent Agreement with Dr. Cirino. Dr. Edgin seconded the motion.** A vote was taken:

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

The motion to ratify carried.

ROBERT ALBIN DIXON, D.O. – VOLUNTARY PERMANENT RETIREMENT FROM THE PRACTICE OF  
OSTEOPATHIC MEDICINE AND SURGERY

**Dr. Schottenstein moved to ratify the proposed Voluntary Permanent Retirement with Dr. Dixon. Dr. Edgin seconded the motion.** A vote was taken:

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

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

The motion to ratify carried.

JESSICA ELLIOTT, R.C.P. – PERMANENT SURRENDER OF CERTIFICATE TO PRACTICE  
RESPIRATORY CARE AS A LICENSED RESPIRATORY CARE PROFESSIONAL

**Dr. Schottenstein moved to ratify the proposed Permanent Surrender with Ms. Elliott. Dr. Edgin seconded the motion.** A vote was taken:

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

The motion to ratify carried.

DANIEL W. PALMER, M.D. – CONSENT AGREEMENT

**Dr. Schottenstein moved to ratify the proposed Consent Agreement with Dr. Palmer. Dr. Soin seconded the motion.** A vote was taken:

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

The motion to ratify carried.

TRACY REANN RUEDISUELI, P.A. – PERMANENT SURRENDER OF CERTIFICATE TO PRACTICE AS A PHYSICIAN ASSISTANT

**Dr. Schottenstein moved to ratify the proposed Permanent Surrender with Ms. Ruedisueli. Dr. Edgin seconded the motion.** A vote was taken:

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

The motion to ratify carried.

JEROME BERNARD YOKIEL, M.D. – STEP II CONSENT AGREEMENT

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

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

The motion to ratify carried.

MICHAEL JOHN HOWKINS, D.O. – STEP I CONSENT AGREEMENT

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

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

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

The motion to ratify carried.

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

Ms. Marshall reviewed the proposed citations for the members of the Board.

Dr. Schottenstein stated that he had questions regarding proposed citation #1 for Muhammad K. Ahsan, M.D. Specifically, Dr. Schottenstein asked why the citation was not a summary suspension of the physician's license. Ms. Marshall stated that the physician's prescribing in Ohio is limited to his practice as a hospitalist. Ms. Marshall stated that one of the criterion for a summary suspension is a risk of serious harm to patients in Ohio. Ms. Marshall stated that the physician's high level of prescribing took place in Michigan, not Ohio, and occurred from 2015 to 2016 when he worked in a Michigan pain clinic. Ms. Marshall further noted that according to the Michigan Order, the physician had a significant decrease in prescribing beginning in August 2016. Ms. Marshall stated that for these reasons, it cannot be showed that the physician represents a risk of serious harm to patients in Ohio at this time.

Mr. Giacalone observed that the administrative complaint in Michigan against the physician cites the locations that the physician worked, including one in Elyria, Ohio. Mr. Giacalone opined that proposed citation #1 should be a summary suspension based on his very poor prescribing habits, including prescribing 375 morphine-equivalent doses (MED) to one patient and prescribing medications to patients who frequently abused and diverted drugs. Mr. Giacalone stated that if this physician is not a bad prescriber, then he is incompetent and should not be practicing in a hospital.

Ms. Marshall agreed with Mr. Giacalone's opinion, but stated that a summary suspension cannot be legally supported by prescribing that is two years old and took place in another state. Ms. Marshall stated that if the Board receives evidence of inappropriate prescribing that is more recent or occurred in Ohio, then he could be summarily suspended. Ms. Marshall stated that the Board's Secretary and Supervising Member make the decision of whether a citation should include a summary suspension based on the totality of evidence, including evidence that cannot be disclosed in the proposed citation.

Mr. Giacalone disagreed and stated that the physician should be summarily suspended because he has acted inappropriately and has practiced in Ohio. Mr. Giacalone stated that he intends to vote against proposed citation #1 because he feels it should include a summary suspension of the physician's Ohio medical license.

**Dr. Schottenstein moved to send the Notice of Opportunity for Hearing to Muhammad K. Ahsan, M.D. Dr. Factora seconded the motion. A vote was taken:**

ROLL CALL:

Dr. Rothermel	- abstain
Dr. Saferin	- abstain
Dr. Schottenstein	- aye
Dr. Soin	- aye
Dr. Schachat	- aye
Mr. Giacalone	- nay
Dr. Edgin	- aye
Dr. Factora	- aye
Ms. Montgomery	- aye
Dr. Johnson	- abstain
Dr. Bechtel	- abstain

The motion to send carried.

**Dr. Schottenstein moved to send the Notice of Opportunity for Hearing to Thomas Ranieri, M.D. Dr. Soin seconded the motion.** A vote was taken:

ROLL CALL:

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

The motion to send carried.

**Dr. Schottenstein moved to send the Notices of Opportunity for Hearing to Ronnie Christopher Parker, D.O.; Victorio Cajigal Rodriguez, M.D.; and Johnny Ray Trotter, II, M.D. Dr. Soin seconded the motion.** A vote was taken:

ROLL CALL:

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

The motion to send carried.

#### RULES AND POLICIES

Ms. Debolt stated that the rules in Chapters 4731-10, 4731-20, and 4731-25, of the Ohio Administrative Code have had public hearing, have been approved by the Joint Committee in Agency Rule Review, and are ready to be adopted by the Board.

**Dr. Saferin moved that the proposed rules in Chapters 4731-10, 4731-20, and 4731-25 be adopted, with an effective date of May 31, 2018. Dr. Soin seconded the motion. A vote was taken:**

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

The motion carried.

Ms. Debolt updated the Board on the status of the proposed rules establishing a confidential monitoring program for licensees with a mental or physical illness. Ms. Debolt stated that the Common Sense Initiative (CSI) have approved the rules as drafted and they will be filed with the Joint Committee on Agency Rule Review (JCARR) no later than next week. Ms. Debolt speculated that the rules could become effective by the end of this summer.

#### APPOINTMENT TO COMMITTEE ON PRESCRIPTIVE GOVERNANCE

Ms. Debolt stated that Katherine Clark, D.O., one of the Board's appointees to the Committee on Prescriptive Governance (CPG), is recommended for reappointment to another term on that Committee. Dr. Schottenstein asked Ms. Debolt to briefly review the Committee's role and function. Ms. Debolt responded that the CPG determined that formulary for advanced practice nurses.

**Dr. Bechtel moved to appoint Katherine Clark, D.O., to the Committee on Prescriptive Governance for a term starting May 1, 2018 and ending April 30, 2020. Dr. Saferin seconded the motion. A vote was taken:**

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

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

The motion carried.

#### APPOINTMENT TO DIETETICS ADVISORY COUNCIL

Mr. Smith stated that at last month's Board meeting, the Board appointed six people to the Dietetics Advisory Council. At this time, the Board staff is recommending Amie N. Heap, M.P.H., R.D., to fill the seventh seat on the Council. Mr. Groeber explained that at the time when applications to the Council were being considered, Ms. Heap was traveling abroad and could not get her materials into the Board. Since that time, those materials have been received. Mr. Groeber stated that Ms. Heap's resume is stellar and she currently serves as the head of Abbott Nutrition Health Institute. Mr. Groeber noted that Ms. Heap is recognized as an expert in her field and she will soon be speaking at a conference in Geneva, Switzerland. Mr. Groeber stated that Ms. Heap has been a registered dietitian for a number of years and was just granted licensure in Ohio on April 17. Mr. Groeber stated prior to April 17, Mr. Smith reviewed all applications to the Council with Mr. Giacalone and it was determined that Ms. Heap would be an excellent fit for the Council once she was licensed.

**Dr. Saferin moved to appoint Amie N. Heap, M.P.H., R.D., to the Dietetics Advisory Council for a two-year term. Dr. Soin seconded the motion. A vote was taken:**

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

The motion carried.

#### OPERATIONS REPORT

**Human Resources:** Mr. Groeber stated that the Board is hiring an Assistant Chief Enforcement Attorney, as well as a Hearing Examiner to replace the departing Danielle Blue. An investigator for the South region has been selected, pending a background check. Mr. Groeber stated that Stacy Tuerck, the Investigator Supervisor for the South region, recently gave notification that she will be leaving the Board to accept another position, so work will begin to fill that position.

**Investigator Firearms:** Mr. Groeber stated that the Board staff is continuing to work with the union to

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

**Federation of State Medical Boards Annual Meeting:** Mr. Groeber stated that this year's Annual Meeting of the Federation of State Medical Boards (FSMB) was very fruitful. Two candidates from Ohio ran for positions with the FSMB. Dr. Steinbergh ran for the Board of Directors, but regrettably she was not elected to that position. Mr. Giacalone was elected by acclamation to the Nominating Committee, which vets candidates that run for office with the FSMB.

Mr. Groeber stated that the Ohio Board had proposed a resolution regarding acute pain opioid prescribing practices. Ohio had proposed that a working group be formed to review these practices by state medical boards and other entities in order to share data and produce a guidance document. Unfortunately, the FSMB's Reference Committee removed many of the key provisions and the resulting resolution simply states that the Committee will compile the current rules from all the states. Mr. Giacalone commented that the FSMB Board of Directors actually supported Ohio's proposal. Mr. Groeber agreed and noted that the FSMB leadership has indicated to him that they will continue to advocate for Ohio's proposal.

**Agency Operations:** Mr. Groeber stated that the influx of respiratory care therapists and dietitians has increased the numbers for the Licensure Section. Mr. Groeber noted that with more licensees, the Board may also see more complaints. Mr. Groeber stated that the average time to issue expedited licenses has increase slightly due to some outliers, but even routine licensure was done in an average of just 20 days in April.

**2018 Board Retreat:** Mr. Groeber reminded the Board members that the 2018 Board Retreat is tomorrow at the Grange Insurance Audubon Center.

**Financial Disclosure Statements:** Mr. Groeber reminded the Board members that Financial Disclosure Forms are due at the Ohio Ethics Commission by May 15. Mr. Groeber stated that the agency pays a fine if a Financial Disclosure Form is not filed by the deadline.

**Public Service Recognition Week:** Mr. Groeber stated that this is Public Service Recognition Week. Mr. Groeber stated that the Board has a wonderful staff that does its best to serve the Board and the public. Mr. Groeber stated that he is always humbled by the people who work for him. Mr. Giacalone stated that the Board is grateful for the outstanding job the staff does. The Board members applauded the staff.

## REPORTS BY ASSIGNED COMMITTEE

### FINANCE COMMITTEE

#### FISCAL REPORT

Dr. Schottenstein stated that the Board's revenue in March 2018 was \$1,420,343, a record amount of monthly review and a substantial increase from the approximately \$840,000 in revenue from February. Dr. Schottenstein stated that this revenue is largely a reflection of the April 1 deadline for license renewal of many physician licenses. Dr. Schottenstein stated that similar review is expected for April 2018 due to



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

The motion carried.

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

The Board returned to public session.

#### POLICY COMMITTEE

##### LEGISLATIVE UPDATE

Dr. Soin stated that Mr. LaCross provided the Committee with an update in pending legislation that is pertinent to the Board. Dr. Soin stated that Mr. LaCross will be in continuous contact with the members of the Policy Committee with regard to bills and matters that affect the Board.

##### RULE REVIEW PROCESS

Dr. Soin stated that Ms. Anderson updated the Committee on the rules that the Board is currently reviewing.

##### MEDICATION-ASSISTED TREATMENT RULES

Dr. Soin stated that the Policy Committee will likely continue to work on these rules. Dr. Soin stated that feedback has been received and some of the comments were well-written and well-thought out. Dr. Soin stated that the Committee will take an opportunity to review the comments carefully and discuss possible amendments to the draft rules.

##### LETTER FROM DEPARTMENT OF MEDICAID

Dr. Soin stated that this topic will be discussed tomorrow at the Board Retreat.

##### ONE-BITE REPORTING EXEMPTION RULES

Dr. Soin stated that the Committee spent a significant amount of time reviewing these rules. Dr. Soin asked Ms. Anderson to provide an update to the Board.

Ms. Anderson stated that the draft rules were circulated for public comment and detailed comments were received from four entities. Ms. Anderson stated that there were a number of comments from the Cleveland Clinic about employer-related issues. Currently, the draft rules uses the phrase "return to

work”; those phrases will now be changed to “a determination that the individual is able to practice according to acceptable and prevailing standards” in the hope that that will alleviate some of the employer concerns. Ms. Anderson stated that overall, the relationship between an employee and an employer is not necessarily part of the Medical Board’s regulation.

Ms. Anderson continued that there was also concern about treatment providers and monitoring organizations reporting things to employers because they may not be aware of the employer or there may be more than one employer.

Ms. Anderson stated that there were questions regarding the frequency and type of drug screens that would be required in the one-bite program, with comments suggesting that it should be random drug screens two times per month. The Policy Committee discussed the suggestion and felt that the drug screens should be observed and should be no less than four times per month for the first year and two times per month thereafter.

Regarding alcohol and drug support groups, Ms. Anderson stated that the recommendation of the Medical Association Coalition (MAC) and the Ohio Physicians Health Program (OPHP) was to limit meetings to ten meetings per month for the entirety of the agreement. The Policy Committee considered the recommendation and determined that to be consistent with what is done in disciplinary cases, there should be a minimum of three meetings per week for the first year and two meetings per week with a minimum of ten meetings per month for the remainder of the agreement.

Ms. Anderson stated that the draft rules required that issues such as non-compliance and relapse be reported within 48 hours. The comments on this provision were that there should not be a timeframe for reporting. The Policy Committee determined that a timeframe is necessary, but recommended expanding it to 72 hours. Ms. Anderson stated that there was a great deal of discussion about guidelines for reporting relapse and non-compliance. The Committee determined that the Board would develop those guidelines and that relapses and non-compliance would need to be reported.

Regarding education that would be provided by the monitoring organization, the Committee determined that the monitoring organization would develop the materials in consultation with the Board rather than the Board preparing those materials.

Regarding the requirements for the medical directors of treatment providers, the Committee determined that the requirement that the medical director have knowledge about drug screening and prescribing should remain unchanged. The Committee did recommend changing the language so that the medical director shall oversee the treatment, rather than being directly involved with all aspects of treatment.

Ms. Anderson stated that the Committee discussed group therapy and indicated that the continuing care provider shall provide therapy, including group therapy, led by specified individuals.

**Dr. Saferin moved to file the rules with the Common Sense Initiative, as amended by the Policy Committee. Dr. Schottenstein seconded the motion. A vote was taken:**

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

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

The motion carried.

### PARTNERS IN PROFESSIONALISM

Mr. Giacalone noted that medical residents from Fairview Hospital Cleveland are observing today's Board meeting, as well as Dr. Harley and Dr. Davidson, attending physicians and faculty from Akron General Hospital. Mr. Giacalone welcomed the guests

### REPORTS BY ASSIGNED COMMITTEE

#### LICENSURE COMMITTEE

#### LICENSURE APPLICATION REVIEWS

#### NISSREEN ELFADAWY, M.D.

Dr. Saferin stated that Dr. Elfadawy has applied for an Ohio medical license and has requested a waiver of the United States Medical Licensing Examination (USMLE) ten-year rule based on 4731-6-14(C)(3)(b)(i), Ohio Administrative Code which states the Board may grant a good cause waiver to any applicant that "holds current specialty board certification from the American Board of Medical Specialties or the American Osteopathic Association." Dr. Saferin noted that Dr. Elfadawy passed Step 1 of the USMLE in 1999, Step 2 (CK) in 2004, Step 2 (CS) in 2010, and Step 3 in 2016, all on the first attempt. Dr. Elfadawy had held ABMS certification in general internal medicine since 2017. Dr. Elfadawy graduated from the University of Alexandria in Egypt in 2003. Dr. Elfadawy also completed a residency and served as a junior faculty member in Egypt. In 2017, Dr. Elfadawy successfully completed two years of an Accreditation Council for Graduate Medical Education (ACGME) approved post-graduate residency training in Internal Medicine at Case Western Reserve University/University Hospitals Cleveland Medical Center. Dr. Elfadawy has been participating in an ACGME-accredited nephrology clinical fellowship at Case Western Reserve University/University Hospitals Cleveland Medical Center since 2017.

Dr. Saferin stated that the Licensure Committee has recommended approval of Dr. Elfadawy's request.

**Dr. Bechtel moved to approve the good cause exception of the 10-year rule as outlined in 4731-6-14(C)(3)(b)(i), Ohio Administrative Code, and accept Dr. Elfadawy's examination sequence so that she can be granted a license. Dr. Schottenstein seconded the motion. A vote was taken:**

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

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

The motion carried.

BO XU, M.D.

Dr. Saferin stated that Dr. Xu has requested graduate medical education (GME) equivalency, pertaining to 4731.09(A)(4)(b), Ohio Administrative Code, which permits the Board to determine an equivalent to the GME training requirement of two years through the second-year level. Dr. Saferin noted that Dr. Xu graduated from University of Melbourne in Australia in 2007. Dr. Xu has almost eight-and-a-half years of experience in Australia, including work in cardiology and imaging as the Cardiology Registrar to the Senior Cardiology Registrar and an Advanced Non-Invasive Cardiac Imaging Fellow and Cardiologist. Since July 2016, Dr. Xu has served as an advanced cardiovascular imaging clinical fellow at the Cleveland Clinic and is two months short of successfully completing the twenty-four months of GME required for a license.

Dr. Saferin stated that the Licensure Committee has recommended approval of Dr. Xu's request.

**Dr. Schottenstein moved to deem Dr. Xu's training and experience in Australia and the United States to be equivalent to twenty-four months of graduate medical education through the second-year level of GME so that he may be granted a license. Dr. Soin seconded the motion. A vote was taken:**

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

The motion carried.

JULIE A. HALDEMAN

Dr. Saferin stated that Ms. Haldeman has applied for restoration of her massage therapy license in Ohio. Ms. Haldeman indicated on her application that she has not actively practiced massage therapy in Ohio since her license expired on October 1, 2014.

Dr. Saferin stated that the Licensure Committee has recommended approval of Ms. Haldeman's request.

**Dr. Schottenstein moved to approve Ms. Haldeman's request for Ohio licensure, pending successful completion of the Massage and Bodywork Licensing Examination (MBLEX) within six months from the date of mailing of the Notice of Opportunity for a Hearing. Dr. Soin seconded the motion.** A vote was taken:

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

The motion carried.

#### TRAINING CERTIFICATE EDUCATION VERIFICATION

Dr. Saferin stated that this matter was tabled at last month's Licensure Committee meeting to provide an opportunity for staff to draft a revised training certificate issuance letter that would address the concerns of the Committee. The staff has proposed that the verification of education form be eliminated from the training certificate application in favor of certifications that would be made by the training programs. The Staff is also proposing an amendment to Rule 4731-6-30(B), Ohio Administrative Code, a description of which has been provided to Board members for review. The Licensure Committee has recommended approval of the proposal.

**Dr. Schottenstein moved that the verification of education form be eliminated from the application for a training certificate; that certifications be added to the training program certification form; that the training certificate issuance letter be revised as discussed; and that the proposed language for the amendment to Rule 4731-6-30, OAC, be approved. Dr. Soin seconded the motion.** A vote was taken:

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

Dr. Bechtel - aye

The motion carried.

#### COMPLIANCE COMMITTEE

Dr. Schottenstein stated that on April 11, 2018, the Compliance Committee met with Gregory G. Duma, M.D.; Diane Ottolenghi, M.T.; Frank G. Stoddard, D.P.M.; and Rajive Tandon, 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 March 12 & 13, 2018.

#### TREATMENT PROVIDER APPLICATION

##### LAKEVIEW HEALTH

Dr. Schottenstein stated that the Compliance Committee has recommended approval of the Application for a Certificate of Good Standing as a Treatment Provider for Impaired Practitioners from Lakeview Health.

**Dr. Bechtel moved to approve the Application for a Certificate of Good Standing as a Treatment Provider for Impaired Practitioners from Lakeview Health. Dr. Saferin seconded the motion. A vote was taken:**

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

The motion carried.

#### RESPIRATORY CARE ADVISORY COUNCIL REPORT

Dr. Factora stated that the Respiratory Care Advisory Council met for first time on May 8, 2018. The Council discussed proposed respiratory care rules referred to the Council by the Policy Committee in April, as well as current respiratory care rules regarding licensure and continuing education. In addition, the Council discussed an inquiry as to the meaning of the term "relevant college credit" in the respiratory care rules. Lastly, the Council discussed whether it was within the scope of practice of a respiratory care therapist to triage patients in the emergency department of a hospital.

Dr. Factora stated that the recommendations made by the Council will be forthcoming at the appropriate time.

PROBATIONARY REQUESTS

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

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

- **To grant Nicholas Atanasoff, D.O.'s request for approval of travel between Ohio and Pennsylvania without submitting individual travel requests;**
- **To grant Michael T. Bangert, M.D.'s request for approval of Sara N. Drake to serve as the doctor's new mental health counselor;**
- **To grant Regis P. Burlas, D.O.'s request for discontinuance of the drug log requirement;**
- **To grant Jennifer C. Campbell, M.D.'s request for approval of Michelle J. Belardo, M.D., to serve as the new monitoring physician;**
- **To grant Joseph C. Carver, M.D.'s request for reduction in the chart review requirement to ten per month; and approval of the submitted practice plan;**
- **To grant Theodore R. Cubbison, D.O.'s request for discontinuance of the drug log requirement; and reduction of chart reviews to every six months;**
- **To grant Gregory G. Duma, M.D.'s request for approval of Vincent A. Sawma, Jr., M.D., to serve as the monitoring physician; and determination of the frequency and number of charts to be reviewed at ten charts per month;**
- **To grant James George Lamphear, M.D.'s request for approval of William S. Jacobs, Jr., M.D., to serve as the new treating psychiatrist/addictionologist; and approval of the Georgia Professional Health Program to conduct monitoring while the doctor resides in Georgia;**
- **To grant Robert Lindner, M.T.'s request for approval of *Dealing with Ethical Gray Areas in Massage Therapy*; and *Creating Healthy Boundaries*; and *Ethical Dilemmas Fully Exposed*; and *Sports Massage: Ethics and Building Trust* online courses, administered by the American Massage Therapy Association, to fulfill the professional ethics course requirement;**
- **To grant Michael C. Macatol, M.D.'s request for approval to reduce psychiatric treatment sessions to every six months;**
- **To grant Michael J. Palma, M.D.'s request for approval of Edith McCaddin, LICSW, to conduct psychotherapy sessions;**
- **To grant Nicholas L. Pesa, M.D.'s request for approval to discontinue the Naltrexone requirement;**

- To grant James I. Tak, M.D.'s request for approval of David W. Stroom, M.D., to serve as the treating psychiatrist; approval of Kenneth G. Alexander, M.Ed., LPCC, LICDC-CS, to serve as the treating psychotherapist; approval of Sanjeev Suri, M.D., to serve as the monitoring physician; and determination of the frequency and numbers of charts to be reviewed at ten charts per month;
- To grant Rajive Tandon, M.D.'s request for approval of Timothy A. Scroggins, M.D., to serve as the monitoring physician; and determination of the frequency and number of charts to be reviewed at ten charts per month; and
- To grant Aly M. A. Zewail, M.D.'s request for approval of Joseph W. Janesz, Ph.D., to serve as the new psychotherapist.

**Dr. Sojn seconded the motion. A vote was taken:**

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

The motion carried.

#### FINAL PROBATIONARY APPEARANCES

##### ERICA FORNEY, M.T.

Ms. Forney was appearing before the Board pursuant to her request for release from the terms of the Board's Order of September 23, 2013. Mr. Giacalone reviewed Ms. Forney's history with the Board.

Mr. Giacalone asked Ms. Forney to describe her current practice situation. Ms. Forney responded that she is currently practicing massage therapy in Niles, Ohio.

Mr. Giacalone, noting that Ms. Forney had practiced with an expired license, asked what she is doing differently now. Ms. Forney replied that she is making sure her licenses is up-to-date and that they are renewed in a timely manner. Ms. Forney added that she also reads everything regarding licensure properly with good understanding and applies the ethics of her profession. Ms. Forney stated that he looks up her license on the Board's website regularly to confirm the date it will expire.

Mr. Giacalone asked if Ms. Forney has been able to educate other massage therapists about her situation. Ms. Forney replied that she has informed others that they need to keep up with their license expiration date and to renew when it is time, and to read over the renewal application properly and with understanding. Ms. Forney has also told others that they should call the Board if they have any

questions.

Dr. Schottenstein noted that Ms. Forney had been practicing massage therapy without holding a valid license. Dr. Schottenstein asked why Ms. Forney had requested a hearing regarding her situation. Ms. Forney answered that she applied for license renewal late and had answered a question on the application incorrectly. When she heard back from the Board that her application would be granted after she retakes the Massage and Bodywork Licensing Examination (MBLEX), she contacted the Board to ask why she had to retake the examination. The Board staff explained that the MBLEX was required because Ms. Forney had indicated that she had not practiced for more than two years. Ms. Forney stated that she had answered that question incorrectly and that she had practiced within the previous two years.

Dr. Schottenstein asked if Ms. Forney had been aware that her license was expired when she was practicing. Ms. Forney replied that she had not been aware that the license was expired and that she had forgotten to renew because of a bad car accident that she had around that time.

**Dr. Schottenstein moved to release Ms. Forney from the terms of the Board's Order of September 23, 2013, effective May 11, 2018. Dr. Soin the motion.** A vote was taken:

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

The motion carried.

KAVITA A. J. KANG, D.O.

Dr. Kang was appearing before the Board pursuant to her request for release from the terms of her February 8, 2012 Consent Agreement. Mr. Giacalone reviewed Dr. Kang's history with the Board. Ms. Murray explained that Dr. Kang is appearing via Skype because her obstetrician/gynecologist has ordered bedrest for Dr. Kang due to gestational diabetes.

Mr. Giacalone asked Dr. Kang to describe her current practice situation. Dr. Kang replied that she is currently on medical leave from her residency. Dr. Kang stated that she had briefly returned to residency in April, but had to leave again after a couple of days for medical reasons related to her pregnancy. Dr. Kang stated that her medical leave will continue until she delivers her baby in August. Dr. Kang stated that she is in good standing as a resident. Mr. Giacalone asked if Dr. Kang's work environment is supportive of her recovery. Dr. Kang answered that her residency is very supportive, noting that they knew of her history and her struggles when they created a slot in the program for her.

Mr. Giacalone asked how Dr. Kang's recovery is going. Dr. Kang responded that she feels that she is in a

good place right now in her recovery program. Dr. Kang stated that she is very involved with her program and she is able to reflect on where she is in her recovery and to know that she is on track with it. Dr. Kang remarked that she is almost afraid of not being monitored by the Board because, though she is not planning to relapse, she is aware that her illness will not go away. Dr. Kang was grateful to the Board for ensuring that she stuck with her program so she had a chance to learn how to live her life in recovery.

Dr. Schottenstein asked if Dr. Kang feels that her mood is well-controlled. Dr. Kang replied that her mood is stable and she is very vigilant. Dr. Kang stated that it is very traumatic to have been where she was and she is vigilant about her mood because of her responsibilities. Dr. Kang stated that she needs to believe that drinking was going to kill her and as long as she stays sober she will be able to manage. Dr. Schottenstein, noting Dr. Kang's apprehension about the end of the Board's monitoring, noted that she can voluntarily contact the Ohio Physicians Health Program (OPHP) and arrange to be monitored by the organization. Dr. Kang stated that she may consider contacting OPHP, depending on how the next few weeks go for her.

**Dr. Schottenstein moved to release Dr. Kang from the terms of her February 8, 2012 Consent Agreement, effective immediately. Dr. Soin seconded the motion.** All members voted aye. The motion carried.

Dr. Kang commented that if the Board has any physicians on probation who are struggling with this, the Board can feel free to provide the physician with her contact information and she would be happy to support them. Mr. Giacalone thanked Dr. Kang.

PAUL LOPREATO, P.A.

Mr. Lopreato was appearing before the Board pursuant to his request for release from the terms of his May 8, 2013 Consent Agreement. Mr. Giacalone reviewed Mr. Lopreato's history with the Board.

In response to questions from Mr. Giacalone, Mr. Lopreato stated that he currently practices urgent care medicine in South Florida. Mr. Lopreato stated that his recovery is going very well and he has been in recovery for six-and-a-half years, the longest he has ever been in recovery. Mr. Lopreato stated that he is blessed with a great wife and two great step-daughters. Mr. Lopreato stated that his daughters live in Ohio and his relationship with them is better than ever. Mr. Lopreato noted that one of his daughters volunteered to drive him from Cincinnati to this meeting in Columbus on her day off so that she could spend time with him.

Mr. Giacalone asked if Mr. Lopreato has a sponsor. Mr. Lopreato responded that he sort of has two sponsors, one in South Florida and one in North Florida. Mr. Giacalone asked if Mr. Lopreato is currently sponsoring anyone. Mr. Lopreato answered that he is quasi-sponsoring an x-ray technician that he works with. Mr. Giacalone asked if Mr. Lopreato will continue with his recovery program after he is released by the Board. Mr. Lopreato replied that he will continue doing what he has been doing that has led him to be sober for this long. Mr. Lopreato commented that if he did not stay in recovery he would be a dead man.

Responding to questions from Dr. Schottenstein, Mr. Lopreato stated that he had started out in occupational medicine and urgent care, and then went to work in a neurology/pain management clinic. Mr. Lopreato stated that he has returned to urgent care and he enjoys his work. Dr. Schottenstein noted that it was very stressful for Mr. Lopreato to go from occupational medicine to neurology. Mr. Lopreato agreed and stated that it was probably the most stressful time in his life because he knew nothing about

neurology. Mr. Lopreato stated that it was at that time that he started taking anti-depressants, which led to this situation.

Dr. Schottenstein noted that Mr. Lopreato has a diagnosis of bipolar disorder and asked if he is still managing that condition medically. Mr. Lopreato answered that he takes Depakote every day and he sees a psychiatrist every three months. Mr. Lopreato stated that his mood feels stable.

**Dr. Soin moved to release Mr. Lopreato from the terms of his May 8, 2013 Consent Agreement, effective immediately. Dr. Schottenstein seconded the motion.** All members voted aye. The motion carried.

SHEILA S. REDDY, M.D.

Dr. Reddy was appearing before the Board pursuant to her request for release from the terms of the Board's Order of August 12, 2015. Mr. Giacalone reviewed Dr. Reddy's history with the Board.

Responding to questions from Mr. Giacalone, Dr. Reddy stated that she has been practicing internal medicine in an outpatient setting for most of the last year, and a few months ago she added inpatient practice at Marion General Hospital. Dr. Reddy stated that her work environment is very supportive of her recovery. Dr. Reddy commented that her father also works at Marion General Hospital and that her family in general has been a very important part of her support system. Dr. Reddy stated that her recovery is going well and she has found her groove with timing her work with meetings, aftercare, and talking to her sponsor. Dr. Reddy added that she is also getting involved with meditation. Dr. Reddy stated that she is not currently sponsoring anyone.

Mr. Giacalone asked if Dr. Reddy will continue in her recovery program after the Board releases her from probation. Dr. Reddy replied that she plans to stay in the program because it has worked for her. Dr. Reddy stated that she is fearful about straying from this path that has worked so well. Dr. Reddy stated that she will continue with meetings and aftercare and communicating with her sponsor.

Dr. Schottenstein noted that in addition to alcohol use disorder, Dr. Reddy was also diagnosed with amphetamine dependency while in Glenbeigh Hospital. Dr. Schottenstein further noted that Dr. Reddy has a diagnosis of attention deficit disorder and is prescribed Adderall. Dr. Schottenstein asked if the Adderall is something Dr. Reddy feels responsible with and whether it is a concern for her. Dr. Reddy replied that she has informed her primary care physician and all of her providers about her history and situation.

**Dr. Schottenstein moved to release Dr. Reddy from the terms of the Board's Order of August 12, 2015, effective May 15, 2018. Dr. Soin seconded the motion.** All members voted aye. The motion carried.

ADJOURN

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

Thereupon, at 2:05 p.m., the May 9, 2018 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 May 9, 2018, as approved on June 13, 2018.



Robert P. Giacalone, President



Kim G. Rothermel, M.D., Secretary

(SEAL)



**MINUTES****THE STATE MEDICAL BOARD OF OHIO****Retreat Meeting – Thursday, May 10, 2017**

Robert P. Giacalone, R.Ph., J.D., President, called the meeting to order at 8:30 a.m. at the Grange Insurance Audubon Center, 505 W. Whittier Street, Columbus, OH 43215, with the following members present: Andrew P. Schachat, M.D., Vice President; Kim G. Rothermel, M.D., Secretary; Bruce R. Saferin, D.P.M., Supervising Member; Amol Soin, M.D.; Michael Schottenstein, M.D.; Ronan M. Factora, M.D.; and Mark A. Bechtel, M.D. The following member arrived at a later time: Betty Montgomery. The following members did not attend: Michael L. Gonidakis, Esq.; Richard A. Edgin, M.D.; and Sherry L. Johnson, D.O.

Also present at the meeting were: Anthony J. Groeber, Executive Director; Kimberly Anderson, Assistant Executive Director; William Schmidt, Chief of Investigations; Susan Loe, Director of Human Resources and Fiscal; Joseph Turek, Deputy Director for Licensure; Sallie Debolt, Senior Counsel; Teresa Pollock, Director for Communications; Joan K. Wehrle, Education and Outreach Program Manager; Jonithon LaCross, Public Policy & Governmental Affairs Program Administrator; Rebecca Marshall, Chief Enforcement Attorney; R. Gregory Porter, Chief Hearing Examiner; Nathan Smith, Senior Legal and Policy Counsel; Alexandra Murray, Managing Attorney for Standards Review, Experts, and Intervention; and Benton Taylor, Board Parliamentarian.

**COMPLAINT MANAGEMENT PROCESS**

Mr. Groeber stated that members of the staff will give a brief overview of the Board's complaint management process and will be happy to answer any questions.

Ms. Montgomery entered the meeting at this time.

**Complaint Receipt, Entry, and Triage**

Ms. Anderson reviewed the Board's complaint intake process. Once received, complaints are initially assigned to an attorney for triage to determine where to route the complaint. The triage process takes many factors into account, including any past Board history involving the respondent. Ms. Anderson provided the Board members with a handout of where a complaint can be routed for further action following triage. These options include: Investigation; ASAP investigation; desk investigation process; Secretary and Supervising Member for direction; Standards Review to subpoena records for nurse review; protocol close; refer to another agency; and Enforcement. Ms. Anderson briefly explained each of these routes.

Ms. Anderson made the following statements in response to questions from Board members:

- Members of the public can file a complaint on the Board's website, but the Board will accept a complaint in any form;
- The Board's staff will follow-up with complainants if clarification of the complaint is needed;

- The Board receives approximately 400 complaints per month;
- Some trends in the nature of complaints have emerged, such as complaints encouraged by media coverage of the Me Too movement;
- There is no statute of limitations on when a complaint can be filed, but investigation of a complaint is much more difficult if many years has elapsed since the event(s);

### **Investigation Prioritization and process**

Mr. Schmidt reviewed the Board's processes for investigating complaints following triage and how complaints are prioritized. Ms. Schmidt stated that the investigators always involved law enforcement for any complaint dealing with criminal misconduct. Mr. Schmidt noted that the Board has statutory authority to share information with law enforcement, as well as with medical boards in other states provided that those states require their medical boards to keep the information confidential.

Mr. Giacalone asked if there is ever an issue with the Board putting an investigation on hold for a long time while waiting for a law enforcement agency to complete a criminal investigation. Mr. Schmidt replied that the Board will often put an investigation on hold at the request of law enforcement. Mr. Schmidt commented that the Ohio Medical Board has had a good relationship with the Drug Enforcement Administration (DEA) in Ohio, which is not the case in some other states. Mr. Schmidt stated that the Board could carry on an investigation against the wishes of law enforcement, but that would risk the good relationships and good communications that the Board enjoys with law enforcement. Mr. Giacalone asked if there would be any value in asking the Federation of State Medical Boards (FSMB) to work with the U.S. Department of Justice to address delays in investigation. Mr. Schmidt opined that these issues are best addressed on the state or regional level.

### **Standards Review / QIP Prioritization and Process**

Ms. Murray stated that the Board's Standards Review processes are mostly confidential and do not end in a formal disciplinary action. Many of the cases in Standards Review involved allegations of violations of the minimal standards of care and can be address with a letter of caution or by referring the practitioner to educational courses. Ms. Murray stated that the nurses in Standards Review must complete a review of records within 60 days of receipt, or within 30 days if the case is referred directly from Investigations or Enforcement. Ms. Murray stated that the physicians on the Quality Intervention Panel (QIP) provide expert-level review in addition to the nurse reviewers and the Board's Secretary and Supervising Member.

Ms. Murray continued that if a complaint is deemed serious enough for referral to Enforcement, the Board can contract with an expert. The expert will review the records, produce an opinion, and, if needed, will testify at the respondent's hearing. Dr. Saferin commented that the expert must be in the same field and have a similar practice as the respondent; must be specialty board-certified; and must be from another area of the state from the respondent in order to avoid conflict of interest. Ms. Murray added that experts who contract with the Board must have at least 50% of their practice be clinical practice. Dr. Bechtel asked if it is difficult for the Board to find experts. Ms. Murray replied that it is difficult and commented that the requirement to provide testimony if needed can be intimidating to prospective experts.

**Enforcement Prioritization and Process**

Ms. Marshall reviewed the Board's enforcement processes, including how complaints are prioritized and the timeline for development of a case. Ms. Montgomery asked how many cases each Enforcement Attorney is assigned. Ms. Marshall answered that currently each Enforcement Attorney has 25 to 40 cases, though the goal is to reduce that to 20 to 25 cases per attorney.

Dr. Soin asked questions about the actions the Board has taken for non-compliance with Ohio Automated Rx Reporting System (OARRS) requirements. Ms. Marshall briefly explained that while the cases that come before the Board are based on a small number of patients, there are often many more patients who were not checked on OARRS as required and are not included in the case that goes before the Board. Ms. Marshall stated that the Board is prohibited from using OARRS data alone and it lacks the resources to subpoena records from all of the pharmacies that all of a physician's patients may go to, which could number in the thousands. In order to keep the case at a manageable level, the staff may select about ten patients out of dozens or hundreds to be part of the documented case. Mr. Groeber commented that the OARRS letters sent to physicians have been very successful in reducing the number of missed OARRS checks for Ohio patients.

Dr. Soin thanked Ms. Marshall for her insight into the nature of these cases. Dr. Soin stated that he would review to see comparable cases. Mr. Giacalone suggested that a committee of Board members be formed to review comparable cases and address Dr. Soin's concerns. Ms. Marshall stated that she can produce materials for review with confidential information redacted.

The Board took a brief recess at 10:05 a.m. and resumed the meeting at 10:20 a.m.

**CONSENT AGREEMENT DEVELOPMENT AND APPROVAL PROCESS**

Ms. Marshall presented a case to the Board in order to facilitate discussion of how the Secretary and Supervising Member direct the potential development of consent agreements. Ms. Marshall stated that this is an actual case, but the names and all identifying information has been removed. Ms. Marshall also stated that this case predates the terms of the current Secretary and Supervising Member, Dr. Rothermel and Dr. Saferin, as well as that of former Secretary/Supervising Member Dr. Bechtel.

Ms. Marshall presented the case of Dr. X and allowed the Board members to discuss what course of action they would hypothetically direct the enforcement staff to take in negotiating a consent agreement or developing the case for citation. Ms. Marshall introduced additional facts that were uncovered in the course of the investigation as the Board members continued to discuss how these new facts affect their hypothetical directions to the staff.

Dr. Soin asked if the Enforcement staff can share more information with Board members when presenting consent agreements for ratification by the Board. Ms. Marshall replied that sharing too much information on settlement agreements could bias the Board members and jeopardize their ability to take other actions in the case if the proposed agreement is not ratified. Ms. Marshall stated that the Enforcement staff works with Dr. Rothermel and Dr. Saferin, who have been elected Secretary and Supervising Member by their fellow Board members, to negotiate the terms of consent agreements. Because of their positions, Dr. Rothermel and Dr. Saferin see the full range of information that the other Board members do not see and they approve consent agreements to go before the Board for ratification.

stated that on some cases he has been the Acting Secretary or Acting Supervising Member when Dr. Rothermel or Dr. Saferin have recused themselves, and at those times he has only received a brief summary of the case. Dr. Sojin stated that this experience has made him wonder who much information Dr. Rothermel and Dr. Saferin see in regular cases.

The Board and staff continued to discuss this topic thoroughly. Ms. Marshall stated that she will continue to work with the staff to provide the Board members with as much information as possible.

The Board took a brief recess at 11:25 a.m. and resumed the meeting at 11:32 a.m.

#### OPEN MEETINGS LAW

Heather Buchanan from the office of the Ohio Attorney General appeared before the Board to discuss Ohio's Open Meetings law. Ms. Buchanan is Senior Assistant Attorney General in the Constitutional Offices. Ms. Buchanan reviewed a PowerPoint presentation on this subject and reviewed what a public meeting is according to the law, how to stay compliant with the law, and potential liabilities. Ms. Buchanan answered the Board members' questions and clarified that individual Board members can discuss things one-on-one outside of a meeting, but a quorum of members cannot. Ms. Buchanan also specified that "round robin" emailing or calling between Board members counts towards an improper quorum.

The Board recessed for lunch at 12:03 p.m. The meeting resumed during lunch at 12:20 p.m.

#### REVIEW OF BOARD MEETING DELIVERY OPTIONS AND PREFERENCES

Mr. Taylor reviewed the options for Board members to receive materials for each Board meeting, including mail delivery and the use of a secure SharePoint website, as well as varying format preferences. Board members voiced their preferences and specified changes in the way meeting material pages are numbers and how they are posted to SharePoint.

#### PROBATION AND FINE GUIDANCE DISCUSSION

Dr. Rothermel stated that the purpose of placing some practitioners on probation is to monitor them for specific issues. However, probation tends to be consequences for practitioners that the Board does not intend, such as loss of private insurance provider status, loss of Medicare/Medicaid provider status, loss of jobs, and possibly rendering them unhireable. To address this, Dr. Rothermel suggested that the Board's disciplinary guidelines be amended to read "probation as appropriate" rather than having specified minimum probationary periods for various violations. Dr. Saferin added that he and Dr. Rothermel are asking for discretion with regard to probation in consent agreements. Dr. Saferin stated that this proposal is not related to impairment and there are no proposed changes to the disciplinary guidelines in cases of impairment.

Mr. Groeber also asked the Board to consider whether it wants to continue to require all probationers to make a final appearance before the full Board prior to release from probation. Mr. Groeber stated that a final appearance makes sense for some probationers, particularly those who are impaired, but may not serve a useful purpose for some other probationers. Mr. Groeber commented that he has never seen the Board deny release to someone making a final probationary appearance before the Board, and the discussions are often very brief.

The Board and staff discussed this proposal thoroughly and determined that the Secretary and Supervising Member should have discretion in cases of non-impairment about whether there should be probation, how long the probation should be, and whether a final appearance before the Board should be required. Ms. Anderson stated that this would require changes to Board rules, which the staff can begin working on.

Regarding the Board's fining guidelines, Dr. Rothermel opined that the amount of fines have led some licensees to give up their licenses. Dr. Rothermel asked the Board if it wishes to consider changes to the amounts of fines in the Board's fining guidelines. Ms. Montgomery commented that when she joined the Board she was surprised at the amount of the fines. Ms. Montgomery opined that the fines seemed disproportionately high.

The Board continued to discuss the fining guidelines. The current structure of the guidelines lists a standard fine, a minimum fine, and a maximum fine for each violation. The Board determined that the standard fine should be eliminated, the maximum fine for each violation should be unchanged, and the minimum fine for each violation should be adjusted. Mr. Groeber stated that he will work with individual Board members and develop a proposal for new minimum fining amounts. Mr. Groeber also stated, at Dr. Rothermel's suggestion, that the fining guidelines will also include a separate column for allied professionals. Mr. Groeber agreed with Dr. Factora's suggestion to review the fines used by other state medical boards for guidance.

#### LICENSURE DISCUSSION

Mr. Turek provided a PowerPoint presentation updating the Board on the continuing medical education (CME) audit process and the non-disciplinary fines for CME violations. Mr. Turek answered the Board's questions about the audit process and how it is continuing to develop.

#### REGULATION REDUCTION LEGISLATION

Mr. LaCross provided a PowerPoint presentation updating the Board on the proposal in the legislature to reduce regulations by 30% over the next three years. Mr. Smith commented that there has already been great progress in eliminating duplication in the dietetics rules and respiratory care rules.

Dr. Schottenstein asked about the status of proposed legislation that would allow prescribing by psychologists. Mr. LaCross answered that that legislation is currently on hold.

#### 2018 PREVIEW

Mr. Groeber stated that the Board is in an extremely good position for medical marijuana, which is scheduled to become available on September 8, 2018. The Board has already issued Certificates to Recommend Medical Marijuana to qualified physicians. The Board will continue work on the rules that the Board discusses yesterday.

#### ADJOURN

**Dr. Saferin moved to adjourn the meeting. Dr. Soin seconded the motion. The motion carried.**

Thereupon, at 1:41 p.m., the May 10, 2018 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 May 10, 2018, as approved on June 13, 2018.



Robert P. Giacalone, President



Kim G. Rothermel, M.D., Secretary

(SEAL)

